

**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)	Case No. EA-2016-0358
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)	

WIND ON THE WIRES and THE WIND COALITION
RESPONSE TO MOTION TO STRIKE

COMES NOW Wind on the Wires and The Wind Coalition (“Wind Advocates”), by counsel, **responding in opposition** to *Show Me Concerned Landowners’ Motion To Strike Testimonies of Langley and Goggin (Motion)*, filed on January 30, 2017. This response is in conformance with 4 CSR 240-2.080. In support of this response, Wind on the Wires and The Wind Coalition state the following:

1. On January 30, 2017, Show Me Concerned Landowners (Show Me) filed a motion to strike the testimony of Michael Goggin, whose testimony was filed on behalf of Wind on the Wires and The Wind Coalition, and the testimony of Matt Langley, whose testimony was filed on behalf of Infinity Wind Power (Infinity).
2. In its Motion, Show Me argues that the rebuttal testimony in question should have been filed as direct testimony (*Motion* at ¶4), is duplicative of Grain Belt Express Clean Line LLC’s (Grain Belt) testimony (*id.* at ¶5) and denies Show Me an adequate opportunity to refute the testimony (*id.* at ¶7). In addition, Show Me incorporates by reference “[m]any of the arguments stated in Show Me’s motion to

strike MJMEUC testimonies [*“Show Me Concerned Landowners’ Motion to Strike and in the Alternative to Delay Surrebuttal Testimony and Hearing Dates” (Motion to Strike MJMEUC Testimony) Case No. EA-2016-0358, Item No. 240*]”.
Motion at ¶6.

3. Wind on the Wires and The Wind Coalition have a valid interest in this case and in the approval of the construction and operation of the Grain Belt Express line. Wind on the Wires’ and The Wind Coalition’s interest and position in the case were set forth in their unopposed Application to Intervene (*Application to Intervene of Wind on the Wires and The Wind Coalition*, Case No. EA-2016-0358, Item No. 57, ¶¶1-7), which was granted by the Commission on September 27, 2016 (*Order Granting Applications to Intervene*, Case No. EA-2016-0358, Item No. 74). As stated in the Application, Wind on the Wires and The Wind Coalition are a non-profit corporation and an association, respectively, whose members include numerous wind developers who could potentially use the Grain Belt Express Project and who would be materially harmed if the Project is not approved. Those members are not parties to this case so their interests are being represented by Wind on the Wires and The Wind Coalition.
4. Show Me misinterprets the Commission’s rules of practice relative to direct and rebuttal testimony. See *Motion* at ¶4. The Commission’s rules of practice state that rebuttal testimony shall include all testimony explaining why a party rejects, disagrees or proposes an alternative to the direct case (see 4 CSR 240-2.130(7)(C)). The Commission’s rules do not prohibit rebuttal testimony, of the kind that Mr. Goggin prepared, that is responsive to or supportive of direct testimony. Section 2.130(7)(C)’s language indicates its intended purpose is to ensure all objections to

the case in chief are set forth in rebuttal testimony and to prevent new objections being raised in surrebuttal testimony. Thus, section 2.130 (7)(C) should not be construed in a manner that preempts an intervenor's right to express a position that is not in opposition to that of the petitioner's direct testimony, especially when the procedural schedule allows all intervenors to file rebuttal testimony (see *infra* ¶6).

5. The testimony offered by Wind on the Wires and The Wind Coalition is not duplicative nor repetitious of Grain Belt Express's testimony. The testimony of Mr. Goggin focuses on a few of the Tartan Criteria (*In re Tartan Energy Co.*, No. GA-94-127, 1994 WL 762882 (Mo. PSC, Sept. 16, 1994): that the Project is needed, in the public interest and is economically feasible. Mr. Goggin's testimony provides different facts and a different perspective on those facts than what is presented by Grain Belt witnesses. Because Mr. Goggin's perspective and facts differ from those presented by Grain Belt, and his arguments are relevant to the Tartan criteria his rebuttal testimony should not be discarded. These differences can aid the Commission in fully understanding the issues before it and in reaching its conclusion. Moreover, the Commission has the ability to accord Mr. Goggin's facts and arguments as much or as little weight as the Commission deems appropriate.
6. At the time the schedule was set Show Me had the ability to object to Wind on the Wires and The Wind Coalition submitting rebuttal testimony, but it did not do so. As noted above, in Wind on the Wires' and The Wind Coalition's petition to intervene in the case they identified themselves as supporters of the Project. *Application to Intervene of Wind on the Wires and The Wind Coalition*, Case No. EA-2016-0358, Item No. 57, ¶¶1-7. Their position in this case is the same position Wind on the Wires and The Wind Coalition took in the previous Grain Belt

certificate of convenience and necessity case, EA-2014-0207, to which Show Me was a party. In addition, the parties to this case jointly filed, on October 5, 2016, two proposed procedural schedules for Commission consideration. Both schedules had rebuttal testimony as the next submission of written evidence by intervenors. The procedural schedule set by the Commission, on October 19, 2016, identified the next filing of written testimony as rebuttal testimony due on January 24, 2017. *Order Setting Procedural Schedule and Other Procedural Requirements*, Case No. EA-2016-0358, Item No. 96. Show Me had the opportunity to object to the proposed schedules that were submitted or to the schedule approved by the Commission, but it did not. Moreover, the schedule in this case is similar to the schedule in the previous case, EA-2014-0207, in which the first round of intervenor testimony was rebuttal testimony.

7. The timing of Mr. Goggin's testimony does not deny Show Me the ability to respond. See *Motion* at ¶4. Show Me is not being treated any differently than other intervenors as a result of Wind on the Wires and The Wind Coalition testimony. All intervenors, including Wind on the Wires and The Wind Coalition, have the same amount of time to prepare cross-rebuttal to refute the testimony filed on January 24. Thus, Show Me is not treated any differently than other intervenors, nor is it specially harmed by Wind on the Wires and The Wind Coalition rebuttal testimony.
8. Show Me incorporates by reference arguments made in its *Motion to Strike MJMEUC Testimony* (Item No. 240) as described above in paragraph 2. Most of those arguments are unrelated and inapplicable to Mr. Goggin's testimony.
9. Show Me's arguments about the lack of probative value of MJMEUCs power purchase agreement (*Motion to Strike MJMEUC Testimony at ¶10*) has no bearing

on Wind on the Wires and The Wind Coalition's rebuttal testimony. Mr. Goggin does not refer to MJMEUC in his testimony or rely on the documents referenced by Show Me in its *Motion to Strike MJMEUC Testimony*.

WHEREFORE, Wind on the Wires and The Wind Coalition request that the Commission reject *Show Me Concerned Landowners' Motion To Strike Testimonies of Langley and Goggin* for the reasons set forth above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that this Response to Motion to Strike was electronically served upon all parties to this case on February 9, 2017.

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The Wind Coalition*