

**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, Operate,)
Control, Manage, 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

**INITIAL POST-HEARING BRIEF ON REMAND
OF APPLICANT GRAIN BELT EXPRESS CLEAN LINE LLC**

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TABLE OF CONTENTS

I. INTRODUCTION 1

 A. The Project..... 2

 B. The Missouri Route..... 5

 C. Procedural History and Summary of Evidence..... 6

 D. Status of Project Approvals from Other Regulatory Bodies..... 8

II. THE COMMISSION MAY LAWFULLY ISSUE A CCN TO GRAIN BELT EXPRESS
..... 9

 A. Grain Belt Express owns an Electric Plant and is an Electrical Corporation under
Section 393.170.1..... 9

 B. The Commission may consider the Resources of Grain Belt Express and
Invenergy Transmission, as well as their Owners, in Determining whether to
Grant the Company a CCN with Conditions 13

III. THE MISSOURI FACILITIES ARE NECESSARY OR CONVENIENT FOR THE
PUBLIC SERVICE..... 19

 A. Legal Standard 19

 B. There Is a Need for the Service..... 20

 C. The Project Is Economically Feasible..... 21

 D. Grain Belt Express Has the Proper Financial Resources to Provide the Service.. 24

 E. Grain Belt Express Is Qualified to Provide the Service..... 25

 F. The Project Is In the Public Interest..... 28

IV. CONDITIONS RELATED TO THE PROJECT 29

 A. Conditions Agreed to by Staff and Grain Belt Express 29

 B. Grain Belt Express - Rockies Express Pipeline Conditions..... 31

 C. Incorporating the Landowner Protocol into ROW Easements 31

 D. Staff Conditions not Agreed to by the Company..... 32

 E. Commission Question Regarding Conditioning the CCN on the Operational
Readiness of the Missouri Converter Station..... 33

V.	THE COMMISSION SHOULD WAIVE THE REPORTING REQUIREMENTS OF RULES 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175, AND 3.190(1), (2) AND (3)(A)-(D)	34
VI.	CONCLUSION.....	35

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”), pursuant to the October 24, 2018 Order Setting Supplemental Procedural Schedule and Other Procedural Requirements issued by the Missouri Public Service Commission (“PSC” or “Commission”), files this Initial Post-Hearing Brief.

I. Introduction

Grain Belt Express filed an Application for a line certificate of convenience and necessity (“CCN”) under Section 393.170.1¹ on August 30, 2016, authorizing it to construct, own, operate, control, manage, and maintain the Missouri portion of the electric transmission project described below. After conducting an evidentiary hearing in March 2017 and hearing oral argument on August 3, 2017, the Commission determined that it could not lawfully issue a CCN to the Company because it had not obtained the necessary county assents under Section 229.100. See Report & Order at 13-15 (Aug. 16, 2017).

Accompanying the Report & Order was the Concurring Opinion of four Commissioners who stated that but for the appellate decision they believed they were obligated to follow, they would have granted the Application because the Grain Belt Express Project was necessary or convenient for the public service. See Concurring Opin. at 2, 7 (Aug. 16, 2017). The decision is In re Ameren Transmission Co. of Illinois, 523 S.W.3d 21 (Mo. App. W.D. 2017)(“ATXI”).

On appeal, the Court of Appeals for the Eastern District found that the PSC erred in finding that it could not lawfully grant a line CCN to the Company under Section 393.170.1 because the ATXI decision was in error. Grain Belt Express Clean Line LLC v. PSC, No. ED 105932, slip op. at 10 (Feb. 27, 2018). However, instead of reversing the order and remanding the case to the

¹ All citations are to the Missouri Revised Statutes (2016), as amended, unless otherwise noted.

Commission, it transferred the case to the Supreme Court under Rule 83.02 because of the general interest and importance of the question. Id. at 10-11.

The Supreme Court held that the Commission erroneously concluded that it could not grant a line CCN to the Company without it first obtaining consents from the affected counties. Grain Belt Express Clean Line LLC v. PSC, 555 S.W.3d 469, 470, 474 (Mo. en banc 2018). Declaring that ATXI should not be followed, the Supreme Court remanded the case to the PSC to determine whether the Grain Belt Express Project is necessary or convenient for the public service. Id. at 474.

On remand, the Commission made clear that only “material changes” in the evidence and facts previously presented would be accepted, and that inquiry into “unchanged information would be unduly repetitious and subject to exclusion” under Section 536.070.8. See Tr. 1766; Order Setting Procedural Conference at 1 (Sept. 28, 2018).

In light of these rulings, Grain Belt Express has generally limited this Initial Post-Hearing Brief on Remand to material changes in the facts, to the legal issues raised during the remand hearing, and to additional conditions that have been agreed to with Commission Staff.

With regard to other matters previously addressed, the Company respectfully refers the Commission to its previously filed briefs, as well as its proposed factual findings and legal conclusions. See Initial Post-Hearing Brief of Applicant (Apr. 10, 2017); Reply Brief of Applicant (Apr. 24, 2017); Proposed Findings of Fact and Conclusions of Law of Grain Belt Express (Apr. 25, 2017).

A. The Project

The Grain Belt Express Clean Line Project (“Project”) is an approximately 780-mile, overhead, multi-terminal ± 600 kilovolt (“kV”) high-voltage, direct current transmission line (“HVDC Line”) and associated facilities that will collect over 4,000 megawatts (“MW”) of low-

cost, wind-generated power in western Kansas. See Ex. 100 at 3 (Skelly Direct); Ex. 108 at 4 and Sched. AWG-1 (Galli Direct). The Project will deliver 500 MW of that power into Missouri and 3,500 MW into Illinois, Indiana, and states farther east. See Ex. 100 at 3 (Skelly Direct); Ex. 108 at 4, 7, 23, 27 (Galli Direct). The Project will result in the construction of thousands of MWs of new wind generation facilities in Kansas by connecting that state's abundant, high capacity factor and affordable wind resource with the large and growing market for cost-effective, renewable energy in Missouri and other states in the region. See Ex. 100 at 3 (Skelly Direct).

The Company proposes to construct in Missouri the approximately 206-mile portion of the HVDC Line on a route that crosses the Missouri River south of St. Joseph and continues across the state in an easterly direction to south of Hannibal in Ralls County, where the HVDC Line will cross the Mississippi River into Illinois. See Ex. 100 at 4 (Skelly Direct); Ex. 119 at 14 and Sched. JPG-2, Fig. 1 (Puckett Direct). In its Application, the Company provided a list of all electric and telephone lines, railroad tracks, and underground facilities in Missouri that the Project will cross. See Application at Ex. 3; Addendum to Application (Oct. 27, 2016); Ex. 115 at 14 (Lawlor Direct); Ex. 119 at 115 (Puckett Direct).

The Company also proposes to construct a converter station and associated alternating current ("AC") interconnection facilities in Ralls County, with the same technical characteristics as previously presented to the Commission. See Ex. 141 at 2-5 (Skelly Supp. Direct); Ex. 143 at 2-3 (Abebe Supp. Direct). See also Ex. 100 at 4-8 (Skelly Direct); Ex. 119 at 14 and Sched. JPG-2, Fig. 1 (Puckett Direct). This intermediate converter station will be located in proximity to Ameren's Montgomery-Maywood 345 kV transmission line which will facilitate the interconnection to the Midcontinent Independent System Operator, Inc. ("MISO") market. See Ex. 119 at 14 and Sched. JPG-2, Fig. 1 (Puckett Direct); Ex. 108 at 4, 6 (Galli Direct). The

intermediate converter station will have bi-directional functionality, allowing Missouri utilities the opportunity to sell up to 500 MW of excess power into the energy markets operated by PJM Interconnection, L.L.C. (“PJM”). See Ex. 100 at 8 (Skelly Direct); Ex. 108 at 7 (Galli Direct).

The Project will interconnect with the Ameren Missouri system in Ralls County along the Maywood-Montgomery 345 kV AC transmission line, which connects the Maywood 345 kV substation in Marion County with the Montgomery 345 kV substation in Montgomery County. See Ex. 108 at 4, 6 (Galli Direct). The Missouri portion of the HVDC Line, the converter station in Ralls County, and the associated AC transmission and interconnection facilities are referred to herein as the “Missouri Facilities.”

Missouri ratepayers will bear no risks related to the construction of the Project. See Ex. 100 at 15, 31-32 (Skelly Direct); Ex. 112 at 4-5 (Kelly Direct). This is because Grain Belt Express will employ a participant-funded or “shipper pays” model under which the cost to construct the Project will *not* be borne by load-serving entities or their ratepayers through the cost allocation processes of the Southwest Power Pool, Inc. (“SPP”), MISO, or PJM. See Ex. 100 at 17 (Skelly Direct); Ex. 104 at 3, 8 (Berry Direct). Invenergy will offer transmission service on the same “shipper pays” basis by entering into long-term transmission service or capacity contracts with customers who will pay a negotiated reservation charge. Any future sale of capacity will be governed by an Open Access Transmission Tariff (“OATT”), as is the case for traditional, cost of service transmission providers. See Ex. 145 at 8 (Zadlo Supp. Direct).

Grain Belt Express estimates that the total cost of the Project will be approximately \$2.35 billion, with \$525 million of this estimate attributable to the portion of the Project to be located in Missouri. See Ex. 100 at 19 (Skelly Direct). Grain Belt Express will pay for the costs of the development, construction, and operation of the Project, and will recover these costs by selling

transmission service to wind generators and load-serving entities that use the line. See Ex. 100 at 31-32 (Skelly Direct); Ex. 104 at 3, 8 (Berry Direct).

B. The Missouri Route

A general description of the proposed route in Missouri is set forth in the schedules of Company Witness James G. Puckett. See Ex. 119 at Sched. JPG-2, Fig. 1 (Puckett Direct). The proposed Missouri route was developed by the Grain Belt Express Routing Team, a multi-disciplinary group of individuals from Clean Line and The Louis Berger Group. See Ex.115 at 11 (Lawlor Direct); Ex. 119 at 1 (Puckett Direct). There have been no changes in the Missouri route since the case was submitted to the Commission in March 2017. Tr. 1969-70, 1997 (Detweiler).

