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

Case No. EA-2016-0358

STAFF'S INITIAL POST-HEARING BRIEF

Respectfully submitted,

KEVIN THOMPSON, Mo Bar 36288
Chief Staff Counsel

NATHAN WILLIAMS, Mo Bar 35512
Deputy Staff Counsel

MARK JOHNSON, Mo Bar 64940
Senior Staff Counsel

JAMIE MYERS, Mo Bar 68291
Assistant Staff Counsel

CASI ASLIN, Mo Bar 67934
Assistant Staff Counsel

Attorneys for the Staff of the
Missouri Public Service Commission

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INTRODUCTION

Grain Belt Express Clean Line LLC is seeking from this Commission,¹ a certificate of convenience and necessity for the approximately 206 mile Missouri length of an about 780 mile proposed new interstate HVDC transmission line from southwest Kansas to western Indiana, and a 500 MW converter station with an associated AC switching station and other AC facilities to interconnect the HVDC line with the AC grid in Missouri.² If built, it physically will allow the import of up to at least 500 MW into MISO from SPP,³ and the ability to allow the transmission of 3500 MW through Missouri from SPP into PJM.⁴ While much of the evidence in this case relates to wind generation capacity and energy, Grain Belt is not seeking a certificate for generating facilities; it is seeking a certificate to allow the transmission of electrical generating capacity and

¹ Grain Belt previously requested a certificate of convenience and necessity in Case No. EA-2014-0207.

² Ex. 100, Grain Belt witness Skelly direct, p. 3, ll. 10-18; p. 4, ll. 1-9; Ex. 104, Grain Belt witness Berry direct, p. 4, l. 20 to p. 5, l. 16; Ex. 108, Grain Belt witness Galli direct, p. 4, l. 1 to p. 7, l. 6.

³ Ex. 108, Grain Belt witness Galli direct, p. 5, l. 8; p. 6, ll. 4-8; p. 7, ll. 3-4; p. 27, ll. 4-7; p. 31, ll. 2-17.

⁴ Ex. 108, Grain Belt witness Galli direct, p. 7, ll. 7-19; p. 31, l. 18 to p. 32, l. 7.

energy into and through Missouri by means of a HVDC line.⁵ Similar to how a merchant generator recovers its costs and makes its profits by bidding its output into the competitive RTO capacity and energy markets, the FERC has authorized Grain Belt to recover its costs and any profits from transmission right rates it directly negotiates through a competitive process.⁶

Jurisdiction

1. Does the evidence establish that the Commission may lawfully issue to Grain Belt Express Clean Line LLC ("Grain Belt") the certificate of convenience and necessity ("CCN") it is seeking for the high-voltage direct current transmission line and converter station with an associated AC switching station and other AC interconnecting facilities?

As explained following, while transmission service on the Grain Belt transmission project would be an indiscriminate offering of utility service to the public requiring a certificate of convenience and necessity from this Commission for the Missouri portion of this multi-state project, but Grain Belt presently does not have the consent from Caldwell County, Missouri, for the Grain Belt project to cross public roads and highways in that county.

The FERC, not this Commission, has jurisdiction over the transmission right rates⁷ and primary jurisdiction over the safety⁸ of this interstate HVDC project, and this

⁵ This Commission has never asserted that certificates are required to build or operate merchant generating plants, although at least two have been built in Missouri—the Aries plant (now known as Dogwood) and NRG's Audrain County plant (now owned by Union Electric Company d/b/a Ameren Missouri).

⁶ Ex. 100, Grain Belt witness Skelly direct, p. 24, ll. 2-14; Grain Belt witness Berry direct, p. 9, ll. 17-22; Grain Belt Express Clean Line LLC, 147 FERC ¶ 61,098 (2014) (May 8, 2014, Order Conditionally Authorizing Proposal and Granting Waivers, Docket No. ER14-409-000).

⁷ 16 U.S.C. §824e.

⁸ The NERC exercises the FERC's safety authority. North American Electric Reliability Corp., 116 FERC ¶ 61,062 (ERO Certification Order), order on reh'g & compliance, 117 FERC ¶ 61,126 (ERO Rehearing

Commission's jurisdiction is limited to the impacts this project will have in and on Missouri that are not preempted by federal jurisdiction. As explained later, it is the opinion of the Office of Staff Counsel that this Commission has jurisdiction:

- (1) to decide whether Grain Belt has shown it has permission from the State of Missouri to go through, on, under or across the public roads and highways in the Missouri counties of Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe, and Ralls;
- (2) to decide where to allow the project to be sited in Missouri⁹;
- (3) to decide what conditions, if any, the Commission should impose to address impacts on Missouri state and local electric systems; and,
- (4) if Grain Belt has the required permission, and the facts show this HVDC project is an improvement that justifies its cost, then to issue Grain Belt a certificate of convenience and necessity for that part of the project in Missouri, subject to any appropriate conditions.

Whether one is a public utility is determined by what one does. The hallmark of a public utility is the offering of utility service to the public without discrimination.¹⁰ In this

Order) (2006), order on compliance, 118 FERC ¶ 61,030 (2007) (January 2007 Compliance Order).; 16 U.S.C. §824o.

⁹ See *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the Alternative, a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-volt Electric Transmission Line in Marion County, Missouri, and an Associated Switching Station Near Palmyra, Missouri*, where the Commission said:

While FERC has authority over the transmission of electricity in interstate commerce,[citing 16 U.S.C. §824(a)(1).] it does not claim jurisdiction over the siting of transmission facilities. On the contrary, “[S]tates have traditionally assumed all jurisdiction to approve or deny permits for the siting and construction of electric transmission facilities.” [Citing *Piedmont Envt’l. Council v. F.E.R.C.*, 558 F. 3d 304, 310 (4th Cir. 2009).] The Commission concludes that federal law does not preempt this Commission’s authority to require ATXI to obtain permission, in the form of a certificate of convenience and necessity, before constructing electric plant in this state.

(Revised Order Granting Certificate of Convenience and Necessity issued July 22, 2015, at page six).

case, Grain Belt is a public utility because it is offering electric transmission service to the public without discrimination.¹¹ As an owner of transmission lines, and a converter station with an associated AC switching station and other AC interconnecting facilities (electric plant) in Missouri that will be used in connection with the transmission of electricity for light, heat or power, Grain Belt and the Missouri part of this HVDC project are within the jurisdiction of this Commission,¹² unless federally preempted.¹³ Although Grain Belt's project is primarily for the interstate transmission of electricity, this Commission has repeatedly and consistently asserted jurisdiction over such lines.¹⁴

The statute that authorizes certificates of convenience and necessity is § 393.170, RSMo.,¹⁵ which, in full, provides:¹⁶

¹⁰ See *State ex rel. M. O. Danciger & Co. v. Public Service Commission of Missouri*, 275 Mo. 483; 205 S.W. 36, 40; 18 A.L.R. 754 (Mo. 1918); *State ex rel. Cirese v. Public Service Commission of Missouri*, 178 S.W.2d 788 (Mo. App. 1944).

¹¹ Ex. 100, Grain Belt witness Skelly direct, p. 23, l. 15 to p. 34, l. 7.

¹² §§ 386.250(1) and 386.020(14), RSMo. (originally §§ 16.5 and 2.12 of the Public Service Commission Act (Laws 1913, pp. 565 and 558, respectively). The word “act” in the bill was replaced with the word “chapter” in the statutes; until 1949, the entire act originally appeared in one chapter.

¹³ § 386.030, RSMo.

