
**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 Current)
Transmission Line and an Associated Converter)
Station Providing an Interconnection on the)
Maywood-Montgomery 345 kV Transmission Line)

File No. EA-2023-0017

STAFF'S INITIAL BRIEF

Respectfully Submitted,

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July 7, 2023

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STAFF’S INITIAL BRIEF

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its Initial Brief, presents the following arguments on why Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”) should be granted an amended certificate of convenience and necessity (“CCN”) in part, under Staff’s recommended conditions. Staff also recommends that the Commission deny Grain Belt’s request to construct the Project in two phases because phasing runs the risk of the Project not being economically feasible.

The issues the Commission must decide in this matter are as follows:

- I. Does the evidence establish that the following amendments to the Certificate of Convenience and Necessity held by Grain Belt Express are “necessary or convenient for the public service” within the meaning of that phrase under section 393.170, RSMo:
 - a. Relocating the Missouri converter station from Ralls County to Monroe County and increasing the capacity of the Missouri converter station from 500 MW to 2500 MW.
 - b. Relocating the AC connector line (the “Tiger Connector”) from Ralls County to Monroe, Audrain, and Callaway Counties.

- c. Constructing the Project in two phases.
 - i. If the Commission determines that constructing the Project in two phases is “necessary or convenient for the public service,” should the Commission approve a modification to the “Financing Conditions,” as set forth in Section I of Exhibit 1 to the Report & Order on Remand in Case No. EA-2016-0358, to allow for constructing the Project in two phases?
- II. Should the Commission approve a modification of the Landowner Protocols, as referenced and incorporated into the Report & Order on Remand in Case No. EA-2016-0358, to modify the compensation package offered to Tiger Connector landowners?
- III. If the Commission approves any or all of the foregoing amendments, what conditions, if any, should the Commission impose?¹

Introduction

The Commission granted Grain Belt Express its initial CCN on March 20, 2019, in its Report and Order on Remand (“Original CCN”) in Case No. EA-2016-0358. In Case No. EA-2016-0358, Staff had concerns that the Project did not have a clearly defined need, and there was insufficient information to conclude whether the Project would be economically feasible.² While Staff still has those same concerns as a whole,

¹ The *Joint List of Issues, Order of Witnesses, Order of Cross-Examination, and Order of Opening Statements*, filed by Staff on behalf of the parties on May 22, 2023, included four issues. In its application, Grain Belt Express requested a modification regarding the length of time for the Company to satisfy the Financing Conditions under the original CCN from 5 to 7 years, in accordance with HB 2005, passed by the Missouri General Assembly during the 2022 legislative session. Grain Belt Express withdrew the easement request in its *Position Statement*, filed on May 30, 2023.

² *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 Current Transmission Line and an Associated Converter Station Providing an Interconnection on the Maywood-Montgomery 345kV Transmission Line*, Case No. EA-2016-0358, *Staff’s Initial Brief After Remand*, pg. 10-11.

Staff's analysis of the Amended CCN application is based on the application before the Commission, and the Commission's prior approval of the Original CCN, in which the Commission ruled that there was a need for the Project. Also considered in this analysis is the Commission's finding that the Project's economic feasibility is dependent on the Project's ability to sell to PJM, as the revenues from the Missouri converter station, based on the MEC/MJMEUC contract, were insufficient to cover the project's costs.³

As part of the Commission's approval of the Original CCN, the following condition was ordered:

If the design and engineering of the project is materially different from how the Project is presented in Grain Belt Express Clean Line LLC's Application, Grain Belt Express Clean Line LLC must file an updated application with the Commission for further Commission review and determination.⁴

On August 24, 2022, Grain Belt filed an application to amend the Original CCN per the condition above.

The Commission has the power to grant a CCN "whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service."⁵ In determining whether granting a CCN is necessary or convenient for the public service, the Commission applies what have come to be known as the Tartan factors.⁶ The factors considered are:

- There must be a need for the service;
- The applicant must be qualified to provide the proposed service;
- The applicant must have the financial ability to provide the service;
- The applicant's proposal must be economically feasible; and
- The service must promote the public interest.

³ Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 1 ln. 22-23 and pg. 2 ln. 1-5; see also Exhibit 306, *Report and Order on Remand*, Case No. EA-2016-0358, pg. 44.

⁴ Exhibit 306, *Report and Order on Remand*, Case No. EA-2016-0358, pg. 52, para. 6.

