

Arturo A. Hernandez III,  
*Licensed in: Missouri*  
*Certified Guardian ad Litem, Missouri*  
*Federal Western District of Missouri*  
*8<sup>th</sup> Circuit Court of Appeals*  
*Federal Immigration Courts*  
*Board of Immigration Appeals*



**HERNANDEZ LAW FIRM**  
— LLC —  
ATTORNEYS AND COUNSELORS AT LAW

Jennifer L. Hernandez,  
(Of Counsel)

Jessica Jones (Paralegal)

July 15, 2016

Mr. Morris Woodruff  
Secretary of the Commission  
200 Madison Street, Suite 100  
Jefferson City, MO 65203-0360

**FILED**

JUL 15 2016 DS 3:20 PM

Missouri Public  
Service Commission

Re: Case NO. EA-2015-0146, Notice of Appeal

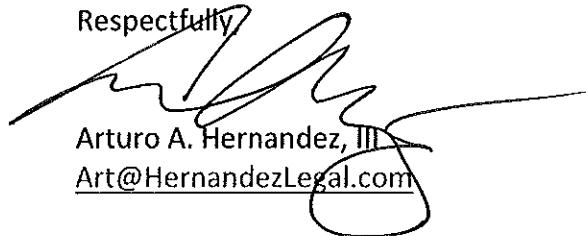
Dear Mr. Woodruff:

Enclosed for filing please find an original and three (3) copies of a Notice of Appeal, filed with your office pursuant to §386.510 RSMo. We are using the Notice of Appeal from that the Commission has made available for this purpose. This form is the same as form 8-A issued by the Missouri Supreme Court. I ask that you mark as filed both original and the two additional copies of the notice that are being provided for the Commission's use. I also ask that you mark the third copy as filed for our files.

Also is enclosed our office check made payable to the Missouri Court of Appeals in the amount of \$70.00 to cover the docket fee required by Supreme Court Rule 81.04(d).

If you have any questions please contact our office at the address or telephone number listed below, or by email at the address below the signature line. Thank you for your assistance.

Respectfully



Arturo A. Hernandez, III  
[Art@HernandezLegal.com](mailto:Art@HernandezLegal.com)

Enclosures

Copy with Enclosures via electronic service and United Parcel Service: Parties of Record

FILED

JUL 15 2016



Missouri Public Service Commission

Missouri Public Service Commission  
DS 3:20 pm

Judge or Division: Regulatory Law Judge Ron Pridgin	Appellate Number:
Appellant: Neighbors United Against Ameren's Power Line	Missouri Public Service Commission File Number: EA-2015-0146
vs.	
Respondent: Missouri Public Service Commission	

(Date File Stamp)

Notice of Appeal

Notice is given that Neighbors United Against Ameren's Power Line appeals to the Missouri Court of Appeals  Western  Eastern  Southern-District.

7-15-2016  
Date Notice of Appeal Filed  
(to be filled in by Secretary of Commission)

[Signature]  
Signature of Attorney or Appellant

The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. The appellant(s) must file the original and (2) two copies and pay the docket fee required by court rule to the Secretary of the Commission within the time specified by law. **Please make checks or money orders payable to the Missouri Court of Appeals.** At the same time, Appellant must serve a copy of the Notice of Appeal on attorneys of record of all parties other than appellant(s), and on all parties not represented by an attorney. The commission shall forward the notice of appeal to the appropriate appellate court.

CASE INFORMATION

Appellant Name / Bar Number: Arturo A. Hernandez, III Missouri Bar #59684	Respondent's Attorney / Bar Number: Shelley Brueggemann, Missouri Bar No. 52173
Address: Hernandez Law Firm, LLC 1802 Sun Valley Drive Jefferson City, MO 65109	Address: Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102
Telephone: 573-616-1486	Fax: 573-342-4962
Telephone: 573-751-7393	Fax: 573-751-9285
Date of Commission Decision: April 27, 2016	Date of Application for Rehearing Filed: May 26, 2016
Date Application for Rehearing Ruled On: June 8, 2016, effective June 18, 2016	

DIRECTIONS TO COMMISSION

A copy of the notice of appeal and the docket fee shall be forwarded to the clerk of the appellate court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.

