

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)	
Gary Mareschal,)	
)	
Complainants,)	
)	Case No. EC-2020-0408
)	
v.)	
)	
)	
)	
Grain Belt Express Clean Line LLC, and)	
Invenergy Transmission LLC, and)	
Invenergy Investment Company,)	
)	
Respondents)	

MOTION TO DISMISS FORMAL COMPLAINT

Invenergy Transmission LLC (“Invenergy Transmission”), on behalf of itself and its parent company Invenergy Investment Company LLC (“Invenergy Investment”, collectively, “Invenergy”), together with Grain Belt Express LLC (“Grain Belt”) (together with Invenergy, the “Respondents”), pursuant to 20 CSR 4240-2.070(7), hereby file this Motion to Dismiss Formal Complaint for failure to state a claim on which relief can be granted. In support of its Motion to Dismiss, Respondents state the following:

I. Background and Summary of Complaint

1. In Case No. EA-2016-0358, the Missouri Public Service Commission (“MPSC” or “Commission”) issued a Certificate of Convenience and Necessity (“CCN”) to Grain Belt Express Clean Line LLC to construct a high voltage direct current transmission line and associated facilities (the “Project”) in the State of Missouri. In Case No. EM-2019-0150, the

Commission approved an acquisition by which Invenergy Transmission LLC acquired Grain Belt Express Clean Line LLC from Clean Line Energy Partners LLC.

2. On May 27, 2020, in Case No. EN-2020-0385, Grain Belt Express Clean Line LLC filed a notice informing the Commission that it is changing its name to Grain Belt Express LLC and requesting a waiver of the 60-day notice requirement under 20 CSR 4240-4.017 and for waiver of the requirement to file an adoption notice and revised tariffs under 20 CSR 4240-2.060(5)(c). On June 8, 2020, the Commission Staff filed a recommendation advising the Commission to recognize the name change and grant the requested waivers.

3. On June 9, 2020, the Commission issued its Order Recognizing Name Change and in Case No. EN-2020-0385.

4. On Saturday, June 20, 2020, counsel for Complainants sent an electronic mail to the undersigned, indicating that a formal complaint would be filed with the MPSC and noting the basic factual elements of the complaint. The next business day, before the undersigned was provided the opportunity to investigate the alleged facts of the Complaint or to discuss the matter informally with counsel for Complainants, on June 22, 2020, Complainants filed a formal complaint against Respondents. The Complaint contains unsubstantiated allegations that are allegedly in violation of the Code of Conduct, which was received in evidence in Case No. EA-2016-0358, to which Grain Belt is bound to comply with in accordance with the Commission's March 20, 2019 Report and Order on Remand.

5. The Complaint specifically alleges that on two recent occasions, individual Complainants received a telephone call from two persons who (1) identified themselves by name; (2) noted that they worked for a company called Contract Land Staff ("CLS"); (3) stated that they were calling on behalf of Invenergy; and (4) that they wished to discuss obtaining an

easement over a parcel of land in Monroe County, Missouri that is co-owned by Mr. Mareschal, or by Mr. Daniel, on the second occasion.¹

6. During the course of these conversations, Complainants allege that the land agents stated that Invenergy has now purchased the proposed transmission line operations and that “Grain Belt is no longer involved with this business,” or possibly that “Grain Belt is no longer involved with the business.”²

7. The Complaint notes that “the claims by the land agents to the effect that Grain Belt is no longer involved in the transmission line project are obviously false” and further asserts that such statements are “legally and factually untrue.”³

8. Further, the Complaint submits that the land agents working for Grain Belt and Invenergy “obviously benefit” in their dealings with landowners if they can persuade them that Grain Belt is no longer involved in the picture.⁴ Purportedly in support of this baseless allegation, the Complaint refers to the “ill will” and “animosity” towards Grain Belt among many of the landowners near the right-of-way, and suggests that a contributing factor may be “Grain Belt’s past record of disseminating misleading information to Missouri landowners.”⁵

9. Complainants request the following relief from the Commission: (1) that Grain Belt and Invenergy be directed to promptly remind all of the current and future agents and representatives in writing that all of their communications with Missouri landowners must be factually correct; (2) that Grain Belt and Invenergy be directed to promptly remind all current and future agents and representatives in writing that Grain Belt is still involved in the process of

¹ Formal Complaint at pp. 2-3.

² Id.

³ Formal Complaint at pp. 3-4.

⁴ Formal Complaint at p. 4.

⁵ Formal Complaint at p. 4.

constructing the proposed transmission line and in securing easements for that line from Missouri landowners; and (3) for whatever further relief the Commission deems appropriate.⁶

II. Response to Allegations in the Complaint

10. Grain Belt and Invenergy deny the unsubstantiated and uncorroborated allegations raised in the Complaint. At all times, Respondents and their agents have been proactive and forthcoming with all landowners to ensure that they are fully aware that Invenergy Transmission LLC is the new owner of the Grain Belt Express transmission line. Respondents are mindful and respectful of the conditions placed upon its CCN by the Commission, including its compliance with the Code of Conduct, and view the Complaint's allegations that these responsibilities have somehow been breached or misrepresented as very serious accusations.