¹⁴ See *Re Arkansas-Missouri Power Company*, 1 Mo. P.S.C. (N.S.) 543 (Report and Order October 22, 1948); *Re Kansas City Power & Light Company*, 13 Mo. P.S. C. (N.S.) 322 (Report and Order August 18, 1967); *Re St. Joseph Light & Power Company and Kansas City Power & Light Company*, 1 Mo. P.S.C.3d 44 (Report and Order August 28, 1991) ; *In the Matter of the Application of IES Utilities, Inc. for a Certificate of Public Convenience and Necessity Authorizing It to Construct, Install, Own, Operate, control, Manage and Maintain Electric Transmission Facilities in Clark County, Missouri and Request for Waiver*, Case No. EA-2002-296 (Order Granting Certificate of Public Convenience and Necessity, April 18, 2002); *In the Matter of the Application of Transource Missouri, LLC for a Certificate of Convenience and Necessity Authorizing It to Construct, Finance, Own, Operate, and Maintain the Iatan-Nashua and Sibley-Nebraska City Electric Transmission Projects*, Case No. EA-2013-0098 (Report and Order August 7, 2013). *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief, or in the Alternative, a Certificate of Public Convenience and Necessity Authorizing It to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-volt Electric Transmission Line in Marion County, Missouri and an Associated Switching Station Near Palmyra, Missouri*, Case No. EA-2015-0145 (Revised Order Granting Certificate of Convenience and Necessity, effective August 1, 2015); and *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the Alternative, a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-volt Electric Transmission Line from Palmyra, Missouri to the Iowa Border and an Associated Substation Near Kirksville, Missouri*, Case No. EA-2015-0146 (Report and Order, effective May 27, 2016).

¹⁵ Missouri statutory references are to RSMo. 2016, unless noted otherwise.

1. No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system without first having obtained the permission and approval of the commission.

2. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.

3. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing

¹⁶ With the exception of the Legislature's addition in 1967 of sewer corporations and their property to the list of utilities and the creation of subsections by the Revisor of Statutes in 1949, what is now § 393.170, was § 72 of Article IV of Senate Bill 1—the Public Service Commission Act¹⁶—which bill, when signed by the Governor, became the Public Service Commission Law. As originally enacted § 72 was one paragraph, and but one of 140 sections of the Act, including § 2—a definitions section. While the statutes as set out in the Revised Statutes of Missouri are *prima facie* valid and binding, in determining the law, courts may examine the rolls in the office of the secretary of state, which are the primary and best evidence of legislative intent. *Protection Mutual Insurance Company v. Kansas City*, 504 S.W.2d 127 (Mo. 1974); *Bowen v. Missouri Pacific Railway Company*, 118 Mo. 541, 24 S.W. 436 (1893). When the Legislature provides a definition for a word or phrase, that definition is authoritative and to be read into the statute where that word or phrase appears as a part of the statute itself. *State ex rel. Exchange Bank of Richmond v. Allison*, 155 Mo. 325, 56 S.W. 467 (1900); *State v. Brushwood*, 171 S.W.3d 143 (Mo. App. 2005). The legislative history of § 393.170 is nearly identical to the legislative history of § 148.440 the court reviewed in 1955 in *Kansas City v. Travelers Insurance Company*, 284 S.W.2d 874 (Mo. App. 1955), where the court stated:

In construing this quoted sentence, it is proper and helpful to keep in mind that this section has always been written and published in one continuous paragraph, in all the revisions since 1879 until the Revision of 1949; at which time the Revision Committee divided it into two paragraphs as indicated in the above quotation of said section. It may be conceded that the committee was authorized, by Sec. 3.060, to divide the section into paragraphs, but it could not do so in such a manner as to “alter the sense, meaning, or effect of any legislative act ***.” The committee merely compiled and arranged the various statutory enactments. Vol. 3, V.A.M.S., page 206. It had no legislative authority. *Ex parte Hutchens*, 296 Mo. 331, 246 S.W.186.

Furthermore, a section or an Act should not be construed or considered as a new section or new Act by reason of it being inserted in the Revised Statutes. It is simply continued with the same force and meaning as originally enacted. Sec. 1.120 RSMo. 1949, V.A.M.S.; *State ex rel. Atty. Gen. v. Heidorn*, 74 Mo. 410; *Strotzman v. St. Louis, I.M. & S. Ry. Co.*, 211 Mo. 227, 109 S.W. 769; *Timson v. Manufacturers Coal & Coke Co.*, 220 Mo. 580, 119 S.W. 565. Consequently, we must construe this section as it appeared in the various revisions from 1919 until 1949, since there were no legislative amendments or changes during that period of time.

Id. at 878.

determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof, authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void.

In the most recent case where this Commission issued a CCN for a transmission line that would cross multiple counties in Missouri—the Mark Twain project, the Commission made the CCN it issued for that project “contingent upon ATXI providing certified copies of county assents for the Mark Twain Project from Marion, Shelby, Knox, Adair, and Schuyler Counties, Missouri.”¹⁷ However, on March 28, 2017, the Missouri Western District Court of Appeals issued its opinion on review of that CCN and held that county commission assent (§ 229.100, RSMo.) is a “required consent of the proper municipal authorities” that must be proven to the Commission before the Commission can issue a certificate of convenience necessity for a transmission line that crosses public roads or highways in a county.¹⁸ At page eight of its slip opinion the court stated:

Our interpretation of the statute [(section 393.170, RSMo. 2016)]—that it mandates that the applicant receive the consent of local government authorities before the PSC issues a CCN—gives plain meaning to the legislature’s use of the mandatory term “shall” when it describes what documents the applicant must submit to the PSC before a CCN will be issued. Accordingly, county commission assents required by section 229.100 and 4 CSR 240-3.105(1)(D)1 must be submitted to the PSC

¹⁷ *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the Alternative, a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-volt Electric Transmission Line from Palmyra, Missouri to the Iowa Border and an Associated Substation Near Kirksville, Missouri*, Case No. EA-21015-0146, Report and Order effective pp. 38 & 40.

¹⁸ *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the alternative, a Certificate of Public Convenience and Necessity Authorizing It to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-Volt Electric Transmission Line from Palmyra, Missouri, to the Iowa Border and Associated Substation Near Kirksville, Missouri v. Public Service Commission of Missouri*, No. WD79883, slip op. (Mo. App. W.D. March 28, 2017).

before the PSC grants a CCN. While section 393.170.3 grants the PSC statutory authority to impose reasonable and necessary conditions on a CCN, there is no statute authorizing the PSC to grant a preliminary or conditional CCN contingent on the required county commission consents being subsequently obtained. The PSC's issuance of a CCN contingent on ATXI's subsequent provision of required county commission assents was unlawful as it exceeded the PSC's statutory authority. (Footnote omitted.)

While Schedule LDL-3 to the rebuttal testimony of Missouri Landowners Alliance witness Lowenstein (Ex. 300) is comprised of copies of the required county commission assents of the eight Missouri counties this line would cross—Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe, and Ralls Counties—given in 2012,¹⁹ as this Commission is aware²⁰ the Missouri Landowners Alliance sued to set aside the assent of the Caldwell County Commission for Missouri Sunshine Law violations; the Caldwell County Circuit Court entered its Judgment on October 7, 2015, voiding the Caldwell County Commission's 2012 assent by granting the Missouri Landowners Alliance's motion for summary judgment.²¹ Since the representations and testimony of Grain Belt's attorney Karl Zobrist and witness Mark Lawlor in this case are that Grain Belt presently does not have the assent of the Caldwell County Commission for its

¹⁹ A copy of the route in Missouri (Exhibit 2 to Grain Belt's Application) is Appended to this brief.

²⁰ The filings in that Circuit Court case are filed in the Commission's Electronic Filing and Information System under Case No. AP14CL-CV00222. The Court's order and the Missouri Landowners Alliance's motion are Item Nos. 46 and 27, respectively.

²¹ Staff addressed this judgment and a similar pending suit in Monroe County in the second page of its rebuttal report (Ex. 201) as follows:

Although, based on the evidence adduced in Grain Belt's prior case, Case No. EA-2014-0207, Grain Belt once had the consents of the Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls County commissions for its proposed transmission line to cross the public roads and highways in their respective counties, Grain Belt no longer has the consent of the Caldwell County Commission to cross the public roads and highways in that county. By judgment dated October 7, 2015, entered in Case No. 14CL-CV00222, the Caldwell County Circuit Court held that the Caldwell County Commission violated the Missouri Sunshine Law when it gave its consent, rendering it a nullity. Grain Belt currently has the consent of Monroe County for its transmission line to cross the public roads and highways in Monroe County, but the legality of that consent is being challenged in pending Monroe County Case No. 14MN-CV00164.

proposed line to cross public roads and highways in Caldwell County, Missouri,²² and the proposed route will do so,²³ unless the Western District Court of Appeals' holding is vacated or reversed.