⁵ Section 393.170.3, RSMo.

⁶ *Re Tartan Energy Company, L.C. d/b/a Southern Missouri Gas Company*, GA-94-127 (September 15, 199).

While Staff does not have any concerns regarding Grain Belt Express' qualifications or financial ability to construct, maintain, and operate the Project, Staff does question whether the Project is needed or economically feasible, and thus whether it is in the public interest. However, due to the Original CCN approved by the Commission in Case No. EA-2016-0358, Staff does not oppose Grain Belt Express' request to relocate and increase the capacity of the Missouri converter station, or its request to relocate the Tiger Connector, subject to Staff's following conditions:

- All previously ordered conditions established by the Commission's previous order should remain in place unless otherwise modified by the Commission.
- Grain Belt Express provide documentation that all relevant permits and Missouri-specific environmental studies have been received prior to approval or, in lieu of that, requiring Grain Belt to receive approval for all relevant permits and Missouri-specific environmental studies and submitting said permits and Missouri-specific environmental studies prior to beginning construction.
- Grain Belt Express provide notice to Staff that the project has been designated a system restoration resource if that designation occurs in the future.
- Adding further clarification on what constitutes a material change to the design and engineering of the project, including:
 - Changing the converter station location or points of interconnection;
 - A modification of 100 MW in converter design size;
 - A change of half a billion dollars or more in estimated cost;
 - A change of 100 MW in obtaining the injection rights of the full 1,500 MW into MISO and 1,000 MW into AECI; and
 - A change in 100 MW of obtaining the rights to withdraw from MISO, from the currently proposed 0 MW.

- Grain Belt Express provide “as built” drawings of the various stages of the design, construction, and installation of associated equipment included with the project as they become available.

Staff cannot recommend approval of Grain Belt Express’ request to construct the project in two phases (“phasing”). When Grain Belt Express filed its application for this Project, it did not provide any justification for phasing or analysis regarding the economic feasibility of phasing.⁷ As described by Staff witness Michael Stahlman, the Commission, when it initially granted Grain Belt Express a CCN, relied on the Project’s sales to PJM as support of the Project’s economic feasibility.⁸ However, by dividing the project into two distinct phases, there is a risk that the second phase, which would enable the Project to sell to PJM, is never completed.

That being said, if the Commission were to approve the phasing amendment, the implementation of Staff’s recommend conditions above, as well as the modifications to the financial conditions as proposed by Staff witness Dr. Seoung Joun Won,⁹ would mitigate, but not eliminate, Staff’s concerns about the economic feasibility of the amended Project. If the Commission were to approve the phasing amendment, Grain Belt Express has agreed to Dr. Won’s modifications, with the inclusion of a definition for “installed transmission facilities.”¹⁰ Staff has no objection to the inclusion of that definition.

Grain Belt Express has also requested a modification of the Landowner Protocols. This modification would modify the landowner compensation package for landowners along the proposed Tiger Connector to be 150% of the fair market value of the land. This would differ from the compensation package granted to landowners along the original transmission line approved by the Commission in Case No. EA-2016-0358.

⁷ Transcript Vol. XII, pg. 900, ln. 22-24.

⁸ Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 1 ln. 22-23 and pg. 2 ln. 1-5.

⁹ Exhibit 108, *Rebuttal Testimony of Seoung Joun Won, PhD*, pg. 7, ln. 12-24 and pg. 8, ln. 1-20.

¹⁰ Exhibit 6, *Surrebuttal Testimony of Rolanda Shine*, pg. 4, ln. 9-23 and pg. 5, ln. 1-11.

That compensation package stands at 110% of fair market value, with additional compensation for structures built on the land.¹¹ If the Commission decides to approve this request, Staff recommends that Grain Belt Express file with the Commission revised Landowner Protocols to clearly articulate the compensation package offered to landowners, by phase and/or line type, as modified pursuant to the Commission's decision on this issue.¹²

Argument

I. *Does the evidence establish that the following amendments to the Certificate of Convenience and Necessity held by Grain Belt Express are "necessary or convenient for the public service" within the meaning of that phrase under section 393.170, RSMo?*

a. *Relocating the Missouri converter station from Ralls County to Monroe County and increasing the capacity of the Missouri converter station from 500 MW to 2500 MW.*

In light of the Original CCN granted by the Commission in Case No. EA-2016-0358, Staff does not oppose Grain Belt Express' request to relocate the Missouri converter station and increasing the Missouri converter station's capacity, subject to Staff's requested conditions.¹³ These conditions, some of which have already been agreed to by Grain Belt Express, are discussed more thoroughly later in this brief.

b. *Relocating the AC connector line (the "Tiger Connector") from Ralls County to Monroe, Audrain, and Callaway Counties.*

In light of the Original CCN granted by the Commission in Case No. EA-2016-0358, Staff does not oppose Grain Belt Express' request to relocate

¹¹ Case No. EA-2016-0358, Exhibit No. 113, *Lanz Direct*, Schedules DKL-1 through DKL-4.

