STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 10th day of January, 2018.

)

In the Matter of the Application of Ameren Transmission Company of Illinois for a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345-kV Electric Transmission Line from Palmyra, Missouri to the Iowa Border and an Associated Substation Near Kirksville, Missouri

File No. EA-2017-0345

ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT

Issue Date: January 10, 2018

Effective Date: January 20, 2018

On September 15, 2017, Ameren Transmission Company of Illinois ("ATXI") applied

to the Commission for a certificate of convenience and necessity ("CCN") to build the

above-referenced project, also known as "The Mark Twain Transmission Line Project" (or

"the Project").¹ With the application, ATXI also filed direct testimony.

The Project is planned to go through the counties of Marion, Knox, Adair, Schuyler and Lewis, mostly via existing transmission easements owned by Northeast Missouri Electric Power Cooperative and Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"). ATXI submitted proof that all of those counties, as well as the City of Kirksville, Missouri, assent to ATXI building the Project.

¹ The Project has the same name, but different route, than the transmission line ATXI proposed in File No. EA-2015-0146. The Commission approved that application, but the Court of Appeals vacated that order due to ATXI not acquiring county assents prior to applying at the Commission. *See In the Matter of ATXI v. Neighbors United*, 523 S.W.3d 21 (Mo.App. W.D. 2017).

The Commission issued notice of the application, and the Commission received intervention requests from Midcontinent Independent System Operator, Inc.; Ameren Missouri; Neighbors United Against Ameren's Power Line ("Neighbors United"); International Brotherhood of Electrical Workers; AFL-CIO; Local Union No. 2; and Wind on the Wires. The Commission granted those requests.

On December 1, 2017, Neighbors United asked to withdraw as a party, stating it did not object to the Commission granting ATXI the CCN. The Commission granted Neighbors United's request on December 4, 2017.

On January 5, 2018, the remaining parties filed a Unanimous Stipulation and Agreement ("Stipulation"). The parties agree that ATXI should receive the requested certificate, subject to certain conditions.

Due to the Stipulation, this case may be decided without convening a hearing.² Also, the Commission need not separately state its findings of fact or conclusions of law.³

Based on the Commission's impartial and independent review of the application, supporting testimony, and the Stipulation, the Commission finds ATXI is engaged in the construction, ownership, and operation of interstate transmission lines that transmit electricity for the public use. Thus, ATXI is an electrical corporation and a public utility in Missouri, and the Commission has jurisdiction over ATXI and the Project.⁴

Furthermore, the Commission may grant an electrical corporation a certificate of convenience and necessity to operate after determining that the construction and operation are either "necessary or convenient for the public service."⁵ The Commission has stated

² Section 536.060 RSMo 2016.

³ Section 536.090 RSMo 2016.

⁴ Although not requested, because the parties have arrived at the Stipulation, the Commission will cancel its November 30, 2017 Order Setting Procedural Schedule.

⁵ Section 393.170, RSMo 2016.

five criteria that it will use when considering an application for certificate of convenience and necessity:

- 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.⁶

The Project is needed to integrate wind energy in Missouri and to assist Missouri public utilities in complying with Missouri's Renewable Energy Standard. ATXI is qualified and financially able to build the Project. The Project is economically feasible because Ameren Missouri customers should receive benefits in excess of transmission charges. The Project will likely lead to reductions in Missourians' ultimate electric rates as compared to rates that would be paid without the Project. Further, the Project will generate significant property tax revenues for the counties through which the Project will be built, and will promote economic development in the region. As such, the Project is in the public interest. Accordingly, the Project is necessary and convenient for the public service, and ATXI has satisfied the *Tartan* criteria.

The Commission notes that the conditions in the Stipulation are virtually identical to the conditions the Commission imposed upon ATXI in the prior case involving the Project. The Commission shall grant the application, and approve the Stipulation, subject to the conditions agreed upon by the parties.⁷

⁶ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

⁷ Although not requested, because the parties have arrived at the Stipulation, the Commission will cancel its November 30, 2017 Order Setting Procedural Schedule.

THE COMMISSION ORDERS THAT:

1. The application for a certificate of convenience and necessity filed by Ameren Transmission Company of Illinois on September 15, 2017, is granted, as conditioned below.

2. The Commission's November 30, 2017 Order Setting Procedural Schedule is cancelled.

3. The Unanimous Stipulation and Agreement filed on January 5, 2018, which is Exhibit 1 to this order, is approved, and the signatories of the Unanimous Stipulation and Agreement shall comply with its terms.

