

**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) Case No. EA-2014-0207
Current Transmission Line and an Associated Converter)
Station Providing an interconnection on the Maywood -)
Montgomery 345 kV Transmission Line)

**MATTHEW AND CHRISTINA REICHERT'S
AND
RANDALL AND ROSEANNE MEYER'S
POST-HEARING BRIEF**

Matthew and Christina Reichert (Reicherts) and Randall and Roseanne Meyer (Meyers) file this Post-Hearing Brief requesting the denial of Grain Belt Express Clean Line LLC's (GBE's) application for a Certificate of Convenience and Necessity (CCN). If a CCN is granted, the Reicherts and Meyers request that the Missouri Public Service Commission (PSC) include conditions to protect the interests of the landowners whose land will be taken for the project.

1. Does the evidence establish that the high-voltage direct current transmission line and converter station for which Grain Belt Express Clean Line LLC ("Grain Belt Express") is seeking a certificate of Convenience and Necessity ("CCN") are necessary or convenient for the public service?

In the case *In Re Tartan Energy*, The PSC has established five criteria to determine if a CCN should be granted.¹ These criteria are:

1. Is there a need for the facilities and service?
2. Is the applicant qualified to own, operate, control, and manage the facilities and provide the service?

¹ *In re Tartan Energy Co.*, 3 Mo.P.S.C. 173, 177 (1994)

3. Does the applicant have the financial ability for the undertaking?
4. Is the proposal economically feasible?
5. Do the facilities and service promote the public interest?²

The courts have not reviewed the burden of proof for establishing the need for electric services and facilities. However, the courts have established the burden of proof to determine the public need for transportation services regulated by the PSC. In *St. ex rel. Oliver v. Pub. Serv. Comm'n*, the Missouri Court of Appeals stated that:

The burden to establish these prerequisites for the authority sought by competent and substantial evidence rests firmly upon the applicant. This burden cannot be met by speculation, guesswork, hopes, or aspirations.³

The Missouri Court of Appeals further elaborated on this burden of proof in *St. ex rel. Gulf Transport Co. v. Pub. Serv. Comm'n*:

Oliver does not prohibit consideration of the future as part of a comprehensive evaluation of whether the public convenience and necessity would be served by new entry. As this court recognized long ago, the future must be considered in determining whether the public convenience and necessity would be served by new entry. *Ringo v. Page 458 Pub. Serv. Comm'n*, 234 Mo.App. 549, 132 S.W.2d 1080, 1082 (1939).⁴

This standard is applicable to this case since it provides general guidance. It does not contain criteria specific to transportation companies.

In this case, the need for GBE's service is based solely on hopes and aspirations. GBE's approach is "build it and they will come". However, the facts do not support that contention.

² *Id.*

³ *St. ex rel. Oliver v. Pub. Serv. Comm'n*, 542 S.W.2d 595, 598 (Mo. App., K.C.D. 1976).

⁴ *St. ex rel. Gulf Transport Co. v. Pub. Serv. Comm'n*, 658 S.W.2d 448, 458-57 (Mo. App. W.D. 1983).

First, and most importantly, no utilities have filed testimony supporting the need for this service in Missouri. Kansas City Power & Light intervened in this case on April 24, 2014.⁵ They did not file any testimony. In fact, they requested to be excused from the evidentiary hearings with the option to file a Post-Hearing Brief.⁶

Mr. Beck, in his Rebuttal Testimony, stated that "three of the four investor-owned electric companies in Missouri (The Empire District Electric Company, Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company) have existing capacity and new contracts that are projected to not only supply enough RECs for each to meet the 15% RES requirement for 2021, but also for each to have excess RECs to sell."⁷

Ameren did not petition to intervene in this case. Ameren filed its updated Integrated Resource Plan (IRP) on October 1, 2014.⁸ In the IRP, Ameren states:

As Table 1.1 shows, we expect to retire our Sioux Energy Center by the end of 2033. Upon the retirement of Sioux we expect to need to add new generating capacity to meet customer demand and MISO reserve margin requirements for reliability.⁹

Ameren could have petitioned for late intervention if they were concerned about having a source of power to replace the shortfall occurring in 2033. Under 4 CSR 240-2.075(9),¹⁰ the PSC may allow a party to intervene after the thirty (30) day period specified in 4 CSR 240-2.075(1).¹¹ If approved by the PSC, Ameren could have participated in the evidentiary hearings and submitted

⁵ Application of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company for Leave to Intervene, Doc. 39.