Although, Rule 4 CSR 240-3.105(2) allowed Grain Belt the opportunity to provide proof of the required permissions before the Commission grants it a certificate of convenience and necessity, the evidence in this case not only has closed without that proof, it indicates Grain Belt will not get that permission from the Caldwell County Commission.²⁴ The Commission should also be aware that it has said that its distinction between line and area certificates does not exclude an electric utility from serving retail customers from a certificated line. The Commission explained in *Howard Electric Cooperative v. Union Electric Company*, 29 Mo. P.S.C.(N.S.) Case No. EC-87-148, Report and Order, decided August 19, 1988, that, similar to gas line farm taps, electric line certificates allow extensions to serve retail customers, but not second extensions from those customers to serve other retail customers.

Because the Western District Court of Appeals opinion is not yet final and nonreviewable,²⁵ *i.e.*, potentially it may be changed, in this brief Staff addresses each of the listed issues in the order in which they were listed to the Commission.

²² Tr. X:61-63, 296-97, respectively.

²³ See Application, Exhibit 2.

²⁴ Missouri Landowners Association witness Lowenstein rebuttal testimony, Ex. 300, Sch. LDL-4, p. 6; Tr. X:61-63, 296-97; Caldwell County Circuit Court case filings filed in the Commission's Electronic Filing and Information System under Case No. AP14CL-CV00222, in particular Item Nos. 46 and 27.

²⁵ The parties on appeal have 15 days post opinion to file motions with the Missouri Western District Court of Appeals for rehearing or transfer to the Missouri Supreme Court (April 12th), and 15 days after denial of those motions to file with the Missouri Supreme Court a motion to transfer to that Court.

Merits

Ultimately, it is Staff's opinion that the evidence in this case does not establish that the ability to import electric generating capacity and energy into and through Missouri by means of the proposed HVDC transmission line is "necessary or convenient for the public service," within the meaning of that phrase in § 393.170, RSMo. 2016.

Staff does not dispute Grain Belt's qualifications to construct, own, operate, control and manage the transmission line, converter station and associated facilities (Grain Belt will need to acquire additional expertise for engineering and safety issues as the project progresses, if it progresses). Nor does Staff dispute Grain Belt's financial ability to undertake this multi-state project. However, Staff does not perceive that (1) the ability to import of electric generating capacity and energy into and through Missouri, and other states, by means of the proposed HVDC transmission line is needed, (2) this multi-state project is economically feasible, or (3) the ability to import electric generating capacity and energy into and through Missouri, and other states, by means of the proposed HVDC transmission line is in the public interest.

Staff does not perceive this multi-state project to be economically feasible because various regional transmission organization studies have not been done, which hampers Grain Belt's presentation of reliable evidence of either the project's cost or the project's benefits. This concern is compounded because construction of the Ameren Transmission Company of Illinois Mark Twain transmission line is uncertain, which affects the effects of the Mark Twain line on the Grain Belt Missouri converter station and corresponding congestion. Staff does not perceive that the proposed HVDC transmission line is in the public interest because of the uncertainty surrounding to the

economic feasibility of this multi-state project. Staff provides the Commission two alternatives to address Grain Belt's request. First, Staff suggests the Commission could reject the Application outright. Second, Staff suggests that if the Commission imposes conditions on a CCN for the Grain Belt project as set forth in exhibit 206, conditions to which Staff and Grain Belt agree, then Staff views that many of the uncertainties related to the Tartan factors of need, economic feasibility and public interest are diminished. Staff continues to recommend the Commission impose the following additional conditions: Grain Belt will adhere to its Missouri Landowner and Missouri Agricultural Impact Protocols, with the exception that Grain Belt's decommissioning fund protocol be modified so that it begins making contributions when the project begins commercial operations; If the design and engineering of the project is material different from the description of the project in the Grain Belt Application, Grain Belt must file an updated application for further Commission review and determination; and If the outstanding studies raise any new issue(s), the Commission must be satisfied with Grain Belt's resolution of the issue(s).

ARGUMENT

Staff's argument, like its position statements, follows the order of the listed issues.

2. Does the evidence establish that the high-voltage direct current transmission line and converter station for which Grain Belt is seeking a CCN are "necessary or convenient for the public service" within the meaning of that phrase in section 393.170, RSMo.?

No.

In forming its opinion that the evidence does not establish that the Grain Belt project is “necessary or convenient for the public service,” Staff relied on the five categories of considerations the Commission listed in the case *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994), for deciding whether to issue Tartan Energy a certificate of convenience and necessity to provide retail gas service in a number of southern Missouri counties. They are:

- Whether there is a need for the facilities and service;
- Whether the applicant is qualified to own, operate, control and manage the facilities and provide the service;
- Whether the applicant has the financial ability for the undertaking;
- Whether the proposal is economically feasible; and
- Whether the facilities and service promote the public interest.

In the *Tartan Energy* case, the Commission explained that the Commission first stated these five categories in *Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554 (1991), where the Commission canvassed a number of certificate cases and distilled them into these five categories for purposes of deciding whether, and to whom, to issue a certificate of convenience and necessity for an intrastate natural gas pipeline. In its opinion on review of the Commission’s *Intercon Gas* decision, the Missouri Western District Court of Appeals said the following:

The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is “necessary or convenient for the public service.” § 393.170.3. The term “necessity” does not mean “essential” or “absolutely indispensable,” but that an additional service would be an improvement justifying its cost. *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d at 219. Additionally, what is necessary and convenient encompasses regulation of monopoly for destructive competition, prevention of undesirable competition, and prevention of

duplication of service. *State ex rel. Public Water Supply Dist. No. 8 v. Public Serv. Comm'n*, 600 S.W.2d 147, 154 (Mo.App.1980). The safety and adequacy of facilities are proper criteria in evaluating necessity and convenience as are the relative experience and reliability of competing suppliers. *State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n*, 527 S.W.2d 390, 394 (Mo.App.1975). Furthermore, it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award of the certificate. *Id.* at 392.²⁶

While useful and employed by Staff, the Commission need not necessarily limit itself to these five categories as a checklist to decide whether the proposed lines, converter stations and associated facilities are “necessary or convenient for the public service.” That these categories are not merely a checklist is exemplified by the Commission’s issuance to UtiliCorp United Inc. of a certificate of convenience and necessity to distribute natural gas in and about Salem, Missouri in 1995.²⁷ In that case, despite Staff’s and Public Counsel’s “assiduously pursued” challenges to the economic feasibility of UtiliCorp United’s plan to provide natural gas service, the Commission found there would be “no significant challenge to the ability of UtiliCorp to operate a safe and efficient gas distribution service,” that “the provision of natural gas service to the Salem area will be in the public benefit, not only as a service to residential customers, but also as an incentive to help promote the economic growth of the economy,” and that “[t]here is little question that UtiliCorp can suffer a complete loss on this project without appreciable damage to its Missouri operation or harm to its ratepayers.”²⁸

Staff separately addresses each of the Tartan categories below.

²⁶ *State ex rel. Intercon Gas, Inc. v. Public Service Commission*, 848 S.W.2d 593, 597-98 (Mo. App. 1993).

²⁷ *In the Matter of UtiliCorp United, Inc.*, Report and Order, 4 MoPSC3d 7 (Case No. GA-95-216 decided August 8, 1995).

²⁸ *Id.* at 9-10.

