

**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) File No. EA-2016-0358
Current Transmission Line and an Associated)
Converter Station Providing an Interconnection on the)
Maywood - Montgomery 345 kV Transmission Line.)

INITIAL POST-HEARING BRIEF OF INFINITY WIND POWER

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Infinity Wind Power (Infinity), by and through counsel, hereby submits its initial post hearing brief.

I. INTRODUCTION

A. Overview

1. Pursuant to Section 393.170.1, Grain Belt Express Clean Line LLC (Grain Belt Express) seeks from the Public Service Commission of the State of Missouri (Commission) a line certificate of convenience and necessity (CCN) to “construct, own, operate, control, manage, and maintain electric transmission facilities within Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri, as well as an associated converter station in Ralls County”¹ (the Grain Belt Project, or the Project). The Project is designed to create an economical pathway for the delivery of low-cost, wind-generated power from Western Kansas to load centers in Missouri, Illinois, and Indiana,² and will fill a gap in the existing transmission grid by eliminating the additional transmission charges MISO participants must pay to access low-cost wind power via the Southwest Power Pool (SPP) transmission system.³

¹ Application, p. 1.

² Application, para. 1.

³ Direct, Berry at 32.

2. The Project will be constructed and operated with Missouri suppliers and service providers. Grain Belt Express has engaged Quanta Service, Inc. (Quanta) to construct the Project. Quanta has selected its affiliate, Missouri-based PAR Electrical Contractors, Inc. (PAR), to be the primary contractor for the Project.⁴ Grain Belt Express has also signed three preferred supplier agreements for materials and services with companies having Missouri-based operations,⁵ and is committed to working with local companies as much as practicable in the construction and operation of the Project.⁶ Grain Belt Express' commitment to the use of Missouri companies will provide millions of dollars of economic benefits to Missouri in the form of jobs, income, gross domestic product, and state tax revenues.⁷

3. Transmission customers have already subscribed to the Project. Grain Belt Express has entered into a long-term transmission service agreement (TSA) with the Missouri Joint Municipal Electric Utility Commission (MJMEUC), which will provide MJMEUC with 200 MW of transmission capacity for the exportation of low-cost wind power.⁸ Based on an analysis of its current and future power needs, MJMEUC determined that the utilization of the full 200 MW available under the TSA will save MJMEUC and its members approximately \$10 million per year in transmission charges alone.⁹

4. Power purchasers have contracted to move power via the Project. MJMEUC subsequently entered into a long-term, fixed-price power purchase agreement (PPA) with Infinity for up to 200 MW of low-cost wind power to be transmitted via the TSA, with a minimum

⁴ Direct, Lawlor at 15-16; Direct, Skelly at 6; Direct, Schiflett at 5

⁵ Direct, Lawlor schedules MOL-8 through MOL-11.

⁶ Direct, Skelly at 6-7; Direct, Lawlor at 15-17; Direct, Galli, at 37-38; Tr. Vol. 10, Skelly at 147-48; Tr. Vol. 12, Lawlor at 403-05.

⁷ Direct, Spell at 7.

⁸ Rebuttal, Grotzinger at 5. Grain Belt also has a 50 MW TSA with Reality. See, Tr. Vol. 10, Skelly at 289.

⁹ Rebuttal, Grotzinger at 5.

requirement of 100 MW.¹⁰ The PPA binds MJMEUC to the TSA upon completion of the Grain Belt Express line. These contracts will not only save Missouri consumers millions of dollars but will also provide stable pricing for the MJMEUC cities.¹¹

5. A diverse group of stakeholders, ranging from Missouri municipalities, labor unions, environmental interest groups, the Departments on Economic Development, and large commercial and industrial electric consumers, support the Project.¹²

6. The record evidence supports a finding that Grain Belt Express has met the Commission's Tartan factors and that the issuance of the requested line CCN is in the public interest.