In March 2014, the Routing Team prepared the Missouri Route Selection Study (“Route Selection Study”), which identified the proposed route for the Project. This Study resulted from extensive public outreach efforts and coordination with state and federal agencies. See Ex.115 at 11 (Lawlor Direct); Ex. 119 at 3-6 (Puckett Direct).

After filing the proposed route in its 2014 certificate of convenience and necessity (“CCN”) case,² the Company continued to engage landowners along the proposed route regarding the location of the route on their individual properties. See Ex.115 at 7, 13-14 (Lawlor Direct); Ex. 119 at 10, 13 (Puckett Direct). As a result, the Company made 16 route adjustments since the filing of its 2014 Case that are contained in the 2016 Routing Study Addendum. Tr. 313:16-24 (Lawlor); Ex. 119 at 11 and JPG-2 (Puckett Direct).

The ultimate proposed route integrates this input from the general public, local officials, and government agencies. See Ex. 119 at 15 (Puckett Direct). Accordingly, it minimizes the

² Case No. EA-2014-0207 (“2014 Case”).

overall effect of the Missouri Facilities on the natural and human environment while avoiding unreasonable and circuitous routes, unreasonable costs, and special design requirements. Id.

C. Procedural History and Summary of Evidence

Grain Belt Express filed its Application for a line certificate pursuant to Section 393.170.1, 4 CSR 240-2.060, and 4 CSR 3.105(1)(B) on August 30, 2016, authorizing it to construct, own, operate, control, manage and maintain the Missouri Facilities. In its Application, the Company also requested that the Commission waive the reporting and filing requirements of 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175 and 4 CSR 240-3.190(1), (2) and (3)(A)-(D).

During the hearings conducted on March 20-24, 2017, the Company presented evidence of the significant milestones that it had achieved since the 2014 Case, in testimony from 16 witnesses. See Initial Post-Hearing Brief of Applicant at 7-10 (Apr. 10, 2017). After the appellate proceedings that resulted in the reversal of the Commission’s previous decision, the PSC conducted a remand hearing on December 18-19, 2018 where it heard evidence of material changes that occurred since 2017 hearing. This new evidence included:

- On November 9, 2018 Grain Belt Express Holding LLC entered into a Membership Interest Purchase Agreement with Invenergy Transmission LLC (“Invenergy Transmission” and, together with its affiliates, “Invenergy”) which agreed to acquire Grain Belt Express and the Project. See Ex. 142 at 3 (Berry Supp. Direct); Ex. 145 at 3-4 (Zadlo Supp. Dir.) & Sched. KZ-3 (MIPA).
- Pursuant to a Development Management Agreement, also signed on November 9, 2018, Invenergy Transmission LLC began funding and managing the development of the Project. See Ex. 142 at 3-4 (Berry Supp. Direct); Ex. 145 at 4 (Zadlo Supp. Dir.) & Sched. KZ-4 (Dev. Mgmt. Agmt.); Tr. 2056-60, 2073-74 (Zadlo).

- Affirmation of and amendments to the Transmission Service Agreement (“TSA”) between Grain Belt Express and the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”) to purchase up to 250 MW of capacity from the Project. See Ex. 142 at 6 (Berry Supp. Direct); Ex. 480 at 1-3 & Sched. JG -9 (Grotzinger Supp. Direct); Ex. 481, Amend. No. 2 to TSA.
- The February 20, 2018 purchase by ENGIE North America Inc. (“ENA”) of Infinity Wind’s Iron Star Wind Project and its power purchase agreement (“PPA”) with MJMEUC, which did not change any of the terms of the PPA. See Ex. 878 at 1-3 (Riley Supp. Direct).
- The status of the interconnection process with PJM Interconnection, LLC (“PJM”), Southwest Power Pool (“SPP”), and Midcontinent Independent System Operator (“MISO”). See Ex. 143 (Abebe Supp. Direct at 3-6).
- Updates regarding the Project’s regulatory status in Kansas and Illinois. See Ex. 144 at 9 (Detweiler Supp. Direct 2-4).

At the remand hearing, Grain Belt Express submitted the testimony and associated exhibits of 6 witnesses:

1. Michael P. Skelly, Chairman of the Board of Directors and former President of Clean Line Energy Partners LLC (“Clean Line”), the owner of Grain Belt Express.
2. David Berry, Clean Line’s former Chief Financial Officer and Executive Vice President who continues to provide key support on financial and strategic issues.
3. Jonathan Abebe, P.E., who is responsible for transmission, engineering, interconnection, and technical services for Clean Line.
4. Hans Detweiler, Clean Line’s lead developer for the Grain Belt Express Project.
5. Andrea Hoffman, Senior Vice President, Financial Operations, Invenergy LLC.
6. Kris Zadlo, Senior Vice President, Commercial Analytics, Regulatory Affairs and Transmission, Invenergy LLC.

In support of the Company's Application, the following non-Company witnesses submitted testimony and associated exhibits:

1. John Grotzinger, Chief Operating Officer and Vice President for Engineering and Operations of Missouri Joint Municipal Electric Utility Commission.
2. Matt Riley, Senior Vice President, Finance and Head of U.S. Wind, ENGIE North America, Inc.

D. Status of Project Approvals from Other Regulatory Bodies

Material changes have occurred at the regulatory commissions in Kansas and Illinois since 2017. In 2011 the Kansas Corporation Commission ("KCC") approved Grain Belt Express's application (No. 11-GBEE-624-COC) to conduct business as a public utility in Kansas, determining the Project is in the public interest. See Ex. 100 at 9 (Skelly Direct). On November 7, 2013 the KCC approved the Company's siting application (No. 13-GBEE-803-MIS) and granted a siting permit to construct the 370-mile Kansas portion of the Project which required construction to begin within five years. Given the delays in Missouri and Illinois, as well as the Company's agreement to be purchased by Invenenergy Transmission, the KCC granted requests by Grain Belt Express to extend the sunset term of the siting permit to December 2, 2019 to consider issues related to this transaction. See Ex. 148 (Order Canceling Procedural Schedule and Granting Limited Extension of Sunset Provisions); Tr. 1966-68 (Detweiler).

In Illinois the 2015 decision of the Illinois Commerce Commission ("ICC") that granted Grain Belt Express a certificate of public convenience and necessity was reversed on procedural grounds. See Ex. 144 at 3-4 (Detweiler). An appellate court held that Grain Belt Express was required under Illinois law to "own, control, operate or manage" utility property or equipment "at the time of application" before it could qualify as a "public utility," and remanded the case to the

ICC.³ The court specifically found applicants like the Company “may seek recognition as a public utility while, at the same time, applying for a certificate of public convenience and necessity ... as long as they have obtained the ownership, management, or control of utility-related property or equipment at the time of the application.”⁴

There has been no change in the Company’s public utility status in Indiana. Additionally, the Federal Energy Regulatory Commission (“FERC”) granted Grain Belt Express negotiated rate authority to charge transmission service rates to direct users of the Project in Docket No. ER14-409-000, 147 FERC ¶ 61,098 (May 8, 2014). See Ex. 104 at 9 (Berry Direct).

II. The Commission May Lawfully Issue a CCN to Grain Belt Express

A. Grain Belt Express owns an Electric Plant and is an Electrical Corporation under Section 393.170.1

The Commission raised questions whether Grain Belt Express is an “electrical corporation” that owns an “electric plant,” and as such can be granted a line CCN to build the Project. See Tr. 1780-82. Mr. Detweiler testified that the Company currently has 39 active easements in Missouri. Tr. 2143. He additionally stated that Grain Belt Express owns an option to purchase land in fee simple in Ralls County on which to build the converter station. Tr. 2145.⁵ Mr. Skelly, Chairman of the Board of Clean Line, testified that the Company does have money in hand today, although not the full amount to fund the Project. Tr. 1824-26, 1831. Finally, the Company presently holds county road-crossing assents (also referred to as franchises) that were issued by Buchanan and Carroll Counties. See Ex. 300, Sched. LD-3 at 1-2, 4 (Lowenstein Rebuttal).

³ Concerned Citizens & Property Owners v. Illinois Commerce Comm’n, 2018 IL App. (5th) 150551, 2018 WL 1858128 (Ill. App., Apr. 27, 2018).

⁴ Id. at *5-*7.

⁵ The option agreement was previously admitted into evidence in the 2014 Case. See Ex. 201, Sched. MOL-14 (Lawlor Surrebuttal).

An electrical corporation “includes every corporation ... owning, operating, controlling or managing any electric plant ...” under Section 386.020(15). Electric plant “includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the ... transmission, distribution, sale or furnishing of electricity” See §386.010(14) (emphasis added).

Easements have long been held to be real estate interests in Missouri. Kansas City Power & Light Co. v. Riss, 312 S.W.2d 846, 847 (Mo. 1958) (“an easement is an interest in real estate”); Berry v. Shinkle, 193 S.W.3d 435, 439-40 (Mo. App. W.D. 2006) (“an easement constitutes an interest in real estate”). The easements held by Grain Belt Express are “to be used for or in connection with” the development of the Project whose purpose is the transmission and sale of electricity, and fall within the meaning of “electric plant” under Section 386.010(14).

The option that Grain Belt Express holds to purchase property in Ralls County on which the convertor station will be built is property, with characteristics of both real and personal property. As noted in the 2014 Case, the option agreement was recorded on June 3, 2014 with the Ralls County Recorder of Deeds. See Ex. 201 at 19 & Sched. MOL-14 (Lawlor Surrebuttal). In City of Peerless Park v. Dennis, 42 S.W.3d 814, 817-18 (Mo. App. E.D. 2001), the Court of Appeals held that an option to purchase real property is a property right. It further noted that “recent legal trends support the conclusion that the owner of an unexercised option to purchase land possesses a property right that is compensable in eminent domain.” Id. at 119, citing 2 J.L. Sackman, Nichols on Eminent Domain (2000). Missouri’s eminent domain statute applies to the taking of “land,” “real property,” or “other property.” See §§ 523.010, 523.250. See also JAM Inc. v. Nautilus Ins. Co., 128 S.W.3d 879, 891-92 (Mo. App. W.D. 2004) (option to purchase real

property is an insurable interest in the property). The option held by the Company is, therefore, within the definition of “electric plant” under Section 386.010(14).