¹² Transcript Vol. X, pg. 799, ln. 11-17.

¹³ Exhibit 109, *Revised Staff Report*, pg. 7-8.

the Tiger Connector, subject to Staff's requested conditions.¹⁴ These conditions, some of which have already been agreed to by Grain Belt Express, are discussed more thoroughly later in this brief.

c. *Constructing the Project in two phases.*

Staff does not recommend that the Commission approve constructing the Project in two phases. As put forward by Staff witness Michael Stahlman, Staff relies on reasonable assumptions of project costs and revenues when analyzing the economic feasibility of a project.¹⁵ Grain Belt Express did not provide evidence that would enable Staff to confirm whether the projected revenues of the Project are reasonable in regards to phasing,¹⁶ and so Staff is left to rely on the Commission's previous finding that the economic feasibility of the Project is dependent on sales to PJM.¹⁷

With economic feasibility, Staff is looking at the revenue streams specific to Grain Belt Express.¹⁸ As Dr. Won put it, economic feasibility is the "focus on the comparison to investment and return."¹⁹ The goal is to determine whether the project will be profitable or not.²⁰ This is similar to what other witnesses at the hearing understood economic feasibility to be. Grain Belt Express witness Shawshank Sane defined economic feasibility to be the view that the Project cover costs and offer a minimum return.²¹ Grain Belt Express witness Rolanda Shine defined economic feasibility to be "having an executable plan on how we intend to construct and finance the Project in an economic viable and financial matter."²² Grain Belt Express witness David Loomis defined economic feasibility as "a forward-looking standard for a project" that indicates

¹⁴ *Id.*

¹⁵ Transcript Vol. XII, pg. 957, ln. 8-11.

¹⁶ *Id.*, ln. 12-16.

¹⁷ Exhibit 306, *Report and Order on Remand*, Case No. EA-2016-0358, pg. 44.

¹⁸ Transcript Vol. XII, pg. 925, ln. 6-7.

¹⁹ Transcript Vol. X, pg. 830, ln. 19-20.

²⁰ *Id.*, pg. 831, ln. 5-9.

²¹ Transcript Vol. VII, pg. 292, ln. 8-9.

²² Transcript Vol. IX, pg. 409, ln. 5-8.

“whether the revenues for that project would be sufficient to cover the expected cost”²³ and that the revenues from the Project would have to exceed costs for the project to be economically feasible.²⁴ Clean Grid Alliance witness Michael Goggin defined economic feasibility to be “the ability of a proposed investment to generate sufficient revenue to recover its costs with an adequate rate of return to make the investment worthwhile to the investors.”²⁵

Keeping revenue streams in mind, Grain Belt Express touted a number of benefits put forward by Company witness Mark Repsher. Mr. Repsher stated that the project is economically feasible because “the Project creates immense economic benefits to the Project costs.”²⁶ Mr. Repsher reached his conclusion regarding “immense economic benefits” by counting benefits to non-Company parties as the Company’s own benefits.²⁷ Mr. Stahlman put forward that these benefits, whether they go to Missouri customers not subscribed to the line, RTO customers, or any other potential customer that may be out there, do not provide any actual monetary compensation to Grain Belt Express for building the Project.²⁸ Accurately reflecting these benefits has also been a problem, with Grain Belt Express seemingly assuming that, when the Project is operational, the Company can simply inject directly into SPP from MISO or PJM.²⁹ Grain Belt Express has signed two transmission interconnection agreements since the Commission approved its CCN in EA-2016-0358. One is with SPP, which was executed in 2016, while the other is with AECL, which was executed in December 2021, per Company witness Carlos Rodriguez.³⁰ Notably missing however, is MISO and PJM.

²³ Transcript Vol. X, pg. 705, ln. 1-4.

²⁴ *Id.*, pg. 721, ln. 21-23.