B. Legal Standard

7. The Commission has full authority to grant a line CCN such as the one requested by Grain Belt Express,¹³ "whenever it shall after due hearing determine" that doing so is "necessary or convenient for the public service."¹⁴ Further, the Commission must grant the CCN where the proposed infrastructure is "necessary or convenient for the public service."¹⁵ The courts are clear that "the term 'necessity' does not mean 'essential' or 'absolutely indispensable', but rather that an additional service would be an improvement justifying its cost."¹⁶ Additionally, where a "genuine and reasonable public interest in promptness and economy of

¹⁰ Rebuttal, Langley at 4.

¹¹ Rebuttal, Kincheloe at 2.

¹² See, position statements of Missouri Joint Municipal Electric Utility Commission (MJMEUC), Infinity, Consumer Council of Missouri, Wind on the Wires and the Wind Coalition (Wind Advocates), Renew Missouri, Sierra Club and the National Resources Defense Council, Missouri Department of Economic Development (DED), IBEW Local Union 2 and Local 53 (IBEW Unions), Walmart Stores, Inc. (Walmart), The Missouri Industrial Energy Consumers

¹³ Section 393.170.1.

¹⁴ Section 393.170.3.

¹⁵ 4 CSR 240-3.105(1)(E).

¹⁶ *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm'n.*, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993).

service” is provided, “then the public ‘convenience and necessity’ or ‘public need’ is served,”¹⁷ and the Commission has the discretion to “determine when the evidence indicates the public interest would be served[.]”¹⁸

8. In evaluating CCN applications, the Commission uses the Tartan factors as guidelines for evaluating whether the public interest will be met by the issuance of the CCN.¹⁹ The Tartan factors are whether (1) there is a need for the service; (2) the applicant is qualified to provide the proposed service; (3) the applicant has the financial ability to provide the service; (4) the applicant's proposal is economically feasible; and (5) the service promotes the public interest.²⁰ As stated above, the record evidence supports a finding that Grain Belt Express has met the Tartan factors and that the issuance of the requested line CCN is in the public interest.

II. ISSUES AND ANALYSIS

A. *The evidence supports the issuance of the certificate of convenience and necessity to Grain Belt Express.*

9. As noted previously, the Project will allow Missourians to save millions of dollars on energy costs annually,²¹ and will satisfy a missing link in the existing transmission grid by providing an alternative to the constrained Regional Transmission Organization (RTO) regime currently in place.²²

¹⁷ *State ex rel. Twehous Excavating Co. v. Pub Serv. Comm'n*, 617 S.W.2d 104, 106 (Mo. App. W.D. 1981).

¹⁸ *Intercon Gas*, 848 S.W.2d at 598, (citing, *State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n.*, 527 S.W.2d 390, 392 (Mo.App.1975)). See also, *United for MO. v. Public Serv. Comm'n.*, 2016 WL 7650615, slip op. at 4, (Dec. 20, 2016) (*Motion for Rehearing and/or Transfer to Supreme Court Denied* Jan. 24, 2017).

¹⁹ *Id.* at 32.

²⁰ File No. EA-2012-0321, *In re Entergy Arkansas, Inc.*, Order Granting Certificate of Convenience and Necessity, p. 2 (issued July 11, 2012).

²¹ Rebuttal, Grotzinger at 5.

²² Rebuttal, Langley at 3.

i. The Grain Belt Express Project Meets an Existing Need and Furthers the Public Interest.

(a) Absent the Grain Belt Express Project, Missouri municipalities will be unable to realize millions of dollars in annual savings.

