

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

January 28, 2016

Jefferson City, Missouri

Volume 10

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) File Number
Necessity Authorizing It To Construct,) EA-2015-0146
Install, Own, Operate, Maintain And) Otherwise
Control And Manage A)
345,000-Volt Electric Transmission Line)
From Palmyra, Missouri To The Iowa)
Border And An Associated Substation)
Near Kirksville, Missouri)

RONALD D. PRIDGIN, Presiding
SENIOR REGULATORY LAW JUDGE
DANIEL Y. HALL, Chairman
STEPHEN M. STOLL
WILLIAM P. KENNEY,
SCOTT T. RUPP,
MAIDA J. COLEMAN,
COMMISSIONERS

REPORTED BY:
Jennifer Leibach, CCR Number 1108
TIGER COURT REPORTING, LLC

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PROCEEDINGS

JUDGE PRIDGIN: All right. Good morning. We are on record. I believe our next witness scheduled is Dr. Schatzki, if I'm pronouncing that correctly, and then we have Staff witness Dan Beck and Neighbors United witnesses Haxton, Harris, Palmer, and Jackson.

Anything further before Dr. Schatzki takes stand?

MR. LOWERY: Your Honor, it's my understanding that Mr. Jackson's actually not available today, and so I guess we're going to have Mr. Jackson tomorrow.

JUDGE PRIDGIN: All right. We'll come back tomorrow. All right. Anything further?

All right. Dr. Schatzki, if you'll come forward to be sworn, please.

(The witness was sworn by Judge Pridgin.)

JUDGE PRIDGIN: Thank you very much, sir. And Mr. Williams when you're ready. Excuse me, Mr. Fitzhenry.

DIRECT EXAMINATION

QUESTIONS BY MR. FITZHENRY:

Q. Good morning, Dr. Schatzki. You have before you what's been titled the direct testimony of Todd Schatzki and the surrebuttal testimony of

1 **Todd Schatzki, given Exhibit Numbers 21 and 22; is that**
2 **correct?**

3 A. That is.

4 **Q. And were these testimonies prepared by**
5 **you or under your direction and supervision?**

6 A. They were.

7 **Q. Do you have any corrections or**
8 **modifications to these testimonies?**

9 A. I do not.

10 **Q. Dr. Schatzki, if I were to ask you**
11 **questions set forth in both your direct and surrebuttal**
12 **testimony, would you give the same answers this**
13 **morning?**

14 A. Yes, I would.

15 MR. FITZHENRY: With that, Your Honor, I
16 move for the admission of Exhibits 21 and 22 and tender
17 Dr. Schatzki for examination.

18 JUDGE PRIDGIN: Thank you. Twenty-one
19 and 22 are offered. Any objections? Hearing none, 22
20 -- excuse me, 21 and 22 are admitted.

21 (ATXI Exhibit Numbers 21 and 22 were
22 received into evidence by Judge Pridgin.)

23 JUDGE PRIDGIN: Any cross-examination
24 from Staff?

25 MR. H. WILLIAMS: No, Judge.

1 JUDGE PRIDGIN: Thank you.

2 MISSOURI isn't here. IBEW, Union for

3 Missouri, I don't think they're here.

4 Public Counsel?

5 MR. ALLISON: No, thank you.

6 JUDGE PRIDGIN: Neighbors United.

7 MS. HERNANDEZ: No, thank you.

8 JUDGE PRIDGIN: All right. Any bench
9 questions, Mr. Chairman?

10 CHAIRMAN HALL: No, no questions, thank
11 you.

12 JUDGE PRIDGIN: All right. Thank you.
13 Commissioner Stoll?

14 COMMISSIONER STOLL: I have no questions
15 either.

16 JUDGE PRIDGIN: Commissioner Coleman?

17 COMMISSIONER COLEMAN: No, thank you.

18 JUDGE PRIDGIN: Dr. Schatzki, thank you
19 very much.

20 Next witness, then, would be Dan Beck, I
21 believe.

22 MR. H. WILLIAMS: We're retrieving him.

23 JUDGE PRIDGIN: Do you need to go off
24 record for just a moment?

25 MR. H. WILLIAMS: Yes, please.

1 JUDGE PRIDGIN: All right. We'll go off
2 record briefly.

3 (A break was held.)

4 JUDGE PRIDGIN: We're back on the record
5 and Mr. Beck is taking the stand, and Mr. Williams from
6 Staff reminded me, it's my understanding that nobody
7 had any questions for Dr. Hewings or Janet Akers and
8 for Mike Walter, and everyone agree their pre-filed
9 testimony would simply come into evidence without any
10 cross-examination; is that correct?

11 MR. LOWERY: Yes, Your Honor.

12 JUDGE PRIDGIN: I'm seeing nods. Okay.
13 Let me do that now before I forget. Let me find
14 Dr. Hewings' number is --

15 MR. N. WILLIAMS: Twenty-three and 24.

16 MR. LOWERY: Correct.

17 JUDGE PRIDGIN: And then Janet Akers?

18 MR. N. WILLIAMS: Thirty-six, I believe.

19 JUDGE PRIDGIN: That's what I note.

20 Thank you.

21 MS. HERNANDEZ: Yes, 36.

22 JUDGE PRIDGIN: And then Mike Walters has
23 not been given an exhibit number, so I'll make that 86.
24 That's the next number that I have.

25 All right. So I'm showing that with

1 consent of the parties, Exhibits 23, 24, 36, and 86
2 would all be offered without objection; is that
3 correct?

4 MR. LOWERY: Yes.

5 JUDGE PRIDGIN: All right. Those
6 exhibits are admitted. All right. Thank you.

7 (ATXI Exhibit Numbers 23 and 24 were
8 received into evidence by Judge Pridgin.)

9 (NU Exhibit Number 36 was received into
10 evidence by Judge Pridgin.)

11 (Exhibit Number 86 was received into
12 evidence by Judge Pridgin.)

13 JUDGE PRIDGIN: Anything further before
14 Mr. Beck takes the stand?

15 All right. Mr. Beck, if you'll raise
16 your right hand to be sworn, sir.

17 (The witness was sworn by Judge Pridgin.)

18 JUDGE PRIDGIN: Thank you very much, sir.

19 And Mr. Williams, when you're ready.

20 MR. N. WILLIAMS: Thank you, Judge.

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. N. WILLIAMS:

23 **Q. Would you please state your name?**

24 A. Daniel I. Beck.

25 **Q. And who's your employer?**

1 A. I'm a staff member of the Missouri Public
2 Service Commission.

3 **Q. And what's your employment position?**

4 A. I am the manager of the engineering
5 analysis section.

6 **Q. And did you prepare two documents, one of
7 which is titled rebuttal testimony of Daniel I. Beck
8 and the other, which is titled surrebuttal testimony of
9 Daniel I. Beck that have been marked for purposes of
10 this proceeding as Exhibit Numbers 25 and 26
11 respectively?**

12 A. I did.

13 **Q. And did you prepare the Exhibit 25, which
14 is the rebuttal testimony, on or about October 21 of
15 2015?**

16 A. Yes, I did.

17 **Q. And did you prepare the surrebuttal
18 testimony, which is marked as Exhibit Number 26, on or
19 about November 16th of 2015?**

20 A. Yes, I did.

21 **Q. Were those exhibits to be your testimony
22 here today, would you have any changes to them or
23 updates?**

24 A. I have one typo on the rebuttal, page 16,
25 line 6. And the first word depreciation, or what was

1 intended to be depreciation, is missing the letter l.
2 And that's my changes.

3 **Q. And with that change, then, are**
4 **Exhibits 25 and 26 your testimony before the Commission**
5 **here today?**

6 A. They are.

7 MR. N. WILLIAMS: I offer Exhibit Numbers
8 25 and 26.

9 JUDGE PRIDGIN: Any objection? Hearing
10 none, Exhibits 25 and 26 are admitted.

11 (Staff Exhibit Numbers 25 and 26 were
12 received into evidence by Judge Pridgin.)

13 MR. N. WILLIAMS: And I tender the
14 witness for examination.

15 JUDGE PRIDGIN: Mr. Williams, thank you.
16 Any cross from ATXI?

17 MR. LOWERY: Yes, Your Honor, thank you.

18 JUDGE PRIDGIN: When you're ready.

19 CROSS-EXAMINATION

20 QUESTIONS BY MR. LOWERY:

21 **Q. Good morning, Mr. Beck.**

22 A. Good morning.

23 **Q. You summarized seven conditions at**
24 **pages 16 to 17 of your rebuttal testimony; is that**
25 **right?**

1 A. That's correct.

2 **Q. And if we look at the Staff's position**
3 **statement that was filed a week or two ago, there's a**
4 **discussion of those seven conditions as they**
5 **essentially exist today; is that right?**

6 A. Yes, correct.

7 **Q. And I take it you agree that the Staff's**
8 **position statement accurately reflects the Staff's**
9 **recommendation and your recommendation on the seven**
10 **conditions; is that right?**

11 A. Yes.

12 **Q. I want to talk more specifically about**
13 **part of what I'm going to refer to as condition two,**
14 **and that's the way it's denominated in the position**
15 **statement. I'm not asking you anything related to the**
16 **permission from the county issue about which there's a**
17 **difference of opinion legally. I'm just asking you**
18 **really about the last sentence in the Staff's position**
19 **statement on condition two. Do you have a copy of that**
20 **position statement?**

21 A. I do not.

22 MR. LOWERY: May I approach, Your Honor?

23 JUDGE PRIDGIN: Yes, you may.

24 BY MR. LOWERY:

25 **Q. Page 7, Mr. Beck, is what I directed you**

1 **to, did I not?**

2 A. Yes, you did.

3 Q. And what I directed you to is this last
4 sentence that starts out Staff also views, and then it
5 goes on to talk about examples of land disturbance
6 permits, State Highway Commission, et cetera; correct?

7 A. Correct.

8 Q. So I want to break this down a little
9 bit, and the reason I'm asking you these questions, I
10 just want to make sure it's crystal clear what Staff is
11 and is not recommending, because this language at least
12 to me is a little bit general. So you mentioned the
13 land disturbance permit, and those are issued by the
14 Department of Natural Resources; correct?

15 A. Correct.

16 Q. And what you're recommending is that to
17 the extent a land disturbance permit is required by
18 MDNR to start clearing a particular segment of the
19 line, that ATXI needs to submit a copy of that land
20 disturbance permit before it starts working on that
21 segment of the line; is that right?

22 A. Yes.

23 Q. So if the process is for MDNR to give a
24 land disturbance permit by segment as opposed to the
25 whole project as a whole, ATXI could start construction

1 on a particular segment as long as they got the land
2 disturbance permit for that segment; is that right?

3 A. That's correct, and my understanding of
4 the typical way that transmission projects would work
5 is it does get completed in segments, so that is
6 consistent with normal practice.

7 Q. Okay. And then we have Missouri Highway
8 and Transportation Commission permits, and it's my
9 understanding that the same thing happens there. I
10 don't know what state highways are being crossed, but
11 let's imagine hypothetically there's three of them,
12 there's probably going to be three separate road
13 crossing permits, one for each of those state highways,
14 and they may not all obtained at the same time. We may
15 get one of them for Highway X, as long as we have
16 Highway X, we can construct the crossing on Highway X.
17 Is that your recommendation?

18 A. That's my understanding and my
19 recommendation, yes.

20 Q. Okay. And then that leaves US Fish &
21 Wildlife and EPA in your list there. First of all, do
22 you know whether EPA and Fish & Wildlife actually will
23 be issuing a specific permit for the Mark Twain
24 project?

25 A. I don't know of any specific permit that

1 they'll -- they will be exercising regulatory
2 oversight, but not -- but any permits that I know of.

3 **Q. So if -- if there isn't a specific permit**
4 **from those agencies for the Mark Twain project, then**
5 **there isn't anything that has to be submitted under**
6 **this recommended condition. What you're saying is that**
7 **if there is one, then before authority were exercised**
8 **under that permit, that a copy should be submitted; is**
9 **that correct?**

10 A. That's correct. And I will point out
11 that the phrase also includes and approvals and, you
12 know, at least in my mind, the approvals was -- was
13 more working -- the company working with the EPA,
14 working with Fish & Wildlife Service.

15 **Q. Okay. And let's imagine, and I don't**
16 **know if there is or isn't, but let's imagine that**
17 **there's some verification, I'm going to call it a**
18 **compliance with some Fish & Wildlife regulation, just**
19 **to take that hypothetical.**

20 A. Okay.

21 **Q. And let's imagine that that also occurs**
22 **sort of on a segment-by-segment basis, that there may**
23 **be a particular area where Fish & Wildlife has to nod**
24 **their head and say yes, what you're doing here complies**
25 **with our rules. As long as with respect to that**

1 particular segment that has happened, then construction
2 can start on that segment, right, from your
3 perspective?

4 A. Yeah, with all the other permits, of
5 course, from the other agencies.

6 Q. Right. What I'm just trying to clarify
7 is the way the process may work with these agencies,
8 and I think you verified your understanding that it
9 does with certain agencies, agencies don't necessarily
10 give some grand approval or head nod for the whole
11 route. They do that on a segment-by-segment basis and
12 we're not -- you're not suggesting that the whole
13 construction project be conditioned on everything along
14 the route having been -- having gotten the head nod on
15 everything along the route; correct?

16 A. Correct. That would be inefficient and
17 would not be my recommendation.

18 Q. And that's not typical of how these
19 projects proceed in your experience; correct?

20 A. Correct.

21 Q. Did you read the surrebuttal testimony of
22 Mr. Jackson, Neighbors United witness in this case?

23 A. I did.

24 Q. And it's my understanding that you were
25 present by phone for his deposition; is that right?

1 A. Yeah, I'm trying to -- whether I listened
2 to every bit of it or not, but I certainly listened to
3 the vast majority of it.

4 **Q. Do you recall that Mr. Jackson claims in**
5 **his surrebuttal testimony -- well, first of all, his**
6 **surrebuttal, as I think you will recall, addresses the**
7 **conditions that we were just talking about that you**
8 **recommended in your rebuttal testimony, did he not?**

9 A. He did.

10 **Q. And then he -- and of course what you**
11 **said, and I'm going to paraphrase and if I don't**
12 **paraphrase it accurately, I'm sure you'll tell me, but**
13 **what you essentially said was with the conditions I'm**
14 **recommending, the company's application meets the**
15 **target criteria and the application should be approved**
16 **with those conditions. Is that a fair summary of what**
17 **the basic -- your basic testimony?**

18 A. I think it is, and the only thing I would
19 caveat is that's what my testimony said, but it was
20 also based on the input from other Staff witnesses.

21 **Q. Fair enough. You were sort of the**
22 **overarching Staff witness, is the way I would look at**
23 **you; is that true?**

24 A. That's true.

25 **Q. So you're essentially saying target**

1 criteria are met, as long as these conditions are
2 imposed and of course there's no dispute with the
3 company about six and seven conditions, the other one
4 is a legal dispute, and then Mr. Jackson referring to
5 you then says, and the target criteria are not met. Do
6 you remember him basically saying that?

7 A. Yeah, I don't remember exactly how he
8 phrased it, but he certainly said that they were not
9 met.

10 Q. So he's basically disagreeing with your
11 position; right?

12 A. It seems that way, yes.

13 Q. Do you recall that when he was asked to
14 describe the target criteria, that he answered, I'm not
15 sure I know what that is?

16 A. That would be in reference to the
17 deposition, yes.

18 Q. So as I understand it, he criticizes you
19 for concluding that the target criteria are met, but
20 then when asked about the target criteria, he indicates
21 that he doesn't even know what they are. Is that a
22 fair understanding of what you heard?

23 A. And then he followed that up with the
24 question of how many target criteria there was. And he
25 said well, if I don't know what the target criteria is,

1 how do I know how many there are. So it was pretty
2 clear that that was his position.

3 **Q. Do you think it's -- from your**
4 **perspective, is it fair for you to be criticized for**
5 **giving an opinion about whether the target criteria are**
6 **met by a witness who doesn't even know what they are?**

7 A. You know, I -- how about if I say it this
8 way: Had it been in rebuttal that that statement was
9 made, I probably would have put in surrebuttal to
10 address it.

11 **Q. Fair enough. In your rebuttal testimony**
12 **-- I'm switching to another topic here, I think the**
13 **last topic. In your rebuttal testimony, you suggest**
14 **that the Mark Twain line, and I don't think you use the**
15 **word "optionality," but I think you'll agree that this**
16 **was the message you were giving. Will provide greater**
17 **optionality for Clean Power Plan compliance, do you**
18 **not?**

19 A. That's a reasonable characterization.

20 **Q. And -- and that greater optionality would**
21 **include both in-state and out-of-state wind. I think**
22 **you mentioned both of those, did you not?**

23 A. Yes.

24 **Q. And it also mentioned the ability to**
25 **perhaps export wind and particularly that might be**

1 **useful if a regional approach to Clean Power Plan**
2 **compliance is adopted; right?**

3 A. Correct.

4 **Q. Did you hear MISO witness Mr. Smith**
5 **testify yesterday that he had no doubt in his mind that**
6 **significant additional wind resources in the MISO**
7 **footprint would be developed in order to comply with**
8 **the Clean Power Plan?**

9 A. Yes.

10 **Q. Would you agree that Mr. Smith's**
11 **conclusion in that regard is a reasonable one?**

12 A. From everything I know, obviously there
13 is no State Implementation Plan yet for our state or
14 for others, but everything seems to be pointing to that
15 happening.

