

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

**ROCKIES EXPRESS PIPELINE LLC'S POST-SUPPLEMENTAL EVIDENTIARY
HEARING BRIEF**

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COMES NOW Rockies Express Pipeline LLC, and for its Post-Hearing Brief states as follows:

I. INTRODUCTION

Grain Belt Express Clean Line LLC (“Grain Belt”) applied to the Commission (the “*Application*”) for a certificate of convenience and necessity (“CCN”) to construct and operate in Missouri a 600kV high voltage direct current (HVDC) transmission line and associated converter station (generally, the “HVDC Project”). (EFIS Item 1). Rockies Express Pipeline LLC (“REX”) operates a large diameter, steel, high pressure natural gas pipeline and related appurtenances traversing nine Missouri counties (the Pipeline”). (*Rockies Express Pipeline’s Application to Intervene*, September 13, 2016 [EFIS Item 61]). REX intervened in this action out of concern that the HVDC Project could interfere with the safety and integrity of REX’s Pipeline. (*Id.*).

One of the issues for the Commission’s consideration of the Application on remand is: “if the Commission grants the CCN, what conditions, if any, should the Commission impose?” (*List of Issues and Witnesses*, Issue 3, March 7, 2017 [EFIS Item 292]; and *Joint List of Issues, List and Order of Witnesses, Order of Opening and Order of Cross-Examination*, Issue 3, December 12, 2018 [EFIS Item 688]). If the Commission grants the CCN, REX urges the Commission to impose the specific safety-related conditions proposed by REX for the protection

of its Pipeline, expressly consented to by Grain Belt, and recommended by Staff of the Commission.

II. MATTERS NOT BRIEFED

Of the issues originally set forth in the *List of Issues and Witnesses* (EFIS Item 292) and on remand in the *Joint List of Issues, List and Order of Witnesses, Order of Opening and Order of Cross-Examination* (EFIS Item 688) REX has taken no position on Issue 1 (whether the evidence establishes that the Commission may lawfully issue the CCN), Issue 2 (whether the HVDC line and converter station are necessary or convenient for the public service) and Issue 4 (whether the Commission, if it grants the CCN, should exempt Grain Belt from certain reporting requirements). (*Position Statement of Rockies Express Pipeline LLC*, March 13, 2017 [EFIS Item 309]; and *Position Statement of Rockies Express Pipeline LLC*, December 13, 2018 [EFIS Item 695]). As a result, REX has not briefed Issues 1, 2 or 4.

By its *Order Directing Filing Regarding Initial Briefs* (EFIS Item 353) the Commission ordered the parties in their initial briefs to address the question, “[i]f the Commission wanted to condition the effectiveness of the CCN on the actual construction of the proposed converter station and the actual delivery of 500MW of wind to the converter station, how would it do so?” Because REX lacks the technical expertise and industry experience it perceives would be necessary to address the question, while REX is respectful of the Commission’s order, REX also has not briefed this additional issue.

III. THE COMMISSION’S AUTHORITY TO IMPOSE CONDITIONS

The Commission has the authority to issue a line CCN to a utility to construct an electric plant when it has determined after due hearing that the construction is "necessary or convenient for the public service." §§ 393.170.1 and .3¹; *Grain Belt Express Clean Line, LLC v. Public*

¹ All statutory references are to the REVISED STATUTES OF MISSOURI 2016, as supplemented.

Service Commission, 555 S.W.3d 469, 471-472 (Mo. banc 2018). “The safety and adequacy of facilities are proper criteria in evaluating necessity and convenience[.]” *State ex rel. Intercon Gas, Inc. v. Public Service Com.*, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993). The Commission may, by its order granting the requested permission and approval, “impose such condition or conditions as it may deem reasonable and necessary.” §393.170.3.

