

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) **File No. EA-2016-0358**
Current Transmission Line and an Associated Converter)
Station Providing an Interconnection on the Maywood –)
Montgomery 345 kV Transmission Line)

JOINT BRIEF ON REMAND OF NRDC AND SIERRA CLUB

On December 18 and 19, 2018, the Commission held its third hearing in this case, to consider material changes in circumstances since its decision of August 16, 2017. Since the Report and Order and concurring opinion of that date, the Missouri Supreme Court has clarified that the Commission has the authority to issue this line certificate. *Grain Belt Express Clean Line et al. v. PSC*, 555 S.W.3d 469 (Mo. banc 2018).

The Natural Resources Defense Council and Sierra Club ask the Commission to adhere to the position expressed by four current Commissioners in the concurring opinion of 2017 and grant Grain Belt Express Clean Line’s application for a certificate of convenience and necessity (CCN) to build a high-voltage direct current (HVDC) transmission line across Missouri for the purpose of delivering 3500 MW of wind energy to PJM and 500 MW to a converter station in Ralls County. There is no intervening change in circumstance that negates the feasibility or desirability of this project.

Under § 393.170.3, “necessity” does not mean that a project is essential or absolutely indispensable; it means that the additional service would be an improvement justifying its cost. The Commission has discretion to determine whether the evidence indicates that the public

interest would be served. *State ex rel. Intercon Gas v. PSC*, 848 S.W.2d 593, 597–8 (Mo.App. W.D. 1993).

THE TARTAN CRITERIA

1.Need for the project

The demonstration of need is even stronger than before. Kansas wind, with its high capacity factors, can serve the need for low-cost renewable energy better than Missouri or MISO wind.¹ The change in circumstance is that Kansas wind is becoming even cheaper with advances in turbine technology and the migration of large offshore machines onto land.² Demand for low-cost wind energy from municipalities and C&I customers, who want renewable energy for reasons of sustainability, is a market need that has grown rapidly since the earlier stages of the case.³

MJMEUC was able to negotiate an even lower rate as well as risk mitigation guarantees in its amended Transmission Service Agreement (TSA),⁴ to the point where certain parties questioned the profitability of the line in Missouri.⁵ But lower costs to build wind farms have stimulated new demand, particularly by C&I customers seeking renewable energy.⁶ This demand and their low costs ensure that Kansas wind farms will seldom be curtailed or put out of business.⁷ Even if Missouri were to be a loss leader for GBE, the project relies on the higher renewable power prices on PJM, as the concurring Commissioners pointed out on page 4 of their August 2017 opinion.

¹ David Berry surrebuttal, Exh. 120, pp. 30–33.

² Skelly, T. 1878; Berry T. 1957–9, 1961–2; Exhibit 142, Berry Supp. Direct p. 5

³ Grotzinger, T. 2132–3.

⁴ Exh. 480, Grotzinger Supp. Dir. 1–3; T. 2115–8.

⁵ Exh. 211, Staff Supp. Rebuttal Report 13; MLA, T. 1960–61.

⁶ Berry, T. 1962–3.

⁷ Skelly, T. 1817, 1878.

The injection of 500 MW into the MISO system at the Ralls County converter station will have some downward pressure on rates to the benefit of all customers on that system.⁸ Missouri Landowners Association endeavored to show that GBE and Invenenergy were not bound to build the converter station, but Mr. Zadlo of Invenenergy replied that they will have to build it to satisfy their contractual obligations to MJMEUC.⁹ GBE intends to exercise or renegotiate the option it has to buy the property on which to build the converter station.¹⁰

There was already evidence that Kansas wind will improve power system reliability in Missouri.¹¹ The \$21 million in upgrades that will be necessary to interconnect with Ameren Missouri and MISO will further enhance reliability.¹² In addition to MJMEUC, Grain Belt has entered into a TSA with Realgy, an Illinois load-serving entity, for 25 MW of transmission service into Missouri and 25 for delivery into PJM.¹³

Invenenergy will inherit Grain Belt's contracts with Missouri suppliers.¹⁴ The company will thus contribute more broadly to economic activity in Missouri.

2. Invenenergy's qualifications

Grain Belt Express is still the applicant, but GBE is a pen stroke away from being acquired by Invenenergy subsidiary Invenenergy Transmission, LLC. Commission approval is a condition of the purchase according to the terms of the Membership Interest Purchase Agreement.¹⁵ On November 20, 2018, GBE and Invenenergy filed a notice of intent to apply for approval of the acquisition under § 393.190, RSMo.¹⁶

⁸ Skelly, T. 1879; Berry, T. 1959.

⁹ T. 2033-4.

¹⁰ Exh. 143, Abebe Supp. Dir. 2.

¹¹ Zavadil Direct, Exh. 109, pp. 2, 9.

¹² Abebe, T. 1896-8.

¹³ Exh. 141, Skelly Supp. Dir. p. 3.

¹⁴ Skelly, T. 1850-56.

¹⁵ Exh. 145, Zadlo Supp. Dir. pp. 3-4.

¹⁶ File No. EM-2019-0150.

There is precedent for approval of a project that is contingent on a transfer of assets. *Love 1979 Partners v. PSC*, 715 S.W.2d 482, 489 (Mo. banc 1986). The Commission does not withhold approval of a disposition of assets unless the disposition is detrimental to the public interest. *State ex rel. Fee Fee Trunk Sewer v. Litz*, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980).

