

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)	
Gary Mareschal,)	
)	
Complainants,)	
)	
V.)	
)	Case No. EC-2020-0408
Grain Belt Express Clean Line LLC, and)	
Invenergy Transmission LLC, and)	
Invenergy Investment Company,)	
)	
Respondents)	

COMPLAINANTS' RESPONSE TO "REPLY TO COMPLAINANTS' RESPONSE TO
MOTION FOR SUMMARY DETERMINATION"

This pleading is filed in opposition to the merits of Respondents' "Reply", filed on October 9, 2020, in support of their Motion for Summary Determination. On that same date Complainants filed a Motion to Strike the Reply. If that Motion is sustained, then Complainants respectfully ask that this instant pleading be deemed withdrawn. If the Motion to Strike is not sustained, then Complainants presumably have the right if not the fiduciary obligation to file this Response pursuant to Commission Rule 20 CSR 4240-2.080(13).

1. At paragraph 5 of their Reply, Respondents claim that Complainants have "abandoned" their contention that the alleged misstatements were intentional. This statement is both inaccurate and irrelevant.

The Complaint did suggest that the CLS land agents had reason to disassociate Grain Belt from the proposed Project.¹ However, the underlying basis for the Complaint, and for the prayer for relief, were not dependent upon a finding that the inaccurate

¹ Complaint, par. 11.

statements by the land agents were made intentionally.² Accordingly, Respondents' are absolutely incorrect when they allege that the "heart" of the Complaint and the requested relief were grounded on the claim that the alleged misrepresentations were made intentionally.³

2. In footnote 1 of their Reply, Respondents cite Facts 3-6 from their Motion for Summary Judgment as proof that the land agent statements in question were not made intentionally. This position is an argument, not a fact, and one for which there is no logical basis. Facts 3-6 essentially go only to the training provided to the land agents. As such, those facts do not and cannot possibly demonstrate that the alleged misstatements were not made intentionally, despite whatever training Grain Belt may have provided.

3. According to Respondents, Complainants' position that the need for Commission's involvement in ensuring proper training for the CLS land agents amounts to a "new justification for relief."⁴ That statement is untrue. That same position was expressed by Complainants in paragraph 15 of the initial Complaint, and thus is hardly a "new" justification for relief.

4. Finally, Respondents recognize that "proving that a misstatement occurred is the singular, pivotal element of the Complainants' claim."⁵ Complainants agree completely. However, as they discussed in their initial Response to the Motion for Summary Determination, based on the affidavits from the opposing sides, that "pivotal

² See Complaint, paragraphs 6 – 10, 15 and 18.

³ Respondents' Reply, par. 5.

⁴ Respondents' Reply, par. 6.

⁵ Respondents' Reply, par. 7.

element” is a material fact which remains in dispute.⁶ Accordingly, Respondents have failed to prove that Summary Determination is appropriate in this case.

WHEREFORE, Complainants renew their request that the Commission deny Respondents’ Motion for Summary Disposition.

Respectfully submitted

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Certificate of Service

I certify that a copy of the foregoing was served this 16th day of October, 2020, on all parties of record.

/s/ Paul A. Agathen

⁶ “Complainants’ Response in Opposition to Respondents’ Motion for Summary Determination, and Response to Legal Memorandum in Support of Said Motion”, filed October 7, 2020, page 7.