A. Is the Grain Belt project needed? The evidence is not clear that it is.

Grain Belt asserts this project is needed because it will:

- “[P]rovide[] Missouri with a new source of affordable, clean energy that will reduce costs for Missouri end-users of electricity”;
- Serve Missouri customer demand for clean power;
- Provide “customers of Missouri electric utilities [with] access to low-cost wind energy from western Kansas;
- “[E]nhance the reliability of the electric transmission grid in Missouri by making available another source of electric power supply”;
- “[P]romote competition in the supply of transmission service and power generation”;
- Enable[] Missouri electric utilities and electric utilities in states farther east to access reliable, affordable, and renewable electric energy”;
- “[C]reate more than 1,500 jobs during the three years of [its] construction”;
- Provide business to Missouri manufacturing, equipment and service companies;
- [P]rovide a continuing source of property tax revenues to the local communities where the facilities are located, funding schools, fire departments, public improvements, and other vital community services”;
- “[R]educe emissions of carbon dioxide, sulfur dioxide, nitrogen oxide, particulates and organic compounds, reduce waste by-products, and reduce water usage, as compared to the production of comparable amounts of electricity from fossil-fueled generation[, which] will lead to cleaner air and water in Missouri and the broader region”; and

- “[H]elp the City of St. Louis transition to a cleaner energy economy, which is a priority under its Sustainability Plan.”²⁹
- Through its “participant-funded business model protect[] Missouri electric customers from costs and risks inherent in traditional, rate-based transmission”;
- “[M]eet[] the clear need for interregional transmission while avoiding the contentious and problematic cost allocation processes across multiple RTOs”;
- “[P]rovide[] Missouri utilities access to lower cost power supply than would otherwise be available”;
- “[E]nable Missouri utilities to diversify their fuel portfolios, and hedge their exposure to possible future increases in the cost of fuel since wind has zero fuel cost”;
- “[A]llow[] Missouri and other states to cost-effectively meet their state renewable energy standards or goals”; and
- “[P]rovide[] a major new source of electric generation and link[] three major RTOs, which increases reliability during times of peak load or generator outages.”³⁰

Staff does not dispute that, if built, this project will provide transmission capacity with access to generation located in western Kansas; however, since Grain Belt is planning to build transmission plant, not generation plant, its project will not, in and of itself, provide either generation capacity or energy—it will provide transmission capacity.

²⁹ Ex. 100, Grain Belt witness Skelly direct, pp. 5-8.

³⁰ Ex. 104, Grain Belt witness Berry direct, pp. 44-45.

Grain Belt’s witness Pfeiffer acknowledged on cross-examination that his study showed an estimated loss of load expectation without the project that was extremely low and that his updated results—estimated loss of load expectation reduced from 0.004 day per year to 0.001 day per year showed a large percentage reduction—75%—in the estimated loss of load expectation due to the project because the loss of load expectation without the project was so small.³¹ “An accepted target [LOLE] value in North America is 0.1 day per year.”³²

Staff disputes that capacity on the transmission line would enable Missouri utilities to meet the requirements of Missouri’s Renewable Energy Standard (“RES”) (§ 393.1020, et seq., RSMo.) requirement of “[n]o less than fifteen percent in each calendar year beginning in 2021,” of which “[a]t least two percent of each portfolio requirement shall be derived from solar energy,”³³ because they already have met or are positioned to meet that requirement. The Missouri utilities obligated to comply with the Missouri RES are The Empire District Electric Company, Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company and Union Electric Company d/b/a Ameren Missouri.

The Empire District Electric Company, Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company already have sufficient existing capacity and new contracts not only to meet their fifteen percent requirements beginning in 2021, but to have excess Renewable Energy Credits (RECs) before then.

³¹ Tr. XIV; 727; Ex. 118, Grain Belt witness Edward D. Pfeiffer surrebuttal testimony, pp. 13-15.

³² Ex. 201, Staff rebuttal report, Staff witness Beck, p. 16 citing to Section 1.2 on p. 5 of 13, of Schedule ECP-1 to Exhibit 117, Grain Belt witness Edward C. Pfeiffer direct testimony.

³³ § 393.1030.1, RSMo.

Based on Ameren Missouri's 2015 retail electric sales of 35.876 million MWh in 2015, its 14.7% 2021 nonsolar Missouri RES requirement is 5.274 million MWh. Ameren Missouri's most recent RES compliance plan³⁴ is based on having approximately one million annual RECs from its Keokuk hydro and Maryland Heights Landfill Gas facilities plus a highly confidential number of RECs from the 102.3 MW Pioneer Prairie Wind Farm located in Iowa, and obtaining additional RECs by expanding its generation portfolio or by buying RECs.

Based on its 2016 Integrated Resource Plan Update,³⁵ Ameren Missouri is exploring its options:

In December 2015, Ameren Missouri issued a request for proposal (RFP) for wind generation with the intention of acquiring a minimum of 50 MWs of wind to be added to its generation portfolio no later than 2019. Responses were received on January 22, 2016 and are being reviewed and evaluated.

As Staff related in its report:

Most of the wind generation that existed in Missouri prior to 2016 was under contract or directly owned by Missouri rural electric cooperatives and municipal utilities. However, in 2016 the 200 MW Osborn Wind Farm, which is located in DeKalb County, Missouri, came online. In addition, the 300 MW Rock Creek Wind Farm, which is located Atchison County, Missouri, is expected to be operational by midyear 2017. These two wind farms will more than double the amount of wind capacity available in Missouri, which was previously approximately 458.5 MW. KCP&L³⁶ announced that it had contracted for the output of the Osborn and Rock Creek Wind Farms on April 7, 2016. It is possible that KCP&L might be willing to sell some of the RECs from these two wind farms, and since Missouri's RES includes a 25% premium for Missouri-sourced generation, Ameren Missouri would have an additional incentive to purchase these RECs.

³⁴ Filed in Case No. EO-2016-0286.

³⁵ Filed in Case No. EO-2016-0273 on April 12, 2016.

³⁶ The service mark and brand name of affiliates Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company. Ex. 201 Staff rebuttal report, Staff witness Beck, p. 18, n. 10.

All of Missouri's utilities that are required to meet the requirements of Missouri's RES requirement of "[n]o less than fifteen percent in each calendar year beginning in 2021," are already positioned to do so, regardless of whether Grain Belt's transmission line project is built.³⁷

B. Is Grain Belt qualified to own, operate, control and manage the Grain Belt project? Yes.

Grain Belt personnel, including Michael P. Skelly, with his over 20 years of experience in the renewable energy business and Anthony Wayne Galli, with his over 18 years of experience in the electric transmission industry, together with their consultants Quanta Services, Inc.; GDS Associates, Inc.; Quanta Technology, LLC; Louis Berger Group, Inc., have the requisite qualifications now for moving forward on Grain Belt's transmission project, but there are unresolved engineering and safety issues that will require additional expertise that Grain Belt does not yet have in place.³⁸

C. Does Grain Belt have the financial ability to undertake the Grain Belt project? Yes.

The Commission determined in Grain Belt's prior certificate application case, Case No. EA-2014-0207, that Grain Belt was financially able to construct the project.³⁹ Staff's investigation of Grain Belt's financial capability in the current case focused on any changes that occurred in investor makeup or investment plans since that case.⁴⁰ Staff witness Dave Murray concluded that the only significant change was an additional

³⁷ Ex. 201, Staff rebuttal report, Staff witness Beck, pp. 16-18.

³⁸ Ex. 100, Grain Belt witness Skelly direct, p. 1; Ex. 108, Grain Belt witness Galli direct, p. 2; Ex. 121, Grain Belt witness Shiflett direct, pp.1-4; Ex. 106, Ex. 106, Grain Belt witness Copeland direct, pp. 1-3; Ex. 117, Grain Belt witness Pfeiffer direct, pp. 1-3, Ex. 119, Grain Belt witness Puckett direct, p. 1 and Schedule JGP-3; Ex. 201, Staff rebuttal report, Staff witness Dietrich, p. 18.

³⁹ EA-2014-0270 Report and Order, p. 21.

⁴⁰ Ex. 201, Staff rebuttal report, Staff witness Murray, p. 19.

investor, and therefore additional committed capital, and stated that Grain Belt continues to have the financial ability to construct this project.⁴¹

Importantly, Mr. Murray recommends that the Commission order Grain Belt to provide Staff, prior to commencement of construction, with evidence that Grain Belt has secured sufficient financing commitments to complete the project.⁴² This recommendation serves as a safeguard, ensuring that Grain Belt will not begin construction of any portion of the project until it is capable of funding the entire project. Grain Belt has committed to this recommendation, both in testimony, and in the hearing exhibit no. 206 that details the financing conditions to which Grain Belt and Staff have agreed.⁴³ Staff recommends the Commission impose the agreed upon financing conditions⁴⁴ should the Commission grant Grain Belt a CCN for this project.

D. Is the Grain Belt project economically feasible? The evidence is not sufficient to make clear that the project is economically feasible.

Generally, Grain Belt alleges that its project is economically feasible because:

- HVDC technology is the most cost effective and efficient way to move large amounts of renewable energy over a long distance, and high capacity factor wind generation from western Kansas is the cheapest form of renewable energy in the United States, and the project's delivered energy cost to Missouri and surrounding states will be cheaper than alternatives;

⁴¹ *Id.*

⁴² *Id.* pp. 19-20.