10. The Grain Belt Express Project is necessary to ensure that low-cost wind power produced by Infinity can be economically delivered from Kansas to MJMEUC for the benefit of Missouri consumers.²³

11. As noted by MJMEUC witnesses, historically, MJMEUC has been unable to access high capacity wind from Kansas at the price currently available via the Grain Belt Express Project.²⁴ The Grain Belt Express Project will allow MJMEUC to circumvent the constrained RTO structure and economically deliver renewable energy to its members under long-term, fixed-price contracts.²⁵

12. MJMEUC is a joint action agency with sixty-eight (68) municipal members.²⁶ The construct of MJMEUC allows the agency to work on behalf of its members to purchase power and services that the members would be unlikely to economically achieve individually.²⁷ As part of its services, MJMEUC procures power for its members, and primarily utilizes power purchase agreements to meet its members' renewable energy requests.²⁸ MJMEUC's membership comprises various subgroups within the membership, one such group being the Missouri Public Energy Pool (MoPEP).²⁹ MoPEP is comprised of thirty-five (35) Missouri cities for which MJMEUC provides full requirements for wholesale energy, capacity and ancillary

²³ Rebuttal, Langley at 3.

²⁴ Rebuttal Grotzinger at 4.

²⁵ Rebuttal Kincheloe at 2.

²⁶ Rebuttal, Kincheloe at 2.

²⁷ Rebuttal, Kincheloe at 3.

²⁸ Rebuttal, Kincheloe at 2.

²⁹ Tr. Vol. 10, at 67; Rebuttal, Kincheloe at 2.

services.³⁰ The MoPEP cities have committed to 60 MW of power under the PPA with Infinity. The cities of Kirkwood and Hannibal have also contracted to take 25 MW, and 15 MW of wind power, respectively,³¹ and MJMUEC anticipates that additional cities will follow suit,³² which means that the millions of dollars of initial savings identified by MJMEUC will continue to increase as more cities take advantage of the TSA and PPA contracts.³³

13. The TSA and PPA contracts highlight the need for the Project and expose the vast savings potential the Project can bring to Missouri consumers. By filling the void in the existing transmission grid, the Grain Belt Express Project furthers the public interest by allowing Missouri consumers to enjoy unrestricted access to low-cost clean energy sources.³⁴ Without the Project, these savings will not be realized.

(b) The Grain Belt Express Project will assist Missouri entities in meeting their renewable energy goals

14. Savings for Missouri consumers do not represent the sole need for the Grain Belt Express Project. As noted by Mr. Grotzinger, the MJMEUC members have a need for renewable energy. The City of Columbia has a renewable portfolio standard that exceeds the Missouri statutory standard applicable to investor owned utilities,³⁵ and MoPEP members are currently fully subscribed on renewable product offerings to their respective wholesale customers, with additional demand being unmet at this time.³⁶ Arguably, the Grain Belt Express Project will provide these cities the ability to meet the additional unmet demand.

³⁰ Rebuttal, Kincheloe at 4.

³¹ Tr. Vol. 16, Grotzinger at 980-81.

³² Tr. Vol. 16, Grotzinger at 981; Rebuttal, Grotzinger at 6.

³³ Tr. Vol. 16, Grotzinger at 1098.

³⁴ Skelly, Direct, p. 4, lns. 19-22, p. 5, lns. 3-7; Langley Rebuttal, p. 4, lns. 18-22..

³⁵ Rebuttal, Grotzinger at 9.

³⁶ Rebuttal, Grotzinger at 10.

15. Entities other than MJMEUC are also interested in obtaining efficient access to wind power. Large electric consuming companies are continually searching for cost-efficient access to renewable resources, as noted by Grain Belt Express witness, Mr. Skelly, at hearing upon questioning by Chairman Hall:

SKELLY: “[W]hat we've seen around the country is that many large industrial companies and consumer companies and manufacturing companies have set goals to get a certain percentage of their electricity from renewable sources. They understand that getting big projects done that can provide them renewable energy, particularly in the areas where the renewable energy is not as good or as cost effective, that we need transmission, so they've been willing -- we've approached them and they've said yes, we want your project to happen, so what can we do to help and, therefore, they've sent in these letters.

CHAIRMAN HALL: And this is a national phenomenon?

SKELLY: It's even more than national, it's even an international phenomena, so that when, particularly some of the big data companies, they will make internet [*sic*], not just national siting decisions, but international siting decisions around the availability of renewable energy.”

