

**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,        )    File No. EA-2014-0207  
Control, Manage, and Maintain a High Voltage Direct        )  
Current Transmission Line and an Associated Converter        )  
Station Providing and Interconnection on the Maywood-        )  
Montgomery 345kV Transmission Line                            )

**RECOMMENDATIONS OF THE SHOW ME CONCERNED LANDOWNERS  
FOR SUPPLEMENTAL PROCEDURAL SCHEDULE**

On April 16, 2015, the Commission issued an Order entitled, “Order Directing Filing of Recommendations for Supplemental Procedural Schedule.” In the Order, the Commission stated that it “will provide an opportunity for the parties to comment or make recommendations on an appropriate procedure for addressing the information filed by Grain Belt Express.” The Commission provided that such recommendations shall be filed no later than April 22, 2015. Following are the Show Me Concerned Landowners’ (Show Me) recommendations.

**OVERVIEW**

At the outset, Show Me notes that Grain Belt Express (GBE) provided only a small portion of the information that the Commission requested in its February 11, 2015, Order Directing Filing of Additional Information. That Order stated that “After reviewing the record established by the parties, the Commission finds that it requires additional information and analysis before determining whether to grant or deny Grain Belt Express’ application.” The Commission then set out the additional information it requires in 13 numbered paragraphs, many of which had several subparts.

GBE did not provide most of the requested information:

- While GBE did provide the status of its efforts to obtain the county consents as requested in paragraph 2 of the Order, it did not provide consents from all impacted counties. GBE states that “If this Commission grants a CCN to the Company, Grain Belt Express will obtain any necessary additional authority or clarification from these county commissions and submit evidence of such action to this Commission, as permitted by 4 CSR 240-3.105(1)(D)-(2).” (GBE’s Response to Order Directing Filing of Additional Information at p. 6). GBE fails to note that submitting the evidence after the Commission grants a CCN is in direct conflict with section (2) of the same rule, 4 CSR 240.3.105(2), which states: “If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.” (emphasis added). GBE’s proposed approach is also in direct conflict with § 393.170.2, which states: “Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.” (emphasis added). By statute and Commission rule, GBE is required to provide the county consents before the Commission can issue the CCN.
- GBE did not provide any documentation of commitments from Missouri utilities, municipalities, or cooperatives to obtain capacity, energy and/or Renewable Energy Credits from the project, as requested in paragraph 3 of the Order. GBE provides no estimated date on when it will provide the requested documentation.
- GBE did not provide any additional interconnection agreements involving the proposed 500 MW substation in Ralls County, MO, as requested in paragraph 4 of

the Order, and provided no estimated date on when it will provide the requested agreements.

- GBE did not provide any blueprints of the proposed 500 MW substation in Ralls County, MO, as requested in paragraph 5 of the Order. While GBE did provide cost estimates for a “typical” converter station, it did not provide specific cost estimates for the Ralls County substation as requested in paragraph 5 of the Order. GBE does not provide an estimated date when it will provide the requested blueprints or specific cost estimates.
- GBE did not provide documentation of any commitments from wind energy producers to provide energy for this transmission project as requested in paragraph 6 of the Order, nor did it provide any estimated date of when it will provide the requested documentation.
- GBE did not provide any documentation that it has obtained the state or federal siting approvals required by law to begin construction of the entirety of this transmission project that is sited outside the state of Missouri as requested in paragraph 7 of the Order. GBE provided no estimated date of when it would comply with this request.
- GBE did not provide any completed documentation of the Grain Belt Express plan, equipment, and engineering drawings to achieve compliance with the NERC standards for a project of this scope and size, National Electricity Safety Code for a project of this size and scope, and the Overhead Power Line Safety Act, § 319.075 et seq., RSMo, as requested in paragraph 8 of the Order. GBE provided no estimated date for when it plans to provide the requested documentation.

- GBE did not provide a detailed description and related documentation of any final project design elements that were not previously described to the Commission or have changed since the hearing in this case as requested in paragraph 9 of the Order. GBE offers no estimated date for when it plans to comply with this request.
- GBE did not provide the all of the plans, agreements, and studies requested in paragraph 13 of the Order, nor did GBE provide an estimated date for when it plans to comply with this request.