4. Throughout the right-of-way acquisition process, ATXI will use all reasonable efforts to abide by the depicted route on each of the 405 parcels identified as of the filing of its application as parcels over which an easement will be required, but will be allowed to deviate from the depicted route within one of the 405 parcels in two scenarios:

First, if surveys or testing do not necessitate a deviation, ATXI may deviate from the depicted route on a particular parcel if ATXI and the landowner agree, *e.g.*, upon request of the landowner and ATXI's agreement with the request. Second, if ATXI determines that surveys or testing require a deviation, ATXI will negotiate in good faith with the affected landowner and if agreement can be reached ATXI may deviate from the depicted route on that parcel, as agreed with the affected landowner. With respect to any parcel other than the 405 identified parcels where ATXI determines that testing or

surveys necessitate acquisition of an easement on that parcel, ATXI will negotiate in good faith with the landowner of the affected parcel over which ATXI has determined an easement is needed and, if agreement is reached, may deviate from the depicted route by locating the line on the affected parcel but will notify the Commission of the deviation and parcels affected prior to construction on that parcel. If agreement is not reached, despite good faith negotiations, ATXI will file a request with the Commission to allow it to deviate from the depicted route onto the affected parcel and shall, concurrently with the filing of its request with the Commission, send a copy of its request to the owner(s) of record of the affected parcel via U.S. Mail, postage prepaid, as shown by the County Assessor's records in the county where the affected parcel is located, or at such other address that has been provided to ATXI by the owner(s). ATXI shall fully explain in that request why ATXI determined the change in route is needed and file supporting testimony with its request and the name(s) and addresses of the owner(s) to whom it provided a copy of its request. After Commission notice of the opportunity for a hearing on the issue of whether the change in route should be approved is given to the owner, Staff and Public Counsel, the Commission will grant or deny the request.

5. Absent a voluntary agreement for the purchase of the property rights, the transmission line shall not be located so that a residential structure currently occupied by the property owners will be removed or located in the easement requiring the owners to move or relocate from the property.

6. Prior to the commencement of construction on a parcel, ATXI will secure an easement which will include a surveyed legal description showing the precise dimension, including the length and width, for the permanent transmission line easement area for each affected parcel. In addition, ATXI will track each easement grant by way of a spreadsheet that identifies each parcel by Grantor and County, and which contains the recording information for each parcel. Upon securing all necessary easements for the project, ATXI will file a copy of the spreadsheet with the Commission, to which a map will be attached. For each parcel, the map and the spreadsheet will include a unique indicator that allows the Commission to see where on the map that parcel is located.

7. ATXI shall follow the construction, clearing, maintenance, repair, and right-ofway practices set out in *Schedule DJB-02* attached to Douglas J. Brown's Direct Testimony.

8. ATXI shall file with the Commission in this case all required government approvals and permits—e.g., any applicable land disturbance permits, Missouri State Highway Commission permits, or US Army Corps of Engineers permits before beginning construction on that part of the Mark Twain project where the approvals and permits are required.

9. ATXI shall file with the Commission the annual report it files with FERC.

10. Because the following rules do not pertain to ATXI due to their lack of retail customers, the Commission finds good cause to waive them, and so waives them: Commission Rules 4 CSR 240-3.145, .165, .175, 190(1), (2), (3)(A)-(D).

- 11. This order shall become effective on January 20, 2018.
- 12. This file shall be closed on January 21, 2018.



BY THE COMMISSION

orris I Woodruff

Morris L. Woodruff Secretary

Hall, Chm., Kenney, Rupp, and Coleman, CC., concur. Silvey, C., abstains.

Pridgin, Deputy Chief Regulatory Law Judge

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 Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345-kV Electric Transmission Line from Palmyra, Missouri, to the Iowa Border and an Associated Substation Near Kirksville, Missouri.

File No. EA-2017-0345

UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW Ameren Transmission Company of Illinois (ATXI or Company), the Staff of the Missouri Public Service Commission (Staff), Office of the Public Counsel (OPC), Midcontinent Independent System Operator, Inc. (MISO), Wind on the Wires (WOW), Union Electric Company d/b/a Ameren Missouri (Ameren Missouri)¹, and the International Brotherhood of Electric Workers Local No. 2, AFL-CIO (IBEW) (collectively, Parties) and presents to the Missouri Public Service Commission (Commission) for its consideration and approval this Unanimous Stipulation and Agreement (Stipulation) in resolution of File No. EA-2017-0345. In support, the Parties state:

Background

1. ATXI filed its verified Application and Motion for Expedited Treatment in the above-captioned case on September 15, 2017. The Application seeks a Certificate of Convenience of Necessity for the Mark Twain Transmission Line Project (Mark Twain or

¹ As a Signatory to this Stipulation, Ameren Missouri acknowledges its obligation under paragraph 2.S. of the Commission's May 17, 2012, *Order Granting Ameren Missouri's Motion to Clarify Report and Order* in File No. EO-2011-0128, respecting that part of the Project that is located within Ameren Missouri's certificated service territory.

the Project) on a route that co-locates almost exclusively with existing transmission lines in northeast Missouri. With its Application, ATXI filed direct testimony of several witnesses in support of its request and certified copies of assents from all five counties through which the transmission line will be constructed. The route also passes through the City of Kirksville, and attached hereto as **Exhibit A** is a certified copy of the municipal consent of the City of Kirksville and ATXI's certified acceptance of the same.

