

Exhibit No. 8

Issue: Submission of Documents
Witness: Julia Kissler
Type of Exhibit: Rebuttal
Sponsoring Party: Show Me Concerned
Landowners; Joseph and Rose Kroner
Case No.: EM-2019-0150
Date Testimony Prepared: March, 2019

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EM-2019-0150

REBUTTAL TESTIMONY OF

JULIA KISSER

March 27, 2019

Exhibit No. 8
Date 4-23-19 Reporter TW
File No. EM-2019-0150

1 Q. Please state your name.

2 A. Julia Kissler.

3 Q. Where do you reside?

4 A. In Caldwell County, Missouri.

5 Q. On whose behalf are you testifying?

6 A. On behalf of Show Me Concerned Landowners, and Joseph and Rose Kroner.

7 Q. Have you testified before at the Missouri Public Service Commission?

8 A. Yes, in case number EA-2016-0358 I submitted supplemental surrebuttal testimony,

9 basically to present certain documentary evidence as Schedules to that testimony.

10 Q. What is the purpose of this testimony?

11 A. At the request of our attorney, Paul Agathen, I am again submitting certain documents

12 as Schedules to this testimony.

13 Q. Please describe what is included as your Schedule JK-1.

14 A. That Schedule is a copy of the cover page and pages 16 and 17 of the Direct

15 Testimony of Dr. Galli, filed on behalf of Grain Belt Express in Case No. EA-2014-0207,

16 which was marked as Exhibit No. 111.

17 Q. What is the source of that document?

18 A. I copied the document from the Commission's EFIS system, document number 346 in

19 that case.

20 Q. Please describe what is included as your Schedule JK-2.

21 A. That Schedule is a copy of the cover page and page 35 of the Direct Testimony of Dr.

22 Galli in Case No. EA-2016-0358.

23 Q. What is the source of that document?

1 A. I copied the document from the Commission's EFIS system, document number 37.

2 Q. Please describe what is included as your Schedule JK-3.

3 A. That Schedule consists of the cover page and page 24 of the direct testimony of Mr.

4 Michael Skelly in Commission Case EA-2016-0358.

5 Q. What is the source of that document?

6 A. I copied the document from the Commission's EFIS system, document number 35.

7 Q. Please describe what is included as your Schedule JK-4.

8 A. That Schedule consists of the cover page and pages 8, 18, and 29 of Grain Belt's

9 Application in Commission Case EA-2016-0358.

10 Q. What is the source of that document?

11 A. I copied the document from the Commission's EFIS system, document number 34.

12 Q. Please describe what is included as your Schedule JK-5.

13 A. That Schedule consists of the cover page and page 8 of the Supplemental Direct

14 Testimony of Mr. Kris Zadlo in Commission Case EA-2016-0358.

15 Q. What is the source of that document?

16 A. I copied the document from the Commission's EFIS system, document number 714.

17 Q. Please describe what is included as your Schedule JK-6.

18 A. That Schedule consists of the cover page and pages 2115 and 2156 of transcript

19 volume 24, which includes a portion of the cross examination of MJMEUC witness Mr.

20 John Grotzinger in Commission Case EA-2016-0358.

21 Q. What is the source of that document?

22 A. I copied the document from the Commission's EFIS system, document number 709.

23 Q. Please describe what is included as your Schedule JK-7.

1 A. That Schedule consists of the cover page and pages 204 and 363 of transcript volume
2 10, which includes one page of the cross examination of Grain Belt witness Mr. Michael
3 Skelly in Commission Case EA-2016-0358.

4 Q. What is the source of that document?

5 A. I copied the document from the Commission's EFIS system, document number 358.

6 Q. Please describe what is included as your Schedule JK-8.

7 A. That Schedule consists of the cover page of transcript Vol. 22 in Case No. EA-2016-
8 0358, along with pages 1913-1922, and page 2078.

9 Q. What is the source of that material?

10 A. I copied it from the Commission's EFIS system, document number 707.

11 Q. Does this complete your testimony?

12 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express)
Clean Line LLC for Approval of its Acquisition by) No. EM-2019-0150
Invenergy Transmission LLC)

Affidavit of Julia Kissar


STATE OF MISSOURI)
 Clay) SS
COUNTY OF JACKSON)

Julia Kissar, being duly sworn on oath states:

1. My name is Julia Kissar.
2. Attached hereto and made a part hereof for all purposes is my testimony submitted to the Missouri Public Service Commission.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein asked are true and accurate to the best of my knowledge, information and belief.