Mr. Skelly's testimony is consistent with Mr. Grotzinger's experience with the MJMUEC members, and with the testimony of Mr. Chriss on behalf of Walmart. As explained by Mr. Chriss, Walmart is a signatory to the Corporate Renewable Energy Buyer's Principles (the Principles), published by the World Resources Institute and the World Wildlife Fund. The Principles are a list of criteria to assist large energy users in meeting their renewable energy goals.³⁷

16. The signatories to the Principles are a conglomeration of large energy users who have committed to renewable energy and sustainability goals. In addition to Walmart, the list of signatories include Target, GM, Kellogg's, and McDonald's, to name a few.³⁸ Commitment to these goals result in Walmart, and other large energy consumers, looking for opportunities to

³⁷ Direct, Chriss at fn. 5; <http://buyersprinciples.org/principles/>

³⁸ <http://buyersprinciples.org/about-us/>. Arguably, any savings in power costs these companies can achieve will help offset price increases in consumer products.

develop programs which will allow them to purchase large amounts of affordable renewable energy.³⁹ A review of the website provided by Mr. Chriss shows that “the Principles publicly launched in July of 2014 with 12 signatories, initially representing 8.4 million megawatt hours of renewable energy demand by 2020[,] and “[a]s of January 2017, 65 companies have signed on, representing over 48 million MWh of annual demand by 2020.”⁴⁰ It is clear from the explosion in the number of signatories to the Principles in such a short time, that the corporate need for affordable renewable energy is expanding.

17. What is also clear is the fact that the current RTO structure cannot keep pace with the growing demand for renewable energy. As was true at the time of Grain Belt Express’ previous request for a CCN, wind energy is still the least expensive form of new build energy in the United States,⁴¹ and the existing pathways for exportation of this power are constrained due to the current design of the grid, which requires short-term, expensive agreements with multiple utilities and transmission operators in order to export this resource to market centers such as Missouri.⁴² The RTO planning processes can be time consuming and projects within the RTOs developed to address congestion become fully subscribed as soon as they become operational.⁴³ In other words, the RTO process is hindering the full development of and access to low-cost, renewable power. The Grain Belt Express Project will assist in remedying the shortcomings of the existing RTO structure, and represents a positive change in the current transmission paradigm.

³⁹ Direct, Chriss at 7.

⁴⁰ Direct, Chriss at fn 5. See, <http://buyersprinciples.org/about-us/>

⁴¹ Rebuttal Langley at 3.

⁴² Rebuttal Langley at 4, 7.

⁴³ Tr. Vol. 14, Berry at 932-33.

(c) The Grain Belt Express Project will provide additional economic benefits to Missouri.

18. In addition to the vast savings Missouri consumers will realize through use of the Grain Belt Express Project, the Project will bring additional economic benefits to the State by virtue of Grain Belt Express' commitment to utilizing Missouri-based companies in the construction and operation of the Project.⁴⁴

19. Grain Belt Express has engaged Quanta to construct the Project, and Quanta has selected its affiliate, Missouri-based PAR, as the primary contractor for the Project.⁴⁵ As noted by Mr. Schiflett of PAR, Quanta and PAR have committed to Grain Belt Express that they will “maximize the use of local contractors and suppliers where practical” and will conduct project awareness meetings designed in part to provide Quanta and PAR “the opportunity to learn about local suppliers and service providers in the area that may be utilized on the Project.”

20. Grain Belt Express has also signed three preferred supplier agreements for materials and services with companies having Missouri-based operations,⁴⁶ and those agreements require similar commitments with regard to the use of local labor and suppliers. For example, the agreement with Hubble requires it, in part, to assemble parts at its Centralia, Missouri location and to obtain as much raw material from local companies as possible.⁴⁷ The agreement with General Cable, who will be performing work for the Project from its Sedalia plant, requires similar commitments to the use of local suppliers.⁴⁸ And finally, AAA will manufacture transformers for the Project at its St. Louis location.⁴⁹

⁴⁴ Copies of the various agreements already initiated are attached to the testimony of Mr. Lawlor – See, Lawlor schedules MOL-8 through MOL-11.