The money or cash that the Company holds, “to be used for or in connection with” the development of the Project, is also considered personal property and “electric plant.” See Fleischmann v. Mercantile Trust Co., 617 S.W.2d 73, 73-74 (Mo. en banc 1981); In re Armistead, 245 S.W.2d 145, 147 (Mo. 1952) (“money[s] on deposit” are “intangible personal property” subject to taxation); State ex rel. Reid v. Barrett, 118 S.W.2d 33, 37 (Mo. App. St. L. 1938).

Additionally, the county road-crossing assents issued to Grain Belt Express by the Buchanan County Commission and the Carroll County Commission are considered franchises or licenses and, therefore, a form of personal property. The Supreme Court has referred to the assent that a county may grant before any person, corporation or other entity may erect poles for the suspension of electric wires that cross the public roads or highways of any county as a “franchise.” Missouri Public Serv. Co. v. Platte-Clay Elec. Coop., 407 S.W.2d 883, 889 (Mo. 1966). The Supreme Court cited Section 7924 of the 1929 Revised Statutes, the predecessor of Section 229.100. See §229.100, History & Statutory Notes. Similarly, the Court of Appeals in StopAquila.org v. Aquila, Inc., 180 S.W.3d 24, 40-41 (Mo. App. W.D. 2005), expressly referred to the assent that a county commission issues under Section 229.100 as a franchise.

Under Missouri law franchises are personal property, typically classified as intangible. See Norris v. Norris, 731 S.W.2d 844, 845 (Mo. en banc 1987); Ackerman Buick, Inc. v. General Motors Corp., 66 S.W.3d 51, 61 (Mo. App. E.D. 2001) (a franchise is “personal property”); Ludlow-Saylor Wire Co. v. Wollbrinck, 205 S.W. 196, 198 (Mo. en. banc. 1918); State ex rel. Reid v. Barrett, 118 S.W.2d 33, 36-37 (Mo. App. St. L. 1938) (property includes “physical things, such as lands, goods, money; intangible things, such as franchises”). Therefore, the Section

229.100 county assents or franchises held by Grain Belt Express are personal property under the definition of “electric plant.”

Finally, Missouri’s Sections 386.020(14)-(15) are distinct from the Illinois statute considered by the Appellate Court when it reviewed the Company’s application filed at the ICC in Concerned Citizens v. Illinois Commerce Comm’n, 112 N.E.3d 128 (Ill. App. 2018), in at least three ways. First, the Illinois statute defines a “public utility” as “every corporation, company, limited liability company ... that owns, controls, operates or manages, within this State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with ... the production, storage, transmission, sale, delivery or furnishing of ... electricity[.]” See 220 Ill. Comp. Stat. 5/3–105(a) (emphasis added). Missouri’s Section 386.020(14) states that “electric plant” “includes all real estate, fixtures and personal property.” The difference in wording between these emphasizes Missouri’s recognition that broad categories of both real and personal property comprise the meaning of “electric plant” and, thus, the definition of “electrical corporation” in Section 386.020(15).

Second, in Concerned Citizens, the Court focused exclusively on the Company’s option to purchase property in Illinois that would serve as a site to place equipment for the project. Concerned Citizens, 112 N.E.3d at 136. Here, however, the record in this proceeding is replete with documentary and testimonial evidence of the real and personal property held by Grain Belt Express to be used for the Project in Missouri.

Finally, notwithstanding the contrary decision in Missouri, Illinois courts have held that an option to purchase real estate “does not involve the transfer [of] property or an interest therein.” Concerned Citizens, 112 N.E.3d at 136, quoting Illinois Landowners Alliance v. Illinois Commerce Comm’n, 90 N.E.3d 448, 460 (Ill. 2017). In stark contrast, the Missouri Court of

Appeals has held that an option to purchase real estate is a property right or interest. See City of Peerless Park v. Dennis, 42 S.W.3d 814, 817-18 (Mo. App. E.D. 2001).

Therefore, regardless of the legal issues in Illinois, all of the Company's real estate and personal property interests are sufficient for the Company to act as an electrical corporation in Missouri that owns electric plant, as this Commission has found in its past orders. See Report & Order at 10, No. EA-2016-0358 (Aug. 16, 2017); Report & Order at 18-19, In re Grain Belt Express Clean Line LLC, No. EA-2014-0207 (July 1, 2015). Indeed, at no stage of the 2014 case and not until these post-remand proceedings has any party questioned the Commission's findings in this respect. Given well-established Missouri law (and the inapposite nature of the Illinois decisions), the Commission should reaffirm its decisions.

B. The Commission may consider the Resources of Grain Belt Express and Invenergy Transmission, as well as their Owners, in Determining whether to Grant the Company a CCN with Conditions

The Commission also raised questions whether Grain Belt Express, given its current financial resources and operational qualifications, should be examined in isolation from Invenergy, or whether they should be evaluated together. See Tr. 1801-02, 2092-93. A review of PSC decisions over the past 25 years shows that analyzing qualifications of both the applicant, its parent corporations, and entities with whom it has contractual relations is both legally and factually proper when the Commission considers whether a CCN is "necessary or convenient for the public service" under Section 393.170.3. See State ex rel. Intercon Gas, Inc. v. PSC, 848 S.W.2d 593 (Mo. App. W.D. 1993); In re Ameren Transmission Co. of Illinois, Report & Order at 3 (Jan. 10, 2018); In re Ameren Transmission Co. of Illinois, Report & Order at 22-23, No. EA-2015-0146 (Apr. 27, 2016) (citing financial support of Ameren Corp.); In re Transource Missouri, LLC, Report & Order at 12, No. EA-2013-0098 (Aug. 7, 2013) (citing financial support of Great Plains Energy Inc. and

American Electric Power Co.); In re Tartan Energy Co., 1994 WL 762882 at *16 (Mo. P.S.C. 1994).

Given the contractual obligations that the Company, Grain Belt Express Holdings, and Invenenergy Transmission are now subject to under the Membership Interest Purchase Agreement (“MIPA”) and the Development Management Agreement (“DMA”),⁶ as well as Invenenergy’s resulting active management of the Project, all three entities and their owners must be considered together in any analysis of the Tartan factors. Accordingly, and without objection by any party, Staff evaluated Grain Belt Express, as well as its owners, investors, and contractual counter-parties both in this proceeding and in the 2014 Case.⁷ In that proceeding the Commission found that the Company had met its burden of proof to demonstrate that it possessed the financial ability to provide the service described in its Application. See Report & Order at 21, No. EA-2014-0207 (July 1, 2015).

During the pre-remand stage of this case, Staff again examined the financial resources and operational expertise of the Company’s ultimate parent, Clean Line Energy Partners, as well as its investors without objection. See Ex. 201, Staff Rebuttal Report at 18-21 (Jan. 24, 2017) (“2017 Report”). Staff took a similar position during the remand proceedings, evaluating both the resources of Grain Belt Express and Invenenergy. See Ex. 210, Staff Revised Supp. Report at 5-10 (Dec. 11, 2018) (“2018 Report”).

The 2017 analysis of the financial resources and abilities of the Company was prepared by David Murray, Utility Regulatory Manager of the Financial Analysis Department. See Tr. 2090; Ex. 201, App. 1 at 19. In Staff’s 2017 Report, Mr. Murray stated that his investigation into the

⁶ The MIPA and the DMA, both entered into by the Company, its holding Company, and Invenenergy Transmission on November 9, 2018, were admitted into evidence as Schedules KZ-3 and KZ-4, respectively, to the Supplemental Direct Testimony of Kris Zadlo.

⁷ Ex. 204 at 4-8, Rebuttal Testimony of David Murray, In re Grain Belt Express Clean Line LLC, No. EA-2014-0207.

financial capability of Grain Belt Express “primarily focused on any changes that may have occurred to the investors and the investment plan for the proposed Project.” See Ex. 201 at 19. He considered the commitment of start-up equity capital in Clean Line from its investors to support its conclusion that the Company had the financial capability to construct the Project based on its planned use of project financing upon the receipt of subscriptions for a significant amount of capacity. Staff’s recommendation was premised on Grain Belt Express agreeing to the Financing Conditions contained in Section I of Exhibit 206. See Ex. 201 at 19-21, 63-64.

In response to the supplemental direct testimony of the Company that disclosed the agreement to sell Grain Belt Express to Invenergy Transmission, Staff’s 2018 Report analyzed the abilities of both Grain Belt Express and Invenergy to determine whether the Company had the requisite operational expertise. See Ex. 210 at 5-6. Staff advised it “has no reason to dispute that Grain Belt, and subsequently Invenergy, are qualified to own, operate, control and manage the Project” Id. at 6.

To assess the current financial ability of the Company to carry out the Project, Staff recognized that the owner of Grain Belt Express and Invenergy Transmission had executed the MIPA on November 9, 2018 which would place Invenergy Transmission in the position of being the sole equity investor in the Company, as Clean Line is today. See Ex. 210 at 6. In conducting its analysis, Staff reviewed the financial resources and operational qualifications of purchaser Invenergy Transmission, its owner Invenergy Investment Company LLC (“Invenergy Investment”), and its affiliate Invenergy LLC to determine “the ability of the new owners to finance the remaining estimated start-up equity capital.” Id. at 3, 5-6. The Staff Report advised that, based on the Company’s supplemental direct testimony, as well as publicly available

information, “it is clear that Invenergy has established an extensive network of access to private debt and equity investors.” Id. at 3.

In response to questions by Commissioner Kenney, Mr. Zadlo explained that it is standard practice for energy developers like Invenergy and Clean Line to fund the initial stages of a project, and then attract investors to secure financing for the later phases. “So the project life cycle is typically [in] the first phase, the developers take all that risk. ... You have to get all the permits and software before you get financing [and] ... before we can approach the institutional investors to invest into the project itself.” Tr. 2067.

After analyzing the financial statements of both Invenergy Investment and Clean Line, Mr. Murray concluded that “Invenergy’s financial resources are stronger than Clean Line’s.” See Ex. 210 at 7. Staff’s conclusion that Grain Belt Express “under Invenergy ownership, still has the financial ability to be granted a CCN” was contingent not only upon the conditions in Section I of Exhibit 206, but also of Invenergy’s agreement to provide Staff with access to its financial records. Id. at 9-10.

