

**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	)	<u>File No. EA-2024-0302</u>
Section 393.170.1, RSMo. relating to	)	
Transmission Investments in Northwest and	)	
Northeast Missouri	)	

STAFF’S POST HEARING BRIEF

COMES NOW, the Staff of the Missouri Public Service Commission, and for its
Post Hearing Brief respectfully states as follows:

Introduction

The Ameren Transmission Company of Illinois (“ATXI”) seeks approval from the Missouri Public Service Commission (“Commission”) for its application to construct and operate new high voltage transmission lines in Worth, Gentry, DeKalb and Marion Counties, Missouri. ATXI filed a notice of its intended case on April 16, 2024, and on July 16, 2024, it filed its application for a certificate of convenience and necessity (“CCN”) along with direct testimony from eleven witnesses.

Shortly after ATXI filed its application, the Commission provided notice to the County Commissions of Worth, Gentry, DeKalb and Marion Counties, Missouri, and set an intervention deadline for August 16, 2024.¹ Several parties intervened, including the Missouri Joint Municipal Electric Utility Commission (“MJMEUC” or “MEC”),

¹ The Commission also availed its notice to the media serving the aforementioned counties as well as the members of the General Assembly representing those counties. See the Commission’s Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation, issued on July 18, 2024.

Renew Missouri, Clean Grid Alliance, Sierra Club, and Midcontinent Independent System Operator, Inc. (“MISO”),² and later various landowner intervenors.³

Staff filed its recommendation on December 20, 2024,⁴ concluding that ATXI met the filing requirements for a CCN. Staff also identified its concerns with ATXI’s initial landowner notice under Commission Rule 20 CSR 4240-20.045. ATXI requested local public hearings in anticipation of a procedural schedule; the Commission held an in-person public hearing in Albany, Missouri, on December 9, 2024, and a virtual hearing on December 10, 2024; the Commission later scheduled an additional virtual hearing on January 16, 2025.

On March 7, 2025, ATXI, Staff and other parties⁵ filed a Joint Status Report proposing conditions to remedy notice concerns, improve communication with landowners for future projects, and to govern micro-siting and reporting.⁶ On April 4, 2025, the Commission issued its order setting and additional intervention deadline. An evidentiary hearing was held on October 27, 2025, where the disputes were limited to landowner routing and siting issues, with the issues regarding the project’s need;

² The Commission granted Missouri Joint Municipal Electric Utility Commission, Renew Missouri, and Clean Grid Alliance’s intervention request on August 12, 2024. The Commission granted the Sierra Club and MISO’s intervention request on August 27, 2024.

³ On May 7, 2025, the Commission granted Mark Harding, F. Neil Mathews, and Kevin and Rochelle Hiatt’s applications for intervention in a limited capacity to only the issue of routing concerns affecting their property. On May 14, 2025, the Commission granted McGinley-Krawczyk Farms, LLC’s application for intervention in a limited capacity to only the issue of routing concerns affecting its property.

⁴ Exhibit 100, Staff Recommendation (Public and Confidential).

⁵ The Joint Status Report was filed on behalf of ATXI, the Clean Grid Alliance, MISO, MJMEUC/MEC, Staff, Renew Missouri, and the Sierra Club approximately 28 days prior to the Commission setting an additional intervention deadline allowing individual landowners an opportunity to intervene.

⁶ See Exhibit 101, Schedule CME-s1, which includes the revised conditions agreed upon in the Joint Status Report.

ATXI's qualifications; its financial ability; and the project's economic feasibility being uncontested by the parties.

Legal Standard

Under § 393.170.1, RSMo, an electrical corporation must obtain Commission consent and approval before constructing a transmission line. Section 393.170.3 further authorizes the Commission, in granting a certificate, to impose "such condition or conditions as it may deem reasonable and necessary." This means that the Commission may approve a project subject to route adjustments, notice requirements, reporting obligations or other safeguards to protect landowners and the public.