⁴³ Ex. 104, Grain Belt witness Berry direct testimony, pp. 22-23.

⁴⁴ Ex. 206, p. 1, **I. Financing Conditions**. A copy of this exhibit is appended to this brief.

- The project will build a bridge between untapped, low-cost wind resources in western Kansas and the demand for renewable energy in Missouri and other states in the region;
- The project is an interregional transmission project that is consistent with the goals of FERC Order 1000 and is completing the RTO interconnection studies and agreements; and
- Grain Belt and its investors will assume all of the financial risk of the project, including cost overruns.

If Grain Belt's assertions are true, the project may be economically feasible. However, as Staff witness Michael L. Stahlman summarizes in his rebuttal testimony, because Grain Belt has not completed all of the necessary RTO interconnection studies for the project, and because construction of the Ameren Transmission Company of Illinois Mark Twain transmission line is uncertain, which could affect the Grain Belt Missouri converter station and corresponding congestion, it is unclear that the Grain Belt project is economically feasible.

The purpose of these RTO interconnection studies is to identify the impact of interconnecting the Grain Belt project to the transmission grids in their footprints, the impact of using the transmission grid in their respective footprints to deliver the power, and to identify and estimate the cost of upgrading AC transmission facilities to accommodate the Grain Belt project, as well as identify any operating constraints associated with operation of the facilities.⁴⁵ While Grain Belt has continued to progress in its studies to interconnect its project with the transmission grids in the SPP, MISO,

⁴⁵ Ex. 201, Staff rebuttal report, p 22.

and PJM footprints since its 2014 application,⁴⁶ Grain Belt has still not requested that the RTOs complete all the studies, and, therefore, the Commission does not have sufficient information to determine the potential costs to construct and interconnect the Grain Belt project, or to know whether any changes to the functional operation of the project will be necessary.

MISO

Grain Belt has yet to enter the MISO Definitive Planning Phase, and has stated that it will not do so until after it receives approval from the Commission.⁴⁷ However, on January 27, 2017, MISO issued an Optional Study Report prepared by Ameren Services Company at MISO's direction.⁴⁸ In this study Ameren Services Company considered additional contingency scenarios than previous MISO directed studies, and Ameren Services Company estimated the cost to interconnect the project with the transmission grid in the MISO footprint to be approximately \$21 million.⁴⁹

In its report Staff did not dispute that the preliminary MISO interconnection studies did not identify any constraints to injecting a full 500 MW of energy from the project into the transmission grid in MISO's footprint. However, because these studies were preliminary and included assumptions such as the completion of the Mark Twain project, Staff was not confident in Grain Belt's assessment that there would be no network upgrades and, thus, could be underestimating the interconnection costs.⁵⁰ In

⁴⁶ Case No. EA-2014-0207.

⁴⁷ Ex. 108, Grain Belt witness Galli direct testimony, p. 30, ll. 5-9.

⁴⁸ Ex. 109, Grain Belt witness Galli surrebuttal testimony, p. 9, l. 7.

⁴⁹ *Id.* at p. 10, ll. 1-3, and p. 12, ll. 18-20.

⁵⁰ Ex. 201, Staff rebuttal report, p. 24

addition, these studies will not facilitate the export of energy from MISO to other RTOs, which is one of the benefits of the Project cited by Grain Belt.⁵¹

Two events subsequent to the filing of Staff's rebuttal report justify Staff's concerns. First, Ameren Services completed an Optional Study Report of the Grain Belt project, submitted as Schedule AWG-9 attached to Dr. Galli's surrebuttal testimony. Ameren Services found that the project "will cause a constraint on two transmission elements that will require Network Upgrades to accommodate the project."⁵² Secondly, on March 28, 2017, the Missouri Western District Court of Appeals issued an opinion that, if it becomes final, will vacate Ameren Transmission Company of Illinois's conditional CCN for the Mark Twain project. The Western District held that county commission assent "...must be proven to the Commission before the Commission can issue a certificate of convenience and necessity for a transmission line that crosses public roads or highways in a county."⁵³ Without the Mark Twain project, or something comparable, the Grain Belt project will induce thermal overloads in the transmission grid in MISO's footprint, absent additional upgrades, or changes to the Grain Belt project.⁵⁴ To be clear, neither event led Staff to conclude that the Grain Belt project is or is not economically feasible; the RTO interconnection studies remain preliminary and the ramifications of the Western District's order on the Mark Twain project are unknown.

⁵¹ Ex. 108, Grain Belt witness Galli direct testimony, p. 5, l. 8; p. 6, ll. 4-8; p. 7, ll. 3-4; p. 27, ll. 4-7; p. 31, ll. 2-17.

⁵² Ex. 109, Grain Belt witness Galli surrebuttal testimony, Sch. AWG-9, p1.

⁵³ *In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the alternative, a Certificate of Public Convenience and Necessity Authorizing It to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-Volt Electric Transmission Line from Palmyra, Missouri, to the Iowa Border and Associated Substation Near Kirksville, Missouri v. Public Service Commission of Missouri*, No. WD79883, slip op. (Mo. App. W.D. March 28, 2017).

⁵⁴ Ex. 201, Staff rebuttal report, pp. 57-58.

Therefore, Staff views that Grain Belt has not provided sufficient evidence for the Commission to conclude that the Grain Belt project is economically feasible.

SPP

SPP filed an Interconnection Agreement with FERC, executed by Grain Belt and ITC Great Plains, LLC, with SPP as a signatory, on November 3, 2016. The Interconnection Agreement requires Grain Belt to produce a fully documented model for the Kansas converter station, addressing commutation failure, voltage thresholds and limits, and frequency response limits. Further, Grain Belt will need to perform additional power-flow studies, stability studies, a sub-synchronous resonance study, and harmonic interaction studies; these additional studies could identify additional upgrades or changes.⁵⁵ While Grain Belt's witness Dr. Galli states that these additional studies will be completed as part of the HVDC design process,⁵⁶ that fact does not provide Staff with the requisite information necessary to provide a determination of economic feasibility at this time.

PJM

With regard to the PJM interconnection process, the most recent PJM Impact Study Report of the project that is available to Staff is dated October 2014. In his surrebuttal testimony, Grain Belt witness Dr. Galli estimated that a re-tooled System Impact Study would be completed by the end of March 2017. The final stage of study in the PJM process is the Facilities Study phase, which Grain Belt estimates could take 12 to 18 months to perform,⁵⁷ and Grain Belt anticipates beginning negotiations of a PJM

⁵⁵ Ex. 201, Staff rebuttal report, pp. 26-27.

⁵⁶ Ex. 109, Grain Belt witness. Galli surrebuttal testimony, p. 30, ll. 9-12.

⁵⁷ Ex. 109. Grain Belt witness Galli surrebuttal testimony, p. ll. 17-19.

Interconnection Agreement as early as mid-2017.⁵⁸ However, based upon the October 2014 PJM Impact Study Report the project failed to meet acceptable criteria for many of the studied contingencies. Additionally, the report highlighted the need for additional studies, and additional transmission upgrades, while noting that the project may not be fully deliverable even if the identified upgrades are made.⁵⁹

Because all three RTOs require additional studies before the project can begin commercial operation, and those studies may require additional upgrades and/or changes in design or operation of the Grain Belt project, Staff does not have sufficient information to conclude that the Project is economically feasible at this time. However, as Staff witness Mr. Stahlman testified at hearing, if the Commission were to condition the issuance of a CCN on the conditions agreed to in Staff exhibit 206, specifically condition II.1, Staff's concerns would be mitigated.⁶⁰ Grain Belt's agreement to provide Staff with completed RTO Interconnection Agreements and any associated studies, along with its plans to address any new issues raised by the studies, alleviates much of Staff's concerns regarding the insufficiency of the current studies.

E. Does the Grain Belt project promote the public interest? The evidence is not sufficient to make clear that the Grain Belt project is in the public interest.

Staff does not recommend that the Commission find the Grain Belt is in the public interest.⁶¹ "Positive findings with respect to the other four [Tartan] standards will in most instances support a finding that an application for a certificate of convenience

⁵⁸ Ex. 201. Staff rebuttal report, p. 28.

