

Exhibit No. \_\_\_\_\_  
Issues: Right-of-Way Acquisition,  
Landowner Protocol  
Witness: Deann Lanz  
Type: Surrebuttal Testimony  
Sponsoring Party: Grain Belt Express Clean Line LLC  
Case No.: EA-2016-0358  
Date Testimony Prepared: February 21, 2017

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. EA-2016-0358**

**SURREBUTTAL TESTIMONY OF**

**DEANN K. LANZ**

**ON BEHALF OF**

**GRAIN BELT EXPRESS CLEAN LINE LLC**

**February 21, 2017**

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1                   **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2   **Q. Please state your name, present position, and business address.**

3   A. My name is Deann Lanz. I am Vice President, Land for Clean Line Energy Partners LLC  
4       ("Clean Line"). Clean Line is the ultimate parent company of Grain Belt Express Clean  
5       Line LLC ("Grain Belt Express" or "Company"), the Applicant in this proceeding. My  
6       business address is 1001 McKinney Street, Suite 700; Houston, TX 77002.

7   **Q. Have you previously submitted prepared testimony in this proceeding?**

8   A. Yes, I have previously submitted direct testimony on August 29, 2016.

9   **Q. What is the subject matter of this surrebuttal testimony?**

10   A. I am providing this testimony to respond to some of the concerns raised by intervenors,  
11       and to correct certain misconceptions about the Project.

12                   **II. RESPONSE TO INTERVENORS CHRISTINA REICHERT**  
13                   **AND JOHN E. TURNER**

14   **Q. In response to Christina Reichert's concern expressed on page 9 of her rebuttal**  
15       **testimony and John Turner's concern on page 6 of his rebuttal testimony, does**  
16       **Grain Belt Express intend on adding another transmission line to the easement?**

17   A. No. As stated on the first page of the Easement Agreement, "Landowner does hereby  
18       grant and convey unto Grain Belt Express a perpetual, exclusive easement to construct,  
19       operate and maintain an overhead transmission line, as further described below." This  
20       language from the Easement Agreement is meant to express the intent of Grain Belt  
21       Express to build one transmission line only.

22               Grain Belt Express does not intend to add another transmission line, pipeline, or  
23       any other significant infrastructure to the right-of-way, and the language of the Easement  
24       Agreement would not allow Grain Belt Express to do so. As discussed further below, if a

1 landowner requests further assurances on this issue, it can be expressly provided for in  
2 the negotiation of the Easement Agreement.

3 **Q. Christina Reichert and John Turner both express several concerns with regard to**  
4 **the Easement Agreement in Schedule DKL-4. Will Grain Belt Express negotiate any**  
5 **modifications to the Easement Agreement at a landowner's request, or make**  
6 **additional provisions beyond what is included?**

7 A. Yes. As stated in my Direct Testimony, the Easement Agreement is a form. It is not  
8 meant to capture every possible situation, but in many cases it will be a starting point  
9 from which a landowner can address specific concerns. Grain Belt Express is amenable to  
10 adding provisions based on a landowner's request, and if a landowner has a specific  
11 concern with a clause, or requests provisions that are not covered, Grain Belt Express  
12 would seek to negotiate those terms with the landowner to come to an agreement. Every  
13 landowner's property is unique and not every landowner has the same concerns that  
14 another landowner may have. This is why we strive to meet individually with each  
15 landowner to discuss their issues and concerns, and to reach a mutual agreement on how  
16 to address these matters via an addendum to the Easement Agreement.

17 **Q. What is an example of how some of the issues raised by Christina Reichert and John**  
18 **Turner have been addressed in negotiations with landowners?**

19 A. Mrs. Reichert and Mr. Turner raised concerns about compensation for damages,  
20 additional transmission lines, tree clearing, access to the Easement area, notice of  
21 assignment, and payments for gates. Clean Line has addressed similar specific  
22 landowner concerns while negotiating Easement Agreements with landowners on the  
23 other projects it is developing. For example, attached as Highly Confidential **Schedule**

1           **DKL-5** are examples of provisions that have been negotiated at the request of landowners  
2           affected by Clean Line’s Plains & Eastern Project.

