

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Grain Belt)
Express LLC for an Amendment to its Certificate)
of Convenience and Necessity Authorizing it to)
Construct, Own, Operate, Control, Manage, and) File No. EA-2023-0017
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station)

Motion to Amend Procedural Schedule

COMES NOW Grain Belt Express LLC (“Grain Belt Express”) and for its Motion to Amend Procedural Schedule states as follows:

1. On December 21, 2022, the Public Service Commission of the State of Missouri issued an Order Setting Procedural Schedule (“Initial Procedural Order”), establishing dates for an Evidentiary Hearing; deadlines for Rebuttal Testimony, Surrebuttal Testimony, Cross-Surrebuttal Testimony, Pre-Hearing Filings, and Post-Hearing Briefs; and establishing time periods for issuing and responding to discovery requests.

2. Over the last seven months, parties have issued [300+] discovery requests to Grain Belt Express. Grain Belt Express has responded to the vast majority of such requests.

3. On January 20, 2023, the Regulatory Law Judge assigned to this proceeding, Judge Dippell, convened a Discovery Conference to address certain discovery requests issued by the Missouri Landowners Alliance and Commission Staff regarding Memoranda of Understanding (“MOUs”) between Grain Belt Express and third parties, as well as details around the negotiation of such (“MOUs”).

4. On March 16, 2023, the Commission issued its Order Granting, in Part, and Denying, in Part, Request to Compel Discovery Answers (“Discovery Order”)—which addressed the issues raised at the January 20 Discovery Conference. The Discovery Order directed Grain

Belt Express to provide, no later than March 23, 2023, copies of the MOUs at issue, as well as certain pricing information related to such MOUs. The Discovery Order sustained Grain Belt Express' objections to certain other discovery requests. Finally, the Discovery Order stated:

So that the intervenors, Staff, and the Office of the Public Counsel have sufficient time to prepare their reports or rebuttal testimony, the time for filing the Staff Report and Intervenor Rebuttal Testimony is extended to April 5, 2023.

5. Accordingly, the Discovery Order provided an additional eight days for the Staff Report and Intervenor Rebuttal Testimony, as compared to the March 28, 2023 deadline established by the Initial Procedural Order. The Discovery Order did not make any other adjustments to the Initial Procedural Order, meaning Grain Belt Express' Surrebuttal Testimony and Staff/Intervenor Cross-Surrebuttal Testimony is still due April 24, 2023—only 19 calendar days (13 business days) from the Staff Report and Intervenor Rebuttal Testimony. Under this schedule, Grain Belt Express is given *one single day* (*i.e.* until April 6, 2023) to issue discovery on the Staff Report and Intervenor Rebuttal Testimony if it hopes to receive responses before Surrebuttal Testimony is due. Even under that scenario, Grain Belt Express would not receive the responses until Friday, April 21, with its Surrebuttal Testimony due the following Monday, April 24. By comparison, Staff and Intervenor have had *seven months* to issue discovery requests regarding Grain Belt Express' Direct Testimony.

6. Notably, the extension of time granted to Staff and Intervenor was not the result of any delay on behalf of Grain Belt Express. In fact, Grain Belt Express timely provided copies of the MOUs and related documents on March 23, 2023 as ordered by the Commission. Grain Belt Express could not provide copies of the MOUs and related documents any earlier because such information is subject to Nondisclosure Agreements with third parties, and Grain Belt Express is restricted from sharing such information absent a directive from the Commission. The

existence of Nondisclosure Agreements was explained by Grain Belt Express in its Response to Motion for Discovery Conference, filed January 17, 2023, and again at the Discovery Conference held on January 20, 2023.

7. Having already granted Staff and the Intervenors an eight-day extension to file their Report and Rebuttal Testimony, the Commission must grant a similar extension to Grain Belt Express to avoid prejudicing Grain Belt Express' ability to prepare Surrebuttal Testimony. It would be extremely inequitable to provide Staff and Intervenors *seven months* of discovery while providing Grain Belt Express a *single day*. Accordingly, Grain Belt Express respectfully requests that the Commission modify the Procedural Schedule as follows:

Event	Current Schedule	Proposed Schedule
Staff Report and Intervenor Rebuttal Testimony	April 5, 2023 (formerly March 28)	April 5, 2023
Data Request (DR) response time shortened to 15 <u>10</u> calendar days and time to object to DRs shorted to 8 <u>5</u> calendar days ¹	March 29, 2023	<u>April 6, 2023</u>
Applicant Surrebuttal & Staff/Intervenor Cross-Surrebuttal Testimony	April 24, 2023	<u>May 1, 2023</u>
Last Day to Issue Discovery Requests	May 2, 2023	<u>May 5, 2023</u>
List of Issues, List of Witnesses, and Order of Cross-Examination	May 9, 2023	<u>May 12, 2023</u>
Last Day to File Motions to Compel Discovery	May 15, 2023	<u>May 16, 2023</u>
Position Statements	May 16, 2023	May 16, 2023
Pre-Filed Exhibit Lists	May 18, 2023	May 18, 2023
Evidentiary Hearing	May 22-26, 2023	May 22-26, 2023
Initial Post-Hearing Briefs	June 14, 2023	June 14, 2023
Reply Briefs	June 21, 2023	June 21, 2023

¹ If the deadline to object or respond falls on a weekend or a state holiday, the deadline will automatically roll to the next business day.

8. In recognition of the Commission’s busy schedule and travel plans of parties, the above proposal maintains the Evidentiary Hearing dates of May 22-26, 2023. To maintain the Evidentiary Hearing dates, Grain Belt Express is requesting a shorter extension (7 days) for its Surrebuttal Testimony than that granted to Staff and Intervenors (8 days). Further, Grain Belt Express requests that the Commission shorten the time to respond to Data Requests (“DRs”) from 15 calendar days to 10 calendar days, and the time to object to DRs from 8 calendar days to 5 calendar days, effective April 6, 2023. The new discovery deadlines would remain in effect until the new discovery cutoff date of May 5, 2023. Importantly, these new discovery deadlines would also replace Paragraph 3(j) of the Initial Procedural Order, which established deadlines of 10 *business* days for responses and 5 *business* days for objections after Surrebuttal Testimony is filed by Grain Belt Express. Accordingly, all the parties would benefit from more timely responses to discovery requests.

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WHEREFORE, to avoid prejudicing the ability of Grain Belt Express to prepare Surrebuttal Testimony, Grain Belt Express respectfully requests the Commission grant this Motion to Amend Procedural Schedule and take such other actions as the Commission deems necessary.

Respectfully submitted,

/s/ Andrew O. Schulte

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ATTORNEYS FOR GRAIN BELT EXPRESS LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties listed on the official service list by email, this 24th day of March, 2023.

/s/ Andrew O. Schulte

Andrew O. Schulte