

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt)
Express LLC for an Amendment to its Certificate)
Of Convenience and Necessity Authorizing it to) File No. EA-2023-0017
Construct, Own, Operate, Control, Manage, and)
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station)

Motion Regarding the MLA’s Late-Filed Exhibit 307 and Matters Related Thereto.

Pursuant to discussions near the conclusion of the hearings in this case on June 8, 2023, the Missouri Landowners Alliance (MLA) respectfully asks the Commission for the following two items of relief: (1) to accept as read into the record items 6 and 7 of Grain Belt’s response to the First Set of Requests for Admissions From the MLA to Grain Belt Express; and (2), to accept into the record as Exhibit 307 the accompanying document consisting of the MLA data request number G43 to Grain Belt, and Grain Belt’s responses thereto.

Background. Earlier in the discovery phase of this case, the MLA propounded to Grain Belt the accompanying data request number G43. The data request essentially asked if a named official of Invenergy had made a public statement to the effect that Invenergy “has not yet decided whether or not the Grain Belt line is a merchant project.” As is readily apparent from Grain Belt’s response to data request G43, Grain Belt failed to answer the question propounded there. Instead, Grain Belt in effect attempted to “walk back” the statement made by the Invenergy official, without answering the question.

Accordingly, in an effort to obtain a responsive answer to the data request, the MLA instead submitted the Request for Admissions. In items 6 of Grain Belt’s response to the Request for Admissions, they admitted that Mr. Brad Pnazek, is the Vice President

of Transmission Development for Invenergy, and among other things is responsible for the development of the Grain Belt Express transmission project.

In item 7, Grain Belt then admitted that Mr. Pnazek publicly made the statement about which the MLA inquired in its data request number G43: that Mr. Pnazek made “a statement to the effect that Invenergy has not yet decided whether or not the Grain Belt line is a merchant project.”

Proceedings at the Hearings.

During the course of the hearings last week in this case, counsel for the MLA sought to read into the record items 6 and 7 of Grain Belt’s response to the Request for Admissions. Counsel for Grain Belt raised a number of points in trying to distinguish the Missouri appellate court decision distributed at the hearings, which stated that a party is allowed to choose the time when it will read Admissions into the record.¹ The MLA contends that all of Grain Belt’s attempts at the hearings to distinguish *Felton* from the situation at hand raised only superficial differences, none of which raised any issue of substance.

In addition, counsel for Grain Belt pointed out that their response to item 7 in the Request for Admissions included the following statement: “See Grain Belt Express’ Response to MLA DR No. G43 for clarification.”

During discussions near the end of the hearings, it is counsel’s recollection that the MLA was granted leave to file a copy of Data Request G43 as a late-filed exhibit, in order to satisfy Grain Belt’s objection that the data request was not included in Grain Belt’s response to item 7 of the Request for Admissions.

¹ *Felton v. Hulser*, 957 S.W.2d 394, 399 (Mo App. 1997)

With the filing of the accompanying copy of the data request, the MLA submits that it has satisfied every requirement for admission into the record of Grain Belt's responses to items 6 and 7 of the Request for Admissions.

The MLA further submits that in deciding this case, the Commission should at least be aware of the fact that a senior official from Invenenergy publicly acknowledged that the company has not yet decided whether or not the Grain Belt line is a merchant project.

WHEREFORE, the MLA respectfully asks the Commission to grant the two items of relief numbered and set forth at the outset to this Motion.

Respectfully submitted,

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Certificate of Service

A copy of this Motion was sent by electronic mail this 12th day of June, 2023, to counsel for all parties.

/s/Paul A. Agathen
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