

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and )  
Eastern Missouri Landowners Alliance, )  
d/b/a Show Me Concerned Landowners, )  
and John G. Hobbs, )

Complainants, )

Case No. EC-2021-0059

v. )

Grain Belt Express LLC, and )  
Invenergy Transmission LLC, )

Respondents )

**JOINT MOTION TO SUSPEND CURRENT DEADLINES**  
**AND ESTABLISH A BRIEFING SCHEDULE**

The Staff of the Missouri Public Service Commission (“Staff”), Missouri Landowners Alliance, Eastern Missouri Landowners Alliance, d/b/a Show-Me Concerned Landowners, and John G. Hobbs (together, “Complainants”), and Invenergy Transmission LLC (“Invenergy Transmission”), together with Grain Belt Express LLC (“Grain Belt”) (along with Invenergy Transmission, the “Respondents”) (Staff, Complainants, and Respondents collectively, the “Joint Movants”), hereby file this Joint Motion to suspend the current deadlines ordered by the Missouri Public Service Commission (“Commission”) and establish a briefing schedule. In support of its Joint Motion, Joint Movants state the following:

**I. Procedural Background**

1. On September 2, 2020, Complainants filed a formal complaint against Respondents, alleging that Respondents’ contemplated changes to the Grain Belt Express Project (the “Project”) invalidated the Certificate of Convenience and Necessity (“CCN”) granted to

Respondent Grain Belt in Case No. EA-2016-0358 (the “CCN case”). Complainants allege that such changes will make the Project “materially different” from the Project approved by the Commission in the CCN case, and assert that Respondents are required to seek Commission approval for any “materially different” changes. In addition to alleging that Respondents’ contemplated changes violate the terms of its CCN, Complainants also assert that (1) Respondents do not now possess a valid CCN; and (2) without a valid CCN, Respondents therefore do not possess eminent domain authority to pursue easement agreements from landowners in the right-of-way for which the CCN was granted.

2. On September 3, 2020, the Commission issued a Notice of Formal Complaint and Order Directing Staff to File a Preliminary Report. The Order directed Respondents to file a Response to the Complaint by October 3, 2020, and directed Staff to file its Preliminary Report on or before October 18, 2020.

3. Subsequent to the issuance of the Commission’s Order, Joint Movants corresponded via electronic mail and telephone and agreed that the Complaint is limited to a legal question that can be resolved without Staff undertaking an investigation into the Complaint’s allegations and that would be more appropriately addressed through briefs, rather than Respondents filing a formal Response.

4. Joint Movants discussed suspending or cancelling the current October 3, 2020 and October 18, 2020 deadlines so that the parties could submit briefs pertaining to the legal question. Through this Motion, Joint Movants request a waiver or continuance of 20 CSR 4240-2.070(9) (Response to the Complaint) and 20 CSR 4240-2.070(11) (Staff’s investigative report) so that the Commission may receive legal briefs on the issue identified below as Joint Stipulation (g). The Commission may grant such waivers or continuances pursuant to 20 CSR 4240-2.205, which provides that “[t]he commission may grant variance from or waive any rule or provision of a rule

promulgated by the commission upon a finding of good cause.” The efficient processing of this case constitutes good cause.

## **II. Joint Stipulations**

5. Joint Movants have agreed to the following stipulations:

- (a) Grain Belt issued a Press Release on August 25, 2020, which is attached to the Complaint as Exhibit 1;
- (b) On September 24 and 25, 2020, Grain Belt mailed a letter to Missouri landowners who were mailed form easement agreements but had not yet signed them. A copy of that letter is attached to this Joint Motion as Exhibit A;
- (c) Grain Belt has not yet sought Commission permission to make changes to the Project as it was approved in the CCN case. The Press Release states “Grain Belt Express will seek approvals to the extent necessary for expanded delivery to Kansas and Missouri as well as for beginning the first phase of project construction prior to Illinois regulatory approval”;
- (d) Grain Belt has begun acquiring easement rights along the certificated route but has not begun construction of the Project;
- (e) The sample landowner letter posted on Grain Belt’s website states that Grain Belt is working to add broadband infrastructure along the route to support rural high-speed internet access. A copy of Grain Belt’s sample landowner letter is attached as Exhibit B to this Joint Motion;
- (f) In their respective legal briefs, Joint Movants may cite to any portion of the record in the CCN case;
- (g) Joint Movants agree that the issue in this Complaint is limited to whether Respondents’ contemplated changes to the Project invalidate the CCN granted to Grain Belt in the CCN case.

6. Joint Movants agree and propose that they file simultaneous Initial Briefs regarding the legal issue on or before October 16, 2020, and file simultaneous Reply Briefs on or before October 23, 2020.

WHEREFORE, in order to bring the legal issue to the attention of the Commission in an expeditious manner for resolution and decision, the Joint Movants respectfully request that the Commission (1) suspend the October 3, 2020 date for Respondents to file an Answer or Response

to the Complaint; (2) suspend the October 18, 2020 date for Staff to file its Preliminary Report on the Complaint; (3) issue an Order adopting the proposed briefing schedule discussed herein, and for any such further relief as the Commission may deem just and appropriate.

Respectfully submitted,

/s/ Anne E. Callenbach

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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 29<sup>th</sup> day of September, 2020.

/s/ Anne E. Callenbach  
Attorney for Respondents