

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Missouri Landowners Alliance, Eastern)
Missouri Landowners Alliance d/b/a Show)
Me Concerned Landowners, and John G.)
Hobbs,)
)
Complainants,)
)
v.)
)
Grain Belt Express, LLC, and Invenergy)
Transmission, LLC,)
)
Respondents.)

File No. EC-2021-0059

CERTIFIED MAIL

**ORDER PARTIALLY GRANTING
MOTION TO SUSPEND DEADLINES AND
ESTABLISH BRIEFING SCHEDULE**

Issue Date: October 5, 2020

Effective Date: October 5, 2020

On September 2, 2020,¹ Missouri Landowners Alliance, Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners, and John G. Hobbs (Complainants) filed a complaint with the Missouri Public Service Commission against Grain Belt Express, LLC, and Invenergy Transmission, LLC (Grain Belt). On September 3, the Commission issued its Notice of Formal Complaint and Order Directing Staff to File a Preliminary Report. On September 29, the parties filed a Joint Motion to Suspend Deadlines and Establish briefing Schedule. Therein they proposed the Commission would dispose of all issues in this case with a ruling on whether a press

¹ All date references will be to 2020 unless otherwise indicated.

release Grain Belt issued on August 25, a letter Grain Belt mailed to Missouri landowners on September 24 and 25, and a sample landowner letter Grain Belt posted on its website² (collectively, the publications) constitute “contemplated changes to the Project [that] invalidate the CCN granted to Grain Belt in the CCN case.”

The Complaint in this case stated:

In a press release issued on August 25, 2020, Respondents announced plans for changes to the project which will clearly make it make it “materially different” from the one approved by the Commission in the CCN case.”

The Complaint alleges, further, that Grain Belt has not sought Commission permission to make changes to the project as approved in the CCN case and states as follows:

Inasmuch as Respondents have publically announced that they no longer plan to build the project for which the CCN was granted, at this point Grain Belt does not have a valid CCN to build anything in Missouri.

In determining whether a petition states a claim, the allegations of the petition are accepted as true, and the plaintiffs are granted all reasonable inferences based upon those allegations.³ The mere conclusions of the pleader, however, are not admitted.⁴ Nor are the factual allegations weighed to determine their credibility or persuasiveness.⁵ The question is whether the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in the case.⁶

Assuming as true that Grain Belt has published a plan for a project its current CCN does not authorize, the question is whether that publication entitles complainants to their

² This letter contained the following statement: “Grain Belt Express will be seeking regulatory approval for this plan, which would also allow for project construction to proceed prior to approval in Illinois. In the meantime, as the proposed changes do not affect the approved route, project development activities are proceeding based on existing regulatory approvals.”

³ *Van Kirk v. Burns & McDonnell Engineering Company, Inc.* 484 S.W.3d 840, 844 (Mo. App. W.D. 2016).

⁴ *Ray v. Dunn*, 753 S.W.2d 652, 654 (Mo. App. S.D. 1988)

⁵ *Bromwell v. Nixon*, 361 S.W.3d 393, 398 (Mo. banc 2012).

⁶ *Bromwell v. Nixon*, 361 S.W.3d 393, 398 (Mo. banc 2012).

requested relief, i.e., an order invalidating Grain Belt's CCN. The Commission will partially grant the parties' Joint Motion to Suspend Deadlines and Establish Briefing Schedule. The Commission will adopt the proposed briefing schedule except that the parties' briefing shall be limited to whether Grain Belt's Complaint states a cause of action.

THE COMMISSION ORDERS THAT:

1. The Respondent's duty to file an Answer or Response to the Complaint is suspended until further order.
2. The Commission Staff's duty to file a preliminary report is suspended until further order.
3. The parties shall file simultaneous Initial Briefs regarding the legal issue on or before October 23, 2020, and file simultaneous Reply Briefs on or before October 30, 2020.
4. The parties' briefs shall be limited solely to whether a Complaint that Grain Belt published a plan not authorized by its current CCN states a cause of action for the invalidation of its CCN.
5. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory Law Judge,
by delegation of authority under
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 5th day of October, 2020.