The 2017 concurring opinion (p. 2) found that GBE’s qualifications were not disputed. The record is replete with evidence that Invenenergy is even more qualified. Headquartered in Chicago, it has an international portfolio of renewable energy, transmission and other energy projects and a “core competency” of long-term operation and maintenance of power plants and transmission facilities.¹⁷ This leads naturally to consideration of Invenenergy’s financial capability.

3. Financial ability

Invenenergy is a \$9 billion company with \$3 billion in total equity. Since its founding in 2001 it has raised over \$30 billion in financing, including \$6 billion in 2016–7.¹⁸ Senior Vice President for Financial Operations Andrea Hoffman described the company’s typical approach to financing. It maintains contacts with debt and equity providers and applies to lenders for a construction loan in the late stages of project development. The loan, together with Invenenergy’s equity and possibly outside equity, covers the cost of construction. The security and collateral package for the financing parties consists of a pledge of equity and assets in the project and “collateral assignments of certain material project agreements.” After the operational date, more permanent financing such as a senior secured term loan is put in place, relying on cash flow from the project for repayment.¹⁹

Staff acknowledges that Invenenergy’s financial position is stronger than Clean Line’s; the

¹⁷ *Id.* pp. 6, 8–9; Exh. 146, Hoffman Supp. Dir. p 3; T. 2008–10.

¹⁸ Exh. 146, Hoffman, pp. 3–4.

¹⁹ *Id.* pp. 4, 6.

book value of its equity is 20 times greater.²⁰

4. Economic feasibility

Applying this financing model to the project, which has an estimated cost of \$2.3 billion, Invenergy plans to use a mix of debt and equity capable of fully funding construction. The company will engage lenders six to nine months before the start of commercial operation. Financing involves letters of credit and cash reserve accounts.²¹

Invenergy will use an Owner's Engineer to coordinate engineering, procurement and construction contracts with major companies like GE, Siemens, ABB and NR Electric through an RFP process. For HVDC experience Invenergy can rely on Quanta Services, Kiewit, Mortenson, and MYR Group.²²

Success after completion depends on revenue derived from the line. Invenergy will continue with the original "shipper pays" model of GBE, offering transmission service to generators in Kansas, where transmission is in short supply. At the other end it will offer service to off-takers like MJMEUC. Demand for this service was established earlier in the case; GBE's open solicitation drew requests from off-takers on MISO and PJM totaling nearly five times the project's capacity.²³ Invenergy intends to enter into long-term contracts for transmission service or capacity.²⁴ Because of their low cost, wind farms will continue to operate when other generators might not, even after the Production Tax Credit expires.²⁵

Staff in its rebuttal report raised a concern about economic feasibility because the RTO reports were not yet completed.²⁶ The testimony is that GBE handled the RTO queues prudently.

²⁰ Exh. 211, Revised Supp. Rebuttal Report, pp. 6–7.

²¹ Exh. 146, p. 5.

²² Exh. 145, Zadlo, pp. 11–12.

²³ Exh. 104, Berry, p. 25.

²⁴ Exh. 145, Zadlo, p. 8 ll. 7–9.

²⁵ Skelly, T. 1817, 1878.

²⁶ Exh. 211, p. 3, ll. 18–9; Stahlman T. 2106 lines 7–21; T. 2107 line 20–2018 line 11.

They withdrew from the MISO interconnection queue in September 2017 because results of the PJM studies were necessary to properly inform further MISO studies. GBE had already had two optional studies done in MISO with the same results.²⁷ To pursue the DPP option in MISO (definitive planning process) would have cost millions of dollars.²⁸ The costs of staying in the MISO queue were significant while the benefits were minimal.²⁹

The mere possibility that a project will not be completed is not sufficient reason to deny it. *Love 1979 Partners*, 715 S.W.2d at 488. Mr. Stahlman’s concern was more muted at the hearing than in the report: “with the condition in place that they have to complete the RTO studies, that that — it’s not an overly [sic] concern.”³⁰ It appears that Staff is satisfied now that completion of the studies has been made a condition of the CCN.³¹

5. Public interest

In the time since the last Report and Order, the public interest in the project has only increased. There will be no cost to Missouri ratepayers, only further downward pressure on rates.³² Above all, the demand for low-cost wind energy from municipalities and C&I customers who want renewable energy for reasons of sustainability is stronger.³³

The record still supports the public interest findings made in the concurring opinion of the Commissioners on August 16, 2017³⁴ and noted above in the “Need” section of this brief.

²⁷ Abebe, T. 1891–3, 1902–4.

²⁸ T. 1894, 1898.

²⁹ T. 1901.

³⁰ T. 2106 lines 11–12.

³¹ Exh. 211, p. 14 lines 10–12; Zadlo, T. 2025 lines 9–19.

³² T. 1879, 1959

³³ T. 2132–3.

³⁴ pp. 4–6, except the dollar figures, which presumably need some adjustment.

CONCLUSION

WHEREFORE Sierra Club and NRDC ask the Commission to approve the application for a certificate of convenience and necessity with such reasonable conditions as are necessary.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 9th day of January, 2019, to all counsel of record.

/s/ Henry B. Robertson
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