3   **Q.    On page 9 of her testimony, Christina Reichert expresses concern that Grain Belt**  
4           **Express will pay only “certain damages” to landowners, as set forth in the Structure**  
5           **and Damages Calculation Sheet. For what damages will landowners be**  
6           **compensated by Grain Belt Express?**

7    A.    As stated in my direct testimony at page 7, Grain Belt Express will pay landowners for  
8           *any* agricultural-related impact resulting from the construction, maintenance, or operation  
9           of the Project, regardless of when they occur and without any cap on the amount of such  
10          damages. The intent of Grain Belt Express is to make the landowner whole for all  
11          damages that the landowner incurs as a result of the construction, operation, maintenance  
12          and repair of the Project, during the entire life of the Project, including and in addition to  
13          the damages specifically referenced in the Structure and Damages Calculation Sheet  
14          executed with the Easement Agreement. Because each parcel of land is unique, these  
15          damage payments will be negotiated with each landowner on a case-by-case basis in  
16          order to satisfy the concerns of each individual landowner. The term “certain” as used in  
17          the Easement Agreement is meant to indicate that each set of damages will be specific to  
18          each parcel of land, not that there is a predetermined list of damages from which Grain  
19          Belt Express will compensate landowners. Therefore, the “certain” damages noted in  
20          each Easement Agreement will identify the exact damages that are specific to each  
21          individual parcel for which Grain Belt Express will pay the landowner.

22   **Q.    What is the purpose of the language in the Easement Agreement that “Grain Belt**  
23           **Express shall indemnify and hold harmless Landowners from any and all liability .**

1           **.. except . . . from Landowner’s negligence or intentional misconduct,” as**  
2           **discussed by Mrs. Reichert on page 10 of her rebuttal?**

3    A.    This language in Paragraph 11(a) of the Easement Agreement, as well as in Paragraph  
4    11(b), is written in favor of the landowner and is meant to require Grain Belt Express to  
5    protect the landowner from lawsuits from third parties, unless the landowner is acting  
6    negligently or intentionally. Grain Belt Express does not require the landowner to carry  
7    any specific form or amount of insurance. Additionally, Grain Belt Express does not ask  
8    the landowner to indemnify Grain Belt Express or others. Paragraph 11(c) of the  
9    Easement Agreement specifically states that Grain Belt Express waives any claims or  
10   damages as a result of landowner’s actions, except in instances where the landowner is  
11   acting grossly negligent or intentionally. This means that Grain Belt Express will not  
12   seek to recover damages from a landowner if the landowner is negligent.

13                 Mrs. Reichert asks on page 12, lines 18-20 of her rebuttal testimony whether the  
14   landowner would be liable for damages if the landowner hit a structure. Paragraph 11(c)  
15   is meant to protect the landowner from such a scenario. So long as the collision is an  
16   accident, and not a result of gross negligence or intentional misconduct by the landowner,  
17   the landowner would not be responsible for any damages. Grain Belt Express expressly  
18   waives the right to collect any damages against the landowner or the landowner’s  
19   insurance company for such an accident.

20   **Q.    Mrs. Reichert indicates that Paragraph 12 of the Easement Agreement is “ominous**  
21   **and invasive.” What is the purpose of Paragraph 12?**

22    A.    Paragraph 12 of the Easement Agreement simply requires the landowner to cooperate  
23    with Grain Belt Express in the event the Company needs to negotiate a subordination or

1 non-disturbance agreement with the landowner's bank. This type of provision is found in  
2 most real estate transaction documents. Otherwise, if the property on which the  
3 Easement is situated contains a mortgage, and if the lender were to foreclose on the  
4 mortgage, the bank would be entitled to terminate any and all easements or other  
5 agreements that came after them.

6 The purpose of this paragraph is to put the landowner on notice that Grain Belt  
7 Express may negotiate with lenders to secure a subordination agreement, whereby the  
8 bank would agree to not terminate Grain Belt Express' easement in the event of a  
9 foreclosure, so long as the Company is not in default on any of its obligations under the  
10 Easement Agreement. Any such negotiations would be at no cost to the landowner and  
11 would not affect the landowner's underlying loan or mortgage.

12 **Q. Mrs. Reichert states on page 10 of her rebuttal testimony that the Missouri**  
13 **Agricultural Impact Mitigation Protocol should have been included within the scope**  
14 **of the Easement Agreement, so that it is binding on the Company. Similarly, on**  
15 **page 2 of his rebuttal testimony, Mr. Turner states that the Missouri Agricultural**  
16 **Impact Mitigation Protocol, the Missouri Landowner Protocol, and the Code of**  
17 **Conduct should be made binding on Grain Belt Express. Is Grain Belt Express**  
18 **willing to do that?**

19 A. Yes. Grain Belt Express is willing to incorporate the terms and obligations of these  
20 Protocols and the Code of Conduct in its easements with landowners.