16 **Q. Did you notice that Mr. Powers took issue**
17 **with your testimony about the Clean Power Plan at**
18 **page 4 of his surrebuttal? Do you remember his**
19 **criticism or at least his discussion when he mentions**
20 **you in that testimony?**

21 A. I remember the discussion, I don't
22 remember the specific criticisms.

23 MR. LOWERY: Your Honor, may I approach?

24 JUDGE PRIDGIN: Yes, you may.

25 BY MR. LOWERY:

1 Q. I'm going to hand you a copy of
2 Mr. Powers' surrebuttal testimony. I'm going to direct
3 you to page 4. I'm going to ask you to just read it to
4 yourself real quickly just to sort of refresh your
5 recollection. Just read that page and then tell me
6 when you're -- when you've done so. Starting with the
7 two questions and answers on that page.

8 A. Okay.

9 Q. Now, I read that testimony, he doesn't
10 directly say it, but it's my impression when I read
11 this, and you read that and I want to see if you agree
12 with me, that Mr. Powers is at least implying that to
13 the extent you're suggesting that the -- the project
14 and the MVP portfolio provides greater optionality and
15 options for utilities for Clean Power Plan compliance,
16 that you're probably mistaken about that. Is that the
17 impression you get?

18 A. I guess I sort of -- the part about the
19 locating near the line seem to somehow -- you know,
20 unless you locate the wind generation near the line, it
21 seems to be, the way I took it, that there's no
22 optionality there, but maybe I'm -- that's the way I
23 read the statement.

24 Q. And I don't think you would even agree
25 with that point, would you, if that's the point he's

1 making?

2 A. That certainly seems -- is too narrow in
3 my view.

4 Q. And do you see where he sites to a
5 Commission letter to the US EPA, and this is a letter
6 from the Commission itself, in 2013, and it wasn't
7 about the Clean Power Plan specifically, but it was
8 about a precursor to it or some carbon regulation that
9 was being proposed around that time. Do you see that?

10 A. I do.

11 Q. And he seems to be suggesting that that
12 letter from the Commission, and it's attached as a
13 schedule, and if you need to look at it, we can take a
14 look at it to refresh your recollection, but he seems
15 to be suggesting that that letter indicated that the
16 Commission was of the mind that demand response and
17 energy efficiency was going to be all that was required
18 in Missouri to comply with any carbon-based regulation.
19 Do you recall that? Do you see that that's what he's
20 suggesting?

21 A. That seems to be what he's suggesting.

22 Q. Are you familiar with the letter I'm
23 talking about?

24 A. I am. It's been obviously several years
25 since I've read it or since it came out, but I remember

1 at the time.

2 Q. First of all, would you agree that it's
3 very unlikely that Missouri will be able to displace
4 enough megawatt hours from coal-based generation to
5 comply with the Clean Power Plan simply through the
6 utilization of EE or demand response?

7 A. It seems very unlikely.

8 Q. And you may have to look at the letter
9 and the schedule that he attached, it should be there,
10 but maybe you remember, but while the Commission letter
11 does mention MEEIA, it mentions utility activities
12 under MEEIA at that time, it also mentions renewable
13 generation, does it not? Do you remember?

14 A. That, I think -- that was my recollection
15 that it was sort of a fair discussion of all the
16 options.

17 Q. And you certainly may need to look at it
18 for this, but what I saw in the letter is that it noted
19 that Missouri IOU's efforts under MEEIA were expected
20 to provide cumulative energy savings of approximately
21 950,000 megawatts over three years. Do you recall
22 that?

23 A. The specific number, I don't recall.

24 Q. Why don't you assume that's the case --

25 A. Yes.

1 Q. -- because it's actually in the record --

2 A. Yes.

3 Q. -- so we don't need to read it. Now,
4 950,000 megawatt hours, to some people might sound like
5 quite a bit in a vacuum. But first of all, that's a
6 three-year number, correct, cumulative?

7 A. That was my understanding.

8 Q. And do you know -- do you know how many
9 megawatt hours Missouri IOUs roughly generate in a
10 year, just the IOUs, not counting the cooperatives or
11 municipal utilities?

12 A. I do not know off the top of my head.

13 MR. LOWERY: Your Honor, I'm going to ask
14 that the Commission take official notice of its 2014
15 annual report, which contains megawatt hours of sales
16 by each regulated electric utility in the state.

17 JUDGE PRIDGIN: Any objection? All
18 right. Hearing none, the Commission will take notice.

19 MR. LOWERY: And I'm going to also ask
20 that you take notice of Ameren Missouri's FERC Form 1
21 for last year, and as I think Mr. Beck will confirm,
22 the FERC Form 1 is submitted by utilities as part of
23 its state annual report as well.

24 THE WITNESS: That's correct.

25 MR. LOWERY: And in particular, the fact

1 that Ameren Missouri alone in 2014 generated 43,192,724
2 megawatt hours.

3 JUDGE PRIDGIN: Thank you. Any
4 objections? All right. So noted. The Commission will
5 take notice.

6 BY MR. LOWERY:

7 **Q. Does -- and I guess, Mr. Beck, the point**
8 **I'm trying to make is when you're talking about tens of**
9 **millions of megawatt hours and you've got two or three**
10 **hundred thousand a year of energy efficiency-related**
11 **reductions, that's a drop in the ocean in terms of the**
12 **kind of reductions and megawatt hours that are likely**
13 **to be needed to comply with the Clean Power Plan,**
14 **wouldn't you agree?**

15 A. I would. And I guess I would state that
16 at that time frame, the 2013 time frame, I did a
17 presentation and my suggestion at the time was there is
18 no one magic bullet to solve this issue, that instead,
19 we need silver buckshot to -- no silver bullet, but
20 just silver buckshot to accomplish the goal.

21 **Q. And some of that buckshot is pretty**
22 **likely to be wind generation in MISO and in Missouri.**
23 **Isn't that true?**

24 A. That's true. And typically, buckshot has
25 different sizes in it as well, so that's what I

1 expected to see.

2 MR. LOWERY: That's all the questions I
3 have. Thank you very much, Mr. Beck.

4 JUDGE PRIDGIN: Mr. Lowery, thank you.
5 Public Counsel?

6 MR. ALLISON: No.

7 JUDGE PRIDGIN: Neighbors Uni ted?

8 MS. HERNANDEZ: I think I just have one
9 clari fication.

10 CROSS-EXAMINATION

11 QUESTIONS BY MS. HERNANDEZ:

12 Q. Do you remember the questioning on United
13 States Fish & Wildlife approval that Mr. Lowery was
14 asking you about?

15 A. Yes.

16 Q. Is it your recommendation that if there
17 is a type of approval letter, that Fish & Wildlife
18 Service issues to the company, that that should be
19 filed in this docket?

20 A. Yes, if that approval letter is received,
21 my intent would be that it be filed.

22 Q. And before that particular segment is
23 started to be built; is that correct?

24 A. Correct. And I'm assuming that the
25 approval letter has to be before construction begins,

1 that that seems reasonable. Again, I'm sort of -- I
2 don't have specific knowledge of an approval letter
3 that is required. You know, it may exist out there,
4 and under that assumption, that would make sense.

5 **Q. So is it your position that if there is**
6 **no letter, then there shouldn't be any formal**
7 **indication to the Commission that the Fish & Wildlife**
8 **Service has approved this project before you would**
9 **believe that they could begin building each segment?**

10 A. For that particular agency. But I guess
11 at the same time, you know, my -- maybe as an engineer,
12 my wording wasn't perfect. My real intent was that
13 they work with that agency and receive that agency's
14 agreement that -- to move forward. Whether that's in
15 some official permit or statement, or whether it's just
16 completion of the discussions, I'd like to see those
17 discussions take place.

18 **Q. Would you agree that certain portions of**
19 **this project -- along the proposed line have probably**
20 **more environmental impact than the others?**

21 A. I think that's a fair statement.

22 **Q. If ATXI begins building particular**
23 **segments as they get approval and -- for example, the**
24 **-- you have a segment here that they start building,**
25 **they get permission for a segment later down the line**

1 that they can start building, but there's a middle
2 section that they haven't received approval for and for
3 the environmental reasons, Fish & Wildlife Service has
4 concerns and recommend that they reroute that portion
5 some way.

6 A. Okay.

7 Q. Do you understand that?

8 A. Okay.

9 Q. Would you think it would be prudent
10 expenditures if they cannot connect that portion of the
11 line, I guess the question is: Would you consider that
12 to be a prudent expenditure if that portion of the line
13 cannot be connected and they would have to reroute it
14 some way and build additional infrastructure to build
15 the line?

16 A. I think it would be a question of
17 prudence and given that scenario, it would be a
18 question that would need to be answered. I don't know
19 that I can say that it was prudent or imprudent, you
20 know, beforehand. It would depend on the circumstances
21 that occurred at that time.

22 Q. Okay. Thank you.

23 JUDGE PRIDGIN: Ms. Hernandez, thank you.

24 Any questions, Mr. Chairman?

25 CHAIRMAN HALL: Yes, just a few.

EXAMINATION

QUESTIONS BY CHAIRMAN HALL:

Q. Good morning, Mr. Beck.

A. Good morning.

Q. On page 7 of your rebuttal testimony, you discuss Ameren's preferred resource plan and indicate that it includes 400 megawatts of additional wind generation; is that correct?

A. That's correct.

Q. It calls for this additional wind generation by what date, if you know?

A. So the statement goes on to say that they need recs by 2019. I believe that there was some wind in 2018, but I can't remember whether it was the full -- my -- my memory tells me that it was not the full 400 megawatts on 2018, but I could be wrong about that. I'm sorry.

Q. Okay. Your statement, which you just -- just read, 400 megawatts of additional wind and a need of significant recs. Are those -- how are those related?

A. I mean, ultimately, so the recs that I'm discussing there are needed by the renewable -- by the state's renewable energy standard to comply with that.

As it -- as we sit here today, you could

1 purchase those recs off the market or you could have
2 your own generation, you know, so that option's still
3 there, but it is one of the benefits of -- of having
4 your own wind generation is that you would have those
5 recs in addition to that.

6 So I think the two can be tied together.
7 They're not necessarily -- it's not the only option of
8 meeting those rec requirements, but it's certainly an
9 obvious benefit of having your own wind generation.

10 **Q. So the more wind generation that Ameren**
11 **has, the less recs it would need to purchase?**

12 A. That's correct.

13 **Q. And your understanding of the 400**
14 **megawatts that Ameren intends, the 400 megawatts of**
15 **additional wind generation, that was for purpose of --**
16 **of RES compliance?**

17 A. That --

18 **Q. Or was it also to assist with meeting**
19 **load requirements?**

20 A. I think it was both those things. I also
21 think that -- that the -- my remembrances of their
22 discussion was the recognition of things like the --
23 the additional federal regulations at that time. I
24 don't think they were quick -- clearly defined, but
25 carbon regulations.

1 **Q. Clean Power Plan requirements?**

2 A. Yeah, and I don't think at that time it
3 was -- they specifically refer to the Clean Power Plan
4 just because the final plan had not been adopted yet,
5 but -- but recognition that that was -- that that type
6 of regulation was likely to come about.

7 **Q. So if -- if Ameren were unable to obtain
8 that 400 megawatts of additional wind generation, what
9 do you believe would occur? And I realize I'm asking
10 you to speculate.**

11 A. Yeah. I guess in my view, there -- you
12 know, if they didn't proceed on that plan, there would
13 have to be some obvious reason that they didn't. You
14 know, that reason may be that there's some other
15 resource that's available, but I'm just not aware of
16 what that would be as we sit here today, but I think in
17 reality if they didn't get that 400 megawatts, you
18 would have less recs to comply with the real energy
19 standard. You would be in a different position with
20 regard to the Clean Power Plan, and in general, the
21 company's stated goal of encouraging renewables would
22 also -- you would -- you would be less -- you would be
23 -- it would be harder to meet that goal as well.

24 **Q. Do you think that there could be an
25 impact on Ameren Missouri ratepayers?**

1 A. I think that -- yeah, that would --
2 anytime you change a generation mix, there's going to
3 be impacts on ratepayers.

4 **Q. Positive, negative?**

5 A. Given the -- certainly given the
6 extension of the production tax credit, it --
7 everything seems to point to adding wind as a positive.

8 **Q. So if Ameren were unable to get the 400**
9 **megawatts of additional wind generation, it is your --**
10 **your belief that it could have an adverse effect on**
11 **Ameren ratepayers?**

12 A. It could.

13 **Q. Is it likely to?**

14 A. I'd give it a, you know, maybe a 75
15 percent probability that it would have a negative
16 impact.

17 **Q. Okay. So then let's continue in this**
18 **area. To what extent do you believe that construction**
19 **of this particular project at issue in this case would**
20 **encourage more wind development in north Missouri?**

21 A. I think it would be a positive
22 encouragement to wind development in this area. You
23 know, we -- thinking back, you know, 20 years, there
24 was a group called the Union for Concerned Scientists
25 that put together a diagram of potential wind areas in

1 state of Missouri and then they overlaid that with a
2 transmission map. And then they said these -- based on
3 that overlay, they narrowed the possible good wind
4 resources based on how -- how that transmission
5 overlay. So you know, it's long been recognized that
6 where transmission is is one of the not essential, but
7 very positive components to where you're going to
8 locate wind. And so the addition of this transmission
9 line would be a positive development from that
10 standpoint.

11 **Q. And I believe you indicated both in your**
12 **written testimony and in response to some questions**
13 **from Mr. Lowery, that you believe this project will**
14 **assist Missouri to achieve compliance with 111(d)?**

15 A. Yes, I think it -- I think it -- in
16 essence, a more robust transmission grid is going to
17 give them greater options to do that, to meet that --
18 that 111(d) requirement.

19 **Q. And are you speaking specifically about**
20 **any requirements that the state plan might have with**
21 **regards to Ameren, or are you speaking broader than**
22 **that?**

23 A. I think it's broader than that. I think
24 certainly the most obvious effect is on Ameren
25 Missouri, but the cooperatives interconnect with Ameren

1 Missouri's facilities at various substations, and so
2 that seems obvious that -- and even, you know, Missouri
3 has a significant number of municipal utilities and
4 they may well use those same transmission lines.

5 **Q. Is there any relationship whatsoever**
6 **between this transmission project and the clean line**
7 **transmission project in terms of potential benefits to**
8 **the state of Missouri?**

9 A. I'm hesitating on the phrase any -- any
10 similarities whatsoever. In my mind, they are
11 significantly different projects. You know, probably
12 the most -- the thing that comes to mind ultimately is
13 that the clean line project was -- was going to have a
14 converter station that was going to tie into the
15 transmission grid in the same general area as this
16 project, but that's the most obvious similarity that I
17 can think of.

18 **Q. Well, so does that mean that some of the**
19 **benefits might be duplicative?**

20 A. That's possible.

21 **Q. Is there any possibility from your**
22 **perspective that the construction of one of those**
23 **projects might make the other one less beneficial to**
24 **the state?**

25 A. I guess that's possible. I just say

1 that, you know, so this project would strengthen the
2 transmission grid, allow electricity to be moved
3 greater, so it could also be viewed the other way where
4 that actually helps, for example, the clean line
5 project.

6 I don't see the clean line project sort
7 of having the same impact of helping, but I think -- I
8 think if you -- I have not done the analysis, but if
9 the clean line project were to terminate where they
10 plan this project wouldn't go through, there could well
11 be constraints that cause the -- in a transmission
12 grid.

13 **Q. Okay. You took issue with some of the**
14 **testimony -- some of the written testimony put forth by**
15 **Mr. Powers with regards to the price of recs. My**
16 **understanding of one of his arguments was that it would**
17 **be more beneficial for Ameren Missouri to purchase recs**
18 **than it would be to develop wind energy. And he based**
19 **that upon a particular price of recs; is that correct?**

20 A. Yeah, that was part of his discussion.

21 **Q. Okay. And you were, I believe, critical**
22 **of the price that he chose for recs; is that correct?**

23 A. That's correct.

24 **Q. Could you explain that to me?**

25 A. Well, the price table that he chose was

1 based on -- instead of the price of -- well, to be
2 fair, first, there's not a true transparent market for
3 recs like, say, the MISO wholesale electric market
4 where you can go out and see those prices clearly and
5 view that.

6 So what he used instead was a report, and
7 that report by my understanding is the price that
8 various utilities place on what I would call green
9 power programs. And -- and in the state of Missouri,
10 for example, Ameren Missouri has a green power program,
11 but a lot of those costs go to things like
12 administration, the subcontractor takes the majority of
13 the dollars and the minority of the dollars actually go
14 to actually buying recs.

15 And so that was -- that was my criticism
16 that that -- that that particular number didn't reflect
17 a market price and the numbers that I was using were
18 based on a very limit sample, but it was -- it was what
19 I knew about rec prices that Missouri utilities had
20 paid.

21 **Q. Okay. Thank you.**

22 CHAIRMAN HALL: I have no further
23 questions.

24 JUDGE PRIDGIN: Mr. Chairman, thank you.
25 Commissioner Stoll, any questions?

1 COMMISSIONER STOLL: I have no questions.
2 Thank you for your testimony.

3 THE WITNESS: Thank you.

4 JUDGE PRIDGIN: Commissioner Coleman?
5 All right.

6 Any recross based on bench questions?
7 ATXI?

8 MR. LOWERY: Very little, Your Honor, but
9 just a couple.

10 RE-CROSS-EXAMINATION

11 QUESTIONS BY MR. LOWERY:

12 Q. Do you remember the discussion about the
13 jelly bean map yesterday?

14 A. I do.

15 Q. And the jelly beans, I don't feel like
16 that's all that descriptive, but in any event, that's
17 what people have been referring to. It shows these
18 energy zones at MISO as part of the MVP analysis, does
19 it not?

