



Commissioners  
**ROBERT S. KENNEY**  
Chairman  
**STEPHEN M. STOLL**  
**WILLIAM P. KENNEY**  
**DANIEL Y. HALL**  
**SCOTT T. RUPP**

## *Missouri Public Service Commission*

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

**JOSHUA HARDEN**  
General Counsel  
**MORRIS WOODRUFF**  
Secretary  
**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy  
**CHERLYN D. VOSS**  
Director of Regulatory Review  
**KEVIN A. THOMPSON**  
Chief Staff Counsel

July 29, 2014

Chrysa M. Niewald  
President  
Missouri Rock Island Trail, Inc.  
3581 Pin Oak Est.  
Owensville, MO 65066

Re: *Rock Island rail right of way*

Dear Ms. Niewald:

I am writing in response to your letter postmarked June 30, 2014 regarding the Rock Island Trail and Ameren Missouri's sale of the Rock Island Line. We appreciate your letter, and are currently analyzing all available options. We will provide a more detailed response to your letter in two weeks.

Sincerely,

Robert S. Kenney  
Chairman



## Missouri Rock Island Trail, Inc.

Robert S. Keeney, Chair  
Missouri Public Service Commission  
200 Madison Street, PO Box 360  
Jefferson City, MO 65102-0360

Dear Chairperson Keeney,

A broad community effort to transform the overgrown Rock Island rail right of way through central Missouri from a hazard and detriment into a tool of economic revival and recreational opportunity is being derailed by the disingenuous actions of the Ameren electric company.

For more than three years the citizens of Eldon, Owensville and other communities along the line have been working to acquire permission from Ameren to, at our own expense, convert the right of way from abandoned rail to useful trail. Hundreds of Missourians have joined the movement. The leadership of this effort has all along been under the impression that Ameren was dealing in good faith to allow the project to move forward.

Sadly, that does not now appear to have been the case. We have learned in recent days that Ameren intends to put the entire length of the line up for bid in part or in whole. This has been done in such a way as to deny those working so hard to convert the abandoned portion of the line to a higher purpose access to the process.

The huge economic, recreational and cultural value of the Katy Trail is the only example that need be cited to illustrate the community revitalization that a rails-to-trails project represents. Deteriorating hamlets such as Hartsburg and Rocheport along the Katy have been reborn, becoming hubs of commercial activity and community events that draw crowds and help inform Missourians of the vital link between the railroads and our history. Every town along the Katy route has enjoyed benefits that communities like Eldon and Owensville so desperately need.

If the current Ameren move to sell the line is not slowed to allow rails-to-trails proponents to participate and prevail, an important opportunity will have been lost.

Loss has been the underlying motivation for the movement to create a recreational corridor. When the line was abandoned, communities all along the rails suffered the crushing economic loss of a commercial lifeline. When the line was allowed to deteriorate to its current state of tangled undergrowth and a magnet for bad behavior through the very center of former railroad towns, community focus, value and lifestyle were lost. Now comes the specter of the most egregious loss of all - the loss of an opportunity to turn a negative into a huge positive for communities that so badly need that boost.

In Eldon, Ameren never made even the slightest effort to maintain the right of way through the center of town. The overgrown area became a haven for drug use and other criminal activity. We found extensive evidence of this blight when our community undertook to clear and clean a portion of the route through Eldon. We hauled out 50 dump-truck loads of trash that included significant drug paraphernalia. Residents of towns all along the right of way have expended time, effort and money mowing and maintaining Ameren's blighted property.

There are indications that the line is likely to be sold to out-of-state scrappers who will sell the rails and leave the right of way to deteriorate or return piecemeal to private hands, creating further blight through the center of our communities and depriving Missourians of the value of a public recreational facility.

We are asking the Public Service Commission to act for the benefit of our communities and Missouri. Ameren's refusal to work with the trail communities in good faith is an example of a giant utility taking advantage of those it is supposed to serve. They have harmed us through neglect of their right of way for two decades and now hope to harm us again by denying use of the abandoned line for recreation while profiting from the deterioration of the very core of our communities.

We know that there will never be rail service to our communities again. The world has moved beyond that hope. We also know that the Public Service Commission holds our future in your hands. Conversion of the Rock Island Line to a recreational trail holds the hope of revitalization for our communities and a broad benefit to the state of Missouri.

The Public Service Commission has the opportunity to force Ameren to operate as an honest broker in this matter with an eye toward the good of our communities and all Missourians. A delay of the right-of-way sale would also give Ameren an opportunity to live up to their mission statement "to power the quality of life."

We are asking that you evaluate the right-of-way bids in an open forum. Our group is willing and able to make a reasonable offer, but without leadership from the Public Service Commission we do not believe it will even be considered. We may not be able to outbid others but we can provide the best use of the right of way for the communities along the line and all Missourians. We need your help to do this.