⁶ Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company's Request to be Excused, Doc. 264.

⁷ Ex. 385 - Rebuttal Testimony of Daniel I. Beck, Doc. 385 at 9:10-15.

⁸ Ex. 137 - Ameren IRP, Doc. 371 at 13 (Executive Summary page 5).

⁹ *Id.*

¹⁰ "Motions to intervene or add new member(s) filed after the intervention date may be granted upon a showing of good cause. Any motion so filed must include a definitive statement whether or not the entity seeking intervention or to be added as a new member accepts the record established in that case, including the requirements of any orders of the commission, as of the date the motion is filed."

¹¹ "A motion to intervene or add new member(s) shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission."

a Post-Hearing Brief.¹² Alternatively, Ameren could have petitioned to file a Brief as *Amicus Curiae* under 4 CSR 240-2.075(11).¹³

Mr. Skelly affirmed that the wind farms could sell their power to whatever load-serving entity they wished.¹⁴ He further stated that all of the power on GBE's line could be sold to utilities outside of Missouri.¹⁵ So, GBE is purely speculating that the power would be available to Missouri utilities.

2. If the Commission grants the CCN, what conditions, if any, should the Commission impose?

The PSC has the power to impose conditions when granting a CCN. This power dates back to the earliest days of the PSC. The Missouri Supreme Court stated in 1930:

Section 10481 provides that no electrical corporation shall begin the construction of an electric plant or exercise any of the privileges granted under any franchise without permission and approval of the commission. This section further provides that if the commission determines that the exercise of such right, privilege or franchise is necessary or convenient for the public service, it may grant permission for the exercise of such right upon such condition or conditions as it may deem reasonable and necessary.¹⁶

¹² Order Setting Local Public Hearings and Directing Notice, Doc. 104.

¹³ "Any person not a party to a case may petition the commission for leave to file a brief as an amicus curiae. The petition for leave must state the petitioner's interest in the matter and explain why an amicus brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties and comply with all applicable briefing requirements. If leave to file a brief as an amicus curiae is granted, the brief shall be deemed filed on the date submitted. An amicus curiae may not file a reply brief."

¹⁴ Transcript - Volume 10, Doc. 321 at 184-185 (Tr. 198:22-199:3).

¹⁵ Transcript - Volume 10, Doc. 321 at 185 (Tr. 199:18-20).

¹⁶ *Pub. Serv. Comm'n v. Power & Light Co.*, 31 S.W.2d. 67, 70 (Mo. 1930) (Section 10481 refers to Revised Statutes 1919).

Ensuring a Fair Easement Agreement

The first set of conditions that should be imposed involve GBE's easement agreement. Under Missouri law, easements are to be strictly construed. The Missouri Court of Appeals stated in *City of Jackson v. Emmendorfer Rev. Trust* regarding a transmission line easement:

When interpreting easements, we ascertain the intention of the grantor from the instrument itself. *Erwin v. City of Palmyra*, 119 S.W.3d 582, 584 (Mo.App. E.D. 2003). Only when the language of the deed is "unclear and ambiguous" do we resort to the rules of construction and consider extrinsic evidence. *Id.* at 584. A contract is not ambiguous simply because parties disagree about its meaning. *Id.* Rather, "an ambiguity arises `when the terms are susceptible of more than one meaning so that reasonable persons may fairly and honestly differ in their construction of the terms.'" *Id.*, quoting *Chehval v. St. John's Mercy Medical Center*, 958 S.W.2d 36, 38 (Mo.App. E.D. 1997). Extrinsic evidence cannot be used to create an ambiguity, it must appear from the four corners of the contract itself. *Id.*; see also *White v. Meadow Park Land Co.*, 240 Mo. App. 683, 213 S.W.2d 123, 126 (1948) (holding, "If the language of a deed or other written instrument is clear and unambiguous, the intention of the parties is gathered from the instrument. It is what the grantor said and not what he intended to say.").

