

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

In the Matter of the Joint Application of Invenergy )	
Transmission LLC, Invenergy Investment )	
Company LLC, Grain Belt Express Clean )	
Line LLC and Grain Belt Express Holding LLC )	Case No. EM-2019-0150
)	
for an Order )	
)	
Approving the Acquisition by Invenergy )	
Transmission LLC of Grain Belt Express )	
Clean Line LLC )	

**MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSIONS'S  
INITIAL POST-HEARING BRIEF**

The Missouri Joint Municipal Electric Utility Commission (“MJMEUC”) respectfully requests that the Missouri Public Service Commission (“Commission”) grant Invenergy Transmission LLC (“Invenergy Transmission”) the approval it requires to acquire Grain Belt Express Clean Line LLC (“Grain Belt”). The applicable standard required ‘of no likely public detriment’<sup>1</sup> has been met.

**I. The Commission has Jurisdiction and Statutory Authority pursuant to RSMo §393.190 to approve the sale of Grain Belt to Invenergy Transmission.**

Section 393.190 of the Revised Statutes of Missouri (RSMo) clearly states that Grain Belt, as an electrical corporation, must obtain Commission approval before selling its assets to Invenergy Transmission. The Commission has already determined that Grain Belt is an electrical corporation in both EA-2016-0358 (“CCN Case”) and EA-2014-0207<sup>2</sup>. Both cases are final at the Commission, and per RSMo §386.550, the issue of whether Grain Belt is an electrical corporation

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<sup>1</sup> See *In the Matter of KCP&L*, Report and Order, 10 Mo. P.S.C. 3d 394, Case No. EM-2001-464, 2001 Mo. PSC LEXIS 905, (Aug. 2, 2001). See also *State ex rel. St. Louis v. Pub. Serv. Com.*, 335 Mo. 448, 73 S.W.2d 393 (1934) at 459-460, citing *Elec. Pub. Utils. Co. v. PSC*, 154 Md. 445, 140 A. 840 (1928).

<sup>2</sup> *In the Matter of Grain Belt Express Clean Line LLC*, Report and Order, EA-2014-0207 (July 1, 2015), pp. 18-19.

is barred as a matter of law from being argued. The parties opposing Grain Belt failed to appeal this issue in EA-2014-0207, and the Commission made the same finding in the CCN Case.

Since the Commission has made previous final findings that Grain Belt is an electrical corporation, Grain Belt is an electrical corporation and jurisdictional to the Commission. The law requires that a jurisdictional entity such as Grain Belt receive approval from the Commission to sell its assets to Invenergy Transmission. Therefore, the Commission has both the jurisdiction and statutory authority to approve the acquisition of Grain Belt's assets by Invenergy Transmission.

## **II. Invenergy's Acquisition of Grain Belt is Not Detrimental to the Public Interest and Therefore the Commission Should Approve the Transaction.**

The applicable standard to judge the approval is whether the transaction is 'of no likely public detriment.'<sup>3</sup> This standard was discussed by the Missouri Supreme Court, and the Court stated as follows:

To prevent injury to the public, in the clashing of private interest with public good in the operation of public utilities, is one of the most important functions of Public Service Commissions. It is not their province to insist that the public shall be benefited, as a condition to change of ownership, but their duty is to see that no such change shall be made as would work to the public detriment. 'In the public interest,' in such cases, can reasonably mean no more than 'not detrimental to the public.'<sup>4</sup>

The Commission has already determined in the CCN Case that Grain Belt meets all five of the Tartan factors, which showed that Grain Belt provides a benefit to the general public, and to MJMEUC members in particular.<sup>5</sup> There were no witnesses in this case that argued that Invenergy Transmission's acquisition of Grain Belt would be a public detriment; instead the evidence was overwhelming that the acquisition would make the completion of the Grain Belt project more likely, which would then deliver the benefits found in the CCN Case to the public. Therefore,

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<sup>3</sup> See *In the Matter of KCP&L*, Report and Order, 10 Mo. P.S.C. 3d 394, Case No. EM-2001-464, 2001 Mo. PSC LEXIS 905, (Aug. 2, 2001).

<sup>4</sup> *State ex rel. St. Louis v. Pub. Serv. Com.*, 335 Mo. 448, 73 S.W.2d 393 (1934) at 459-460, citing *Elec. Pub. Utils. Co. v. PSC*, 154 Md. 445, 140 A. 840 (1928).

<sup>5</sup> See *In re Tartan Energy*, Report and Order, 3 Mo.P.S.C. 3d 173, Case No. GA-94-127, 1994 WL 762882 (September 16, 1994).

Grain Belt is of no likely public detriment, and the approval for Invenergy Transmission to acquire the assets of Grain Belt should be granted.

**III. What Conditions, If Any, Should the Commission Require in the Approval of the Acquisition of Grain Belt by Invenergy Transmission?**

The conditions agreed to by Invenergy Transmission are appropriate.

**Conclusion**

The Commission should approve the acquisition of Grain Belt by Invenergy Transmission. There is no legal debate remaining for the status of Grain Belt as an electrical corporation, or this Commission's jurisdiction. No evidence was heard as to the likely public detriment of this transaction. MJMEUC, and its hundreds of thousands of customers in this state that are represented by its municipal members, respectfully requests that the Commission approve this transaction.

Respectfully Submitted,

By: /s/ Douglas L. Healy

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or electronically mailed to all counsel of record this 6<sup>th</sup> day of May, 2019.

/s/ Douglas L. Healy \_\_\_\_\_

Douglas L. Healy