Julia Kissar

Subscribed and sworn to before me this 18th of March, 2019.


Notary Public

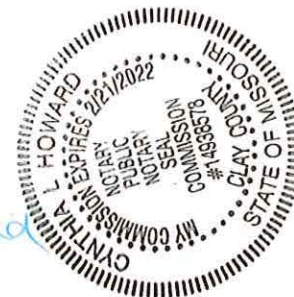


Exhibit No. 111

Issues: HVDC Technology & Construction;
RTOs & Interconnection; Electric & Magnetic Fields

Witness: Anthony Wayne Galli

Type: Direct Testimony

Sponsoring Party: Grain Belt Express

Clean Line LLC

Case No.: EA-2014-0207

Date: March 26, 2014

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EA-2014-0207

DIRECT TESTIMONY OF

DR. ANTHONY WAYNE GALLI, P.E.

ON BEHALF OF

GRAIN BELT EXPRESS CLEAN LINE LLC

March 26, 2014

GBE Exhibit No. 111
Date 11-12-14 Reporter KF
File No. EA-2014-0207

1 D. PJM

2 Q. **What interaction has Clean Line had with PJM regarding the Grain Belt Express**
3 **Project?**

4 A. In August 2011, Grain Belt Express submitted an interconnection request in PJM's
5 merchant transmission queue and subsequently was assigned queue position X3-028. In
6 January 2013, PJM completed a Feasibility Study⁶ and subsequently initiated a System
7 Impact Study in February 2013.

8 **IV. FUNCTIONAL CONTROL**

9 Q. **What does a transfer of Functional Control entail?**

10 A. The requirement to transfer Functional Control is to ensure that a transmission asset
11 owner, Grain Belt Express in this case, cannot exercise undue discrimination in fulfilling
12 its FERC Open Access Transmission Tariff commitments. FERC also ensures that undue
13 discrimination cannot occur during the open season by requiring Grain Belt Express to
14 file open season reports with FERC, which provide the terms of the open season; notice
15 of open season; bid evaluation methodology; identity of parties purchasing capacity; and
16 the amount, term, and price of the capacity.

17 Q. **Will Grain Belt Express turn over Functional Control of the Project to a RTO or**
18 **RTO-like entity?**

19 A. Yes. Grain Belt Express could turn over Functional Control of the Grain Belt Express
20 Project to SPP, MISO, or PJM.

⁶ The PJM feasibility study can be viewed at the following location:
http://www.grainbeltexpresscleanline.com/site/page/technical_studies.

1 **Q. Has the Grain Belt Express determined which specific RTO or RTO-like entity will**
2 **have functional control of the Project?**

3 A. Yes. Grain Belt Express has made a decision to hand functional control of the Project to
4 PJM. While all three of the RTOs that this Project will be interconnecting to are fully
5 capable of taking over functional control of the Project, for operational and practical
6 purposes, it was determined that PJM would be best positioned to have functional control
7 since the majority of the energy transferred on the Project will be delivered to the PJM
8 market. However, significant coordination will occur between Grain Belt Express, PJM,
9 MISO, and SPP.

10 **V. CONSTRUCTION ACTIVITIES**

11 **Q. What is the expected construction timeline of the Grain Belt Express Project?**

12 A. I expect that construction could begin as early as 2016 and could take two to three years
13 to complete. Lead times for delivery of HVDC converter stations are typically on the
14 order of 36 months at the present time. The transmission line construction would need to
15 be completed approximately six months prior to operation so that the converter stations
16 can be fully tested. Construction could begin in several different areas of the Project
17 simultaneously depending on labor availability and environmental conditions. The
18 Project is expected to achieve commercial operation as early as 2018.

19 **Q. Has Grain Belt Express secured the services of a third party firm to assist with the**
20 **design and construction of the Project?**

21 A. Yes. Grain Belt Express has secured the services of POWER Engineers, Inc.
22 ("POWER") to serve the role of consulting engineer. POWER is an experienced
23 engineering consulting firm founded in 1976 that has been providing advice and
24 assistance in both the design and constructability analysis of the Project. Focusing

Exhibit No . _____
Issues: HVDC Technology & Construction;
RTOs & Interconnection; GPS
Witness: Anthony Wayne Galli
Type: Direct Testimony
Sponsoring Party: Grain Belt Express
Clean Line LLC
Case No.: EA-2016-0358
Date Testimony Prepared: August 30, 2016

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EA-2016-0358

DIRECT TESTIMONY OF
DR. ANTHONY WAYNE GALLI, P.E.
ON BEHALF OF
GRAIN BELT EXPRESS CLEAN LINE LLC

August 30, 2016

1 customers that do not have rights to utilize any given portion of the Grain Belt Express
2 Project facilities are easily identified. This concept also describes how energy imbalance
3 is properly accounted for should any given customer of the Grain Belt Express Project
4 become unable to properly follow dispatch instructions from MISO or PJM.