21 **Q. On page 11 of her rebuttal testimony, Mrs. Reichert states that the language in the**  
22 **Easement Agreement regarding the waiver of homestead rights is an "egregious loss**

1 **of rights” to landowners. Can you explain the intent of Paragraph 13 of the**  
2 **Easement Agreement?**

3 A. Paragraph 13 in the Easement Agreement does not affect any homestead exemption a  
4 landowner may be entitled to with respect to property taxes, and does not require the  
5 landowner to waive any rights with respect to third-party creditor claims. When property  
6 is conveyed (including an easement), homestead rights are retained by the seller unless  
7 they are expressly waived. If they are not waived, the easement conveyance could be  
8 viewed as not being complete under state law. The purpose of the waiver in Paragraph  
9 13 is to make the easement conveyance full and complete. This waiver of homestead  
10 rights is a provision that can be discussed and negotiated with the landowner. We do not  
11 intend for the landowner to lose any meaningful homestead right.

12 **Q. On pages 15-17 of her rebuttal testimony Mrs. Reichert discusses “Heritage Value”**  
13 **property issues. Has Grain Belt Express taken Missouri’s statutory provisions on**  
14 **heritage value into consideration in determining compensation?**

15 A. Yes. It is my understanding that heritage value, as described in Missouri Revised  
16 Statutes Sections 523.001(2) and 523.039(3), applies to the determination of fair market  
17 value in a condemnation proceeding. Grain Belt Express recognizes heritage value in  
18 determining the value of property, and would comply with such valuations in any  
19 condemnation proceeding to which the Company is a party.

20 Grain Belt Express’ compensation package consists of several parts (easement  
21 compensation, structure compensation, and damages and other compensation) that  
22 compensate the landowner for more than 100% of the fee value of any land encumbered  
23 by the easement. Grain Belt Express is committed to conducting all easement



1 negotiations in a fair manner that is respectful of property rights. The Company will  
2 prepare a form easement and an offer of compensation to present to each landowner.  
3 Grain Belt Express encourages landowners to meet with us and our agents to discuss  
4 landowners' concerns. If the landowner has additional information that he or she  
5 provides regarding routing, land uses, potential damages, legal issues, or the valuation of  
6 the property, Grain Belt Express will evaluate that information, and negotiate with the  
7 landowner in a good-faith effort to agree on a revised offer or a revised Easement  
8 Agreement. If the landowner has concerns about heritage value, the landowner can  
9 provide information to Grain Belt Express for consideration during the negotiations.

10 **Q. What options are available if Grain Belt Express and a landowner have reached an**  
11 **agreement on the terms of an easement but are unable to reach agreement on the**  
12 **appropriate compensation?**

13 A. At the landowner's request, Grain Belt Express will submit the issue of landowner  
14 compensation to binding arbitration. The arbitration will be conducted by the American  
15 Arbitration Association (the "AAA") in accordance with its Commercial Arbitration  
16 Rules. Arbitration will take place in Missouri, and will be conducted under Missouri law.  
17 A panel of three arbitrators shall be appointed as provided in the AAA Commercial  
18 Arbitration Rules, but shall be selected from a pool of qualified arbitrators who are  
19 familiar with land use and land values in Missouri. The option of binding arbitration  
20 typically costs less, has simplified procedures, and results in a final decision more  
21 quickly than circuit court litigation. Additionally, arbitration will allow both parties to  
22 select an arbitrator, specifically one with expertise in the matter of property and easement  
23 valuation issues in Missouri. During binding arbitration, a landowner can present

1 information that is relevant to determining appropriate compensation, including heritage  
2 value.