⁵⁹ *Id.*

⁶⁰ Staff witness Stahlman, Tr. Vol. 16, p. 1344, ll. 6-9.

⁶¹ Ex. 64, Staff witness Sarah L. Kliethermes rebuttal testimony, p. 3.

and necessity will promote the public interest.”⁶² Staff views that Grain Belt has only satisfied two of the Tartan standards—that Grain Belt is qualified to own, operate, control and manage the Grain Belt project and that Grain Belt has the finances to undertake the Grain Belt project. Because of the remaining uncertainty surrounding the economic feasibility of the Grain Belt project, it is not clear to Staff that the Grain Belt project will promote the public interest. Rather than restating its perspective regarding economic feasibility here, Staff refers the Commission to the immediately preceding section of this brief where Staff addresses the economic feasibility of the project - **D. Is the Grain Belt project economically feasible?**—and incorporates that section here by this reference.

As part of the public interest standard, Staff discussed safety aspects related to the Grain Belt project.⁶³ Grain Belt’s agreements, as conditions to its certificate, (1) to provide the Commission with how it will comply with NERC standards, the National Electric Safety Code, rule 4 CSR 240-18.010, Missouri’s Overhead Power Line Safety Act (§ 319.075-.090, RSMo.), and any other applicable Missouri law before the project begins commercial operation⁶⁴; (2) to obtain detailed location information on each existing underground utility plant either crossed by or in close proximity to its proposed route and to contact and coordinate with the owners of each facility prior to construction; (3) to employ dedicated metallic return conductors; (4) to use operational protection and safety systems that will automatically de-energize the project within approximately 150 milliseconds of an abnormal or fault condition, (5) to report its mitigation efforts; and to

⁶² *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173 (1994).

⁶³ Ex. 201, p. 47-63.

⁶⁴ Ex. 206, p. 1-2, II.2.

identify and study the effects the project may have on nearby utility facilities found in exhibit 206, pp. 2-3, III. Nearby Utility Facilities provides sufficient certainty regarding the safety of the project that, in Staff's view, uncertainty of the safety of the Grain Belt project should not be a factor in the Commission's determination as to whether the project promotes the public interest.

Grain Belt's agreement to provide a copy of its final emergency restoration plan to the Commission before beginning commercial operation of the project as a condition of its certificate⁶⁵ provides sufficient certainty regarding Grain Belt's emergency restoration plan that, in Staff's view, the Commission should not find that the project does not promote the public interest because of uncertainty of Grain Belt's emergency restoration plan.

3. If the Commission grants the CCN, what conditions, if any, should the Commission impose?

Section 393.170.3, RSMo., empowers the Commission to "by its order [issuing a certificate of convenience and necessity] impose such condition or conditions as it may deem reasonable and necessary."

a. Conditions

Staff recommends that the Commission impose the following conditions:

- (1) That Grain Belt comply with each of the conditions as worded in Exhibit 206, a copy of which is attached to this brief;⁶⁶
- (2) That Grain Belt adhere to its Missouri Landowner⁶⁷ and Missouri Agricultural Impact Mitigation Protocols,⁶⁸ except that Grain Belt's

⁶⁵ Ex. 206, p. 4, IV. Emergency Restoration Plans.

⁶⁶ Grain Belt witness Skelly, Tr. X;152-54.

decommissioning fund protocol⁶⁹ be modified so that it begins making contributions to its decommissioning fund when the project begins commercial operation;⁷⁰

- (3) That if the design and engineering of the project is materially different from how the project is presented in Grain Belt's Application, Grain Belt must file an updated application with the Commission for further Commission review and determination;
- (4) That if the outstanding studies included as conditions raise any new issue(s), then the Commission must be satisfied with how Grain Belt resolves the issue(s); and
- (5) That, if a foregoing condition can be satisfied either before Grain Belt starts acquiring involuntary easements or starts construction of the project, then Grain Belt must satisfy that condition before the earlier of the two foregoing dates by which it can satisfy that condition.

If the county assents for the project to cross public roads and highways required by § 229.100 RSMo. are not prerequisites to this Commission granting Grain Belt a CCN for this project, then Staff recommends that the Commission, as it conditioned the CCN it issued to Ameren Transmission Company of Illinois in Case No. EA-2015-0146, also condition Grain Belt's CCN for the project on Grain Belt obtaining those county assents.

⁶⁷ Ex. 113, Grain Belt witness Lanz direct testimony, Schedule DKL-1.

⁶⁸ Ex. 101, Grain Belt witness Arndt direct testimony, Schedule JLA-2.

⁶⁹ Ex. 113, Grain Belt witness Lanz direct testimony, pp. 12-13.

⁷⁰ Ex. 201, Staff rebuttal report, Staff witness Beck, pp. 44-45.

b. If 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?”

Since the requested CCN is for transmission facilities the Commission could require that the Missouri converter station be constructed within five years of the start of construction on any part of the project, and that no construction begin before Grain Belt has firm commitments from third parties to buy the full 500 MW of transmission capacity from Kansas to Missouri, to enter the AC transmission system at the Missouri converter station. Staff is not aware of a condition that would require that Grain Belt to continue to operate the Missouri converter station going forward. Due to federal preemption, the Commission cannot require that the transmission capacity be for wind generated electricity, since the FERC prohibits discrimination in transmission capacity sales based on generation source.

Staff does not recommend that the Commission condition the effectiveness of the CCN on either the actual construction of the proposed converter station or the actual delivery of 500MW of wind to the converter station. As discussed early in the jurisdiction section of this brief (on pp. 2-3), this Commission’s jurisdiction over this project is very limited—siting, whether Missouri allows it to be built, and impacts in and on Missouri not preempted by federal jurisdiction. By offering transmission service in Missouri Grain Belt is obligating itself to provide that service. *State ex rel. Ozark Power & Water Company v. Public Service Commission of Missouri*, 287 Mo. 782, 229 S.W. 782 (1921).

4. If the Commission grants the CCN, should the Commission exempt Grain Belt from complying with the reporting requirements of Commission rules 4 CSR 240-3.145, 4 CSR 240-3.165, 4 CSR 240-3.175, and 3.190(1), (2) and (3)(A)-(D)?

Yes.

The Commission should find that there is good cause to relieve Grain Belt from the filing and reporting requirements of rules 4 CSR 240-3.145, 4 CSR 240-3.165 (except for the annual report filing requirement for which Grain Belt does not need relief since it “agrees to file with the Commission the annual report that it files with FERC), 4 CSR 240-3.175 and 4CSR 240-3.190(1), (2) and (3)(A)-(D) because these filing and reporting requirements are intended for ratemaking, but this Commission will have no jurisdiction over Grain Belt’s rates because it will have no retail customers, so the filing and reporting requirements would impose a burden on Grain Belt with little commensurate benefit.

CONCLUSION

For all the foregoing reasons, Staff recommends the Commission find:

1. Grain Belt is a public utility that requires a certificate of convenience and necessity from the Commission to operate in the state of Missouri;
2. Grain Belt does not have the consent of the county commission of Caldwell County, Missouri, or otherwise from the State of Missouri, to cross the public roads and highways in Caldwell County;
3. The evidence does not establish that the Grain Belt project is needed, economically feasible or promotes the public interest;

Should the Commission grant the request for a certificate of convenience and necessity, Staff further recommends the Commission impose the conditions outlined in Exhibit 206

and the following additional conditions: Grain Belt will adhere to its Missouri Landowner and Missouri Agricultural Impact Protocols, with the exception that Grain Belt's decommissioning fund protocol be modified so that it begins making contributions when the project begins commercial operations; If the design and engineering of the project is material different from the description of the project in the Grain Belt Application, Grain Belt must file an updated application for further Commission review and determination; and If the outstanding studies raise any new issue(s), the Commission must be satisfied with Grain Belt's resolution of the issue(s).

