

**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, ) **File No. EA-2016-0358**  
Control, Manage and Maintain a High Voltage, Direct )  
Current Transmission Line and an Associated Converter )  
Station Providing an Interconnection on the Maywood - )  
Montgomery 345kV Transmission Line )

**ORDER DENYING MOTION TO TAKE ADMINISTRATIVE NOTICE**

Issue Date: January 19, 2017

Effective Date: January 19, 2017

On August 30, 2016, Grain Belt Express Clean Line LLC (“Grain Belt Express”) filed an application with the Missouri Public Service Commission (“Commission”) for a Certificate of Convenience and Necessity to construct, own, operate, control, manage and maintain a high voltage, direct current transmission line and associated facilities within Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri, as well as an associated converter station in Ralls County.

On December 24, 2016, the Missouri Landowners Alliance (“MLA”) filed a motion requesting that the Commission take administrative notice in this case of the public comments filed with the Commission in the 2014 Grain Belt Express proceeding, File No. EA-2014-0207. MLA argues that persons who submitted comments in the 2014 case might be under the mistaken impression that there is no need for them to submit comments again because their comments would automatically be included in this pending proceeding.

Missouri law permits an administrative agency's records and documents to be treated as part of the record "by reference thereto when so offered"<sup>1</sup> and an agency to "take official notice of all matters of which the courts take judicial notice".<sup>2</sup> In general, courts may take judicial notice of their own records in prior proceedings which are between the same parties on the same basic facts involving the same general claims for relief.<sup>3</sup> While the parties in the two Grain Belt Express cases are similar, they are not identical. The public comments from the 2014 Grain Belt Express case are in the Commission's case file for EA-2014-0207 but were not included in the evidentiary record of that case, unlike an admitted exhibit from the 2014 case of which the Commission has taken administrative notice.<sup>4</sup> Those previous public comments consist of unsworn testimony that would not be admissible in this case, as Commission rules require that all testimony be taken under oath.<sup>5</sup>

In addition, those previous public comments are not matters of which a court would take judicial notice. "The term *judicial notice* is broadly used to denote 'both judicial knowledge (which courts possess) and common knowledge (which every informed individual possesses); and matters of common knowledge may be declared applicable to the case without proof.'"<sup>6</sup> The public comments from the 2014 case are not matters of judicial or common knowledge to which the Commission may take official notice. To do so would improperly receive inadmissible evidence into the evidentiary record of this

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<sup>1</sup> Section 536.070(5), RSMo (Supp. 2013).

<sup>2</sup> Section 536.070(6), RSMo (Supp. 2013).

<sup>3</sup> *Hardin v. Hardin*, 512 S.W.2d 851, 854 (Mo. App. 1974).

<sup>4</sup> Order Denying Motions to Compel, December 21, 2016, File No. EA-2016-0358, EFIS Item No. 129.

<sup>5</sup> Commission Rule 4 CSR 240-2.130(19).

<sup>6</sup> *State v. Mullenix*, 73 S.W.3d 32, 37 (Mo. App. 2002), quoting *Carr v. Grimes*, 852 S.W.2d 345, 351 (Mo. App. 1993).

proceeding. Therefore, the Commission will deny MLA's motion to take administrative notice of public comments from the 2014 Grain Belt Express case.

**THE COMMISSION ORDERS THAT:**

1. The Missouri Landowners Alliance's motion to take administrative notice of public comments from File No. EA-2014-0207 is denied.
2. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Michael Bushmann, Senior Regulatory Law  
Judge by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 19<sup>th</sup> day of January, 2017.

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,  
at Jefferson City, Missouri, this 19<sup>th</sup> day of January 2017.



  
Morris L. Woodruff  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**January 19, 2017**

**File/Case No. EA-2016-0358**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, prominent "M" and "W".

**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.