At the evidentiary hearing on remand, the Exhibit 206 conditions were explicitly agreed to by Mr. Zadlo, Invenergy’s Senior Vice President. See Ex. 147 at 5-6; Tr. 2024. Regarding access to financial records, Staff, the Company, and Invenergy stipulated that Invenergy Investment and Invenergy Transmission shall cooperate with Staff in providing reasonable access to its unredacted consolidated financial records (including *in camera* review of notes to financial statements) until the completion or official abandonment of the Project. Tr. 1964.

These conditions are remarkably similar to those that were imposed upon another start-up enterprise (today known as Southern Missouri Gas Company) in the seminal Tartan Energy Co. case decided in 1994. One of the conditions imposed by the Commission on Tartan was that prior

to constructing any natural gas facilities, it file “a resolution of the board of directors of Torch Energy Advisors, Inc. or Torch Energy Marketing, Inc. – whichever company is an actual owner of Tartan – committing itself to issue a minimum of \$15 million of equity to Tartan, or more if needed to supply sufficient equity” for Tartan to achieve a specified equity ratio. In re Tartan Energy Co., 1994 WL 762882 at *16 (Mo. P.S.C. 1994). Although it was unclear to the PSC who the actual owner of Tartan was at the time, the Commission granted the company a CCN on the condition that prior to its tariffs being approved, Tartan file an affidavit disclosing the precise relationship with the Torch Energy entities that were to supply Tartan its funds. Id.

In the Tartan case the Commission only heard from three witnesses on behalf of the applicant, one of whom was a non-employee “utility consultant.”⁸ In contrast, during the evidentiary hearing on remand in this proceeding, the Commission heard from four witnesses representing the Company, as well as two Invenergy senior vice presidents, and at the March 2017 hearing the Commission heard from 16 witnesses. Unlike the situation in Tartan, where it was unclear what if any financial support the Torch Energy companies were providing, Invenergy has already taken over development of the Grain Belt Express Project under the DMA. As Mr. Zadlo testified, Invenergy is moving the Project toward construction with “spend [that] is occurring right now.” Tr. 2072. Since Invenergy signed the MIPA and the DMA, it is in the process of “securing all the regulatory permitting, paying for our fine counsel who’s representing us today. And then it keeps going through ... once we get the regulatory approvals, then it’s securing contracts, it’s the sales and marketing efforts of this line, it’s running the open season and then it’s securing the easements” Tr. 2072-73.

⁸ The witnesses were Tom M. Taylor and Michael N. Trusty (both individual investors in the project), as well as W. Scott Keith, a utility consultant. Tartan, 1994 WL 762882 at *3, *7, *26.

In a similar case where the Commission had granted a line CCN to an intrastate natural gas pipeline, the Court of Appeals cited with approval the PSC's reliance on a contract that the applicant's parent corporation had entered into with a customer. State ex rel. Intercon Gas, Inc. v. PSC, 848 S.W.2d 593, 598 (Mo. App. W.D. 1993). Noting that this contract demonstrated the "financial strength" of the applicant, the Court also relied on a financial commitment from the parent corporation of the applicant's parent corporation "to fund the project." Id. Affirming the grant of the CCN, the Court concluded that "it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award" of a CCN. Id. at 597-98. Accord In re Ameren Transmission Co. of Illinois, Report & Order at 22-23, No. EA-2015-0146 (Apr. 27, 2016) (citing financial support of Ameren Corp.); In re Transource Missouri, LLC, Report & Order at 12, No. EA-2013-0098 (Aug. 7, 2013) (citing financial support of Great Plains Energy Inc. and American Electric Power Co.).

Given the strong line of precedent from these cases, as well as the approach taken by Staff, it is clear that an applicant seeking a CCN does not stand in isolation from its owners, investors, and contractual counter-parties. As a matter of law, the Commission is entrusted by Section 393.170.3 to determine if the project "is necessary or convenient for the public service" and to issue a CCN under such "conditions as it may deem reasonable and necessary." With the conditions that Grain Belt Express has agreed to and that have now been agreed to by Invenergy, there is no legal or factual impediment to the Commission reaching the same conclusions as expressed in its Concurring Opinion of August 16, 2017, and granting the Company a line CCN under Section 393.170.1.

III. The Missouri Facilities Are Necessary or Convenient for the Public Service

A. Legal Standard

The CCN Application must be granted if the proposed infrastructure is “necessary or convenient for the public service.” See Section 393.170.3. Missouri appellate courts have held that necessity does not require that the improvement be “essential” or “absolutely indispensable.” State ex rel. Intercon Gas, Inc. v. PSC, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993). It simply means that the “additional service would be an improvement justifying its cost.” Id.

If the project “is of sufficient importance to warrant the expense of making it, it is a public necessity.” State ex rel. Missouri, Kan. & Okla. Coach Lines, Inc. v. PSC, 179 S.W.2d 132, 136 (Mo. App. K.C. 1944). Moreover, if the granting of the authorization provides a “genuine and reasonable public interest in promptness and economy of service,” then the public “convenience or necessity” is served. State ex rel. Twehous Excavating Co. v. PSC, 617 S.W.2d 104, 106 (Mo. App. W.D. 1981). Future needs must be part of a comprehensive evaluation of the public convenience or necessity. United for Missouri v. PSC, 515 S.W.3d 754, 760 (Mo. App. W.D. 2016); State ex rel. Gulf Transport Co. v. PSC, 658 S.W.2d 448, 458 (Mo. App. W.D. 1983).

The Commission has stated that it will apply five criteria in CCN cases to determine whether the proposed service is necessary or convenient for the public service, commonly referred to as the Tartan factors: (1) There must be a need for the service the applicant proposes to provide; (2) The applicant’s proposal must be economically feasible; (3) The applicant must have the financial ability to provide the service; (4) The applicant must be qualified to provide the proposed service; and (5) The proposed service must be in the public interest. In re Tartan Energy Co., Report & Order, Case No. GA-94-127, 1994 WL 762882 (Sept. 16, 1994). The Project meets each of these standards and is, therefore, necessary or convenient for the public service.

In the Tartan case, the Commission described each of the above elements, including that the service must promote the public interest, stating:

The requirement that an applicant's proposal promote the public interest is in essence a conclusory finding as there is no specific definition of what constitutes the public interest. Generally speaking, positive findings with respect to the other four standards will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest. [Id. at *14].

As these cases make clear, the Commission must balance both the benefits and the detriments of the Project, so as to ensure that there is no overall detriment to the public. In re Union Electric Co. for Auth. to Construct Callaway-Franks Line, Report & Order at 26-30, No. EO-2002-351, 2003 WL 22017276 at *14-*16 (2003).

As shown below, the Project is necessary or convenient for the public service. Granting Grain Belt Express a CCN so that it may construct the Missouri portion of the Project "is of sufficient importance to warrant the expense of making it"⁹ and it meets the five Tartan criteria set forth above. Accordingly, the public "convenience or necessity" is served. See Twehous, 617 S.W.2d at 106. The Commission should grant the line CCN the Company seeks under Section 393.170.1.

B. There Is a Need for the Service

The TSA between Grain Belt Express and MJMEUC, coupled with MJMEUC's PPA with Iron Star Wind Project, now owned by ENGIE North America, continues to demonstrate a clear need for the service that the Company will provide. See Ex. 480 (Grotzinger Supp. Direct); Ex. 780 (Riley Supp. Direct).

The TSA remains fully in place, but has been amended to provide even greater benefits to Missouri customers by lowering the transmission price of the second 100 MW tranche to that of

⁹ See State ex rel. Missouri, Kan. & Okla. Coach Lines, Inc. v. PSC, 179 S.W.2d 132, 136 (Mo. App. K.C. 1944).

the first 100 MW tranche. See Ex. 480 at 2-3 (Grotzinger Supp. Direct). John Grotzinger, MJMEUC’s Chief Operating Officer and Executive Director for Engineering and Operations, testified that these changes result in additional savings per year of approximately \$2.8 million. Id. at 2; Tr. 2110. These savings are derived not only from the TSA’s price decrease, but also because the costs of SPP-to-MISO point-to-point transmission service have increased. See Ex. 480 at 2 (Grotzinger Supp. Direct). He additionally confirmed that MJMEUC and its members have contracted for 136 MW of capacity from the Project. Tr. 2114.¹⁰

In response to Commissioner Hall’s questions, Mr. Grotzinger advised that since the case was submitted to the Commission in 2017, MJMEUC’s efforts to view other options led it to conclude that the Grain Belt Express Project “is still the lowest cost alternative that we’ve been able to find.” Tr. 2129-30.

The favorable pricing in the Iron Star PPA is also still in place. On February 28, 2018, ENGIE North America Inc. purchased certain assets of Infinity Wind Renewables, including the Iron Star Wind Project, LLC (“Iron Star”) and its PPA with MJMEUC. See Ex. 780 1-2 (Riley Supp. Direct). ENGIE North America’s purchase of Iron Star did not change any of the terms or conditions in the PPA. Id. at 2. In addition, MJMEUC designated 136 MW of wind energy from the Iron Star Wind Project in December 2017 for the benefit of its member utilities. Id. at 2-3. Based upon the evidence presented at the hearing, there continues to be a need for the Project.

C. The Project Is Economically Feasible

The evidence that the Project is economically feasible also remains strong, given that the price of wind power generation continues fall. See Ex. 142 at 5 (Berry Supp. Direct). Mr. Berry

¹⁰ The 136 MW has been contracted for as follows: 60 MW from the Missouri Public Energy Pool (“MoPEP”); 40 MW from the Cities of Kirkwood and Hannibal; 35 MW from the City of Columbia; and 1 MW from the City of Centralia. See Initial Post-Hearing Brief of Applicant at 7.

testified that prior to remand U.S. Government data showed that wind farms in the interior region of the country, which includes Kansas, cost an average \$1.64 million per MW. Id. at 5, citing Ex. 105 at 25-31 & Sched. DAB-5 (Berry Direct). The most recent government data from the same source and the same region show an average cost of \$1.55 million per MW. Id. at 5, citing 2017 Wind Technologies Market Report, U.S. Dep't of Energy.