Certificate of Service

I certify that on July 15, 2016 (date), I served a copy of the notice of appeal on the following parties, at the following address(es), by the method of service indicated.

PSC: Shelley Brueggemann, 200 Madison Street, Jefferson City, MO 65102 (by hand delivery);

See Attached service list for other parties all served by electronic mail.

[Signature]  
Appellant or Attorney for Appellant

**Missouri Public Service Commission**

Service List for Case No. EA-2015-0146 Last Updated: 5/27/2016

**Missouri Public Service Commission**  
 Staff Counsel Department  
 200 Madison Street, Suite 800  
 P.O. Box 360  
 Jefferson City, MO 65102  
 Phone: 573-751-2690  
 Fax: 573-751-9285  
 staffcounsel@psc.mo.gov

**Office of the Public Counsel**  
 James Owen  
 200 Madison Street, Suite 650  
 P.O. Box 2230  
 Jefferson City, MO 65102  
 Phone: 573-751-5318  
 Fax: 573-751-5562  
 opcservice@ded.mo.gov

**Ameren Transmission Co Illinois**  
 Eric E Dearmont  
 1901 Chouteau Ave.  
 St. Louis, MO 63166-6149  
 Phone: 314-554-3543-Ext:  
 Fax: 314-554-4014  
 edearmont@ameren.com

**Ameren Transmission Company of Illinois**  
 Edward C Fitzhenry  
 1901 Chouteau Avenue  
 P.O. Box 66149(M/C 1310)  
 St. Louis, MO 63166-6649  
 Phone: 314-554-3533-Ext:  
 Fax: 314-554-4014  
 efitzhenry@ameren.com

**Ameren Transmission Company of Illinois**  
 James B Lowery  
 111 South Ninth St., Suite 200  
 P.O. Box 918  
 Columbia, MO 65205-0918  
 Phone: 573-443-3141-Ext:  
 Fax: 573-448-6686  
 lowery@smithlewis.com

**Ameren Transmisslon Co Illinois**  
 Jeffrey K Rosencrants  
 1901 Chouteau Ave.  
 P.O. Box 66166 (MC 1310)  
 St. Louis, MO 63166-6149  
 Phone: 314-554-3955-Ext:  
 Fax: 314-554-4014  
 jrosencrants@ameren.com

**Ameren Transmission Company of Illinois**  
 Michael R Tripp  
 111 S. 9th Street  
 P.O. Box 918  
 Columbia, MO 65205-0918  
 Phone: 573-443-3141-Ext:  
 Fax: 573-442-6686  
 tripp@smithlewis.com

**IBEW Local Union 1439**  
 Sherrie Hall  
 7730 Carondelet Ave., Ste. 200  
 St. Louis, MO 63105  
 Phone: 314-727-1015-Ext:  
 Fax: 314-727-6804  
 sahall@hammondshinners.com

**IBEW Local Union 1439**  
 Emily Perez  
 7730 Carondelet Ave., Suite  
 St. Louis, MO 63105  
 Phone: 314-727-1015-Ext:  
 Fax: 314-727-6804  
 eperez@hammondshinners

**Midcontinent Independent System Operator, Inc. (MISO)**  
 Joshua Harden  
 4520 Main Street, Suite 1100  
 Kansas City, MO 64111  
 Phone: 573-639-7615-Ext:  
 joshua.harden@dentons.com

**Midcontinent Independent System Operator, Inc. (MISO)**  
 Jeffrey Small  
 720 City Center Drive  
 Carmel, IN 46032  
 Phone: 317-249-5400-Ext:  
 jsmall@misoenergy.org