2. Five parties, including MISO, WOW, Ameren Missouri, IBEW and Neighbors United Against Ameren's Power Line (Neighbors United), filed applications to intervene, which were granted by the Commission on October 17, 2017. In addition to ATXI, both WOW and MISO submitted direct testimony for the Commission's consideration. Staff and the OPC are also parties to this case, but have not yet filed testimony.

3. On December 1, 2017, Neighbors United sought leave to withdraw as an intervenor in this action, indicating in its pleading that it and ATXI had "come to a mutual understanding regarding many of the differences in the two parties' positions" and stating that Neighbors United "does not object to the PSC granting ATXI a CCN pursuant to the proposed application." On December 4, 2017, the Commission granted the motion to withdraw filed by Neighbors United.

4. The Parties remaining in this case have had discussions in an effort to resolve the issues presented by this case, and have reached an agreement to settle the case. The following stipulations memorialize that agreement.

Stipulations

5. The Parties agree that the Commission, pursuant to § 393.170.1, RSMO,² has evidence to conclude that the Project is necessary or convenient for the public service, and furthermore, has the support necessary to grant ATXI a certificate of convenience and necessity to construct the Project as described in ATXI's September 15, 2017, Application and, based thereon, recommends that the Commission grant ATXI a CCN for the Project, subject to the conditions listed below:³

a. Throughout the right-of-way acquisition process, ATXI will use all reasonable efforts to abide by the depicted route on each of the 405⁴ parcels identified as of the filing of its application as parcels over which an easement will be required, but will be allowed to deviate from the depicted route in two scenarios:

First, if surveys or testing do not necessitate a deviation, ATXI may deviate from the depicted route on a particular parcel if ATXI and the landowner agree, *e.g.*, upon request of the landowner and ATXI's agreement with the request, or vice versa. Second, if ATXI determines that surveys or testing require a deviation, ATXI will negotiate in good faith

² All references are to Revised Statutes of Missouri (2016).

³ These conditions are nearly identical to the conditions that the Commission imposed on ATXI in its April 27, 2017 Report and Order in File No. EA-2015-0146 when it granted a CCN to ATXI for Mark Twain, as clarified by the Commission's June 8, 2016 Order Regarding Applications for Rehearing, Motion for Reconsideration, and Requests for Clarification, *except* for the condition requiring ATXI to obtain county assents prior to construction. ATXI submitted certified copies of the requisite county assents with its Application in this case. As noted above, a copy of the municipal consent for the City of Kirksville is attached hereto as **Exhibit A**.

⁴ The original route as proposed in File No. EA-2015-0146 affected 377 parcels; the route described in ATXI's Application in this case affects 405 different parcels, according to the Direct Testimony of Douglas J. Brown [EFIS Item No. 3]. Attached hereto as **Exhibit B** are parcel maps showing the planned alignment of the line on each parcel.

with the affected landowner and if agreement can be reached ATXI may deviate from the depicted route on that parcel, as agreed with the affected landowner.

With respect to any parcel other than the 405 identified parcels where ATXI desires to locate the line, whether because testing or surveys necessitate acquisition of an easement on that parcel or for other reasons (e.g., a request from adjacent landowners), ATXI will negotiate in good faith with the landowner of the affected parcel over which ATXI has determined an easement is needed or desired and, if agreement is reached, may deviate from the depicted route by locating the line on the affected parcel but will notify the Commission of the deviation and parcels affected prior to construction on that parcel. If testing or surveys necessitate acquisition of an easement on such other parcel and agreement is not reached, despite good faith negotiations, ATXI will file a request with the Commission to allow it to deviate from the depicted route onto the affected parcel and shall, concurrently with the filing of its request with the Commission, send a copy of its request to the owner(s) of record of the affected parcel via U.S. Mail, postage prepaid, as shown by the County Assessor's records in the county where the affected parcel is located, or at such other address that has been provided to ATXI by the owner(s). ATXI shall fully explain in that request why ATXI determined the change in route is needed and file supporting testimony with its request and the name(s) and

addresses of the owner(s) to whom it provided a copy of its request. After Commission notice of the opportunity for a hearing on the issue of whether the change in route should be approved is given to the owner, Staff and OPC, and after the opportunity to respond, the Commission will grant or deny the request.

