

**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 to Construct, Install, Own, Operate,    )  
Maintain, and Otherwise Control and Manage    ) Case No. EA-2021-0087  
a 138 kV Transmission Line and associated        )  
facilities in Perry and Cape Girardeau            )  
Counties, Missouri                                    )

**UNANIMOUS SETTLEMENT AGREEMENT**

Ameren Transmission Company of Illinois (“ATXI”), Staff of the Missouri Public Service Commission (“Staff”), Office of the Public Counsel (“OPC”), and Terry and Mary Scholl (the “Scholls”, and collectively, the “Parties”), hereby file their Unanimous Settlement Agreement resolving all contested issues (“Settlement”) relating to ATXI’s application seeking a certificate of convenience and necessity to construct, install, own, operate, maintain and otherwise control and manage approximately 15 miles of a new 138 kV transmission line and a new 138 kV to 161 kV switching station (“Application”).

The Parties hereby move that the Commission adopt the settlement terms included in this Settlement and state as follows:

**Background**

1. On April 28, 2021, ATXI filed its Application to construct, install, own, operate, maintain, and otherwise control and manage a 138 kV transmission line (“Transmission Line”) in Perry and Cape Girardeau Counties and a new substation at the southern end of the Transmission

Line in Cape Girardeau County (the “Whipple Substation”, and collectively with the Transmission Line, the “Project” ).<sup>1</sup>

2. On June 4, 2021, the Scholls, who own five parcels located in or around the planned route of the Transmission Line, applied to intervene in this matter. Their application was granted on June 16, 2021.

3. ATXI filed direct testimony in support of the its Application from Sean Black, James Jontry, Jessica Timmerman, Curtiss Frazier, Craig Hiser, Dan Schmidt, and Emily Hyland.

4. The Scholls filed Rebuttal Testimony on August 24, 2021. Also on August 24, 2021, Staff filed its Rebuttal Report.

5. ATXI filed Rebuttal Testimony from Craig Hiser and James Jontry on September 14, 2021.

6. The Parties participated in a settlement conference on September 27, 2021 at which they reached preliminary agreement to resolve all contested issues relating to the Application.

7. ATXI filed a Motion to Suspend the Procedural Schedule on September 30, 2021 to allow the Parties time to prepare this Settlement, which was granted by the Commission on the same day.

### **Settlement Terms**

8. The Parties agree to the following settlement terms (“Settlement Terms”). Subject to the Commission’s approval and adoption of these Settlement terms, the Parties recommend that the Commission approve ATXI’s Application:

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<sup>1</sup> As described in its Application, as part of the current Transmission Line, ATXI will design and install structures that are capable of being outfitted with an additional transmission circuit at a voltage of up to 345 kV in the future. However, ATXI is not seeking approval in this case to install the second 345 kV circuit.

9. Throughout the right-of-way acquisition process, ATXI will use all reasonable efforts to follow the route depicted in Dan Schmidt's Direct Testimony and described in Schedule CH-01 (the "Final Proposed Route"). But ATXI will be allowed to deviate from the Final Proposed Route in two scenarios:

a. First, if surveys or testing do not necessitate a deviation, ATXI may deviate from the Final Proposed Route on a particular parcel if ATXI and the landowner on which the deviation will run agree. Either ATXI or landowner may initiate such a request to deviate.

b. 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 Final Proposed Route on that parcel, as agreed with the affected landowner.

With respect to any parcel other than the identified parcels on the Final Proposed Route 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 Final Proposed 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 Final Proposed 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, as well as an opportunity to respond, the Commission will grant or deny the request.

10. 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.

11. 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. ATXI commits to working in good faith with landowners to address their issues and concerns, to the extent practicable, during the easement acquisition phase of the Project. 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.