**Midcontinent Independen Operator, Inc. (MISO)**  
 Jacqueline Whipple  
 4520 Main Street, Ste. 1100  
 Kansas City, MO 64111  
 Phone: 816-460-2400-Ext:  
 Fax: 816-531-7545  
 jacqueline.whipple@dentor

**Midcontinent Independent System Operator, Inc. (MISO)**  
 Karl Zobrist  
 4520 Main Street, Suite 1100  
 Kansas City, MO 64111  
 Phone: 816-460-2545-Ext:  
 Fax: 816-531-7545  
 karl.zobrist@dentons.com

**Missouri Industrial Energy Consumers (MIEC)**  
 Edward F Downey  
 221 Bolivar Street, Suite 101  
 Jefferson City, MO 65101  
 Phone: 573-556-6622-Ext:  
 efdowney@bryancave.com

**Missouri Industrial Energ (MIEC)**  
 Diana M Vuylsteke  
 211 N. Broadway, Suite 361  
 St. Louis, MO 63102  
 Phone: 314-259-2543-Ext:  
 Fax: 314-259-2020  
 dmvuylsteke@bryancave.o

**Missouri Public Service Commission**  
 Nathan Williams

**Neighbors United Against Ameren's Power Line**

**Neighbors United Against Power Line**

200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
Nathan.Williams@psc.mo.gov

Paul Henry  
7777 Bonhomme, Ste. 1910  
Clayton, MO 63105  
Phone: 314-725-5151-Ext:  
Fax: 314-725-5161  
pghenry@denlow.com

Jennifer L Hernandez  
1802 Sun Valley Drive  
Jefferson City, MO 65109  
Phone: 573-616-1486-Ext:  
Fax: 573-342-4962  
jennifer@hernandezlegal.c

**Neighbors United Against Ameren's  
Power Line**

Arturo Hernandez III  
1802 Sun Valley Dr.  
Jefferson City, MO 65109  
Phone: 573-616-1486-Ext:  
Fax: 573-342-4962  
art@hernandezlegal.com

**United for Missouri**

David C Linton  
314 Romaine Spring View  
Fenton, MO 63026  
Phone: 314-341-5769-Ext:  
Jdlinton@reagan.com



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

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

**Neighbors United's Application for Rehearing and Request for Clarification  
of the Commission's April 27 Report and Order**

**COMES NOW** Neighbors United Against Ameren's Power Line (Neighbors United), by and through the undersigned counsel, and pursuant to Section 386.500.1, RSMo., and Commission Rule 4 CSR 240-2.160, respectfully requests rehearing and clarification of the Commission's April 27, 2016 *Report and Order* in this case. In support, Neighbors United states as follows:

Application for Rehearing

The Commission's decisions must be lawful and reasonable. *State ex rel. Atmos Energy Corp. v. Pub. Serv. Comm'n*, 103 S.W.3d 753, 759 (Mo. banc 2003). Neighbors United respectfully suggests the Commission's Order is unlawful, unjust and/or unreasonable in that: (1) Filing evidence of county assent with the Commission is a filing requirement for approval of an application for a certificate of convenience and necessity (CCN) and a prerequisite to the Commission granting ATXI the authority it seeks in this case; (2) The Commission failed to properly consider and weigh all the relevant evidence of the farming and ranching implications of the Mark Twain Transmission Project (MTTP) in making its findings on the extent of impact of the project to farming and ranching practices, as well as whether the Application is in the

public interest and a violation of the Missouri Constitution Right to Farm Amendment; and (3) the Order is unlawful in that the Commission granted the CCN with the findings that farmland will be taken out of production and farming and ranching practices will be infringed, in violation of the Missouri Constitution Right to Farm Amendment.<sup>1</sup>

The Commission may not grant ATXI the authority it seeks until the required approvals from all five county commissions are obtained by ATXI and submitted to this Commission for consideration. It is possible that after discussions between ATXI and the county commissions, the commissions could grant ATXI assent to build the MTTP, but in a totally different location than what was part of the Application and approved by the Commission. A different line route most likely means the line would pass over the land of different landowners, environmental impacts may be different, there may be different project costs (lesser or greater), with all of these new factors requiring a separate analysis as to whether the MTTP is in the public interest. The Commission's Order granting ATXI a CCN prior to the county commissions' assent essentially makes the county commissions' role in this process futile.