5 **Q. How is the power from customers of the Grain Belt Express Project that is intended**
6 **for delivery to MISO or PJM disallowed from inadvertently being injected into the**
7 **SPP transmission system?**

8 A. A power flow controller is integrated into the Project design concept to ensure that only
9 energy transactions that are scheduled between SPP and the Grain Belt Express Project are
10 allowed to flow. Otherwise the power flow controller will provide a feedback signal to the
11 HVDC power order set-point to ensure that interchange between the Grain Belt Express
12 Project and SPP is nominally zero MW.

13 **VI. CONSTRUCTION ACTIVITIES**

14 **Q. What is the expected construction timeline of the Grain Belt Express Project?**

15 A. Construction activities can begin as early as 2018 and will take around three years to
16 complete. At the present time, lead times for delivery of HVDC converter stations are on
17 the order of 36 months. The transmission line construction would need to be completed
18 approximately four months prior to operation so that the converter stations can be fully
19 tested. Construction would begin in several different areas of the Project simultaneously.
20 The Project is expected to achieve commercial operation as early as 2021.

21 **Q. Has Grain Belt Express secured the services of a third party firm to assist with the**
22 **design and construction of the Project?**

23 A. Yes. POWER is providing transmission line engineering support for the Grain Belt
24 Express Project. POWER provides engineering/design, construction, asset management,

Exhibit No. _____
Issues: Project Overview
Witness: Michael P. Skelly
Type: Direct Testimony
Sponsoring Party: Grain Belt Express Clean Line LLC
Case No.: EA-2016-0358
Date Testimony Prepared: August 30, 2016

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EA-2016-0358

DIRECT TESTIMONY OF

MICHAEL P. SKELLY

ON BEHALF OF

GRAIN BELT EXPRESS CLEAN LINE LLC

August 30, 2016

1 utilities, competitive retail energy suppliers, including certified alternative retail electricity
2 suppliers, and brokers and marketers. As Company witness David Berry explains in his
3 testimony, customers will be able to obtain transmission service on the Grain Belt Express
4 Project through several avenues, including an open solicitation process conducted in
5 accordance with Grain Belt Express' grant of negotiated rate authority from FERC⁷ and
6 FERC's Policy Statement on Allocation of Capacity on New Merchant Transmission
7 Projects and New Cost-Based, Participant-Funded Transmission Projects.⁸

8 **Q. How will the services of Grain Belt Express be priced?**

9 A. Because Grain Belt Express will be engaged in the provision of interstate transmission
10 services, its rates will be subject to FERC's jurisdiction. On May 8, 2014, FERC
11 authorized Grain Belt Express to sell transmission capacity to potential customers of the
12 Project, including utilities and other load serving entities or clean energy generators. In
13 addition, Clean Line was granted authorization to negotiate bilateral agreements for 100%
14 of the line's capacity.⁹

15 **Q. Will the Company be rate-regulated by the Missouri Commission?**

16 A. No. Neither the Project nor its Missouri Facilities will provide service to end-use
17 customers or provide retail service in Missouri, and the Project will not be rate-regulated
18 by the Commission. Accordingly, Grain Belt Express requests that the Commission limit
19 its authority over the Company and grant waivers from certain reporting requirements
20 under the Commission's regulations, as set forth in the Application.

⁷ *Grain Belt Express Clean Line LLC*, 147 FERC ¶ 61,098 (2014).

⁸ 142 FERC ¶ 61,038 (2013)

⁹ *Grain Belt Express Clean Line LLC*, 147 FERC ¶ 61,098 (2014).

**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

**APPLICATION OF GRAIN BELT EXPRESS CLEAN LINE LLC
FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY**

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”), pursuant to Section 393.170.1,¹ 4 CSR 240-2.060 and 4 CSR 240-3.105(1)(B), submits this Application to the Missouri Public Service Commission (“Commission”) for a certificate of convenience and necessity (“CCN”) authorizing it to construct, own, operate, control, manage, and maintain electric transmission facilities within Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri, as well as an associated converter station in Ralls County, and waiving certain reporting requirements of 4 CSR 240-3.145, 3.165, 3.175 and 3.190.