12. ATXI shall follow the construction, clearing, maintenance, repair, and right-of-way practices set forth in the attached Exhibit 1, ATXI's Standards and Procedures for the Limestone Ridge Project ("Standards and Procedures"). Exhibit 1 is generally consistent with Schedule CH-03, attached to Ameren Witness Craig Hiser's Direct Testimony. However, Exhibit 1 includes minor typographical corrections and removes the word "agricultural" from the term "agricultural lands" so that the Standards and Procedures explicitly apply to all privately owned land.

13. Prior to engaging in vegetation clearing of the easement corridor, ATXI will offer landowners a reasonable opportunity to harvest any marketable timber. Regarding the Scholls parcels, ATXI and the Scholls agree to communicate in good faith regarding their individual concerns regarding tree removal.

14. Subject to any applicable federal, state, tribal, and local laws, statutes, regulations, or rules governing treatment of and property rights associated with historical artifacts, ATXI shall, when legally permissible, provide to the Scholls any historical artifacts found during the course of ATXI's construction, clearing, maintenance, or repair of the right of way on the Scholls' Property. The Parties recognize that federal, state, tribal, and local laws, statutes, regulations, or rules may restrict ATXI's and the Scholls' ability to recover or possess historical artifacts. ATXI and the Scholls shall coordinate with the Missouri State Historical Preservation Office ("SHPO") and/or any other federal, state, tribal, or local agencies that have authority over recovery or possession of any historical artifact found or discovered. This paragraph does not obligate or require ATXI to look for, excavate, or recover any historical artifacts on the Scholls property other than to the extent required by federal, state, tribal, and local laws, statutes, regulations, or rules. Nor does this

paragraph obligate ATXI to take any action against any governmental agency or any other party that attempts to restrict the Scholls from receiving the historical artifacts (e.g. an agency decision that ATXI must provide historical artifacts to tribal authorities).

15. 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 the part of the Limestone Ridge project where the approvals and permits are required.

16. ATXI shall file with the Commission all pipeline interference studies performed as well as any agreement between ATXI and the pipeline companies that have assets being crossed or assets being paralleled by the Limestone Ridge Project.

17. ATXI shall file with the Commission the annual report it files with the Federal Energy Regulatory Commission.

#### **Miscellaneous Terms**

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

19. If the Commission does not unconditionally approve this Settlement without modification, and notwithstanding the provision herein that it shall become void, neither this Settlement 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 Settlement had not been

presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Settlement 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.

20. In the event the Commission unconditionally accepts the specific terms of this Settlement without modification, the Parties 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 §386.500, 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 Settlement 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 Settlement.

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**Conclusion**

WHEREFORE, as set forth above, the Parties request that the Commission approve the Application subject to the Settlement Terms listed in Paragraphs 8-17 of this Settlement Agreement. The Parties request such additional relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Frank A. Caro, Jr.

Frank A. Caro, Jr. MBN 42094  
Andrew O. Schulte MBN 62194  
Polsinelli PC  
900 W. 48th Place, Suite 900  
Kansas City MO 64112  
(816) 572-4754  
fcaro@polsinelli.com  
aschulte@polsinelli.com

ATTORNEYS FOR AMEREN  
TRANSMISSION COMPANY OF  
ILLINOIS

/s/ Nicole Mers

Nicole Mers MBN 66766  
Deputy Staff Counsel  
P.O. Box 360  
Jefferson City, MO 65012  
(573) 751-6651  
nicole.mers@psc.mo.gov

ATTORNEY FOR THE STAFF OF THE  
MISSOURI PUBLIC SERVICE  
COMMISSION

/s/ Stephanie S. Bell

Stephanie S. Bell MBN 61855  
308 East High Street, Suite 300  
Jefferson City, MO 65101  
(573) 750-4100  
sbell@ellingerlaw.com



ATTORNEY FOR TERRY L. AND MARY  
FRANCES SCHOLL

/s/ Nathan Williams

Nathan Williams MBN 35512  
Chief Deputy Public Counsel  
Office of the Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102  
(573) 526-4975  
nathan.williams@ded.mo.gov

