

**MINUTES**  
**JOINT INTERIM COMMITTEE ON ENERGY**  
**Crawford Co. Dept. of Emergency Management Operations Center**  
**1820 Chestnut Street, Van Buren, Arkansas**

**Friday, June 2, 2017**

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The Joint Interim Committee on Energy met at 8:30 a.m. Friday, June 2, 2017, at the Crawford County Department of Emergency Management Operations Center, 1820 Chestnut Street, Van Buren, Arkansas.

**Committee members present:** Senators Bryan King, Co-Chair, Scott Flippo, Vice-Chair; Eddie Joe Williams, and Gary Stubblefield. Representatives Bob Ballinger, James J. Sorvillo, Danny Watson, and Jeff Williams.

**Alternate members present:** Representatives Charlotte Douglas, Matthew Pitsch, and Ron McNair.

**Also attending:** Senators Terry Rice and Linda Chesterfield; Representatives Jim Dotson, Trevor Drown, Vivian Flowers, Fred Allen, Charlene Fite, Sarah Capp, and George McGill.

Senator Flippo called the meeting to order. Senator King presided upon his arrival.

#### **LOCAL ISSUES AND IMPACT OF CLEAN LINE PROJECT**

**Franklin County Judge Rickey Bowman**, said tourism is an important revenue source for Franklin County, and Clean Line has not presented anything positive to the county (population 18,000) in terms of economic growth, compensation for continued loss of tax revenue, or for damaged infrastructure.

The transmission line would cross approximately 20 miles of the county and include the three Interstate 40 exits, which would limit commercial growth. The tax assessor indicated Clean Line would be tax exempt for property tax on structures and equipment which would be lost income for the county. Tax-paying private companies and homeowners with structures and equipment in the county, would come to the Equalization Board asking for reductions in tax values that are close to the transmission line corridor. If granted, that would be more lost income for Franklin County.

The Quorum Court voted unanimously to oppose Clean Line by resolution. "With the resolution opposing the project, as Franklin County Judge, I cannot support construction of Clean Line transmission lines."

Representative Williams noted he is still gathering information. One of the biggest concerns the U.S. has is the aging electrical infrastructure, so where do you start? "If it is not right for this county, where?"

Judge Bowman said that no one wants it in their backyard; but again questioned where is the benefit for Arkansas; where is the benefit for Franklin County? He noted Clean Line would be going across 2-3 states to sell electricity, when Arkansas already exports electricity. Arkansas may want the opportunity to sell electricity to neighboring states, like Tennessee.

Senator Williams noted when this started, Arkansas was to be a transit between Oklahoma and Memphis with plans to use eminent domain, and the state got nothing other than touted temporary jobs. Later, they revised the plan so there would be a line in some part of the state. Judge Bowman agreed, noting Clean Line discovered that state law says without selling or providing some electricity to Arkansas, they would not qualify to be able to apply eminent domain.

**Crawford County Judge Dennis Gilstrap**, said he echoed Judge Bowman's sentiments. Although the population of Crawford County is 61,948, a larger county, they have the same issues with Clean Line. The lines would stretch about 24 miles across the county and with a 200-foot wide right-of-way, which is about 582 acres. This would be approximately a 20% decrease in property value, and property owners on either side of that for a quarter of a mile, will be adversely affected. If Clean Line partners with DOE, the judge believes they become exempt from taxes. The

Crawford County Quorum Court passed the same resolution as Franklin County. It does not support the project. Judge Gilstrap also alluded to the health issue of humans, livestock, and wildlife after exposure to transmission lines over long time periods.

Judge Gilstrap noted there is a regional effort by the cities of Fort Smith, and Van Buren, and Sebastian County, Crawford County, and Fort Chaffee Redevelopment to develop interests for an inland port. He said Clean Line could change developers' interest in the project.

**Mr. Gary D. Baxter, Mulberry Mayor**, said he is not against progress in the energy sector and energy efficiency but Mulberry, with its population of 1,655, a 7-square-mile city, is the only city in Crawford County that Clean Line is projected to come through inside the city limits. Mulberry has spent thousands of dollars purchasing land and equipping a premier city park. The power line is proposed to go just west of the new city park. Clean Line offers nothing for Mulberry, there are no benefits to Crawford County or the state, and he said to stop this unwanted project.

