

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:

ROCK ISLAND CLEAN LINE LLC

DOCKET NOS. E-22123, E-22124,
E-22125, E-22126, E-22127, E-22128, E-
22129, E-22130, E-22131, E-22132, E-
22133, E-22134, E-22135, E-22136, E-
22137, E-22138

**RESPONSE TO ROCK ISLAND
CLEAN LINE LLC'S REPLY TO
RESPONSES TO MOTION TO
ESTABLISH PROCEDURAL
SCHEDULE**

COMES NOW the Preservation of Rural Iowa Alliance (“Alliance”), and through its undersigned counsel, hereby submits this Response to address issues raised in Rock Island Clean Line LLC’s (hereinafter “Clean Line”) Reply to Responses to Motion to Establish Procedural Schedule.

In previous objections to Clean Line’s attempts to bifurcate proceedings, the Alliance has expressed concern that, if such a bifurcation is granted, Clean Line will attempt to use any phase one success to unfairly pressure impacted landowners to sign voluntary easements, as Clean Line would be able to truthfully tell impacted landowners that the Board has already approved the route of the line, leaving only the issues of the specific terms and cost of the easements to be negotiated. As the Alliance has noted in its Resistance, between February 15, 2015, and December 5, 2015, Clean Line only managed to secure five (5) voluntary easements. *See* Exhibits 1 & 2 to Alliance’s Resistance to Rock Island Clean Line LLC’s Motion to Establish Procedural Schedule. This shows unwillingness on the part of Clean Line to work with landowners to secure voluntary easements and gives credence to the Alliance’s fear that Clean

Line is simply waiting for an improved negotiating position before meaningfully attempting to secure those easements.

This is further proven by Clean Line's Response to Mr. Jim Doorley ("Mr. Doorley"). In that Response, Clean Line states that its attempts to secure voluntary easements over the past year were "limited in scope and goals." Reply to Responses to Motion to Establish Procedural Schedule, at p. 7. Clean Line goes on to admit that:

Clean Line's goals for its easement acquisition effort [over the past year] were *only* to show indicative right-of-way acquisition in each county . . . and to show a good faith effort to acquire an initial amount of right-of-way. . . . Clean Line has not yet attempted to acquire the bulk of the easements needed for the Project and would attempt to do so *following the first phase of the proposed procedural schedule*. The continued ability of Clean Line to obtain the remaining easements voluntarily *following a successful first phase of the proceeding . . . is in fact the very core of Clean Line's Motion*.

Responses at pp. 7-8 (emphasis added). It is clear that Clean Line's main goal in bifurcating proceedings is to gain an improper negotiating advantage over affected landowners in the event of success in phase one, and Clean Line's attempts to put-forward a minimum compensation package only highlights that fact.

Clean Line also argues throughout its motion and reply that bifurcating proceedings would provide more clarity and convenience to all parties. The Alliance would like to note that Clean Line has filed its motion and subsequent reply *electronically*. A significant percentage of impacted landowners do not have access to the internet and have not filed *electronic* objections; thus, these landowners have not received proper notice of Clean Line's proposal or a reasonable opportunity to respond.

The Alliance has previously addressed the serious concerns regarding the preservation of impacted landowners' constitutional rights in its resistances to all three attempts to bifurcate, and the Alliance now incorporates those arguments by reference into this Response. Because of the

serious constitutional concerns raised by bifurcating these proceedings, the Alliance requests that, *if* this Board is seriously considering granting Clean Line's third attempt to bifurcate, this Board should set the matter for hearing and order Clean Line to provide fair and proper notice to all affected landowners so those landowners may make in-person objections over matters affecting their rights and interests.

WHEREFORE, the Preservation of Rural Iowa Alliance respectfully requests this Board deny Clean Line's Motion to Establish Procedural Schedule and enter a proposed schedule in accordance with previously-establish Board procedure that addresses Clean Line's franchise petitions in a single proceeding.

BRADSHAW, FOWLER, PROCTOR & FAIRGRAVE, P.C.

By: /s/ Justin E. LaVan

Justin E. LaVan
801 Grand Avenue, Suite 3700
Des Moines, IA 50309-8004
Phone: (515) 246-5895
Fax: (515) 246-5808
E-Mail: lavan.justin@bradshawlaw.com

ATTORNEYS FOR PRESERVATION OF RURAL IOWA
ALLIANCE

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, meaning those participating in the Electronic Filing System will be automatically served with notice. Dated at Des Moines, Iowa on *December 30, 2015*.

By: /s/ Justin E. LaVan
Justin E. LaVan