

Exhibit No.: _____
Issues: Eminent Domain
Witness: Garrett Hawkins
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Missouri Farm Bureau
Case No.: EA-2023-0017
Date Testimony Prepared: April 19, 2023

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

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

**REBUTTAL TESTIMONY OF
GARRETT HAWKINS
ON BEHALF OF
THE MISSOURI FARM BUREAU
APRIL 19, 2023**

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

**REBUTTAL TESTIMONY OF GARRETT HAWKINS
ON BEHALF OF THE
MISSOURI FARM BUREAU
APRIL 19, 2023**

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Purpose of Testimony.....	1
II. Missouri Farm Bureau's Interest in Eminent Domain.....	1
III. Conclusion.....	7

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

2 **Q1. Please state your name, position, and business address.**

3 A. My name is Garrett Hawkins, and I am president of Missouri Farm Bureau. My
4 business address is 701 South Country Club Drive, Jefferson City, MO, 65109.

5 **Q2. Please describe your experience and qualifications.**

6 A. I am a farmer from St. Clair County, Missouri, and was first elected president of
7 Missouri Farm Bureau at our annual meeting in December 2020. I previously served
8 as director of national legislative programs for Missouri Farm Bureau for nearly 15
9 years, and also served as deputy director of agriculture for the State of Missouri from
10 2017 to 2019.

11 **Q3. On whose behalf are you appearing in this proceeding?**

12 A. I am appearing on behalf of the Missouri Farm Bureau.

13 **Q4. Please describe the scope and purpose of your testimony.**

14 A. I will address the direct testimony of Grain Belt witnesses regarding their assertions
15 that Grain Belt’s proposed Tiger Connector project is necessary or convenient for the
16 public, and that Grain Belt’s proposed use of eminent domain for the Tiger Connector
17 project would serve the public interest. Specifically, I will discuss Missouri Farm
18 Bureau's opposition to Grain Belt's Application for a Certificate of Convenience and
19 Necessity in the context of our commitment as an organization to the protection of
20 property rights relative to eminent domain.

21 **II. MISSOURI FARM BUREAU’S INTEREST IN EMINENT DOMAIN**

22 **Q5. Why is the Missouri Farm Bureau interested in eminent domain?**

1 A. Protection of property rights is among the most fundamental beliefs expressed in our
2 policy positions. Missouri Farm Bureau has a longstanding policy pertaining to
3 various aspects of property rights, including the use of eminent domain. I will
4 highlight the following excerpts (underlined) from our current policy, and the entire
5 policy pertaining to eminent domain is included in my written testimony:

6 *The government acquisition of land and buildings should be severely restricted in*
7 *cases where reasonable alternatives are available. We oppose the acquisition of land*
8 *and buildings from an unwilling seller simply to keep development within a particular*
9 *political boundary.*

10 *We support Missouri's eminent domain reform law, which strengthens the protection*
11 *of landowners from condemnation with assurance that needed rural infrastructure*
12 *such as roads, power lines, and water and sewer lines can be built in a timely and*
13 *economical manner with equitable compensation granted to all affected landowners.*

14 *We believe entities with condemnation authority should be required to consider*
15 *alternate routes and to directly notify and publicly disclose routes for proposed right-*
16 *of-way expansion to affected landowners.*

17 *We oppose the use of eminent domain for the acquisition of land to be resold to*
18 *private owners or for the transfer of property from one private entity to another for*
19 *the purpose of economic development. We believe that easements acquired by an*
20 *entity with condemnation authority should return to the landowner if unused after*
21 *seven years. We oppose granting domain authority to cable companies or any other*
22 *entities that do not already have eminent domain authority.*

1 We believe eminent domain authority should not be used for purposes of private
2 development or recreational facilities, and the term “public use” in eminent domain
3 statutes and the state constitution excludes these purposes.

4 We support further restrictions on the use of eminent domain to acquire blighted
5 property in both urban and rural areas.

6 We believe landowners in eminent domain cases should have five years from the time
7 of the original settlement in which to negotiate claims for damage from construction
8 and maintenance that may not have been confirmed at the time of the initial
9 settlement.

10 We believe that when it becomes necessary for any city to condemn private property
11 outside the city limits, for any authorized purpose, the governing body of the city must
12 first be required to obtain the approval of the county commission of the county
13 containing such property.

14 We support changes to the Missouri Constitution which promote our established
15 policy on property rights. Furthermore, if deemed to be a valuable tool to that end,
16 we support the use of a Missouri Farm Bureau initiated initiative petition process to
17 effect those changes.

18 Missouri Supreme Court rulings have upheld key provisions of Missouri’s eminent
19 domain reform law enacted in 2006. If legal challenges weaken the law, we support
20 necessary modifications to protect property rights.

21 We support Missouri strengthening state statutes to adopt an Agriculture Impact
22 Mitigation Agreement (AIMA) program to better protect landowners subject to utility

1 projects that impact agricultural land, and help restore land to pre-construction
2 conditions.

