

**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)	Case No. EA-2024-0302
393.170.1, RSMo. relating to)	
Transmission Investments in)	
Northwest and Northeast Missouri)	
)	

THE OFFICE OF THE PUBLIC COUNSEL’S INITIAL BRIEF

INTRODUCTION

Since 1975, the Missouri Office of the Public Counsel (“OPC” or “Public Counsel”) has had the duty and responsibility of protecting the general public and being their voice in front of the Public Service Commission (“Commission”). By statute, the OPC “may represent and protect the interests of the public in any proceeding for or appeal from the public service commission[.]”¹ In cases such as this one, Public Counsel believes that protecting the public interest requires it to protect the Commission’s own power and willingness to wield it.

The United States is becoming more dependent on electricity. That dependence means there will be more cases in front of this Commission regarding investor-owned utilities’ (“IOUs”) transmission line placement. Public Counsel does not see its role in this particular case as one to recommend one route over another. Nor does Public Counsel see its role as providing the Commission with a route that the Commission’s

¹ Section 386.710(3), RSMo.

Staff (“Staff”) did not propose in the *Staff Recommendation*. Instead, the OPC sees its role as ensuring that landowners have a voice in front of the Commission. Further, the OPC seeks to remind the Commission of its powers, which the Missouri Legislature imbued, and encourage the Commission to use those powers, where necessary.

I. 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, INCLUDING BUT NOT LIMITED TO ALLEGED VIOLATIONS OF COMMISSION RULE 20 CSR 4240-20.045 (6)(K)?

In its *Statement of Position*, the OPC stated the Commission has the authority to address any routing and citing issues affecting the properties of the intervenor landowners (“Landowners”).² Public Counsel cited Section 393.170.3, RSMo,³ and 20 CSR 4240-20.045⁴ to support this claim. After the conclusion of the hearing, and after reviewing the parties’ evidence in this case, the OPC’s position remains the same.

The Missouri Legislature granted the Commission the authority to address any statutory or regulatory violation that any IOU, such as Ameren Transmission Company of Illinois (“ATXI” or “Utility”), committed when applying for a certificate of convenience and necessity (“CCN”). The Missouri Legislature even granted the

² *The OPC’s Statement of Position*, p. 1, EFIS Item No. 186 (Oct. 17, 2025).

³ “The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary.”

⁴ *Id.*

Commission with the authority “to impose such condition or conditions as it may deem reasonable and necessary.”

A. *The Utility’s Statement of Position.*

1. Landowner Concerns Regarding Property Value and Potential Damages

In its position statement, ATXI asserts that the placement of transmission lines within the state of Missouri are “beyond the jurisdiction of” the Commission and are, instead, eminent domain issues in the jurisdiction of civil courts.⁵ The OPC strongly disputes the Utility’s understanding of this aspect of this case, due to Section 393.170.3, RSMo. which states “[t]he commission may by its order impose such condition or conditions as it may deem reasonable and necessary.”⁶ Midcontinent Independent System Operator, Inc (“MISO”) has determined that the main line at issue is a “multi-value project” (“MVP”).⁷ When a regional transmission organization (“RTO”) such as MISO deems a transmission project an MVP, the RTO is effectively informing the Commission that the project is anticipated to have regional value . Therefore, this designation pressures the Commission to approve the CCN application with minimal changes in every area besides the precise placement of that line. ATXI’s argument seeks Commission secession of this vital protection of Missourians’ property rights that it alone holds. Specifically, the Utility is attempting to assert that the jurisdiction lays with courts who do not have the experience and

⁵ *ATXI’s Statement of Position*, §II(A)(1) p. 4, EFIS Item No. 191 (Oct. 17, 2025).

⁶ See *supra* FN 4.

⁷ *Application*, p. 2, EFIS Item No. 3 (July 16, 2024).

technical staff to consider all of the factors of transmission line placement. MISO's concern is reliable power flowing across the region's grid, so it does not focus on which parcels the line will cross. Further, civil courts are unable to direct transmission line routing. Therefore, that leaves this Commission as the only authority with the ability to adequately address parcel-by-parcel routing issues.

The Utility's *Statement of Position* cites irrelevant caselaw with a goal of convincing the Commission to limit citizen protections. ATXI cites cases where state courts have placed limits on the Commission's ability to permit or prevent an IOU's ability to use condemnation or eminent domain authority. However, the Commission's inability to begin such proceedings does not prevent it from considering the effect those proceedings would have on the public interest. ATXI's argument to the contrary threatens to force this body to place its thumb on the scale to support a quasi-governmental entity's desire for convenience over the private property rights of those individuals who live here.

2. Landowner Concerns Regarding Notice

The Utility asserts the issue of landowner notice was not properly raised because the Commission already addressed it; the Landowners did not allege any statute, rule, or order violation; and it exceeded the scope of the Landowners' limited interventions. The OPC will address each point in turn.

Regarding the first issue, if the Commission believed that there were no notice issues in this case, it would not have reopened the intervention period. Further, it

would not have permitted the Landowner's, who received the original notice, according to Utility records, to intervene and request a hearing. The Commission recognized that the issue of notice went beyond ATXI's adherence to 20 CSR 4240-20.045(6)(K).