He cited some of the disadvantages:

- Children playing in the new park would be subject to the electromagnetic waves of the lines;
- The line is proposed to cut through a large cattle ranch with thousands of cattle;
- Clean Line would take away the community's capability to improve and develop economically;
- Line proposed to run through Exit 24 of I-40, would be considered a loss developmentally and economically;
- Land within a quarter of a mile of the lines would also be affected, but there is no compensation for them.

**Mr. John Bethel, Director, Arkansas Public Service Commission (PSC)**, was recognized and said currently there is nothing pending before the PSC. He provided the following chronology:

- Clean Line filed its application in May 2010 with the PSC to be designated as an Arkansas public utility.
- The Commission evaluated the request and determined that Clean Line did not meet the requirements, including at the time, it didn't have any plans to serve customers in Arkansas.
- Clean Line filed a request in 2011 with the U.S. Department of Energy (DOE) under Section 1222 of the Federal Power Act; and has worked with the Southwest Power Administration to have the project approved under the Regional Transmission Organization (RTO) process.
- The DOE issued its decision in March 2016, and approved the project subject to certain conditions.
- The DOE and Clean Line entered into a participation agreement, and as a part of that, the DOE approved the project's route corridor and authorized the project to begin moving forward.
- The conditions to advance included several factors, and two are:
  - 1) The project must have all of its financing in place, and
  - 2) The project also must have 2,000 megawatts of firm service, subscribed.

Mr. Bethel noted that, to his knowledge, those conditions have not yet been met. He said Clean Line is in the process of attempting to acquire right-of-way from landowners along its proposed route and is in the process of soliciting customers. Clean Line is going through the Interconnection Study process with Midcontinent Independent System Operator (MISO), Southwest Power Pool, and the Tennessee Valley Authority, the areas where they will interconnect. Since they made their application with the PSC, they decided to build a converter station in Arkansas that would allow them to deliver power to Arkansas customers. They plan to locate it in Pope County. They are in the process of going through the MISO study process both with Entergy and with RTO reps.

Two landowner groups have filed suit, challenging the U.S. DOE's decision. They are questioning whether they had followed the procedures in the federal act to be granted approval by the DOE and also challenging whether the project can be approved without meeting state law requirements to achieve a certificate at the state level. That lawsuit is underway, but a hearing date has not yet been set.

Mr. Bethel provided a letter from Senator Bozeman's office giving an update on the status of legislative action at the federal level. In March, the Arkansas delegation introduced S.529 the Assessing Private Property Rights Over Vast Access to Land Act (APPROVAL Act). It would require the DOE receive approval from the respective governor and PSC of an affected state before exercising federal eminent domain for Section 1222 projects. **[Handout 1]**

Senator Rice asked if anything was going back to the state's rights issue, noting he understood Mr. Bethel to say Clean Line bypassed the Arkansas PSC after it made its ruling.

Mr. Bethel said this is a new process, the first that has used Section 1222, so it is largely undefined and unknown. The federal law would permit this kind of project, and the question in the lawsuits is whether the DOE followed the provisions of the law correctly. The Southwest Power Administration, as a federal utility, has federal eminent domain rights just like the state utilities have state eminent domain rights. It is a new legal question as to whether the process is being applied properly. It is new ground.

Senator King noted the committee will meet again to hear from Clean Line and others. Senator King asked Senator Flippo to read a letter to the co-chairs from Governor Hutchinson for the record. **[Governor's Letter]**

**Mr. Jerrell Harry**, landowner, said the Malvern plant will not be producing cable for Clean Line. Production has been moved to a plant near Tyler, Texas. In answer to Senator Chesterfield's question, regarding how many years "we" have been dealing with Clean Line -- he said it started in 2005 with wind energy and then in 2009 Clean Line came along. The court case Mr. Bethel referred to is set for November 17, 2017. Concern is with the devaluation of land.

With no further business the meeting adjourned at 10:12 a.m.