

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 345 kV Transmission Line)

Case No. EA-2016-0358

**OPPOSITION OF GRAIN BELT EXPRESS CLEAN LINE LLC
TO APPLICATION FOR REHEARING OF
MISSOURI LANDOWNERS ALLIANCE, ET AL.**

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”) submits this Opposition to the Application for Rehearing of the Missouri Landowners Alliance, Matthew Reichert, Christina Reichert, Charles Henke, Robyn Henke, Randall Meyer, Roseanne Meyer, and R. Kenneth Hutchinson (“MLA Rehearing Application”):

1. Because the MLA Rehearing Application filed on August 25, 2017 is procedurally improper as a matter of law, the Commission should deny the application without addressing the substance of its arguments. By its own admission, MLA does not actually seek rehearing. It concedes that the “sole purpose” of its pleading is “to preserve” issues that are not related to whether the Commission’s Report and Order is unlawful, unjust, or unreasonable. See MLA Rehearing Application at 1.

2. The Commission’s Report and Order concluded that the Court of Appeals decision in Neighbors United Against Ameren’s Power Line v. PSC, No. WD79883, 2017 W.L. 1149139 (Mo. App. W.D., Mar. 28, 2017), transfer denied, No. SC96427 (June 27, 2017) (“Neighbors United”),¹ required the dismissal of the Grain Belt Express Application because the

¹ Neighbors United is the same decision referred to in the Report and Order as “Ameren Transmission Co.”

Company lacked a county road-crossing assent under Section 229.100² from at least one county through which the Grain Belt Express Project would cross. See Report and Order at 13-15.

3. In reaching this conclusion and in denying the Company's Application for a line Certificate of Convenience and Necessity ("CCN"), the Commission accepted the legal arguments asserted by MLA on multiple occasions. See MLA Motion for Expedited Treatment and Motion to Dismiss Application, or Alternatively to Hold Case in Abeyance (Mar. 28, 2017); Initial Post-Hearing Brief of the Missouri Landowners Alliance at 70-72 (Apr. 10, 2017); Post-Hearing Reply Brief of MLA at 16-18 (Apr. 24, 2017); Response of Missouri Landowners Alliance (June 9, 2017); MLA Motion to Dismiss Application (July 4, 2017); Supplemental Brief of the Missouri Landowners Alliance (July 18, 2017).

4. In each of these pleadings MLA argued that Neighbors United required the Commission to dismiss the Company's line CCN Application, a view which the Commission ultimately accepted. Because the relief sought by MLA was granted by the Commission, there is no legal basis for MLA to file an application for rehearing under Section 386.500.2, which provides: "Such application [for rehearing] shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust or unreasonable."³

5. The Commission determined that Neighbors United required Grain Belt Express to demonstrate it had obtained all county assents under Section 229.100 in order to receive a line CCN, and that it had not done so. Consequently, it denied the Application, finding that it "lack[ed] the statutory authority to issue a CCN at this time" See Report and Order at 14. Since this determination resolved the case, the Commission concluded that "it is unnecessary for the Commission to consider and decide the remaining disputed issues." Id. The MLA Rehearing

² All statutory citations are to the Missouri Revised Statutes (2016).

³ The Commission's regulations provide no further guidance, simply stating: "Applications for rehearing may be filed pursuant to statute." See 4 CSR 240-2.160(1).

Application does not allege that this conclusion is either “unlawful, unjust or unreasonable” and is, therefore, legally insufficient under Section 386.500.2.

WHEREFORE, Grain Belt Express Clean Line LLC requests that the MLA rehearing application be denied as procedurally improper as a matter of law.

/s/ Karl Zobrist

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ATTORNEYS FOR GRAIN BELT EXPRESS
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid, this 5th day of September, 2017.

/s/ Karl Zobrist

Attorney for Grain Belt Express Clean Line LLC