20 A. Yes.

21 Q. And there's a pretty significant energy
22 zone in north central Missouri, and I say north
23 central, because it's directly north of Kirksville and
24 goes over to the east a little bit, but that's known as
25 -- Mr. Powers calls it the Adair wind zone and MISO

1 **calls it Mo Zone C. Are you familiar with that?**

2 A. I am.

3 **Q. The clean line project doesn't pass**
4 **through that energy zone, does it?**

5 A. No, it does not.

6 **Q. And even with a converter station that's**
7 **being planned there near Palmyra, the clean line**
8 **project wouldn't become part of the network**
9 **transmission system that, you know, everyone relies**
10 **upon for service to load in Missouri and the region;**
11 **right?**

12 A. As the clean line proposal was presented
13 to the Commission, that converter station would only
14 flow power one way, so it would not take power from our
15 area and bring it up to that so that that's -- so since
16 it's only going one way and the way you're talking
17 about would be the exact opposite, no, it can't.

18 **Q. It's not going to address voltage issues**
19 **on the networked AC system in that area; right?**

20 A. No.

21 **Q. It wouldn't deal if there's thermal**
22 **overload issues on the network, the AC system in that**
23 **area. It wouldn't address those; right?**

24 A. No.

25 **Q. Or constraints -- I've learned in this**

1 case how complex the transmission system really is.
2 You know, you do one thing one place and lots of things
3 could happen, generation here, but to the extent there
4 are -- I guess they're all really physical constraints
5 in the sense that issues on the transmission system
6 that cause congestion-related costs really do arise
7 from some kind of constraint on the system. Is that
8 fair?

9 A. Yes.

10 Q. So to the extent the MVP portfolio in
11 this Mark Twain line in particular, are by design
12 intended to relieve some of those congestion issues in
13 various places in the MISO and therefore the analysis
14 shows make the market more efficient and congestion
15 costs go down, clean line wouldn't do that either,
16 would it?

17 A. I don't think. There's a second
18 component, though, what Mark Twain project would do,
19 would be to inject electricity into the MISO market at
20 one point and that also could have an effect, but it
21 certainly wouldn't be -- that -- that in itself brings
22 up once again the possibility of the constraints that
23 are created by that injection.

24 Q. Well, let me ask you, though, I think you
25 understand and would agree that when MISO designed the

1 portfolio to fit together, that surely it designed it
2 in such a way that putting the 17 MVPs together wasn't
3 going to cause more congestion and more constraints,
4 but in fact, would be designed so that it avoids doing
5 just that; is that true?

6 A. That's true.

7 Q. And one last question. Since clean line
8 doesn't pass through that energy zone, and as I
9 understand it, there have been testimony in the case
10 that there's high quality wind resources in that energy
11 zone, you're not going to be able to connect a wind
12 farm that's in that zone to clean line, at least not
13 without having some more transmission coming from that
14 zone down to clean line, and I don't know if that
15 works, given it's a DC line, do you?

16 A. And that's correct, but and also since
17 the clean line was not intended to upload that power at
18 that point, getting the power to clean lines line does
19 you nothing because their intent was not to bring that
20 power into that further onto that line.

21 Q. Thank you very much, Mr. Beck.

22 JUDGE PRIDGIN: All right. Thank you.

23 Recross, Public Counsel?

24 MR. ALLISON: No, sir.

25 JUDGE PRIDGIN: Neighbors Uni ted?

1 MS. HERNANDEZ: No, thank you.

2 JUDGE PRIDGIN: Redirect?

3 MR. N. WILLIAMS: Thank you.

4 REDI RECT EXAMI NATION

5 QUESTIONS BY MR. N. WILLIAMS:

6 **Q. I think I'll start with green belt. Is**
7 **it your understanding that -- well, in one of your**
8 **answers to the questioning, you indicated the way that**
9 **green belt had presented the project, the flow of**
10 **energy would be uni-direct. Is it your understanding**
11 **that's a physical constraint or a planning by green**
12 **belt, or do you have an understanding?**

13 A. My general understanding is that
14 certainly it's a planning decision by them, and I think
15 that there are physical aspects that you have to put
16 into a converter station to allow power to flow both
17 ways that make it different. But since, you know, the
18 reality is that we have no DC lines in the state of
19 Missouri, that's about the limit of my knowledge on
20 that.

21 **Q. Then you remember the discussions,**
22 **testimony you had in questioning from Chairman Hall**
23 **regarding Union Electric Company's integrated resource**
24 **plan and the 400 megawatts of wind?**

25 A. Yes.

1 **Q. Did it specify in that plan the source of**
2 **that wind in terms of whether it would be own or if it**
3 **would be a purchase power agreement or just how it was**
4 **going to acquire that wind?**

5 A. It did not.

6 **Q. And if it was done by a purchase power**
7 **agreement, recs would be severable from the wind energy**
8 **itself, would it not?**

9 A. They would be. To date, all the
10 contracts that our utilities have signed have had it
11 attached, but it is possible to sever that.

12 **Q. And is it your understanding from Union**
13 **Electric Company's IRP, that it would not sever those**
14 **recs, that that would be part of a purchase power**
15 **agreement if it were to acquire one, or did it specify?**

16 A. I don't think it specified, but it -- but
17 it seemed to assume that those would be attached.

18 **Q. And is that your assumption as well?**

19 A. I think it's very likely. I put a very
20 high percentage probability on that.

21 **Q. And then going back to the permits and**
22 **approvals condition that Staff sponsored, the listing**
23 **that was provided in your testimony about land**
24 **disturbance permits, US Fish & Wildlife Service, et**
25 **cetera, was that intended to be an exclusive listing or**

1 would -- if there were other approvals or permits that
2 were required before construction, those would need to
3 be filed with the Commission before the construction
4 began?

5 A. Yeah, it was intended to -- started with
6 the phrase four examples, and was intended to be just
7 that.

8 Q. And I think it's been covered adequately,
9 but I'll go ahead and go over it again. You aren't
10 saying that all of those approvals and permits needed
11 to be obtained before any construction's done, but at
12 any particular location where an approval or permit was
13 required or multiple were, that it -- Ameren
14 Transmission Company of Illinois would have obtained
15 all of them before it began the construction at that
16 particular location?

17 A. That's correct.

18 MR. N. WILLIAMS: No further questions.

19 JUDGE PRIDGIN: Mr. Williams, thank you.

20 Mr. Beck, you may step down.

21 The next witness is Jason Haxton.

22 (The witness was sworn by Judge Pridgin.)

23 JUDGE PRIDGIN: Thank you very much.

24 Ms. Hernandez, when you're ready.

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DIRECT EXAMINATION

QUESTIONS BY MS. HERNANDEZ:

Q. Good morning. Please identify yourself for the record.

A. My name is Jason Haxton.

Q. Are you the same Jason Haxton that prepared rebuttal testimony in this case that's been marked Exhibit 39?

A. Correct.

Q. Do you have any corrections to make to your testimony today?

A. There have been no deaths in the Amish population and I'm aware of at least two births. I didn't go and do the whole research again, but that's just an update.

Q. And those numbers are corrections to your schedule?

A. Right, which would be 01, the Amish population

Q. JH-01?

A. Correct.

Q. If I asked you the same questions contained in your testimony, prefiled testimony, would your answers be the same today?

A. Correct.

1 **Q. And is your testimony true and accurate**
2 **to the best of your knowledge, information, and belief?**

3 A. It is.

4 MS. HERNANDEZ: With that, I'll offer
5 Exhibit 39 and tender the witness for
6 cross-examination. Thank you.

7 JUDGE PRIDGIN: Thank you. Thirty-nine
8 has been offered. Any objections?

9 MR. TRIPP: Other than the standing
10 objection.

11 JUDGE PRIDGIN: Mr. Tripp, thank you.
12 Exhibit 39 is admitted, subject to the standing
13 objection.

14 (NU Exhibit Number 39 was received into
15 evidence by Judge Pridgin.)

16 JUDGE PRIDGIN: Thank you.
17 Cross-examination, Public Counsel?

18 MR. ALLISON: No, sir.

19 JUDGE PRIDGIN: Staff?

20 MR. N. WILLIAMS: No.

21 JUDGE PRIDGIN: ATXI?

22 MR. TRIPP: Yes, Your Honor.

23 CROSS-EXAMINATION

24 QUESTIONS BY MR. TRIPP:

25 **Q. Mr. Haxton, good morning.**

1 A. Good morning.

2 Q. Mike Tripp.

3 A. Hi.

4 Q. You're testifying on behalf of Neighbors
5 United on the issue of the impact to the line on the
6 Amish and Mennonite religious communities in the area;
7 correct?

8 A. Correct, in a sense. That I'm very good
9 with the Amish and Mennonites.

10 Q. Right. You yourself are not a member of
11 either of those two religious communities, though;
12 correct?

13 A. I live within those communities.

14 Q. Right, but you're not Amish or Mennonite.
15 That was my question.

16 A. No, it's kind of a close community.

17 Q. Right. But you're not Amish or
18 Mennonite; isn't that true?

19 A. Correct.

20 Q. Now, but you do consider yourself an
21 expert on Amish and Mennonite religious community?

22 A. I would know more than the standard
23 person would know and have been familiar with this
24 community, and each -- if you understood the Amish
25 community is unique onto itself. For instance, rules

1 in the Amish community of one would not be the same in
2 the same family of cousins of aunts and uncles.

3 **Q. All right. Mr. Haxton, if you'll try and**
4 **answer -- listen to my question and just and answer my**
5 **question. And if Ms. Hernandez has some additional**
6 **information to get from you, she'll be able to ask you**
7 **questions.**

8 A. Correct. I thought I was answering your
9 questions.

10 **Q. Well, here's the question: Do you**
11 **consider yourself an expert in the Amish and Mennonite**
12 **religious communities?**

13 A. I said yes, I consider myself having a
14 standard above most people.

15 **Q. Okay. Your --**

16 A. And an expert in that sense.

17 **Q. Okay. And your educational background**
18 **has -- concerns the areas of advertising, guidance and**
19 **counseling, and health education; true?**

20 A. And medical.

21 **Q. And medical?**

22 A. Yes. I'm working on my doctorate of
23 health education at A.T. Still University.

24 **Q. All right. And I'm sorry, I said health**
25 **education at the end and maybe my voice dropped off.**

1 A. Okay.

2 Q. Your testimony doesn't refer to any
3 specialized or formal training in the Amish and
4 Mennonite religions. Do you have any formal,
5 specialized training in the Amish or Mennonite
6 religions?

7 A. It would be actually living, working with
8 the Amish community, going to their churches, their
9 funeral services, transporting them over a period of 13
10 years. In that sense, daily communication with them.
11 I probably have more knowledge than most professors in
12 the field of Mennonite and Amish that are not Amish or
13 Mennonite.

14 MR. TRIPP: Your Honor, I move to strike
15 that last statement as speculation.

16 THE WITNESS: I have talked to some of
17 the professors --

18 JUDGE PRIDGIN: Just a second. I'll
19 sustain and there's not a question on the table. If
20 you can just try to answer the question that's being
21 asked, please.

22 THE WITNESS: Okay.

23 BY MR. TRIPP:

24 Q. So the answers -- you don't have any -- I
25 understand your experience living in the area. I'm

1 from that area as well. But you don't have any
2 specialized formal training; is that true?

3 A. Not in education.

4 Q. Okay. Now, in fact, much of the
5 information that I saw on your prepared testimony
6 talked about information that you were given by members
7 of those communities; is that correct?

8 A. It's information both witnessed and
9 given.

10 Q. In fact, you -- at page 5 of line 17 and
11 18 of your testimony. I'm sorry, you have that there;
12 correct?

13 A. Yes, I do.

14 Q. Okay. At page 5, line 17 and 18, what
15 you state is: You were asked to speak on their behalf
16 and thus represent them as an advocate; isn't that
17 true?

18 A. Yes, and I think --

19 Q. Mr. Haxton, I'm sorry --

20 A. That is true.

21 Q. Okay. Thank you. And that's simply what
22 you've tried to do in your testimony, true?

23 A. That is true. With their permission.

24 Q. And in addition to your representation of
25 the Amish and Mennonite groups and their opinions with

1 **regard to the project, you yourself are personally**
2 **opposed to the transmission line, true?**

3 A. As it would effect them. I'm not
4 effected by the transmissi on line.

5 MR. TRIPP: Your Honor, may I approach
6 the witness?

7 JUDGE PRIDGIN: Yes, you may.

8 MR. TRIPP: What's our number -- next
9 exhi bi t number?

10 JUDGE PRIDGIN: I'm showi ng 87.

11 (ATXI Exhi bi t Number 87-HC was marked for
12 i denti fication by the court reporter.)

13 BY MR. TRIPP:

14 **Q. Mr. Haxton.**

15 A. Yes.

16 **Q. What I've handed you marked as Exhibit 87**

17 --

18 A. Okay.

19 **Q. -- is letter that was sent by Jason**
20 **Haxton to the Commission in March of 2015.**

21 A. Okay.

22 **Q. Do you recognize that letter?**

23 A. Yes, in looking at how Ameren has rough
24 shot and bullied --

25 **Q. Sir, my question was: Do you recognize**

1 **that letter?**

2 A. Correct.

3 **Q. All right.**

4 MR. TRIPP: And Your Honor, I'll move to
5 admit into evidence -- or actually, I'll ask you to
6 take judicial notice, and this is comment P201503017.

7 JUDGE PRIDGIN: I'm sorry, Mr. Tripp,
8 could you give the number again, please?

9 MR. TRIPP: Yes, I'm sorry.

10 JUDGE PRIDGIN: That's all right.

11 MR. TRIPP: It's P201503017.

12 JUDGE PRIDGIN: All right. Any
13 objection? All right. The Commission will take
14 notice.

15 BY MR. TRIPP:

16 **Q. Now, Mr. Haxton, I want you to listen to**
17 **my question. Is it fair to say that what your letter**
18 **here talks about is that you personally oppose the Mark**
19 **Twain transmission project?**

20 A. In the area that they proposed to put it,
21 yes, because of these things.

22 **Q. Now --**

23 A. I don't live in the line area and I've
24 been told by Peggy Ladd that I don't live in the area.

25 **Q. Mr. Haxton, let me ask you a question.**

1 **Okay, Mr. Haxton? You oppose it because you talk about**
2 **farming, you talk about the impacts to the fire hazard**
3 **if there's a storm or tornado, all those things. You**
4 **oppose the project, fair?**

5 A. In the community that this is proposed,
6 yes. That is my stand. It's not in my community.

7 MR. TRIPP: Your Honor, I'd ask you to
8 instruct the witness to answer the question, please.

9 JUDGE PRIDGIN: I will. Mr. Haxton, if
10 you could try -- he's asking you yes-or-no questions,
11 if you could try to answer yes or no, and your counsel
12 will have a chance to redirect you and the bench will
13 have questions that are open-ended, and you're
14 certainly free to narrate there.

15 THE WITNESS: Some things don't seem to
16 have a yes-or-no question to me.

17 JUDGE PRIDGIN: Well, they do to me, so I
18 think he's asking you yes-or-no questions.

19 THE WITNESS: Okay.

20 BY MR. TRIPP:

21 **Q. Let me ask you a question, all right?**
22 **Mr. Haxton, in terms of these two religious**
23 **communities, the Amish and the Mennonite communities**
24 **that you've particularly spoken about in your**
25 **testimony, we're really talking about an area around**

1 **Green Top and Queen City in northeast Missouri ;**
2 **correct?**

3 A. Adair and Schuyler County.

4 **Q. Right, but --**

5 A. It overlaps.

6 **Q. But I'm also correct that it's -- really**
7 **we're talking about an area around Green Top and Queen**
8 **City, primarily?**

9 A. It stretches out further, 13 and a half
10 miles.

11 **Q. Does it include Green Top and Queen City?**

12 A. Correct.

13 **Q. Thank you. As I understand the**
14 **information contained in the exhibits or the schedules**
15 **to your testimony, these two communities that you just**
16 **said overlap about -- to some degree, about two and a**
17 **half miles is what your testimony says; correct?**

18 A. They overlap by two and a half.

19 **Q. Now, you refer in your testimony at**
20 **page 5, lines 3 through 6 to the Shekinah Mennonite**
21 **church and school; correct?**

22 A. Correct.

23 **Q. Now, it's true, Mr. Haxton, that the**
24 **proposed Mark Twain transmission line does not cross**
25 **the property on which the Shekinah Mennonite church is**

1 **located?**

2 A. At the time that I was writing this,
3 there was question as to where the line would be.
4 There are two lines. And it would have gone down
5 Blueberry Way, which would have been their area.