⁴⁵ Direct, Lawlor at 15-16; Direct, Skelly at 6; Direct, Schiflett at 5

⁴⁶ Direct, Lawlor schedules MOL-8 through MOL-11.

⁴⁷ See, MOL-8.

⁴⁸ See, MOL-9.

⁴⁹ See, MOL-10.

21. In light of these local commitments, the Missouri Department of Economic Development offered testimony regarding the potential benefits the Project brings to Missouri, and witness Mr. Spell noted the following:

“The construction phase (2018-2020) is expected to support 1,527 total jobs over the three years, create \$246 million in personal income, \$476 million in GDP, and \$9.6 million in state general revenue for the state of Missouri. The first year of operations (2021), which includes spending to maintain the transmission line and nearly \$15 million in initial landowner payments, is expected to support 91 total jobs, create \$17.9 million in personal income, \$9.1 million in GDP, \$720,000 in state general revenue, and \$7.2 million in county property taxes. Beginning in year 2022 the annual operations and landowner payments of the Project are expected to support 28 total jobs, create \$2.6 million in personal income, \$4.2 million in GDP, \$111,000 in state general revenue, and \$7.2 million in county property taxes.”⁵⁰

22. The combination of the energy-related savings and the revenue influx the Project will bring clearly meet the public interest. Yet, the Grain Belt Express line will also provide positive environmental impacts. Testimony indicates that the Project will “reduce emissions of carbon dioxide, sulfur dioxide, nitrogen oxide, particulates and organic compounds, reduce waste by-products, and reduce water usage, as compared to the production of comparable amounts of electricity from fossil-fueled generation[.]” which “will lead to cleaner air and water in Missouri and the broader region.”⁵¹ In fact, the City of St. Louis believes that clean power delivered over the Grain Belt Express Project could lower the City’s carbon intensity by up to 6%.⁵²

23. In summary, the Grain Belt Express Project will meet the needs of Missouri municipalities and large electric consumers, by offering an economical pathway for renewable wind resources. By meeting this need, Missouri consumers will save millions of dollars annually in energy-related costs. The Project will also further the public interest by providing millions of

⁵⁰ Direct, Spell at 7.

⁵¹ Direct, Skelly at 7.

⁵² See, Skelly Schedule MPS-1.

dollars of economic benefits to the State of Missouri and will provide environmental benefits. As such, the Commission should find that Grain Belt Express has met these two Tartan factors.

ii. Grain Belt Express is qualified and has the financial ability to provide the proposed service.

24. The Commission has previously found that Grain Belt Express “is qualified and has the financial ability to provide the service described in its application for a certificate of convenience and necessity.”⁵³ Since the time of the Commission’s findings with regard to these factors, Grain Belt Express has obtained additional investor participation,⁵⁴ and maintained the key personnel supporting the Commission’s finding.⁵⁵ These factors are not in serious dispute, and as such, the Commission should find that Grain Belt Express has met its burden with regard to them.

iii. The Grain Belt Express Project is economically feasible.

(a) The Grain Belt Express Project

25. At hearing, the Commission inquired as to the public interest intent of this Tartan factor and questioned whether the Commission’s analysis differs in situations where the project in question is not funded by captive ratepayer dollars.⁵⁶ Grain Belt Express witness Ms. Kelly provided background with regard to the development of participant-funded projects, and noted that several years ago the Federal Energy Regulatory Commission (FERC) developed policies to allow for such projects because FERC was supportive of a regulatory concept that placed the risk of a project on the investor rather than the captive ratepayer.⁵⁷ Ms. Kelly reasoned from her

⁵³ EA-2014-0207, Report and Order, p. 21 (issued Jul. 21, 2015).

⁵⁴ Berry Direct, p. 12.

⁵⁵ EA-2014-0207, Report and Order, pp. 8-10 (discussing the qualifications of Mr. Michael Skelly and Dr. Wayne Galli). Both Mr. Skelly and Dr. Galli provided testimony in support of the current Application.

