

January 06, 2016

IOWA UTILITIES BOARD

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

IN RE:  ROCK ISLAND CLEAN LINE LLC	DOCKET NO. E-22128
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**RESPONSE TO ROCK ISLAND CLEAN LINE, LLC'S  
REPLY TO RESPONSES TO MOTION TO  
ESTABLISH PROCEDURAL SCHEDULE**

COMES NOW Objector Iowa Farmland, L.L.C. ("**Iowa Farmland**" or "**Objector**") and for its filing as styled above submits this response to address various issues raised in Rock Island Clean Line, LLC's (hereinafter "**RICL**") Reply to Responses to Motion to Establish Procedural Schedule.

On December 21, 2015 RICL filed its reply ("**Reply**") to various responses elicited by its earlier motion seeking to revive its previously filed bifurcation attempt. That effort was twice rejected by the Iowa Utilities Board ("**TUB**") and should be denied once again.

**Iowa Farmland's History With RICL Land Agents:** This Objector, Iowa Farmland, has firsthand experience with the manner in which RICL treats landowners as its land agents seek voluntary easements for its transmission line project across Iowa.

As noted in its written objection filed in this docket on July 25, 2014, RICL has proposed construction of its transmission route on and over 410 acres of Wright County, Iowa property owned by Iowa Farmland. That corridor cuts through approximately the middle of that land, nowhere near any roadway, railroad right-of-way or division line of lands as required by Iowa Code Section 478.18(2). Nor is that route considerate of the additional code requirement that it not, "unnecessarily interfere with the use of any lands by the occupant." *Id.*

Instead, the proposed line appears to transit Iowa Farmland's property simply to satisfy the long-term interests of the principal transmission line owners in minimizing the cost of construction/installation and maximizing their return-on-investment, separate and apart from serving any Iowa landowner concern or statutory requirement.

In an effort to address that statutory violation and unnecessary dissection of Iowa Farmland's property, a meeting with RICL was requested. The purpose of that meeting was to urge RICL to reroute its line near roadways and fence lines.

Iowa Farmland's request was summarily rejected. RICL remains fixed in its intent to route its high voltage transmission line directly through the middle of Iowa Farmland's fields.

In its Reply at page 5, RICL contends that its, "proposed procedural schedule will enhance the likelihood of more voluntary easements being obtained after the first phase of the proceeding and prior to the second phase."

Clearly that is not so, given the company's nonnegotiable approach demonstrated to this Objector.

All the bifurcation process will do is grant RICL additional leverage in negotiating with landowners. Its land agents will be able, if it is first granted a franchise, under its phase one requested process, to advise landowners such as this Objector that the line is going through its/their property. The follow up will be: "You want to give us a voluntary easement or do we need to take it through condemnation?"

**Lack of Support for Voluntary Easements:** In an odd way of attempting to support its contention that allowing its proposed procedural schedule would somehow result in more voluntary easements, it offers the testimony of two Dakota Access witnesses it contends supported that notion in a recent pipeline proceeding before the IUB.

That logic flies in the face of common sense, reason and the fact that some 1,332 objections to the merchant transmission line at issue here were filed as of December 5, 2015.

The only way RICL may receive additional “voluntary” easements from landowners, if its procedural schedule is approved, is through the resignation of certain property owners who feel overwhelmed by the Texans proposing this project. The latter have claimed in a recent public statement issued by its Iowa manager, to have already spent millions on their project in our state with more than a billion to ultimately be spent in Iowa. See attached Exhibit A.<sup>1</sup>

Therein lies the core inequity and the motivation behind RICL’s third bifurcation attempt. As stated by RICL’s manager in that article: “[RICL is], asking the IUB Board to determine if the project serves the public interest and to determine the general route prior to investing tens of millions to acquire the necessary easements.” RICL also admits the procedural process it is now proposing has, “not [been] used previously by the IUB.” *Id.*

It further admits that, “as far as we know, . . . no Iowa electric company has been granted a schedule from the IUB like the one we request.” *Id.*

RICL has known of the IUB’s procedural process from the start of its project initiative in our state. It can’t be legitimately claimed here that it suffers as a result of any surprise. It decided to propose its project in Iowa, and now finds it financially inconvenient to comply with Iowa laws and regulations. It thus wants to change the procedural rules to advantage only itself. Any change would not operate to benefit the public, nor impacted landowners or state regulators.

It simply saves RICL significant upfront costs and gives that private company an advantage in later negotiations with landowners.