6 **Q. The date on your testimony is**
7 **October 21st, 2015; correct?**

8 A. Yes.

9 **Q. The proposed final route had been**
10 **announced well before October of 2015.**

11 A. When was it announced officially?

12 **Q. Well, they decided December of 2014 and**
13 **they announced in spring of 2015.**

14 A. That doesn't sound familiar to me based
15 on what we heard up in my region.

16 **Q. Okay. I want you to assume that the**
17 **final route was announced in the spring of 2015, okay?**
18 **Now, as you understand -- or do you even understand**
19 **where the final route is located?**

20 A. Yes, I do, based on what you're saying.

21 **Q. So let me ask you the question: Isn't it**
22 **true that the proposed final route for Mark Twain**
23 **transmission line does not cross the property on which**
24 **the Shekinah Mennonite church is located?**

25 A. It crosses the property of the members.

1 MR. TRIPP: Judge, I'm going to ask you
2 to instruct the witness to answer the question.

3 JUDGE PRIDGIN: I don't think he asked
4 you about the members. I think he asked you about the
5 church.

6 THE WITNESS: Okay. It does not go over
7 the church.

8 JUDGE PRIDGIN: Thank you.

9 BY MR. TRIPP:

10 Q. Do you have any idea how far the line the
11 final route is from that church property?

12 A. I drive that route, yes, I'm aware.

13 Q. How far?

14 A. Approximately two miles, maybe.

15 Q. Okay.

16 A. I don't know. I didn't measure it.

17 Q. If there's testimony in this case from
18 ATXI witness Chris Wood who measured the proposed line
19 from the location of the church and said it was 2.74
20 miles, would you have any reason to disagree with that?

21 A. No, I was pretty close.

22 Q. Okay. And with regard to the Amish
23 school located east -- you mentioned an Amish school in
24 your testimony. With regard to the one that's closest
25 to the final route, the one that's east of Highway 63,

1 **isn't it true that the proposed transmission line does**
2 **not cross the property on which that school is located?**

3 A. It does not cross that school now.

4 **Q. Okay. And in fact, you know it's at**
5 **least 1.85 miles from that?**

6 A. That sounds about right.

7 **Q. Okay. Now, Mr. Haxton, at page 5, lines**
8 **11 and 12 of your testimony, I'll let you get there.**

9 A. Yep.

10 **Q. You assert that running the power line**
11 **through many Amish farmsteads is akin to taking the**
12 **line through dozens of churches.**

13 A. Correct.

14 **Q. And at lines 6 through 14, you refer to**
15 **the transmission line running down the middle of the**
16 **Amish community; correct?**

17 A. Again, based on some of the information
18 going back and forth, but now I would say no.

19 **Q. That's what you stated in your testimony?**

20 A. There's been a lot of confusion with the
21 two lines and Peggy Ladd working with this.

22 **Q. Mr. Haxton, that's what you stated in**
23 **your testimony; correct?**

24 A. So.

25 **Q. Correct?**

1 A. That it will effect churches, yes.

2 Q. **At line 14, page 6, you stated that it**
3 **runs right down the middle of the Amish community?**

4 A. It runs through the community and effects
5 churches.

6 Q. **Okay. Now, I understand today you**
7 **understand that there's a final proposed route. Based**
8 **on your testimony in your prefiled testimony, it**
9 **appeared that this route was going to run on multiple**
10 **properties owned by Amish and Mennonite farmers.**
11 **That's not true, is it?**

12 A. It's going to run through Mennonite and
13 Amish farms, yes.

14 Q. **How many?**

15 A. I'm aware of at least two that will be
16 effected.

17 Q. **Okay.**

18 A. But I'm sure there will be more.

19 Q. **Why don't you tell me the two that you**
20 **know of.**

21 A. The two of would be Johnny E. Miller. He
22 received letters from them, which I think marginalized
23 him.

24 Q. **Let me just ask you for the names again.**

25 A. Johnny E. Miller.

1 **Q. And?**

2 A. And last name would be Mr. Graber. It
3 would be the bishop's son, Elmer Graber's son's land,
4 near Queen City. So one would be in Green Top area,
5 one would be in Queen City area. I confirmed those
6 last night.

7 **Q. So those are the two property owners --**

8 A. That I'm aware of.

9 **Q. Okay. You referenced earlier the fact**
10 **that there are at least two different proposed routes**
11 **through that area; correct?**

12 A. At one time, there were eight.

13 **Q. Well, but proposed -- between -- before**
14 **they selected the final route in December, there were**
15 **at least two proposed routes; correct?**

16 A. Correct.

17 **Q. And the route that wasn't selected, and**
18 **you're familiar with where that was, generally through**
19 **the Amish and Mennonite communities.**

20 A. I guess let me express my confusion,
21 because things go back and forth.

22 **Q. Fair enough.**

23 A. There's some confusion about how this
24 will turn out. You're saying the furthest line. I'm
25 aware of the furthest line now being stated.

1 MR. TRIPP: May I approach, Your Honor?

2 JUDGE PRIDGIN: You may.

3 (Exhibit Number 88 was marked for
4 identification by the court reporter.)

5 MR. TRIPP: Judge, this is actually a
6 schedule from Chris Wood's testimony from Schedule
7 CJW-SR-1, so it's actually already in evidence.

8 JUDGE PRIDGIN: All right.

9 MR. TRIPP: It's marked as 88 for
10 demonstrative purposes.

11 JUDGE PRIDGIN: Thank you.

12 BY MR. TRIPP:

13 Q. You can't see it too well on the screen,
14 but Mr. Haxton, you have one in front of you.

15 A. Correct.

16 Q. So feel free to look at that. And I'll
17 represent to you that the testimony that represents --
18 the testimony in this case is that that blue line
19 represents one of the proposed routes, and then the
20 line that's on the right there, or to the east, is a
21 dotted line and that represents the final route, okay?

22 A. Okay. So when was this change made or?

23 Q. I'm going to represent to you that that's
24 what that is, okay?

25 A. Okay.

1 **Q. I want you to assume that.**

2 A. There's a lot of confusion about lines,
3 obviously.

4 **Q. Mr. Haxton, I just want you to assume it.**
5 **I'd like you to answer my questions and listen closely**
6 **to them.**

7 A. Okay.

8 **Q. We'll get through this quicker, all**
9 **right?**

10 **Now, I also want to represent to you that**
11 **those two green areas around Green Top and Queen City**
12 **were areas that based on information in part you**
13 **provided and in part information that ATXI Burns &**
14 **McDonnell gathered were the general boundaries of the**
15 **Amish and Mennonite communities. All right?**

16 **Is it fair to say that the final proposed**
17 **route impacts far less Amish properties or Mennonite**
18 **properties than the other proposed route?**

19 A. But you have not on this map shown all
20 the Amish community then, because I've identified at
21 least two that will be impacted, one in Green Top, so
22 this isn't accurate.

23 **Q. Even if it -- even if it doesn't include**
24 **the other property, it's fair to say that that -- the**
25 **final proposed route impacts Amish and Mennonite-owned**

1 **properties far less than the other proposed route.**

2 **True?**

3 A. If it impacts one, it impacts the
4 community.

5 **Q. In terms of numbers, Mr. Haxton, the**
6 **final proposed route impacts far fewer Amish and**
7 **Mennonite-owned properties than the other proposed**
8 **route?**

9 A. In terms of the church as a whole, if you
10 take off a piece of the arm, the whole is effected. It
11 effects the whole. It is a whole community. It's not
12 a partial community like our religious communities.

13 MR. TRIPP: Your Honor, I'm going to ask
14 you once again to instruct the witness to answer the
15 question.

16 JUDGE PRIDGIN: If --

17 MR. TRIPP: If he's unable --

18 JUDGE PRIDGIN: -- in terms of sheer
19 numbers, you can answer yes, no, or I don't know. But
20 I think he's asking you just numerically.

21 THE WITNESS: Fine. Numerically, it
22 effects fewer.

23 BY MR. TRIPP:

24 **Q. It's also true that the Amish and**
25 **Mennonite properties that are shown there, or even the**

1 **ones that aren't shown there, that there's already**
2 **power lines running through that area?**

3 A. There are no transmission lines for
4 345,000, no, there are no transmission lines like that.

5 **Q. It's true, isn't it, there are**
6 **distribution lines up there?**

7 A. There's electric lines, yes.

8 **Q. All right. And those power lines, those**
9 **electric lines were probably there when the Amish**
10 **community moved to that area in 2003, most of them?**

11 A. New ones have been put up.

12 **Q. There were power lines there when the**
13 **Amish community moved there in 2003; true?**

14 A. True.

15 **Q. Didn't stop them from buying property**
16 **then; true?**

17 A. There's -- again, from the perspective --
18 we're talking different type of lines. They're
19 familiar with the other lines and moved away from
20 those.

21 **Q. Mr. Haxton, you're a good advocate, but**
22 **I'm asking you the question simply that the fact that**
23 **there were distribution power lines there didn't**
24 **prevent them from buying property; true?**

25 A. It's apples and oranges. There were

1 electric lines.

2 **Q. Are you unable to answer that question?**

3 A. It is, because it doesn't seem to make a
4 lot of sense. You're comparing things that are not
5 comparable.

6 **Q. When you say that the Amish -- in your**
7 **testimony, when you say that the Amish are going to**
8 **move if there's a power line put -- or no, I'm sorry.**

9 A. Some moved.

10 **Q. If you say that -- right, and that's**
11 **based strictly on what people told you?**

12 A. No, from Fort Wayne, from the Amish.

13 **Q. But it's what people told you?**

14 A. What the Amish told me.

15 **Q. You don't have any personal knowledge;**
16 **true?**

17 A. David Schwartz [phonetic] told me that's
18 why he moved from Fort Wayne.

19 MR. TRIPP: I'm finished. I don't have
20 any other questions, Your Honor.

21 THE WITNESS: Okay.

22 JUDGE PRIDGIN: Thank you.

23 Bench questions, Mr. Chairman?

24 ///

25 ///

EXAMINATION

QUESTIONS BY CHAIRMAN HALL:

Q. Good morning.

A. Good morning.

Q. I want to first of all thank you for personally -- for your personal involvement in the case and your willingness to speak for these communities in light of the fact that their religious, philosophical beliefs prevent them from doing so. So thank you.

A. Thank you.

Q. I want to ask a couple of questions about the line of inquiry you were just involved with. So there -- your understanding is that there were some power lines in these areas when -- when the Amish and Mennonite communities moved in; is that correct?

A. Correct. It's not the power line that's the concern, it's the 345,000 volt ones that concern them.

Q. Okay. So what is the philosophical or religious aversion to the amount of voltage?

A. Correct. Electricity is not the devil or evil. If you understand the Amish, it actually is the individualization. When I have electricity, when I have a car, I am no longer needing a community to thrive. I can act independently, I can buy my tractor,

1 I can do everything myself.

2 The whole religious community is based on
3 everyone connected to everyone. So the girls will come
4 to my house to clean and they will use my vacuum
5 cleaner because it does not effect their community.
6 But within themselves, the use of electricity would
7 break down the social community, and that is why it is
8 a religion of community.

9 And that is why if one is effected,
10 they're all effected because each home is using the
11 whole community for church in that home, at least three
12 times a year, to get the ice off the pond, it's a major
13 effort and therefore they need everyone every time,
14 every house. And we don't function that way.

15 **Q. Okay.**

16 A. So it's not the electricity that is
17 existing there, though they don't use it. When they
18 see these massive power lines that crackle all night
19 and hum and makes -- this is what scares them is
20 they've seen these things and they've moved away from
21 those kinds of power lines.

22 **Q. Okay. Regardless of whether it's a**
23 **distribution line or a lower voltage transmission line**
24 **or high-voltage transmission line, none of that**
25 **electricity would be use in the community?**

1 A. No.

2 Q. Okay. So then I guess I'm still trying
3 to understand what the religious or -- why the
4 religious or philosophical aversion would be based on
5 the voltage.

6 A. Multiple things. Not only the voltage,
7 but then it will bring people into their community.
8 It's a very close community within themselves.

9 Q. Okay. Why would it bring any individuals
10 into the --

11 A. Maintenance and such.

12 Q. Maintenance and construction. Okay.

13 A. And they're familiar with that from gas
14 lines and such already.

15 Q. Okay. Now, okay. So that's --

16 A. So brings strangers into their community.

17 Q. I understand that issue, but wouldn't --
18 wouldn't that be in play on the existing power lines?
19 So they chose a geographic area where there were
20 existing power lines that were crossing it, so wouldn't
21 that already have been taken into account when they
22 chose that particular piece of land?

23 A. Most of those power lines run along the
24 highways and roadways, not through their land.

25 Q. Okay.

1 A. So they're not maintained on their land.

2 Q. Okay. So beyond the -- and I'm not
3 minimizing it, but beyond the concern about individuals
4 coming into their communities for both construction and
5 maintenance, what is -- is there another connection
6 between the voltage and the philosophical or religious
7 aversion to the line?

8 A. Again, from their perspective, what
9 scares them is the amount of voltage that is present in
10 these lines.

11 Q. And that's what I'm trying to understand.
12 Why? How does the amount effect their concern?

13 A. I guess they've witnessed what happens
14 when there's moisture and electricity, the stray volts
15 that come from it. They've seen those firsthand,
16 shared with me that from their communities in Fort
17 Wayne that put a similar one in, and that's why some of
18 them moved from there to come to here to be away from
19 those lines. They felt that, again, the sound, the
20 buzzing, the interaction of people coming on to
21 maintain those. Again, they felt that it was not in
22 harmony with the land, that kind of voltage.

23 I don't know if that explain better. But
24 there's something between the small lines that yes,
25 there they're there, they have no need for them, but

1 this to them is an even bigger travesty upon the nature
2 of the area. It's like in doses.

3 **Q. You were looking at a map a moment ago.**
4 **Do you still have it in front of you?**

5 A. Yes.

6 **Q. My sense of -- of the inquiry with**
7 **regards to this map is that you've got -- you've got**
8 **some skepticism that the green area accurately**
9 **encompasses the communities.**

10 A. Correct. Again, I didn't go out there
11 and map it, but I do know that they've received letters
12 that the people are not on this, so how -- if I know
13 it's inaccurate based on that, obviously it appears to
14 be fudged away from the Amish. Saying, well, it's
15 close enough. Again, if it effects one family, that
16 effects the whole church, the community and everybody.

17 So again, that's why I couldn't say,
18 well, it's just one family or two families or five
19 families out of 40. That still impacts the community
20 that works as a whole in every constance. It's like
21 your circulatory system. What part of it do you take
22 out that completely flow.

23 **Q. And pardon my ignorance, but are these**
24 **two separate communities, one in the Green Top area,**
25 **one in the Queen City area, or is it one?**

1 A. There appears to be -- there is a -- kind
2 of a magical little band where they don't have
3 property, but it's the same community with one little
4 area, whether the farmers are there traditionally and
5 haven't sold out or whatever, but that is still one
6 community. Up north and south.

7 **Q. Okay. So it's one community and that one**
8 **community is 459 people?**

9 A. That would be both the Mennonite and the
10 Amish combined, and they work very closely together.
11 But the Amish community is at least 314.

12 **Q. And again, I -- assuming that this map is**
13 **-- is accurate for -- for a moment, do you believe that**
14 **any members of the community in that lower region**
15 **around Green Top would -- would they be adversely**
16 **effected? And I understand your concept of you impact**
17 **one, you're impacting all. I get that, but I'm asking**
18 **you, if you look at the landowners in the Green Top**
19 **area, are they adversely effected by that line or is it**
20 **just up in that northern section where -- where there's**
21 **--**

22 A. I visited with both Bishop Graber of
23 Queen City and Bishop Schwartz [phonetic] down in the
24 Green Top area, and their opinion was they knew where
25 the line would go through their community is they

1 prayed that it would just all go away completely, that
2 it would impact their community if it came through in
3 any part.

4 **Q. And I understand that, but I'm trying to**
5 **understand whether the line is -- is only a problem**
6 **when it's going directly through the land or is it also**
7 **a problem if it's within a mile or two of the land?**

8 A. Right. And I agree, I have trouble with
9 the accuracy of this map because when I met with the
10 representative Peggy Ladd and they had eight routes and
11 they had done all their research, she said she was
12 completely unaware that there were any Mennonites or
13 Amish in the entire area, that it was news to her. So
14 all I'm saying is I can't trust the research of this.

15 **Q. Yeah, and I'm not asking you to, but my**
16 **question is: Is the concern only when the line is**
17 **going directly through their property or is the concern**
18 **also --**

19 A. Oh.

20 **Q. -- when it comes close to the property?**

21 A. For them, I mean, obviously if it goes
22 through their land and if it's within a certain region,
23 that concerns them in talking to them.

24 **Q. So it does -- so it's not -- not a**
25 **concern if it's a mile or two away? And I don't know**

1 **what the scale is.**

2 A. Right. What I'm saying is if it had to
3 be there and it was out of their community, they would
4 be better with that.

5 **Q. Okay.**

6 A. And this still impacts their community is
7 the issue.

8 **Q. I understand. You mentioned two**
9 **particular individuals with -- with land over which the**
10 **proposed line is to be constructed. A John Miller?**

11 A. John E., yes.

12 **Q. John E. Miller.**

13 A. E is his middle initial.

14 **Q. And Elmer Graber?**

15 A. It would be Elmer Graber's grandson, last
16 night he mentioned.

17 **Q. Could you spell --**

18 A. G-r-a-b-e-r, Graber.

19 **Q. And can you at all tell from looking at**
20 **this map where you think those two properties are? And**
21 **that may be impossible.**

22 A. I know John E. Miller's, it appears to be
23 about where the number B-9 is, that actual physical
24 number is in his huge -- and again, they buy huge
25 tracts of land all at once. The community one day

1 there's not a community, next day there's a whole
2 community because that's how they do it to keep the
3 land prices down.

4 **Q. And actually, that's a -- well, I mean,**
5 **so B-9, there's --**

6 A. For sure, and then --

7 **Q. That would be Mr. Miller?**

8 A. That would be John E. Miller.

9 **Q. Okay. And the second one?**

10 A. Would be on the Route E, where it says E,
11 and out towards the line, under Queen City Route E.

12 **Q. Okay.**

13 A. If I had known, I would have gone through
14 the whole area and checked all the communities. I
15 didn't know that was going to be required today.

