

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 11<sup>th</sup> day of June, 2014.

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 ) **File No. EA-2014-0207**  
Current Transmission Line and an Associated Converter )  
Station Providing an Interconnection on the Maywood – )  
Montgomery 345 kV Transmission Line )

**ORDER REGARDING MOTION TO DISMISS PARTIES**

Issue Date: June 11, 2014

Effective Date: June 11, 2014

On March 26, 2014, Grain Belt Express Clean Line LLC (“Grain Belt Express”) applied to the Commission for a Certificate of Convenience and Necessity (“CCN”). Grain Belt Express wants the CCN so it can 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.

After issuing an order requiring the parties to attend, the Commission held a procedural conference on May 28, 2014 beginning at 2:00 p.m. The Commission order setting the procedural conference permitted parties to appear either in person or by telephone. Four parties did not appear at the beginning of the procedural conference – Matthew and Christina Reichert (“Reichert’s”) Randall and Roseanne Meyer (“Meyers”), IBEW Locals 2, 53, and 1439 (“IBEW Unions”), and the Missouri Industrial Energy

Consumers (“MIEC”). These parties did not request a continuance or ask before the conference to be excused from attending. On May 30, 2014, United for Missouri, Inc. filed a *Motion to Dismiss Parties*, stating that the Commission should dismiss those four parties for failing to appear at the procedural conference.

Commission Rule 4 CSR 240-2.090(5) says that “[f]ailure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party ... unless good cause for the failure to appear is shown”. Commission Rule 4 CSR 240-2.116(3) states that “[a] party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a ... prehearing conference”. The Commission has the discretion to determine whether or not it should dismiss a party from the case even if it finds that a party violated a Commission order.<sup>1</sup>

The Reicherts and the Meyers are represented by the same attorney, who states that he did attend the procedural conference by telephone, but inadvertently missed the beginning of the conference during which parties made their entry of appearance. The attorney attended the conference by telephone from 2:24 p.m. until its end at 4:37 p.m., but did not notify the presiding officer when he entered the conference to avoid disruption of the discussions. The Commission finds that the Reicherts and Meyers substantially complied with the Commission’s order and rules. Thus, the Commission will not dismiss them.

IBEW Unions state that their attorney has recently been experiencing internet difficulties and did not receive an electronic notice of the order setting the procedural conference. The attorney’s first notice of the conference occurred after the conference had

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<sup>1</sup> *State ex rel. Pub. Counsel v. Public Service Commission*, 274 S.W.3d 569, 584 (Mo. Ct. App. 2009)

already been held. IBEW Unions state that failure to participate in the conference was inadvertent and due to technical difficulties beyond their control. Good cause means a good faith request for reasonable relief.<sup>2</sup> The Commission concludes that IBEW Unions have demonstrated good cause for failing to appear at the procedural conference. So, the Commission will not dismiss IBEW Unions.

MIEC states that its attorney meant to ask to be excused from attending the procedural conference, but forgot to ask the presiding officer before the conference because of the substantial press of business, primarily relating to other matters before the Commission. MIEC argues that the Commission should not dismiss it because it has a continued interest in the outcome of the case, and its failure to participate in the conference did not prejudice or harm any party. The Commission finds that MIEC failed to comply with the order requiring it to attend the procedural conference for reasons other than those outside its reasonable control. For that reason, MIEC has not demonstrated good cause. But the Commission has the discretion whether or not to dismiss a party even if that party has violated an order. The Commission concludes that MIEC's failure to attend the conference did not result in any harm to other parties. Thus, the Commission will not dismiss MIEC.

**THE COMMISSION ORDERS THAT:**

1. United for Missouri, Inc.'s *Motion to Dismiss Parties* is denied.

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<sup>2</sup> *American Family Ins. Co. v. Hilden*, 936 S.W.2d 207 (Mo. App. W.D. 1996).

2. This order shall become effective upon issuance.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff  
Secretary

R. Kenney, Chm., Stoll, W. Kenney,  
Hall, and Rupp, CC., concur.

Bushmann, Senior Regulatory Law Judge