Respectfully submitted,

/s/ NATHAN WILLIAMS

Nathan Williams, Mo. Bar # 35512
Deputy Staff Counsel

KEVIN THOMPSON, Mo. Bar # 36288
Chief Staff Counsel

MARK JOHNSON, Mo. Bar # 64940
Senior Staff Counsel

JAMIE MYERS, Mo. Bar # 68291
Assistant Staff Counsel

CASI ASLIN, Mo. Bar # 67934
Assistant Staff Counsel

Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8702 (Telephone)
nathan.williams@psc.mo.gov (e-mail)

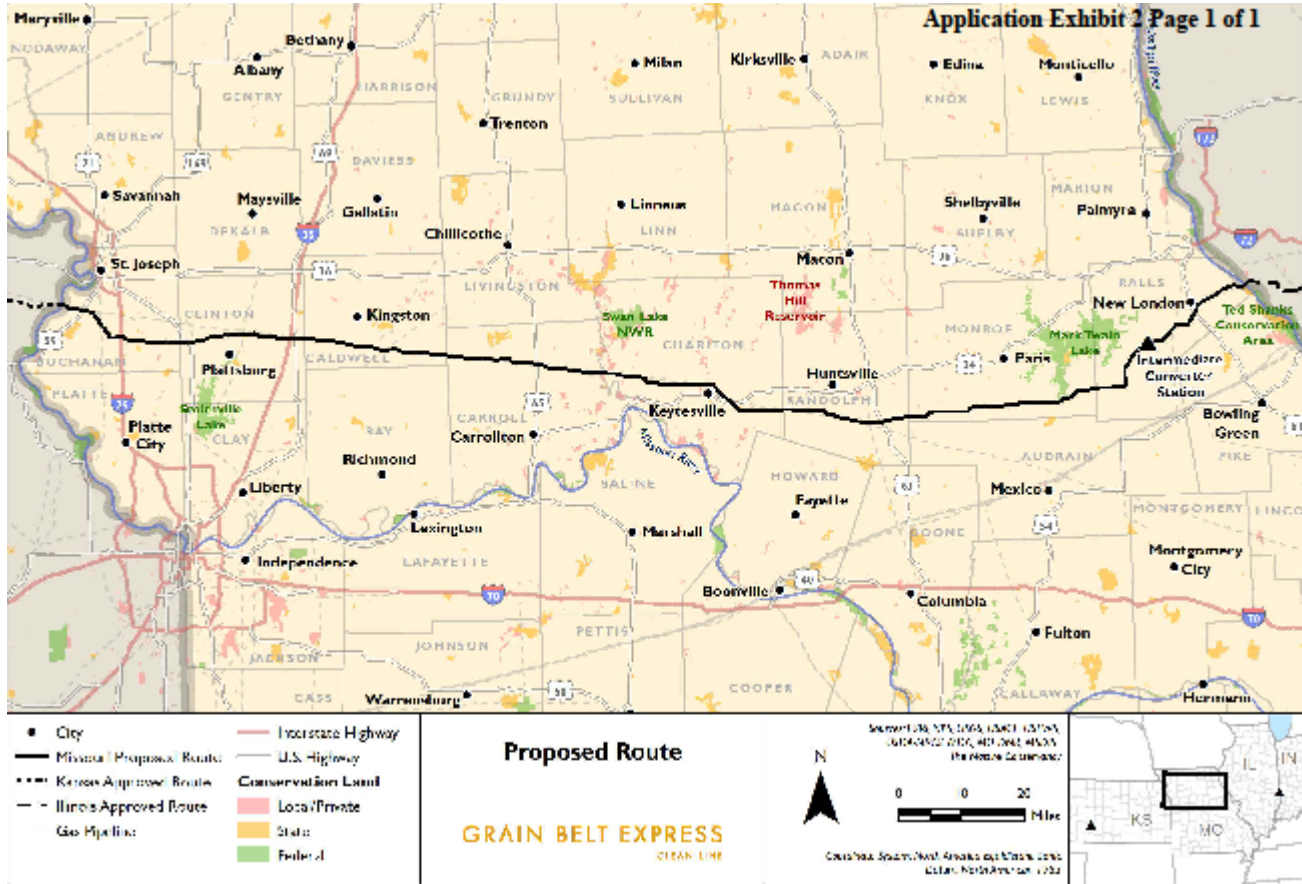
Attorneys for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10th day of April, 2017.

/s/ Nathan Williams

Appended Exhibit 2



**CONDITIONS AGREED TO BY GRAIN BELT EXPRESS CLEAN LINE LLC AND
THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION**

In re Grain Belt Express Clean Line LLC, No. EA-2016-0358

Based on the conditions and recommendations in the Staff Rebuttal Report submitted on January 24, 2017, and subsequent discussions between the Staff of the Missouri Public Service Commission ("Staff") and Grain Belt Express Clean Line LLC ("Grain Belt"), Staff and Grain Belt have agreed to the following conditions.

I. Financing Conditions (Staff Rebuttal Report at 63-64)

1. Grain Belt will not install transmission facilities on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of this multi-state transmission project. To allow the Commission to verify compliance with this condition, Grain Belt shall file the following documents with the Commission at such a time as Grain Belt is prepared to begin to construct electric transmission facilities in Missouri:

(a) On a confidential basis, equity and loan or other debt financing agreements and commitments entered into or obtained by Grain Belt or its parent company for the purpose of funding Grain Belt's multi-state transmission project that, in the aggregate, provide commitments for the total project cost.

(b) An attestation by an officer of Grain Belt that Grain Belt has not, prior to the date of the attestation, installed transmission facilities on easement property; or a notification that such installation is scheduled to begin on a specified date.

(c) A statement of the total multi-state transmission project cost, broken out by the categories of engineering, manufacturing and installation of converter stations; transmission line engineering; transmission towers; conductor; construction labor necessary to complete the project; right-of-way acquisition costs; and other costs necessary to complete the project, and certified by an officer of Grain Belt, along with a reconciliation of the total project cost in the statement to the total project cost as of the Application of \$2.35 billion; and property owned in fee by Grain Belt including the converter station sites.

(d) A reconciliation statement certified by an officer of Grain Belt showing that (1) the agreements and commitments for funds provided in subsection (a), above, are equal to or greater than the total project cost provided in subsection (c), above; and (2) the contracted transmission service revenue is sufficient to service the debt financing of the project (taking into account any planned refinancing of debt).

II. Interconnection Studies and Safety (Staff Rebuttal Report at 64, 67)

1. Grain Belt will provide Staff with completed RTO Interconnection Agreements and any associated studies. Should the studies raise new issues, Grain Belt will provide its plan to address those issues.

2. Grain Belt will provide to the Commission completed documentation of the Grain Belt plan, equipment, and engineering drawings to achieve compliance with NERC standards for a project of this scope and size, the National Electric Safety Code for a project of this scope and size, 4 CSR 240-18.010, the Overhead Power Line Safety Act (Section 319.075-.090), and any other applicable Missouri state law for a project of this scope and size prior to the commercial operational date of the Project.

III. Nearby Utility Facilities (Staff Rebuttal Report at 64-66)

1. Grain Belt shall use commercially reasonable efforts (as defined below) to obtain detailed location information on each existing underground utility plant, either crossed by or in close proximity to its proposed route, and to contact and coordinate with the owners of each such facility prior to construction.

(a) Grain Belt intends to undertake several related steps to obtain information about underground utilities. Grain Belt intends to hire a qualified survey firm with experience in locating underground utilities. Prior to field survey, Grain Belt intends to assemble desktop information about underground utility locations along the project route. This desktop information may be assembled by the survey firm, by a different contractor, or by Grain Belt itself. The desktop information will draw from both public and proprietary sources. Publicly available sources may include, but are not limited to, databases maintained by State utility regulatory bodies, Railroad Commissions, Departments of Transportation, Oil & Gas Commissions, Departments of Natural Resources, Municipal Utility Districts, Rural Water Districts, County Engineering Offices, and Electric Cooperatives. Proprietary sources may include, but are not limited to, databases and mapping information such as those maintained by Ventyx or Platts, and GIS or CAD files maintained by underground utility owners and provided to Grain Belt. In advance of field operations Grain Belt will engage in detailed title research to identify all easements of record for each parcel of land traversed by the Grain Belt Project. Field survey will utilize one or more detection methods to “sweep” sections of the right-of-way for underground utilities. These methods may include, but are not limited to: identification of above-ground staking or signage, magnetic, sonic and acoustic technologies, ground penetrating radar, radio frequency detection, and vacuum excavation. The extent of survey coverage will be determined by consulting with the project engineering and construction contractors.