Moreover, advances in wind generation technology continue “bringing costs down quite dramatically.” Tr. 1878 (Skelly). Even without the production tax credit, which phases out by the end of 2023, Mr. Skelly testified that “wind is going to cost in the low two cents,” as it did when this proceeding was first filed. Tr. 1877-78. In addition, the demand for renewable energy in Missouri, in MISO and in PJM continues to be strong. See Ex. 142 at 6 (Berry Supp. Direct); Tr. 2132-33, 2136 (Grotzinger).

Regarding the interconnection process, progress continues. Based on a January 2017 study prepared by Ameren Missouri, the necessary MISO upgrades costs are estimated at \$21 million. See Ex. 109 at 9 & Sched. AWG-9 (Galli Surrebuttal); Ex. 143 at 5 (Abebe Supp. Direct). Invenergy's internal studies have assessed these costs in a range of \$20-40, which, even at the high end, are not expected to significantly impact the economic feasibility of the Project. See Ex. 147 at 5 (Zadlo Supp. Surrebuttal). Although the Company withdrew from the MISO queue in September 2017 to conserve resources when there was no additional benefit (Tr. 1891-92, 1902-04), Mr. Abebe advised that Invenergy plans to re-enter the MISO queue during the first half of 2019. Tr. 1896. Invenergy has extensive experience with the MISO queue, having developed 23 projects totaling more than 5,000 MWs in MISO. See Ex. 147 at 5 (Zadlo Supp. Surrebuttal).

More significantly, on October 12, 2018 FERC approved MISO's proposed set of connection procedures and a connection agreement of Merchant High-Voltage Direct Current

(“MHVDC”) transmission projects like the Grain Belt Express Project. See Ex. 143 at 5 (Abebe Supp. Direct). FERC also approved MISO’s Generator Interconnection Procedures in Attachment X of its tariff, which include an injection rights construct for the use of MHVDC connection customers like the Company.¹¹ MISO will now be able to grant injection rights to generation facilities connecting to the Project’s Kansas converter station. This development provides additional commercial certainty for the Company’s converter station in Ralls County, Missouri. Id. at 5-6. Invenenergy expects to seek interconnection under MISO’s new MHVDC process and to request injections rights of 500 MW. See Ex. 147 at 5 (Zadlo Supp. Surrebuttal).

The PJM October 2014 System Impact Study is being updated in a supplemental study, referred to as a “re-tooled” study. At the present time there has been no increase in the estimated costs required to upgrade the transmission system to accommodate the 3,500 MW injection in PJM at the Illinois-Indiana border. To the contrary, as of December 2017, PJM now estimates these costs at \$464 million, with potential positive developments from other projects that should strengthen the grid at the point of interconnection. See Ex. 143 at 4-5 (Abebe Supp. Direct); Ex. 109 at 24-27 (Galli Surr.). Although it is common for study cost numbers to fluctuate, this current estimate represents a \$36 million decrease from earlier in the case when the projected cost of the PJM upgrades was \$500 million. See Ex. 109 at 26-27 (Galli Surr.).

The interconnection agreement in SPP remains in place with no changes in estimated interconnection costs. See Ex. 143 at 3-4 (Abebe Supp. Direct).

All of these facts show that the Project presents a compelling business case which, on the basis of its economics, is likely to attract transmission service customers in addition to MJMEUC and Realgy. The economic feasibility of the Project continues to be strong.

¹¹ Order Accepting Tariff Provisions, Midcontinent Indep. System Operator, Inc., No. ER18-1410, 165 FERC ¶ 561,016 (Oct. 12, 2018).

D. Grain Belt Express Has the Proper Financial Resources to Provide the Service

Grain Belt Express has sufficient financial resources to provide the services proposed by the Project as a result of the funding provided by Clean Line and by Invenergy. See Ex. 141 at 2 (Skelly Supp. Direct); Ex. 145 at 7 (Zadlo Supp. Direct); Ex. 146 at 2-6 (Hoffman Supp. Direct); Ex. 147 at 2-6 (Zadlo Supp. Surrebuttal). Staff concluded that the Company “is financially capable to construct the Project.” See Ex. 211 at 6-10 (Staff Rev. Supp. Report). No party challenged this proposition.

As Andrea Hoffman testified, Invenergy is a leading U.S.-based developer of wind, solar, and natural gas-fueled power generation projects, and is the largest privately held renewable energy provider in North America. Over the last 17 years, Invenergy has developed more than 20,220 MW of projects in the United States, Canada, Europe, Latin America, and Japan, via Invenergy’s strong relationships with over 60 financial institutions worldwide. The value of such transactions exceeds \$30 billion. See Ex. 146 at 3 (Hoffman Supp. Direct).

Consistent with its prior experience, Invenergy plans to use a combination of debt and equity to finance the Project. Specifically, Invenergy expects to engage a lender or group of lenders approximately six to nine months prior to commencement of construction to provide a construction loan for the Project. Tr. 2003 (Hoffman). The construction loan and equity capital provided by Invenergy, and potentially other investors, is expected to be sufficient for the entire construction cost of the Project. Following achievement of commercial operations, more permanent financing, such as term debt and equity financing, will rely on the contracted cash flow from the Project for repayment, and the debt will be secured by the Project’s assets and contracts. See Ex. 146 at 3-6 (Hoffman Supp. Direct); Ex. 147 at 3-4 (Zadlo Supp. Surrebuttal).

Invenergy has affirmed its concurrence with the condition agreed to by Staff and the Company that Grain Belt Express demonstrate a committed financing capacity before starting construction. See Ex. 147 at 4 (Zadlo Supp. Surrebuttal). Invenergy has also affirmed its concurrence with the condition agreed to by Staff and the Company that Invenergy will not begin to install transmission facilities on easement property until it has demonstrated through a Commission filing that it has obtained commitments for funds that are equal to or greater than the total Project cost, and that the contracted transmission service revenue is sufficient to service the debt financing of the Project, taking into account any planned refinancing of debt. See Ex. 206, § I(d); Ex. 211 at 7-8 (Staff Rev. Supp. Report).

Given the existing financial backing of the Project and the agreement by Invenergy Transmission and its affiliates to support the Project, Grain Belt Express clearly has the financial ability to provide the proposed transmission service.

E. Grain Belt Express Is Qualified to Provide the Service

Grain Belt Express is qualified to provide the service it is offering. Staff agreed, stating that it “has no reason to dispute that Grain Belt, and subsequently Invenergy, are qualified to own, operate, control and manage the Project subject to the agreed upon conditions in Staff Exhibits 205 and 206.” See Ex. 210 at 6 (2018 Report).

Mr. Zadlo testified that the management team of Invenergy has extensive experience developing, constructing, and operating a variety of transmission and other energy infrastructure projects. Invenergy’s expertise includes a complete range of fully integrated in-house capabilities, including: Project Development, Permitting, Transmission, Interconnection, Energy Marketing, Finance, Engineering, Project Construction, Operations and Maintenance. Invenergy’s senior

executives, each with more than 25 years in the energy generation industry, have worked together for more than two decades. See Ex. 145 at 6-7 & Sched. KZ-5 (Zadlo Supp. Direct).

Invenergy has built its core competencies around power plant operations and maintenance. It operates its power plant fleet through the wholly owned subsidiary, Invenergy Services. Invenergy Services is staffed with experienced industry personnel and currently operates 10,896 MW of natural gas and renewable generating capacity in North America. Combining asset management, operations, maintenance, and commercial execution functions allows Invenergy Services to provide a single, comprehensive solution to overall management of the asset. See Ex. 145 at 8 (Zadlo Supp. Direct).

Since 2001 Invenergy has built all required transmission and distribution lines, generator step-up transformers (“GSUs”), and substations for its facilities in numerous regions, including SPP, MISO and PJM. Invenergy developed, permitted and constructed this infrastructure across various terrains, state and local jurisdictions, and in vastly differing environmental and regulatory conditions. This experience adds up to over 392 miles of high-voltage transmission lines, over 1,748 miles of distribution lines, 59 substations and 73 GSUs of which several have been built for utilities. Invenergy has also negotiated leases and easements with over 13,000 landowners constituting over 10 million acres. Id. at 6-12 (Zadlo Supp. Direct).

Regarding RTO interconnection issues, Invenergy has extensive experience with the MISO queue, having developed 23 projects in the RTO’s footprint. Invenergy is also an active participant in MISO’s Interconnection Process Working Group and currently has over 60 active requests in the queue. Grain Belt Express and Invenergy are committed to completing the RTO studies for the Project and providing Staff with RTO interconnection agreements and associated studies when

they become available. See Ex. 143 at 5-6 (Abebe Supp. Direct); Ex. 147 at 4-5 (Zadlo Supp. Surrebuttal).

Additionally, Invenergy has contracted for construction work on its renewable energy projects in a variety of manners ranging from executing full engineering, procurement and construction (“EPC”) contracts to executing individual specialty contracts with engineering, construction, and supply firms. For renewable projects such as the Grain Belt Express Project, Invenergy typically executes separate major component procurement contracts, electrical engineering contracts, balance of plant type construction contracts, and high-voltage substation and transmission line contracts. These contracts are executed and managed by Invenergy project management teams based in Chicago and Invenergy site management teams based in the field. Invenergy’s Art Fletcher will oversee all project engineering and construction activities, including the management of a top tier construction firm contracted to build the facility. See Ex. 145 at 9-11 (Zadlo Supp. Direct).

Upon acquisition of the Project, Invenergy plans to evaluate existing contracts in place, and the contractor chosen by Invenergy will have the qualifications and discussed by Mr. Shiflett in his direct testimony, and Invenergy will follow the emergency response and restoration best practices that he generally describes. See Ex. 145 at 10-12 & Sched. KZ-5 (Zadlo Supp. Direct); Ex. 121 at 14-16 & Sched. TFS-5 (Shiflett Direct).

Because the Invenergy management team and the outside firms supporting the Project have extensive experience developing, constructing and operating a variety of transmission and other energy infrastructure projects, the Company is qualified to provide the service it is offering.

