

**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)

INITIAL POST-HEARING BRIEF
OF THE MISSOURI FARM BUREAU FEDERATION

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INTRODUCTION

Missouri Farm Bureau (MFB) is a non-profit corporation in good standing organized under the laws of the State of Missouri. MFB is the state's largest and most recognized agricultural organization working to improve the quality of the life for farmers and rural Missourians. Organized at the grass roots, MFB has 141 offices in 113 counties with each county Farm Bureau run by local members.

Missouri Farm Bureau has long been a defender of property rights when it involves cases of eminent domain. MFB believes that the benefits claimed by Grain Belt do not justify the granting of eminent domain to the newly formed company selling electricity to out-of-state customers.

Grain Belt Express proposes to build and operate an approximately 750-mile, overhead, multi-terminal +600 kilovolt HVDC transmission line and associated facilities that will deliver up to 500 megawatts of wind-generated power from western Kansas into Missouri, and up to 3,500 MW to load and population centers in Illinois, Indiana and states farther east. (Application Of Grain Belt Express Clean Line LLC For A Certificate Of Convenience And Necessity, p. 3). As set out Below, MFB believes that this Commission should deny Grain Belt Express's application. If the Commission does approve the application, then MFB believes that the Commission should impose a condition that prohibits Grain Belt Express from exercising eminent domain. In the alternative, MFB believes that the Commission should impose Staff's recommendations limiting eminent domain.

ARGUMENT

MFB sees this case as a conflict between (1) a private developer, Grain Belt Express, and (2) the landowners, primarily farmers, whose land Grain Belt wants to condemn and take to

build its multi-state transmission project. At issue is whether a merchant transmission developer should be given a blessing by the Commission to build a project that has little, if any, benefit to Missouri, but has the potential to harm hundreds of farmers and ranchers.

In a nutshell, Grain Belt Express has not shown that the project is needed. More importantly, it has not shown that it will treat landowners appropriately. Staff witness Dan Beck hit the nail on the head in his cross-examination by Grain Belt Express when talking about several conditions that staff is recommending regarding maintenance and repair of land damaged during construction:

Q: And wouldn't it be a better practice to have Grain Belt Express work with state and federal agencies, organizations like the Natural Conservancy and landowners on what appropriate reseeding practices should be followed?

A: If that list started with landowners, I think I could support it.

Q: Well –

A: But it ends with landowners, and they're just one of the – it seems like they're just one voice.

Q: Well, it's not fair to give anybody a veto, is it? I mean, if you're not going to give Grain Belt a veto, you wouldn't give a landowner a veto, would you?

A: As of today, it's their land.

(Transcript, Volume 17, p. 1731, line 14 to p. 1732, line 4). Mr Beck is right—the land is owned by the landowners, not Grain Belt Express. The evidence shows that in Grain Belt Express's opinion, landowners are at the bottom of the food chain.

Farm Bureau offered the testimony of Blake Hurst. Mr. Hurst is the president of MFB (Hurst Rebuttal, Exhibit 500, p. 1, line 3). Specifically, Mr. Hurst's testimony discussed MFB's opposition to Grain Belt Express's application in the context of MFB's commitment as an

organization to the protection of property rights relative to eminent domain. (Id., p. 1, line 18 to p. 2, line 2).

MFB believes that Grain Belt Express is simply a consortium of private investors who propose to transmit electricity generated by wind farms in Kansas to a terminal in Indiana. It is a private business venture that does not merit certification as a public utility by the Commission. (Id., p. 2, lines 17-20). Neither the purpose nor potential benefits to Missouri citizens enumerated by Grain Belt Express justify the potential harm to Missouri farmland and farming operations by authorizing it to exercise eminent domain. (Id., p. 4, lines 20-22).

Former MFP president Charles Kruse provided testimony as to the negative impacts to the land and farming operations as a result of the Grain Belt Express project. (Kruse Rebuttal, Exhibit 403). Furthermore, public participation in this case has been unprecedented. According to Staff Witness Natelle Dietrich, as of November 20, 2014, approximately 7,200 comments opposing the project had been filed in EFIS, and only 65 in support. (Dietrich, Exhibit 200, p. 3, lines 10-12; Transcript, Volume 17, p. 1643, line 19 to p. 1644, line 5). In addition, 8 local public hearings were held in the counties where the Grain Belt Express wants to construct its transmission line. Approximately 287 people testified (an average of about 36 people per location), and the vast majority of those testifying were in opposition to the project. (Transcripts, Volumes 2 through 9). Many of these witnesses who testified at the local public hearings in opposition to the Grain Belt Express project are MFB members. (Hurst Rebuttal, p. 4, line 22 to p. 5, line 2. A sampling of testimony from the local public hearings show how concerned farmers and landowners are about the harm the Grain Belt Express project could cause:

- Eminent domain is surely not about granting to someone with an out-of-state and out-of-nation ownership the rights to build high voltage transmission lines that place such heavy

burden on the lives and property of those that live and work in the path of the shadow of this line. (Transcript, Volume 5, p. 34, lines 13-18).