16 CHAIRMAN HALL: Okay. Well, one of the
17 things that I'm going to ask for in post-hearing
18 briefing, I guess, is some -- it seems to me that it
19 should not be a difficult task to identify the members
20 of this community to determine where their -- where
21 their land holdings are, and -- and indicate where the
22 proposed line is. And I'm not saying that this map
23 does not accurately do that. I just don't know.

24 But I would like the parties to look at
25 this again and perhaps -- and I'll turn to the judge,

1 and I don't know the exact proper procedure for this,
2 but maybe some type of joint submission indicating the
3 map and the geographic boundaries of these communities,
4 because this is an important issue, and I want to make
5 sure that we are taking it into account when we are
6 evaluating the public interest.

7 MR. LOWERY: Mr. Chairman, could I just
8 give you a little bit of information and pertinent to
9 your request, and I'm not objecting to your request.

10 CHAIRMAN HALL: Okay.

11 MR. LOWERY: But what we did, and it's
12 all that we could do, because as you understand, the
13 public records don't have religious affiliations, nor
14 should they, I'm sure we all agree. What we did is
15 Mr. Haxton, I believe primarily, Mr. Wood testifies to
16 this, so I'm telling you things that are in testimony,
17 just sort of directing your attention, gave us a number
18 of surnames, and maybe Bishop Schwartz did as well,
19 gave us a number of surnames, and then using the public
20 records, we looked up the surnames. And we assumed if
21 they had the surnames that we were given, that they
22 were in the Amish or Mennonite community.

23 We are not averse to if they give us
24 additional information about who owns properties, but
25 there is no way, objective way for us to know if

1 Mr. So-and-so or Ms. So-and-so actually is in this
2 community. And we would simply have to take folks word
3 for it, and that would be fine, but with that caveat,
4 we can -- if they're willing to give us information, we
5 can meet your request. But I just wanted you to
6 understand, there's no way for us to objectively verify
7 that.

8 CHAIRMAN HALL: I absolutely understand
9 that. Nonetheless, I would like that effort to take
10 place, and if necessary -- well, and I'd like Staff to
11 be involved working with -- working with neighbors and
12 working with ATXI because I -- I want to know for sure
13 the extent to which there are properties through which
14 this line is proposed to go.

15 MR. HERNANDEZ: Commissioner, Chairman,
16 we've spoken to members of Neighbors United, and they
17 will make a concerted effort to get a list of those
18 people and we can present that to ATXI and to Staff,
19 and then we can get that organized to determine at
20 least the specific surnames and property owners and
21 then go from there.

22 CHAIRMAN HALL: Okay.

23 MR. HERNANDEZ: My information, it may
24 take a week or two to get that information, but we
25 readily have people on the ground to get that

1 information to the Commission.

2 CHAIRMAN HALL: And I'll also note that I
3 would have appreciated that effort occurring somewhat
4 earlier than now. Nonetheless, we have what we have
5 and so let's -- let's be sure the record is absolutely
6 clear on these issues.

7 MR. N. WILLIAMS: Chairman, just to make
8 sure I'm clear on what you're requesting, in terms of
9 an end product.

10 CHAIRMAN HALL: Yes.

11 MR. N. WILLIAMS: I think it sounds like
12 you're looking for probably a late-filed exhibit that
13 includes a map and a listing of individuals and
14 correlates, I guess, property to those individuals on
15 that map? Is that what you're looking for?

16 CHAIRMAN HALL: I'd like a jointly filed
17 exhibit that looks something along this line that
18 everyone agrees is accurate.

19 MR. LOWERY: Mr. Chairman, we will be
20 able to agree, I believe, that the neighbors indicate
21 that it's accurate. There's no way that we can ever
22 verify whether the information we're given is
23 completely accurate.

24 CHAIRMAN HALL: No, but you know where
25 the line is, they know where the properties are. If

1 you guys can all agree on that, we'll have an exhibit
2 that we can -- that we can evaluate when we're -- when
3 we are evaluating the public interest. Commissioner
4 Rupp, you had a thought?

5 COMMISSIONER RUPP: Yeah, I would -- I
6 would be very open to this being highly confidential
7 information to help ease the fears of the Amish
8 community that this information would be strictly
9 confidential in the proceedings, so just a forethought.

10 THE WITNESS: And part of it, just by
11 driving and seeing a home without electricity and
12 buggies, I'm just saying, that's what I'm saying is
13 when they said there were no Amish or Mennonites, well,
14 just driving down, you can see homes without
15 electricity wires and buggies. That's a fairly good
16 indicator.

17 CHAIRMAN HALL: Okay. So is that -- is
18 that clear what I'm looking for?

19 BY CHAIRMAN HALL:

20 **Q. Okay. There was some testimony earlier**
21 **in the hearing about questionnaires that were filled**
22 **out, I believe at open houses. Are you aware of any**
23 **member of the Amish or Mennonite communities that would**
24 **have filled out any questionnaires with regards to the**
25 **proposed line and their concerns, et cetera?**

1 A. I guess when they received the letter, it
2 was kind of confusing in terminology for them in
3 general. All of a sudden, they have a letter saying
4 that you need to go on the Internet and contact us.
5 You need to call us. They do not have --

6 **Q. Okay. I understand all of the**
7 **technological difficulties with responding to a request**
8 **for information from -- by ATXI, but my specific**
9 **question is: Do you know whether any members of the**
10 **Mennonite or Amish communities filled out any**
11 **questionnaires with regards to the proposed line?**

12 A. I've been at the meetings where they've
13 attended because they needed driven, so I am not aware
14 of them filling out questionnaires.

15 **Q. Okay. Now, so you were at some -- some**
16 **open houses where certain members did -- did attend?**

17 A. Bishop Schwartz in October of 2014 went
18 to open house with Peggy Ladd in Kirksville. And that
19 was the first time she said she was aware that there
20 were even Amish in the area.

21 **Q. So that was the only meeting that you're**
22 **aware of where a member of the Amish or Mennonite**
23 **community attended?**

24 A. Correct. And I'm aware that Peggy Ladd
25 went out to the bishop at one time, at least, maybe

1 two, because he mentioned that.

2 **Q. Okay. I think that's all the questions I**
3 **have. Again, thank you for your involvement in the**
4 **case, sir.**

5 JUDGE PRIDGIN: Mr. Chairman, thank you.
6 Commissioner Stoll?

7 COMMISSIONER STOLL: I have no questions.
8 Thank you, though.

9 JUDGE PRIDGIN: Commissioner Rupp?

10 COMMISSIONER RUPP: No, thank you.

11 JUDGE PRIDGIN: Commissioner Coleman?

12 COMMISSIONER COLEMAN: No.

13 JUDGE PRIDGIN: Thank you. Any recross
14 based on Commissioner questions? Public Counsel?

15 MR. ALLISON: No, sir.

16 JUDGE PRIDGIN: Staff?

17 MR. N. WILLIAMS: Judge, I don't have any
18 questions based on Commissioner questioning, but I
19 would like to at some point make some inquiry about
20 Exhibit 87, with regard to what, if any of it, should
21 be highly confidential. I notice it has and HC marking
22 on it. I believe it's probably because of the address
23 and telephone number identification, but I'm sure -- I
24 believe Mr. Haxton could probably tell us what he views
25 should be kept out of the public record.

1 MR. LOWERY: And Mr. Williams, hasn't
2 that already been publicly submitted on the
3 Commission's web site, so...

4 MR. N. WILLIAMS: Public comments are not
5 publicly viewable is my understanding, so...

6 JUDGE PRIDGIN: Okay. If I could get
7 counsel to discuss that maybe during a break and then I
8 would be glad to take it up on the record after the
9 break what information, if any, should be highly
10 confidential. And Mr. Williams, I appreciate you
11 bringing that to my attention.

12 MR. N. WILLIAMS: Well, Judge, I think
13 Mr. Haxton could probably tell us because it's his
14 information that would be made public.

15 JUDGE PRIDGIN: Whatever the parties
16 agree to --

17 THE WITNESS: I guess I'd like to
18 understand more of what you're asking.

19 COURT REPORTER: I'm sorry, Judge, I
20 didn't get the end of what you said.

21 JUDGE PRIDGIN: Whatever the parties
22 agree to is fine with me. If you want to ask him what
23 -- what information, if any, he wants to keep highly
24 confidential, that's fine with me.

25 MR. N. WILLIAMS: That's what I'm

1 proposing to do.

2 CHAIRMAN HALL: Let's let Ms. Hernandez
3 and Mr. Haxton discuss that and then have a
4 conversation with Staff counsel. I don't think this
5 needs to be on the record.

6 JUDGE PRIDGIN: Okay. Thank you. Any
7 recross from ATXI?

8 MR. TRIPP: No, Your Honor. Thank you.

9 JUDGE PRIDGIN: Redirect?

10 MS. HERNANDEZ: I do have a few.

11 REDI RECT EXAMI NATION

12 QUESTIONS BY MS. HERNANDEZ:

13 **Q. Do you remember the line of questioning**
14 **where you were asked if you had any formal schooling in**
15 **Amish or Mennonite communities? Do you remember?**

16 A. Correct, yes.

17 **Q. Okay. What other training do you have in**
18 **those -- in those communities that would aid in during**
19 **-- in the testimony that you've prepared and your**
20 **comments to the Commission?**

21 A. Correct. The bishops themselves, who
22 I've known for, you know, quite some time, at the
23 Public Service Commission meeting indicated that I
24 would speak for them. They were there and because of
25 their passiveness against aggressors that they really

1 couldn't testify, but they trusted my understanding of
2 them and their unique community, and therefore at that
3 hearing, there was evidence that the Amish transferred
4 their right to speak to me.

5 So -- and then I've actually lived in the
6 community that they came from in Indiana, Burns and
7 Grabill, so I've actually lived in their homes and
8 attended weddings, aware of church services but have
9 not attended church services.

10 But again, any medical issue, they come
11 to us, meaning my wife and I, with concerns. So I
12 guess, again -- and also understand the uniqueness of
13 each community. There is no such thing as the Amish
14 church as you might call the Methodist church or the
15 Catholic church. Each community sets their rules and
16 their guidelines, so to know the Amish, you really
17 might know a few communities, but you cannot know all
18 the Amish because each is unique. And so really by
19 being with this group, I know this group as no one
20 would know this probably Amish group. Even a professor
21 could not talk of this group. He can talk some
22 generalities, but not of this group.

23 **Q. Okay. And you mentioned that you would**
24 **know the Amish. Does all the statements you just made,**
25 **would that refer to the Mennonite communities?**

1 A. It would also be the Mennonites.
2 Actually, the Mennonite community started there 30
3 years ago with the bulk store, and we were friends with
4 the Zimmermans. They had moved away and returned when
5 the Amish came, so...

6 **Q. You were asked to look at this map, which**
7 **is still up on the screen in front of you as**
8 **demonstrative Exhibit Number 88.**

9 A. Correct.

10 **Q. And you -- in that line of questioning,**
11 **you mentioned that there were some confusion about --**
12 **about routes and a final route. What communications**
13 **are you aware of that ATXI had with those Amish and**
14 **Mennonite communities in terms of where the line would**
15 **be?**

16 A. And I think that's where the confusion
17 is. Even now, there's a possible other red dot line.
18 All along, this thing has kind of been a flow and
19 ebbing thing to us. And so if there is confusion, it's
20 certainly because it seems like that's been the intent
21 in creating eight lines. And when I ask why the other
22 six were gone, there was no really rhyme or reason.
23 Just that they're gone now.

24 And so it just seems that it's been
25 something to create discord and confusion among the

1 whole community. I think that's left us in a
2 vulnerable position. And so even now, I see now
3 there's another red dot line. Again, even looking at
4 this map, if I don't understand it, I'm sure the Amish
5 are not going to understand it, and they're not looking
6 at aerial views.

7 When we went and showed them their land,
8 they didn't know where they were. Even with Peggy
9 Ladd. She goes, well, da, da, da, da, da. I was
10 shocked that a bird's-eye view was not something that
11 the Amish understood. We take it for granted in our
12 education, but Bishop Schwartz could never really grasp
13 where his land was, even as we were pointing it out
14 with Peggy Ladd.

15 I'm just saying that, again, some of the
16 material, the way it was presented and stuff has been
17 very confusing, to both them and to me. So as I'm
18 saying, I don't know, is it the red dot line, is it the
19 blue line. Again, this grayness always in working with
20 this.

21 Even though we've put a line, we've been
22 told yeah, it's final, but it's kind of not final, and
23 so like the Amish, well, maybe it's still going to rip
24 through the middle of their schools. Again, obviously
25 it's clear to the -- to those that are trying to get

1 what they want what they want. It's not clear to us
2 that are living in the path and -- and are kind of just
3 their -- I don't want to say victims, but we're really
4 in the dark often.

5 And again, I still don't understand the
6 new red dot line. What is that about, when we go to
7 collect -- again, it's just confusing. And I have
8 basically multiple degrees and work at a multiple
9 school and travel internationally and speak. And it's
10 like -- I'm just saying it's confusing, and I think
11 it's meant to be confusing.

12 **Q. And then the public comment letter that**
13 **you submitted --**

14 A. Correct.

15 **Q. -- do you remember being asked about**
16 **that?**

17 A. Correct.

18 **Q. Was this letter submitted on your behalf**
19 **or was it submitted in regard to communicating an Amish**
20 **or Mennonite thought?**

21 A. This was basically on my behalf. I mean,
22 I was communicating what I was seeing as a person not
23 in the path of this. I actually live in Green Top city
24 proper and the line is not coming anywhere near my
25 acreage, my home, and so it was what I was witnessing

1 happening that concerned me.

2 **Q. I think that's all. Thank you.**

3 JUDGE PRIDGIN: Ms. Hernandez, thank you.
4 Mr. Haxton, thank you. You may step
5 down.

6 This looks to be a good time to take a
7 break. Let us resume at 10:30, and I believe the next
8 witness will be Boyd Harris; is that correct?

9 MR. LOWERY: Yes.

10 JUDGE PRIDGIN: All right. Thank you.
11 We'll go back on the record at 10:30 then. Thank you.
12 We're off the record.

13 (A break was held.)

14 JUDGE PRIDGIN: Good morning. We are
15 back on the record. Before the next witness I believe,
16 who's Boyd Harris, I think Counsel had figured out a
17 way to do that Exhibit 87 issue, and just ask Counsel
18 how you wanted to resolve that.

19 MS. HERNANDEZ: Yes, in regard to that
20 exhibit, as long as there's an HC version filed that
21 removes Mr. Haxton's address and phone number, and then
22 the rest will be public information.

23 MR. TRIPP: Just redact his address and
24 phone number.

25 MS. HERNANDEZ: Correct.

1 MR. N. WILLIAMS: Judge, my understanding
2 is that I believe Neighbors United will submit a
3 version that has the information redacted, so the
4 record will have both the public version and a
5 confidential version.

6 JUDGE PRIDGIN: And that's what I show
7 what we have right now is 87-HC, and then a public
8 version with the phone number and address will be
9 redacted and that will be 87 public or non-proprietary,
10 however you want to file it.

11 MS. HERNANDEZ: It's not my exhibit that
12 I offered, but I believe --

13 JUDGE PRIDGIN: I'm sorry, it was
14 ATXI and my apologies. Whoever wants to file that, but
15 it would be ATXI's exhibit. I missed that. Thank you,
16 Ms. Hernandez.

17 Okay. Anything further from counsel
18 before Mr. Harris takes the stand? All right.
19 Mr. Harris, if you'll come forward to be sworn, please,
20 sir.

21 (The witness was sworn by Judge Pridgin.)

22 JUDGE PRIDGIN: Thank you very much, sir.
23 Please have a seat and Ms. Hernandez or Mr. Hernandez,
24 when you're ready.

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DIRECT EXAMINATION

QUESTIONS BY MS. HERNANDEZ:

Q. Good morning.

A. Good morning.

Q. Please identify yourself for the record.

A. My name is Boyd Harris, B-o-y-d,
H-a-r-r-i-s.

Q. And with whom are you employed?

A. I'm self-employed as a real estate
appraiser with Boyd Harris Company's, Inc.

**Q. And are you the same Boyd Harris that
prepared rebuttal testimony in this case that's been
premarked Exhibit 38?**

A. Yes, ma'am.

**Q. Do you have any corrections to make to
your testimony today?**

A. To that testimony, no.

**Q. And if I asked you the same questions
therein, would your answers be the same today?**

A. Yes.

**Q. And is your testimony true and accurate
to the best of your knowledge, information, and belief?**

A. I believe so, yes.

MS. HERNANDEZ: With that, I offer
Exhibit 38 and tender the witness for

1 cross-examination.

2 JUDGE PRIDGIN: All right. Thank you.
3 Exhibit 38 is offered. Any objections.

4 MR. ROSENCRANTS: Your honor, subject to
5 our continuing objection relative to the Motion to
6 Strike that we filed prior to this case, I have no
7 further comment at this point.

8 JUDGE PRIDGIN: All right. Thank you.
9 Exhibit 38 is admitted subject to the prior written
10 objection of ATXI.

11 (NU Exhibit Number 38 was received into
12 evidence by Judge Pridgin.)