GBE's standard Transmission Line Easement Agreement is included in Exhibit 556.¹⁷

GBE's Agricultural Impact Mitigation Policy is included as Schedule MOL-13 in Exhibit 102.¹⁸

Mark Lawlor stated the following about GBE's easement agreement and policy:

290:14 We -- our policy and the agreement are gen--

15 you know, generally overlap, and our policy law may not

¹⁷ Ex. 556 - Transmission Line Easement Agreement, Doc. 445.

¹⁸ Ex. 102 - Surrebuttal Testimony of Mark O. Lawlor, Doc. 337 at 23 (Schedule MOL-13).

16 be -- while may not necessarily be contractual binding
17 to this, self-binding on the company, we've, you know,
18 committed ourselves to these policies.¹⁹

A review of the two documents shows that the overlap is minimal to nonexistent. The courts will strictly construe the easement agreement without reference to GBE's policy statement. Therefore, a landowner will not be able to enforce the terms of the policy in Exhibit 102 against GBE.

Missouri courts recognize the existence of unequal bargaining power and how it could lead to duress or contracts of adhesion. The Supreme Court of Missouri has stated:

A contract of adhesion, as opposed to a negotiated contract, is a form contract that is created and imposed by the party with greater bargaining power. *Robin v. Blue Cross Hospital Service, Inc.* 637 S.W.2d 695, 697 (Mo. banc 1982). The "stronger party" has more bargaining power than the "weaker party," often because the "weaker party" is unable to look elsewhere for more attractive contracts. *Id.*; see also Corbin on Contracts, Section 559 (1960). The "stronger party" offers the contract on a "take this or nothing" basis. See *Estrin Construction Co. v. Aetna Casualty & Surety Co.*, 612 S.W.2d 413, 418 (Mo.App.1981). The terms in the contract are imposed on the weaker party and "unexpectedly or unconscionably limit the obligations and liability of the [stronger party]." *Robin*, 637 S.W.2d at 697.²⁰

The negotiation of the easement process between GBE and the individual landowner is a classic case of a stronger party negotiating with a weaker party. First, GBE has the financial and legal resources not available to an individual landowner. Second, the landowner has no choice

¹⁹ Transcript - Volume 10, Doc. 321 at 240 (Tr. 290:14-18).

²⁰ *St. ex rel. Vincent v. Schneider*, 194 S.W.3d 853, 857 (Mo. 2006)

but to negotiate with GBE if this CCN is granted. Third, GBE does not have any incentive to negotiate fair terms because GBE will have the power of eminent domain at their disposal to take the land that they want at the terms that they want.

Mr. Lawlor stated the following about incorporating the terms of the GBE's policy into the easement agreement:

290:19 I think we've demonstrated our willingness to
20 incorporate terms into an easement that landowners wish
21 to add. So, you know, the process has worked adequately
22 in Missouri for this project, and again, you know, if
23 these policies need to be incorporated in specific
24 terms, then we can do so with -- you know, with
25 landowners.

291:5 By negotiating the terms one by one within
6 individual landowners, isn't that placing the landowners
7 at a disadvantage because of lack of information or lack
8 of legal assistance?