- Eminent domain puts the State against one of the foundational individual – individual interests in American life, the property interests that a man or woman holds is his -- in his own or her own home. Moreover, the compensation that the use of eminent domain provides a family whose home is affected is rarely equal to the harm caused to that family. Many of the farmers in our region have been held by local families for 100 years or more, and market value does not begin to approach the true value that a family farm has to a person whose parents, grandparents and great-grandparents have worked through decades to preserve their home and way of life for their posterity. For these and other reasons, the power of eminent domain must be used only in limited circumstances when there is a highly compelling public interest at stake and when all other alternatives have been exhausted. (Transcript, Volume 5, p. 52, lines 14 to p. 53, line 9).
- My objections are that the commission would give property rights to families that have helped rural Missouri for several generations to an out-of-state company for a project that would have many risks and few benefits to Missouri. (Transcript, Volume 2, p. 10, lines 2-6).
- My concern is the loss of property value, the loss that it could cause in farm income, the damage that can be done to our property while construction is being done or if they have to come back for any maintenance or fix what they might tear up. (Transcript, Volume 2, p. 15, line 21 to p. 16, line 1).
- If they were to get the rights that they are asking for, they take away our rights as landowners. When we buy our land, we were given title to it. If they have these rights,

it's like we just have a lease and they can come in -- yes, they are offering compensation. But as they are offering it, if they get the rights they want, we lose our right to fair play if they are not dealing with us one-on-one if they can get these rights. We need a right to be able to put clauses in their contracts. Some of us want to make sure that they have to stay on the easements. The way it's wrote, they can go through anywhere anyhow they want. It's an open easement. (Transcript, Volume 4, page 14, lines 2-16).

- Our county has -- country has always recognized that private property rights are among the foundational rights of any free society. I urge you to listen carefully to the grievances and potential of the -- the potentially affected citizens and families in Mid-Missouri and please consider whether the potential benefits of the proposed Grain Belt Express transmission line to the State of Missouri are such as to justify abrogating the foundational rights of fellow Missourians. (Transcript, Volume 5, p. 54, lines 5-15).
- Farming has been in our family for almost 150 years. So there's -- I agree with -- I'm in opposition of this the same way a lot of people are. Our folks have a great deal of family history in their farms. They have dreams for those farms for future generations. And it seems this project will have a negative impact as well as unintended consequences against spending for this route. (Transcript, Volume 4, p. 43, lines 16-24).
- What we're seeing here is a land grab by one private business trying to usurp the private property of another business. And that's ludicrous. That's just absurd if you think about it. (Transcript, Volume 3, p. 28, lines 2-5).
- I don't think I'll have any trouble getting everybody you see in green to agree with me about how deceptive Grain Belt has been on this project. This will cross my family farm in five places, yet we never learned of the route in permanent. Never learned of the route.

Not one time. Have not been contacted by anybody who represents them. (Transcript, Volume 6, p. 22, lines 11-17).

- Here I am today on my knees in front of you asking please don't destroy what I have built and trying to do in the great state of Missouri, and I thought as a landowner, these are my rights to do these things without somebody imposing their will on me without me having a say so. I just don't understand that. (Transcript, Volume 8, p. 24, lines 6-12).
- The bottom line is, what's next? Once this door gets opened and you grant them public utilities commission and then they get to run free reign. And private gain for eminent domain is a sin. That's not what this -- eminent domain was set up for. Big corporate America should not be able to impose little small guys like me -- stomp us out. No farms, means no food. (Transcript, Volume 8, p. 29, lines 14-21).
- What else -- what else can happen to a person in a family that's more of a kick in the gut than this? I mean, we have to see it, you have to deal with the health effects, and the property value and your retirement plan. Wow, I can't think of a bigger kick in the stomach, and with that, I ask that God be with each Missouri landowner and God bless Missouri. (Transcript, Volume 8, p. 30, lines 12-19).

CONCLUSION

Grain Belt Express has not shown a need that outweighs the needs of Missouri landowners. Furthermore, Grain Belt Express has not shown that it can be a good corporate citizen in Missouri and be fair to landowners. MFB asks this Commission to deny the application of Grain Belt Express. If the Commission does approve the application, the Commission should prohibit the use

of eminent domain. In the alternative, the Commission should adopt the Staff's recommended conditions limiting eminent domain.

WHEREFORE, Missouri Farm Bureau respectfully offers this Initial Post-Hearing Brief and prays that the Commission conform its decision in this case to the arguments contained herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 8th day of December, 2014.



Terry M. Jarrett