13 MR. ROSENCRANTS: Your Honor, that will
14 be a standing objection; correct?

15 JUDGE PRIDGIN: Yes, sir, that's correct.
16 All right. Thank you.

17 Cross-examination, Public Counsel?

18 MR. OPITZ: No cross, Judge.

19 JUDGE PRIDGIN: Staff.

20 MR. H. WILLIAMS: No questions, Judge.

21 JUDGE PRIDGIN: ATXI?

22 MR. ROSENCRANTS: Yes, Your Honor.

23 CROSS-EXAMINATION

24 QUESTIONS BY MR. ROSENCRANTS:

25 Q. Jeff Rosencrants for ATXI. My name is

1 **Jeff Rosencrants, and as I indicated, I represent**
2 **Ameren Transmission Company of Illinois, and I'll be**
3 **asking you a few questions today, okay?**

4 A. Yes.

5 **Q. First, I want to do a little bit of**
6 **housekeeping. Do you have a copy of your rebuttal**
7 **testimony that you filed in this matter with you?**

8 A. Yes, Counsel did provide me a copy of
9 that.

10 **Q. Okay. We're going to be talking a little**
11 **bit about that today, so we'll be referring to it. So**
12 **you have it available for questioning?**

13 A. Yes.

14 **Q. And then you and I met a few weeks ago,**
15 **didn't we?**

16 A. That is correct.

17 **Q. Do you have a copy of your deposition**
18 **dated January 12th, 2016 with you, sir?**

19 A. I do not have a copy of the deposition.

20 **Q. Well, I've got some good news for you.**
21 **I've got a copy of it, and if I could approach, I'll**
22 **give you a copy, okay?**

23 JUDGE PRIDGIN: You may approach.

24 BY MR. ROSENCRANTS:

25 **Q. Mr. Harris, I'm going to be handing you a**

1 copy of your deposition transcript with exhibits and
2 then also a copy of your signature page, and it's got a
3 couple of corrections on it. Do you recognize these
4 documents, sir?

5 A. Yes, sir, I do.

6 Q. Okay. And the corrections are
7 typographical issues on a couple of pages in the
8 deposition; correct?

9 A. That would be correct.

10 Q. Other than that, is the deposition
11 transcript complete and accurate?

12 A. I believe it was, yes.

13 Q. And that's your signature on -- I think
14 it's page 99; correct?

15 A. Yes.

16 Q. Now Mr. Jackson, I wanted to start with
17 your rebuttal testimony. Can you pull that up for me,
18 please? And if you --

19 A. I believe you mean Mr. Harris, not
20 Mr. Jackson.

21 Q. Mr. Harris, I apologize. Yes,
22 Mr. Harris. I'd like to start you with the cover page
23 off your rebuttal. Can you pull that for me?

24 A. Yes.

25 Q. Okay. Can you look up in the upper

1 right-hand corner, and you see where it says issue, and
2 there are two issues identified: Impact on land values
3 and public interest, right above where it says witness
4 Boyd Harris; correct?

5 A. That is what is written there, yes.

6 Q. And you prepared your rebuttal testimony;
7 correct?

8 A. Yes.

9 Q. In your rebuttal testimony itself,
10 though, isn't it true, that there's really no opinion
11 within your rebuttal testimony that indicates that the
12 Mark Twain project is not in the public interest, is
13 there?

14 A. In the context of my rebuttal testimony,
15 a direct answer to that question was not within the
16 scope of what I was asked to do.

17 Q. Okay. So even though it's identified on
18 the cover page, you're not going to be talking to this
19 Commission about whether the Mark Twain project is in
20 the public interest because it's outside the scope of
21 the assignment that was given to you; correct?

22 A. That would probably be -- probably be
23 correct.

24 Q. Okay. So would it be safe to say that
25 the primary theme of your rebuttal, Mr. Harris, is that

1 **the Mark Twain transmission line project will effect**
2 **the value of properties along the route?**

3 A. That would be correct.

4 Q. Okay. I want to turn you to your -- your
5 opinion. It's page 3 of your rebuttal testimony. I'm
6 going to direct you to lines 2 to 8. Tell me when you
7 get there.

8 A. Got it.

9 Q. Are you there?

10 A. Yes, sir.

11 Q. Oh, good.

12 A. Sorry.

13 Q. You say in lines 2 through 8, and read
14 silently while I read aloud. It is my opinion that
15 the power line easement of the magnitude necessary for
16 ATXI's proposed project on agricultural properties will
17 significantly impact the values of productivity from
18 the cropland.

19 There are a number of ways this will
20 happen, ranging from the placement of towers, impacting
21 the functionality of the farmland, compaction from
22 construction limiting grain production, and lack of
23 demand on the market due to the foregoing impacts.
24 Second, residential properties will have the unsightly
25 appearance of the power line, health concerns resulting

1 **from stray voltage, et cetera. Did I read that**
2 **correctly, sir?**

3 A. That is what it says.

4 Q. **Okay. So let's walk through this opinion**
5 **of yours, okay? It's kind of a summary of your**
6 **rebuttal testimony. So let's talk first about the**
7 **power line easement of the magnitude necessary for**
8 **ATXI's proposed project. Okay?**

9 A. Okay.

10 Q. **And it's important for the Commission to**
11 **understand your experience with power line easements.**
12 **So let's start with this: Isn't it true that you've**
13 **had occasion to do very few appraisals involving the**
14 **acquisition of an easement interest, sir?**

15 A. The answer to your question as you
16 specifically put it would be true, yes.

17 Q. **In fact, I think you've told me before**
18 **that you've only done a half dozen since 1991; is that**
19 **true?**

20 A. If that's what was in the deposition,
21 then yes.

22 Q. **You've never performed an appraisal**
23 **involving the acquisition of an easement involving a**
24 **water utility, have you, sir?**

25 A. No, sir.

1 **Q. You've never performed appraisal**
2 **involving acquisition of an easement interest on behalf**
3 **of or involving a gas utility, have you, sir?**

4 A. That is correct.

5 **Q. You've never performed an appraisal**
6 **involving an acquisition of an easement involving**
7 **electric transmission facilities like those involved in**
8 **the Mark Twain project, have you, sir?**

9 A. That specifically, no.

10 **Q. In fact, you've never performed an**
11 **appraisal of an acquisition of any easement involving**
12 **any sort of electric facility in your career; correct?**

13 A. That would be correct.

14 **Q. You're not a member of the International**
15 **Right of Way Association, are you, sir?**

16 A. Not of that professional organization,
17 no.

18 **Q. So you hold no designations from the**
19 **International Right of Way Association at all, do you?**

20 A. While I may not hold a designation of
21 that organization, I do know how to properly prepare an
22 appraisal report, regardless of a designation.

23 **Q. But returning you to my question, sir --**

24 A. Your answer is no.

25 **Q. Okay. Thank you. Now, let's talk about**

1 **your familiarity of the ATXI's proposed project, and**
2 **the magnitude of its easement, which you summarized in**
3 **your opinion, summary opinion, okay?**

4 A. Okay.

5 **Q. Now, at the time you prepared your**
6 **rebuttal testimony, sir, you didn't know the width of**
7 **easement for each segment of the Mark Twain**
8 **transmission line project, did you, sir?**

9 A. Specifically no, but I considered it a
10 reasonable assumption that these expenses and lengths
11 in activity would not be undertaken for a small
12 project.

13 **Q. Again, returning you to my question, the**
14 **answer would be no; correct?**

15 A. Correct.

16 **Q. You didn't know the voltage of each**
17 **portion of the project, did you?**

18 A. That is correct.

19 **Q. In fact, you've not visited any of the**
20 **properties that would be subject to the proposed**
21 **transmission line route, had you?**

22 A. At that time, I had no cause to.

23 **Q. Is that a no?**

24 A. That's a no.

25 **Q. You hadn't spoken with any of the**

1 landowners, including anybody from Neighbors United,
2 who were directly impacted by the proposed route, had
3 you?

4 A. Not at that time.

5 Q. And you had performed no analysis of the
6 percentage of each parcel that would be subject to a
7 transmission line easement at that time, had you?

8 A. No.

9 Q. In fact, when I asked you about your
10 familiarity with the magnitude of the power line at
11 your deposition, you said, and I'm going to quote, it's
12 page 43, line 16 to 17, if you want to check. Other
13 than to know it is to cross several counties and within
14 a couple of different states, no. Is that your answer
15 that you gave at your deposition, sir?

16 A. If that's what's of record, then yes.

17 Q. Now I want to talk about the number of
18 ways that agricultural properties will be impacted by
19 the Mark Twain project, and I believe in your summary
20 opinion, you listed several.

21 A. Right.

22 Q. So let's go through those, okay? First
23 you listed placement of towers impacting the
24 functionality of the farmland. Do you remember when
25 you said that?

1 A. Yes, sir.

2 Q. Okay. But at the time your rebuttal was
3 written, you didn't know how high the monopole
4 structures for the Mark Twain project would be, did
5 you?

6 A. As far as height, no.

7 Q. Okay. You didn't know how many
8 structures there would be along the 100-mile length of
9 the project, did you?

10 A. No.

11 Q. You hadn't spoke with anybody about the
12 types of structures that ATXI was going to use, these
13 monopole structures, had you?

14 A. Not specifically.

15 Q. In fact, you had reviewed no drawings or
16 maps depicting the location of ATXI towers on farmland,
17 had you?

18 A. Not at that time.

19 Q. You hadn't even looked at the proposed
20 form of easement that ATXI proposed to use in its
21 presentation to landowners; correct?

22 A. That had not been provided to me, no.

23 Q. Another of the ways you believe the
24 agriculture properties will be impacted by the Mark
25 Twain project is what you call the, I think, quote,

1 **Lack of demand on the market; correct?**

2 A. Yes.

3 **Q. Okay. But at the time you wrote your**
4 **rebuttal, you had performed no analysis of the market**
5 **impact associated with the ATXI easements, had you?**

6 A. Again, that analysis was not part of what
7 I was initially asked to do.

8 **Q. Sir, is that a no?**

9 A. If you'd like for it to be, yes, sir.

10 **Q. No, I want it to be your testimony, sir.**

11 A. Yes.

12 **Q. Is that a no?**

13 A. That's a no.

14 **Q. You haven't even reviewed the -- you then**
15 **listed some ways, I guess, in which the properties**
16 **would be impacted by the Mark Twain project from a**
17 **residential perspective; right?**

18 A. Yes, I made some reference to that.

19 **Q. Okay. So the first part of your opinion**
20 **dealt with ag property, and kind of the second part of**
21 **your opinion dealt with some stuff that dealt**
22 **specifically with residential properties. Is that**
23 **correct, sir?**

24 A. There's some comment about that, yes.

25 **Q. Okay. You'd agree with me, Mr. Harris,**

1 **that the vast majority of the parcels along the Mark**
2 **Twain route are agricultural, wouldn't you?**

3 A. I don't know that I could say I agree
4 with that because your previous question would have led
5 that I hadn't reviewed that path yet, so I don't know
6 that I can agree with your question.

7 **Q. Well, I'm perfectly okay if the answer to**
8 **the question is I don't know.**

9 A. Okay.

10 **Q. Okay? So you don't know the answer to**
11 **the question of whether the vast majority of the**
12 **parcels along the Mark Twain route are agricultural,**
13 **that's fine. But maybe you'll agree with this one.**
14 **Isn't it true that you do very little residential work**
15 **in your profession?**

16 A. My practice is primarily agricultural
17 property, not residential.

18 **Q. So that's a yes to my question?**

19 A. Yes.

20 **Q. And I believe you identified one of the**
21 **ways that residential properties would be impacted by**
22 **the Mark Twain project was the unsightly appearance of**
23 **the power line; correct?**

24 A. Yes.

25 **Q. But you've not performed any analysis**

1 associated with the unsightly appearance of the
2 ATXI power line project, have you?

3 A. Not specifically, no.

4 Q. And at your deposition, you were unable
5 to provide me with an example of an appraisal that you
6 had ever performed where you factored unsightly
7 appearance into an evaluation, could you?

8 A. Correct.

9 Q. Another of the ways that the residential
10 properties will be impacted by the Mark Twain project
11 according to your opinion, you listed were health
12 concerns resulting from stray voltage, et cetera.
13 Remember when you said that, sir?

14 A. Yes.

15 Q. Okay. But again, you never performed any
16 analysis associated with health concerns from stray
17 voltage, et cetera, associated with ATXI's power line,
18 have you?

19 A. Other than various reports and studies
20 I've seen over the years in my practice addressing
21 those concerns, no.

22 Q. In fact, at your deposition, I believe
23 you were unable to provide me with any examples of an
24 appraisal you performed where you factored health
25 impacts in your evaluation, were you?

1 A. That's correct.

2 Q. That's because you've never done an
3 appraisal where health impacts, including stray
4 voltage, were issues, have you?

5 A. Not had the case to do that, no.

6 Q. Next I want to turn to page 3 of your
7 rebuttal. We'll go to line 9, okay? And after you got
8 done talking about the opinion, you were asked in your
9 rebuttal testimony what is your support for this
10 opinion. Do you see that, sir?

11 A. Yes, sir.

12 Q. And I believe the support you provided
13 was this residential development project in Randolph
14 County; correct?

15 A. Correct.

16 Q. And I believe you talk about that on
17 pages 3 through 4 of your rebuttal testimony, do you
18 not, sir?

19 A. Yes.

20 Q. Your example involved, as I understand
21 it, a property that was originally agricultural land,
22 and then there was some sort of an attempt to develop a
23 residential subdivision; correct?

24 A. That's correct.

25 Q. And you indicated in your testimony that

1 **there was one lot that was sold as part of that effort,**
2 **and then sales of the other lots stopped. Do you**
3 **remember saying that, sir?**

4 A. I believe so, yes.

5 Q. **And you point to the existence of the**
6 **power line on the property as the reason for that**
7 **failure of the development; correct, sir?**

8 A. That was an impact, yes.

9 Q. **Now I want to discuss with you your**
10 **familiarity with this Randolph County development. You**
11 **didn't perform any appraisals on any of the parcels in**
12 **the development at the time this Randolph County**
13 **property was being developed, did you, sir?**

14 A. In the context of my reference, an
15 appraisal wasn't necessary, so no.

16 Q. **Isn't it true you've never performed any**
17 **appraisals on any of the parcels identified in your**
18 **example from Randolph County, have you?**

19 A. No.

20 Q. **In fact, at your deposition, you didn't**
21 **even know the name of the developer or the owners of**
22 **the parcels involved with the development, did you?**

23 A. No, I didn't have that at hand.

24 Q. **You still don't have it at hand, do you,**
25 **sir?**

1 A. Not today, no.

2 Q. And you don't have any notes or
3 documentations from any conversations with the
4 developer, owner, do you, sir?

5 A. Not with me, no.

6 Q. I believe you have mentioned to me that
7 there was some individuals who expressed an interest in
8 purchasing lots in the development; correct?

9 A. There were individuals I just visited
10 with who had expressed interest in buying those lots,
11 yes.

12 Q. But at your deposition, you couldn't
13 remember any of their names either, could you?

14 A. I did not.

15 Q. And I believe you indicated to me that
16 any notes you would have of any conversations you would
17 have had with them, and by the way, those would have
18 been outside of this hearing room, went by the wayside;
19 is that correct?

20 A. That's probably correct, yes.

21 Q. On the one parcel sold, it's my
22 understanding that it was sold for close to fair market
23 value; correct?

24 A. I believe that's correct, yes.

25 Q. And you told me during your deposition

1 **that lot was probably less than 1,000 feet from the**
2 **line; is that correct?**

3 A. I believe so, yes.

4 Q. **The other lots you said were much closer,**
5 **weren't they?**

6 A. They were much closer, yes.

7 Q. **In fact, you told me that all but two or**
8 **three of those residences were directly under or less**
9 **than 500 feet from the power line in your Randolph**
10 **County example; correct?**

11 A. Yes.

12 Q. **If I were to tell you that the route**
13 **selected as part of the Mark Twain project provided for**
14 **public input and prioritized distances from residences,**
15 **would you have any reason to dispute that?**

16 A. Say that again, please, sir.

17 Q. **If I were to tell you that the route that**
18 **we selected for the Mark Twain project provided for**
19 **public impact -- input and prioritized the distances of**
20 **the line from residences, would you have any reason to**
21 **dispute that?**

22 A. I don't believe so, no.

23 Q. **Now the use of the Randolph County**
24 **property prior to its development was agricultural,**
25 **isn't it, sir?**

1 A. Yes.

2 Q. And the property was sold after some
3 period of time and it returned to agricultural use,
4 didn't it?

5 A. In some fashion, yes.

6 Q. Isn't it true it continues to be used for
7 agricultural purposes to this day?

8 A. That's correct.

9 Q. And you haven't heard of any complaints
10 related to the ability to farm the land in your
11 Randolph County examples, have you?

12 A. No.

13 Q. And you haven't heard any complaints
14 related to compaction issues your Randolph County
15 examples since it returned to ag use, have you?

16 A. I don't believe so, no.

17 Q. And you have not heard of any health
18 impacts associated with the Randolph County parcel
19 since its return to ag use, have you?

20 A. Not that I've heard of.

21 Q. And just to be clear, these power lines,
22 they were present on the property before it converted
23 to residential use, and they're still on the property
24 to this day now that it's returned to agricultural use;
25 correct?

1 A. Yes.

2 Q. I really do want to take you to your
3 deposition. If you could turn to page 41. I want to
4 talk with you about a couple of portions of the
5 transcript that involved this -- this concept of
6 bisected properties. And just to preface this,
7 Mr. Harris, we've had lots of discussion today and all
8 week, and I know you haven't been present for all of
9 it, about lines that go diagonally and lines that
10 bisect properties, okay?