F. The Project Is In the Public Interest

The final public interest factor calls for the Commission to evaluate all of the prior four Tartan factors, as it weighs the interests of all stakeholders to determine what is in the best interest of the general public as a whole. See State ex rel. Public Water Supply Dist. v. PSC, 600 S.W.2d 147, 156 (Mo. App. W.D. 1980); Missouri Pacific Freight Transport Co. v. PSC, 288 S.W.2d 679, 682 (Mo. App. K.C. 1956); In re Union Elec. Co. for Auth. to Construct the Callaway-Franks Line, 2003 WL 22017276 at *15 (Mo. P.S.C. 2003).

This Commission recognized that the Project is in the best interest of the general public in its Concurring Opinion where four Commissioners found that the evidence demonstrated that the Project would create “both short-term and long-term benefits to ratepayers and all citizens of the state.” See Concurring Opinion at 5 (Aug. 16, 2017). Noting “the broad economic, environmental, and other benefits of the project to the entire state of Missouri,” a majority of the Commission stated it would have granted the Application of Grain Belt Express with conditions but for the ATXI case, which has now been overruled by the Missouri Supreme Court. Id. at 2, 5.

As discussed in the Company’s Initial Post-Hearing Brief, the Project is economically feasible, and will lower production costs and improve reliability. See Initial Post-Hearing Brief of Applicant at 53-57. Grain Belt Express, and now Invenergy, have committed to undertake the Project pursuant to the conditions of Exhibit 206 (with Staff) and Exhibit 205 (with Rockies Express Pipeline), as well as under the comprehensive Landowner Protocol, the Missouri Agricultural Mitigation Protocol, and its decommissioning fund proposal. Id. at 59-64. Clearly, the Project is in the public interest.

IV. Conditions Related to the Project

A. Conditions Agreed to by Staff and Grain Belt Express

Staff and the Company agreed to seven categories of conditions which are set forth in Exhibit 206. The Company also agreed to a series of conditions with Rockies Express Pipeline LLC regarding the construction and operation of the Project in Exhibit 205. Both exhibits are appended to this Brief as Attachments A and B. Under Section 393.170.3, the Commission has the power to “impose such condition or conditions as it may deem reasonable and necessary” to serve the public interest.

1. Financing Conditions

The financial conditions contained in Section I of Exhibit 206 are thorough and comprehensive. The first provision in this section provides that Grain Belt Express “will not install transmission facilities on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of this multi-state transmission project.” See Ex. 206, §I(1). The documentation required to verify compliance with this condition is specifically enumerated. Id., § I(1)(a)-(d).

In addition, Staff, the Company, and Invenenergy stipulated that Invenenergy Investment and Invenenergy Transmission shall cooperate with Staff in providing reasonable access to its unredacted consolidated financial records (including *in camera* review of notes to financial statements) until the completion or official abandonment of the Project. Tr. 1964 (stipulation); Tr. 2024 (Zadlo).

2. Easement Acquisition and Construction

Staff had initially recommended that the Commission require the Company to comply with the conditions in Exhibits 206 (with Staff) and 205 (with Rockies Express) “prior to acquiring involuntary easements or starting construction of the transmission line.” See Staff Position Statement at 2. Testimony regarding this proposal at the hearing indicated that complying with

certain construction and post-construction conditions would be impossible prior to obtaining involuntary easements or starting construction on the Project. Tr. 2075-76 (Zadlo). It could also prevent conducting geotechnical surveys on a parcel and the securing of financing. Tr. 2143-44 (Detweiler). Finally, it would also be inconsistent with Section I(1) of Exhibit 206, quoted in the 2018 Staff Report, which relates to securing such financing without regard to obtaining easements. Tr. 2099-2100 (Murray Re-Cross).

In response to the comments of Commissioner Hall, Grain Belt Express and Staff agreed to the following condition which addresses his questions regarding what would happen to involuntary easements if the Project was not completed (Tr. 2153-54):

If Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”) acquires any involuntary easement in Missouri by means of eminent domain proceedings (“easement”) and does not obtain the financial commitments referred to in Section I(1) and Section I(1)(a) of the Conditions Agreed to by Grain Belt Express and Staff (Exhibit 206) within five years of the date that such easement rights are recorded with the appropriate county recorder of deeds, the Company agrees to return possession of the easement to the fee simple title holder (“title holder”) within 60 days and to cause the dissolution of the easement to be recorded with the county recorder of deeds. In the event of such a return of the easement to the title holder, no reimbursement of any payment made by Grain Belt Express to the title holder shall be due.

If the financial commitments required by Section I of Exhibit 206 are not obtained, and the Project does not go forward, the involuntary easements will be dissolved and the status of the landowner’s title will revert to what it was prior to the easement being recorded. This condition addresses the concerns of Staff regarding involuntary easements and replaces the condition referred to above on page 2 of Staff’s Position Statement.

3. Engineering Studies

The Company and Invenergy have agreed with Staff that the conditions in Exhibit 206 and Exhibit 206 are subject to a demonstration to the Commission that any outstanding studies do not

raise any new issues and if they do, the Commission is satisfied with the Company's solution to address those issues. Tr. 2025 (Zadlo).

4. Material Design and Engineering Changes

The Company and Invenergy have also agreed that if there are any material changes in the design and engineering of the Project from what is contained in the Application, Grain Belt Express will file an updated application subject to further review and determination by the Commission. See Reply Brief of Applicant at 46 (Apr. 24, 2017); Tr. 2025-26 (Zadlo).

B. Grain Belt Express - Rockies Express Pipeline Conditions

The conditions agreed to by Grain Belt Express with Rockies Express Pipeline LLC in Exhibit 205 are unchanged. Several of the conditions agreed to in Exhibit 205 reflect similar agreements with Staff in Section III ("Nearby Utility Facilities") of Exhibit 206.

C. Incorporating the Landowner Protocol into ROW Easements

Grain Belt Express agreed earlier in the case to incorporate the terms and obligations of the Missouri Landowner Protocol in the easement agreements with landowners. See Tr. 411-13 (Lanz); Ex. 114 at 5 (Lanz Surrebuttal). The Company further agreed that it would follow the Protocol as a condition to the CCN. Tr. 158 (Skelly). Among the seven sections of the Protocol are provisions relating to a code of conduct, updating land values, agricultural mitigation policies, binding arbitration, and a decommissioning fund. See Sched. DKL-1, Ex. 113 (Lanz Direct).¹²

The Company and Invenergy have reaffirmed these commitments. Tr. 1979-80 (Detweiler).

¹² The Code of Conduct is Schedule DKL-2 to Ms. Lanz's direct testimony (Ex. 113). The Agricultural Impact Mitigation Protocol is Schedule JLA-2 to Dr. James Arndt's direct testimony (Ex. 101).

D. Staff Conditions not Agreed to by the Company

Earlier in the case, Staff proposed three other conditions that Grain Belt Express did not agree to.

Staff requested that the Company agree not to seek RTO cost allocation for any portion of the Project under any circumstances and not to present such a request to the Commission in a future proceeding. See Staff Report, Ex. 200 at 30-31. Although the Company has stated that it has no present intention to seek cost allocation of the Project, it wishes to retain the ability to ask the Commission to review any RTO cost-allocation proposal for the Project based upon the standard cost-allocation process that RTO's follow. Under this scenario, the Commission would then determine whether such a cost allocation proposal would benefit Missouri electric utility customers and, of course, have the authority to deny such a request, making Staff's disagreement with the Company on this condition a non-substantive, "academic" debate. See Ex. 104 at 9 (Berry Direct); Ex. 105 at 4 (Berry Surrebuttal); Tr. 925-26 (responses to Chairman Hall). The language proposed by the Company reserving this ability is contained in Schedule DAB-9 (p. 11) to Mr. Berry's surrebuttal (Exhibit 105).

Secondly, Staff asked the Company to agree to a condition to its CCN whereby it would agree to submit a modified plan to address congestion issues should the ATXI Mark Twain Project not proceed as planned. See Staff Report, Ex. 200 at 7. The Company disagreed with this condition because the development of any plans to address such a hypothetical issue would be the responsibility of the relevant RTO, not the entity that proposes to build a project. See Ex. 109 at 42 (Galli Surrebuttal). The Company agreed to cooperate with such planning efforts if they occur. See Sched. DAB-9 (p. 11), Ex. 105 (Berry Surrebuttal).

Finally, Staff proposed that the Company's offer to establish a decommissioning fund for the Project begin when it commences commercial operation, similar to that of a nuclear generating

plant. See Staff Report, Ex. 200 at 44-45. There has never been a transmission line decommissioning fund established with regard to any electric transmission project. Tr. 1355 (Beck). The Company’s unprecedented offer provided that a decommissioning fund would be established no earlier than the 20th anniversary of the completion of the Project, with the advice of an independent engineering firm that could then more accurately estimate the cost of such a fund. See Ex. 113 at 12-13 (Lanz Direct); Tr. 942-43 (Berry responding to Bench questions). As Staff witness Mr. Beck stated, this Commission has never required a decommissioning fund in connection with granting a CCN to a transmission line. Tr. 1354. He was only aware of decommissioning funds being established regarding nuclear generating plants, and was aware of no transmission line ever being decommissioned in its first 20 years of operation. Tr. 1354-55 (Beck). Transmission lines present different circumstances than nuclear generating plants, particularly with regard to radioactive fuel, and related storage and disposal issues. See Ex. 114 at 9 (Lanz Surrebuttal). There is no need to modify the Company’s plan to establish a decommissioning fund for the Project.

E. Commission Question Regarding Conditioning the CCN on the Operational Readiness of the Missouri Converter Station

Shortly after the 2017 evidentiary hearing, the Commission issued an order that the parties address this question: “If the Commission wanted to condition the effectiveness of the CCN on the actual construction of the proposed converter station and the actual delivery of 500 MW of wind to the converter station, how would it do so?” See Order Directing Filing Regarding Initial Briefs (Mar. 28, 2017).

Under Section 393.170.1, a CCN is required for an “electrical corporation ... [to] begin construction of ... electric plant” Under Section 386.020(14) “electric plant” includes assets

like the Missouri converter station and the transmission line itself.¹³ Therefore, a CCN, even with conditions, must be issued so that the Grain Belt Express Project can be constructed.

Grain Belt Express believes that the Commission may condition the CCN on the Company's constructing the proposed Missouri converter station to be capable of the actual delivery of 500 MW of wind power to the converter station.