In evaluating whether to grant a CCN, the Commission applies the five *Tartan* factors derived from *Union Electric Co. v. Public Service Commission*, 598 S.W.2d 850 (Mo. App. 1980):

- (1) whether there is a need for the proposed service,
- (2) the qualifications of the applicant,
- (3) the applicant's financial ability to finance and operate the project,
- (4) the project's economic feasibility, and
- (5) whether the proposal will serve the public interest.

In this case, the first four factors, being need, qualifications, financial ability, and economic feasibility, are uncontested on the record. Only the fifth factor, the public interest factor, is disputed. The issues raised are primarily related to landowner impacts, the intervening landowner's personal routing preferences, and allegations of procedural deficiencies.

Parties who allege a violation of a Commission rule bear the burden of producing competent and substantial evidence to support that allegation and to demonstrate that the asserted violation warrants Commission action within this CCN proceeding.⁷

Argument

Section 393.170.1, RSMo, prohibits an electric utility from beginning construction of a new transmission line without the Commission's consent and approval. Under § 393.170.3, the Commission may impose reasonable and necessary conditions on any CCN it grants. As described above, the Commission evaluates CCN applications under the *Tartan* factors, and the public interest factor is the only contested factor in this case.

The public interest factor covers routing concerns, landowner impacts, and compliance with the Commission's rules. This includes the notice requirements as contained in 20 CSR 4240-20.045. The Commission also has the authority to enforce its procedural rules and to determine whether procedural concerns raised by intervenors warrant conditions, modifications, or other actions warranted within the CCN process.

Notice

Commission Rule 20 CSR 4240-20.045(6)(K) requires that, no more than 60 days before filing, an applicant must notify all landowners whose property would be directly affected by its preferred route and any known alternative routes. A landowner is "directly affected" if the applicant will require a permanent easement over the property or

⁷ See *State ex rel. GS Technologies Operating Co. v. Public Service Commission*, 116 S.W.3d 680, 693 (Mo. App., W.D. 2003) (quoting *Margulis v. Union Elec. Co.*, 30 Mo.P.S.C. (N.S.) 517, 523 (1991)). *AG Processing, Inc. v. KCP&L Greater Missouri Operations Co.*, 385 S.W.3d 511, Mo. App., W.D. 2012). ("In cases where a [party] alleges a regulated utility is violating the law ..., the [party] bears the burden of proving the allegations in [its] complaint.")).

if a habitable structure on the land lies within 300 feet of the proposed centerline. If twenty-five (25) or more landowners in a county are entitled to notice, the applicant must hold a public meeting in that county before filing. If the applicant later discovers that a landowner was entitled to notice but did not receive it, the rule requires the applicant to provide notice by certified mail within 20 days and file a supplemental proof of compliance attesting to that mailing.

ATXI requested a CCN to construct its transmission lines along Route DO-28 and notified directly affected landowners of its selection through a mailing sent on July 5, 2024.⁸ When ATXI later identified any discrepancies in its notices, it made all reasonable efforts to provide notice to the correct landowners.⁹

ATXI did not list Route DO-27 as an alternate route in its application, though ATXI did have testimony regarding DO-27 throughout its testimony. The landowners near Route DO-27 did not initially receive notice of this application as a result.¹⁰ Staff identified this omission in its December 2024 recommendation.

ATXI complied with the Commission's notice requirements by providing initial notice along Route DO-28 and conducting required public meetings in counties where more than twenty-five (25) landowners were entitled to notice.¹¹ After the Commission directed ATXI to issue supplemental notice to additional landowners, ATXI complied with

⁸ See Exhibit 1, page 20, line 15 and ATXI Application, Appendix D.

⁹ Transcript, volume 7, page 75, lines 5-6.

¹⁰ See Exhibit 100, page 4, lines 1- 21.

¹¹ Exhibit 1, Direct Testimony of Leah Dettmers (Corrected), pages 3-9, filed on October 3, 2025.

that order as well.¹² This ensured that all known and directly affected landowners received notice and an opportunity to comment on ATXI's proposed route.