11 A. Uh-huh.

12 Q. So the first portion of your deposition
13 transcript, I want to read for you and have you agree
14 that it's accurate or not accurate is on page 41. It's
15 lines 11 to 16. Are you there, sir?

16 A. Yes, sir.

17 Q. Okay. And this is a question that I
18 asked you at your deposition just a couple of weeks
19 ago. I say,

20 Question: So in your experience, and I'm
21 assuming you've seen power lines a lot over the
22 years, is it common to see power lines
23 bisecting properties?

24 And your answer is: Unfortunately, it's
25 common to see them bisecting a property at an

1 **inconvenient angle, and I know this for a fact**
2 **because I farm around these things every year.**

3 **Did I state the question and answer**
4 **correctly from your deposition, sir?**

5 A. That would appear to be what's of the
6 record, yes.

7 Q. Okay. So moving on to lines 21 to 24,
8 **again, another question.**

9 **Question: And is the fact that**
10 **numerous farms will be bisected by this**
11 **particular project, is that unique or unusual**
12 **to this particular project in your experience?**

13 **And your answer, sir, was: I don't know**
14 **that it would be unique to this project.**

15 **Did I read that correctly, sir?**

16 A. Yes, sir.

17 Q. I want to move you ahead, I think that
18 **attached to your surrebuttal -- or to your rebuttal,**
19 **excuse me, and referenced in your rebuttal are a couple**
20 **of articles. I want to talk about the first article**
21 **first, and if you could turn to it, it's the article**
22 **that's titled couple. Northern Pass Kills Land Value.**
23 **And I believe the record would reflect that it appeared**
24 **in the New Hampshire Union Leader in 2011. Do you have**
25 **that article, sir?**

1 A. I don't have the article with me, no.

2 Q. **It's -- actually should be attached to**
3 **your rebuttal testimony, sir. I got more good news for**
4 **you, I've got a copy for you.**

5 MR. ROSENCRANTS: May I approach, Your
6 Honor?

7 THE COURT: You may.

8 BY MR. ROSENCRANTS:

9 Q. **I'm handing you the article. Does this**
10 **appear to be the article that I talked about earlier?**

11 A. I believe it is. It's been a little
12 while since I've looked at it, but I believe it is.

13 Q. **And I believe in your rebuttal testimony,**
14 **you offered this article as providing, quote, good**
15 **example -- good examples of the effect of transmission**
16 **lines on property values; correct?**

17 A. In the context of reviewing the article
18 and whether it made sense or not, yes.

19 Q. **Okay. And so as I recall the project**
20 **that's described in this article is some sort of line**
21 **in northern New Hampshire. It goes from northern New**
22 **Hampshire to the Quebec, Canada border. Is that**
23 **correct, sir?**

24 A. I believe that's right.

25 Q. **You've not done any independent**

1 **validation of this article to confirm its results, have**
2 **you?**

3 A. No.

4 **Q. You haven't spoken to the author of the**
5 **article; correct?**

6 A. No.

7 **Q. You don't know whether the author was an**
8 **appraiser?**

9 A. I do not.

10 **Q. And you don't know if the people**
11 **interviewed in the article were appraisers, do you?**

12 A. They may have been. Specifically, I
13 don't recall.

14 **Q. Yeah. In fact, you don't know whether an**
15 **appraisal of the subject property contained in the**
16 **article was even conducted; correct?**

17 A. I don't believe that was specific in the
18 context, no.

19 **Q. Okay. You have no idea what the**
20 **structures that were used in the study referenced in**
21 **the article, what type of structures they were or the**
22 **voltage they covered; correct?**

23 A. Other than the reference that they were
24 high-voltage transmission lines, no.

25 **Q. And you're not aware of any study that**

1 would support similar findings in the state of
2 Missouri, are you?

3 A. There likely are, but off the top of my
4 head, no.

5 Q. So the answer to my question is you're
6 not aware of any studies, sir?

7 A. Correct.

8 Q. Now in your rebuttal, you indicate that
9 one of the good examples from this article is something
10 called a 91 percent decrease on a 12.5 acre house lot.
11 Is that correct, sir? You can go to your rebuttal, if
12 you want to.

13 A. Yes, there's discussion of that.

14 Q. And I want to look at the article, and
15 you've got it in front of you, so I think -- I'm going
16 to take you to the bottom of page 2. There's a
17 reference at the end of that article to an e-mail from
18 a utility spokesperson from the public service of -- of
19 New Hampshire, which I believe is the local utility in
20 New Hampshire.

21 And at the top of page 3, he says, and I
22 quote, and please read along with me while I read it,
23 an appraisal that claims an impact of 90 percent is
24 certainly curious and will likely be questioned as it
25 seems to be unrealistic. Did I read that correctly?

1 A. In that you read what is written in this
2 article correctly, the answer is yes.

3 **Q. Okay. Now I want to talk about another**
4 **article. Okay? And it's an article called, I don't**
5 **know, Condemnation for Energy Corridors, Selected Legal**
6 **Issues, and Acquisitions for Pipeline, Transmission**
7 **Line, and Other Energy Corridors. I believe this was**
8 **referenced as well in your rebuttal and it was attached**
9 **to your rebuttal. Do you remember this article, sir?**

10 A. I do in that it was one of the documents
11 that I was asked to review.

12 **Q. Okay. And do you have a copy of it with**
13 **you, sir?**

14 A. I do not.

15 **Q. Okay.**

16 MR. ROSENCRANTS: Permission to approach?

17 JUDGE PRIDGIN: You may.

18 BY MR. ROSENCRANTS:

19 **Q. I'm going to hand you a copy of the**
20 **article that's dated February 2009, Condemnation for**
21 **Energy Corridors, Selected Legal Issues and**
22 **Acquisitions for Pipeline, Transmission Line, and Other**
23 **Energy Corridors. It's put out by Faegre & Benson, and**
24 **I believe they're a law firm out of Minneapolis,**
25 **Minnesota. Do you recognize that document, sir?**

1 A. I believe it is a copy of the one that I
2 reviewed, yes.

3 **Q. Now, I believe in your rebuttal testimony**
4 **on page 5, you talk a little bit about this article and**
5 **-- as support for your rebuttal testimony. And if I'm**
6 **not mistaken, and I'm going to start with lines 8 and**
7 **go through 11, you were asked the question: Do you**
8 **agree with the article's statement that, quote, the**
9 **majority view among courts is that evidence of fear in**
10 **the marketplace is admissible with respect to the value**
11 **of the property taken without proof of the**
12 **reasonableness of the fear. Did I read that correctly,**
13 **sir, from your rebuttal testimony?**

14 A. It would appear so, yes.

15 **Q. Okay. That was the question and your**
16 **answer was yes; is that correct?**

17 A. Yes.

18 **Q. Okay. Then I think you were asked on**
19 **page 5, lines 12 to 17, and again read silently while I**
20 **read allowed.**

21 **Question: Do you agree with the**
22 **article's following statement, and I quote,**
23 **this appears to be the best approach because it**
24 **appropriately places the focus on the impact of**
25 **the alleged fear on property value and shields**

1 the Court from having to engage in analysis of
2 competing scientific views on issues where no
3 scientific consensus exists, such as the length
4 between EMF and cancer and other health issues.

5 Correct, sir?

6 A. Yes.

7 Q. That's what it says; correct?

8 A. Yes.

9 Q. Okay. And again, your answer to that
10 question was yes, in your rebuttal testimony?

11 A. Yes.

12 Q. Okay. Now Mr. Harris, I think we talked
13 a little bit about this at your deposition, but you
14 don't have any kind of a legal background, do you, sir?

15 A. No, sir.

16 Q. You've never gone to law school?

17 A. I think my deposition testimony would
18 support that as a yes.

19 Q. Okay. You've never gone to paralegal
20 school, have you?

21 A. No, sir.

22 Q. And you would agree with me, wouldn't
23 you, that the article by its title focuses on legal
24 issues relative to condemnation of energy corridors,
25 wouldn't you?

1 A. Yes.

2 Q. You also have no education or experience
3 in researching case law or the opinions of the various
4 courts within the United States, do you, sir?

5 A. No.

6 Q. You don't know whether a court in
7 Missouri has ruled that evidence of fear in the
8 marketplace is admissible, do you?

9 A. Not specifically, no.

10 Q. You have no experience or knowledge in
11 the manner in which a court determines the
12 admissibility of evidence either, do you?

13 A. No.

14 MR. ROSENCRANTS: What are we up to on
15 exhibits? Eight-nine?

16 JUDGE PRIDGIN: Yes, I have 89.

17 (ATXI Exhibit Number 89 was marked for
18 identification by the court reporter.)

19 MR. ROSENCRANTS: Permission to approach?

20 JUDGE PRIDGIN: Yes, you may.

21 BY MR. ROSENCRANTS:

22 Q. Mr. Harris, I'm handing you what has been
23 marked as Exhibit Number 89. Do you recognize this
24 testimony?

25 A. I do.

1 Q. **This is your rebuttal testimony that you**
2 **filed in the Green Belt clean line matter, I believe**
3 **it's File Number EA-2014-0207; is that correct, sir?**

4 A. Yes.

5 Q. **And you filed this on behalf of Matthew**
6 **and Christina Reichert; correct?**

7 A. Yes.

8 Q. **And it was filed on September 15th, 2014,**
9 **and it was -- issue was impact on land values; correct,**
10 **sir?**

11 A. Yes.

12 Q. **In that case, you were testifying against**
13 **the Grain Belt Express transmission line, weren't you,**
14 **sir?**

15 A. That case was in opposition to the Grain
16 Belt, yes.

17 Q. **Okay. I wanted to focus on some of the**
18 **similarities in this report and the testimony that you**
19 **filed in the Mark Twain project. And would you agree**
20 **with me that your summary opinion on page 2, it's lines**
21 **18 to page 3, line 1 is virtually the same as your**
22 **opinion in the Mark Twain rebuttal, other than there's**
23 **a reference to a bed and breakfast?**

24 A. I would agree that my opinions were
25 virtually the same in the two cases as the question was

1 basically the same, therefore it wouldn't seem proper
2 to change horses in the middle of the test question.

3 **Q. Is that a -- that's a yes to my question?**

4 A. Yes, sir.

5 **Q. And isn't it true that the support for**
6 **your opinion in Exhibit 89 includes the exact same**
7 **Randolph County example and discussion as your rebuttal**
8 **testimony in this case; correct?**

9 A. Again, in light of the similarities, yes.

10 **Q. And isn't it true that your**
11 **quantification of damages in the answer to the question**
12 **of what the typical multiplier is, are virtually**
13 **identical between Exhibit 89 and your Mark Twain**
14 **rebuttal; correct, sir?**

15 A. Only in that those quantifications were
16 part of the documents I was asked to review, and I
17 found that to be credible information, yes.

18 **Q. And it's also true that you reviewed the**
19 **exact same two articles that you did in your Mark Twain**
20 **rebuttal and came up with the exact same response;**
21 **correct, sir?**

22 A. Again, the question was basically the
23 same, so the answer was basically the same, yes.

24 MR. ROSECRANTS: No further questions
25 for this witness at this time.

1 JUDGE PRIDGIN: All right. Thank you.
2 Any bench questions?

3 MR. ROSENCRANTS: I apologize. I would
4 offer Exhibit 89 into evidence. Thank you.

5 JUDGE PRIDGIN: Exhibit 89 is offered.
6 Any objections? Hearing none, Exhibit 89 is admitted.

7 (ATXI Exhibit Number 89 was received into
8 evidence by Judge Pridgin.)

9 JUDGE PRIDGIN: Any bench questions,
10 Mr. Chairman?

11 CHAIRMAN HALL: I have no questions.
12 Thank you.

13 JUDGE PRIDGIN: Thank you.

14 THE WITNESS: My apologies to the Chair
15 for sitting with my back to you, sir.

16 JUDGE PRIDGIN: Commissioner Stoll, any
17 questions?

18 COMMISSIONER STOLL: No questions, thank
19 you.

20 JUDGE PRIDGIN: Commissioner Coleman?

21 COMMISSIONER COLEMAN: No.

22 JUDGE PRIDGIN: Any redirect?

23 MS. HERNANDEZ: Yes.

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REDIRECT EXAMINATION

QUESTIONS BY MS. HERNANDEZ:

Q. Do you remember the line of questioning that you were asked about your experience appraising land?

A. Yes, ma'am.

Q. What experience do you have appraising agricultural land?

A. Agricultural valuation has been my entire career and practice since 1990.

Q. Since 1990?

A. So almost 30 years, yes.

Q. And from those -- I'm sorry, you said 30 years-plus experience?

A. Close to it, yes.

Q. In your experience evaluating agricultural properties, how will this Mark Twain transmission project effect the land, the farmland, with regard to crops?

A. Depending on how it crosses the land, it could impact its utility, it could impact its productivity, it could impact its appeal to market. Once you get into the specifics of it, then you kind of determine how that impact's going to be. But there will most likely be an impact.

1 **Q. You were asked a line of questioning**
2 **about your testimony in the Grain Belt Express case.**
3 **Do you remember that line of questioning?**

4 A. Yes, ma'am.

5 **Q. Are the impacts of this case across those**
6 **agricultural properties the same between the impacts**
7 **that were going to occur in the Grain Belt Express**
8 **case, in your opinion?**

9 A. Again, having to make some assumptions as
10 to how the lines would be laid in in their path, I
11 believe it was a reasonable assumption that yes, those
12 impacts would be quite similar.

13 **Q. And is that why your testimony was**
14 **similar in those two cases, because of the impacts**
15 **being similar?**

16 A. Yes.

17 MS. HERNANDEZ: May I approach?

18 THE COURT: You may.

19 MS. HERNANDEZ: This will be?

20 JUDGE PRIDGIN: Exhibit 90.

21 MS. HERNANDEZ: I don't need another
22 exhibit number, but this will be a line of questioning
23 that's highly confidential or on a highly confidential
24 document.

25 JUDGE PRIDGIN: Okay. We're going to go

1 in camera and ask counsel to clear the room.

2 (REPORTER'S NOTE: At this point, an
3 in-camera session was held, which is contained in
4 Volume 11, pages 834 to 838 of the transcript.)
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1 JUDGE PRIDGIN: We're back in public
2 session. Mr. Chairman, when you're ready.

3 CHAIRMAN HALL: First of all, I want to
4 apologize to Counsel for not asking these questions at
5 the appropriate time.

6 EXAMINATION

7 QUESTIONS BY CHAIRMAN HALL:

8 Q. But Mr. Harris, is it a fair statement
9 that the bottom-line conclusion contained in your
10 testimony is that there's going to be a significant
11 reduction in the value of properties under which this
12 proposed transmission line would be constructed?

13 A. For the most part, I would agree with
14 your question. I guess I would hesitate at committing
15 to the word "significant." I believe there will be an
16 impact.

17 Q. Okay.

18 A. Whether it would be significant or not
19 would take market research and analysis, but I believe
20 there will be an impact, yes, sir.

21 Q. Okay. Do you have any reason to believe
22 that -- that the reduction in value of the property
23 would not be reflected in the price paid for the
24 easement or for that property?

25 A. Again, I think it's going to be that the

1 conclusion to that will be somewhat hinge on
2 specifically how that property is impacted, whether
3 it's a -- taken in a way that -- that can be
4 compensated in the short-term and it just kind of goes
5 away or whether it's an obstruction out in the middle
6 of a field -- of a crop field or something with towers
7 across the field that you can no longer irrigate or
8 it's just an impendence to crop machinery operation.
9 That's something that would go on over a period of
10 time. Whereas if it's a -- you know, an impact because
11 of appearance or something like that, you could
12 probably compensate for that with the appropriate
13 market data to conclude that, and maybe deal with that
14 at a point in time. But some of those obstructions,
15 the towers in the field for 40 years, will always be
16 there.

17 **Q. And shouldn't that be reflected in the --**
18 **in the -- in an appraisal that could be taken into**
19 **account in setting the value of the easement?**

20 A. I suppose if one wanted to make some
21 assumption, some projections out in time for how long
22 this individual will operate the farm and -- and
23 speculate on income and that sort of thing and impact
24 it back to a present value, that could be done.

25 **Q. Okay. I just want to make sure I**

1 understand the extent of your testimony. So you're
2 testifying that there would be an impact, don't know if
3 it would be significant, but there would be an impact
4 -- a negative impact on the value of the -- of the
5 agricultural land under which the transmission line
6 would be built, but you're not saying that that
7 decrease in value would not be reflected in the price
8 of the easement?

9 A. It could be reflected in the value of the
10 easement, if it's proper -- if that valuation is
11 properly developed, yes.

12 Q. So if appraisers are doing their jobs, in
13 other words, and the courts do their jobs?

14 A. Yes, I'll go along with that if.

15 Q. All right. Thank you, sir.

16 JUDGE PRIDGIN: Mr. Chairman, thank you.
17 Any further bench questions?

18 COMMISSIONER RUPP: No.

19 JUDGE PRIDGIN: Recross based on the
20 Chairman's questions?

21 MR. ROSECRANTS: Nothing from ATXI.

22 JUDGE PRIDGIN: I'm sorry, Public
23 Counsel?

24 MR. OPITZ: No, thank you, Judge.

25 JUDGE PRIDGIN: Thank you. Staff?

1 MR. H. WILLIAMS: No, thank you.

2 MR. ROSENCRANTS: Sorry about that, I
3 jumped the gun. No questions.

4 JUDGE PRIDGIN: That's okay. Redirect?

5 MS. HERNANDEZ: No, thank you.

6 JUDGE PRIDGIN: All right. Thank you.

7 Mr. Harris, thank you very much. You may step down.

8 We'll double-check with counsel, our next
9 witness for the day is Mr. Palmer?

10 MR. TRIPP: Your Honor, may I approach
11 briefly?

12 JUDGE PRIDGIN: You may, yes.

13 MR. TRIPP: This is 87-NP.

14 (ATXI Exhibit Number 87-NP was marked for
15 identification by the court reporter.)

