

In the Matter of:

MISSOURI LANDOWNERS ALLIANCE, et al.

v.

GRAIN BELT EXPRESS, et al.

EC-2020-0408, VOL. I

September 14, 2020



www.tigercr.com 573.999.2662

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

September 14, 2020

Jefferson City, Missouri

Volume 1

In The Matter Of Missouri Landowners)
Alliance and Gary Mareschal,)
Complainants,) File No. EC-2020-0408
v.)
Grain Belt Express Clean Line, LLC,)
Invenergy Transmission, LLC, Invenergy)
Investment Company,)
Respondents.)

PAUL GRAHAM, Presiding
REGULATORY LAW JUDGE.
(Appearing via telephone.)

REPORTED BY:
Lisa M. Banks, CCR
TIGER COURT REPORTING, LLC

A P P E A R A N C E S

PAUL AGATHEN, Attorney at Law (appearing via telephone)
485 Oak Field Court
Washington, Missouri 63090
636.980.6403

FOR: Missouri Landowners Alliance and Gary Mareschal

ANNE E. CALLENBACH, Attorney at Law (appearing via telephone)
Polsinelli
900 West 48th Street
Kansas City, Missouri 64112
816.753.1000

FOR: Grain Belt Express Clean Line, LLC
Invenergy Transmission, LLC
Invenergy Investment Company, LLC

TRAVIS PRINGLE, Legal Counsel (via telephone and WebEx)
Governor Office Building
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102-0360
573.751.1854

FOR: Staff Of Missouri Public Service Commission

P R O C E E D I N G S

JUDGE GRAHAM: This is Judge Graham speaking. It looks -- let the record reflect we are now on the record. It's -- today's date is September 14th, 2020. We are conducting this by WebEx on account of the ongoing pandemic. The Commission has set this time for procedural conference in the case captioned Missouri Landowner Alliance and Gary Mareschal versus Grain Belt Express, LLC and Invenergy Transmission, LLC, and Invenergy Investment Company. That is case number -- or File Number EC-2020-0408. My name is Paul Graham. I'm the regulatory law judge in this matter.

We will begin by the attorneys make their entries of appearance. Why don't we proceed with the petitioners or the complainants' attorney. Mr. Agathen, do you want to make your appearance?

MR. AGATHEN: Thank you, Judge. This is Paul Agathen from Washington, Missouri representing the two complainants in this case, the Missouri Landowners Alliance and Gary Mareschal.

JUDGE GRAHAM: All right. And Ms. Callenbach, do want to make your appearance and identify your client?

MS. CALLENBACH: Yes, Judge. This is Anne Callenbach of the law firm Polsinelli, PC, representing Grain Belt Express, Invenergy Transmission, and Invenergy Investment Company.

1 JUDGE GRAHAM: All right. Thank you and
2 Mr. Pringle, do you want to identify yourself and enter your
3 appearance?

4 MR. PRINGLE: Thank you, Judge. This is Travis
5 Pringle from the staff counsel department. My business address
6 is 200 Madison Street, PO Box 360, Jefferson City, Missouri
7 65102. I'm also joined the staff manager Shawn Lange.

8 JUDGE GRAHAM: All right. Thank you very much.
9 I believe that is everyone that is going to have their
10 appearance in this case. This case is set for a procedural
11 conference today. In reviewing the file and just noticing
12 things that have been coming true in the last few days, I do see
13 there has been a motion for summary determination that has been
14 filed. I'll let you folks discuss that, but certainly it
15 strikes me that that procedural wrinkle at this point in the
16 case is going to affect what the procedural schedule looks like.
17 Is there anything at all that I need to address at this point or
18 anything that you are planning on talking to me about before I
19 turn this over to you folks?

