

**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	)	
under Section 393.170.1, RSMo, Relating	)	File No. EA-2024-0302
to Transmission Investments in Northwest	)	
and Northeast Missouri	)	

**RESPONSE OF AMEREN TRANSMISSION COMPANY OF ILLINOIS  
TO MARK HARDING REQUEST FOR CLARIFICATION**

COMES NOW Ameren Transmission Company of Illinois (ATXI or the Company), through its undersigned counsel, and for its response to Mark Harding’s Request for Clarification filed Sunday, June 8, 2025 (Request), states as follows:

1. While styled as a request for clarification, the Request primarily, if not fully, seeks legal advice with respect to an alternate route (DO-27), one of 28 route alternatives considered by the Company as part of its route selection study (RSS) process but not proposed by the Company in its Application, which Mr. Harding appears to prefer since his property is not impacted by that route. Indeed, the Request does not identify a Commission order or ruling for which it seeks “clarification,” but instead asks for “clarification on whether or not DO-27 is an available option for this CCN and clarification as to whether late notices should be used for the DO-27 land owners in the same manner as they are being used for DO-28 land owners.”<sup>1</sup> Request, p. 1. As the Commission has already ruled in this proceeding, it “cannot instruct parties on how to present their case.” *Order Regarding Prehearing Conference and Filing of Procedural Schedule* (May 20, 2025), p. 1; *see also* Transcript - Volume 5 (Procedural Conference - Jefferson City, MO via

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<sup>1</sup> Changing the route from DO-28 to DO-27, where they diverge, would involve shifting the alignment for over 9 miles in length, and affect approximately 25 parcels that would require notice.

WebEx - June 9, 2025), 22:7-8 (Regulatory Law Judge Fewel (responding to a question from a different *pro se* landowner): “I cannot give you legal advice ....”).

2. The Request mischaracterizes Staff’s Memorandum and Staff Recommendation with respect to DO-27. Mr. Harding asserts that Staff makes references to “ATXI’s failure to notify landowners in the reroute area of DO-27 to DO-28.” Staff’s Memorandum does note that landowners along the DO-27 route alternative were not notified of the Application but does not describe that fact as a “failure” to comply with the rule as asserted by Mr. Harding. Similarly, nothing on page 25 of Staff’s Memorandum indicates Route DO-27 was an alternate route which needed to be used for purposes of identifying affected landowners to receive notice of the Application. Rather, the Staff Memorandum specifically concludes that the Company’s notice was compliant with the applicable rule. Staff’s Memorandum, 31:14-16 (December 20, 2024) (EFIS Item 50). A different section of Staff’s Memorandum entitled “Public Engagement and Re-route Justification” does state that “Staff views DO-27 as a known alternate route” and uses that view to support several recommended conditions; however, none involve treating DO-27, or other route alternatives not proposed by the Company in this or future Certificate of Convenience and Necessity(CCN) applications, as an alternate route to be used for determining affected landowners to receive notice of an application under 20 CSR 4240-20.045(6)(K), or to be considered by the Commission for approval of such routes not proposed in a CCN application.

3. Mr. Harding's citation to language in 20 CSR 4240-20.045(6)(K)<sup>1</sup> of the MPSC's rules ignores and fails to take into account the language of the primary notice requirement set forth in Subsection (6)(K). Request, p. 2. The argument that ATXI was required to provide notice of its application to landowners along route alternative DO-27, which was identified along with 27 other route alternatives in the RSS (Ameren Schedule JN-D1) for the FDIM Project, where it

differs from route DO-28 proposed by ATXI in its Application, is contrary to law and without merit. Rather, the Company's notice of its application to landowners was compliant with 20 CSR 4240-20.045(6)(K), which clearly provides that the required notice is to be given "to landowners directly affected by electric transmission line routes or transmission substation locations **proposed by the application.**" 20 CSR 4240-20.045(6)(K) (emphasis added). ATXI did not propose route alternative DO-27 in its Application.