3 **III. RESPONSE TO STAFF WITNESS MICHAEL STAHLMAN**

4 **Q. On page 36 of Staff's Rebuttal Report, Michael Stahlman states that "Grain Belt**  
5 **and its investors are not solely at risk, the landowners of parcels with Grain Belt**  
6 **easements are as well. Some of these easements could be tied to annual payments**  
7 **from Grain Belt. If the Project fails, it is unclear if those payments would continue."**  
8 **Please respond to that statement.**

9 A. Any landowner has the option to elect the upfront structure payment, which is a lump  
10 sum, one-time payment. However, if a landowner elects to receive annual structure  
11 payments, those annual payments will be made *so long as* a structure is on the Easement  
12 Property, as stated in the Missouri Landowner Compensation Fact Sheet, attached to my  
13 direct testimony as **Schedule DKL-3**. Landowners electing annual payments have a high  
14 degree of payment certainty. As described in the surrebuttal testimony of Company  
15 witness David Berry, the obligation to pay landowners will be senior to paying back any  
16 of Grain Belt Express' equity investors. In the unlikely event that the Project is retired  
17 from service, Grain Belt Express shall promptly wind up the Project activities, including  
18 dismantling, demolishing, and removing all equipment, facilities, and structures, and  
19 terminating all transmission line easements. The attached Highly Confidential **Schedule**  
20 **DLK-5** contains an example of language that has been previously negotiated with  
21 landowners on Clean Line's Plains & Eastern Project to address the removal of facilities  
22 and termination of the easement. Once a project's wind-up activities have been  
23 completed, the annual structure payments will cease to be made, and the land formerly  
24 under easement will revert back to the landowner. Furthermore, Paragraph 2(a) and

1 Paragraph 10 of the Easement Agreement grant the landowner the right to terminate the  
2 Easement Agreement in the event that Grain Belt Express does not pay amounts due to a  
3 landowner under the Easement Agreement.

4 **Q. Why is it reasonable for Grain Belt Express to wait to fund any Decommissioning**  
5 **Fund commitments prior to the 20<sup>th</sup> anniversary of the Project?**

6 A. The Grain Belt Express Project will not begin construction until it has procured financing  
7 in the amounts necessary to complete the construction of all of its facilities. The Staff  
8 Report has recommended on page 63 that an order from the Commission contain a  
9 financing condition to this effect, which the Company has agreed to, as discussed in the  
10 surrebuttal testimony of David Berry. Therefore, there is no threat that the Project will be  
11 abandoned during construction.

12 Staff proposes that contributions to the Decommissioning Fund begin when the  
13 Project begins operation, similar to that of a nuclear generating plant. This analogy is not  
14 relevant as decommissioning issues related to an electric transmission project are far  
15 different than nuclear generating plants and issues of radioactive fuel storage and  
16 disposal.

17 Given the critical nature of transmission facilities to the reliability of the overall  
18 electric grid, once in use, transmission lines are rarely, if ever, abandoned. Typical utility  
19 practice is for transmission lines to continue in use even if a major power generation  
20 facility is shut down. Transmission lines remain operational not based on who owns  
21 them, but because they remain valuable, useful assets. Transmission utilities comprise a  
22 key physical determinant of grid reliability and economics, and therefore remain useful  
23 over the long term. It does not make sense to contribute to a decommissioning fund at a

1 time when there is no reasonable chance of it being used. I am not aware of any  
2 decommissioning fund for a transmission line, much less one beginning at commercial  
3 operation. There is no reasonable basis to require Grain Belt Express to contribute to a  
4 decommissioning fund upon commercial operation of the Project.

5 **IV. RESPONSE TO SHOW-ME WITNESS CHARLES KRUSE**

6 **Q. Regarding Mr. Kruse's comments on pages 5-8 of his rebuttal testimony, how does**  
7 **Grain Belt Express intend to accomplish avoiding and minimizing the potential for**  
8 **compaction or rutting, and restoring land?**

9 A. As discussed in the direct and surrebuttal testimony of Company witness Dr. James  
10 Arndt, the Missouri Agricultural Impact Mitigation Protocol and Easement Agreement  
11 establish commitments related to the issue of compaction. Grain Belt Express' first  
12 priority is to avoid compaction that would cause negative impacts to farm land. The  
13 intent of the Easement Agreement is that farmers be "made whole" and compensated for  
14 lasting impacts that cannot be avoided in the first place. In the event a landowner has  
15 concerns over specific types of possible damages, those issues can be addressed by the  
16 landowner and Grain Belt Express, with further provisions memorialized in an addendum  
17 to the Easement Agreement, similar to the addendum provisions I have attached in  
18 **Schedule DKL-5.**

19 **Q. In response to Mr. Kruse's rebuttal testimony on page 10 regarding Paragraph 4 of**  
20 **the Easement Agreement, what is the intent of this provision that the landowner**  
21 **shall not undertake an activity that would interfere with Grain Belt Express' use of**  
22 **the easement?**

1 A. This provision ensures the safe operation of Grain Belt Express Project and protects  
2 landowners as well as the general public. It is a standard provision in utility easements.