Despite the voluminous record of testimony offered and admitted at the public hearings, affidavits and pre-filed testimony of the farming and ranching impacts the MTTP will cause, the Commission found that only one acre of actual farmland will be taken out of production for the MTTP. Even with the Commission's finding, the Missouri Right to Farm is an absolute right, and until an Article III court finds a limitation on the

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<sup>1</sup> Report and Order, Findings of Fact, paragraphs 91-95, 98-99, 102-104, 109.

right, if there is any, the Commission should not limit and allow the infringement of the right by granting ATXI the authority to site its project on farm and ranching land.

#### Request for Clarification

Should the request for rehearing be denied, Neighbors United requests the Commission clarify its Order as to what activities ATXI can perform prior to the CCN becoming effective. In line with the inquiry at the evidentiary hearing, ATXI has continued to be less than forthcoming with the landowners and maintained the adage that landowners should get on board or get left behind. On or about May 20, 2016, ATXI began contacting landowners stating that the Commission had approved the MTTP. See Attachment A. The first paragraph reads: "On April 27, the Missouri Public Service Commission (PSC), by a vote of 5-0, approved Ameren Transmission Company of Illinois' (ATXI) application seeking a certificate of convenience and necessity (CCN) to construct the Mark Twain Transmission Project in Northeast Missouri." While ATXI included a copy of the Commission's Order with the letter, no where in the letter did ATXI state the Commission "conditionally" approved, or approved "with conditions" the CCN.

The letter misleads the landowners to believe the Commission granted the CCN and that it is now effective. The letter further requests that landowners begin to talk with ATXI so that ATXI can begin studies on their property. Neighbors United requests the Commission clarify what actions ATXI can take in regard to contacting landowners and seeking right-of-way without an effective CCN from the Commission. At the very least, Neighbors United requests the Commission order that any further correspondence from ATXI to landowners shall accurately describe the authority ATXI has at this point—that

the Commission “conditionally” granted the CCN, or granted the CCN “with conditions”—so that the reader is aware that there are conditions and can become aware of what those conditions are.

**WHEREFORE**, Neighbors United requests the Commission grant rehearing as outlined herein, and clarify the Order as to what activities ATXI can continue without an effective CCN.

Respectfully submitted,

HERNANDEZ LAW FIRM, LLC

By: /s/ Arturo A. Hernandez, III

Arturo A. Hernandez, III

MO Bar No. 59684

1802 Sun Valley Drive

Jefferson City, Missouri 65109

Phone: 573-616-1486

Fax: 573-342-4962

E-Mail: [art@hernandezlegal.com](mailto:art@hernandezlegal.com)

ATTORNEY FOR NEIGHBORS  
UNITED AGAINST AMEREN'S POWER  
LINE

**Certificate of Service**

I certify that a true copy of the above and foregoing was served to all counsel of record by electronic mail this 26<sup>th</sup> day of May 2016.

/s/ Arturo A. Hernandez, III

Arturo A. Hernandez, III





May 20, 2016

[REDACTED]

RE: Mark Twain Transmission Project  
Tract No [REDACTED]  
Tax ID No [REDACTED]

Dear [REDACTED]

On April 27, the Missouri Public Service Commission (PSC), by a vote of 5-0, approved Ameren Transmission Company of Illinois' (ATXI) application seeking a certificate of convenience and necessity (CCN) to construct the Mark Twain Transmission Project in northeast Missouri. A copy of the order granting the CCN is enclosed for your reference.