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<sup>1</sup> The same RICL manager claims the company is not “seeking to take any property.” (See Exhibit A attached). Explain that fiction to a landowner who has 100-175 foot tall poles sited along his/her/its property, with lines affixed, to remain in place for 20 or more years.

Where the procedural process was known well in advance by RICL, and as no true public or private interest is well served [other than its own] by any change, RCL should not be allowed to force modification of Iowa's historical, regulatory landscape simply to satisfy its own private business needs.

**Claimed Support for RICL's Proposed Procedure:** A close reading of the five or six letters of claimed support for RICL's request to change Iowa procedure in this case makes it clear that a behind-the-scenes, orchestrated effort to enlist support for its initiative has been organized by that company. The letters echo similar RICL themes (e.g., "we would only be interested in phase one if that process was allowed by the IUB; it would improve administrative efficiency; and new facts came to light in the Dakota Access Pipeline proceeding").

Certain of the letters use the exact same language RICL did in its Reply:

- This merchant transmission line is a "large, linear project" crossing Iowa. (Same language used by both RICL and LIUNA in the latter's letter of support);
- "New facts" have come to light by virtue of the Dakota proceeding. (*Id.*);
- The proposed schedule would "significantly improve the administrative efficiency and convenience the public" in the proceedings. (Same language used by RICL in its Reply and the Iowa Environmental Council in its letter of support);
- "The proposed procedural schedule would significantly improve the administrative efficiency and convenience to the public." (Same language used by RICL in its Reply and the Environmental Law & Policy Center in its letter in support);
- LIUNA asked that the, "Board give the present motion a fresh look." (Same language used by RICL in its Reply brief and by LIUNA in its letter of support).

Since RICL claims it has spent millions to date in touting its project in Iowa, and as not one wind farm has yet been developed, nor a single pole or transmission line yet been installed, nor significant IUB proceedings undertaken except for expense associated with informational meetings and related engineering settings, it can fairly be assumed that a significant amount of

that money has been spent on lobbyists and consultants who are operating in support of the merchant transmission line project with a public relations budget no individual landowner(s) can ever hope to match.

**RICL'S Further Rationale Asserted for a Changed Procedural Process:** RICL also contends that if the IUB does not support its project new cost-allocated transmission lines will be built and paid for by specific users of the line which could include Iowa electric rate payers. (RICL Reply at page 9).

Isn't that the proper business model to use? If Iowans are users of the transmission line, shouldn't they pay for that access? And if they are not, as is the case here, why should private landowners in a corridor selected by RICL exclusively bear the public burden of the project for others to enjoy?

RICL posits that since municipalities, the Iowa DOT and other governmental agencies are vested with a right of condemnation, and "commonly utilize a process in which the agency approves a project before it proceeds to condemnation", why shouldn't it be granted the same opportunity? (RICL Reply at page 11).

Government agencies are granted that procedural authority by statute, administrative rule or accepted and established agency procedure. Private entities such as RICL are not.

Government agencies are tasked with consideration of costs and benefits to Iowans, in a localized area where their proposed actions would occur. Privately-held RICL is not. Its focus is profit-based, largely serving non-Iowa interests.

Any benefit of the proposed transmission line to these objectors is remote at best. RICL says it will pay \$100,000 for a half mile, 150 foot easement. (See Exhibit A). That easement would amount to a few thousand dollars a year to a middle aged farmer, depending on the length

of the agreement and terms ultimately negotiated. How does \$3,000/year to a 40-year old farm operator begin to compensate for having his/her/its land crossed by a high voltage transmission line, especially when taking into account the negative impact that line would have on any future land resale?

Government agencies are granted special procedural authority to acquire land rights based on a variety of local needs and conditions.

Private entities, such as RICL, are focused on attracting a profit opportunity on one end of its line (wind farms in this instance) while serving a private, commercial purpose at its terminus (selling wholesale power).

There is no public interest equivalency in comparing RICL to local municipalities, the Iowa DOT and others as the former attempts in its Reply.

### CONCLUSION

As detailed in the responses previously filed by the Preservation of Rural Iowa Alliance, the interest of most Iowans and the attainment of justice will best be served by yet again rejecting the renewed effort by RICL to design and encourage adoption of a new regulatory procedure best suited to its needs, not those of over 1,300 Iowa landowners who disagree. Iowa Code §474.3 (2015).