Where a utility proposes to place its facilities in such close proximity to another utility that it may negatively affect the existing utility’s operations, “it is for the Commission to determine, in the first instance, whether or not the proposed electrical line is a public necessity, and if so, whether it could, at reasonable expense, be constructed in such manner and at such distance...as not to injuriously affect the [existing utility’s] service.” *Public Service Commission v. Kansas City Power & Light Company*, 31 S.W.2d 67, 71 (Mo. 1930)(emphasis added). When proximity is a concern, the Commission can grant the requested certificate on the condition that the proposed facilities be constructed, operated and maintained in “an adequate and safe manner so as not to unreasonably interfere with the service furnished by any other public utility.” *Id.*

IV. GRAIN BELT’S PROPOSAL AND REX’S CONCERNS

Grain Belt proposes to run parallel to and to cross REX’s large diameter, steel, high pressure, natural gas pipeline for a significant portion of Grain Belt’s HVDC route through Missouri. (*Application*, at Ex. 3, p. 1-8 [EFIS Item 1]; Ex. 119, p. 9, l. 9-22 (Puckett Direct); Tr. Vol. 12, p. 463, l. 6-12).

Grain Belt’s *Application* and pre-filed direct testimony did not directly address the significant potential risks that Grain Belt’s HVDC transmission line might pose to REX’s Pipeline and other nearby underground utilities, depending on its mode of operation, fault conditions, and proximity to REX’s Pipeline. As a result, REX intervened in this action to voice

its concerns regarding the potential effects of Grain Belt's proposed HVDC line on REX's Pipeline, to seek Grain Belt's cooperation in acknowledging and addressing the concerns, and to request that the Commission impose conditions to safeguard REX's Pipeline.

Likewise, regulatory engineering manager for Staff of the Commission, Ms. Kathleen McNelis, noted that Grain Belt's application and direct testimony provided in support of the application did not clearly address possible harmful effects on existing utilities, nor describe measures that Grain Belt would implement to protect these utilities. (Ex. 201, p. 47, (Staff Rebuttal Report – NP)). Staff, therefore, proposed a number of conditions to address the potential effect of the HVDC line on nearby utility facilities. (*Id.*, p. 64-66).

In surrebuttal testimony filed subsequent to REX's intervention, Grain Belt's witness Dr. Galli asserted that it is safe to operate an HVDC line that crosses a natural gas pipeline. On the other hand, he also implicitly acknowledged safety concerns—noting, for example, that Grain Belt planned to implement certain measures, including designing the HVDC line with dedicated metallic return (“DMR”) conductors to protect underground utility infrastructure from underground stray current flow during normal operating conditions, and noting that Grain Belt would follow (to the extent applicable) certain guidelines on mitigating the impact of fault currents on pipelines. (Ex. 109, p. 40, l. 1-p. 41, l. 13 (Galli Surrebuttal)). Staff and Grain Belt were able to reach agreement on a number of conditions to address Staff's identified concerns. (Ex. 206, Section III (Conditions Agreed to By Grain Belt Express Clean Line LLC and the Staff of the Missouri Public Service Commission)). On cross-examination, Dr. Galli also expressly acknowledged that damage to pipeline coatings, pipeline corrosion, damage to pipeline cathodic protection systems, and the risk of step and touch potential (electric shock) at pipeline above-ground appurtenances were all potential negative effects of HVDC transmission lines on

underground metallic pipelines that should be studied and potentially mitigated. (Tr. Vol. 12, p. 463, l. 13 – p. 464, l. 21).

V. CONDITIONS REGARDING REX’S PIPELINE TO WHICH GRAIN BELT HAS PREVIOUSLY CONSENTED AND HAS REAFFIRMED ITS CONSENT

In discovery, REX asked Grain Belt if Grain Belt would: notify REX before certain phases of design and construction commenced, provide information necessary for REX to study the potential effects of the HVDC line, collaborate with REX in the studies, pay for monitoring and testing equipment and mitigation measures indicated by the studies, and be responsible for any direct damage to REX’s pipeline from the construction or operation of the HVDC line. (Ex. 205, *Grain Belt Express’ Response to Rockies Express Pipeline LLC’s First of Data Requests to Grain Belt Express Clean Line LLC*). With a couple of reasonable qualifications, Grain Belt agreed that it would. (*Id.*). At the original evidentiary hearing in this matter, Grain Belt’s witness Dr. Galli testified that Grain Belt consented to the Commission imposing these agreements as conditions on the grant of the CCN Grain Belt is requesting. (Tr. Vol. 12, p. 466, l. 11-16).