Show Me acknowledges that on April 13, 2015, GBE did file a response to the Commission's February 11, 2015 Order which included twenty-one new supplemental exhibits. Show-Me plans to file detailed and substantive responses to this new information within 30 days of GBE's April 13 filing, as contemplated by the February 11, 2015 Order.

#### RECOMMENDATIONS

- 1. The Commission Should Deny GBE's Application Without Prejudice and Give GBE the Opportunity to Refile an Application When it Has All of the Information Required By Law and By the Commission in the February 11, 2015, Order.**

Even though the Commission gave GBE a second chance to provide the additional information the Commission said it requires in order to make a decision in this case, GBE did not provide the requested information. Much of the requested information—for example, the RTO interconnection studies—will not be available for some time, perhaps years. And, GBE may never be able to get the required consents from all of the county commissions. GBE's general attitude is summed up thusly: Trust us—we will give you the information only after you give us our CCN.

The Commission should not allow GBE to play this “which comes first—the chicken or the egg” game. Show Me recommends that the Commission deny GBE’s Application without prejudice. GBE is free to refile its Application after it obtains all of the relevant information and documentation that the law and this Commission require.

**2. If the Commission does not Deny the Application Outright, It Should Hold the Case in Abeyance Until GBE Provides all of the Documentation and Information Requested in the February 11 Order.**

Even though Show Me believes that the best course of action at this time is to deny GBE’s Application, if the Commission is not so inclined, then the Commission should put the case on hold until GBE provides all of the information required by law and by the Commission in its February 11 order. In the February 11 and April 16 Orders, the Commission clearly contemplates supplemental proceedings for addressing the additional information to be filed by GBE. Going through multiple additional proceedings and hearings in a piecemeal fashion as information trickles in sporadically would be confusing and costly to the parties, especially the landowners like the members of Show Me, who have limited funds, and to the Commission. It would also go against the preference for judicial economy. Therefore, Show Me recommends that if the Commission does not want to deny the Application at this time, then it should put the case on hold with no further proceedings until GBE provides all of the documentation and information required by law and by the Commission’s February 11 Order. Once GBE has filed all of the requested information, documentation, and studies, the issue of supplemental proceedings can be addressed at that time.

**3. If the Commission Wants to Consider Allowing Additional Information into the Record, then the Commission is Bound by Law and Commission Rules to Follow Established Contested Case Procedures.**

This remains a contested case, and the Commission has a legal duty to follow contested case procedures as set out in the Missouri Administrative Procedures Act, §§ 536.010 - .150, RSMo, and Commission rules 4 CSR 240-2.010 - .200.

By statute, contested cases at administrative agencies, such as this Commission, must be conducted as adversarial proceedings. *Housing District v. Lovejoy*, 762 S.W.2d 843, 845 (Mo. App. E.D. 1988); *Ladd v. Missouri Board of Probation and Parole*, 299 S.W.3d 33, 38-39 (Mo. App. W.D. 2009). Contested cases provide the parties with an opportunity for a formal hearing with the presentation of evidence, including sworn testimony of witnesses and cross-examination of witnesses. *Sapp v. City of St. Louis*, 320 S.W.3d 159, 163 (Mo. App. E.D. 2010).

The only procedure that would allow all parties adequate due process would be to hold additional proceedings under established contested case procedures. There is no short-cut procedure allowed under the law. If the Commission wants to re-open the record to consider additional information, GBE should have to file supplemental direct testimony, time should be allowed for discovery, the other parties should be allowed to file rebuttal and surrebuttal testimony, and a continuation of evidentiary hearings should be commenced to provide an opportunity for the parties to cross-examine the witnesses. After the additional hearings, § 536.080 allows the parties to file post-hearing briefs. Show me believes that if the Commission wants to consider allowing additional information into the record, contested case procedures according to the statutes and Commission rules must be followed.

CONCLUSION

Show Me appreciates the opportunity to present these recommendations for a supplemental procedural schedule to the Commission for its consideration.

Respectfully submitted,

HEALY LAW OFFICES, LLC



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ATTORNEY FOR SHOW ME  
CONCERNED LANDOWNERS

April 22, 2015

**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 22<sup>nd</sup> day of April, 2015.



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Terry M. Jarrett