

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-2016-0358
Current Transmission Line and an Associated Converter)
Station Providing an interconnection on the Maywood-)
Montgomery 345 kV Transmission Line)

RESPONSE OF THE MISSOURI LANDOWNERS ALLIANCE
TO GRAIN BELT’S OPPOSITION TO MOTION TO COMPEL

Comes now the Missouri Landowners Alliance (MLA), pursuant to Commission Rule 4 CSR 240-2.080(13), and respectfully submits the following response to the “Opposition of Grain Belt Express to 3rd Set of Data Requests Submitted to Grain Belt Express Witness Prescott Hartshorne”, filed on March 10, 2017.

The MLA believes it has already justified its Motion to Compel with respect to the data requests at issue, and will restrict this filing to brief comments regarding several points raised by Grain Belt Express (Grain Belt) in its Opposition to that Motion.

1. As a practical matter the MLA did much more in its second round of these data requests than merely replace “National Grid plc” with “National Grid USA.” The initial set of data requests asked in effect for all documents compiled by “National Grid”, which was defined as “National Grid plc, and any and all of its subsidiaries.”¹ Thus the data requests are now directed only to Mr. Hartshorne’s employer, National Grid USA, instead of to the parent company and its untold number of subsidiaries.

¹ See MLA’s Motion to Compel of January 20, 2017, par. 3.

2. Grain Belt argues that the MLA is asking the Commission to “disregard corporate distinctions”.² That is not the case at all. None of the National Grid subsidiaries or its parent company is a party to this case, so the MLA had no need to ask that any corporate distinctions be disregarded. Instead, the basis for the MLA’s Motion to Compel is that Grain Belt and Mr. Hartshorne have the “practical ability” to obtain the documents in question from Mr. Hartshorne’s employer, National Grid USA.

The discussion about “corporate distinctions” was perhaps relevant when the MLA was initially seeking documents from “National Grid plc and any and all of its subsidiaries.” However, the request has since been limited to National Grid USA, Mr. Hartshorne’s employer.

3. Grain Belt carefully implies (without so stating) that they do not have the practical ability to obtain the documents in question from National Grid USA.³ Given the relationships between National Grid USA, its senior level employee Mr. Hartshorne, and the company with which National Grid USA is working so closely to build the Project, that point lacks credibility.

4. Grain Belt complains that the data requests are based on MLA’s speculation regarding National Grid’s communications and investment analysis.⁴ That misses the point. The data requests are clearly calculated to lead to the discovery of admissible evidence; i.e., the reasons behind National Grid’s decision to make no further investment in Clean Line; National Grid’s assessment of Clean Line’s performance with respect to the Project; and National Grid’s estimate of the dollar value of the Clean Line transmission projects (which the MLA could then compare to similar estimates provided

² Opposition, par. 9-10.

³ Opposition, par. 13.

⁴ Opposition, par. 16.

by Grain Belt in the 2014 case).⁵ These inquiries are legitimate examples of what the discovery process is intended to be used for. Grain Belt is in effect arguing that the MLA must first establish the facts which they are seeking in discovery.

5. Finally, Grain Belt points out that Mr. Hartshorne already provided a copy of an “updated” version of a 2012 memorandum which was entered into evidence in the last case as HC Exhibit 324.⁶ That document is available from the 2014 case, EA-2014-0207, at EFIS No. 417. As is apparent, the document from the 2014 case has virtually nothing to do with the subject matter of the three data requests at issue here. The same would naturally hold true of the “update” of Exhibit 324 which was provided to the MLA in this case. Grain Belt is asking to be excused from answering these questions on the ground that they already provided the MLA with other information not responsive to the data requests. And it is worth noting that Grain Belt and Mr. Hartshorne apparently had no difficulty in obtaining this highly confidential update when they viewed it as useful to do so.

⁵ See MLA’s Motion to Compel, p. 6.

⁶ Opposition, par. 17-18.

WHEREFORE, the MLA respectfully renews its request that the Commission direct Grain Belt and Mr. Hartshorne to provide responses to MLA Data Requests PH.25, PH.26 and PH.27.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served upon the parties to this case by electronic mail this 13th day of March, 2017.

/s/ Paul A. Agathen
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