ATXI is looking forward to working with all property owners, county officials, local communities and other stakeholders involved with the project as we continue with project development. As we previously communicated, ATXI has hired Contract Land Staff (CLS) to assist with landowner contacts related to real estate matters. ATXI and CLS would like to meet with you to further discuss the project, including surveying, easement documents, access, compensation, construction and restoration. Land Agents with CLS will be contacting you in the coming weeks to discuss these topics and any questions you may have about the project.

Surveying on public rights-of-way and private property where ATXI has received signed rights of entry will continue over the coming weeks. In addition, environmental contractors have begun studies needed for the successful completion of this project. Some of these studies include botanical and wetland delineations, existence of endangered wildlife and archeological investigations. We intend to be as least disruptive to the property as possible, and if there is anything we can do to better accommodate you as we conduct this work, please let us know. CLS will be actively seeking arrangements for survey with all property owners along the approved route.

Should you have any questions about this process, please feel free to contact us at 1-877-830-3440 or by email at [marktwaintransmission@ameren.com](mailto:marktwaintransmission@ameren.com).

Sincerely,

Brett S. Farner  
Real Estate Supervisor  
Ameren Services Company  
As Agent for Ameren Transmission Company of Illinois

Attachment A

1901 Chouteau Avenue  
PO Box 66149

St. Louis, MO 63166-6149

Ameren.com

**FORM 1. CIVIL CASE INFORMATION FORM SUPPLEMENT**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

No. WD \_\_\_\_\_

[Please type or neatly print the information requested. This form must be filed with the Notice of Appeal (form 8-A) with the Circuit Clerk.]

Neighbors United Against Ameren's  
Power Line

Plaintiff

Arturo A. Hernandez, III MoBar# 59684

Attorney's Name

1802 Sun Valley Drive

Street Address

Jefferson City, MO 65109

City

Zip Code

vs.

Missouri Public Service Commission

Defendant

Shelley Brueggemann, MoBar# 52173

Attorney's Name

200 Madison Street, P.O. Box 360

Street Address

Jefferson City, MO 65102

City

Zip Code

Date Notice filed in Circuit Court July 15, 2016 (filed with Commission)

The Record on Appeal will consist of a:

                     Legal File Only or   X                        Transcript and Legal File. (This will include records filed pursuant to Rules 81.13 and 81.16)

**FACTUAL BACKGROUND: (Events Giving Rise to Cause of Action)**

On May 29, 2015, Ameren Transmission Company of Illinois (ATXI) applied to the Missouri Public Service Commission for a certificate of convenience and necessity (CCN) to build a transmission line and associated facilities (known as the Mark Twain Transmission Project) in the counties of Schulyer, Adair, Knox, Shelby and Marion, Missouri. After an evidentiary hearing on January 25-29, 2016, and briefing schedule,

the Commission granted the CCN to ATXI to build the Mark Twain Transmission Project across agricultural and ranching properties, contingent upon ATXI providing certified copies of county assents for the Mark Twain Transmission Project from Marion, Shelby, Knox, Adair, and Schuyler Counties, Missouri.

**ISSUE(S):**

(Anticipated to be Presented by the Appeal; Appellant is Not Bound by this Designation)

The Commission's Order is unlawful, unjust and/or unreasonable in that: (1) Filing evidence of county assent with the Commission is a filing requirement for approval of an application for a certificate of convenience and necessity (CCN) and a prerequisite to the Commission granting ATXI the authority it seeks in this case; (2) The Commission failed to properly consider and weigh all the relevant evidence of the farming and ranching implications of the Mark Twain Transmission Project (MTTP) in making its findings on the extent of impact of the project to farming and ranching practices, as well as whether the Application is in the public interest and a violation of the Missouri Constitutional Right to Farm Amendment; and (3) the Order is unlawful in that the Commission granted the CCN with the finding that farmland will be taken out of production and farming and ranching practices will be infringed, in violation of the Missouri Constitution Right to Farm Amendment.

[Two (2) typewritten pages maximum]

(Added June 25, 1987, effective Dec. 1, 1987. Amended effective June 23, 1988)