

December 8, 2014

Hon. Mary M. Kuhnmuench  
Milwaukee County Circuit Court, Branch 5  
Milwaukee County Courthouse  
901 North 9th Street  
Milwaukee, WI 53233-1425


RE: *City of Milwaukee v. Public Service Commission of Wisconsin, et al.*  
Case No. 14-CV-9797

Dear Judge Kuhnmuench:

Enclosed for filing in the above-referenced matter are an original and one copy of the Notice of Appearance and Statement of Position of American Transmission Company LLC, and an Affidavit of Service. Please have your clerk file the original, file-stamp the copy and return it to us in the envelope provided. Please contact me with any questions.

Very truly yours,

GODFREY & KAHN, S.C.



Bryan J. Cahill

BJC;jad

Enclosures

cc: Anita T. Gallucci (w/enc.)  
Public Service Commission of Wisconsin (w/enc.)  
Attorney General J.B. Van Hollen (w/enc.)  
Richard M. Esenberg and Thomas C. Kamenick (w/enc.)  
Thomas A. Janczewski and Jordan J. Hemaidan (w/enc.)  
David J. Chorzempa (w/enc.)  
Kira E. Loehr and Dennis Dums (w/enc.)  
Peter L. Gardon and Bryan K. Nowicki (w/enc.)  
Jeffrey L. Vercauteren (w/enc.)  
Steve Baas (w/enc.)  
Earl Gustafson (w/enc.)  
Steven A. Heinzen (w/enc.)  
Curt Witynski (w/enc.)  
Catherine Phillips (w/enc.)

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY  
BRANCH 5

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CITY OF MILWAUKEE,  
a Municipal Corporation,

Case No. 14CV9797

Petitioner,

Code No(s). 30607 (Administrative  
Agency Review)

v.

PUBLIC SERVICE COMMISSION OF  
WISCONSIN,

Respondent.

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**NOTICE OF APPEARANCE AND STATEMENT OF POSITION OF  
AMERICAN TRANSMISSION COMPANY LLC**

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**NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that, pursuant to Wis. Stat. § 227.53(2), American Transmission Company LLC, by its corporate manager, ATC Management Inc. (“ATC”), hereby submits its Notice of Appearance and Statement of Position. ATC requests that all papers, pleadings and documents in this matter be served upon Attorneys David J. Gilles, Bryan J. Cahill, and Kerry L. Gabrielson, Godfrey & Kahn, S.C., One East Main Street, Suite 500, P.O. Box 2719, Madison, WI 53701-2719.

**STATEMENT OF POSITION**

Petitioner, City of Milwaukee (the “City”), seeks review of the Wisconsin Public Service Commission’s (the “Commission”) Final Decision in Docket No. 5-DR-109, concerning the City’s proposal to build a 2.1 mile streetcar line (the “Streetcar Project”).

ATC, a full party in the Commission proceedings from which the City’s Petition for Judicial Review (“Petition”) is taken, hereby states its position with respect to the material allegations of the Petition as follows:

## **PARTIES**

1. ATC admits the allegations set forth in paragraph 1.
2. ATC admits the allegations set forth in paragraph 2.
3. ATC admits that the Individual Petitioners are listed on Exhibit 4; ATC lacks knowledge or information sufficient to form a belief as to whether the address information on Exhibit 4 is accurate and, on that basis, denies the remaining allegations of paragraph 3.
4. Upon information and belief, ATC admits the allegations set forth in paragraph 4, including subparagraphs (a) – (g).
5. ATC admits the allegations set forth in paragraph 5 subparagraphs (a) and (b), but denies subparagraph (c), and states that American Transmission Company LLC, with its corporate manager, ATC Management Inc., is a public utility with its principal place of business at W234 N2000 Ridgeview Parkway Court, Waukesha, Wisconsin 53188.
6. ATC admits the allegations set forth in paragraph 6.

## **VENUE**

7. ATC admits the allegations set forth in paragraph 7.

## **NATURE OF PETITIONER'S INTEREST AND FACTS SHOWING PETITIONER IS AGGRIEVED**

8. ATC lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 8 and, therefore, denies them.
9. ATC lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 9 and, therefore, denies them.
10. ATC admits that the Streetcar Project would require ATC to relocate existing utility structures. As to the remaining allegations of paragraph 10, ATC lacks knowledge and information sufficient to form a belief as to their truth and, therefore, denies them.

11. ATC admits that the City's Streetcar Project budget did not include funding to relocate or modify existing utility infrastructure. As to the remaining allegations of paragraph 11, ATC lacks knowledge and information sufficient to form a belief as to their truth and, therefore, denies them.