9 A. I'm not sure that I can opine on that.²¹

Mr. Lawlor avoided this issue by his refusal to opine on the disadvantage to the landowners. He and GBE are aware of this very real disadvantage to the landowners. This disadvantage is a concern of the landowners as evidenced by the testimony in the public hearings. Mr. Phillip Brown stated:

42:1 The easement they've shown to a few
2 landowners I've seen and examined, and to me, it's

²¹ Transcript - Volume 10, Doc. 321 at 240-41 (Tr. 290:19-291:9).

3 very favorable to Grain Belt. They wrote it. It
4 should be written their way, but it's terribly unfair
5 to landowners, farmers, operators, tenants and us. I
6 think Missouri Public Service Commission should
7 require that an easement used by Grain Belt, whether
8 it's voluntary or condemnation, be an easement that is
9 approved by landowners and Grain Belt through some
10 neutral party acting as a mediator to assist with
11 coming up with an easement that's more appropriate.²²

Mr. Ron Staggs stated:

77:18 And I also believe that if you
19 negotiate fairly without a power of eminent domain,
20 everybody's going to be satisfied. You may not make
21 as much money on the business end, but at least the
22 property owners can be fairly treated. That's what
23 it's all -- negotiation is what it's all about, but
24 once eminent domain is granted, there is no
25 negotiations. You'll pay a price, and we cannot
78:1 afford the attorney to fight it in court.²³

The Agricultural Impact Mitigation Agreement (AIMA) filed by the Rock Island Clean Line LLC with the Illinois Department of Agriculture (IDOA) is included in Exhibit 555.²⁴ Mr. Lawlor stated that GBE will be filing an AIMA with the IDOA.²⁵ Ms. Laura A. Harmon, Senior

²² Transcript - Volume 2 (Local Public Hearing - Monroe City 8-12-14), Doc. 140 at 42:1-11.

²³ *Id.* at 77:18-78:1.

²⁴ Ex. 555 - Agricultural Impact Mitigation Agreement, Doc. 444.

²⁵ Transcript - Volume 10, Doc. 321 at 229 (Tr. 279:12-15).

Counsel, in the Office of General Counsel for the Illinois Agricultural Association described the AIMA as follows:

For pipeline, transmission and other projects constructed by public utilities pursuant to the Farmland Preservation Act the IDOA negotiates an Agricultural Impact Mitigation Agreement ("AIMA") with the utility which sets forth construction standards in order to minimize the impacts that occur to farmland due to construction of these projects. These standards were developed by the Department, agricultural agencies, the industry, the Illinois Farm Bureau®, drainage contractors, and farmers for the various types of projects that are constructed on or under farmland. In the transmission line and pipeline easement contexts, the **AIMA has served as a baseline for addressing damage to farmland caused by such construction projects.**²⁶

Mr. Lawlor stated the following when asked about incorporating the terms of the AIMA into the Missouri easement agreements:

288:19 A. In concept I do not think that there is a --
20 is a show stopper, but the problem is is there are State
21 specific requirements in the state of Illinois, such as
22 drainage tile codes, that we don't have in Missouri,
23 such as chisel depths and the like that were determined
24 by a different state's agency and a number of other
25 examples whereby that may not be appropriate for
289:1 Missouri. It may not be in the public interest.
2 The uniqueness of this agricultural

²⁶ Laura A. Harmon, Fracking: Protecting Farmland in Oil & Gas Leases, 2, ([http://www.isba.org/sites/default/files/cle/Laurie Harmon.pdf](http://www.isba.org/sites/default/files/cle/Laurie%20Harmon.pdf)) (emphasis added).

3 mitigation agreement is that it is through a third
4 party, in this case, the Department of Agriculture, who
5 has specific policies and statutes and reasons for
6 coming up with some of these.²⁷

Establishing conditions related to the easement agreement will serve the following purposes:

1. Protect the landowner from the superior bargaining power of GBE;
2. Provide disclosure of information that the landowner needs in their evaluation of the easement agreement and related compensation documents; and
3. Provide a set of baseline terms for all agreements to ensure fair treatment of the landowners and protect Missouri's agricultural and forest lands.

