

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Ameren Transmission)
Company of Illinois for Other Relief or, in the Alternative,)
a Certificate of Public Convenience and Necessity)
Authorizing it to Construct, Install, Own, Operate,) File No. EA-2015-0146
Maintain and Otherwise Control and Manage a)
345,000-volt Electric Transmission Line from Palmyra,)
Missouri, to the Iowa Border and Associated Substation)
Near Kirksville, Missouri.

PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel (“Public Counsel”) and submits its
Statement of Positions:

Issue 1: *Does the Commission possess authority to approve ATXI’s application?*

Yes, the Commission has authority to approve ATXI’s application. ATXI’s proposed electric transmission line falls within the broad definition afforded “electric plant” under the law. Mo. Rev. Stat. § 386.020(14) (Cum. Supp. 2013). ATXI is an “electric corporation” because it owns, operates or controls such electric plant. Mo. Rev. Stat. § 386.020(15) (Cum. Supp. 2013). Accordingly, because ATXI is an “electric corporation” that owns and operates “electric plant,” it constitutes a “public utility” subject to the jurisdiction of the Commission. Mo. Rev. Stat. § 386.250(1) (2000). Section 393.170.1 requires permission and approval from the Commission before an electrical corporation can begin construction of electrical plant. Mo. Rev. Stat. § 393.170.1 (2000).

Issue 2: *Does the evidence establish that the Mark Twain transmission line project, as described in ATXI’s application in this docket, and for which ATXI is seeking a certificate of convenience and necessity (“CCN”), is “necessary or convenient for the public service” within the meaning of that phrase in section 393.170, RSMo.?*

The Commission may grant a CCN after determining that the construction and operation are “necessary or convenient for the public service.” Mo. Rev. Stat. § 393.170. The Commission has set forth and applied certain criteria, referred to as the “Tartan criteria,” for making that determination. *In Re Tartan Energy Company*, 3 Mo. P.S.C. 3d 173, 177 (1994). The evidence in this case supports a finding that the Tartan criteria have been met.

Issue 3: *Do §§ 393.170 and 229.100, RSMo., require that before the Commission can lawfully issue the requested CCN the evidence must show the Commission that where the proposed Mark Twain transmission line project will cross public roads and highways in that county ATXI has received the consent of each county to cross them? If so, does the evidence establish that ATXI has made that showing?*

Section 393.170.2, RSMo., requires that “[b]efore such certificate [CCN] shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.” This is a condition precedent separate from any conditions that the Commission may attach to such CCN under section 393.170.3, RSMo. The applicant must show it has received the required consent before the Commission may grant a CCN.

Section 229.100, RSMo., in pertinent part, states:

No ...companies or corporations shall erect poles for the suspension of electric light, or power wires, or lay and maintain pipes, conductors, mains and conduits for any purpose whatever, through, on, under or across the public roads or highways of any county of this state, without first having obtained the assent of the county commission of such county[.]

Mo. Rev. Stat. § 229.100 (2000). ATXI’s application did not include a verified statement of the president and secretary of the corporation showing that it has received the required consent of the

county commissions to cross the public roads in each county that the proposed line will be located.

Issue 4: *If the Commission decides to grant the CCN, what conditions, if any, should the Commission impose?*

In order to protect the affected landowners and minimize the disruption of their property the Commission should require ATXI to follow the conditions regarding treatment of land owners and land management outlined in the Rebuttal testimony of Mr. Daniel Beck (Doc. No. 61).

WHEREFORE Public Counsel submits its *Statement of Positions*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 20th day of January 2016:

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