12. Paragraph 12 does not contain any allegations directed at ATC and, therefore, no response is required. To the extent a response is required, ATC lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 and, therefore, denies them.

13. ATC lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 13 and, therefore, denies them.

**GROUNDS FOR REVERSAL PURSUANT  
TO WIS. STAT. § 227.57(5)**

14. ATC denies the allegations set forth in paragraph 14.

15. ATC denies the allegations set forth in paragraph 15.

16. ATC denies the allegations set forth in paragraph 16.

**GROUNDS FOR REVERSAL PURSUANT  
TO WIS. STAT. § 227.57(9)**

17. ATC denies the allegations set forth in paragraph 17.

18. ATC denies the allegations set forth in paragraph 18.

**RESPONSE TO REQUEST FOR RELIEF**

19. ATC denies that the City is entitled to the relief requested in paragraph 19.

20. ATC denies that the City is entitled to the relief requested in paragraph 20.

21. ATC denies that the City is entitled to the relief requested in paragraph 21.

22. ATC denies that the City is entitled to the relief requested in paragraph 22.

23. ATC denies that the City is entitled to the relief requested in paragraph 23.



ATC denies any allegations not expressly admitted.

WHEREFORE, ATC prays for entry of judgment in its favor as follows:

- A. Denying the relief sought by the City in its Petition;
- B. Dismissing the Petition in its entirety, with prejudice; and
- C. Awarding ATC the costs of suit, attorneys' fees, and any other relief this Court deems just and proper.

Dated this 8th day of December, 2014.

GODFREY & KAHN, S.C.

By: 

David J. Gilles  
State Bar No. 1016051  
Bryan J. Cahill  
State Bar No. 1055439  
Kerry L. Gabrielson  
State Bar No. 1084845

Attorneys for American Transmission Company  
LLC, by its corporate manager, ATC  
Management Inc.

P.O. ADDRESS:

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P.O. Box 2719  
Madison, WI 53701-2719  
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STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY  
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WISCONSIN,

Respondent.

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**AFFIDAVIT OF SERVICE**

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STATE OF WISCONSIN )  
 )ss.  
COUNTY OF DANE )

I, Julie A. Dobie, being first duly sworn on oath, depose and state that I caused a true and correct copy of the Notice of Appearance and Statement of Position of American Transmission Company LLC to be served via hand-delivery on the 8<sup>th</sup> day of December, 2014, on the following:

Anita T. Gallucci  
Boardman & Clark LLP  
One South Pinckney Street, 4<sup>th</sup> Floor  
P.O. Box 927  
Madison, WI 53701-0927

and via U.S. First Class Mail on the following:

Public Service Commission of Wisconsin  
610 North Whitney Way  
Madison, WI 53705

Attorney General J.B. Van Hollen  
Attorney General's Office  
114 East State Capitol  
Madison, WI 53703

Richard M. Esenberg  
Thomas C. Kamenick  
Wisconsin Institute for Law & Liberty, Inc.  
1139 E. Knapp Street  
Milwaukee, WI 53202

Thomas A. Janczewski  
Jordan J. Hemaïdan  
Michael Best & Friedrich, LLP  
One South Pinckney Street, #700  
Madison, WI 53701-1806

David J. Chorzempa  
AT&T Legal Dept.  
225 W. Randolph St., Floor 25D  
Chicago, IL 60606

Kira E. Loehr  
Dennis Dums  
Citizens Utility Board  
16 North Carroll Street, Suite 640  
Madison, WI 53703

Peter L. Gardon  
Bryan K. Nowicki  
Reinhart Boerner Van Deuren, s.c.  
P.O. Box 2018  
Madison, WI 53701-2018

Jeffrey L. Vercauteren  
Whyte Hirschboeck Dudek S.C.  
33 East Main Street, Suite 300  
P.O. Box 1379  
Madison, WI 53701-1379

Steve Baas  
Council for Small Business Executives  
756 North Milwaukee Street, Suite 400  
Milwaukee, WI 53202

Earl Gustafson  
Wisconsin Paper Council  
5485 Grande Market Drive, Suite B  
Appleton, WI 54913

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Heinzen Law, S.C.  
2 East Mifflin Street, Suite 402  
Madison, WI 53703

Curt Witynski  
Assistant Director  
League of Wisconsin Municipalities  
131 West Wilson Street, Suite 505  
Madison, WI 53703

Catherine Phillips  
Legal Counsel  
Wisconsin Electric Power Company  
231 W. Michigan Street  
Milwaukee, WI 53203

  
Julie A. Dobie

Subscribed and sworn to before me  
this 8<sup>th</sup> day of December, 2014

  
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Notary Public, Wisconsin

My Commission expires: 7/31/16