²⁵ Transcript Vol. XII, pg. 1007, ln. 12-18.

²⁶ Exhibit 3, *Direct Testimony of Mark Repsher*, pg. 18, ln. 3-4.

²⁷ Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 7, ln. 9-13.

²⁸ *Id.*, pg. 7, ln. 13-14; *see also* Transcript Vol. XII, pg. 924, line 17-25.

²⁹ Transcript Vol. XII, pg. 931, ln. 12-13.

³⁰ Transcript Vol. IX, pg. 473, ln. 6-15.

The simple truth is that Staff just did not have enough information to verify whether there will be sufficient revenue flowing to Grain Belt Express for this project.³¹ If the Commission were to approve phasing, there is a chance that Phase II is never constructed, the transmission line does not connect with PJM, and the driver of the Project's economic feasibility, relied on by the Commission in granting the Original CCN, will not exist.

In addition to the continuing issues regarding the Project's economic feasibility, the Project is most economically optimal if both phases are constructed. To be economically optimal, the monetary benefits should exceed the cost to build the Project.³² Grain Belt Express witnesses Mr. Repsher³³ and Ms. Shine³⁴ both testified to the need for both phases to be completed to ensure the Project is economically optimal. Grain Belt Express has not provided evidence as to why sacrificing the economic feasibility of the Project through phasing is in the public interest, and Staff recommends that the Commission reject the Company's request to build the Project in two phases.

However, if the Commission decides to approve Grain Belt Express' request for phasing, the implementation of all the conditions requested by Staff will mitigate, but not eliminate, Staff's concerns with phasing.

Staff also recommends that, if the Commission approves Grain Belt Express' request for phasing, the Commission order the modifications to the financial conditions as outlined by Dr. Won.³⁵ Grain Belt Express witness Ms. Shine indicated the Company's acceptance of Dr. Won's modification in her surrebuttal testimony, with an additional

³¹ Transcript Vol. XII, pg. 932, ln. 9-17.

³² Transcript Vol. IX, pg. 392, ln. 2-7.

³³ Transcript Vol. IX, pg. 391, ln. 19-25 and pg. 392, ln. 1.

³⁴ *Id.*, pg. 412, ln. 18-24.

³⁵ Exhibit 108, *Rebuttal Testimony of Seoung Joun Won, PhD*, pg. 7, ln. 12-24 and pg. 8, ln. 1-20.

clarification regarding the definition of “install transmission facilities.”³⁶ Staff has no objection to this additional clarification.

- II. *Should the Commission approve a modification of the Landowner Protocols, as referenced and incorporated into the Report & Order on Remand in Case No. EA-2016-0358, to modify the compensation package offered to Tiger Connector landowners?*

Staff takes no position on the compensation package offered to Tiger Connector landowners, as long as it is not detrimental to landowners. Staff recommends that, if the Commission decides to approve Grain Belt Express’ request, that the Company file revised Landowner Protocols with the Commission to clearly articulate the compensation package offered to landowners, by phase and/or line type. Grain Belt Express witness Kevin Chandler attached to his testimony Schedule KC-5, which included redlines indicating the modifications Grain Belt Express is requesting.³⁷ During the hearing, Mr. Chandler indicated that the Company would be comfortable clarifying what payment package is available to landowners by phase if the Commission were to approve the phasing request.³⁸

- III. *If the Commission approves any or all of the foregoing amendments, what conditions, if any, should the Commission impose?*

As mentioned above, Staff does not oppose the amendments requested by Grain Belt Express under Issues I.a. and I.b., subject to Staff’s recommended conditions:

- All previously ordered conditions established by the Commission’s previous order should remain in place unless otherwise modified by the Commission.

Grain Belt Express has agreed to this condition.

³⁶ Exhibit 6, *Surrebuttal Testimony of Rolanda Shine*, pg. 4, ln. 9-23 and pg. 5, ln. 1-11.

³⁷ Exhibit 19, *Direct Testimony of Kevin Chandler*, Schedule KC-5.

³⁸ Transcript Vol. IX, pg. 579, ln. 11-17.

- Grain Belt Express provide documentation that all relevant permits and Missouri-specific environmental studies have been received prior to approval or, in lieu of that, requiring Grain Belt to receive approval for all relevant permits and Missouri-specific environmental studies and submitting said permits and Missouri-specific environmental studies prior to beginning construction.

