

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)
Eastern Missouri Landowners Alliance)
DBA Show Me Concerned Landowners, and)
John G. Hobbs,)
)
Complainants,)
)
V.)
)
Grain Belt Express, LLC and)
Invenergy Transmission LLC,)
)
Respondents)

Case No.: EC-2021-0059

**RESPONDENTS' OBJECTIONS TO THIRD SET OF DATA REQUESTS FROM
COMPLAINANTS**

Pursuant to 20 CSR 2440-2.090, Grain Belt Express LLC (“GBE”) and Invenergy Transmission LLC (“Invenergy”) (collectively, “Respondents”), through counsel, respectfully submit these objections to the Third Set of Data Requests from Complainants by reproducing the statements and listing Respondents’ objections below the Request.

GENERAL OBJECTIONS

Respondents’ General Objections are incorporated by reference into the objection to the data request set forth below and are stated here for the convenience of the parties.

1. Respondents object to Complainants’ Data Request to the extent it seeks information which is not, and may not have been, within the personal knowledge or possession or control of Respondents or their agents.

4. Respondents object to the definition contained in Complainants’ Data Request to the extent it renders Complainants’ Data Requests vague, ambiguous, overbroad, and/or unduly burdensome.

5. In responding to Complainants’ Data Request, Respondents do not waive, and expressly preserve, the following objections:

- a. all objections regarding competency, relevancy, materiality, and admissibility;
- b. all objections regarding the use of the responses in any proceeding; and
- c. all objections to any further data requests involving, or related to, any of the requests in Complainants' Data Requests.

6. Respondents do not concede that any of their response to Complainants' Data Request is admissible evidence at any hearing or any other legal proceeding in which evidence is heard.

DEFINITIONS:

"Correspondence" includes all forms of written communication, including but not limited to letters, emails and text messages.

Objection:

Complainants reincorporate by reference their General Objections.

DATA REQUESTS:

Request No. 23:

Please provide a copy of all correspondence between Mr. Kris Zadlo of Invenergy Transmission on the one hand, and officers, employees or agents of Invenergy Transmission or its affiliated companies on the other, expressly addressing the language to be included in or excluded from the press release attached as Exhibit 1 to the Complaint in this case.

OBJECTION:

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The request would require Mr. Zadlo to search hundreds of documents, many of which are irrelevant to the present issue—which is whether Respondents violated the terms of the CCN through actual design and

engineering changes to the project.¹ Accordingly, this Request is not proportional to the needs of the case.²

Further, Complainant’s allegations revolve entirely on the substance of the August 25, 2020 Press Release. There are no allegations, beyond what was said in the press release, that Respondents have pursued other actual material changes to the design or engineering of the project. Therefore, a fishing expedition into “the language to be included in or excluded from the press release”—which would necessarily include preliminary drafts and concepts that never made it past the brainstorming stage—is overbroad and not reasonably calculated to lead to admissible evidence.³

Respondents further object to the extent this request calls for confidential business information and information protected under attorney-client privilege and work product privilege.

¹ See Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224); “Order Concerning Discovery Conference,” *In Re Union Elec. Co.*, No. EO-2004-0108, 2004 WL 716776 (Mar. 16, 2004) (finding requests for “all documentation” to be overbroad); and *State ex rel. Anheuser v. Nolan*, 692 S.W.2d 325, 328 (Mo. Ct. App. 1985) (“Thus, even though the information sought is properly discoverable, upon objection the trial court should consider whether the information can be adequately furnished in a manner less intrusive, less burdensome or less expensive than that designated by the requesting party.”).

² Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

³ *State ex rel. Kawasaki Motors Corp., U.S.A. v. Ryan*, 777 S.W.2d 247, 253 (Mo. Ct. App. 1989) (finding discovery requests overbroad, burdensome and oppressive where they were not limited to the issues raised in the petition).

Dated: January 11, 2021

Respectfully submitted,

POLSINELLI PC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing data request was served upon all parties of record by electronic mail this 11th day of January, 2021.

/s/ Andrew O. Schulte
Attorney for Respondents