

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-2014-0207

**REPLY REGARDING PARTIES' RECOMMENDATIONS
FOR A PROCEDURE TO ADDRESS INFORMATION
FILED BY GRAIN BELT EXPRESS CLEAN LINE LLC**

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”) provides the following reply to the recommendations of Missouri Landowners Alliance (“MLA”), Commission Staff (“Staff”), Missouri Farm Bureau (“Farm Bureau”), Show Me Concerned Landowners (“Show Me”), and United for Missouri, Inc. (“UFM”), filed on April 21 and 22, 2015 in response to the Commission’s April 16, 2015 Order Directing Filing of Recommendations for Supplemental Procedural Schedule:

1. MLA, Farm Bureau, Show Me, and UFM misunderstand the Commission’s February 11, 2015 Order Directing Filing of Additional Information. In directing Grain Belt Express to file specific additional information, the Commission neither re-opened the record nor ordered the filing of information that requires procedures “applicable to the evidence filed in the initial phase” of this case. See MLA Response at 1. Instead, pursuant to 4 CSR 240-2.130(16), the Commission required the Company to produce further evidence upon specific issues. Accordingly, the Commission asked the parties for their recommendations regarding a procedure for admitting this additional information into the record.

2. The Commission’s rules clearly contemplate and permit the admission of post-hearing exhibits into the record which may be filed after submission of the record, as the

Commission recognized in its March 11, 2015 Order Denying Motions for Reconsideration. See 4 CSR 240-2.130(16)-(17). These rules do not contemplate a re-opening of the record and the initiation of a new set of contested case proceedings. Indeed, the rules specifically permit “the filing of specific evidence as part of the record within a fixed time after submission [of the record]” 4 CSR 240-2.130(16). Any objections to the admission of a post-hearing exhibit must be made within ten days of the date the exhibit is filed.¹ See 4 CSR 240-2.130(17).

3. The Commission routinely permits the filing of post-hearing exhibits. When it does so, the Commission’s usual practice is to set the date by which any objection to the admission of the exhibits must be filed (customarily within the ten days provided by Commission rule). See In re USCOC of Greater Missouri, LLC, Order Admitting Post-Hearing Exhibit Into Evidence, No. TO-2005-0384, 2007 WL 817632 (Jan. 30, 2007); In re Missouri Gas Energy, Order Admitting Post-Hearing Exhibits, No. GR-2004-0209, 2004 WL 1736792 (July 21, 2004). Occasionally, the Commission has set a procedural schedule allowing for objections or responses to the post-hearing exhibits, followed by responses to any objections, as well as for requests for further cross-examination on the post-hearing exhibits. See In re Sw. Bell Tel., L.P., Order Directing Filings and Setting Briefing Schedule, No. TO-2007-0053, 2007 WL 923331 (Mar. 15, 2007); In re Sw. Bell Tel. Co., Order Setting Briefing Schedule, Setting Time for Filing of Post-Hearing Exhibits, and Setting Time for Filing of Responses, No. TO-2001-467, 2001 WL 1916595 (Oct. 4, 2001). In each of these cases, all post-hearing exhibits were submitted and admitted after the hearing. Neither their proffer nor their admission initiated any new proceedings beyond the opportunity to comment that the Commission has provided here.

¹ This ten-day deadline has come and gone with no party objecting to the Company’s Supplemental Exhibits attached to its April 13, 2015 Response to Order Directing Filing of Additional Information. See In re Union Elec. Co., Order Admitting Late-Filed Exhibit and Denying Public Counsel’s Motion to Strike Testimony, Case No. ER-2007-0002, 2007 WL 1259751 (Apr. 16, 2007).

4. Because the filing of post-hearing exhibits does not start contested proceedings anew, comments on post-hearing exhibits may be filed after post-hearing briefing has concluded. See In re Sw. Bell Tel., L.P., Report and Order, No. TO-2006-0102, 2005 WL 2952584 (Oct. 25, 2005); In re Lathrop Tel. Co., Report and Order, No. TO-2004-0457, 2004 WL 1950580 (Aug. 26, 2004).

5. Nevertheless, the Company believes that all parties should have the opportunity to provide briefing relevant to the Response and Supplemental Exhibits. Accordingly, and giving due consideration to the considerable length of these proceedings thus far, the Company has recommended that any responses to the Company's Response and Supplemental Exhibits (now due on May 13) include any additional briefing by those parties submitting responses. This would be followed by replies due on May 22, 2015. The Company has also offered to produce within 45 days witnesses knowledgeable about the Response and Supplemental Exhibits to afford the Commission and other parties the opportunity to ask questions.

6. Farm Bureau and Show Me criticize the Company for not providing in its Response certain information requested by the Commission. UFM characterizes the Response and Supplemental Exhibits as merely cumulative of evidence previously entered into the record. Grain Belt Express acknowledges that certain of the information requested is already in evidence. Appendix A to the Company's Response indicates where previously admitted schedules or exhibits are located in the record. Certain other requested information will not be available until later in the development of the Project and after the receipt of key regulatory approvals. This is not cause for dismissal or abeyance, as these parties suggest, however.

7. For example, regional transmission organizations have a defined interconnection process and do not execute interconnection agreements with customers until study results are

finalized. As another example, several county commissions from which Section 229.100 approval is required appear to believe that the Company must first obtain a certificate of convenience and necessity (“CCN”) before those county commissions can give their assent under that statute. Because such timing issues routinely arise in the Commission’s consideration of a CCN application, it has explicit authority to order that any CCN be subject to certain conditions. See Section 393.170.3. Indeed, the Company has already agreed to a number of such conditions.

8. The Company’s procedural schedule recommendations offer more than the Commission’s usual procedure of setting a date by which objections to post-hearing exhibits are to be submitted. Adopting those recommendations will ensure that the Commission has all the necessary facts and arguments before it to evaluate the Company’s Response and Supplemental Exhibits. Re-opening the record, requiring supplemental testimony, and allowing for discovery are entirely unnecessary with regard to the post-hearing Supplemental Exhibits and will cause unwarranted delay in this case. Even where the Commission has re-opened the record prior to the submission of a case, due process was satisfied by conducting a short hearing followed by oral argument. In re Great Plains Energy, Inc., Report & Order at 31-32, No. EM-2007-0374 (July 1, 2008) (testimony and oral argument heard regarding Iatan crane accident in Aquila acquisition case).

9. The Commission should consider the recommendations it has received from the parties and set a supplemental procedural schedule regarding the additional information submitted by the Company. An on-the-record procedural conference is not necessary and should not be convened.

WHEREFORE, Grain Belt Express Clean Line LLC provides this reply to the recommendations of MLA, Staff, Farm Bureau, Show Me, and UFM, and respectfully requests that its recommendations in response to the Commission's Order Directing Filing of Recommendations for Supplemental Procedural Schedule of April 16, 2015 be adopted.

/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 24th day of April 2015.

/s/ Karl Zobrist

Attorney for Grain Belt Express Clean Line LLC