**WHEREFORE**, Iowa Farmland, L.L.C., respectfully requests this Board deny RICL's Motion to Establish Procedural Schedule and enter a proposed schedule in accordance with previously-established Board procedure that addresses RICL's franchise petitions in a single proceeding.

**Dated: January 5, 2016.**

Respectfully submitted,

WASKER DORR WIMMER & MARCOUILLER, P.C.

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**ATTORNEY FOR IOWA FARMLAND, LLC –  
OBJECTOR**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing document upon all individuals or entities on the service list in accordance with the requirements of the rules of the Iowa Utilities Board, being that those participating in the Electronic Filing System will be automatically served with notice.

Dated at West Des Moines, Iowa this 5<sup>th</sup> day of January, 2016.

By: /s/Fred L. Dorr  
Fred L. Dorr

# **EXHIBIT A**



# Rock Island Clean Line responds to lawmakers

Beth Conley 3:27 p.m. CST December 28, 2015



(Photo: Special to the Register)

As an Iowan who supports clean energy and as manager for the Rock Island Clean Line project, I wish to address some of the inaccuracies stated in a recent open letter to my company published in this paper. [[An open letter to Rock Island Clean Line from lawmakers \(/story/opinion/columnists/iowa-view/2015/12/17/open-letter-rock-island-clean-line-lawmakers/77492872/\)](#), Dec. 18]

Iowa is a leader in harnessing wind energy and last year produced 28 percent of its electricity from wind. However, this is less than 1 percent of Iowa's wind potential. Iowa wind power is capable of meeting more than 44 times the amount of Iowa's current electricity needs. Just as Iowa leads the nation in exporting corn, beans, hogs, and eggs, Iowa, too, can lead as an exporter of wind.

Clean Line has been working in Iowa for over five years and has invested millions of dollars in the Iowa economy developing the Rock Island Clean Line, a 500-mile electric transmission line that — when approved — can deliver 3,500 megawatts of wind power from the northwest Iowa region to Illinois. This is enough energy for 1.4 million homes each year. With so many power plants retiring, it is essential to maintain our nation's electric power supply. The energy is needed and the Rock Island Clean Line project is too important for Iowa and the nation not to pursue.

Clean Line hopes to invest more than a billion dollars in Iowa and to open up the opportunity for an additional \$7 billion in new wind farm investments. These investments translate to thousands of new Iowa jobs and significant revenues for the counties hosting the transmission line and the new wind farms. Clean Line will pay a tax of \$7,000 per mile of line each year to communities along the route, which will help fund roads and infrastructure projects, schools, and other essential public needs. Clean Line's tax payments to local governments will total about \$2.5 million per year in Iowa.

In addition, we have put forward a market-leading compensation package: Landowners with a half-mile of 150-foot easement will typically receive about \$100,000 for that easement. We are not seeking to take or purchase any property — landowners can continue to farm the land in the easement area right up to each pole.

Clean Line recently requested a procedural schedule from the Iowa Utilities Board that will allow the project to move forward — and to move forward without recovering the costs of the line from Iowa ratepayers. Because our company will not be paid back by Iowa ratepayers for construction of the project, and in order to make the process more efficient and make sure we are not requiring landowners to negotiate easements unnecessarily, we are asking the board to determine if the project serves the public interest and to determine the general route prior to investing tens of millions to acquire the necessary easements.

While not used previously by the IUB, this type of schedule is commonplace in a similar form in other states nearby and it is the type of process used by Iowa DOT and other state agencies. While it is true, as far as we know, that no Iowa electric company has been granted a schedule from the IUB like the one we request, we also believe it to be true that no Iowa electric company has ever proposed to build power lines of this significance without any cost to the Iowa ratepayers. This public infrastructure project will bring all of the benefits of new transmission, meeting the needs of the clean energy economy, without putting the cost burden in Iowa.

My family and I recently drove past the big substation in Hinton, the delivery point for a lot of hydropower coming into Iowa from Missouri River dams in South Dakota. We were talking about how South Dakota farmers allowed that project to deliver electricity to their fellow Americans in Iowa generations ago, and how we have greatly benefited from it. That was neighborly of them. With the Rock Island project, we are making possible new wind projects that cannot happen without new transmission. Let's build the future.

Beth Conley is Iowa manager of the Rock Island Clean Line. For more information, visit [www.RockIslandCleanLine.com](http://www.RockIslandCleanLine.com) (<http://www.rockislandcleanline.com/>).

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