

**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 POSITION ON ISSUES

COMES NOW the Staff of the Missouri Public Service Commission and states its position on the listed issues as follows:

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?*

No.

The Grain Belt transmission line project would entail an indiscriminate offering of utility service to the public that requires a certificate of convenience and necessity from this Commission to lawfully go forward. However, the evidence will establish that Grain Belt does not have consent from Caldwell County, Missouri, for the Project to cross the public roads and highways in that county. That consent is required by §§ 229.100 and 393.170.2, RSMo., to be established to the Commission—" a verified statement of the president and secretary of the corporation, showing that it has received the required

consent of the proper municipal authorities”—before the Commission can lawfully issue a certificate of convenience and necessity for the Project.

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.

It is Staff’s opinion that Grain Belt has not met three of the five Tartan criteria¹ and, therefore, the evidence in this case will not establish that the high-voltage direct current transmission line and converter station are “necessary or convenient” for the public service. While, in Staff’s opinion, Grain Belt has demonstrated it is qualified to own, operate, control and manage the Project and provide transmission service, and that it has the financial ability to undertake the Project, it has not established the Project is needed, the Project is economically feasible, or the Project would promote the public interest.

It is not clear whether the Project is economically feasible due to the lack of various RTO studies and the uncertainties surrounding the ATXI Mark Twain transmission line and its effects on the Missouri converter station and corresponding congestion. A determination cannot be made at this time as to whether the Project is in the public interest since there is still uncertainty related to the economic feasibility, the safety of the Project, and the details of Grain Belt’s Emergency Response Plans.

¹ *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994).

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

Unless otherwise noted, Staff recommends the Commission order that Grain Belt must comply with the following conditions prior to acquiring involuntary easements or starting construction of the transmission line. Staff further recommends the conditions be subject to a demonstration to the Commission the outstanding studies do not raise any new issues, and if they do, that the Commission is satisfied with Grain Belt's solution to address those issues. Finally, Staff recommends the Commission condition the CCN such that if the design and engineering of the Project materially changes from what is presented in its Application, Grain Belt is required to file an updated application subject to further review and determination by the Commission.

Conditions related to Section II – requirements of Commission rule 4 CSR 240-3.105

It is Staff Counsel's position that the Commission cannot grant a CCN absent Grain Belt receiving all county consents. Staff notes the requirements of 4 CSR 240-3.105(1)(D) include other government approvals, that is approvals other than the county consents, and Grain Belt has made no filings to satisfy 4 CSR 240-3.105(1)(D)2 to date.

Staff Expert/Witness: Natelle Dietrich

Conditions related to Section III. c. – financial ability

That Grain Belt not construct any electric transmission facilities on easements in Missouri until after it has obtained commitments for funds in a total 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 its compliance with this condition, Grain Belt shall file the following documents with the Commission at such 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 funds for the total project cost;

b. An attestation certified 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 \$2.2 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 (a) are equal to or

greater than the total project cost provided in (c) 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).

Staff Expert/Witness: David Murray

Condition related to Section III.d. – economic feasibility

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

Staff Expert/Witness: Michael L. Stahlman

Conditions related to Section IV. b. – potential effect on nearby utility facilities

1. Grain Belt obtains detailed location information on each existing underground utility plant either crossed by or in close proximity to its proposed route, and that Grain Belt contact and coordinate with the owners of each prior to construction.

2. Grain Belt 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 performs 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 HVDC transmission line. Staff recommends the Commission also require that these studies 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, disclose how the parameters for conducting them were determined (e.g., continuous 24-hour recordings at a certain time of year), and 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, and (7) the effects of DC and AC interference on the facilities identified in Exhibit 3 as amended by Grain Belt's Addendum to Application (Item 99, file date 10/27/2016) and all additional facilities subsequently identified.

4. Grain Belt file annual status updates on discussions with Staff regarding the 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, telecommunications 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.

Staff Expert/Witness: Kathleen A. McNelis, PE

Conditions related to Section IV c. – Emergency Restoration Plans

Grain Belt provides a copy of the final Grain Belt Emergency Restoration Plan prior to the commercially operational date for the Grain Belt Project.

Staff Expert/Witness: Shawn E. Lange

Conditions related to Section IV. d. – Interconnection studies

1. Grain Belt provides the results of the forthcoming studies in SPP, MISO and PJM to the Commission. Should the studies raise new issues, Grain Belt will also provide its plan to address those issues.

2. Staff also recommends that the Commission order Grain Belt to 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 et al., and any other applicable Missouri State law for a project of this scope and size; prior to the commercially operational date of the Grain Belt Project.

Staff Expert/Witness: Shawn E. Lange

Conditions related to Section III. e. – public interest – landowner interactions

Construction and Clearing

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 Express 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. Unless otherwise directed by the landowner, stumps will be treated to prevent regrowth.
7. Unless the landowner does not want the area seeded, disturbed areas will be reseeded with a blend of K31 fescue, perennial rye, and wheat grasses, fertilized, and mulched with straw.
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 Express 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.

Maintenance and Repair

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.

4. 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.
5. Routine maintenance will not occur during wet conditions so as to prevent rutting.
6. Existing access roads will be used to access the right-of-way wherever available.
7. Prior to commencing any vegetation management on the right-of-way, Grain Belt will meet personally with all landowners to discuss Grain Belt's vegetation management program and plans for their property, and to determine if the landowner does or does not want herbicides used on their property. If the landowner does not want herbicides used, they will not be used.

Right-of-Way Acquisition

1. 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. They will be shown a specific, surveyed location for the easement and be given specific easement terms.
2. 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.
3. 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 and sell.
4. 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.

Easements

2. That 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 a particular property.

4. That 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.

6. That 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.

Grain Belt's Proposed Protocols

That Grain Belt's Missouri Landowner Protocol and the Missouri Agricultural Impact Mitigation Protocol be included as a Commission condition, except that Grain Belt's decommissioning fund proposal be modified so that contributions to the decommissioning fund begin when the Project begins commercial operation, not some later date that is at least 20 years after commercial operation begins.

Staff Expert/Witness: Daniel I. Beck, PE

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, except for the annual report filing requirement of rule 4 CSR 240-3.165. Grain Belt Express does not need relief from rule 4 CSR 240-3.165 since Grain Belt Express "agrees to file with the Commission the annual report that it files with FERC."

Respectfully Submitted,

/s/ Nathan Williams

Nathan Williams

Deputy Staff Counsel

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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 13th day of March 2017.

/s/ Nathan Williams