Therefore, the PSC should require the following conditions related to the easement agreement:

1. Require GBE to work with the Missouri Farm Bureau, Missouri Landowners Alliance, and Missouri Department of Agriculture to jointly develop a mitigation agreement that is incorporated by reference in all easement agreements or jointly develop a model easement agreement. GBE's mitigation policy, the AIMA that will be filed by GBE with the IDOA, the AIMA filed by Rock Island Clean Line, and reforestation policies would be used as a basis for developing a mitigation agreement or model easement agreement that incorporate requirements specific to Missouri.

²⁷ Transcript - Volume 10, Doc. 321 at 238-39 (Tr. 288:19-289:6).

2. Disclose the Heritage Value and Homestead Taking criteria in Sections 523.001, 523.039, and 523.061 RSMo. when GBE is negotiating with all landowners.
3. Establish an independent binding arbitration process that a landowner or GBE can request to resolve disputes over the easement agreement or eminent domain process.
4. Remove onerous terms from the easement agreement such as forfeiture of the homestead exemption and prohibition on crossing the easement for livestock rotation and crop access during the construction process.

Minimizing the Impact on Residences

The next condition should require a minimum distance of at least 1,000 feet from any residence unless the owner agrees to a shorter distance.

Mr. Kielisch, in his rebuttal testimony in Exhibit 402, testified about the negative impact that high voltage transmission lines (HVTLs) have on property values. One study involving agricultural and residential land use showed that the impact could vary from -15% to -34% depending on the location for the line.²⁸ In the evidentiary hearings, he stated that the impact will diminish with increasing the distance from the HVTL.²⁹ The impact is dependent on property and view.³⁰ He stated that "particularly with agricultural properties, we have determined approximately 800 feet to 1,300 feet and beyond ... there would be just a nominal impact that would be measurable."³¹

²⁸ Ex. 402 - Rebuttal Testimony of Kurt C. Kielisch, Doc. 434 at 26 (Tr. 26:5-8).

²⁹ Transcript - Volume 15 (Evidentiary Hearing 11-14-14), Doc. 329 at 276 (Tr. 1397:20-23).

³⁰ *Id.* at 277 (Tr. 1398:1-3).

³¹ *Id.* (Tr. 1398:7-11).

Dr. Priestley stated at the hearing that proximity has an effect on property values.³² He affirmed that urban clutter is more likely to hide the transmission towers as distance increases.³³

He stated the following about visibility of the towers in a rural environment:

804:16 Q. Well, if you have, you know, you have
17 50-foot trees and maybe 150-foot tower that would be
18 significantly taller, would it not from a longer
19 distance?

20 A. Obviously, yeah, given the physics of
21 what you're talking about. But then there's the
22 question above distance and view angle, all those
23 things.³⁴

In a response to GBE's data request, Mr. Harris provided additional information on the impact of a HVTL on the sale of rural residential lots in Randolph County, Missouri.³⁵ Mr. Harris interviewed a buyer for one of the few lots sold in development:

When I asked if the power line was an issue in looking at the property he said "a bunch". He then said, "if we could not have bought a lot on the back side, we would not have bought at all".³⁶

Mr. Nordstrom, in Schedule SN-2 of Exhibit 550, provided a visual representation of the size of the tower relative to a typical residence when the tower is slightly over 400 feet from the residence.³⁷ Ms. Umbriaco, in Schedule CU-1 of Exhibit 551, provided a visual representation of

³² Transcript - Volume 14 (Evidentiary Hearing 11-13-14), Doc. 327 at 36-37 (Tr. 805:14-15 and 806:6-7).

³³ *Id.* at 34-35 (Tr. 803:23-804:8).

³⁴ *Id.* at 35 (Tr. 804:16-23).

³⁵ Ex. 558 - Response to GBE's 1st set of Data Requests, Doc. 447 at 2-4.

³⁶ *Id.* at 4.