⁵⁶ Tr. Vol. 10, Coffman at 90-91; Tr. Vol. 10, Thompson at 103-105; Tr. Vol. 12, Kelly at 534-37.

⁵⁷ Tr. Vol. 12, Kelly at 528.

perspective as a former Commissioner, that in protecting the ratepayer under the traditional regulatory regime, where the focus is on ensuring just and reasonable rates, the Commission must weigh the cost of a project against the value of that project to ratepayers.⁵⁸ However, with regard to a merchant line, such as the Grain Belt Express Project, the Commission's considerations are not the same because, *inter alia*, the participants are free to negotiate and let the market set the rate. As part of this discussion, Ms. Kelly noted the following:

“...[W]hen you have a participant-funded project, there's no captive ratepayer, so as a regulator, there's no ratepayer to protect. So the customers that voluntarily enter into contracts with the transmission company and the investors who voluntarily invest to make this a going concern, provide the evidence or to [*sic*] bring the best evidence that it's needed because it's voluntarily [*sic*], they didn't have to sign up for this, they decided to.

So they've made the calculation and the decision in their own mind that the value is worth the cost. So as regulators looking to fund – to approve a participant-funded project, you can rely on the decision by well informed individual customers voluntarily entering into contracts to purchase transmission capacity, as well as well informed investors willing to invest...”⁵⁹

In other words, the Commission's analysis with regard to economic feasibility of a participant-funded project should and does differ from that employed when evaluating captive ratepayer-funded projects.

26. Inherent in the application of the Tartan factors is the understanding that the factors are flexible guidelines to assist the Commission in evaluating the public interest.⁶⁰ As such, recognizing the distinction between a participant-funded project and projects presented for approval by Commission, rate-regulated utilities, for the purposes of the economic feasibility prong of the Tartan factors, is appropriate. It is also reasonable for the Commission to recognize

⁵⁸ Tr. Vol. 12, Kelly at 535.

⁵⁹ Tr. Vol. 12, Kelly at 535-36.

⁶⁰ “It is important to note that factors have been developed and implemented by the Commission itself...so the Commission is not bound to strictly follow past decisions where it is reasonable to deviate from those standards.” EA-2014-0207, *Report and Order*, p. 21.

there are FERC policies in place governing participant-funded projects ensuring that the market will determine the appropriate value of the transmission service, thereby placing the economic risk of such projects on voluntary customers and investors, not captive ratepayers.

(b) The Transmission Service Agreement and Power Purchase Agreement

27. The construction of the Grain Belt Express Project will make the importation of low-cost wind-generated power economically feasible, allowing Missouri electric consumers flexibility in exercising their power procurement options. As noted by Mr. Langley, the current exportation of Kansas wind power is costly and complex and requires coordination with multiple utilities and transmission operators in order to acquire the rights to export.⁶¹ Mr. Langley explained that obtaining agreements to export wind power from one region to the next is difficult because the contracts are short in term, and expensive.⁶² The lack of adequate pathways to market within the existing RTO structures was confirmed at hearing by Ms. Kelly, who, upon questioning by Chairman Hall, agreed that the Grain Belt Express Project represents a solution to the RTO seams problem.⁶³

28. Perhaps the best evidence⁶⁴ supporting the argument that the Grain Belt Express Project will provide access to low-cost wind power are the TSA and PPA contracts between Grain Belt Express and MJMEUC, and MJMEUC and Infinity, respectively. As mentioned previously, MJMEUC confirmed that the level of energy-related savings that it can achieve for its member cites by virtue of the Project has not previously existed. Despite any inferences to the contrary, the PPA represents a binding contract between MJMUEC and Infinity, with

⁶¹ Direct Langley, p. 4.

⁶² Direct Langley, p. 4.

⁶³ Tr. Vol. 12, Kelly at 530.

