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**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 )

**File No. EA-2023-0017**

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**STAFF'S REPLY BRIEF**

Respectfully Submitted,

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Missouri Bar No. 71128

Attorney for Staff of the  
Missouri Public Service Commission

July 14, 2023

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The purpose of a reply brief is to respond to the arguments made by party opponents. Rather than replying to every argument other parties make in their initial briefs, and having presented and argued its positions in its Initial Brief, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

The main contention points Staff wishes to address in this reply brief are (1) the economic feasibility of constructing the Project in two phases (“phasing”), and (2) the need for the Commission to condition approval of the requested amendments with a definition of “material change to the engineering and design” of the Project. Staff’s Reply Brief is organized to address these points; therefore, Staff will not address each and every sub-issue or argument made by the parties to this matter. Staff stands on the arguments made in its Initial Brief, and silence on any argument or position should not be taken as acceptance.

In determining each contested issue, the Commission should be mindful that the law places the burden of proof on Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”). The Company must prove that its request to amend its Certificate of Convenience and Necessity (“CCN”) should be granted, and any failure of

proof means that Grain Belt Express loses. This burden never shifts away from the Company. In this matter, Grain Belt Express has not met its burden regarding its request to construct the Project in two phases, and that request should be rejected. Approval of the Company's other two amendments should include, as a condition, Staff's recommended definition of "material change."

### **Economic Feasibility of Phasing**

Regarding the economic feasibility of Grain Belt Express' request for phasing, the Company continues to rely on the PA Consulting Study and the assumptions of Company witness Mark Repsher.<sup>1</sup> However, as put forward by Staff, the Commission should not rely on Mr. Repsher's analysis due to his reliance on hypothetical benefits and unrealistic assumptions, including the unreasonable assumption to credit all benefits as the Company's own benefits.<sup>2</sup> This unreasonable assumption also fails to identify any of these benefits as providing actual monetary compensation to Grain Belt Express for building the Project.<sup>3</sup> In addition, Mr. Repsher's analysis was based on the entire line being constructed, not just one phase.<sup>4</sup>

Grain Belt Express also relies on the PA Consulting Study to show that ratepayer savings provide sufficient headroom for ratepayers to absorb the costs of the Project.<sup>5</sup> However, Staff witness Michael Stahlman credibly testified that there is no guarantee that lower capacity and energy costs results in lower ratepayer costs.<sup>6</sup> As put forward by Mr. Stahlman:

Lower energy prices, especially negative electricity prices, doesn't necessarily mean that electricity is cheaper, but that the generator has costs that are either

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<sup>1</sup> Grain Belt Express Initial Brief, pg. 50, para. 98.

<sup>2</sup> Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 7, ln. 9-13.

<sup>3</sup> *Id.*, pg. 7, ln. 13-14; see also Transcript Vol. XII, pg. 924, ln. 17-25.

<sup>4</sup> *Id.*, pg. 5, ln. 1-4.

<sup>5</sup> Grain Belt Express Initial Brief, pg. 51, para. 99.

<sup>6</sup> Transcript Vol. XII, pg. 943, ln. 7-9.

not being recovered or being recovered at lower margins. The “fixed” costs will have to be recovered at some time or they will go out of business.<sup>7</sup>

Grain Belt Express also reiterates that the financial risk of the Project will be born by the Company and that costs will continue to be recovered through the merchant business model.<sup>8</sup> However, the Company’s commitment to that business model has been brought into question by Grain Belt Express itself. As stated by the Vice President of Development for Transmission of Invenenergy, “Invenenergy has not yet decided whether or not the Grain Belt line is a merchant project.”<sup>9</sup>

In addition to the foregoing statement, the Company has also petitioned the Federal Energy Regulatory Commission (“FERC”) to require that Regional Transmission Organizations (“RTOs”) pay for the presumed benefits of this Project and other merchant HVDC projects, which could result in Missouri ratepayers paying for the Project regardless of its use by Missouri utilities.<sup>10</sup>

Staff agrees with Grain Belt Express that the general standard for economic feasibility is that “the improvement justifies its cost.”<sup>11</sup> Grain Belt Express continues by stating that it has shown “credible evidence regarding the commercial interest in the services offered” by the Project, “at prices that will allow for full recovery of the anticipated costs.”<sup>12</sup>

What credible evidence does Grain Belt Express mean? Regarding any written agreements, Grain Belt Express has shown the contract it has had the “sweetheart deal”<sup>13</sup> with Missouri Joint Municipal Electric Utility Commission (“MJMEUC” or “MEC”) since Case No. EA-2016-0358, three expired MOUs, and one Letter of Intent.<sup>14</sup>

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<sup>7</sup> Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 6, ln. 21-22 and pg. 7, ln. 1-2.

<sup>8</sup> Grain Belt Express Initial Brief, pg. 51-51, para. 101.

<sup>9</sup> Exhibit 307, MLA DR No. G43.

<sup>10</sup> Exhibit 109, *Revised Staff Report*, pg. 3.

<sup>11</sup> Grain Belt Express Initial Brief, pg. 8, para. 7.

<sup>12</sup> *Id.*

<sup>13</sup> Exhibit 109, *Revised Staff Report*, pg. 1.

<sup>14</sup> Exhibit 104, *Rebuttal Testimony of Shawn Lange*, pg. 14, ln. 21-24 and pg. 15, ln. 1-3.