³⁷ Ex. 550 - Rebuttal Testimony of Scott Nordstrom, Doc. 439 at 7 (Schedule SN-2).

the impact of the towers and power lines in an agricultural environment where the easement is slightly over 400 feet from the residence.³⁸

Establishing this condition will serve the following purposes:

1. Minimize the potential loss of value on landowners' property;
2. Avoid the costs and time required to negotiate and, possibly litigate, the issue of suitable compensation for the loss of value;
3. Avoid the problems associated with the superior bargaining of GBE as discussed in the prior section.
4. Reduce the adverse visual impact to the landowners' residences.

Safe Distance from Pipelines

The next condition should require that GBE reevaluate the route to maintain a safe distance from pipelines and incorporate all of Mr. Allen's safety recommendations.

Mr. Gaul stated that he never consulted with Rockies Express Pipeline LLC (REX) or other pipeline companies to discuss the proposed routing.³⁹ He never consulted with REX regarding safety issues.⁴⁰ GBE's engineering staff was the source of safety information for Mr. Gaul.⁴¹ He never considered the size of the REX pipeline when making his routing decisions.⁴²

Dr. Galli admitted that mitigation measures are needed in the event of a fault where current is injected into the ground.⁴³ Dr. Galli stated that GBE has not communicated with REX or other pipeline companies about the construction details since GBE does not have a certified route.⁴⁴ Dr. Galli was not aware of any studies concerning the impacts of a 600 kV line on a 42

³⁸ Ex. 551 - Rebuttal Testimony of Christina Umbriaco, Doc. 440 at 7 (Schedule CU-1).

³⁹ Transcript - Volume 14, Doc. 327 at 233 (Tr. 1002:4-9).

⁴⁰ *Id.* at 216 and 236 (Tr. 985:8-21 and 1005:4-16).

⁴¹ *Id.*

⁴² *Id.* at 235 (Tr. 1004:2-9).

⁴³ Transcript - Volume 12 (Evidentiary Hearing 11-12-14), Doc. 323 at 70-71 (Tr. 485:11-486:10).

⁴⁴ *Id.* at 76-77 (Tr. 491:18-492:6).

inch natural gas pipeline.⁴⁵ The physics of the interaction would be the same whether it was a 30 inch pipeline or a 400 kV line.⁴⁶ In fact, GBE produced a document that specifically states that industry standards do not exist regarding the interaction of HVDC lines on pipelines.⁴⁷ Dr. Galli rejected Mr. Allen's recommendation for maintaining a 1,000 foot separation between the line and pipelines by stating "it was not a common industry practice, was not a good routing practice and was unnecessary for safety."⁴⁸ Dr. Galli based his statement on his experience and private studies.⁴⁹ Dr. Galli affirmed that they would study the impacts so that there was a safe distance.⁵⁰

GBE has failed to perform the necessary due diligence to minimize any safety-related impacts on adjacent pipelines. They have not consulted with or relied on the expertise of the pipeline companies. These companies will have the best knowledge for ensuring the safety of the pipelines and minimizing any adverse impact by GBE's transmission line. In fact, Dr. Galli's testimony indicates that GBE's priority is to graft safety measures onto their preferred route. They have placed the cart before the horse. Proper route planning would have considered safety issues at the beginning and throughout the process.

Therefore, the PSC should require GBE to jointly develop a safety plan with the pipeline companies. The safety plan should cover the routing, construction, and operation of the transmission in the vicinity of the pipelines. The route should then be adjusted to comply with this safety plan.

⁴⁵ *Id.* at 83 (Tr. 498:4-13).

⁴⁶ *Id.* at 84 (Tr. 499:5-12).

⁴⁷ *Id.* at 84-85 (Tr. 499:13-500:17).

⁴⁸ *Id.* at 84-86 (Tr. 500:24-502:8).

⁴⁹ *Id.*

⁵⁰ *Id.* at 90-91 (Tr. 505:21-506:18).