In support of this Application, Grain Belt Express states as follows:

I. Overview and New Facts

1. Grain Belt Express requests that the Commission grant a line CCN authorizing the Company to construct, own, operate, control, manage, and maintain in Missouri:

¹ All statutory references are to the Missouri Revised Statutes (2000), as amended, unless otherwise noted.

the Project to be located in Missouri. Grain Belt Express will pay for the costs of the development, construction and operation of the Project, and will recover these costs by selling transmission service to wind generators and load-serving entities that use the line. Because Grain Belt Express will employ a participant-funded or “shipper pays” model, the cost to construct the Project will not be borne by load-serving entities or their ratepayers through the cost allocation processes of SPP, MISO or PJM. As a result, Missouri ratepayers will bear no risks related to the construction of the Project.

16. The Federal Energy Regulatory Commission (“FERC”) has granted negotiated rate authority to Grain Belt Express to charge transmission service rates to direct users of the Project.⁷ FERC oversees the Company’s on-going process for allocating transmission capacity in a non-discriminatory manner. When completed, the Project will provide wholesale electric transmission service, which will not be subject to rate base, rate-of-return regulation by any state utility commission.

17. The Grain Belt Express Project will extend approximately 370 miles from near Dodge City, Kansas to the Kansas-Missouri border, where it will cross the Missouri River and continue approximately 206 miles through Missouri. It will then proceed approximately 200 miles in Illinois, and will finally interconnect with the Sullivan 765 kV substation in southwestern Indiana, near the Illinois/Indiana border.

18. The Project will have three converter stations. One converter station will be located in western Kansas, where new wind generating facilities will connect to the Project via AC lines. The two other converter stations in eastern Missouri and eastern Illinois, respectively,

⁷ Grain Belt Express Clean Line LLC, Order Conditionally Authorizing Proposal and Granting Waivers, 147 FERC ¶ 61,098, No. ER14-409-000 (May 8, 2014).

manufacturing plants in Missouri. When completed, the Project's Missouri Facilities will provide an additional source of new property tax revenues to the political subdivisions where the facilities are located. The estimated increase in annual property taxes for the eight counties that the Project will cross exceeds \$7.2 million. These additional taxes will benefit school districts, fire districts, public libraries, and health and ambulance services.

46. Business Model. The Company was established to become an efficient, low-cost transmission supplier of renewable energy that provides a valuable public service to its customers at a price set by the free market. Grain Belt Express will not rely on the regulated monopoly business model that has characterized public utility regulation for the past hundred years. This is in contrast to the majority of the companies regulated by this Commission that were organized as private corporations to provide a public service under a legal system that granted them quasi-monopoly status coupled with an obligation to serve captive retail customers.

47. Grain Belt Express is based on an entirely different business model. It is a participant-funded, "shipper pays" transmission line whose services will be provided to the wholesale energy market at freely negotiated rates. Its costs will not be recovered through an RTO cost allocation process overseen by FERC.¹⁵ All of the benefits of the Project's service will be made available to the public without broadly charging transmission costs to load-serving entities or their customers. Only the users of the HVDC Line will pay for the costs of the Project. If the Project is not built, no ratepayer will bear any of its costs.

48. Reliability. The Missouri Facilities include a converter station to interconnect with Ameren's Maywood-Montgomery 345 kV transmission line. This interconnection will

¹⁵ FERC has stated: "Commission precedent distinguishes merchant transmission projects from traditional public utilities in that developers of merchant projects *assume all of the market risk of the project and have no captive customers* from which to recover the cost of the project." Grain Belt Express Clean Line LLC, 147 FERC ¶ 61,098, n.1 (2014) (citations omitted) (emphasis added).

72. The Illinois Commerce Commission noted that “there are considerable economic benefits associated with bringing Kansas wind power to market and that there are no viable alternatives to the Project as the means to accomplish that task in a less expensive manner.”²¹ It concluded “that the Project will be needful and useful to the public as it will provide an opportunity for the delivery of more renewable energy into Illinois”²²

73. Construction of the Project is scheduled to begin as early as 2018 with completion expected to occur by 2021.

VI. Filing Requirements

74. Pursuant to 4 CSR 240-3.105(1)(B)1, **Exhibit 3** to this Application is a list of all presently identifiable electric and telephone lines of regulated and non-regulated utilities, railroad tracks and underground facilities,²³ which Grain Belt Express has determined the proposed Missouri HVDC Line will cross. The Company will supplement this exhibit with any additional facilities as they become known to it.

