

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)
Eastern Missouri Landowners Alliance)
DBA Show Me Concerned Landowners, and)
John G. Hobbs,)
)
Complainants,)
)
V.)
)
Grain Belt Express LLC, and)
Invenergy Transmission LLC,)
)
Respondents)

Case No. EC-2021-0059

REPLY BRIEF OF COMPLAINANTS

Complainants respectfully submit this Reply Brief in response to the briefs from Respondents and the Staff, submitted on October 23, 2020.

To begin with, at page 4, par. 6 of their Initial Brief, Respondents mischaracterize the nature of the Complaint here. The only violation of the CCN Order alleged in the Complaint was Grain Belt’s continued pursuit of easements under the guise of having a valid CCN.¹ And the reason that Grain Belt does not have a valid CCN is that Respondents have effectively announced they no longer plan to build the project for which the CCN was issued.²

Accordingly, despite the detours made in Respondents Initial Brief, the determinative question here is whether Respondents have already decided to build the revised project, as described in their press release and their website, in lieu of the original project for which the CCN was granted.

¹ Complaint, p. 5 par. 15.

² Complaint, p. 3, par. 7.

Respondents' underlying argument on that subject is that they have only announced they are "contemplating" a revised project, as opposed to actually having committed to building it.³ All of the arguments in their Brief are essentially dependent upon that single claim: that no decision has been made to go forward with the revised project described by Complainants at pages 4-5 of their Initial Brief.

So the key question is whether or not the evidence shows Respondents intend to build the revised project in lieu of the original project. Obviously, the answer depends upon what Respondents themselves have said on that matter.

In addressing their intent with respect to the revised project, Invenergy and Grain Belt mockingly compare the MLA (the Missouri Landowners Alliance) to the "thought police" in George Orwell's novel *Nineteen Eighty-Four*.⁴

As Respondents are aware, the "thought police" was a secret organization of a totalitarian state which sought out and punished people for their unacceptable but unspoken beliefs. The tools of their trade included brainwashing and torture.⁵

It is not clear why Invenergy and Grain Belt singled out the MLA for special mention in this regard. All three Complainants jointly filed their Initial Brief, and so the disparaging analogy suggested by Grain Belt and Invenergy applies equally to all three Complainants. And by extension, it applies as well to the 1,500 members represented by the two landowner organizations which are parties to this case.⁶

³ Initial Brief, p. 10, par. 22.

⁴ Initial Brief, page 4, and page 6, par. 13, where they state that the "MLA apparently has taken upon itself the role of 'Thought Police'"

⁵ See the novel relied upon by Respondents at footnote 8, p. 6 of their Initial Brief. See also <https://www.britannica.com/topic/Nineteen-Eighty-four>; and https://en.wikipedia.org/wiki/Thought_Police#:~:text=In%20the%20dystopian%20novel%20Nineteen,thoughts%20unapproved%20by%20the%20government.

⁶ As to the number of members in those two organizations, see Complaint par. 1 & 2.

For obvious reasons, Complainants take offense to this analogy. It needlessly insults the Complainants, and the numerous Missouri landowners whom they represent.

In any event, Complainants are not relying upon any unspoken thoughts which Respondents may harbor concerning their plans for the revised project. Instead, as addressed at pages 6-8 of their Initial Brief, Complainants are basing their conclusions regarding Respondents' intent on Respondents' own published, written statements of how they plan to proceed. Thus Respondents' comparison of the Complainants to Orwell's "thought police" is not even a logical application of that concept.

Complainants stand on the basic argument made in their Initial Brief: that Respondents' written words demonstrate they have done far more than merely "contemplate" major changes to the original project.⁷ There is no other logical way to explain Respondents' own words in the press release, much less the obvious understanding by the Kansas officials that they will now be the beneficiaries of direct power and additional investment which will flow from the revised Grain Belt project. These statements reflect not the conjecture of "thought police", but the actual express, written intent of Respondents.

Respondents state in their Initial Brief, without any supporting evidence, that the details of the revised project are still fluid, conceptual and malleable.⁸ Even if true, that does not mean that Respondents are not fully committed to the basic concepts of the revised project, as outlined in their press release. If they have made such a commitment, as the officials in Kansas have been led to believe, then Respondents have necessarily abandoned the project for which the CCN was granted.

⁷ See Complainants' Initial Brief, pp. 5-8.

⁸ Respondents' Initial Brief, p. 5, par. 11.

Whichever way the Commission decides this basic issue, the remaining points raised in Respondents' Initial Brief (including the allegation that Complainants have somehow "vilified" their press release) all become moot.⁹ Therefore, there is no reason to further burden the Commission by addressing any of the additional points made by Respondents.

Staff's underlying position here is similar to that of Respondents, stating that the mere proposal of the changes to the original project does not justify invalidating the CCN.¹⁰ Complainants' response is the same as that offered in reply to Respondents: that Respondents have gone well beyond merely proposing changes to the original project. Instead, they have effectively adopted the revised project in lieu of the original project. The statements in the press release from Respondents and the officials from Kansas are simply incompatible with any other conclusion.

Finally, Staff states that "whether and to what extent Grain Belt is permitted to provide broadband service to rural Missourians is beyond the scope of the line certificate granted to Grain Belt"¹¹ But regardless of Grain Belt's authority to add broadband service to an electrical transmission project, its expressed intent on doing so is one additional piece of evidence that the revised project is in fact not the same project approved in the CCN case.

WHEREFORE, Complainants again respectfully submit that their Complaint is not subject to dismissal on the ground that it does not state a cause of action.

⁹ Respondents' Initial Brief, p. 8, par. 17

¹⁰ Staff's Initial Brief, p. 4.

¹¹ Staff's Initial Brief, p. 5.

Respectfully submitted

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Certificate of Service

I certify that a copy of the foregoing was served this 30th day of October, 2020 by email on counsel for all parties of record.

/s/ Paul A. Agathen

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