

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

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, 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 AGAINST AMEREN'S POWER LINE,

Appellant,

v.

PUBLIC SERVICE COMMISSION OF MISSOURI and AMEREN TRANSMISSION COMPANY OF ILLINOIS,

Respondents.

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**DOCKET NUMBER WD79883**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** March 28, 2017

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**APPEAL FROM**

The Public Service Commission

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**JUDGES**

Division IV: Pfeiffer, C.J., and Newton and Gabbert, JJ.

CONCURRING.

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**ATTORNEYS**

Arturo A. Hernandez, III, Jefferson City, MO, Attorney for Appellant.

Jennifer Heintz and Curt Stokes, Jefferson City, MO, Attorneys for Respondent Public Service Commission.

Michael R. Tripp, Columbia, MO, and Eric Dearmont, St. Louis, MO, Attorneys for Respondent Ameren Transmission Company of Illinois.

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

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 )  
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CONSTRUCT, INSTALL, OWN, )  
OPERATE, MAINTAIN AND )  
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MANAGE A 345,000-VOLT ELECTRIC )  
TRANSMISSION LINE FROM )  
PALMYRA, MISSOURI, TO THE IOWA )  
BORDER AND ASSOCIATED )  
SUBSTATION NEAR KIRKSVILLE, )  
MISSOURI )  
)  
NEIGHBORS UNITED AGAINST )  
AMEREN'S POWER LINE, Appellant, )  
v. )  
)  
PUBLIC SERVICE COMMISSION OF )  
MISSOURI and AMEREN )  
TRANSMISSION COMPANY OF )  
ILLINOIS, )  
)  
Respondents. )

OPINION FILED:  
March 28, 2017

WD79883

Public Service Commission

Before Division IV Judges:

Mark D. Pfeiffer, Chief Judge, and Thomas H. Newton  
and Anthony Rex Gabbert, Judges

Ameren Transmission Company of Illinois ("ATXI") applied to the Public Service Commission ("PSC") for a certificate of convenience and necessity ("CCN") authorizing ATXI

to construct, install, operate, control, manage, and maintain a new 345,000-volt (345-kV) electric transmission line. Thereafter, Neighbors United Against Ameren's Power Line ("Neighbors United") filed a motion to dismiss ATXI's application. One of Neighbors United's arguments was that ATXI's application should be dismissed because ATXI did not have the requisite approvals from the county commissions of the counties its proposed transmission line would traverse. The PSC denied the motion.

Neighbors United appeals from the PSC's conditional report and order granting ATXI a conditional CCN to construct a long-distance electric transmission line running through Marion, Shelby, Knox, Adair, and Schuyler counties in Missouri. In the dispositive issue, Neighbors United argues that the PSC erred in granting a CCN to ATXI because it had not obtained the county commission assents required by section 229.100 and 4 CSR 240-3.105(1)(D)1 before the PSC granted the CCN.

**VACATED.**

**Division IV holds:**

The *general* language of section 393.170.3 authorizes the PSC to impose "reasonable and necessary" conditions on a CCN. However, the *specific* language of section 393.170.2 states that evidence of the county commission consents "shall" be on file before the PSC grants a CCN. Where one provision of a statute contains general language and another provision in the same statute contains more specific language, the general language gives way to the specific. Accordingly, the general provision of section 393.170.3 gives way to the more specific and mandatory language of section 393.170.2 that the applicant "shall" file with the PSC a certified copy of the applicant's corporate charter together with "a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper [local government] authorities."

The county commission assents required by section 229.100 and 4 CSR 240 3.105(1)(D)1 must be submitted to the PSC before the PSC grants a CCN. While section 393.170.3 grants the PSC statutory authority to impose reasonable and necessary conditions on a CCN, there is no statute authorizing the PSC to grant a preliminary or conditional CCN contingent on the required county commission consents being subsequently obtained. Hence, the Report and Order was entered in excess of the PSC's authority and is vacated.

**Opinion by: Mark D. Pfeiffer, Chief Judge**

March 28, 2017

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.