

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express )  
Clean Line LLC for a Certificate of Convenience and )  
Necessity Authorizing it to Construct, Own, Operate, )  
Control, Manage, and Maintain a High Voltage, Direct ) Case No. EA-2014-0207  
Current Transmission Line and an Associated Converter )  
Station Providing an interconnection on the Maywood- )  
Montgomery 345 kV Transmission Line )

**TRADEWIND ENERGY, INC'S MOTION FOR A PROTECTIVE ORDER**

Pursuant to 4 CSR 240-2.135(2), 4 CSR 240-2.135(6), and Missouri Supreme Court Rule 56.01(c), TradeWind Energy, Inc. ("TradeWind") respectfully requests that the Public Service Commission enter a protective order prohibiting the discovery sought by Missouri Landowners Alliance ("MLA") in Data Requests 48 and 94, and, therefore, deny MLA's Motion to Compel Responses to Discovery Requests. The protective order is needed to protect TradeWind's confidential and proprietary information, including trade secrets, from disclosure to MLA or any other party in this matter. In support of its Motion, TradeWind states the following:

1. On or about September 2, 2014, MLA filed its Motion to Compel Responses to Discovery Requests directed at Grain Belt Express Clean Line LLC ("Grain Belt"). The specific discovery in issue includes Data Requests 48 and 94.

2. The discovery requests from MLA to Grain Belt seek the confidential and proprietary information of TradeWind, which was provided to Grain Belt under a confidentiality agreement.

3. 4 CSR 240-2.135(2), 4 CSR 240-2.135(6), and Missouri Supreme Court Rule 56.01(c) authorize the issuance of a protective order to protect confidential or proprietary information from disclosure.

4. MLA's data requests seek information that is not relevant to the proceedings, and that is not reasonably calculated to lead to the discovery of admissible evidence.

5. Moreover, MLA's data requests seek highly confidential and proprietary information, including technical, financial, business, research, and development information. More specifically, TradeWind's pricing and wind speed information constitutes a trade secret.

6. Furthermore, counsel for TradeWind and Grain Belt have consulted and reached an agreement in which the information sought by MLA could be provided with certain identifying information redacted to protect TradeWind's confidential and proprietary information. Pursuant to this agreement, MLA received hundreds of pages of documents from Grain Belt which contained the information requested by MLA with certain confidential and proprietary information redacted. Otherwise, this information is not available in any public document.

7. MLA has received the information that it requested, but does not like the way that it was presented. "The discovery process was not designed to be a scorched earth battlefield upon which the rights of the litigants and the efficiency of the justice system should be sacrificed to mindless overzealous representation of plaintiffs and defendants." *State ex rel. Madlock v. O'Malley*, 8 S.W.3d 890, 891 (Mo. banc 1999).

8. Essentially, MLA seeks to link the confidential pricing and wind speed information to specific wind energy providers, including TradeWind. Such information is not only wholly irrelevant to the matter before the Public Service Commission, but also violates the confidentiality agreement between TradeWind and Grain Belt and seeks the disclosure of TradeWind's confidential and proprietary information, including its trade secrets.

9. If such information were made public, it would prejudice TradeWind's ability to negotiate a power purchase agreement with a public utility or other customer seeking to buy wind energy, resulting in the loss of millions of dollars to TradeWind.

10. As MLA seeks documents that have been labeled highly confidential and proprietary, and which constitute trade secrets of TradeWind, the burden is on MLA to show that the documents are relevant, and that MLA needs the information to prepare for the evidentiary hearing in this matter. *See State ex rel. Blue Cross & Blue Shield of Missouri v. Anderson*, 897 S.W.2d 167, 170 (Mo.App. S.D. 1995) (finding that the confidential pricing information sought was neither relevant nor necessary to prepare for trial).

11. In coordination with counsel for Grain Belt, it is TradeWind's understanding that Grain Belt has attempted to negotiate an agreement in which the information may be disclosed in such a manner as to protect the confidential and proprietary information of TradeWind, and other wind energy providers. In addition, it is TradeWind's understanding that Grain Belt has produced the information sought by MLA, albeit in a redacted format to protect the confidential and proprietary information of TradeWind, and other wind energy providers.

12. TradeWind and Grain Belt have attempted to negotiate in good faith on the documents sought by MLA. However, MLA seeks the confidential and proprietary information of TradeWind, without just cause as the information is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, MLA has received the information requested, subject to certain redactions to protect TradeWind's confidential and proprietary information.

13. TradeWind hereby incorporates into its Motion, the arguments and authorities set forth in Grain Belt Express Clean Line LLC's Opposition to Missouri Landowners Alliance's Motion to Compel Discovery, filed September 8, 2014.

14. A protective order is needed to protect TradeWind's confidential and proprietary information, including trade secrets, from disclosure to MLA or any other party in this matter.

WHEREFORE, TradeWind Energy, Inc. respectfully requests that the Public Service Commission enter a protective order prohibiting the discovery sought by Missouri Landowners Alliance in Data Requests 48 and 94, preventing the disclosure of TradeWind's confidential and proprietary information to Missouri Landowners Alliance or any other party in this matter and, therefore, denying Missouri Landowners Alliance's Motion to Compel Responses to Discovery Requests.

Dated: September 8, 2014

Respectfully Submitted,

DOUTHIT FRETTS ROUSE GENTILE &  
RHODES, LLC

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid this 8<sup>th</sup> day of September 2014.

/s/ Christopher L. Kurtz, Esq.  
Christopher L. Kurtz