The Company lists out many commercial entities that have expressed interest in buying renewable power (but not specifically from Grain Belt Express),<sup>15</sup> and has not produced any contracts or agreements because none of those entities have expressed enough interest with the Project to enter into an agreement with the Company. Though Company witness Rolanda Shine provided testimony and schedules regarding revenue streams,<sup>16</sup> the only contract that Staff can direct the Commission to is the contract with MEC. However, to reach the hard coded numbers Ms. Shine references to support the economic feasibility of the Project, future contracts will need to be ten times higher than those agreed to with MEC.<sup>17</sup>

Grain Belt Express also confuses its financial ability to construct the Project via phasing with the economic feasibility of the phasing of the Project. The Company states that the Commission “will receive further assurances of the economic feasibility of the Amended Project pursuant to the Financing Conditions.”<sup>18</sup> Staff has no doubt about Grain Belt Express’ financial ability to construct the Project via phasing;<sup>19</sup> the concern is the economic feasibility of the Project if phasing is approved. Grain Belt Express’ ability to secure financing for phasing does not mean that phasing the Project is economically feasible; this is exactly why the two are separate Tartan factors. The problem here remains that the Company has not provided any evidence showing how phasing the Project is economically feasible, especially when phasing would provide Grain Belt Express the discretion to never actually connect the Project to PJM, a connection which was the basis of the Commission finding the Project to be economically feasible in the first place.<sup>20</sup>

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<sup>15</sup> Grain Belt Express Initial Brief, pg. 13-14, para. 24.

<sup>16</sup> Exhibit 6, *Surrebuttal Testimony of Rolanda Shine*, Schedule RS-4.

<sup>17</sup> Transcript Vol. XII, pg. 904, ln. 16-21.

<sup>18</sup> Grain Belt Express Initial Brief, pg. 48, para. 91.

<sup>19</sup> Exhibit 108, *Rebuttal Testimony of Seoung Joun Won, PhD*, pg. 5, ln. 20-22.

<sup>20</sup> Exhibit 107, *Rebuttal Testimony of Michael Stahlman*, pg. 1, ln. 22-23 and pg. 2, ln. 1-5; see also Exhibit 306, *Report and Order on Remand*, Case No. EA-2016-0358, pg. 44.

Grain Belt Express has not provided evidence as to why sacrificing the economic feasibility of the Project through phasing is necessary, and Staff recommends that the Commission reject the Company's request to build the Project in two phases. As put forward by Mr. Repsher<sup>21</sup> and Ms. Shine<sup>22</sup> during the evidentiary hearing, the most economically optimal result is that the entire Project is constructed. Why provide Grain Belt Express the discretion to construct a lesser project? That question has not been answered, and the Commission should not grant Grain Belt Express' request to amend its CCN to permit phasing.

However, if the Commission does approve Grain Belt Express' request for phasing, the implementation of all the conditions requested by Staff, including Dr. Seoung Joun Won's modifications to the financial conditions, will mitigate, but not eliminate, Staff's concerns with phasing.

### **Definition of Material Change**

In its Initial Brief, Grain Belt Express proposed the following alternative definitions if the Commission were to determine that a definition for "material change to the design and engineering" of the Project is necessary:

- a. A change in the location of the converter station outside of Monroe County;
- b. Modification of the location of the Project's points of interconnection ("POIs") in Missouri; or
- c. An increase in the injection rights of the Project in Missouri beyond 2518 MW.<sup>23</sup>

Staff is grateful to see Grain Belt Express agree that a modification of the Project's POIs in Missouri is a material change, and should be included in the definition if approved by the Commission. However, the Company's modifications regarding a change in the location of the converter station or the increase in injection rights are

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<sup>21</sup> Transcript Vol. IX, pg. 391, ln. 19-25 and pg. 392, ln. 1.

<sup>22</sup> *Id.*, pg. 412, ln. 18-24.

insufficient to alleviate Staff's concerns. Staff notes that the only current condition regarding the size of the converter station is that it be capable of the actual delivery of 500 MW of wind power.<sup>24</sup>

Staff continues to recommend that the Commission also include the following definitions:

- a. Changing the converter station location;
- b. A modification of 100 MW in converter design size;
- c. A change of half a billion dollars or more in estimated cost;
- d. A change of 100 MW in obtaining the injection rights of the full 1,500 MW into MISO and 1,000 MW into AECL; or
- e. A change in 100 MW of obtaining the rights to withdraw from MISO, from the currently proposed 0 MW.

These definitions are lawful, reasonable, and necessary.<sup>25</sup> While Grain Belt Express believes these definitions would establish thresholds triggering the unnecessary re-litigation of issues,<sup>26</sup> these definitions would instead do the exact opposite: they would set bright line standards by which all the parties would best understand when Grain Belt Express has to come before the Commission, and when it does not.

### **Conclusion**

Staff does not recommend approval of Grain Belt's request to construct the project in two phases. Staff further argues that the inclusion of a definition of "material change to the design and engineering" of the Project, as put forward in this Reply Brief,

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<sup>23</sup> Grain Belt Express Initial Brief, pg. 58, para. 112.

<sup>24</sup> Exhibit 306, *Report and Order on Remand*, Case No. EA-2016-0358, pg. 53, para. 10.

<sup>25</sup> *State ex rel. Praxair, Inc. v. Missouri Pub. Serv. Comm'n*, 344 S.W.3d 178, 184 (Mo. 2011); Section 393.170.3, RSMo.

<sup>26</sup> Grain Belt Express Initial Brief, pg. 57, para. 111.

will best help all the parties as the Project continues, and ensure that Grain Belt Express is constructing the Project, whatever form it may take, as approved by the Commission.

Respectfully submitted,

**/s/ Travis J. Pringle**

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all counsel and parties of record on this 14th day of July, 2023.

**/s/ Travis J. Pringle**