75. All 4 CSR 240-3.105(1)(D) governmental approvals required for the construction and operation of the Project in Missouri will be provided. If they are unavailable when this Application is filed, the Company will furnish such approvals once they have been acquired per 4 CSR 240-3.105(2).

VII. Request for Additional Waivers/Variances, Availability of Records, and Timely Disposition

76. The Missouri Facilities will not provide retail service to end-use customers and will not be rate-regulated by the Commission. Accordingly, Grain Belt Express requests the Commission to waive the rate schedule filing requirement of 4 CSR 240-3.145 and the annual

²¹ Id.

²² Id.

²³ Underground facilities are defined in Section 319.015.

Exhibit No. 145
Issues: Project Overview; Operational Qualifications; Construction
Witness: Kris Zadlo
Type: Supplemental Direct Testimony
Sponsoring Party: Grain Belt Express Clean Line LLC
Case No. EA-2016-0358
Date Testimony Prepared: November 12, 2018

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EA-2016-0358

SUPPLEMENTAL DIRECT TESTIMONY OF KRIS ZADLO

SENIOR VICE PRESIDENT, INVENERGY LLC

ON BEHALF OF GRAIN BELT EXPRESS CLEAN LINE LLC

November 12, 2018

Grain Belt Exhibit No. 145
Date 12-19-18 Reporter TJ
File No. EA-2016-0358

1 A. The transmission service offered by the Project will not change substantially from the
2 services discussed by Clean Line witness David Berry in his Direct Testimony filed on
3 June 30, 2016. Invenergy will offer transmission service on the line to generators, load
4 serving entities, utilities or large commercial and industrial customers to deliver low-cost
5 renewable resources from western Kansas to those potential off-takers in Missouri,
6 Illinois and Indiana utilizing a “shipper pays” or participant-funded model. Initially,
7 Invenergy anticipates it will enter into long-term transmission service or capacity
8 contracts with its off-takers that require the transmission customer to pay a negotiated
9 reservation charge. Any future sale of capacity will be governed by an Open Access
10 Transmission Tariff (“OATT”), just as is the case for traditional, cost of service
11 transmission providers.

12 **III. QUALIFICATIONS OF INVENERGY TO OWN AND OPERATE THE PROJECT**

13 **Q. Please briefly describe Invenergy’s qualifications to efficiently manage and**
14 **supervise the construction process for the Grain Belt Express Project.**

15 A. Invenergy routinely develops projects with a view toward long-term ownership,
16 performance, profitability and operations. Invenergy has built its core competencies
17 around power plant operations and maintenance (“O&M”). Invenergy operates its power
18 plant fleet through the wholly owned subsidiary, Invenergy Services. Invenergy Services
19 is staffed with experienced industry personnel and currently operates 10,896 MW of
20 natural gas and renewable generating capacity in North America. Combining asset
21 management, operations, maintenance, and commercial execution functions allows
22 Invenergy Services to provide a single, comprehensive solution to overall management of
23 the asset.

24 **Q. Does Invenergy have experience developing and maintaining transmission projects?**

In the Matter of:
The Application of Grain Belt Express Clean Line, LLC, et al.

EA-2016-0358

December 19, 2018



www.tigercr.com 573.999.2662

1 Q. And as you state, Grain Belt agreed to
2 lower the price for the second 100 megawatts to the
3 same price you had agreed to for the first 100
4 megawatts. Is that essentially correct?

5 A. Yes.

6 Q. That amounts to a 30 percent decrease in
7 the price of the second 100 megawatts?

8 A. Yes.

9 Q. And a 17.6 decrease in the overall cost
10 of the full 200 megawatts?

11 A. Yes.

12 Q. I'm sorry. What was --

13 A. Yes.

14 Q. Thank you. Is it fair to assume it was
15 not Grain Belt which first suggested an additional
16 reduction below its normal rate for service in
17 Missouri?

