

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-2014-0207
Current Transmission Line and an Associated Converter)
Station Providing an interconnection on the Maywood-)
Montgomery 345 kV Transmission Line)

**MOTION TO COMPEL DISCOVERY, MOTION FOR DISCOVERY
CONFERENCE AND MOTION TO EXPEDITE RESPONSE**

COMES NOW Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners (Show Me), by and through its counsel of record, and for its Motion to Compel Discovery, Motion for Discovery Conference and Motion to Expedite Response, states as follows:

1. On October 24, 2014, Show Me submitted its First Set of Data Requests to Infinity Wind Power (Infinity). The Data Requests related to the cross-surrebuttal testimony of Infinity witness Matt Langley.
2. On Friday, October 31, 2014, Infinity submitted an objection to Data Request No. 9. Data Request No. 9 asked:

At page 2, lines 10-12 you state: "I can say that net capacity factors have improved by an average of about 10% across Infinity's wind projects between 2012 and today."

- a) While we understand that you cannot provide names, please provide a list of Infinity's wind projects with capacities, and annual net MWh generation by year.
- b) If this data is not available, then please provide any documents that support the 10% claimed improvement, including data that was used in such documents.

Infinity responded as follows:

OBJECTION: Infinity objects to this question in its entirety because the question seeks information not relevant to the Commission's determination in this matter and is not reasonably calculated to lead to the discovery of admissible evidence. The information sought is highly confidential and proprietary information that should not

be produced. The information sought in this data request potentially includes trade secrets and confidential and proprietary technical, financial, business, research, and development information. Moreover, this data request seeks information that is the subject of the Commission's *Order Denying Motion to Compel and Granting Motions for Protective Order*, which was issued on September 24, 2014.

3. On Monday, November 3, 2014, the undersigned counsel telephoned the counsel for Infinity in an attempt to resolve the dispute. The undersigned counsel pointed out that it was simply looking for documents that supported Mr. Langley's statement in his testimony. Undersigned counsel also asked to be informed if there were no documents responsive to the request other than the claimed confidential information. Counsel for Infinity stated that she would check with Mr. Langley, but it might be the next day (Tuesday) before she could provide a response.

4. It is now well after close of business on Tuesday and counsel for Infinity has not contacted the undersigned counsel. The evidentiary hearing is scheduled to begin on November 10, 2014, less than one week away. Therefore, this motion requests that the Commission expedite the response to the motion to compel and to schedule a discovery conference with the presiding officer as soon as possible to resolve the discovery dispute.

The Data Request seeks Relevant Data in Response to the Mr. Langley's Testimony

5. It is curious that Infinity claims that the Data Request "seeks information not relevant to the Commission's determination in this matter and is not reasonably calculated to lead to the discovery of admissible evidence." The Data Request seeks only supporting documentation to a specific statement made in the testimony of Infinity's witness. If the Data Request seeks information that is not relevant, then it follows that the original statement made by the witness is not relevant either. If Infinity is willing to strike that sentence from the testimony, Show Me will rescind its Data Request.

6. Infinity also claims that “The information sought in this data request potentially includes trade secrets and confidential and proprietary technical, financial, business, research, and development information. Moreover, this data request seeks information that is the subject of the Commission’s *Order Denying Motion to Compel and Granting Motions for Protective Order*, which was issued on September 24, 2014.” However, part b. of the Data Request clearly indicates that if “a list of Infinity's wind projects with capacities, and annual net MWh generation by year” is not available, then Infinity can “provide any documents that support the 10% claimed improvement, including data that was used in such documents.” The undersigned counsel’s phone call to Infinity’s counsel reaffirmed that it was only seeking documents supporting Mr. Langley’s statement. Frankly, it is Show Me’s position that Infinity either needs to produce the requested data that supports the testimony or that portion of testimony should be stricken.

7. Therefore, in order to have the information available in time for the hearing, Show Me requests that the Commission expedite resolution of this dispute.

WHEREFORE, Show Me respectfully asks the Commission to issue an Order requiring Infinity to respond to this motion to compel on an expedited basis, setting a discovery conference with the presiding officer, and compelling Infinity to provide the discovery requested in Data Request 9.

Respectfully submitted,

HEALY & HEALY,
ATTORNEYS AT LAW, LLC



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 4th day of November, 2014.



Terry M. Jarrett