ATTORNEY FOR OFFICE OF THE  
PUBLIC COUNSEL

## **ATXI's Standards and Procedures for Construction, Repair and Maintenance of Right-of-Way for the Limestone Ridge Project**

### **I. Applicability**

The following standards and procedures apply to construction, maintenance and repair activities occurring partially or wholly on privately owned land affected by the activities of Ameren Transmission Company of Illinois ("ATXI") as part of the Limestone Ridge Project ("Project"). They do not apply to such activities occurring on highway or railroad right-of-way or on other publicly owned land. ATXI will, however, adhere to the standards relating to the repair of drainage tile (identified below) regardless of where drainage tile is encountered. To the extent the standards and procedures conflict with an easement or other right-of-way agreement as between ATXI and the landowner, the language in the easement or other agreement shall govern.

All standards and procedures are subject to modification through negotiation by landowners and a designated representative of ATXI, provided such changes are negotiated in advance of any construction, maintenance or repairs.

ATXI will implement the standards and procedures to the extent that they do not conflict with the requirements of any applicable federal, state, or local rules, regulations, or other permits that apply to the Project. If any standard or procedure is held to be unenforceable, no other provision shall be affected by the holding, and the remaining standards and procedures shall remain in effect.

### **II. Right-of-Way Acquisition**

Every landowner from whom ATXI requires an easement or other right-of-way agreement will be contacted personally, and ATXI will negotiate with each such landowner in good faith on the terms and conditions of the easement or agreement, its location, and compensation therefor. For easements, landowners will be shown a specific, surveyed location for the easement and be provided ATXI's standard template.

ATXI's right-of-way acquisition policies and practices will not change regardless of whether ATXI does or does not yet possess a Certificate of Convenience and Necessity from the Commission.

### **III. Construction and Clearing**

Prior to construction, ATXI will notify all landowners in writing of the name and telephone number of ATXI's designated representative so that they may contact the designated representative with questions or concerns before, during, or after construction, including, but not limited to concerns over inferior work being performed on the landowner's property. Such notice will also advise the landowners of the expected start and end dates of construction on their properties. Landowners will be contacted in person, by phone and/or in writing at least 24 hours prior to the beginning of construction and provided a name and phone number of an Ameren Services real estate employee or contractor to contact if they have any questions or concerns. Following construction, landowners will be contacted to settle crop, land restoration, or other damages.

1. Prior to construction, ATXI's designated representative will personally contact each landowner (or at least one owner of any parcel with multiple owners) to discuss access to the right-of-way on their parcel and any special concerns or requests about which the landowner desires to make ATXI aware.
2. During construction, and through the completion of clean-up of the right-of-way, ATXI's designated representative will be on-site, meaning at or in the vicinity of the route, or on-call, to respond to landowner questions or concerns.
3. If trees are to be removed from privately owned land, ATXI or their representative will consult with the landowner to see if there are trees of commercial or other value to the landowner. If there are trees of commercial or other value to the landowner, ATXI will allow the landowner the right to retain ownership of the trees with the disposition of the trees to be negotiated prior to commencement of land clearing, such negotiation to include a reasonable period of time in advance of construction for landowner to harvest any timber the landowner desires to harvest and sell. If requested by the landowner, ATXI will cut logs 12" in diameter or more into 10 to 20 foot lengths and stack them along the edge of the right-of-way for handling by the landowner. ATXI's intent is to mulch or windrow trees and brush of no value on site; however, it will follow the landowner's desires, if reasonable, regarding the disposition of trees and brush of no value to the landowner by windrowing, burial, chipping or complete removal of affected property.
4. Stumps will be cut as close to the ground as practical, but in any event will be left no more than 4" above grade as terrain allows.
5. Unless otherwise directed by the landowner, stumps will be treated to prevent regrowth.
6. Unless the landowner specifically states that he does not want the area seeded, disturbed areas in non-crop producing land will be restored using a native plant mix consisting of native grasses and forbs. Deep-rooted native species will be used based on their abilities to enhance wildlife, soil permeability, pollutant filtering, and their reduced needs for fertilizer, herbicides, irrigation, and mowing. In addition, the native grasses and forbs will be selected for the region and site conditions. Before seeding the disturbed areas will be prepared to allow for good seed to soil contact to promote seed-germination and early growth. The native seed mix will be applied with any needed soil amenities and a cover crop consisting of oats or winter wheat depending on the time of year the seed is applied. The seeded area will be covered to protect the seed from being dislodged by storm events or erosion. Seeding cover may include crimped straw, erosion blanket, spray on erosion control products, or other methods depending on slopes or existing erosion conditions. Final restoration activities will be considered achieved when 70% or greater of the restored area has established permanent (not cover crop) vegetation with no large barren areas.
7. Best management practices will be followed to minimize erosion, with the particular practice employed at given location depending upon terrain, soil, and other relevant factors.
8. If necessary for construction, ATXI will reimburse landowner for their time required to move livestock from one location to another and, where feasible, may install temporary fences or gates to keep livestock out of the construction area.
9. Gates will be securely closed after use.