Grain Belt Express has agreed to this condition.³⁹

- Grain Belt Express provide notice to Staff that the project has been designated a system restoration resource if that designation occurs in the future.

Grain Belt Express has agreed to this condition.⁴⁰

- Adding further clarification on what constitutes a material change to the design and engineering of the project, including:

- Changing the converter station location or points of interconnection;

No party has proposed that such a change would not be a material change to the design and engineering of the project. In fact, Grain Belt Express witness Carlos Rodriguez agreed that changing the point of interconnection “would definitely be a material change.”⁴¹ Staff recommends that this be included as part of the definition if the Commission were to approve the amended Project.

- A modification of 100 MW in converter design size;
- A change of half a billion dollars or more in estimated cost;
- A change of 100 MW in obtaining the injection rights of the full 1,500 MW into MISO and 1,000 MW into AECL; and

Grain Belt Express witness Carlos Rodriguez agreed that any increase in injection beyond what has been contracted would result in the parties having to start from scratch from the interconnection process, and in his opinion would be a material change to the

³⁹ Transcript Vol. IX, pg. 557, ln. 1-15.

⁴⁰ Exhibit 8, *Surrebuttal Testimony of Carlos Rodriguez*, pg. 14, ln. 5-7.

⁴¹ Transcript Vol. IX, pg. 472, ln. 1-7.

design and engineering of the Project.⁴² This includes changes to the design and engineering of the converter station.⁴³ Staff recommends that this be included as part of the definition if the Commission were to approve the amended Project.

- A change in 100 MW of obtaining the rights to withdraw from MISO, from the currently proposed 0 MW.

Staff's request regarding the inclusion of a definition regarding material changes to the design and engineering of Project is meant to ensure that Grain Belt Express is building the Project that has been approved by the Commission. Specifically in regards to MISO, because there is no signed interconnection agreement, Staff is unclear how the Project will ultimately operate, or what it's ultimate design will be.⁴⁴ By clearly defining what a material change to the design and engineering of the Project would be, all the parties in this matter will be in a better position moving forward; it will be clear when Grain Belt Express has to come in and amend its CCN, and when it does not.

- Grain Belt Express provide "as built" drawings of the various stages of the design, construction, and installation of associated equipment included with the project as they become available, as set forth in the Rebuttal Testimony of Staff witness Alan Bax.

Grain Belt Express witness Aaron White put forward in his surrebuttal testimony that the Company would be open to providing this information, provided that it is consistent with Commission Rule 20 CSR 4240-20.045(5).⁴⁵ Mr. White also elaborated that Grain Belt Express is not opposed to providing "as-built" drawings to the Commission as they become available.

⁴² *Id.*, ln. 12-17.

⁴³ *Id.*, ln. 18-19.

⁴⁴ Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 8, ln. 19-21.

⁴⁵ Exhibit 10, *Surrebuttal Testimony of Aaron White*, pg. 4, ln. 7-12.

The applicable portion of the rule cited by Mr. White, 20 CSR 4240-20.045(5)(D), requires that plans and specifications for the asset, including as-built drawings, be included with an electric utility's CCN application.

Mr. Bax responded to Mr. White's surrebuttal testimony on the stand, clarifying that the drawings provided by Grain Belt Express with its application to amend the CCN were identified as preliminary,⁴⁶ and that Staff would like to have the construction-level drawings as they are finalized and provided to the Company's construction personnel.⁴⁷ Staff would also recommend a set of drawings be provided upon completion of the Project and it becoming operational. This would capture any changes that were made to any specific equipment between the initial installation and the time of becoming operational.

Conclusion

While Staff continues to have concerns regarding the need and economic feasibility of the project, and thus whether it is in the public interest, Staff does not oppose the relocation or capacity increase of the Missouri power converter station, or the relocation of the Tiger Connector, subject to the Commission ordering Staff's recommended conditions. Staff does not recommend approval of Grain Belt's request to construct the project in two phases. Staff recommends, if the Commission does approve Grain Belt's request to modify the Landowner Protocols, that the Commission also order Grain Belt to file revised Landowner Protocols that clearly articulate the compensation package being offered, by phase and/or line type.

⁴⁶ *Id.*, pg. 865, ln. 7-9.

⁴⁷ *Id.*, pg. 861, ln. 1-16 and ln. 20-25; pg. 862, ln. 1-2.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all counsel and parties of record on this 7th day of July, 2023.

/s/ Travis J. Pringle