

**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)
Construct, Own, Operate, Control, Manage, and) File No. EA-2023-0017
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Convertor)
Station.)

**AMEREN MISSOURI’S REPLY TO RESPONSES
IN OPPOSITION TO WAIVER OF 20 CSR 4240-4.017(1)C)**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") pursuant to 20 CSR 4240-2.090(13), and for its reply to the responses filed in this case that oppose Applicant’s request for a waiver of the 60-day notice provisions of 20 CSR 4240-4.017(1)(C), states as follows:

1. The relevant procedural history leading to Applicant’s August 24, 2022 Request for Waiver of 60-Day Notice (“Waiver Request”) has been outlined in detail in other filings made with respect to the Waiver Request. Consequently, Ameren Missouri will not repeat that history here.

2. Ameren Missouri files this reply to make two simple but key points: (1) None of the responses in opposition to the Waiver Request challenge the fact that Grain Belt has established good cause for the waiver as a matter of law by properly submitting a verified affidavit that there had been no communication with the Office of the Commission regarding any substantive issue likely to be in the case within the prior 150 days; and (2) to the extent addressed at all, none of the responses in opposition properly recognize or characterize the purpose of the 60-day notice requirement, which is to restrict certain communications between utilities regulated by the Commission and the Office of the Commission during the 60-day period preceding the case filing.¹

¹ And, in that regard, the ability to obtain a waiver of the 60-day notice period by stating in a verified statement that there have been no such communications for 150-days prior to the case

3. As noted, when an applicant seeks a waiver of the 60-day notice requirement and complies with the requirement that it file a verified statement that no communications regarding a substantive issue likely to be in the case have occurred with the Office of the Commission within the prior 150-days, the applicant is *entitled* to the waiver. The Commission has recognized as much since the early days of the application of 20 CSR 4240-4.017(1)(D). For example, just a few months after the rule became effective, the Commission rejected an Office of the Public Counsel attempt to negate a waiver to which Spire Missouri, Inc. was entitled, having filed the required verification. Public Counsel essentially claimed that Spire was not entitled to the waiver, despite Spire having complied with the verification requirement. The Commission disagreed:

Spire filed a verified declaration from the filing part that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case. *Thus, Spire's request complies with the Commission's rule [and good cause exists to grant the waiver] (emphasis added). Order Granting Requests for Waiver, File No. GO-2018-0309, 2018 WL 3007345 (Mo. P.S.C.) (May 24, 2018).*

4. Not only is Applicant entitled to the waiver, having fully complied with the applicable rule, but the various arguments about whether potential intervenors had notice of the potential case, etc. are completely irrelevant to the Waiver Request. The purpose of the 60-day notice rule is not and never has been to give various persons and entities notice that a case may be filed 60 or more days later. The 60-day notices are filed with the Commission, and they are served on two entities, Office of the Public Counsel and Staff. The Commission does not give notice to anyone that a 60-day notice was filed. When a *case* actually gets filed, *then* the Commission broadly gives notice, depending on the nature of the case and of the likely interests involved in it. Consider the case at bar, where the Commission directed that notice be given to the county commissions of, legislators

filing is designed to ensure that if 60-days' notice is not to be given, communications that otherwise should not have occurred prior to the case filing have not occurred.

representing, and media serving, ten different counties, and to every party to File No. EA-2016-0358.

5. Ameren Missouri makes this filing not to take any position on the ultimate relief sought by the Applicants in this case, but rather, to cut through the underbrush of what are clearly strong opinions about whether that ultimate relief should be granted. Those opinions and arguments have been raised and argued in the context of a 60-day notice waiver request that clearly must be granted as a matter of law, but they have nothing whatsoever to do with that request. There will be a time and place for those parties to advance their substantive opposition to, or concerns with, the ultimate relief Applicant seeks in this case. This is neither that time nor that place.

WHEREFORE, Ameren Missouri respectfully requests that the Commission grant Applicant's Waiver Request because, under the applicable law, Applicant has established good cause for the waiver as a matter of law.

Respectfully submitted,

/s/ James B. Lowery

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**ATTORNEYS FOR UNION ELECTRIC
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Application for Intervention was served on all parties of record in this case via electronic mail (e-mail) or via regular mail on this 21st day of October, 2022.

/s/ James B. Lowery
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