

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)

TRADEWIND ENERGY, INC'S MOTION FOR A PROTECTIVE ORDER

Pursuant to 4 CSR 240-2.090, 4 CSR 240-2.135(2), 4 CSR 240-2.135(6), and Missouri Supreme Court Rule 56.01(c), TradeWind Energy, Inc. (“TradeWind”) respectfully requests that the Public Service Commission enter a protective order prohibiting the disclosure of TradeWind’s commercially sensitive business information to any party in this proceeding and, therefore, prohibit Missouri Landowners Alliance’s (“MLA”) First Set of Data Requests (“Data Requests”) to TradeWind. A protective order is needed to protect TradeWind’s confidential and proprietary information, including trade secrets, from disclosure to MLA or any other party in this matter. The disclosure of the information sought by MLA will irreparably harm the competitive interests of TradeWind and, potentially, subject it to litigation. The Commission’s rules governing the designation of confidential information are not sufficient to protect TradeWind’s interests. In support of its Motion, TradeWind states the following:

1. On or about September 6, MLA served its Data Requests to TradeWind. The Data Requests consist of eight questions which seek the disclosure of TradeWind’s confidential, proprietary, and commercially sensitive business information. The Data Requests, 1.1 through 1.8, are incorporated herein by reference and a true and accurate copy is attached as **Exhibit A**.

2. The Data Requests seek information regarding TradeWind's wind speed, competitive pricing information, and documents exchanged between TradeWind and its prospective energy purchasers.

3. The information sought in the Data Requests includes trade secrets and confidential and proprietary technical, financial, business, research, and development information. Moreover, the information sought in the Data Requests seeks confidential and proprietary information from TradeWind's independent contractors, which are subject to confidentiality agreements.

4. The information sought in the Data Requests is duplicative of the information sought from Grain Belt Express Clean Line LLC ("Grain Belt") in Data Requests 48 and 94. The information sought by MLA from Grain Belt consists of information provided by TradeWind, and other wind energy providers, in response to a request for information ("RFI"). TradeWind provided the information to Grain Belt, in response to the RFI, under a confidentiality agreement.

5. Grain Belt has been in discussion with TradeWind regarding the disclosure of certain information to MLA, in response to Data Requests 48 and 94. As a result of these discussions, Grain Belt provided hundreds of pages of documents to MLA which contained the information requested by MLA with certain confidential and proprietary information redacted.

6. MLA was dissatisfied with Grain Belt's production and, on September 2, 2014, MLA filed its Motion to Compel Responses to Discovery Requests directed at Grain Belt.

7. On September 8, 2014, Grain Belt filed its Opposition to the Motion to Compel Discovery.

8. Also on September 8, 2014, TradeWind filed its Motion for Protective Order because the documents and information sought by MLA from Grain Belt included TradeWind's confidential and proprietary information.

9. On the same date that MLA served its Data Requests on TradeWind, MLA also served identical data requests upon Infinity Wind Power ("Infinity"). In response to those data requests, on September 11, 2014, Infinity filed its Motion for Protective Order.

10. As the discovery issues between Grain Belt and MLA, Infinity and MLA, and TradeWind and MLA involve substantially similar matters, if not identical matters, TradeWind hereby incorporates the arguments and authorities set forth in Grain Belt's Opposition to MLA's Motion to Compel, Infinity's Motion for Protective Order, and TradeWind's Motion for Protective Order.

11. MLA's Data Requests seek information that is not relevant to the proceedings, and that is not reasonably calculated to lead to the discovery of admissible evidence.

12. Moreover, MLA's Data Requests seek highly confidential and proprietary information, including technical, financial, business, research, and development information. More specifically, TradeWind's pricing and wind speed information constitutes a trade secret.

13. If such information were made public, it would prejudice TradeWind's ability to negotiate a power purchase agreement with a public utility or other customer seeking to buy wind energy, resulting in the loss of millions of dollars to TradeWind.

14. In addition, MLA seeks the confidential and proprietary information of TradeWind's independent contractors, which is subject to a confidentiality agreement, and would likely subject TradeWind to litigation if such information were disclosed.

15. MLA's discovery amounts to nothing more than a second attempt to engage in the type of discovery that is expressly prohibited in Missouri. "The discovery process was not designed to be a scorched earth battlefield upon which the rights of the litigants and the efficiency of the justice system should be sacrificed to mindless overzealous representation of plaintiffs and defendants." *State ex rel. Madlock v. O'Malley*, 8 S.W.3d 890, 891 (Mo. banc 1999). Although Grain Belt provided responsive information to MLA, MLA was dissatisfied with the production and filed a Motion to Compel. This prompted a discovery dispute which required TradeWind to file a Motion for Protective Order. In a backdoor attempt to get the information that Grain Belt redacted, MLA served data requests on Infinity and TradeWind, necessitating the filing of a Motion for Protective Order by Infinity and a second Motion for Protective Order by TradeWind.

16. TradeWind reiterates Infinity's argument that disclosure of this highly confidential and proprietary information would have a chilling impact on intervention in future proceedings before the Public Service Commission.

17. 4 CSR 240-2.090, 4 CSR 240-2.135(2), 4 CSR 240-2.135(6), and Missouri Supreme Court Rule 56.01(c) authorize the issuance of a protective order to protect confidential or proprietary information from disclosure.

18. A protective order is needed to protect TradeWind's confidential and proprietary information, including trade secrets, from disclosure to MLA or any other party in this matter.

WHEREFORE, TradeWind Energy, Inc. respectfully requests that the Public Service Commission enter a protective order prohibiting the disclosure of TradeWind Energy, Inc's confidential, proprietary, and commercially sensitive business information to any party in this

proceeding and, therefore, prohibit Missouri Landowners Alliance's First Set of Data Requests to TradeWind and deny Missouri Landowners Alliance's Motion to Compel.

Dated: September 11, 2014

Respectfully Submitted,

DOUTHIT FRETS ROUSE GENTILE &
RHODES, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid this 11th day of September 2014.

 /s/ Christopher L. Kurtz, Esq.

Christopher L. Kurtz