The Public Counsel both acknowledges and appreciates the Commission's recognition that the Utility's failure to provide Landowners with adequate notice would cause issues if left unaddressed. Moreover, the OPC recognizes that the Commission reopening the period of intervention did provide an opportunity for landowners to further address the Utility's handling of this CCN application. However, many instances of public testimony provided at the local public hearing in December of 2024 put the adequacy of the Utility's notice into question. Furthermore, the Commission and the Regulatory Law Judge ("RLJ") both believed that it was appropriate to permit ATXI's notice issues to remain a topic that the Landowners could discuss. The Missouri legislature granted the Commission the ability to hold a hearing to determine whether a utility's CCN application is "necessary or convenient for the public service."⁸ The Commission can approve the application, deny the application, or approve the applications with "such condition or conditions as it may deem reasonable and necessary."⁹

In this instance, the Commission held a hearing that did not prohibit the Landowners from, in part, presenting a case about ATXI's notice being insufficient.

⁸ Section 393.170.3, RSMo.

⁹ Ibid.

The Commission has a regulation regarding CCN applications which, in part, spells out the requirements for affected landowners to be properly notified about the utility's plan to apply for a CCN. Missouri statute permits the Commission to impose "reasonable and necessary" conditions on a utility's CCN application. It therefore stands that the Commission has the authority to hear the Landowners' notice issues and impose additional conditions, as a result.

The Utility then states that the Commission cannot address any notice violation due to the other parties lacking any alleged rule violation. This argument faces two (2) problems. Problem one (1), this is not a complaint case. There is no requirement that the parties opposing a CCN application must find that ATXI violated a rule, statute, or tariff. Problem two (2), the first legal issue in this case, as agreed to by the parties, ends with the phrase "including but not limited to alleged violations of Commission Rule 20 CSR 4240-20.045 (6)(K)." Not only is there a rule violation that has, in fact, been alleged, but the rule that the Utility allegedly violated is cited in the very legal issue upon which ATXI is stating its position.

Finally, the OPC does not understand why the scope of the Landowners' intervention plays a role in the Commission's ability to hear about possible issues concerning notice. Throughout this process, the Public Counsel has fought to ensure that the Landowners in this case could present their individual cases to the Commission. In the Prehearing Conference that occurred on June 9, 2025, counsel for MISO characterized the issues of notice and effect on Landowner property as

“additional concerns having to do with the siting or the routing issue[.]”¹⁰ During the July 16, 2025, Discovery Conference, Public Counsel stated that it “was concerned about issues such as notice not being considered during the hearing,” which it believed the bench “considered [notice to be] a part of routing.”¹¹ Therefore, the OPC is deeply concerned that ATXI argued, in its *Statement of Position*, that the Commission does not have the authority to address these notice issues.¹²

The OPC is requesting that the Commission not let the Utility’s reframing of this case prevail. The Commission is not limited by the legal framework surrounding condemnation and eminent domain in this case. The Commission is not prevented from considering issues like land value or ATXI’s notice in this case. State statute grants the Commission with the ability to review a CCN application and approve it as is, approve it with conditions, or deny it outright. State regulation provides the framework that a utility must follow in order to successfully apply for a CCN. Therefore, the Commission has the authority to consider and rule on any aspect of Section 393.170.3, RSMo, or 20 CSR 4240-20.045, so long as all due process rights are either waived or are properly represented.

¹⁰, *Transcript (“Tr.”) Vol. 5*, p. 13, lines 16-19, EFIS Item No. 118 (June 9, 2025).

¹¹*Tr. Vol. 6*, p. 8, lines 21-24, EFIS Item No. 137 (July 16, 2025).

¹² *ATXI’s Statement of Position*, § II(A)(2), EFIS Item No. 191 (Oct. 17, 2025).

II. 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?

The Public Counsel's participation in this case is to advocate for the Commission to use the regulatory powers that the legislature has imbued to balance the different options for this route. However, the Public Counsel requests that the Commission truly consider the Landowners' testimony when balancing the proper route for this line to take.

CONCLUSION

As time goes on and the United States' dependence on electricity increases, more utilities will seek to build transmission lines in Missouri. There will be more cases such as this one, where different parties may advocate for the Commission to choose a certain route. The legislature has determined that making such a choice is appropriately in the Commission's purview. Unduly limiting different aspects of a transmission route by incorrectly asserting that different considerations are inappropriate for the Commission to take into account is harmful. It is proper for the body balancing the different interests involved in the placement of transmission lines to view the project and its effects as a whole. Any arguments otherwise effectively force the Commission to tie a hand behind its back, abdicating its authority to the very public utility it regulates.

Please take into account the routing arguments that the Landowners' made. Perhaps consider an alternative route to the one in ATXI's CCN application and

impose it as a condition. All the OPC asks is that the Commission consider its duty to ensure that line's ultimate route both serves the public interest the best and is necessary or convenient for that interest.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this Eighteenth (18th) day of November, 2025.

/s/ Anna Martin