4. Mr. Harding cites to language in paragraph 1 of Subsection (6)(K) which explains that the notice shall be provided "to the owners of land ... who would be directly affected by the requested certificate, including the preferred route or location, as applicable, **and any known alternative route or location of the proposed facilities.**" Request, p. 2 (emphasis in original); 20 CSR 4240-20.045(6)(K)1. Paragraph 1 sets forth additional details regarding the notice to landowners directly affected by the route or routes "proposed by the application" as set forth in Subsection (6)(K). Paragraph 1 and other numbered paragraphs of Subsection (6)(K) remain subject to, and must be interpreted consistent with, the explicit notice directive in Subsection (6)(K).<sup>2</sup> Thus, the reference to "any known alternate route or location" must be interpreted consistent with the primary and detailed requirement it is explaining, which notice requirement is limited to owners directly affected by a route proposed by the utility in its application. DO-28 was the only route proposed by ATXI in its Application and nothing in 20 CSR 4240-20.045(6)(K) or

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<sup>2</sup> Administrative rules are subject to the same principles of statutory construction used to interpret statutes. *Woolridge v. Woolridge*, 915 S.W.2d 372, 378 (Mo.App. W.D.1996). Well established principles of statutory construction require the interpreting court or agency to "read the provisions not 'in isolation but construed together and read in harmony with the entire act.'" *Wyatt v. Taney County, MO*, 347 S.W.3d 616, 620 (Mo. App. S.D. 2011). Similarly, statutes and rules must be interpreted in a manner that does not lead to an absurd result or render any provision or a rule or statute meaningless. *State ex rel. Ozark Border Elec. Co-op. v. Pub. Serv. Comm'n of Missouri*, 924 S.W.2d 597, 601 (Mo. Ct. App. 1996) ("The legislature is presumed not to enact legislation that would result in meaningless provisions."); *Neil v. St. Louis Cnty.*, 688 S.W.3d 268 (Mo. Ct. App. 2024) ("Statutes cannot be interpreted in ways that yield unreasonable or absurd results ....").

(6)(K)1 requires ATXI to provide notice of a route it did not propose in its application. Routes other than ATXI's proposed route, DO-28, that would impact an additional landowner's parcel, absent agreement from that landowner, would seemingly result in notice concerns raised by Staff.

5. The Request makes a material omission and is misleading in that it quotes part of a sentence from the Direct Testimony of ATXI witness Leah Dettmers regarding how potentially affected landowners were identified for open houses<sup>3</sup> and juxtaposes that statement regarding notice to potentially impacted landowners with a comment regarding the July 5, 2024, notice of ATXI's Application provided to potentially affected landowners (Request, p. 1), without noting that the statement in Ms. Dettmer's testimony was limited to notice of the March 2024 open houses and did not address the July 2024 notice of the Application.

6. The Request also makes several assertions relating to additional notices provided to other landowners pursuant to 20 CSR 4240-20.045(6)(K)(4). Request, pp. 1-3. To the extent Mr. Harding purports to raise issues regarding such notices, he exceeds the scope of his intervention which was limited to routing issues affecting his property. *Order Regarding Applications to Intervene and Directing Filing of Procedural Schedule*, May 7, 2025 ("The Commission will ... grant Mr. Harding, Mr. Mathews, and Mr. and Ms. Hiatt's applications for intervention, but limit their interventions to the issue of routing concerns affecting their property.").

7. The Request also refers to statements Mr. Harding asserts were made by ATXI in the context of settlement discussions to pursue the possibility of a mutually agreeable resolution

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<sup>3</sup> Separately, ATXI notes that it clarified in its Response to Staff data request MPSC 0022.1 that "[t]he statement referenced in the direct testimony of Leah Dettmers regarding using 2020 2021 tax parcel information inadvertently reflected the timeframe for the initial datasets used for developing the initial route options during for ATXI's bid proposal to MISO for the FDIM Project, rather than the timeframe for when the updated parcel data was obtained by ATXI prior to the open houses, and throughout the public engagement process, to notify potentially affected landowners."

of Mr. Harding's routing concerns. Request, p. 3. In general, settlement negotiations may not be used in Missouri proceedings. *Hancock v. Shook*, 100 S.W.3d 786, 799 (Mo. banc 2003) ("Because settlements are encouraged under the law, the general rule is that evidence procured from settlement is to be excluded at trial."). The Commission's rules state as follows regarding settlement offers: "Facts disclosed in the course of a prehearing conference and settlement offers are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence." 20 CSR 4240-2.090 (7). ATXI submits that the references to statements made during settlement discussions are inappropriate.

WHEREFORE, ATXI requests that the Commission deny the Request for Clarification for the reasons stated above and that the Commission's order specifically find that the Request for Clarification is denied on the grounds that: (i) the notice of an application required under 20 CSR 4240-20.045(6)(K), including its subparagraphs, is limited to landowners directly affected by the route or routes proposed in an application; and (ii) ATXI did not propose route DO-27 in its Application in this proceeding.

Dated: June 18, 2025

Respectfully submitted,

/s/ Carmen L. Fosco

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel and *pro se* parties of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System on June 18, 2025.

/s/. Carmen L. Fosco

Carmen L. Fosco