This would be consistent with the Section II(1) of the Conditions that Staff and the Company agreed to regarding pre-operational compliance with NERC standards and other safety requirements in Ex. 206, as well as with the general concept of new plant fulfilling in-service criteria. This would also be consistent with Section III(2)-(3) of Ex. 206 regarding certain demonstrations that must be made with regard to nearby utility facilities prior to the Project commencing operations.

V. The Commission Should Waive the Reporting Requirements of Rules 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175, and 3.190(1), (2) and (3)(A)-(D)

Pursuant to 4 CSR 240-2.060(4)(B), the Commission may waive a rule for good cause. "Good cause means a good faith request for reasonable relief." In re Application of Transource Missouri, LLC for a Certificate of Convenience and Necessity, Case No. EA-2013-0098, Report and Order at 9 (Aug. 7, 2013), citing American Family Ins. v. Hilden, 936 S.W.2d 207, 210 (Mo. App. W.D. 1996). The Company requested that the Commission waive the reporting requirements of 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175, and 3.190(1), (2) and (3)(A)-(D).

Grain Belt Express agreed in Paragraph 76 of the Application to file with the Commission its annual report that is filed at the Federal Energy Regulatory Commission, which the Company

¹³ Section 386.020(14) defines "electric plant" to include "all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the ... transmission of electricity ... and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity"

believes complies with 4 CSR 240-3.165. Because the Missouri Facilities will not provide retail service to end-use customers and will not be rate-regulated by the Commission, good cause exists to waive these requirements, and no public utility will be affected by their waiver. See Application at ¶ 78.

The Commission has similarly waived reporting requirements when it granted line CCNs to ITC Midwest LLC,¹⁴ Entergy Arkansas, Inc.,¹⁵ and Transource Missouri, LLC.¹⁶ These public utilities currently operate or will operate exclusively wholesale transmission facilities in Missouri with no retail customers.

VI. Conclusion

Because the Company meets each of the five Tartan criteria, the Project is necessary or convenient for the public interest. Accordingly, the Commission should issue an order granting Grain Belt Express a certificate of convenience and necessity:

(1) To construct, own, operate, control, manage, and maintain the HVDC Line in Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe, and Ralls Counties along the proposed route specified in Exhibit 2 to the Application, and to allow for minor deviations in the final route depending on landowner requests, surveying results, engineering considerations, environmental permitting activities, and other routing factors.

(2) To construct, own, operate, control, manage, and maintain a converter station and associated AC facilities in Ralls County to interconnect with the Maywood-Montgomery 345 kV transmission line.

¹⁴ In re Application of Interstate Power and Light Co. and ITC Midwest LLC for Approval to Transfer CCN and Transmission Line Facilities, Case No. EO-2007-0485, Order Granting Certificate of Convenience, Granting Variances from Certain Commission Rules, and Authorizing Sale of Assets at 5 (Aug. 30, 2007).

¹⁵ In re Application of Entergy Arkansas, Inc. for a Certificate of Convenience and Necessity, Case No. EA-2012-0321, Order Granting Certificate of Convenience and Necessity at 3 (July 11, 2012).

¹⁶ In re Application of Transource Missouri, LLC for a Certificate of Convenience and Necessity, Case No. EA-2013-0098, Report and Order at 13, 26 (Aug. 7, 2013).

Because the Company in its continued effort to work with all interested parties has agreed to a multitude of conditions to its certification to construct, own, operate, control, manage, and maintain the Missouri Facilities, any conditions imposed by the Commission on its CCN should be limited to those discussed in Section IV above.

Finally, Grain Belt Express has demonstrated the necessary good cause for the Commission to waive the reporting requirements of 4 CSR 240-3.145, 4 CSR 240-3.175, and 3.190(1), (2) and (3)(A)-(D). Consequently, the Commission should waive these requirements when it issues the CCN in this case.

For the foregoing reasons, the Application of Grain Belt Express to construct, own, operate, control, manage, and maintain the Missouri Facilities should be granted.

Dentons US LLP

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ATTORNEYS FOR GRAIN BELT EXPRESS
CLEAN LINE LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid, this 9th day of January 2019.

/s/ Karl Zobrist
Attorney for Grain Belt Express Clean Line LLC

ATTACHMENT A

FILED
March 30, 2017
Data Center
Missouri Public
Service Commission

CONDITIONS AGREED TO BY GRAIN BELT EXPRESS CLEAN LINE LLC AND THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

In re Grain Belt Express Clean Line LLC, No. EA-2016-0358

Based on the conditions and recommendations in the Staff Rebuttal Report submitted on January 24, 2017, and subsequent discussions between the Staff of the Missouri Public Service Commission ("Staff") and Grain Belt Express Clean Line LLC ("Grain Belt"), Staff and Grain Belt have agreed to the following conditions.

I. Financing Conditions (Staff Rebuttal Report at 63-64)

1. Grain Belt will not install transmission facilities on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of this multi-state transmission project. To allow the Commission to verify compliance with this condition, Grain Belt shall file the following documents with the Commission at such a time as Grain Belt is prepared to begin to construct electric transmission facilities in Missouri:

(a) On a confidential basis, equity and loan or other debt financing agreements and commitments entered into or obtained by Grain Belt or its parent company for the purpose of funding Grain Belt's multi-state transmission project that, in the aggregate, provide commitments for the total project cost.

(b) An attestation by an officer of Grain Belt that Grain Belt has not, prior to the date of the attestation, installed transmission facilities on easement property; or a notification that such installation is scheduled to begin on a specified date.

(c) A statement of the total multi-state transmission project cost, broken out by the categories of engineering, manufacturing and installation of converter stations; transmission line engineering; transmission towers; conductor; construction labor necessary to complete the project; right-of-way acquisition costs; and other costs necessary to complete the project, and certified by an officer of Grain Belt, along with a reconciliation of the total project cost in the statement to the total project cost as of the Application of \$2.35 billion; and property owned in fee by Grain Belt including the converter station sites.

(d) A reconciliation statement certified by an officer of Grain Belt showing that (1) the agreements and commitments for funds provided in subsection (a), above, are equal to or greater than the total project cost provided in subsection (c), above; and (2) the contracted transmission service revenue is sufficient to service the debt financing of the project (taking into account any planned refinancing of debt).

II. Interconnection Studies and Safety (Staff Rebuttal Report at 64, 67)

1. Grain Belt will provide Staff with completed RTO Interconnection Agreements and any associated studies. Should the studies raise new issues, Grain Belt will provide its plan to address those issues.

PSC Staff Exhibit No. Staff Ex 206
Date 3-20-17 Reported KB
File No. EA-2016-0358

2. Grain Belt will provide to the Commission completed documentation of the Grain Belt plan, equipment, and engineering drawings to achieve compliance with NERC standards for a project of this scope and size, the National Electric Safety Code for a project of this scope and size, 4 CSR 240-18.010, the Overhead Power Line Safety Act (Section 319.075-.090), and any other applicable Missouri state law for a project of this scope and size prior to the commercial operational date of the Project.

III. Nearby Utility Facilities (Staff Rebuttal Report at 64-66)

1. Grain Belt shall use commercially reasonable efforts (as defined below) to obtain detailed location information on each existing underground utility plant, either crossed by or in close proximity to its proposed route, and to contact and coordinate with the owners of each such facility prior to construction.

(a) Grain Belt intends to undertake several related steps to obtain information about underground utilities. Grain Belt intends to hire a qualified survey firm with experience in locating underground utilities. Prior to field survey, Grain Belt intends to assemble desktop information about underground utility locations along the project route. This desktop information may be assembled by the survey firm, by a different contractor, or by Grain Belt itself. The desktop information will draw from both public and proprietary sources. Publicly available sources may include, but are not limited to, databases maintained by State utility regulatory bodies, Railroad Commissions, Departments of Transportation, Oil & Gas Commissions, Departments of Natural Resources, Municipal Utility Districts, Rural Water Districts, County Engineering Offices, and Electric Cooperatives. Proprietary sources may include, but are not limited to, databases and mapping information such as those maintained by Ventyx or Platts, and GIS or CAD files maintained by underground utility owners and provided to Grain Belt. In advance of field operations Grain Belt will engage in detailed title research to identify all easements of record for each parcel of land traversed by the Grain Belt Project. Field survey will utilize one or more detection methods to "sweep" sections of the right-of-way for underground utilities. These methods may include, but are not limited to: identification of above-ground staking or signage, magnetic, sonic and acoustic technologies, ground penetrating radar, radio frequency detection, and vacuum excavation. The extent of survey coverage will be determined by consulting with the project engineering and construction contractors.

(b) Commercially reasonable efforts, in the context of obtaining information about underground utility plant, are efforts sufficient to identify nearby infrastructure at specific excavation locations for the Project facilities (e.g., foundations for transmission line structures), as well as nearby infrastructure that can be identified using the aforementioned methods within the right-of-way of the Project, as specified by the project engineering and construction contractors, coordination with the utility owner, and applicable laws and regulations. "Commercially reasonable" in this context does not refer to a specific or maximum dollar amount.

2. Grain Belt will show the Commission, before it begins commercial operation of any part of the multi-state Project, that it built the entire multi-state Grain Belt proposed HVDC transmission line with dedicated metallic return conductors which are operational and that the entire multi-state Project has operational protection and control safety systems that automatically

de-energize the Project within approximately 150 milliseconds of when an abnormal or fault condition occurs.

3. Grain Belt will perform engineering studies to determine if the operation of the Grain Belt proposed HVDC transmission line, the Grain Belt proposed Missouri converter station, and the Grain Belt-owned portion of the AC electric transmission line connecting the Grain Belt proposed Missouri converter station to the AC grid have adverse impacts on nearby facilities. These engineering studies must include, but not be limited to the following:

- (a) the effects of tower footing groundings, if used;
- (b) analysis of metallic underground facilities;
- (c) other AC power lines and telecommunications facilities that are located within a distance from the Grain Belt proposed HVDC transmission line, as determined by an appropriately qualified expert, where there may be adverse effects on the facilities;
- (d) a determination whether there are locations where the Grain Belt proposed HVDC transmission line parallels a pipeline and an existing AC power line and, if so, whether there are any combined effects on steel pipelines (and other underground metallic facilities); and
- (e) the effects of Grain Belt proposed transmission line(s) connecting the Grain Belt proposed Missouri converter station to the AC grid.