10. Should ATXI damage a gate, ATXI will repair that damage.
11. If ATXI installs a new gate, ATXI will either remove it after construction and repair the fence to its pre-construction condition, or will maintain the gate so that is it secure against the escape of livestock.
12. ATXI will utilize design techniques intended to minimize corona.
13. Should a landowner experience radio or tv interference issues believed by the landowner to be attributed to ATXI's line, ATXI will work with the landowner in good faith to identify if ATXI is the root cause of the problem, and if so to attempt to resolve the issue.
14. If tiling is practiced in the area where a transmission line is to be constructed, ATXI will send a letter to all landowners to request information as to whether support structure locations will interfere with any drainage tile.

If ATXI is advised of possible drainage tile interference with a support structure location, then ATXI will conduct an engineering evaluation to determine if the support structure can be relocated to avoid interference with the tile. ATXI will make its best efforts to relocate the support structure if the engineering integrity of the electric transmission line can be maintained.

If the tile is intercepted and needs to be relocated, ATXI shall negotiate a relocation agreement with landowner. In no case shall the length of the rerouted tile exceed 125% of the length of original tile line that will be replaced.

If the tile line is intercepted and repair is necessary, such repair shall be performed in accordance with local requirements (if any), and if no requirements are available, ATXI shall reference the USDA Natural Resources conservation Service Conservation Practice Standard document, "SUBSURFACE DRAIN"- CODE 606, to aid in the repair of the damaged tile.

15. ATXI will make every reasonable effort to repair, replace, or pay to repair or replace damaged private property within 45 calendar days, weather and landowner permitting, after the transmission line has been constructed across the affected property. If the landowner is paid for any work that is needed to correct damage to his/her property, ATXI will pay the ongoing commercial rate for such work. After construction is completed, ATXI will make reasonable efforts to contact each landowner personally to ensure construction and clean-up was done properly, to discuss any concerns, and to settle any damages that may have occurred. ATXI will restore all disturbed slopes and terraces to their original condition following construction.

16. In order to minimize the impact of soil compaction and rutting, ATXI, unless the landowner opts to do the restoration work, will deep rip to a depth of 18 inches all cropland, which has been traversed by construction equipment, unless the landowner specifies other arrangements that are acceptable to ATXI.

ATXI will deep rip to a depth of 12 inches all pasture and hayland that has been traversed by construction equipment to alleviate compaction impacts, unless the landowner specifies other arrangements that are acceptable to ATXI.

ATXI will deep rip or pay to have deep ripped all compacted and rutted soil, weather and landowner permitting, after the transmission line has been constructed across any affected property.

17. If desired by the landowner, ATXI will agree to apply fertilizer and lime to land disturbed by construction, weather permitting, within a mutually agreed time frame following the completion of final construction to help restore the fertility of disturbed soils and enhance the establishment of a vegetative cover to control soil erosion.