11. Subsequent to the Project being acquired from Clean Line, Respondents (1) changed the project entity name; (2) notified the relevant regulatory authorities, including the MPSC, of the name change; (3) updated all social media and promotional materials to reflect the name change; and (4) mailed an informational packet to Missouri landowners to inform them that Invenergy bought Grain Belt from Clean Line and noting the name change, as discussed further below, with a separate letter to stakeholders. Throughout all of these documented communications, the name "Grain Belt" is prominently featured.

12. The week of May 29, 2020, Missouri landowners were sent via United States mail an informational packet that included the following documents: (1) a cover letter⁷, which states in the initial paragraph that **"Earlier this year, Invenergy Transmission became the full and sole owner of the Grain Belt project, and the company has no affiliation with Clean Line Energy Partners"**; (2) a fact sheet that in the first sentence under the document headline reads

⁶ Formal Complaint at p. 6.

⁷ A copy of the landowner letter is attached hereto as **Exhibit A**.

“Grain Belt is now owned by Invenergy Transmission LLC, an affiliate of Invenergy”⁸; (3) a parcel map featuring the Grain Belt Express project logo⁹; and (4) the cover letter includes a link to www.grainbeltexpress.com and references the Landowner Resources page available at that link, which features downloadable versions of the cover letter, the fact sheet, and a Landowner FAQ sheet,¹⁰ which includes the following as its second question:

Who owns Grain Belt?

Grain Belt is owned by Invenergy Transmission LLC (“Invenergy Transmission”), an affiliate of Invenergy, a U.S. company with a successful track record building clean energy projects. In 2020, Invenergy Transmission became the full and sole owner of Grain Belt after acquiring the project from Clean Line Energy Partners. Invenergy Transmission has no affiliation with Clean Line Energy Partners.

13. In addition to the materials noted above that have been mailed to Missouri landowners and posted online, all CLS land agents and representatives have received copies of or links to the above-referenced materials, in addition to receiving training to reinforce adherence to relevant Missouri protocols.

14. At its core, the Complaint asserts that, based upon unsupported hearsay, CLS land agents may have deliberately and intentionally mislead Missouri landowners by suggesting that Grain Belt is no longer involved with the project in an attempt to “neutralize some of the resentment associated with the Grain Belt name” or to “benefit in their dealings with landowners.”¹¹

15. Invenergy and its agents and representatives possess neither the motivation nor the desire to “game the system” in the manner suggested by the Complaint, and any assertion

⁸ A copy of the fact sheet is attached hereto as **Exhibit B**.

⁹ A copy of the parcel map is attached hereto as **Exhibit C**.

¹⁰ A copy of the Landowner FAQ sheet is attached hereto as **Exhibit D**. A printed version of the Landowner FAQ sheet was also included in easement mailers that were mailed to Missouri landowners the week of June 22, 2020.

¹¹ Formal Complaint at p. 4.

that they have attempted to do so is contrary to every document sent to the landowners and the name of the website (grainbeltexpress.com) created by Invenenergy for the purpose of providing information about the Project. It remains Grain Belt's and Invenenergy's top priority to voluntarily secure the easements necessary to construct the transmission line through courteous and accurate interactions with landowners. In support of this goal, Grain Belt contracted with CLS as an industry-leading land services provider with a 35-year history of executing linear infrastructure projects throughout North America, including several multi-state transmission line projects to assist in its easement acquisition work.¹²

16. As documented above and in the attached Exhibits, Grain Belt and Invenenergy maintain the highest commitment to be thoughtful, accurate, and respectful in every communication with Missouri landowners. Whether the landowners at issue mis-heard what the CLS agents said, or the CLS agents inadvertently mis-spoke, there is no evidentiary or documentary support for the allegations in the Complaint. In contrast, a plethora of documentation exists to support the conclusion that Invenenergy and its agents and representatives have been and continue to be in compliance with the Code of Conduct.

17. Rule 4 CSR 4240-2.070(7) provides that "the Commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations."

¹² A full discussion of Invenenergy's land acquisition strategies and general progress update was provided to the MPSC in its April 15, 2020 Notice of Compliance with the requirement to provide an annual status update, pursuant to Exhibit 206 of the March 20, 2019 Report and Order on Remand in Case No. EA-2016-0358 and the June 5, 2019 Amended Report and Order in Case No. EM-2019-0150. The Notice of Compliance was filed with the Commission in both of these matters. For ease of reference, the Notice of Compliance is attached hereto as **Exhibit E**.

18. The relief requested in paragraph 18 of the Formal Complaint, (1) that Grain Belt and Invenergy be directed to promptly remind all of the current and future agents and representatives in writing that all of their communications with Missouri landowners must be factually correct; and (2) that Grain Belt and Invenergy be directed to promptly remind all current and future agents and representatives in writing that Grain Belt is still involved in the process of constructing the proposed transmission line and in securing easements for that line from Missouri landowners—is already embedded in the instructions given to the CLS agents and the documents that landowners have received.

WHEREFORE, Invenergy respectfully requests that the Commission issue an Order granting this Motion to Dismiss Formal Complaint and for such further relief as the Commission may deem just and appropriate.

Respectfully submitted,

/s/ Anne E. Callenbach

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ATTORNEYS FOR INVENERGY INVESTMENT
COMPANY LLC AND INVENERGY TRANSMISSION
LLC

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 25th day of June, 2020.

/s/ Anne E. Callenbach
Attorney for Invenenergy Transmission LLC