Please act to allow those across the state interested in the best use of this property to fairly participate in the process.

Sincerely,

*Chrysa M. Niewald*

President  
Missouri Rock Island Trail, Inc.

Attachment: June 23, 2014 Letter to Ameren

CC:

Missouri Governor Jeremiah W. Nixon  
Missouri Attorney General Chris Koster  
U.S. Senator Claire McCaskill  
U.S. Representative Blaine Luetkemeyer  
U.S. Representative Vicky Hartzler  
Missouri Senator Michael Kehoe  
Missouri Representative Tom Hurst  
Missouri Representative David Wood  
Missouri Representative Mike Bernskoetter  
Missouri Representative Wanda Brown  
Missouri State Parks Director Bill Bryan



## Missouri Rock Island Trail, Inc.

23 June 2014

Thomas R. Voss, Chairman of the Board  
Warner L. Baxter, President and Chief Executive Officer  
Stephen Kidwell, Vice President of Corporate Planning  
Ameren  
1901 Chouteau Avenue – POBox 790352  
St Louis, MO 63103-3003

Gentlemen:

This letter is on behalf of Missouri Rock Island Trail, Inc. (MORIT). MORIT is comprised of individuals and representatives of local communities up and down the inactive portion of Ameren's Missouri Central Railroad (MCRR), which occupies the old Rock Island railroad corridor from Windsor east to approximately Beaufort, a few miles past Owensville, in Missouri. Ameren has recently solicited bids for the Rock Island rail corridor from Windsor all the way to its eastern terminus. Ameren is requiring parties seeking to bid for the property to sign a confidentiality agreement in order to review data necessary to make a responsible bid. Ameren officials so far have declined to make available to MORIT, or its representatives, copies of the confidentiality agreement to sign, and are thus preventing MORIT from making a bid, either directly or in conjunction with a rail operator. This is deeply troubling, because Ameren staff have indicated that they wish to dispose of the entire line to a single buyer, but are refusing to allow us to participate in the process. In all events, as a minimum, MORIT wishes to acquire the inactive portion of the line for use as a trail pursuant to 16 U.S.C. 1247(d), the federal railbanking statute, or to facilitate acquisition by State Parks. Ameren staff seem to be saying they will not even consider an offer limited to the inactive portion of the line, which of course most needs preserving in the public interest in the event it ends up in the hands of a salvage company.

MORIT is convinced that keeping the Rock Island intact for public purposes is in the best interests of Ameren ratepayers, Ameren shareholders, the State of Missouri, and the counties and communities up and down the line. The best way to accomplish this end is to allow MORIT to make a proposal, and to evaluate it fairly.

Because of the lack of cooperation from Ameren staff (who control MCRR), we are writing to you directly for your assistance in accessing information necessary to make a proposal, and also for your assurance that if we make a proposal, we will be treated at least equal to the salvage companies who are preparing proposals to Ameren with the assistance of Ameren's staff. Since Ameren staff are seeking proposals by July 15, but have refused to make the necessary information available to us, we further request that Ameren extend the response date for its request for proposals until the later of August 15 or 45 days after Ameren supplies us with the information it is supplying A&K and/or other salvagers.

### Background

The Rock Island corridor was originally proposed for exempt abandonment by Southern Pacific in or about 1993. SSW Abandonment, ICC dkt AB 39 (Sub no. 18X), notice served Nov. 8, 1993 (SSW was a subsidiary of Southern Pacific and this abandonment docket covered a portion of the line west of Windsor as far as Owensville). It is our understanding that proponents of a trail on the corridor at that time achieved at least an oral agreement with Southern Pacific for acquisition of the property for a public trail under the federal railbanking statute. However, the abandonment proceeding was not finalized. Union Pacific then subsequently acquired the line in a merger with Southern Pacific. UP/SP Merger, 1 STB 233 (1996). We understand that Missouri Central Railroad (MCRR), owned by Ameren, acquired the line pursuant to STB Finance Docket No. 33508, served Jan. 27, 1998. The SSW Abandonment proceeding was then formally dismissed in a decision served June 20, 2000. So far as MORIT is aware, there has been no rail service on the line from Windsor to Beaufort for well over a decade. Indeed, trees have grown up between the rails that appear to have 20 or more (some say 40) years growth. The ties are basically rotted out. So far as we are aware, the inactive portion of the line has not seen a train for almost two generations. The President of MCRR indicated that there is zero rail interest in the portion of the line from Windsor to Beaufort. It is clear that the cost to rehabilitate this line for rail use would be enormous: the cost of constructing a new rail line.