Throughout this process, ATXI obtained updated county parcel data, and issued supplemental notices to any landowners missed along Route DO-28 and sent notice to Route DO-27 landowners in compliance with the Commission's order.¹³ The Commission further addressed any notice deficiencies by holding the January 16, 2025, public hearing for Route DO-27 landowners. By the time of the October 2025 evidentiary hearing, all known directly affected landowners had been notified and given an opportunity to participate. Staff, therefore, considers known notice issues addressed and sees no ongoing violation of the rule.

Routing

The Commission has broad authority to address routing concerns. When landowners challenge a proposed route or allege procedural deficiencies, the Commission has the authority to require modifications or impose conditions. At the same time, the Commission balances individual landowner interests against the broader public need for reliable electric transmission.

Modifying Route DO-28, as proposed by the landowner intervenors, may satisfy those landowners by shifting the impact onto another landowner. Therefore, the Commission should exercise heightened scrutiny when considering a reroute or modification after a case has proceeded through notice, intervention and public hearings. When considering the proposed modifications, Staff recommends three (3) conditions:

¹² See the Commission *Order Setting Local Public Hearing and Directing Notice*, filed on December 31, 2024. (Directing ATXI to file a status report with the Commission detailing the notice, including how and when it was delivered in preparation for the January 16 local public hearing).

¹³ See Status Report with Notice, EFIS Item No. 54, filed on January 13, 2025.

(1) Do not approve a modification that would affect landowners who were not notified before the April 18, 2025, intervention deadline, as due process requires giving such landowners notice and an opportunity to be heard;

(2) Avoid modifications that would significantly increase project costs. Staff's position is that modifications should collectively add no more than about 1 to 2 percent to the overall cost of Phase 1 (approximately \$1.2 million to \$2.4 million) to preserve economic feasibility; and

(3) Where feasible, follow existing transmission corridors, road rights-of-way or property lines to minimize the creation of new right-of-way and environmental impacts.

Staff concluded, after applying the *Tartan* factors, that (1) the project is needed; (2) ATXI is qualified to construct, install, own, operate, maintain, and otherwise control and manage the project; (3) that it has the financial ability to undertake the project; and (4) the project is economically feasible as originally presented in its application. Only the public interest factor is currently disputed. Staff's recommended conditions are designed and intended to ensure that the project serves that interest.¹⁴

Throughout the proceeding, certain intervening landowners proposed alternate routes or modifications. Modifying or otherwise changing the route ATXI presented to the public would potentially require new notice to landowners and could risk reopening the record to afford affected landowners an opportunity to respond not to ATXI's application, but to the landowner's proposed modifications. The Commission limited intervention to landowner's personal routing and siting concerns; and landowners who would be newly affected by the proposed modifications did not receive notice of those changes.

ATXI was required to hold public meetings and attend local public hearings due to its CCN filings, during which it had to defend its proposed routes against public inquiry.

¹⁴ The conditions as contained in Schedule CME-s1.

The landowner-proposed reroutes did not undergo comparable public scrutiny, and they were not presented in a manner that satisfied the same notice, participation, or procedural obligations applied to ATXI.

Staff has not taken a position on any particular alternative route or modification. Staff's role is to inform the Commission that if it chooses an alternate route, that affected landowners will receive notice and the route will be evaluated under appropriate criteria. Some of the requested modifications would only affect the landowner's own property; those proposals are less controversial because they do not affect another landowner's personal interests.

Landowner Intervenor Suggested Modifications

Return to Route DO-27

Various intervening landowners requested that the Commission order ATXI to construct its lines on Route DO-27,¹⁵ asserting that it would follow existing transmission corridors and would reduce impacts on residences compared to Route DO-28. Although Route DO-27 generally follows existing utility transmission corridors, it is longer than Route DO-28 and would affect landowners who were not originally notified in ATXI's CCN application.