b. Absent a voluntary agreement for the purchase of the property rights, the transmission line shall not be located so that a residential structure currently occupied by the property owners will be removed or located in the easement requiring, for electrical code compliance purposes, the owners to move or relocate from the property.

c. Prior to the commencement of construction on a parcel, ATXI will secure an easement which will include a surveyed legal description showing the precise dimension, including the length and width, for the permanent transmission line easement area for each affected parcel. In addition, ATXI will track each easement grant by way of a spreadsheet that identifies each parcel by Grantor and County, and which contains the recording information for each parcel. Upon securing all necessary easements for the Project, ATXI will file a copy of the spreadsheet with the Commission, to which a map will be attached. For each parcel, the map and the spreadsheet will include a unique indicator that allows the Commission to see where on the map that parcel is located.

d. ATXI shall follow the construction, clearing, maintenance, repair, and right-of-way practices set out in *Schedule DJB-02* filed with Douglas J. Brown's Direct Testimony and attached hereto as **Exhibit C**.

e. ATXI shall file with the Commission in this case all required government approvals and permits—e.g., any applicable land disturbance permits, Missouri State Highway Commission permits, or US Army Corps of Engineers permits—before beginning construction on that part of the Mark Twain project where the approvals and permits are required.

f. ATXI shall file with the Commission the annual report it files with FERC.

g. Because the following rules do not pertain to ATXI due to its lack of retail customers, the signatories recommend the Commission waive Commission Rules 4 CSR 240-3.145, .165, .175, 190(1), (2), (3)(A)-(D).

6. This Stipulation has resulted from extensive negotiations among the Parties and the terms hereof are interdependent. If the Commission does not approve this Stipulation unconditionally and without modification, then this Stipulation shall be void and no Party shall be bound by any of the agreements or provisions hereof, except as explicitly provided herein.

7. If the Commission does not unconditionally approve this Stipulation without modification, and notwithstanding the provision herein that it shall become void, neither this Stipulation nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Party has

for a decision in accordance with §536.080, RSMO, or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

8. In the event the Commission unconditionally accepts the specific terms of this Stipulation without modification, the Signatories waive the following rights only as to the issues resolved herein: 1) their respective rights to present oral argument and written briefs pursuant to \$536.080.1, RSMO; 2) their respective rights to seek rehearing, pursuant to \$536.500, RSMO; and 3) their respective rights to judicial review pursuant to \$386.510, RSMO. This waiver applies only to a final unappealed Commission order issued in this proceeding unconditionally approving this Stipulation and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by this Stipulation.

WHEREFORE, for the foregoing reasons, the Parties respectfully request that the Commission issue its order approving this Stipulation and granting ATXI a certificate of public convenience and necessity authorizing the construction of the Project as described in the September 15, 2017, Application, subject to the specific terms and conditions specified in subparagraphs a through g of paragraph 5 of this Stipulation. The Parties

further respectfully request that the Commission reaffirm its conclusion made in its final

decision in File No. EA-2015-0345 that ATXI is an electrical corporation and public

utility.

Dated: January 5, 2018

Respectfully submitted,

Is James B. Lowery

James B. Lowery, Mo. Bar #40503 Michael R. Tripp, Mo. Bar #41535 SMITH LEWIS, LLP P.O. Box 918 Columbia, MO 65205-0918 (T) 573-443-3141 (F) 573-442-6686 lowery@smithlewis.com tripp@smithlewis.com

Eric Dearmont, Mo. Bar #60892 Corporate Counsel AMEREN SERVICES COMPANY One Ameren Plaza 1901 Chouteau Avenue St. Louis, Missouri 63166 (T) (314) 554-3543 (F) (314) 554-4014 EDearmont@ameren.com

Attorneys for Ameren Transmission Company of Illinois

/s/ Nícole Mers

Nicole Mers, Mo. Bar #66766 Deputy Counsel P.O. Box 360 Jefferson City, MO 65012) (T) (573) 751-6651 (F) (573) 751-9285 <u>Nicole.mers@psc.mo.gov</u> *Attorney for the Staff of the Missouri Public Service Commission*

/s/ Hampton Williams

Hampton Williams, Mo. Bar No. 65633 Acting Public Counsel Office of the Public Counsel P.O. Box 2230 Jefferson City, MO 65102 (T) (573) 751-5318 Hampton.williams@ded.mo.gov