18 A. Yes.

19 Q. And you first con-- contacted Grain Belt
20 about the possible price reduction this past July.
21 Correct?

22 A. I'm not sure of the exact date, but that
23 sounds about right.

24 Q. What led you to believe that Grain Belt
25 would be willing to reduce the price in your contract

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GRAIN BELT EXPRESS CLEAN LINE

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2 PUBLIC SERVICE COMMISSION
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7 March 20, 2017
8 Missouri Public Service Commission
9 At Jefferson City
10 Volume 10
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12 In the Matter of the Application)
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13 LLC for a Certificate of)
Convenience and Necessity)
14 Authorizing it to Construct, Own) File No.
Operate, Control, Manage, and) EA-2016-0358
15 Maintain a High Voltage, Direct)
Current Transmission Line and an)
16 Associated Converter Station)
Providing an interconnection on)
17 The Maywood-Montgomery 345 kV)
Transmission Line)
18
19 MICHAEL BUSHMANN, PRESIDING
SENIOR REGULATORY LAW JUDGE
20
DANIEL Y. HALL, CHAIRMAN
21 WILLIAM P. KENNEY
STEPHEN M. STOLL
22 SCOTT T. RUPP
MAIDA J. COLEMAN
23 COMMISSIONERS
24 REPORTED BY:
KATHLEEN WATSON BRUNSMANN
25 CSR, CCR, RPR, CRR

1 **Q. What is a first mover as you use that**
2 **term?**

3 A. Well, generally in business, if you're
4 the first party to enter into a transaction -- this
5 happens with gas pipelines and other transmission
6 lines, if you -- even in the investment world, if
7 you get in early, you often get a better deal.

8 **Q. Are you generally familiar with FERC's**
9 **final policy statement on allocation of capacity for**
10 **new transmission projects?**

11 A. Generally familiar?

12 **Q. Yes, sir.**

13 A. If I say I'm generally familiar, you're
14 going to ask me very specific questions, so I would
15 say I'm somewhat familiar.

16 **Q. Doesn't that policy statement generally**
17 **set the ground rules for open solicitation processes**
18 **which are to be used by merchant projects, such as**
19 **Grain Belt?**

20 A. Generally speaking, I think so.

21 **Q. And Clean Line participated in the case**
22 **which produced that final policy statement, did they**
23 **not?**

24 A. Participated in, as in did we
25 intervene?

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

December 18, 2018

Jefferson City, Missouri

Volume 22

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Application of Grain Belt)	
Express Clean Line LLC For A)	File No. EA-2016-0358
Certificate Of Convenience And)	
Necessity Authorizing It To)	
Construct, Own, Operate,)	
Control, Manage And Maintain A)	
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MICHAEL BUSHMANN, Presiding
 SENIOR REGULATORY LAW JUDGE
 RYAN A. SILVEY, Chairman,
 WILLIAM P. KENNEY,
 DANIEL Y. HALL,
 SCOTT T. RUPP,
 MAIDA J. COLEMAN
 COMMISSIONERS

REPORTED BY:
 Tracy Taylor, CCR No. 939
 TIGER COURT REPORTING, LLC

1 A. I wouldn't agree with that, no.

2 Q. Well, explain that to me. I mean if it's
3 contingent upon conditions precedent that have not yet
4 occurred and that may not occur, then how are we
5 guaranteed that this funding is actually going to
6 happen?

7 A. So I'll break this into pieces. There is
8 a Development Management Agreement in place now where
9 Invenergy is funding development of the project.
10 We've also signed a purchase agreement which has
11 conditions precedent. And if those condition
12 precedents are met, the transaction will close and
13 Invenergy will begin funding the project as its owner.

14 If we -- the conditions precedent aren't
15 met, for example, if we don't receive the necessary
16 regulatory approvals, then Invenergy would have no
17 obligation to continue funding the project. But
18 number one, Clean Line has some resources that it can
19 use to continue funding the project. And -- and,
20 number two, if we don't get regulatory approval, we
21 would -- we would step back and figure out the
22 situation and there may be -- there may well be a way
23 for Invenergy to keep participating and keep funding.

24 Q. So the last two things you said, I want
25 to break that down into two different pieces here.

1 You said there would be other resources available to
2 the company. Correct? Even if the deal doesn't go
3 through Invenergy; is that correct?

4 A. Yes. Clean Line would -- would have
5 resources to continue funding the project if the
6 transaction with Invenergy didn't close for any
7 reason.

8 Q. What are those resources?

9 A. We have a cash balance in the -- balance
10 in our -- in our bank. And we also have the ability
11 to obtain additional funding from our investors.
12 Neither of those is the plan. The plan is to sell the
13 project, but they are -- they are options should we
14 need them.

