

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, et al.)	
)	
Complainants,)	
)	
V.)	
)	Case No. EC-2021-0059
Grain Belt Express LLC, et al.)	
)	
Respondents)	

COMPLAINANTS’ MOTION TO REVISE PROCEDURAL SCHEDULE

Complainants allege in this case that Grain Belt Express LLC (“Grain Belt”) no longer plans to build the project for which it was issued a CCN by the Commission in Case No. EA-2016-0358 (the “CCN case”).

After an initial round of briefs from the parties, on December 16, 2020, the Commission issued an Order directing the parties to file additional briefs on January 7 and January 14, 2021. For the reasons set forth below, Complainants respectfully request the Commission to suspend that briefing schedule until pending discovery questions are answered or otherwise resolved. In support of this Motion, Complainants state as follows.

In its Order of December 16, 2020, the Commission stated as follows:

“If any party believes additional evidence needs to be presented to fully respond to this order, that party may request such relief as the party deems necessary.”

In response to that directive, on the date of the Commission’s Order Complainants submitted a set of 9 data requests to Respondents. A copy of those data requests accompanies this Motion.

The basic thrust of Complainants' case is that Invenergy (the owner of Grain Belt) has publically announced that in lieu of the transmission project approved by the Commission in the CCN case, it has already decided to build a significantly different project. (See press release from Invenergy dated August 25, 2020, attached as Exhibit 1 to the Complaint -- the "press release"). Accordingly, Complainants contend that Grain Belt has forfeited its CCN for construction of the original project.¹

Among other changes, the press release announced that the new project would deliver energy directly to customers in Kansas, whereas the original project was designed to deliver power only to Missouri and points further east.

In contrast to Complainants' position, Respondents contend they are only "contemplating" the revised project touted in the press release, and have not actually committed to build it.²

Accordingly, one of the key questions in this case is the extent to which Invenergy has made the decision to abandon the original project in favor of one comparable to that described in its press release.

The data requests submitted to Respondents are intended to shed light on that very question. The first four items request copies of correspondence between the Respondents and the four individuals providing testimonials for Grain Belt in the press release. Based on their statements in the press release, those individuals must necessarily have been provided information by the Respondents concerning the Respondents' plans for the revised project.

¹ Complaint par. 7; Prayer for Relief in Complaint.

² Respondents' Initial Brief, p. 10, par. 22.

For example, the Governor of Kansas, named in the first data request, is quoted in the press release as follows: “The Grain Belt Express will be instrumental in helping to power Kansas and other states, and will have a significant economic impact here at home.” She could only have made that statement if she had been assured by the Respondents that the original project would be revised so as to deliver power directly to the state of Kansas.

Data requests 2-4 similarly seek copies of communications regarding the revised project from individuals whose statements in the press release clearly indicate they were provided information by the Respondents concerning the plans for revising the original project.

Data requests 5 and 6 seek copies of correspondence from and to the person who undoubtedly has direct knowledge of the status of the proposed changes to the project: Mr. Kris Zadlo. Mr. Zadlo is a senior officer with Invenergy; he was Invenergy’s spokesperson quoted in the press release; and he was their lead witness in the Commission case involving the acquisition of Grain Belt by Invenergy.³

The three remaining data requests seek information which is also relevant to the current status of the revised project described in the press release.

All of the requested information is designed to seek evidence which is relevant to Complainants’ basic proposition in this case: that Respondents have already committed to build the project described in the press release, in lieu of the project approved by the Commission. In other words, the responses to the data requests may well constitute additional evidence which would allow Complainants to fully respond to the Commission’s Order of December 16.

³ See Direct Testimony of Kris Zadlo, Case No. EM-2019-0150, EFIS 5.

Unfortunately, under the existing procedural schedule the information sought through the data requests might not be available until well after one or both of the briefs are to be filed in January. Therefore, Complainants are requesting that the Commission revise the briefing schedule to ensure that any relevant evidence obtained during discovery would be available to fully respond to the Commission's Order.

Specifically, Complainants respectfully ask that the Commission issue an order at its earliest convenience suspending the existing briefing schedule in this case, which would be revised by the Commission after it is notified by the parties that all issues involving the accompanying data requests have been resolved.

WHEREFORE, Complainants respectfully request that the Commission issue an order at its earliest convenience comparable to that described in the preceding paragraph, and for whatever other relief the Commission deems just and reasonable.

Respectfully submitted

/s/ Paul A. Agathen

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Certificate of Service

I certify that a copy of the foregoing and the accompanying set of data requests were served this 17th day of December, 2020 by email to all parties of record.

/s/ Paul A. Agathen

Paul A. Agathen