Attorney for Office of the Public Counsel

<u>/s/ Jeffrey L. Small</u>

Jeffrey L. Small (practicing pro hac vice) Midcontinent Independent System Operator, Inc. 720 City Center Drive Carmel, IN 46032 (317) 249-5400 - Telephone Email: jsmall@misoenergy.org Karl Zobrist, Mo. Bar # 28325 Jacqueline M. Whipple Mo. Bar # 65270 Dentons US LLP 4520 Main Street, Suite 1100 Kansas City, MO 64111 (816) 460-2400 (816) 531-7545 (fax) karl.zobrist@dentons.com jacqueline.whipple@dentons.com

Attorneys for Midcontinent Independent System Operator, Inc.

/s/ Deirdre K. Hirner

Deirdre Kay Hirner, Mo. Bar #66724 American Wind Energy Association Midwest Director 2603 Huntleigh Place Jefferson City, MO 65109 T: (202) 412-0130 Dhirner @awea.org

/s/ Sean R. Brady

Sean R. Brady (practicing *pro hac vice*) Attorney – Senior Counsel & Policy Manager Wind on the Wires P.O. Box 4072 Wheaton, IL 60189-4072 (T) (312) 867-0609 sbrady@windonthewires.org

Attorneys for Wind on the Wires

/s/ L. Russell Mitten

L. Russell Mitten, Mo. Bar #27881 BRYDON, SWEARENGEN & ENGLAND, P.C. 312 East Capitol Avenue P.O. Box 456 Jefferson City, MO 65102-0456 (T) (573) 635-7166 (F) (573) 634-7431 <u>rmitten@brydonlaw.com</u>

Attorneys for Union Electric Company d/b/a Ameren Missouri /s/ Patrick K. Shinners

Patrick K. Shinners SCHUCHAT, COOK & WERNER 1221 Locust Street, Ste. 250 St. Louis, MO 63103 (T) (314) 621-2626 (F) (314) 621-2378 pks@schuchatcw.com

Attorney for International Brotherhood of Electric Workers Local No. 2, AFL-CIO

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing has been e-

mailed to counsel of record in this docket on this 5th day of January, 2018.

Is James B. Lowery

An Attorney for Ameren Transmission Company of Illinois

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 10th day of January 2018.



Morris L. Woodruff Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 10, 2018

File/Case No. EA-2017-0345

Missouri Public Service

Commission Staff Counsel Department 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 staffcounselservice@psc.mo.gov Office of the Public Counsel Hampton Williams 200 Madison Street, Suite 650 P.O. Box 2230 Jefferson City, MO 65102 opcservice@ded.mo.gov

Ameren Transmission Company of Illinois Eric E Dearmont 1901 Chouteau Ave. St. Louis, MO 63166-6149 edearmont@ameren.com

Ameren Transmission Company Ameren Transmission Company IBEW Local Union 2

of Illinois James B Lowerv 111 South Ninth St., Suite 200 P.O. Box 918 Columbia, MO 65205-0918 lowery@smithlewis.com

of Illinois Michael R Tripp 111 S. 9th Street P.O. Box 918 Columbia, MO 65205-0918 tripp@smithlewis.com

Midcontinent Independent

4520 Main Street, Ste. 1100

Kansas City, MO 64111

Jacqueline Whipple

System Operator, Inc. (MISO)

jacqueline.whipple@dentons.com

Patrick K Shinners 1221 Locust Street, Ste. 250 St. Louis, MO 63103-6310 pks@schuchatcw.com

Midcontinent Independent

4520 Main Street, Suite 1100

Karl Zobrist

System Operator, Inc. (MISO)

Midcontinent Independent

System Operator, Inc. (MISO) **Jeffrey Small** 720 City Center Drive Carmel, IN 46032 jsmall@misoenergy.org

Missouri Public Service Commission

Nicole Mers 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 nicole.mers@psc.mo.gov

Wind on the Wires

Sean Brady PO Box 4072 Wheaton, IL 60189-4072 sbrady@windonthewires.org

Union Electric Company Russ Mitten 312 E. Capitol Ave P.O. Box 456

Jefferson City, MO 65102 rmitten@brydonlaw.com

Wind on the Wires

Deirdre K Hirner 2603 Huntleigh Place Jefferson City, MO 65109 dhirner@awea.org

Kansas City, MO 64111 karl.zobrist@dentons.com **Union Electric Company**

Wendy Tatro 1901 Chouteau Avenue St. Louis, MO 63103-6149 AmerenMOService@ameren.com Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Jorris Z Woodruff

Morris L. Woodruff Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.