20 MR. AGATHEN: Judge, not unless you want to
21 revisit or dispute over discovery. As you recall, ten days or
22 so ago we discussed a data request that the complainants
23 submitted to respondents essentially asking if the land agents
24 were incentivized by commissions or other means to sign
25 easements as quickly and as a large of number as possible. The

1 idea being that that would provide incentive for them to kind of
2 push the envelope and try to sign up as many easements as they
3 possibly could. Obviously, monetary considerations are always a
4 motivator. The respondents objected to that and that is kind of
5 where it sits now. I was hoping, if you don't want to revisit
6 this I understand, that you might give us an indication of how
7 you would rule on that. Ultimately, you're going to be the one
8 that decides whether or not they have to provide the documents
9 or the information we are asking for about incentives for the
10 land agents to sign as many as quickly as possible.

11 JUDGE GRAHAM: Yes, Mr. Agathen. For the court
12 reporter, that's Mr. Agathen speaking. I recall the conference
13 and the conversation. That whole thing needs to be folded into
14 the procedural schedule I think. I can understand your concerns
15 particularly in light of the fact that there has now been filed
16 a motion for summary judgment determination, which one way or
17 the other, I guess, could be implicated by -- or could implicate
18 the substance of your data request and so forth.

19 But it's going to be my view on this that
20 discovery and discovery disputes that arise in the course of
21 discovery, should be part and parcel with the procedural
22 scheduling order. And I'm going to leave it to you all to
23 discuss that and work that out. So are there anything --

24 MR. AGATHEN: Paul Agathen, I understand, Judge.

25 JUDGE GRAHAM: Okay. Anything else before I

1 turn it over to you folks? Okay. I'm going to sign off and let
2 you go -- well, does anyone (phone cut out) at this point?
3 Ordinarily, I would -- or in many cases I would leave it to
4 Staff to be the lead on getting the procedural schedule filed.
5 This case is maybe not quite of that -- when can I anticipate
6 seeing a proposed procedural scheduling order?

7 MR. PRINGLE: This is Travis Pringle from Staff.
8 Typically, usually we do it within a week of this conference,
9 but again, this is not the typical complaint case, so I guess
10 the usual method is a week.

11 JUDGE GRAHAM: Well, I'm not going to issue an
12 order on that. I'll look for one in about seven to ten days; is
13 it fair? Hearing nothing, I'm going to leave at this point.
14 All right?

15 MR. AGATHEN: Good talking to you Judge, Paul
16 Agathen.

17 MS. CALLENBACH: Thank you, Judge.

18 MR. POSTON: Thank you, Judge.

19 JUDGE GRAHAM: All right. Bye bye.

20 (OFF THE RECORD.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Lisa M. Banks, CCR No. 1081

1	B	court 5:11 cut 6:2	fair 6:13 file 3:10 4:11 filed 4:14 5:15 6:4 financially 7:12 firm 3:23 folded 5:13 folks 4:14,19 6:1 foregoing 7:5
1081 7:17 14th 3:4	Banks 7:3,17 begin 3:12 Belt 3:8,24 Box 4:6 business 4:5 bye 6:19	D	
2	C	data 4:22 5:18 date 3:4 days 4:12,21 6:12 decides 5:8 department 4:5 deposition 7:5,10 determination 4:13 5:16 direction 7:8 discovery 4:21 5:20, 21 discuss 4:14 5:23 discussed 4:22 dispute 4:21 disputes 5:20 documents 5:8 duly 7:5	G Gary 3:7,19 give 5:6 Good 6:15 Graham 3:2,10,20 4:1,8 5:11,25 6:11,19 Grain 3:8,23 guess 5:17 6:9
200 4:6 2020 3:4		E	H
3			Hearing 6:13 hoping 5:5
360 4:6	Callenbach 3:20,22, 23 6:17 captioned 3:7 case 3:7,9,18 4:10,16 6:5,9 cases 6:3 CCR 7:3,17 CERTIFICATE 7:1 certify 7:4 City 4:6 client 3:21 Commission 3:6 commissions 4:24 Company 3:9,25 complainants 3:18 4:22 complainants' 3:14 complaint 6:9 concerns 5:14 conducting 3:4 conference 3:6 4:11 5:12 6:8 considerations 5:3 conversation 5:13 counsel 4:5 7:8,11		I
6			idea 5:1 identify 3:21 4:2 implicate 5:17 implicated 5:17 incentive 5:1 incentives 5:9 incentivized 4:24 indication 5:6 information 5:9 interested 7:12 Invenergy 3:8,9,24
65102 4:7		F	
A		fact 5:15	
ability 7:7 account 3:5 action 7:9,13 address 4:5,17 affect 4:16 Agathen 3:14,16,17 4:20 5:11,12,24 6:15, 16 agents 4:23 5:10 Alliance 3:7,18 Anne 3:22 anticipate 6:5 appearance 3:13,15, 21 4:3,10 appears 7:5 arise 5:20 attorney 3:14 7:11 attorneys 3:12			

