

**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	)	ON REMAND
Transmission Line and an Associated Converter	)	
Station Providing an Interconnection on the	)	
Maywood - Montgomery 345 kV	)	
Transmission Line	)	

**OPPOSITION of CLEAN GRID ALLIANCE and THE WIND COALITION  
to MISSOURI LANDOWNERS ALLIANCE’S  
MOTION TO STRIKE NOTICE**

COMES NOW, Clean Grid Alliance and The Wind Coalition (“CGA-TWC”), by counsel, **opposing** the *Motion of Missouri Landowners Alliance To Strike “Notice Regarding Supplemental Testimony from Clean Grid Alliance and The Wind Coalition,”* (Motion to Strike (Item No. 665)) filed on November 16, 2018. The instant response is in conformance with 4 CSR 240-2.080. In support of its opposition, CGA-TWC state the following:

1. This case is before the Missouri Public Service Commission (Commission) on remand from the Missouri Supreme Court, which reversed the Commission’s August 16, 2017 Report and Order denying Grain Belt Express’ application for a certificate of convenience and necessity.
2. On October 11, 2018, a procedural conference was held in the instant matter to establish a procedure and schedule to address issues remanded to it.
3. Pursuant to the procedural schedule set by the Commission, CGA-TWC filed *Notice Regarding Supplemental Testimony from Clean Grid Alliance and The Wind Coalition* (Notice (Item No. 655)) on November 12, 2018. On November 16, 2018, MLA filed its

Motion to Strike, complaining that the CGA-TWC cannot file a Notice and had to file sworn supplemental direct testimony.

4. MLAs Motion to Strike is meritless. Parties were directed to file testimony if facts in previously filed direct testimony had materially changed. (Tr. 1754:4-14 (Item No. 647)). After reviewing its' testimony, CGA-TWC determined that "there are no changes in the facts of that testimony that would materially change the positions in that testimony." (Notice, ¶3). The purpose of the Notice is to inform the Commission, Administrative Law Judge, and parties that CGA-TWC's witness had reviewed his testimony and will not be filing supplemental testimony so that CGA-TWC would not be dismissed from the case for lack of prosecution or diligence, or failure to comply with the order of the commission. The Notice is informational, it is not testimony supporting CGA-TWC's case-in-chief, and CGA-TWC has not requested that the facts in the Notice be admitted as notice evidence in support of CGA-TWC's case-in-chief.
5. MLA points out that the Notice includes statements on behalf of CGA-TWC witness Goggin that are unsupported by an affidavit. (MLA Motion to Strike, at 2-3). CGA-TWC intended to attach Mr. Goggin's affidavit to the Notice that was filed on November 12<sup>th</sup>, however, for reasons beyond Mr. Goggin's control he was unable to have his affidavit notarized until November 16, 2018, as set forth in *Motion for Leave to File out of Time and Instanter an Affidavit in Support of Notice* by CGA-TWC on November 16, 2018 (at ¶¶ 4-8 (Item No. 666)).
6. MLA asserts that CGA-TWC can only file sworn supplemental direct testimony and not a Notice. (MLA Motion to Strike, at 3). That is incorrect. If every party was required to file sworn supplemental direct testimony then that would have been the direction of the Administrative Law Judge. Instead, testimony was conditioned on the finding of a

material change – that parties were “. . . to file supplemental direct testimony that would update or correct any of its previously filed direct testimony that’s materially changed.” (Tr. 1754:12-14 (Item No. 647)).

WHEREFORE, Clean Grid Alliance and The Wind Coalition request that the Commission deny the MLA’s motion to strike the Notice.

Respectfully submitted,

/s/ Sean R. Brady

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CERTIFICATE OF SERVICE

The undersigned certifies that this Opposition to the Motion to Strike was electronically served upon all parties to this case on November 26, 2018.

/s/ Sean R. Brady

*Attorney for Clean Grid Alliance and  
The Wind Coalition*