⁶⁴ BLACK'S LAW DICTIONARY defines best evidence as "that evidence which is more specific and definite as opposed to that which is merely general and indefinite..." and "that kind of proof which under any possible circumstances affords the greatest certainty of the fact in question..." (8th Ed., p. 595)

significant legal ramifications for failure to perform,⁶⁵ and provided the Commission authorizes Grain Belt Express to construct the Project, Missouri consumers will be the beneficiaries of these contracts and the resulting savings.

29. As the Commission is aware, Infinity is a wind-developer with significant projects across the Midwest. As an active Kansas wind developer, Infinity is the party to this proceeding with the most exact data with regard to the true cost of wind development in Kansas. No other witness to this proceeding can speak to development costs of wind generation in Kansas more accurately than Mr. Langley, and Mr. Langley's credentials are unchallenged.

30. Opponents of the Grain Belt Express Project offered testimony with regard to their view of wind development costs in Kansas but the record shows that their testimony is based on faulty assumptions, is contrary to the actual results currently being realized, and is incomplete.

31. As explained by Mr. Langley in his cross-surrebuttal testimony, Show Me Concerned Landowners' (Show Me) witness, Mr. Justis, overstates the capital cost of Kansas wind, by calculating a cost of 1,877/kW, despite industry data from the Department of Energy (DOE) evidencing that costs for the Interior region of the country are below the national average, and that the 2015 cost was closer to \$1,690/kW.⁶⁶ And as noted by Wind on the Wires witness Mr. Goggin,⁶⁷ as of January 2017, the regional cost for wind projects in the SPP, of which Kansas is a member, is even lower at \$1,536/kW, as reported by the Energy Information Administration (EIA).⁶⁸

32. Mr. Justis' analysis also ignores current transactions occurring in Kansas. For example, the April 2016 Westar Energy press release reflecting a 280 megawatt project indicates a

⁶⁵ Tr. Vol. 17, Langley at 1211-12.

⁶⁶ Surrebuttal, Langley at 3-4.

⁶⁷ It should be noted by the Commission that Mr. Goggin is renowned as a wind industry expert. Mr. Goggin was explicitly recognized in the DOE 2015 Wind Technologies Market Report as a reviewer and contributor to that report. *See*, p. ii.

⁶⁸ Cross-Surrebuttal, Goggin, p. 4; Tr. Vol. 18, Justis at 1549-51.

capital investment of approximately \$1,554/kW.⁶⁹ The DOE report, the Westar Energy transaction, and the recent EIA data evidence the downward trend of the average installed project costs noted by Mr. Langley and highlight the fact that Mr. Justis' \$/kW assumption is outside the industry norm.⁷⁰ Mr. Justis' analysis also assumed an inflation rate to project the 2016 costs to 2021 costs, which again is contrary to actual industry data showing a decline in the average installed project costs, and only serves to exacerbate the errors in his assumptions.⁷¹

33. Upon questioning at hearing, Mr. Justis acknowledged that Levelized Cost of Energy (LCOE) contained in his corrected testimony introduced at hearing as Exhibit 420(HC) was overstated. Specifically, Mr. Justis noted that the \$93.77⁷² value identified in Figure 3 of that exhibit should in fact be \$62.20.⁷³ Mr. Justis further acknowledged that he did not conduct any production cost modeling on the effect of the Grain Belt Express project on wholesale prices,⁷⁴ nor did he perform any engineering or economic analysis indicating that the cost to acquire transmission service and deliver power through the RTOs is more effective than with the Grain Belt Express Project.⁷⁵ Further, Mr. Justis did not perform his own levelized avoided cost of energy analysis,⁷⁶ or obtain any price quotes from wind turbine vendors for the cost of wind to be installed in western Kansas.⁷⁷ In light of these obvious shortcomings, the Commission should place no weight on the testimony of Mr. Justis.

34. With regard to the Production Tax Credit (PTC), Missouri Landowners Alliance's (MLA) witness, Mr. Jaskulski, argued that wind farms connecting to Grain Belt Express Project

⁶⁹ Cross-Surrebuttal, Langley at 4. *See also*, ML-3 attached to Mr. Langley's testimony.