In his supplemental direct testimony, Grain Belt’s witness David A. Berry confirmed that Grain Belt is still willing to agree to the conditions set forth in Ex. 205 (Ex. 142, p. 7, l. 2-6. (Berry Supplemental Direct)). Similarly, on cross-examination at the supplemental evidentiary hearing, Grain Belt’s witness Kris Zadlo acknowledged and agreed that Grain Belt had committed to observing the conditions set forth in Ex. 205. (Tr. Vol. 22, p. 2024, l. 3-11). Likewise, Staff continues to recommend that any CCN issued by the Commission be conditioned, inter alia, on the agreements by Grain Belt reflected in Ex. 205. (Ex. 208, Revised Staff Supplemental Rebuttal Report, p. 14, l. 1-3.).

Grain Belt’s agreements set forth in its responses to REX’s data requests (Ex. 205), restated as conditions, are as follows:

General Restrictions

Grain Belt must not design, construct or operate its HVDC line in a manner that would pose a risk to the safety or integrity of REX's pipeline.

Notification

Grain Belt must promptly notify REX when Grain Belt's final route alignment and structure spotting exercises are completed, and must advise REX in advance of the engineering commencement date on which Grain Belt expects significant engineering activities will commence.

Information

Provided REX executes appropriate confidentiality agreements, Grain Belt must provide technical and operational information concerning its HVDC Project, so that REX's pipeline safety engineers and other experts may study how the HVDC Project may impact the safety or integrity of REX's Pipeline.

Collaboration

Grain Belt must collaborate with REX to study how the HVDC Project might impact the safety or integrity of REX's Pipeline.

Mitigation

Grain Belt must pay the costs of installing and operating such monitoring and testing equipment, and mitigation measures, as REX's pipeline safety engineers determine are required to safeguard REX's Pipeline from potential adverse effects of the HVDC Project, provided such costs are warranted by reasonable engineering and commercial practices.

Responsibility

Grain Belt will be responsible for any direct damages to REX proximately caused by the construction and/or ongoing operation of the HVDC Project, including damage from fault

currents.

VI. CONCLUSION

If the Commission grants the CCN Grain Belt has requested, then based on the evidence of record, REX requests that the Commission make the following findings:

In this proceeding, Grain Belt and REX have each addressed the need to mitigate the potential impact of the HVDC Project on REX's Pipeline. Grain Belt and REX both support meeting pipeline safety and project coordination needs. The Commission agrees that the HVDC Project cannot be designed, constructed or operated in a manner that poses a risk to the safety and integrity of REX's Pipeline, and that Grain Belt should be responsible for the costs of installing and operating monitoring and testing equipment, as well as other mitigations steps, that are reasonably necessary to assure the safety and integrity of REX's Pipeline. The Commission further agrees that it is appropriate that Grain Belt has agreed to pay for all direct damages to REX proximately caused by the construction and ongoing operation of the HVDC Project, including from fault currents. At the same time it is appropriate that Grain Belt is protected from shouldering costs that are excessive or that are unjustified under applicable regulations, accepted pipeline safety practices, or reasonable engineering judgment. The evidence of record shows that the process Grain Belt and REX support meets those criteria.

In its original reply brief, Grain Belt confirmed that it had no objection to the Commission incorporating the above proposed language in the form of a Commission finding. (*Reply Brief of Applicant Grain Belt Express Clean Line, LLC*, April 24, 2017 [EFIS No. 545]).

REX further requests, if the Commission grants Grain Belt the CCN it has requested, that the Commission exercise its authority to impose the specific conditions accepted by Grain Belt and set forth in Section V, above.

Respectfully submitted:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing brief was served via electronic mail (e-mail) on this 9th day of January, 2019 on counsel for all parties of record.

/s/ Sarah E. Giboney
Sarah E. Giboney