Investment 3:9,24 issue 6:11 <hr/> <p style="text-align: center;">J</p> <hr/> Jefferson 4:6 joined 4:7 judge 3:2,11,16,20,22 4:1,4,8,20 5:11,24,25 6:11,15,17,18,19 judgment 5:16 <hr/> <p style="text-align: center;">K</p> <hr/> kind 5:1,4 <hr/> <p style="text-align: center;">L</p> <hr/> land 4:23 5:10 Landowner 3:7 Landowners 3:18 Lange 4:7 large 4:25 law 3:11,23 lead 6:4 leave 5:22 6:3,13 light 5:15 Lisa 7:3,17 LLC 3:8 <hr/> <p style="text-align: center;">M</p> <hr/> Madison 4:6 make 3:12,15,21 manager 4:7 Mareschal 3:7,19 matter 3:11 means 4:24	method 6:10 Missouri 3:7,17,18 4:6 7:4 monetary 5:3 motion 4:13 5:16 motivator 5:4 <hr/> <p style="text-align: center;">N</p> <hr/> noticing 4:11 number 3:9,10 4:25 <hr/> <p style="text-align: center;">O</p> <hr/> objected 5:4 ongoing 3:5 order 5:22 6:6,12 Ordinarily 6:3 outcome 7:12 <hr/> <p style="text-align: center;">P</p> <hr/> pandemic 3:5 parcel 5:21 part 5:21 parties 7:9,11 Paul 3:10,16 5:24 6:15 PC 3:23 petitioners 3:14 phone 6:2 planning 4:18 PO 4:6 point 4:15,17 6:2,13 Polsinelli 3:23 possibly 5:3 POSTON 6:18 Pringle 4:2,4,5 6:7	procedural 3:6 4:10, 15,16 5:14,21 6:4,6 proceed 3:13 proposed 6:6 provide 5:1,8 push 5:2 <hr/> <p style="text-align: center;">Q</p> <hr/> quickly 4:25 5:10 <hr/> <p style="text-align: center;">R</p> <hr/> recall 4:21 5:12 record 3:3 6:20 reduced 7:7 reflect 3:3 regulatory 3:11 related 7:8 relative 7:10 reporter 5:12 7:1 representing 3:17,23 request 4:22 5:18 respondents 4:23 5:4 reviewing 4:11 revisit 4:21 5:5 rule 5:7 <hr/> <p style="text-align: center;">S</p> <hr/> schedule 4:16 5:14 6:4 scheduling 5:22 6:6 September 3:4 set 3:6 4:10 Shawn 4:7 sign 4:24 5:2,10 6:1	sits 5:5 speaking 3:2 5:12 staff 4:5,7 6:4,7 State 7:3 Street 4:6 strikes 4:15 submitted 4:23 substance 5:18 summary 4:13 5:16 sworn 7:5 <hr/> <p style="text-align: center;">T</p> <hr/> talking 4:18 6:15 ten 4:21 6:12 testimony 7:4,6 thereto 7:12 thing 5:13 things 4:12 time 3:6 today 4:11 today's 3:4 Transmission 3:8,24 Travis 4:4 6:7 true 4:12 turn 4:19 6:1 typewriting 7:7 typical 6:9 Typically 6:8 <hr/> <p style="text-align: center;">U</p> <hr/> Ultimately 5:7 understand 5:6,14, 24 usual 6:10
--	--	--	---

V

versus 3:8

view 5:19

W

Washington 3:17

Webex 3:5

week 6:8,10

work 5:23

wrinkle 4:15