15 Q. But you -- you'd have to go ask for that
16 funding from these other investors though. Correct?

17 A. Yes. They would need to -- they would
18 need to approve their own funding, that's correct.

19 Q. And I guess what -- I've set that as a
20 distinction to you don't have them hooked in right now
21 contractually to a guar-- as a guaranteed Plan B.
22 Right?

23 A. Well, the -- the -- the funds we have on
24 hand are there. New sources of funding -- no, our
25 investors aren't contractually obligated so we would

1 need to sit down with them and explain the -- the
2 situation should this -- should this hypothetical come
3 to pass.

4 Q. So if the condition precedents -- I mean
5 tell me if you agree with this. If the conditions
6 precedent don't occur with Invenergy and that deal
7 falls through, at present there is no guaranteed
8 source of funding for this project. Correct?

9 MR. ZOBRIST: Objection, asked and
10 answered, Your Honor.

11 MR. HADEN: I don't thi-- Judge, I don't
12 think it has been. He's put it through that oh, now
13 there's going to be all these other ways we can do it
14 and -- but that also doesn't comport with the rest of
15 the answer.

16 JUDGE BUSHMANN: I think he's answered
17 the questions, just not using the words that you're
18 asking him to use. If you want to ask it in a
19 different way or ask for a different result.

20 BY MR. HADEN:

21 Q. Well, I mean -- okay. I don't know --
22 I'm trying to walk through this step by step. You've
23 told me there's conditions precedent to the deal with
24 Invenergy. Correct, Mr. Berry?

25 A. That's correct.

1 Q. And it's also correct to say that not
2 every one of those conditions precedent, as we stand
3 here today, has been met. Correct?

4 A. Agreed.

5 Q. Okay. So Invenergy -- and if those
6 conditions precedent are not met, then Invenergy has
7 the right to walk away from this deal to purchase
8 Grain Belt. Correct?

9 A. It depends on the circumstance, but yes,
10 if the conditions precedent are never met and cannot
11 be met, then they do not have to close.

12 Q. Okay. And I don't -- and I'm not trying
13 to be dense or simple. I mean this is the way lots
14 and lots of business deals are structured so this
15 isn't that surprising. I'm just trying to get to the
16 bottom of, you know, is this fish actually fried or
17 are we still in process here.

18 You're telling me Invenergy -- there are
19 still contingencies -- and these are contingencies
20 that are outside the control of both Grain Belt and
21 Invenergy that could -- may not happen that could make
22 the deal not happen. Right?

23 MR. ZOBRIST: Objection, asked and
24 answered.

25 JUDGE BUSHMANN: I think he has answered

1 that.

2 BY MR. HADEN:

3 Q. Okay. That being the case then, if
4 Invenergy's funding then is not truly guaranteed
5 because there are contingencies here that are -- there
6 are con-- conditions precedent that have not been met,
7 what -- is there a guaranteed source of funding
8 backing up this deal and is anybody else obligated to
9 give Grain Belt Clean Line money to finish the
10 project?

11 MR. ZOBRIST: Mr. Berry has already
12 answered that. He's talked about the investors, he's
13 talked about the options that would be thought of
14 under this contingency, so I don't know what counsel
15 is trying to arrive at.

16 JUDGE BUSHMANN: I'll go ahead and let
17 him answer this question. Mr. Berry, do you remember?

18 THE WITNESS: Yes. If you could -- if
19 you could repeat it, please.

20 BY MR. HADEN:

21 Q. Okay. You would agree with me that there
22 is not a -- that there are conditions precedent that
23 may mean the deal doesn't go through with Invenergy at
24 this point. Right?

25 MR. ZOBRIST: That's been asked and

1 answered four times.

2 MR. HADEN: Okay. Well, I'm t-- I agree
3 with you, but if -- as to your last point to the
4 question you objected to before, if it's been asked
5 and answered, tell me the answer because I don't know
6 the answer.

7 BY MR. HADEN:

8 Q. To the ultimate question of is there a
9 guaranteed source of funding if Invenergy walks away
10 from the deal? I understand you think you've got
11 sources out there you could access, but is there a
12 guaranteed, contractually obligated source of funding?

13 A. In -- in the event that the conditions
14 precedent for the Invenergy deal aren't met and can't
15 be met, we have cash on hand that we can use to
16 continue funding the project. And another option for
17 us, though none of our investors have a binding
18 contractual commitment to invest, another option for
19 us is to arrange for a source of funding from them as
20 we've done many times before when we needed to.

