

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

**In the Matter of the Application of Grain )  
Belt Express Clean Line LLC for 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

**GRAIN BELT EXPRESS' MOTION TO STRIKE INTERVENOR SHOW ME  
WITNESS RON CALZONE'S REBUTTAL TESTIMONY**

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”), pursuant to Missouri Rule of Civil Procedure 55.27(e) and Commission Rule 4 CSR 240-2.080, moves to strike the Rebuttal Testimony of Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners (“Show Me”) witness Ron Calzone:

1. On January 24, 2017, Show Me filed the rebuttal testimony of Ron Calzone. Mr. Calzone’s “testimony” is not really testimony, but instead a legal argument regarding Missouri law regarding property rights and eminent domain as interpreted by a non-lawyer. This attempt to provide an expert legal opinion in the form of testimony by a rancher and businessman should not be permitted.

2. To be clear, Grain Belt Express does not oppose Show Me stating its legal views on property rights and related issues in a position statement or in post-hearing briefs.

3. However, Mr. Calzone does not offer any facts or expert opinion, but rather a lay person’s understanding of the law and judicial decisions. Although he states that he does “not intend to interpret those decisions as a lawyer,” which he does not have the professional

qualifications to do, he proceeds to “of necessity discuss certain constitutional provisions and court decisions.” See Calzone Rebuttal at 2:10-11.

4. He analyzes a Supreme Court case, constitutional provisions and debates, as well as legal treatises, including:

- Kelo v. City of New London, 545 U.S. 469 (2005)
- Debates of the Missouri Constitutional Convention, 1875 - Vol. I & Vol. IV
- Locke, John, Two Treatise of Government, Book 2 Chapter XIX Section 222 [sic]
- Hunt, Gaillard, The Writing of James Madison (New York: G.P. Putnam's Sons, 1906), Vol. VI
- Article I, Sections 1 and 2 of the Missouri Constitution
- Article I, Sections 21, 26 and 28 of the Missouri Constitution
- Fifth Amendment, U.S. Constitution

See Calzone Rebuttal at 3-12.

5. “Testimony” is defined as: “Evidence given by a competent witness under oath or affirmation.” See Black's Law Dictionary (6th ed. 1990). “Evidence” is defined as: “Any species of proof, or probative matter, legally presented at the trial of an issue ....” Id. A “Brief” is defined as: “A written statement prepared by the counsel arguing the case in court. It contains a summary of the facts of the case, the pertinent laws, and an argument of how the law applies to the facts supporting counsel's position.” Id. Mr. Calzone’s rebuttal is a brief setting forth an argument , rather than testimony or evidence.

6. Mr. Calzone makes one mention of the Grain Belt Express Project in the 13 pages of his Rebuttal Testimony. See Calzone Rebuttal at 13:17-19. The rest of his testimony is dedicated to his personal views and arguments regarding constitutional, statutory, and other legal issues as a non-lawyer. Nothing in Mr. Calzone’s rebuttal testimony attempts to qualify him as a legal expert under 4 CSR 240-2.130(8) or any other provision of Missouri law or regulation.

7. The general rule in Missouri is that expert testimony is not admissible on issues of law, although under Section 490.065, Mo. Rev. Stat. (2000), as amended, testimony that would assist the trier of fact or provide an expert opinion on the relevant standard of care is permitted. See Baldrige v. Lacks, 883 S.W.2d 947, 054-55 (Mo. App. E.D. 1994); Lee v. Hartwig, 848 S.W.2d 496, 498 (Mo. App. W.D. 1992). In those situations an expert witness presenting testimony on the law must be a qualified lawyer. Hill v. City of St. Louis, 371 S.W.3d 66, 77 (Mo. App. E.D. 2012) (expert testimony by lawyer on complex procedural matters and highly technical statutes and regulations allowed). Because Mr. Calzone fails to meet such a standard, his rebuttal testimony must be excluded.

WHEREFORE, Grain Belt Express Clean Line LLC requests that the Commission strike the Rebuttal Testimony of Show Me witness Ron Calzone because it expresses legal opinions without the necessary foundation or qualification.

Respectfully submitted,

/s/ Karl Zobrist

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon all counsel of record in this case on this 14th day of March 2017.

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