

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 26th day
of October, 2022.

In the Matter of the Application of Grain)
Belt Express LLC for an Amendment to its)
Certificate of Convenience and Necessity)
Authorizing it to Construct, Own, Operate,)
Control, Manage, and Maintain a High)
Voltage, Direct Current Transmission Line)
and Associated Converter Station)

File No. EA-2023-0017

ORDER GRANTING WAIVER

Issue Date: October 26, 2022

Effective Date: October 26, 2022

On July 12, 2022, Grain Belt Express LLC filed a notice of its intent to file an application to amend the certificate of convenience and necessity that the Commission granted it in 2019 in closed File No. EA-2016-0358. Grain Belt Express filed that notice in File No. EA-2016-0358, reasoning that the proposed amendment in response to changed circumstances was contemplated in the order that granted the certificate of convenience and necessity. The Commission removed the notice of intent to file from File No. EA-2016-0358 and opened the current file, File No. EA-2023-0017, to consider the application.

On August 24, 2022, 43 days after filing its notice of intent to file, Grain Belt Express filed its application seeking an order amending its certificate of convenience and necessity granted in File No. EA-2016-0358. On that same date, Grain Belt Express filed a request for the Commission to waive the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1). The Commission directed notice of the application and set a deadline of October 11, 2022, for any responses to the waiver request.

Missouri Landowners Alliance (MLA)¹; the Staff of the Commission (Staff); and, jointly, Missouri Farm Bureau Federation, Missouri Cattlemen’s Association, Missouri Pork Association, Missouri Corn Growers Association, and Missouri Soybean Association (collectively referred to as the “Agriculture Associations”) filed responses in opposition to granting the waiver. Grain Belt Express, Renew Missouri Advocates d/b/a Renew Missouri, Missouri Joint Municipal Electric Utility Commission d/b/a Missouri Electric Commission (MEC), and Union Electric Company d/b/a Ameren Missouri each filed replies in support of the waiver request.

Commission Rule 20 CSR 4240-4.017 states in part:

(1) Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case. Such notice shall detail the type of case and issues likely to be before the commission and shall include a summary of all communication regarding substantive issues likely to be in the case between the filing party and the office of the commission that occurred in the ninety (90) days prior to filing the notice.

* * *

(D) A party may request a waiver of this section for good cause. Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case or that circumstances prevented filing the required notice and delaying the filing for sixty (60) days would cause harm.

Grain Belt Express argued that the Commission could interpret the 60-day notice rule as not being applicable because this is not an application for a new certificate, but rather, is a request to amend its previously granted certificate of convenience and

¹ MLA filed its pleading on behalf of itself, the Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners, Normal Fishel, Gary and Carol Riedel, and Dustin Hudson. For convenience, these parties referred to themselves collectively as “MLA” and the Commission will do the same in this order.

necessity. Staff, MLA, and the Agriculture Associations oppose this interpretation arguing that the application is not a simple amendment to the previously granted certificate. Instead, Staff argues that the application is a request for a new certificate of convenience and necessity and, therefore, the 60-day notice rule must be applied. MLA and the Agriculture Associations also object to the 60-day waiver being granted, arguing that Grain Belt Express's motives for the timing of its filing do not show good cause to grant the waiver.

The Commission concludes that the 60-day notice rule is applicable to Grain Belt Express's application. However, the Commission does not conclude that it must, for that reason, reject the request for waiver. Similarly, Grain Belt Express's motives for the timing of its filing are not relevant to the question of whether the 60-day notice rule should be waived.

None of those opposing the waiver challenge Grain Belt Express's affidavit stating that there has been no communication with the Office of the Commission regarding any substantive issue likely to be in this case within the 193 days prior to the filing being made. The purpose of the 60-day notice rule, which is in 20 CSR 4240 Chapter 4, Standards of Conduct, is to provide notice to the Commission of issues liable to come before it so that the Commission can avoid improper extra-record communications about those issues. The provision of additional notice or warning to the public is not a purpose of the rule. Instead, the Commission provided due notice to the public upon the filing of the application.

Commission Rule 20 CSR 4240-4.017(1)(D), as quoted above, clearly states that the Commission may find good cause to grant a waiver of the notice requirement when an applicant provides an affidavit stating it has not had contact with the Office of the

Commission within 150 days. Grain Belt Express has met this requirement and there has been no suggestion otherwise. The Commission finds that the waiver should be granted.

THE COMMISSION ORDERS THAT:

1. The request for a waiver of Commission Rule 20 CSR 4240-4.017(1)(D) filed by Grain Belt Express on August 24, 2022, is granted.
2. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur.

Dippell, Deputy Chief Regulatory Law Judge


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 26th day of October, 2022.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 26, 2022

File/Case No. EA-2023-0017

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

Sincerely,



Morris L. Woodruff
Secretary

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