

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)	
Gary Mareschal,)	
)	
Complainants,)	
)	Case No. EC-2020-0408
)	
v.)	
)	
)	
)	
Grain Belt Express LLC, and)	
Invenergy Transmission LLC, and)	
Invenergy Investment Company,)	
)	
Respondents)	

RESPONSE TO MOTION TO STRIKE

Invenergy Transmission LLC (“Invenergy Transmission”), on behalf of itself and its parent company Invenergy Investment Company LLC (“Invenergy Investment”, collectively, “Invenergy”), together with Grain Belt Express LLC (“Grain Belt”) (together with Invenergy, the “Respondents”), pursuant to 20 CSR 4240-2.080(13), hereby file this Response to Complainants’ Motion to Strike. In support of this Response, Respondents state the following:

1. On September 10, 2020, Respondents filed a Motion for Summary Determination and Memorandum in Support pursuant to 20 CSR 4240-2.117.
2. On October 7, 2020, Complainants, pursuant to 20 CSR 4240.117(1)(C), filed a Response in Opposition to Respondents’ Motion for Summary Determination, and Response to Legal Memorandum in Support of Said Motion (“October 7 Response”).
3. On October 9, 2020, Respondents, pursuant to 20 CSR 4240.080(13), filed a Reply to the Complainants’ October 7 Response (“October 9 Reply”).

4. Also on October 9, 2020, Complainants filed a Motion to Strike the October 9 Reply.

5. Complainants' Motion to Strike claims that 20 CSR 4240-2.117 does not specifically authorize a reply to a response to a motion for summary determination. However, 20 CSR 4240-2.117 does not specifically disallow such a reply, and 20 CSR 4240-080(13) provides that "[p]arties shall be allowed ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission." (emphasis added).

6. The Commission has addressed this issue before and allowed replies to responses to formal complaints, even though the formal complaint rule (20 CSR 4240-2.070) doesn't specifically refer to such a reply. There, the Commission stated, "[the moving party] argues that a pleading that is not specifically authorized by the complaint rule cannot be filed. The Commission's procedural rules liberally allow parties to file responses to pleadings of the other parties, so long as they are timely filed."¹ In that case, the Commission cited to 4 CSR 240-2.080(15) (now codified as 20 CSR 4240-2.080(13)), and emphasized that the rule allows for responses to "any pleading."²

7. Finally, Complainants' concern that allowing the October 9 Reply will lead to endless rounds of replies is speculative and unpersuasive. The Respondents felt compelled to file the October 9 Reply due to Complainants' abandonment of their original allegation that land agents made *intentional* misstatements. This represented a new position of the Complainants, requiring a reply. If additional pleadings do not address new positions, the Commission may disregard them

¹ *PSC's Order Denying Motions to Strike, Granting Motion to Amend, and Directing Filing of Response to Motion for Summary Determination*, p. 3, Case No. GC-2011-0100 (March 21, 2011).

² *Id.*, at n.4.

or give them little weight. However, striking the October 9 Reply, which addresses new positions, is inappropriate and contrary to the Commission's rules and precedent.

WHEREFORE, Respondents respectfully request that the Commission deny the Complainants' Motion to Strike and accept Respondents' October 9 Reply.

Respectfully submitted,

/s/ Andrew O. Schulte

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ATTORNEYS FOR RESPONDENTS

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 12th day of October, 2020.

/s/ Andrew O. Schulte

Attorney for Respondents