(b) Commercially reasonable efforts, in the context of obtaining information about underground utility plant, are efforts sufficient to identify nearby infrastructure at specific excavation locations for the Project facilities (e.g., foundations for transmission line structures), as well as nearby infrastructure that can be identified using the aforementioned methods within the right-of-way of the Project, as specified by the project engineering and construction contractors, coordination with the utility owner, and applicable laws and regulations. “Commercially reasonable” in this context does not refer to a specific or maximum dollar amount.

2. Grain Belt will show the Commission, before it begins commercial operation of any part of the multi-state Project, that it built the entire multi-state Grain Belt proposed HVDC transmission line with dedicated metallic return conductors which are operational and that the entire multi-state Project has operational protection and control safety systems that automatically

de-energize the Project within approximately 150 milliseconds of when an abnormal or fault condition occurs.

3. Grain Belt will perform engineering studies to determine if the operation of the Grain Belt proposed HVDC transmission line, the Grain Belt proposed Missouri converter station, and the Grain Belt-owned portion of the AC electric transmission line connecting the Grain Belt proposed Missouri converter station to the AC grid have adverse impacts on nearby facilities. These engineering studies must include, but not be limited to the following:

- (a) the effects of tower footing groundings, if used;
- (b) analysis of metallic underground facilities;
- (c) other AC power lines and telecommunications facilities that are located within a distance from the Grain Belt proposed HVDC transmission line, as determined by an appropriately qualified expert, where there may be adverse effects on the facilities;
- (d) a determination whether there are locations where the Grain Belt proposed HVDC transmission line parallels a pipeline and an existing AC power line and, if so, whether there are any combined effects on steel pipelines (and other underground metallic facilities); and
- (e) the effects of Grain Belt proposed transmission line(s) connecting the Grain Belt proposed Missouri converter station to the AC grid.

If any of these studies show that mitigation measures are identified/needed, those measures must be in place prior to commercial operation of the Grain Belt proposed transmission line.

These studies must be made available to Staff and affected facility owners at least 45 days prior to commercial operation of the Grain Belt proposed HVDC transmission line.

Grain Belt must disclose to Staff and affected facility owners how the parameters for conducting the studies were determined (e.g., continuous 24-hour recordings at a certain time of year).

These studies must be conducted by persons knowledgeable in: (1) HVDC power lines; (2) DC-to-AC converter stations; (3) Pipeline cathodic protection systems; (4) Corrosion of underground metallic facilities; (5) Interference with AC utility lines; (6) Interference with telecommunications facilities; (7) Effects of DC and AC interference on the facilities identified in Exhibit 3, as amended by Grain Belt's Addendum to the Application, and all additional facilities subsequently identified.

4. Grain Belt must file "annual status updates" on discussions with Staff regarding need for additional studies of the impacts of its facilities on other facilities in Missouri, a summary of the results of any additional studies, and any mitigation measures that have been implemented to address underground metallic structures, telecom facilities and AC lines. Mitigation measures indicated by future studies must be implemented within three (3) months of discovery that additional mitigation measures are needed, or as quickly as reasonably practical thereafter.

IV. Emergency Restoration Plans (Staff Rebuttal Report at 66)

1. Grain Belt must provide a copy of the final Grain Belt Emergency Restoration Plan to the Commission prior to the commercial operations date for the Grain Belt Project.

V. Construction and Clearing (Staff Rebuttal Report at 67-68)

1. Prior to construction, Grain Belt will notify all landowners in writing of the name and telephone number of Grain Belt's Construction Supervisor so that they may contact the Construction Supervisor with questions or concerns before, during, or after construction. Such notice will also advise the landowners of the expected start and end dates of construction on their properties.

2. Prior to construction, Grain Belt's Construction Supervisor will personally contact each landowner (or at least one owner of any parcel with multiple owners) to discuss access to the right-of-way on their parcel and any special concerns or requests about which the landowner desires to make Grain Belt aware.

3. From the beginning of construction until end of construction and clean-up of the right-of-way is complete, Grain Belt's Construction Supervisor will be on-site, meaning at or in the vicinity of the route, or on-call, to respond to landowner questions or concerns.

4. If requested by the landowner, Grain Belt will cut logs 12" in diameter or more into 10 to 20 foot lengths and stack them just outside the right-of-way for handling by the landowner.

5. Stumps will be cut as close to the ground as practical, but in any event will be left no more than 4" above grade.

6. Stumps will be treated to prevent regrowth consistent with industry best practices. Vegetation treatments will consider vegetation types, site specific land uses, and any environmental sensitivities. Grain Belt will notify all landowners of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property.

7. Unless the landowner does not want the area seeded, disturbed areas will be reseeded consistent with reclamation best practices in consultation with landowners, restoration specialists, and government agencies.

8. Best management practices will be followed to minimize erosion, with the particular practice employed at a given location depending upon terrain, soil, and other relevant factors.

9. Gates will be securely closed after use.

10. Should Grain Belt damage a gate, Grain Belt will repair that damage.

11. If Grain Belt installs a new gate, Grain Belt will either remove it after construction and repair the fence to its pre-construction condition, or will maintain the gate so that it is secure against the escape of livestock.

12. Grain Belt will utilize design techniques intended to minimize corona.

13. Should a landowner experience radio or television interference issues believed by the landowner to be attributed to Grain Belt's line, Grain Belt will work with the landowner in good faith to attempt to solve the problem.

14. Grain Belt will clearly mark guy wires.

VI. Maintenance and Repair (Staff Rebuttal Report at 68-69)

1. With regard to future maintenance or repair and right-of-way maintenance after construction is completed, Grain Belt will make reasonable efforts to contact landowners prior to entry onto the right-of-way on their property to advise the landowners of Grain Belt's presence, particularly if access is near their residence.

2. All Grain Belt contractors will be required to carry and maintain a minimum of one million dollars of liability insurance available to respond to damage claims of landowners. All contractors will be required to respond to any landowner damage claims within 24 hours. All contractors will be required to have all licenses required by state, federal, or local law.

3. If herbicides are used, only herbicides approved by the EPA and any applicable state authorities will be used, and herbicides will be used in strict compliance with all labeling directions.

4. Routine maintenance will not occur during wet conditions so as to prevent rutting.

5. Existing access roads will be used to access the right-of-way wherever available.

6. Prior to commencing construction, Grain Belt will notify all landowners in writing of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property. Grain Belt will personally meet with each landowner who requests such a meeting to determine if the landowner does or does not want herbicides used on the landowner's property. If the landowner does not want herbicides used, they will not be used.

VII. Landowner Interactions and Right-of-Way Acquisition (Staff Rebuttal Report at 43-45, 69)

1. The certificate is limited to the construction of this line in the location specified in the application, and as represented to the landowners on the aerial photos provided by Grain Belt, unless a written agreement from the landowner is obtained, or the company gets a variance from the Commission for a particular property, provided, however, minor deviations to the location of the line not exceeding 500 feet will be permitted as a result of surveying, final engineering and design, and landowner consultation, so long as the line and required easements stay within the property boundaries of that landowner and do not involve a new landowner.

2. Absent a voluntary agreement for the purchase of the property rights, the transmission line shall not be located so that a residential structure currently occupied by the property owners will be removed or located in the easement requiring the owner to move or relocate from the property

3. Grain Belt shall survey the transmission line location after construction and record the easement location with the Recorder of Deeds in the appropriate counties. Grain Belt shall also file a copy of its survey in this case.

4. Every landowner from whom Grain Belt requires an easement will be contacted personally, and Grain Belt will negotiate with each such landowner in good faith on the terms and conditions of the easement, its location, and compensation therefor. Each landowner will receive an Easement Agreement pertaining to such landowner's land, which Easement Agreement will contain a drawing that shows the location of the easement.

5. After construction is completed, every landowner will be contacted personally to ensure construction and clean-up was done properly, to discuss any concerns, and to settle any damages that may have occurred.

6. If a landowner so desires, Grain Belt will give the landowner a reasonable period of time in advance of construction to harvest any timber the landowner desires to harvest.

7. Grain Belt's right-of-way acquisition policies and practices will not change regardless of whether Grain Belt does or does not yet possess a Certificate of Convenience or Necessity from the Commission.