Route Adjustments

Finally, the PSC should impose conditions that GBE will adjust the route across the Reicherts' and Meyers' properties.

Currently, approximately 15% to 17% of the Reicherts' land is burdened by pipeline easements.^{51 52} The transmission line will increase that easement burden to 30%.^{53 54 55} Almost a third of their land will be encumbered.

The power line will be slightly over 400 feet from their home.⁵⁶ The size and proximity of the towers dwarf their home.^{57 58} The towers and transmission line will be visible from the front door of their residence, and entrance to their Bed and Breakfast (B&B). There will be reduction in the occupancy of their B&B.^{59 60} Also, as discussed in a previous section, the proximity will have a negative impact on the value of their property.

Therefore, the Reicherts request that the PSC require Grain Belt Express to shift the proposed routing to follow a boundary line or other route where the route only increases the easement burden by 5% or less for a total easement burden not exceeding 20%.

The Meyers property will be bisected by the transmission line.⁶¹ A portion of the property crossed by the line has been designated as a homestead for the Meyers' daughter and her family since 2006.⁶² This routing was selected by GBE due to the private Shiloh Airpark that is no longer in use.⁶³ Mr. Gaul, in his Surrebuttal Testimony, stated that the airfield did not appear

⁵¹ Ex. 550, Doc. 439 at 6 (Schedule SN-1).

⁵² Transcript - Volume 17 (Evidentiary Hearing 11-21-14), Doc. 328 at 196-97 (Tr. 1637:20-1638:3).

⁵³ Ex. 552 - Rebuttal Testimony of Christina Reichert, Doc. 441 at 4:8.

⁵⁴ Ex. 550, Doc. 439 at 6 (Schedule SN-1).

⁵⁵ Transcript - Volume 17, Doc. 328 at 197 (Tr. 1638:4-10).

⁵⁶ Ex. 550, Doc. 439 at 6 (Schedule SN-1).

⁵⁷ Ex. 550, Doc. 439 at 7 (Schedule SN-2).

⁵⁸ Ex. 551, Doc. 440 at 7 (Schedule CU-1).

⁵⁹ Ex. 552, Doc. 441 at 7:17-10:10.

⁶⁰ Ex. 551, Doc. 440 at 4:3-5.

⁶¹ Ex. 575 - Rebuttal Testimony of Roseanne Meyers, Doc. 448 at 10 (Schedule RM-1).

⁶² *Id.* at 3:7-4:6.

⁶³ *Id.* at 6:13-7:2.

to be abandoned.⁶⁴ GBE never contacted the owners of the Shiloh Airpark or other airfields to determine if they were operational.⁶⁵ GBE only verified the Shiloh Airpark by looking for the maintenance of existing infrastructure.⁶⁶ Mr. Gaul affirmed that route modifications would be possible based on any new information about the airfield.⁶⁷

The Meyers request that the PSC require GBE to reevaluate the proposed routing and, at minimum, shift the route to follow the northern boundary line of the property.

3. If the Commission grants the CCN, should the Commission exempt Grain Belt Express from complying with the reporting requirements of Commission 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)?

The Reicherts and Meyers have no position on this issue at this time.

Respectfully submitted,
Law Office of Gary Drag

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⁶⁴ Ex. 105 - Surrebuttal Testimony of Timothy B. Gaul, Doc. 340 at 6:4-6.

⁶⁵ Transcript - Volume 14, Doc. 327 at 270-71 (Tr. 1039:4-9,1039:23-1040:1).

⁶⁶ *Id.* at 270 (Tr. 1039:19-22).

⁶⁷ *Id.* (Tr. 1039:1-3).

CERTIFICATE OF SERVICE

I certify that true and accurate copies of this document were sent by e-mail on December 8, 2014, to all parties on the official service list for this case.

/s/ Gary Drag

Gary Drag, MBN 59597

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and Randall and Roseanne Meyer