

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 )

SHOW ME CONCERNED LANDOWNERS' COMMENTS IN SUPPORT OF  
THE MOTION OF MISSOURI LANDOWNERS ALLIANCE MOTION TO STRIKE  
MJMEUC'S "SUPPLEMENTATION OF HEARING EXHIBIT 479"

Comes now Show Me Concerned Landowners ("Show Me"), pursuant to 4 CSR 240-2.080(13), and states its support of Missouri Landowners Alliance Motion to Strike MJMEUC's "Supplementation of Hearing Exhibit 479" ("Motion to Strike"). In support thereof, Show Me states as follows:

1. On June 14, 2017, MJMEUC filed what purported to be additional contracts between MJMEUC and the cities of Columbia and Centralia, which were not submitted into evidence at the Missouri Public Service Commission's ("Commission's") evidentiary hearing held on March 20-24.
2. On the same date, the Missouri Landowners Alliance ("MLA") filed its Motion to Strike. Show Me fully supports the Motion to Strike and notes, in particular, MLA's claim that, "That provision [4 CSR 240-2.130(16)] clearly contemplates that the late-filed supplemental evidence be discussed and authorized before the record is closed – not three months afterwards."
3. By way of support and further explanation, Show Me cites *State ex rel. Missouri Pipeline Co. v. Missouri Public Serv. Comm'n*, 307 SW 3d 162 (Mo. App.,

2010). The Court in that case recited the black letter law on due process in administrative proceedings such as this.

"The due process clauses under the United States and Missouri constitutions prohibit the taking of life, liberty, or property without due process of law." *Colyer v. State Bd. of Registration for the Healing Arts*, 257 S.W.3d 139, 144 (Mo. App. W.D.2008). Due process requires notice and a hearing; moreover, the adequacy of the notice and the hearing must be evaluated in the context of the specific procedure at issue, in this case, an administrative proceeding. *Id.* at 144-45.

"In an administrative proceeding, due process is provided by affording parties the opportunity to be heard in a meaningful manner. The parties must have knowledge of the claims of his or her opponent, and have a full opportunity to be heard, and to defend, enforce and protect his or her rights."

*Weinbaum v. Chick*, 223 S.W.3d 911, 913 (Mo.App. S.D.2007) (internal quotation omitted). "A party to an administrative hearing must be given the opportunity to hear evidence submitted against him, to confront and cross-examine witnesses, and to rebut testimony of such witnesses by evidence on his own behalf." *Jackson v. Sayad*, 741 S.W.2d 847, 852 (Mo.App. E.D. 1987).

307 S.W.3d at 174.

MLA is correct in its assessment that the Supplementation must be stricken in that there was not adequate notice of these contracts, the parties were not given an opportunity to hear the evidence, to confront and cross-examine the witnesses on these contracts, or to rebut the testimony of such witnesses. Therefore, admitting the evidence would violate the due process rights of the other parties. Some vague reference in Mr. Kincheloe's testimony at the hearing regarding possible future acts of MJMEUC does not satisfy the requirements of due process notice, or the hearing examiner would have, as the rule requires, authorized the filing of the specific evidence, reserved exhibit numbers, and set other conditions for such production.

WHEREFORE, Show Me Concerned Landowners requests the Commission accept these comments in support of MLA's Motion to Strike and strike the "Supplementation of Hearing Exhibit 479."

Respectfully submitted,

By: /s/ David C. Linton

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Filed: June 16, 2017

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served by electronic mail upon counsel for all parties this 16th day of June, 2017.

/s/ David C. Linton