18. ATXI will remove from the landowner's property all material that was not there before construction commenced and which is not an integral part of the transmission line. (Note: Such material to be removed would also include litter generated by the construction crews).

19. ATXI will work with landowners to prevent or correct excessive erosion on all lands disturbed by construction. ATXI will use all reasonable efforts to ensure that erosion control measures are implemented, or pay the landowner to do so, within 45 days, weather and landowner permitting, following the construction of the transmission line across any affected property subject to erosion.

20. Excess soil material will be generated from the area displaced by the foundation for the support structures. ATXI will remove the excess soil material in tillable and pasture lands.

21. All ATXI contractors will be required to carry and maintain a minimum of one million dollars of liability insurance available to respond to damage claims of landowners. All contractors will be required to respond to any landowner damage claims within 24 hours. All contractors will be required to have all licenses required by state, federal, or local law.

#### **IV. Maintenance and Repair**

1. With regard to future maintenance or repair and right-of-way maintenance after construction is completed, ATXI will make reasonable efforts to contact landowners prior to entry onto the right-of-way on their property to advise the landowners of ATXI's presence, particularly if access is near their residence.

2. ATXI will remain liable to correct damages to private property beyond the construction of the transmission line, to associated future construction, maintenance, and repairs as well.

3. All right-of-way vegetation management line clearance contractors will employ a general foreman who is a certified arborist.

4. If herbicides are used, only herbicides registered with EPA and any applicable state authorities will be used, and herbicides will be used in strict compliance with all labeling directions.

5. To the extent maintenance outage availability permits, routine maintenance will not be planned during wet conditions so as to minimize rutting.

6. Existing access roads will be used to access the right-of-way wherever available.

7. Prior to commencing any scheduled vegetation management on the right-of-way, ATXI or an ATXI representative, upon request, will meet personally with all landowners who wish to discuss ATXI's vegetation management program and plans for their property and to determine if the landowner does or does not want herbicides used on their property. If the landowner does not want herbicides used, they will not be used.

**V. Indemnity**

ATXI will indemnify all owners of private land upon which such transmission line is installed, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, costs, losses, and reasonable expenses resulting from or arising out of the construction, maintenance, removal, repair, and use of such transmission line, whether heretofore or hereafter installed, including damage to such transmission line or any of its appurtenances, to the extent such claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or willful misconduct of ATXI, its employees, agents or contractors.

## **CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 12<sup>th</sup> day of October, 2021, and electronically delivered to all counsel of record.

**Missouri Public Service  
Commission**  
Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

**Office of the Public Counsel**  
Marc Poston  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
[opc@opc.mo.gov](mailto:opc@opc.mo.gov)

**Ameren Transmission  
Company  
of Illinois**  
Frank A Caro  
Andrew O Schulte  
900 W. 48th Place, Suite 900  
Kansas City, MO 64112  
[fcaro@polsinelli.com](mailto:fcaro@polsinelli.com)  
[aschulte@polsinelli.com](mailto:aschulte@polsinelli.com)

Matthew R Tomc  
1901 Chouteau  
St. Louis, MO 63166  
[AmerenMOService@ameren.com](mailto:AmerenMOService@ameren.com)

**Mary Frances Scholl**  
Stephanie S Bell  
308 East High Street, Suite 300  
Jefferson City, MO 65101  
[sbell@ellingerlaw.com](mailto:sbell@ellingerlaw.com)

**Missouri Public Service  
Commission**  
Nicole Mers  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
[nicole.mers@psc.mo.gov](mailto:nicole.mers@psc.mo.gov)

**Terry L. Scholl**  
Stephanie S Bell  
308 East High Street, Suite 300  
Jefferson City, MO 65101  
[sbell@ellingerlaw.com](mailto:sbell@ellingerlaw.com)

*/s/ Andrew O. Schulte*

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