21 Q. But is that second answer then a no as of
22 today? I understand you're looking forward to the
23 future and hopeful. But as I stand here and ask this
24 question now, is any other investor contractually
25 obligated? That's the question I'm asking. And I

1 know it's been asked, but is the answer no, as you
2 stand today you don't have those -- you don't have any
3 contractual guarantee of additional funding?

4 A. I -- I've tried to answer the question
5 with a -- with a full predicate intact so I believe
6 I've answered your question. If -- if I need to
7 clarify it, you can -- you can -- if you could please
8 ask it a different way, but I --

9 Q. I'm not going to ask it a different way.
10 Is that a no or not? As we stand today, is the answer
11 no?

12 A. I don't think it's a simple yes or no
13 answer. And I -- I answered the question previously
14 when I said that -- that we have cash on hand, which
15 is one option, and if we need it, we can also discuss
16 with our investors an additional amount of funding.
17 They do not have a contractual obligation to make that
18 funding.

19 MR. HADEN: Judge, I'm going to request
20 on the record -- and I understand you have to make
21 your ruling either way. I'm going to request that you
22 direct the witness to answer.

23 JUDGE BUSHMANN: He just at the end said
24 there's no contractual obligation, so I think that was
25 an answer to the question that you asked.

1 MR. HADEN: Thank you.

2 BY MR. HADEN:

3 Q. Going back to your point where you say
4 you have cash on hand, is there cash on hand today for
5 Grain Belt and Clean Line to finish this project if
6 Invenergy doesn't buy the company?

7 A. Not to build the project to its
8 completion, no.

9 Q. Okay. Just give me one moment here,
10 Mr. Berry.

11 That's all I had. Thank you, Mr. Berry.

12 JUDGE BUSHMANN: Missouri Landowners.

13 MR. AGATHEN: Thank you, Judge.

14 CROSS-EXAMINATION BY MR. AGATHEN:

15 Q. Hello, Mr. Berry.

16 A. Hello.

17 Q. My name is Paul Agathen and I represent
18 two different groups of landowners at this point, plus
19 another -- another additional five or so who have
20 inter-- intervened in this case as well.

21 I'm -- I'm going to ask you a few
22 questions that are kind of out of order here, but one
23 was deferred to you by Mr. Skelly. And my question
24 is, does Clean Line have any affiliate companies which
25 have any employees?

1 A. Could you clarify for me what you mean
2 by -- by affiliate in your question?

3 Q. Well, in the normal sense of that term in
4 the -- in the business world, two companies that are
5 somehow related.

6 A. So I would say that yes, Clean Line has
7 affiliates with -- with employees.

8 Q. And who are those affiliates?

9 A. It -- the -- the various investors in
10 Clean Line who are still involved in managing the
11 project do -- do have employees.

12 Q. Okay. Other than the investors, are
13 there any affiliates of Clean Line which have any
14 employees?

15 A. I'll -- I'll answer it this way. Clean
16 Line Energy Partners does not have any employees and
17 none of its subsidiaries have employees. They only
18 have consultants; a chairman, Mr. Skelly; and a Board
19 of Directors.

20 Q. Thank you. And then one answer -- or
21 question that came up during cross-examination by
22 Mr. Haden, you said that you do not, if I understood
23 it, have cash on hand to get through the complete
24 construction of the project. Was that correct?

25 A. That's correct.

1 Q. Do you have enough cash on hand to get
2 through the development phase?

3 A. Not the full development phase.

4 Q. Thank you. I'll get back to my original
5 questions now. Clean Line first approached Invenergy
6 about selling the Grain Belt line as opposed to them
7 seeking you out. Correct?

8 A. I believe that's correct.

9 Q. Had Clean Line or Grain Belt approached
10 any other entity over the past two years in an attempt
11 to sell the Grain Belt project?

12 A. We've had some other discussions, yes.

13 Q. With how many different entities?

14 A. Initial discussions with -- with several
15 entities. I don't have a specific number.

16 Q. Are we talking two, three or a dozen?

17 MR. ZOBRIST: Judge, I don't think we
18 need to -- I think that's not relevant at this point.
19 We've talked about what the deal is right here and I
20 don't know what relevance that has to the plan right
21 now for Invenergy to take over this project and build
22 it.

23 JUDGE BUSHMANN: What's your response,
24 Mr. Agathen?

25 MR. AGATHEN: It's a question from --

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