3 **Q6. Why did Missouri Farm Bureau adopt this Policy?**

4 A. Significant portions of this policy were adopted by Missouri Farm Bureau members
5 following the 2005 U.S. Supreme Court ruling in *Kelo v. City of New London*. This
6 ruling prompted an overwhelming public outcry nationwide against allowing the
7 transfer of private property from one owner to another through the condemnation for
8 economic development purposes. Missouri Farm Bureau also served on the Eminent
9 Domain Task Force appointed in 2005 by then Governor Matt Blunt to review state
10 statutes in the wake of the *Kelo* ruling. Subsequently, we worked successfully with
11 legislators from both houses and both parties to enact significant eminent domain
12 legislation based on the task force's recommendations. The state law enacted in 2006
13 and subsequent court rulings have affirmed Missourians' deeply held belief that
14 eminent domain power should be tightly controlled and used only when absolutely
15 necessary for public purposes and not for economic development purposes. Since
16 those initial reforms, Missouri's agricultural associations, including Missouri Farm
17 Bureau, the Missouri Cattlemen's Association, Missouri Corn Growers' Association,
18 Missouri Soybean Association and Missouri Pork Association, continue to advocate
19 for landowners and for further reform to prevent eminent domain abuse.

20 **Q7. Why do Missouri's agricultural associations so strongly oppose the use of**
21 **eminent domain in this case?**

22 A. Missouri's agricultural associations oppose the Grain Belt Express wind energy
23 project because of its private, out-of-state, merchant transmission line business

1 structure and its use of eminent domain to condemn private property. Grain Belt's
2 primary purpose is not to serve Missouri customers, but rather, to drop a small portion
3 of electricity in our state en route to lucrative east coast markets.

4 Our organizations' members fervently believe in the protection of private property
5 rights, and the negative experiences of many landowners impacted by GBE was the
6 primary reason we fought for and secured stronger eminent domain standards for
7 electrical transmission projects in Missouri during the 2022 legislative session. We
8 stand opposed to Grain Belt's application for an amended certificate of convenience
9 and necessity because we believe the proposed Tiger Connector line is a new project.
10 The PSC should not simply "amend" its prior approval for Grain Belt's high voltage
11 direct current main line. Tiger Connector should stand on its own and should be
12 scrutinized as the new project that it clearly is.

13 Over the past decade, Grain Belt's project has continued to evolve. The debut of the
14 Tiger Connector highlights the fact that there was not a well-vetted plan, and this
15 latest evolution shows they are changing course to attempt to find an end user. We
16 feel strongly that this is a new project, and should be scrutinized as such.

17 Tiger Connector proposes to take private property to build a for-profit project,
18 controlled by an out-of-state company that has no plan or provision to share profits
19 with the landowners who will house its infrastructure on their property. This is a
20 major distinction from wind and solar projects in Missouri, which to date, have only
21 engaged in voluntary leasing that creates annual and ongoing payments, and
22 definitive termination points.

1 The bottom line is landowners are forced to sell their land at a time - and to a buyer -
2 not of their choosing, to forever host a line they don't want, and with no share in the
3 profits generated. This is a classic abuse of eminent domain – the use of
4 governmental authority to coerce property owners for the benefit of a private
5 enterprise.

6 In Grain Belt's calculations involving its main line, it grossly failed to take into
7 account the physical and practical inability of agricultural equipment to operate
8 within specific distances of towers and other infrastructure that the project will
9 require when it claimed that only nine acres will be taken out of production. Grain
10 Belt has also paid little to no attention to the foregone opportunities that its main line
11 as well as Tiger Connector will create. Large power lines slicing through the middle
12 of farmsteads, many of which have been in the same family for generations, will
13 greatly impact the future placement of homes, machinery sheds, and grain and
14 livestock handling facilities. All of this must be taken into consideration.

15 We urge the PSC to deny approval for this line. If it does not, it must require that
16 impacts to landowners are minimized through colocation with other utilities and
17 public right-of-way where feasible, along with appropriate compensation. We also
18 recommend that the PSC require Grain Belt to prioritize returning disturbed
19 agricultural land to its full productive capability after construction.

20 **Q8. Does Grain Belt Express Clean Line LLC's alleged commitment to give free or**
21 **discounted power to Missouri municipalities change Missouri Farm Bureau's**
22 **position as to whether eminent domain power is appropriate for the Grain Belt**
23 **Express project?**

1 A. No. Grain Belt Express Clean Line LLC's supposed promises to sell power to
2 Missouri municipalities should be recognized for what they are: a political stunt to
3 create pressure for approval of this project by giving small benefits to local
4 governments at the massive expense of landowners' rights. Those municipalities in
5 support will bear none of the burden from Grain Belt's proposed project. It is instead
6 Missouri's rural landowners that will experience significant disruptions in their
7 operations if Grain Belt Express Clean Line LLC is given the power to force land
8 sales through eminent domain takings. This development does not change the
9 underlying nature of the Grain Belt Express proposal. The project remains an attempt
10 to engage in the abuse of eminent domain for private gain.

11 **III. CONCLUSION**

12 **Q9. Does this conclude your testimony?**

13 A. Yes, it does.

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

In the Matter of the Application of Grain Belt)
Express LLC for an Amendment to its Certificate)
of Convenience and Necessity Authorizing it to)
Construct, Own, Operate, Control, Manage, and)
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station)

File No. EA-2023-0017

AFFIDAVIT OF GARRETT HAWKINS

STATE OF MISSOURI)
COUNTY OF Vernon) ss

GARRETT HAWKINS, being first duly sworn on his oath, states:

1. My name is GARRETT HAWKINS. I am the President of the Missouri Farm Bureau.
My business address is 701 S. Country Club Drive, Jefferson City, MO 65109.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony on behalf of the Missouri Farm Bureau, consisting of seven (7) pages, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and accurate to the best of my knowledge, information and belief.



GARRETT HAWKINS

Subscribed and sworn before me this 19th day of April, 2023.



Notary Public

My commission expires: 7.17.2025