If any of these studies show that mitigation measures are identified/needed, those measures must be in place prior to commercial operation of the Grain Belt proposed transmission line.

These studies must be made available to Staff and affected facility owners at least 45 days prior to commercial operation of the Grain Belt proposed HVDC transmission line.

Grain Belt must disclose to Staff and affected facility owners how the parameters for conducting the studies were determined (e.g., continuous 24-hour recordings at a certain time of year).

These studies must be conducted by persons knowledgeable in: (1) HVDC power lines; (2) DC-to-AC converter stations; (3) Pipeline cathodic protection systems; (4) Corrosion of underground metallic facilities; (5) Interference with AC utility lines; (6) Interference with telecommunications facilities; (7) Effects of DC and AC interference on the facilities identified in Exhibit 3, as amended by Grain Belt's Addendum to the Application, and all additional facilities subsequently identified.

4. Grain Belt must file "annual status updates" on discussions with Staff regarding need for additional studies of the impacts of its facilities on other facilities in Missouri, a summary of the results of any additional studies, and any mitigation measures that have been implemented to address underground metallic structures, telecom facilities and AC lines. Mitigation measures indicated by future studies must be implemented within three (3) months of discovery that additional mitigation measures are needed, or as quickly as reasonably practical thereafter.

IV. Emergency Restoration Plans (Staff Rebuttal Report at 66)

1. Grain Belt must provide a copy of the final Grain Belt Emergency Restoration Plan to the Commission prior to the commercial operations date for the Grain Belt Project.

V. Construction and Clearing (Staff Rebuttal Report at 67-68)

1. Prior to construction, Grain Belt will notify all landowners in writing of the name and telephone number of Grain Belt's Construction Supervisor so that they may contact the Construction Supervisor with questions or concerns before, during, or after construction. Such notice will also advise the landowners of the expected start and end dates of construction on their properties.

2. Prior to construction, Grain Belt's Construction Supervisor will personally contact each landowner (or at least one owner of any parcel with multiple owners) to discuss access to the right-of-way on their parcel and any special concerns or requests about which the landowner desires to make Grain Belt aware.

3. From the beginning of construction until end of construction and clean-up of the right-of-way is complete, Grain Belt's Construction Supervisor will be on-site, meaning at or in the vicinity of the route, or on-call, to respond to landowner questions or concerns.

4. If requested by the landowner, Grain Belt will cut logs 12" in diameter or more into 10 to 20 foot lengths and stack them just outside the right-of-way for handling by the landowner.

5. Stumps will be cut as close to the ground as practical, but in any event will be left no more than 4" above grade.

6. Stumps will be treated to prevent regrowth consistent with industry best practices. Vegetation treatments will consider vegetation types, site specific land uses, and any environmental sensitivities. Grain Belt will notify all landowners of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property.

7. Unless the landowner does not want the area seeded, disturbed areas will be reseeded consistent with reclamation best practices in consultation with landowners, restoration specialists, and government agencies.

8. Best management practices will be followed to minimize erosion, with the particular practice employed at a given location depending upon terrain, soil, and other relevant factors.

9. Gates will be securely closed after use.

10. Should Grain Belt damage a gate, Grain Belt will repair that damage.

11. If Grain Belt installs a new gate, Grain Belt will either remove it after construction and repair the fence to its pre-construction condition, or will maintain the gate so that it is secure against the escape of livestock.

12. Grain Belt will utilize design techniques intended to minimize corona.

13. Should a landowner experience radio or television interference issues believed by the landowner to be attributed to Grain Belt's line, Grain Belt will work with the landowner in good faith to attempt to solve the problem.

14. Grain Belt will clearly mark guy wires.

VI. Maintenance and Repair (Staff Rebuttal Report at 68-69)

1. With regard to future maintenance or repair and right-of-way maintenance after construction is completed, Grain Belt will make reasonable efforts to contact landowners prior to entry onto the right-of-way on their property to advise the landowners of Grain Belt's presence, particularly if access is near their residence.

2. All Grain Belt contractors will be required to carry and maintain a minimum of one million dollars of liability insurance available to respond to damage claims of landowners. All contractors will be required to respond to any landowner damage claims within 24 hours. All contractors will be required to have all licenses required by state, federal, or local law.

3. If herbicides are used, only herbicides approved by the EPA and any applicable state authorities will be used, and herbicides will be used in strict compliance with all labeling directions.

4. Routine maintenance will not occur during wet conditions so as to prevent rutting.

5. Existing access roads will be used to access the right-of-way wherever available.

6. Prior to commencing construction, Grain Belt will notify all landowners in writing of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property. Grain Belt will personally meet with each landowner who requests such a meeting to determine if the landowner does or does not want herbicides used on the landowner's property. If the landowner does not want herbicides used, they will not be used.

VII. Landowner Interactions and Right-of-Way Acquisition (Staff Rebuttal Report at 43-45, 69)

1. The certificate is limited to the construction of this line in the location specified in the application, and as represented to the landowners on the aerial photos provided by Grain Belt, unless a written agreement from the landowner is obtained, or the company gets a variance from the Commission for a particular property, provided, however, minor deviations to the location of the line not exceeding 500 feet will be permitted as a result of surveying, final engineering and design, and landowner consultation, so long as the line and required easements stay within the property boundaries of that landowner and do not involve a new landowner.

2. Absent a voluntary agreement for the purchase of the property rights, the transmission line shall not be located so that a residential structure currently occupied by the property owners will be removed or located in the easement requiring the owner to move or relocate from the property

3. Grain Belt shall survey the transmission line location after construction and record the easement location with the Recorder of Deeds in the appropriate counties. Grain Belt shall also file a copy of its survey in this case.

4. Every landowner from whom Grain Belt requires an easement will be contacted personally, and Grain Belt will negotiate with each such landowner in good faith on the terms and conditions of the easement, its location, and compensation therefor. Each landowner will receive an Easement Agreement pertaining to such landowner's land, which Easement Agreement will contain a drawing that shows the location of the easement.

5. After construction is completed, every landowner will be contacted personally to ensure construction and clean-up was done properly, to discuss any concerns, and to settle any damages that may have occurred.

6. If a landowner so desires, Grain Belt will give the landowner a reasonable period of time in advance of construction to harvest any timber the landowner desires to harvest.

7. Grain Belt's right-of-way acquisition policies and practices will not change regardless of whether Grain Belt does or does not yet possess a Certificate of Convenience or Necessity from the Commission.

ATTACHMENT B

FILED
March 30, 2017
Data Center
Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Psc Staff Exhibit No. 205
Date 3-21-17 Reporter KJB
File No. EA-2016-0358

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, Operate, Control, Manage)
And Maintain a High Voltage, Direct Current) Case No. EA-2016-0358
Transmission Line and an Associated Converter)
Station Providing an Interconnection on the)
Maywood-Montgomery 345 kV transmission line.)

GRAIN BELT EXPRESS RESPONSE TO ROCKIES EXPRESS PIPELINE LLC'S FIRST SET OF DATA REQUESTS TO GRAIN BELT EXPRESS CLEAN LINE LLC

Grain Belt Express Clean Line LLC ("GBX") states the following in response to the data requests propounded by Rockies Express Pipeline LLC ("REX"):

1. GBX's application and the testimony and schedules filed in support propose preferred and alternative routes for GBX's high voltage, direct current electric transmission line and associated converter station (the "HVDC Project") that may involve multiple crossings of, and run parallel to, REX's existing high pressure natural gas pipeline (the "Pipeline"). None of said filings address the potential impacts of GBX's HVDC Project on REX's Pipeline, however. It is REX's position that it is not permissible to design, construct or operate GBX's HVDC line in a manner that would pose a risk to the safety or integrity of REX's pipeline. Does GBX support REX's position?

RESPONSE: Yes.

2. REX intends to study the potential impacts of the HVDC Project on the Pipeline. However, the testimony of GBX's witnesses, Anthony Wayne Galli and Thomas F. Shiflett, and the schedules attached thereto, indicate that the design and engineering of the HVDC project is still in a preliminary state. If comprehensive engineering and design work for the HVDC Project have yet to commence, please answer the following:

a) At what identifiable stage or step during the HVDC Project engineering and design work processes does GBX believe that potential impacts of the HVDC Project to the Pipeline may be determined?

RESPONSE: The appropriate time to begin studies would be after the final route alignment and structure spotting exercises are completed. Once a route is approved, significant engineering activities will begin on an engineering commencement date to determine structure locations. At that time enough detail will be available to perform the studies to determine if any mitigation measures will be necessary.

- b) Does GBX intend to give REX prompt, advance notice that the stage or step identified in GBX's answer to the immediately preceding question is about to commence?

RESPONSE: Yes.

- c) REX anticipates that it will need technical information about the HVDC Project, as well as information about how GBX intends to operate the HVDC Project, in order for REX to study how the HVDC Project might impact the safety or integrity of the Pipeline. Does GBX intend to share such technical and operational information as REX may reasonably request for this purpose? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes, subject to the execution of confidentiality agreements to protect such information.

- d) If GBX's answers to questions b) and c) are in the affirmative, will GBX collaborate with REX to study how the HVDC Project might impact the safety or integrity of the Pipeline? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes.

3. After studying the HVDC Project, REX's pipeline safety engineers may determine that monitoring, testing and/or mitigation steps are required in order to safeguard the Pipeline from potential adverse effects of the HVDC Project. Does GBX agree that in such event, GBX should be responsible for the costs of installing and operating such monitoring and testing equipment and mitigation measures? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes, GBX should be responsible for all such costs warranted by reasonable engineering and commercial practices.

4. State whether GBX would be responsible for all direct damages to REX proximately caused by construction and/or ongoing operation of the HVDC Project, including direct damages from fault currents.

RESPONSE: Yes, GBX would be responsible.

VERIFICATION OF RESPONSE

The answers provided to this Set of Data Requests have been collected from various sources at Clean Line Energy Partners LLC and Grain Belt Express Clean Line LLC, and are true and accurate to the best of my knowledge and belief.

Signed:  _____

Position: GENERAL COUNSEL

Clean Line Energy Partners LLC

Date: 12/16/17