16 JUDGE PRIDGIN: All right. And if
17 Mr. Palmer's ready. And he will be our last witness of
18 the day.

19 MR. ROSENCRANTS: I believe so, yes.

20 (The witness was sworn by Judge Pridgin.)

21 JUDGE PRIDGIN: Thank you very much, sir,
22 you may have a seat.

23 And Ms. Hernandez, when you're ready.

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DIRECT EXAMINATION

QUESTIONS BY MS. HERNANDEZ:

Q. Good morning. Can you please identify yourself for the record?

A. My name is Noel Palmer.

Q. And with whom are you employed?

A. I'm self-employed.

Q. And what's the name of your self employment?

A. I operate under Palmer Ag Air.

Q. And are you the same Noel Palmer that prepared rebuttal testimony in this case that has been premarked Exhibit 37?

A. Yes.

Q. Do you have any corrections to make to your testimony?

A. Corrections to my rebuttal or the testimony or my deposition?

Q. The rebuttal testimony, do you have any corrections to make to that?

A. I'm sorry, I couldn't hear you.

Q. The rebuttal testimony that you prepared, do you have any corrections to make to that?

A. No, I don't.

Q. And if I asked you the same questions

1 contained therein, would your answers be the same
2 today?

3 A. Yes, they would.

4 Q. And is your testimony true and accurate
5 to the best of your knowledge, information, and belief?

6 A. Yes, it is.

7 MS. HERNANDEZ: At this time, I'd offer
8 Exhibit 37 and tender the witness for
9 cross-examination.

10 JUDGE PRIDGIN: All right. Thank you.
11 Exhibit 37 has been offered. Any objections? Is this
12 one to which there's a standing objection? I don't
13 want to misunderstand.

14 MR. DEARMONT: No, no objection.

15 JUDGE PRIDGIN: Exhibit 37 is admitted
16 into evidence.

17 (NU Exhibit Number 37 was received into
18 evidence by Judge Pridgin.)

19 JUDGE PRIDGIN: Cross-examination, Public
20 Counsel?

21 MR. OPITZ: No, thank you, Judge.

22 JUDGE PRIDGIN: Okay. Staff?

23 MR. H. WILLIAMS: No questions.

24 JUDGE PRIDGIN: ATXI?

25 MR. DEARMONT: I do have a few questions,

1 thank you.

2 CROSS-EXAMINATION

3 QUESTIONS BY MR. DEARMONT:

4 Q. Mr. Palmer, good morning. How are you?

5 A. I'm fine, Eric, thank you.

6 Q. As you indicated you, you and I met at
7 your deposition; correct?

8 A. Yes.

9 Q. And we didn't win the Powerball, did we?

10 A. I won \$4, twice.

11 Q. Well, that's good. That's good.

12 Mr. Palmer, you're an aerial applicator
13 by trade; correct?

14 A. Correct.

15 Q. Okay. Also referred to as a crop duster?

16 A. Correct.

17 Q. Do you mind if I refer to it as crop
18 dusting or to you as a crop duster?

19 A. That's fine.

20 Q. And you fly a 1977 Ag-Cat aircraft;
21 right?

22 A. Correct.

23 Q. And you told me that was refurbished in
24 about 2002?

25 A. Correct.

1 **Q. In your testimony, you told us that**
2 **you're often hired to spray herbicides, insecticides,**
3 **and fungicides; right?**

4 A. Correct.

5 **Q. But it's also correct that you don't**
6 **apply all of those treatments for your clients every**
7 **season; right?**

8 A. Correct.

9 **Q. Okay. So for example, there might be**
10 **seasons when you don't spray insecticides for certain**
11 **people or there might be seasons when the weeds aren't**
12 **as bad as others; right?**

13 A. Correct.

14 **Q. During your deposition, do you remember**
15 **you educated me about the differences in aerial**
16 **spraying versus ground spraying? Do you remember that?**

17 A. Correct.

18 **Q. And you taught me about the differences**
19 **between highboys and the more modern ground sprayers?**

20 A. Yes.

21 **Q. Right?**

22 A. Yes, yes.

23 **Q. It's not your testimony that just because**
24 **a transmission line exists in a field, that it can't be**
25 **sprayed at all; right?**

1 A. That's right.

2 Q. Okay. It is your testimony that because
3 that line exists, that there may be some portion that
4 can't be sprayed by air, though?

5 A. Correct.

6 Q. You haven't done any analysis to try and
7 figure out what amount of land along the route might
8 not be able to be sprayed at all; right?

9 A. I hadn't at that time. I have since
10 then.

11 Q. And is that -- well, your analysis or
12 supplemental analysis, is that land that can't be
13 sprayed at all or just land that you personally can't
14 spray by air?

15 A. Actually, it's roughly the number of
16 fields that I regularly treat in line with that is my
17 analysis.

18 Q. Okay. But that analysis would show the
19 land that you fly; right?

20 A. Correct.

21 Q. Okay. You can't tell us, for example,
22 how many acres a farmer might not be able to get to
23 using ground application techniques; right?

24 A. Correct, correct.

25 Q. And in your testimony, you tell us that

1 if you're going to spray by air, basically you're just
2 going to need to stay some distance away from the line.
3 Is that fair?

4 A. Correct.

5 Q. Okay. And you state that you'll need to
6 stay approximately two passes, which is 100 to 120
7 feet, away from the closest conductor when flying
8 parallel to the electric transmission line?

9 A. Yeah, well, let's line that out again.
10 It's two passes, but that is a pass per side.

11 Q. And that's what I want to talk about. I
12 think I -- I don't want to characterize it as this, but
13 I think your testimony as written leads me to think
14 that you'll need to stay 100 to 120 feet away from each
15 side of the line. That's not right, is it? We talked
16 about your during your deposition, that it's closer to
17 50 or 60 foot per side?

18 A. Other operators do, but I don't. I work
19 it a little bit closer, about a pass, 50 to 60 feet per
20 side.

21 Q. Very good. So the total gap -- the total
22 gap is the 100 to 120 feet plus the wires; right?

23 A. Plus the wires, correct.

24 Q. Okay. I want to talk to you briefly
25 about some statements made by ATXI witness Doug Brown

1 **in his surrebuttal testimony. You've read Mr. Brown's**
2 **testimony, have you not?**

3 A. Did I read that testimony or deposition?

4 **Q. We talked about it during your**
5 **deposition.**

6 A. I've read it in the past. Not recently,
7 but I've read it. Very good.

8 MR. DEARMONT: Your Honor, may I
9 approach?

10 JUDGE PRIDGIN: Yes, you may.

11 MR. DEARMONT: Okay.

12 (ATXI Exhibit Number 91 was marked for
13 identification by the court reporter.)

14 BY MR. DEARMONT:

15 **Q. I'm going to hand you, and it's a chunk**
16 **of what you have right there, I just pulled a page out**
17 **so that it's easier to talk about. That's Exhibit 91.**

18 MR. DEARMONT: For those of us scoring at
19 home, this is an excerpt from ATXI Exhibit 8. I'm not
20 going to offer this, but I think it would be easier to
21 talk about.

22 BY MR. DEARMONT:

23 **Q. This is a page from Mr. Brown's**
24 **testimony; right?**

25 A. Correct.

1 Q. I want to point you to lines 6 through 8.
2 That's where we'll start. Let me know when you're
3 there.

4 A. All right.

5 Q. Okay? Mr. Brown says basically that just
6 because a transmission line exists in a field, that
7 doesn't necessarily mean the landowner can't use some
8 amount of aerial application. Is that a fair
9 characterization?

10 A. That's fair.

11 Q. And you agree with that; right?

12 A. I agree with that.

13 Q. You've used the word "finish." Basically
14 it just means that you might not be able to, quote,
15 finish a field by air?

16 A. Correct, I have.

17 Q. Okay. Moving down a few lines, Mr. Brown
18 says that the existence of a transmission line may
19 effect things like the operator's flight pattern. Do
20 you see those statements?

21 A. Well, what you're -- yes, makes sense
22 what you're saying.

23 Q. And that's my question. You agree with
24 that; right?

25 A. Yes, I agree with that.

1 Q. It may effect the way you approach a
2 field or fly?

3 A. Yes.

4 Q. And then at lines 11 to 13, he says that
5 the true impact, if any, that the transmission line may
6 have on the use of aerial application of chemicals is
7 specific to each property and dependent upon the
8 applicator's expertise and experience level. Did I
9 read that right?

10 A. That's correct.

11 Q. Okay. And you agree with that statement?

12 A. I agree with that.

13 Q. Very good. I want to shift gears a
14 little bit and talk about GPS. Okay?

15 A. All right.

16 Q. Okay? You talk in your testimony about
17 some potential GPS interference you think you might
18 encounter if the line is built; right?

19 A. With this -- this line, yes.

20 Q. Okay. In this line of questioning, I
21 want to focus on -- on your airplane and other
22 airplanes for that matter. You follow me?

23 A. Yes.

24 Q. Okay. You'll agree with me that there's
25 likely to have been some strides in technology since

1 **1977?**

2 A. In 1977, I don't think there was any GPS
3 period.

4 Q. **Very good. And you don't know if newer**
5 **planes have equipment designed to address any alleged**
6 **GPS issues; right?**

7 A. I don't know. I would -- I don't know.
8 I imagine they would.

9 Q. **Very good. And the problems that you say**
10 **you have, they don't really effect your instruments or**
11 **your ability to fly. Rather they effect this light bar**
12 **on the front of your plane?**

13 A. Correct.

14 Q. **And if I understand your testimony right,**
15 **or your -- what we discussed in the deposition, that**
16 **light bar helps you get lined up; right?**

17 A. Yes, especially on a diagonal run.

18 Q. **Makes sure that your passes are spaced**
19 **appropriately, that you're not overlapping or leaving**
20 **gaps; right?**

21 A. Correct, correct.

22 Q. **Okay. That light bar technology, that's**
23 **kind of an older system, isn't it?**

24 A. From what I know about them, I believe it
25 is.

1 **Q. It's not like the newer GPS that's used**
2 **in precision farming; right?**

3 A. I couldn't truly answer that. Both
4 systems are used. There's a newer system that's what
5 they call the glass system. It's all on a screen
6 instead of a typical LED light bar.

7 **Q. Okay. And it's my understanding, correct**
8 **me if I'm wrong, that the newer precision farming GPS,**
9 **it can get you within a matter of inches; right? I**
10 **mean, your light bar technology doesn't have that same**
11 **amount of accuracy, does it? If you know.**

12 A. I believe about three and a half to five
13 feet, if I remember it right, so that's pretty close.

14 **Q. Very good. Do you know if that light bar**
15 **system, do you know if that's in the process of being**
16 **decommissioned?**

17 A. I have no idea.

18 **Q. You don't know one way or the other?**

19 A. No. And mine is an older system anyway,
20 so...

21 **Q. You haven't spoken to any other aerial**
22 **applicators about this project, have you?**

23 A. No.

24 **Q. And you don't own any farmland or farm**
25 **any land that will be effected by the line?**

1 A. No.

2 Q. At one point, however, ATXI was -- had a
3 line proposal that I think was fairly close to your
4 airstrip; is that right?

5 A. Yes, it was.

6 Q. Okay. And that's not the current
7 proposal, though, is it?

8 A. No, it is not.

9 Q. You're testifying here today because some
10 of your spraying clients are members of Neighbors
11 United; right?

12 A. Yes, they are.

13 Q. Did you attend any of the ATXI open
14 houses?

15 A. The two at Heartland South of Newark,
16 Missouri, yes.

17 Q. Two of them?

18 A. Two of them.

19 Q. Okay. How did you find out about those?

20 A. Like the rest of us, by a letter in the
21 mail.

22 Q. Okay.

23 A. About a month before the meetings.

24 Q. Very good. Let me check my notes here.
25 Thank you for your time.

1 JUDGE PRIDGIN: Mr. Dearmont, thank you.

2 Any bench questions, Mr. Chairman?

3 CHAIRMAN HALL: Very briefly.

4 EXAMINATION

5 QUESTIONS BY CHAIRMAN HALL:

6 Q. Good morning.

7 A. Good morning.

8 Q. I want to try and understand your
9 testimony on -- on page 4. You describe the distance
10 that -- that would be necessary to avoid GPS
11 interference with the proposed line; is that correct?

12 A. It's to avoid GPS interference, but also
13 a safety factor to stay way from the line. Both.

14 Q. Okay.

15 A. Yeah, the GPS is not near as big a deal
16 for me operating by the lines as it is a safety factor
17 of giving -- staying away from the line.

18 Q. Safety for whom?

19 A. For me.

20 Q. I can respect that. Is -- is that the
21 same distance that you would -- that you would need to
22 respect whether it was a transmission line, whether it
23 was a distribution line, whether it was high-voltage
24 transmission, or something lower?

25 A. The distribution lines, which I've always

1 worked around, I can work a little bit closer to. They
2 don't -- they're not as tall. I can work a little bit
3 closer to them. What I call the double poles are these
4 huge transmission lines is -- is what I give the leeway
5 of roughly, you know, one pass, the 50- to 60-foot
6 margin.

7 **Q. Okay.**

8 A. Not to get blown into them.

9 **Q. Okay. So the higher the tower, the more**
10 **distance you need to give it?**

11 A. The higher the tower and their wider.
12 The transmission lines are wider in width.

13 **Q. Okay. So for a typical distribution**
14 **line, what would be the -- the distance that you would**
15 **need to allow?**

16 A. My distribution lines, as far as our
17 local -- our local REAs, I can easily fly over them and
18 up to them, and if there's no guide wires or anything
19 on the poles, I can work close enough to them to pretty
20 well end up next to them, so, you know, they're
21 completely two different types of lines.

22 **Q. Okay. All right. Thank you, sir.**

23 JUDGE PRIDGIN: Mr. Chairman, thank you.

24 Commissioner Stoll?

25 COMMISSIONER STOLL: I have no questions,

1 thank you.

2 JUDGE PRIDGIN: Commissioner Rupp?

3 COMMISSIONER RUPP: No.

4 JUDGE PRIDGIN: Commissioner Coleman?

5 COMMISSIONER COLEMAN: No.

6 JUDGE PRIDGIN: Any recross based on

7 questions? Public Counsel?

8 MR. OPITZ: No, thank you, Judge.

9 JUDGE PRIDGIN: Redirect?

10 MS. HERNANDEZ: Just a few.

11 REDI RECT EXAMI NATION

12 QUESTIONS BY MS. HERNANDEZ:

13 Q. You remember the line of questioning that
14 talked about how a transmission line changes the way
15 you work around a field in terms of spraying it or
16 whatever application you're applying at that time?

17 A. Yes, how it changes.

18 Q. Do you remember that line of questioning
19 from Mr. Dearmont?

20 A. Yes, whether it's a straight in the field
21 or diagonal .

22 Q. Correct. That line of questioning that
23 he asked you.

24 A. Yes, yes.

25 Q. Okay. How will this proposed project

1 **change your practice of aerial application? How will**
2 **the Mark Twain transmission project change the way that**
3 **you apply to lands that this line is going to cross?**

4 A. There will be -- and I'm going to talk
5 about northern Shelby County and southern Knox County.
6 That's where most of my work is now, and those lines
7 that I can visually see, there will be some fields I
8 won't do, as far as I know where the proposed line is
9 now. There will be some that I won't do and there will
10 be some fields that I won't be able to completely
11 finish the total application.

12 **Q. I'm sorry, is that the end of your**
13 **response?**

14 A. Yes.

15 **Q. Okay. I don't have anything further.**
16 **Thank you.**

17 JUDGE PRIDGIN: Ms. Hernandez, thank you.
18 Mr. Palmer, thank you very much. You can
19 step down.

20 And that appears to be our last witness
21 for the day. Mr. Jackson is the only witness scheduled
22 for tomorrow, and we are set to resume at 8:30 in the
23 morning. Is there anything further from Counsel before
24 we go? I'm sorry, Mr. Chairman?

25 CHAIRMAN HALL: Can you verify that there

1 will be cross for Mr. Jackson?

2 JUDGE PRIDGIN: And I'm assuming there
3 will be, since you waived cross for other witnesses.
4 We do have some counsel that has questions for
5 Mr. Jackson?

6 MR. ROSENCRANTS: I can confirm there
7 will be cross.

8 JUDGE PRIDGIN: Okay. Thank you. And
9 we're set to go at 8:30 in the morning with
10 Mr. Jackson. Anything further from Counsel before we
11 go off the record? All right. Hearing nothing, we
12 will stand in recess until 8:30 in the morning. Thank
13 you. We're off the record.

14 (WHEREUPON, the hearing was, adjourned
15 until January 29, 2015 at 8:30 a.m.)

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ATXI Exhibit Number 91849
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STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:
Staff Exhibit Number 25 724
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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
) ss:
COUNTY OF WARREN)

I, JENNIFER L. LEIBACH, Registered Professional Reporter, Certified Court Reporter, CCR No. 1108, and Certified Realtime Reporter, the officer before whom the foregoing matter was taken, do hereby certify that the witness/es whose testimony appears in the foregoing matter was duly sworn; that the testimony of said witness/es was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Jenni Leibach

Court Reporter



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