

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

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) **File No. EA-2015-0146**
345,000-volt Electric Transmission Line from Palmyra,)
Missouri, to the Iowa Border and Associated Substation)
Near Kirksville, Missouri.)

ORDER REGARDING MOTION TO COMPEL

Issue Date: January 15, 2016

Effective Date: January 15, 2016

Background

On January 7, 2016, Neighbors United Against Ameren’s Power Line (“Neighbors United”) filed a Motion to Compel Ameren Transmission Company of Illinois (“ATXI”) to respond to discovery requests.¹ In its motion, Neighbors United argues that the Commission should compel ATXI to submit answers or more complete answers to 36 different Data Requests (“DRs”). Further, Neighbors United asks the Commission to order ATXI to provide proof of actual notice of the proposed transmission line to all affected landowners.

ATXI objects. ATXI argues that Neighbors United has not acted in good faith because it waited until the very last day motions to compel were due to contact ATXI and present a litany of complaints about ATXI’s previous answers to DRs. ATXI further agrees to supplement DRs mentioned in the motion to compel; thus, ATXI opines, most of the

¹ On the same day, Neighbors United also filed a motion to compel against MISO. The Commission has already ruled on that motion.

motion is moot. Finally, ATXI states that it has done its best to contact landowners and to publicize the proposed line in the area in which ATXI wants to build it.

Staff responded, asking the Commission to order ATXI's supplemental responses to be filed no later than January 18 at 4:00 p.m. Staff further argues there is no statutory requirement that landowners receive actual notice of this certificate case.

Standards

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 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

² Commission Rule 4 CSR 240-2.090(1).

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).

Discussion

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

DRs 6-11, 6-15, 8-2, 8-4, 8-5, 8-6, 8-7, 8-9, 8-15, 8-16, 8-17, 8-18, 8-19, 8-20, 8-21, 8-22, and 8-23

ATXI claims that it has now answered all of these DRs, and, thus, the motion to compel for those DRs is moot. The Commission will give Neighbors United an opportunity to respond to this claim.

DRs 2-6, 4-5, 4-7, 4-9, 4-11, 4-14, 4-16, 5-4, 5-8, 6-2, 6-8, 6-9, and 7-6

ATXI claims that it has supplemented or will supplement its answers to these DRs. The Commission will order ATXI to do so, and will give Neighbors United an opportunity to respond.

DR 2-16

No party cites to any authority that would require ATXI to give actual notice of this case to every landowner in or near the path of the proposed project. The Commission is unaware of any such authority. Indeed, the only legal authority cited is by ATXI and Staff, and that authority states that no such notice is required.⁷ Thus, the Commission will deny the motion for DR 2-16.

⁷ See, e.g., *State ex. rel. Ozark Border Elec. Coop. v. PSC*, 924 S.W.2d 597, 601 (Mo.App. W.D. 1996); *State ex. rel. Harline v. PSC*, 343 S.W.2d 177 (Mo.App. W.D. 1960).

DRs 5-1 and 5-2

The Commission finds ATXI has fully answered these DRs. Ms. Turpin's surrebuttal testimony states that she has worked on several projects for several different companies or cooperatives, one of which is Union Electric Company d/b/a Ameren Missouri. Her DR response, and ATXI's responsive pleading, state that she has only worked on one such project for Ameren Missouri. This appears to be a complete response to these DRs. Therefore, the motion for DRs 5-1 and 5-2 is denied.

DRs 4-1 and 4-3

The Commission will order ATXI witness DeJoia to ask the project owners of each project whether they will permit him to disclose the confidential information as Highly Confidential in this case and, if they agree, to supplement his responses accordingly. If Mr. DeJoia is unable to obtain such permission and if the requested information bears on his testimony, then the inability to provide this information is one of many factors the Commission may consider in evaluating the weight of Mr. DeJoia's testimony. The Commission will further order Mr. DeJoia to clarify his definition of minimal impacts as recommended by Staff.

DR 6-14

Neighbors United's DR 6-14 was issued on December 8, 2015. On December 9, 2015, the Commission issued an order that limited the scope of additional DRs to new information contained in surrebuttal testimony. Because the December 9 order did not

exist when Neighbors United issued DR 6-14⁸, the Commission will not limit the scope of DR 6-14 to new information contained in surrebuttal testimony. Accordingly, the Commission will grant the motion to compel for DR 6-14.

THE COMMISSION ORDERS THAT:

1. The Motion to Compel filed by Neighbors United Against Ameren's Power Line against Ameren Transmission Company of Illinois, Inc., is granted in part and denied in part, as described herein.

2. Ameren Transmission Company of Illinois, Inc., shall supplement its responses to Data Requests 2-6, 4-5, 4-7, 4-9, 4-11, 4-14, 4-16, 5-4, 5-8, 6-2, 6-8, 6-9, and 7-6 no later than 5:00 p.m., January 18, 2016.

3. Any further responses to Data Requests 2-6, 4-5, 4-7, 4-9, 4-11, 4-14, 4-16, 5-4, 5-8, 6-2, 6-8, 6-9, 6-11, 6-15, 7-6, 8-2, 8-4, 8-5, 8-6, 8-7, 8-9, 8-15, 8-16, 8-17, 8-18, 8-19, 8-20, 8-21, 8-22, and 8-23, or the responses thereto, shall be filed no later than 5:00 p.m., January 20, 2016.

4. The motion to compel for Data Request 6-14 is granted. Ameren Transmission Company of Illinois, Inc., shall supplement its responses to Data Requests 6-14 no later than 5:00 p.m., January 18, 2016.

5. The motions to compel for Data Requests 2-16, 5-1, and 5-2 are denied.

6. The motions to compel for Data Requests 4-1 and 4-3 are granted in part, as ordered above.

⁸ The procedural schedule in effect on December 8 set the last day to request discovery at January 15, 2016. See Order Granting Motion to Amend Procedural Schedule, which was issued and effective on November 25, 2015.

7. This order shall be effective on January 15, 2016.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Pridgin, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 388.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 15th day of January, 2016.