3 **Q. Will Grain Belt Express prevent landowners from making improvements within the**  
4 **easement area to protect against soil erosion, as Mr. Kruse suggests on page 10, lines**  
5 **15-17 of his rebuttal?**

6 A. No. Grain Belt Express encourages landowners to utilize best practices to address  
7 erosion and will make every effort to ensure landowners are able to implement soil  
8 erosion prevention measures.

9 **Q. Regarding Mr. Kruse's comments on pages 12-13 of his rebuttal testimony, will**  
10 **there be greater costs and diminished profits if aerial applications of crop products**  
11 **are limited because of the presence of the transmission line?**

12 A. No. The measures that Grain Belt Express will employ to prevent interference with aerial  
13 applications is described in the direct testimony of Company witness Dr. Arndt. While  
14 any impacts to aerial application would be limited and rare, Grain Belt Express is aware  
15 of the potential for these impacts to occur. If they do occur, under the terms of the  
16 Easement Agreement, landowners will be compensated for any impacts, such as  
17 reductions in crop yields, additional costs of labor and materials for spraying, or the cost  
18 of alternate methods of application.

19 **V. CONDITIONS RECOMMENDED BY STAFF**

20 **Q. Which of the conditions proposed in the Staff Rebuttal Report does Grain Belt**  
21 **Express accept?**

22 A. A list of conditions recommended by Staff is included in Schedule DAB-9, attached to  
23 the surrebuttal testimony of Company witness David Berry. Grain Belt Express accepts

1 conditions 2, 3, 6, 7, and 8 in Section VII regarding Landowner Interactions and Right-  
2 of-Way Acquisition without modification.

3 **Q. Which of the conditions proposed in the Staff Rebuttal Report does the Company**  
4 **accept with modifications?**

5 A. Condition 1 in Section VII, Landowner Interactions and Right-of-Way Acquisition, is  
6 acceptable if the following language is added at the end of the condition: “; provided,  
7 however, minor deviations to the location of the line will be permitted as a result of  
8 surveying, final engineering and design, and landowner consultation.”

9 Condition 4 in Section VII, Landowner Interactions and Right-of-Way  
10 Acquisition, references Exhibit A to the Order in Case No: EO-2002-351. Twenty-five of  
11 the 27 conditions are listed out in Staff’s Rebuttal Report, and Grain Belt Express takes  
12 the actions as laid out in DAB-9. Grain Belt Express rejects the following two conditions:  
13 Condition 3 under Construction and Clearing and Condition 3 under Right-of-Way  
14 Acquisition. Those two conditions are not applicable to Grain Belt Express in this case.

15 Condition 5 in Section VII, Landowner Interactions and Right-of-Way  
16 Acquisition, is acceptable if “surveyed” is removed, since the timing of surveying  
17 activities will be discussed with landowners. Therefore, the Company agrees to the  
18 following condition: “Every landowner from whom Grain Belt requires an easement will  
19 be contacted personally, and Grain Belt will negotiate with each such landowner in good  
20 faith on the terms and conditions of the easement, its location, and compensation therefor.  
21 Each landowner will receive an Easement Agreement pertaining to such landowner’s  
22 land, which Easement Agreement will contain a drawing that shows the location of the  
23 easement.”

1 Q. **Does this complete your surrebuttal testimony?**

2 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express )  
Clean Line LLC for a Certificate of Convenience and )  
Necessity Authorizing it to Construct, Own, Control, )  
Manage, Operate and Maintain a High Voltage, Direct )  
Current Transmission Line and an Associated Converter )  
Station Providing an Interconnection on the Maywood- )  
Montgomery 345 kV Transmission Line )

Case No. EA-2016-0358

AFFIDAVIT OF DEANN K. LANZ

STATE OF Texas )  
COUNTY OF Harris ) ss

Deann K. Lanz, being first duly sworn on his oath, states:

1. My name is Deann K. Lanz. I am Vice President, Land for Clean Line Energy Partners LLC.
2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Grain Belt Express Clean Line LLC consisting of 14 pages, having been prepared in written form for introduction into evidence in the above-captioned docket.
3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

Deann K. Lanz  
Deann K. Lanz

Subscribed and sworn before me this 21<sup>st</sup> day of February, 2017.

Dorcas Ruth O'Quinn  
Notary Public

My commission expires: 1/6/2018