⁷⁰ Cross-Surrebuttal, Langley at 4.

⁷¹ Cross-Surrebuttal, Langley at 4.

⁷² Even at this overstated amount, Mr. Justis acknowledged his own analysis shows that the "Kansas wind via GBX" was the cheapest wind alternative presented. Tr. Vol. 18, Justis at 1558.

⁷³ Tr. Vol. 18, Justis at 1538.

⁷⁴ Tr. Vol. 18, Justis at 1586.

⁷⁵ Tr. Vol. 18, Justis at 1587.

⁷⁶ Tr. Vol. 18, Justis at 1590.

⁷⁷ Tr. Vol. 18, Justis at 1596. Additionally, in calculating the rate he believed Grain Belt Express would need for its service, Mr. Justis failed to recognize the Kansas property tax abatement statute. *See*, Tr. Vol. 18, Justis at 1606.

will not be entitled to 100% of the PTC. This statement is inaccurate. As noted by Mr. Langley, wind developers can receive 100% of the PTC by either showing “continuous efforts,” or by bringing a windfarm online prior to the end of 2020, thus negating the need to document “continuous efforts” for the purposes of the IRS provision⁷⁸

35. Independent of other industry participants, Infinity has taken steps to ensure that at least 2,000 MW of its development projects that can use the 4,500 MW transmission capacity available via that Grain Belt Express Project, has been qualified for 100% of the PTC.⁷⁹ It is logical to assume that other wind developers have similarly qualified projects that will be able to transmit power of the Grain Belt Express Project.

36. In summary, the Commission should conclude that the Grain Belt Express Project meets this Tartan factor. Not only will the risks associated with the transmission rates paid be borne by investors, but the record is replete with evidence supporting the \$/kW stipulated in the PPA is consistent with current Kansas wind development activities.

B. If the Commission grants the CCN, what conditions, if any, should the Commission impose?

37. The Commission should impose only those conditions already agreed to by Grain Belt Express.

C. If the Commission wanted to condition the effectiveness of the CCN on the actual construction of the proposed converter station and the actual delivery of 500 MW of wind to the converter station, how would it do so?

38. Infinity takes no position on this issue.

⁷⁸ Cross-Surrebuttal, Langley at 2.

⁷⁹ Tr. Vol. 16, Langley at 1199.

D. *If the Commission grants the CCN, should the Commission exempt Grain Belt Express from complying with the reporting requirements of Commission rules 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175, and 3.190(1), (2) and (3)(A)-(D)?*

39. Infinity takes no position on this issue.

III. CONCLUSION

40. The Grain Belt Express Project will provide Missourians with millions of dollars of energy savings per year. There is simply no credible evidence in the record to dispute this fact. And, because Grain Belt Express has committed to utilizing Missouri-based companies to construct the Project, additional economic benefits will flow to the State by virtue of those agreements.

41. In determining whether to issue Grain Belt Express a CCN, the test the Commission must apply is not whether the need for the Grain Belt Express Project is ‘essential’ or ‘absolutely indispensable’, but rather whether “an additional service would be an improvement” over the current regime, thereby “justifying its cost.”⁸⁰ Here, the Project will allow the unhindered movement of large volumes of low-cost, clean energy to eastern load centers, including Missouri. This is a clear improvement over the current, constrained RTO regime. Further the Project will be funded by investors and subscribers of the line, thereby placing the risk on investors rather than ratepayers, unlike the individual RTO transmission projects that are allocated across the respective footprint and recovered by captive ratepayers.

42. The record evidence clearly demonstrates that Grain Belt Express has met the Commission’s Tartan factors and as such the Commission should grant the requested CCN. For the reasons set forth above, Infinity respectfully requests the Commission grant the CCN as requested by Grain Belt Express.

⁸⁰ *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm’n.*, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993).

Respectfully submitted,

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ATTORNEYS FOR INFINITY WIND POWER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Initial Brief of Infinity Wind Power* was served upon the parties to this proceeding by email this 10th day of April 2017.

/s/ Terri Pemberton

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