When Ameren acquired the Rock Island rail corridor, we had understood that the railroad anticipated using it to transport coal. However, Ameren in 1996 evidently voluntarily entered into a contractual service restriction with Union Pacific precluding MCRR from serving Ameren's electric generating station at Labadie owned by Ameren Missouri. The relevant federal rail regulatory agency, the Surface Transportation Board (STB), refused to remove the service restriction in a decision served in Union Electric Company d/b/a Ameren Missouri v. Union Pacific RR Co., NOR 42126 (and related cases) served Feb. 27, 2013. Ameren then apparently began actively marketing the line to the salvage industry. We understand from Ameren staff that Ameren has circulated a memorandum stating that it is soliciting proposals for the entire line, or for the inactive segment (Windsor to Beaufort) or for the active segment (Beaufort to eastern terminus only). However, Ameren staff, as noted, have said that they wish to consider only bids for the entire line, which for all practical purposes limits any buyer to a general salvage company which is acquiring the line with an intent to abandon and to salvage the inactive portion.

## Reasons for Ameren to Include MORIT in the Process

There are at least six important reasons to allow MORIT a meaningful opportunity to make a proposal for the Rock Island rail corridor east of Windsor.

1. MORIT's proposal may result in a higher return to Ameren. Ameren is a regulated utility with an obligation to minimize the burden on ratepayers for the electricity it generates. By ensuring a competitive environment for the sale of the rail line (by allowing all interested parties equal access to information to make proposals), Ameren better protects ratepayers. Limiting bidding to few salvage interests, or groups dominated by salvage interests, as Ameren staff are doing, limits competition and reduces the chance that Ameren will secure a competitive return on investment.
2. Ameren's rail line is regulated by STB. Under 49 U.S.C. 10901-03, STB must pre-approve any transfers of the line as an operating line of railroad, as well as all abandonments. It is common knowledge that there is no longer any rail interest in the inactive portion of this line (Windsor to Beaufort). That is why several salvage companies are leading the charge to purchase the line from Ameren. But STB precedent confirms that parties are not supposed to buy inactive lines from railroads (e.g., from Ameren) to abandon (salvage) them. Rather, the railroad (here, Ameren) should obtain abandonment authority itself. MORIT is prepared to make a proposal to Ameren under which Ameren could comply with STB precedent by securing STB abandonment approval (or by having MORIT do so), rather than seek to evade STB precedent by selling the line to a salvage company to abandon. We believe that it is preferable for Ameren to comply with federal rail regulations in this transaction.
3. If MORIT's contemplated proposal were accepted by Ameren, the entire line could be preserved intact under the federal railbanking statute for future rail use, while allowing interim trail use. The line would not be deemed abandoned for state law purposes, so easements of which we surmise it is at least in part comprised (Ameren staff has not made any data available to us) will not automatically extinguish. The corridor would remain intact for utility purposes, including the fiber optics easement and other purposes.
4. If MORIT's contemplated proposal were accepted by Ameren, the facility would become a trail. Just as the Katy Trail to the north has been an economic asset and community amenity for towns up and down the old M-K-T line, a trail along the Ameren rail line would be an economic asset and community amenity for our towns and counties as well. Ameren would leave a legacy rather than a might-have-been.
5. We intend to offer a competitive price, legal know how, and protection from liability if Ameren will deal with us.
6. Finally, there is a matter of fundamental fairness. It is our understanding that this line almost became a public trail in 1993-94. Ameren should at least give us a shot at what we had arranged twenty years ago, and certainly not inhibit the matter by selling the line only for break up and salvage.

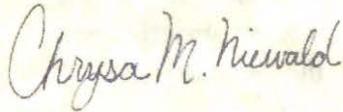
Conclusion

We respectfully request Ameren management at the top level to instruct Ameren staff to give us a chance. We request the opportunity to review all data and information Ameren has supplied any other prospective purchaser for this line. We request that the proposal period be kept open until at least 45 days after that information is supplied to us so that we can conduct our due diligence and submit an offer on equal footing with the salvage companies we know to be currently working up bids on this line.

We firmly believe that it is in the best interest of Ameren, its ratepayers, our communities, and the State of Missouri and its citizens for us work together, rather than for us to be excluded, from this process.

Because the due date for proposals is fast approaching (mid-July), we request that you give our request your early and favorable consideration. Thank you.

Sincerely,



Chrysa Niewald, President  
Missouri Rock Island Trail, Inc.  
3581 Pin Oak Est., Owensville, MO 65066  
Morockislandtrail@yahoo.com  
314.650.4486  
573.437.4275

CC:

Missouri Public Service Commission  
Missouri Governor Jeremiah W. Nixon  
Missouri Attorney General Chris Koster  
U.S. Senator Claire McCaskill  
U.S. Senator Roy Blunt  
U.S. Representative Blaine Luetkemeyer  
U.S. Representative Vicky Hartzler  
Missouri Senator Michael Kehoe  
Missouri Representative Tom Hurst  
Missouri Representative David Wood  
Missouri Representative Mike Bernskoetter  
Missouri Representative Wanda Brown  
Missouri State Parks Director Bill Bryan