Harding Modification

Mark Harding offered four (4) different route options for the Commission's consideration. However, all of Mr. Harding's options would affect new landowners who did not receive notice of the CCN application prior to April 18, 2025. The cost impacts compared to Route DO-28 are either not estimated or are more expensive than ATXI's

¹⁵ See Exhibit 101, Schedule CMEs-3, page 2.

preferred route. Mr. Harding suggests four (4) options but only the second through fourth options are routed along roads, corridors, or property lines.¹⁶

McGinley Modification

Rebecca McGinley (on behalf of McGinley-Krawczyk Farms, LLC) offered two (2) different route options for the Commission's consideration. Only the second of McGinley's modifications would not affect new landowners that did not receive notice of the CCN application prior to April 18, 2025. However, neither modification is routed along roads, corridors, or property lines. Both of McGinley's modifications are estimated to increase ATXI's costs.¹⁷

Staff has not taken a position on any particular alternative route or modification. Staff's role is to inform the Commission that if it chooses an alternate route, that affected landowners will receive notice and the route will be evaluated under appropriate criteria. ATXI estimates its total cost to construct the Phase 1 Projects is \$120.5 million. Staff does not object to modifications, or combinations of modifications, that together are anticipated to be less than approximately 1% to 2% of the total estimated cost. That said, modifications that directly affect landowners who were not notified of the CCN application prior to the April 18, 2025, intervention deadline should not be considered by the Commission.

Issues Presented to the Commission

1. What concerns, if any, alleged by the intervenor landowners regarding routing and siting issues affecting properties of the intervenor landowners does the Commission have the authority to address,

¹⁶ *Id.*, page 1.

¹⁷ *Id.*, page 2.

including but not limited to alleged violations of Commission Rule 20 CSR 4240-20.045(6)(K)?¹⁸

Generally, the Commission has the authority to address any alleged violations by Ameren Transmission Company of Illinois (“ATXI”) of applicable Commission orders, rules, regulations, or statutes under the Commission’s jurisdiction.

2. For alleged concerns regarding routing and siting issues affecting properties of the intervenor landowners that the Commission has the authority to address, what relief, if any, is warranted, including any modifications to the route associated with Ameren Transmission Company of Illinois’ (“ATXI”) application or additional conditions?

Staff considers the evaluation of the separate *Tartan* factors and whether, on balance, the project promotes the public interest. In its December 20, 2024, recommendation, Staff recommended various conditions related to right-of-way acquisition and micro-siting; reporting requirements; and landowner communications for current and future projects. ATXI, Staff, and several parties to this case reached an agreement on limited revisions to Staff’s recommended conditions. Consistent with Staff’s experience with transmission CCN cases similar to the present case, and to ensure the project is in the public interest, Staff recommends the conditions contained in schedule CME-s1 be imposed by Commission order.

Conclusion

WHEREFORE, Staff respectfully submits its Post Hearing Brief for the Commission’s consideration. Staff recommends that the Commission impose the agreed

¹⁸ The *Joint List of Issues and Witnesses, Order of Openings, Witness Testimony, and Cross-Examination* filed by the parties on October 10, 2025, incorrectly listed Commission Rule 20 CSR 4240-20.046(6)(K), which does not exist. Commission Rule 20 CSR 4240-20.045(6)(K) is the correct citation.

upon conditions contained in Schedule CME-s1, and when considering the proposed modifications, Staff recommends three (3) conditions:

- (1) Do not approve a modification that would affect landowners who were not notified before the April 18, 2025 intervention deadline, as due process requires giving such landowners notice and an opportunity to be heard;
- (2) Avoid modifications that would significantly increase project costs. Staff's position is that modifications should collectively add no more than about 1 to 2 percent to the overall cost of Phase 1 (approximately \$1.2 million to \$2.4 million) to preserve economic feasibility; and
- (3) Where feasible, follow existing transmission corridors, road rights-of-way or property lines to minimize the creation of new right-of-way and environmental impacts.

Respectfully submitted,

/s/ Eric Vandergriff

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record on this 18th day of October, 2025.

/s/ Eric Vandergriff