

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

LINDA MCELWEE, Case No. EC-2022-0059  
Complainant,  
v.

GRAIN BELT EXPRESS, LLC,  
Respondent.

DEPOSITION OF WITNESS, LINDA MCELWEE,  
produced, sworn, and examined on September 21, 2021,  
between the hours of 9:00 a.m. and 10:55 a.m. of that  
day, at the law offices of Drew F. Davis, 1115 West  
Grand Avenue, Cameron, MO 64429, Missouri, before Liebe  
Stevenson, a Certified Court Reporter within and for  
the State of Missouri.

APPEARANCES:

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-- For the Complainant

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1 LINDA MCELWEE, having been duly sworn at  
2 approximately 9:00 a.m. on September 21, 2021, was  
3 examined and testified as follows:

4 EXAMINATION

5 BY MR. SCHULTE:

6 Q. Good morning. Can you please state your name for  
7 the record?

8 MR. AGATHEN: Excuse me. Could I enter  
9 my appearance on the record? Sorry. Paul Agathen,  
10 spelled A-G-A-T-H-E-N, representing Mrs. McElwee. My  
11 address is 485 Oak Field Court, Washington, Missouri  
12 63090. My telephone number is (636)980-6403, and my  
13 email address is paa0408@AOL.com.

14 Thank you.

15 MR. SCHULTE: Thank you. I'll go ahead  
16 and enter our appearances, also. Andrew Schulte,  
17 S-C-H-U-L-T-E, with the Polsinelli Law Firm on behalf  
18 of Grain Belt Express, LLC. And address is 900 West  
19 48th Place, Kansas City, Missouri, 64112. I'll go  
20 ahead and do the phone number: (816)691-3731.

21 Email ASchulte, that's A-S-C-H-U-L-T-E,  
22 @Polsinelli.com.

23 MS. CALLENBACH: And I'm Anne Callenbach  
24 of Polsinelli Law Firm, same address. Thank you.

25 THE WITNESS: Is it my turn?

1 MR. SCHULTE: We'll cover yours through  
2 the questions.

3 THE WITNESS: Okay.

4 BY MR. SCHULTE:

5 Q. Please state your name for the record, and spell  
6 it.

7 A. It's Linda, L-I-N-D-A, Joyce, J-O-Y-C-E. Need my  
8 maiden name? I guess not --

9 Q. Just your current --

10 A. -- my real name, M, small C, capital E, L-W-E-E.

11 Q. Okay. And as you heard, I'm Andrew Schulte. I'm  
12 with Polsinelli Law Firm in Kansas City and I represent  
13 Grain Belt, which is the Respondent to the complaint  
14 filed at the Missouri Public Service Commission. And I  
15 may refer to the Missouri Public Service Commission as  
16 the Commission, or maybe the MPSC. So you'll  
17 understand that that's the Missouri Public Service  
18 Commission?

19 A. Yes.

20 Q. And before we get into the questions, just a few  
21 ground rules to help everyone out. There's a court  
22 reporter here to make a transcript. She can only  
23 record verbal responses. So please verbalize yes or no  
24 and then elaborate as needed. But shakes of the head  
25 or uh-huhs or uh-uhs are hard to pick up on the

1 transcript.

2 It's also very hard for the court reporter if we  
3 talk over each other. So please wait for me to finish  
4 my question, and I will wait for you to finish your  
5 answer before going to the next question.

6 And if you don't understand any of my questions,  
7 if I ask a bad question, please let me know and I'll  
8 try to rephrase it.

9 And if at any time you need a break, just let  
10 everyone know and we'll take a break.

11 Do you understand all of that?

12 A. I do.

13 Q. Thank you. And you understand that you're here  
14 to give testimony and that you are under oath?

15 A. I do.

16 Q. Have you ever had your deposition taken before?

17 A. Never.

18 Q. Have you ever testified in court?

19 A. No.

20 Q. Have you ever been party to a civil lawsuit?

21 A. No.

22 Q. Before this complaint, have you ever been party  
23 to a complaint before the Commission?

24 A. Never.

25 Q. Have you ever been convicted of a felony?

1 A. No.

2 Q. Didn't think so, but I had to ask.

3 And are you the same Linda McElwee that is the  
4 named complainant in Case Number EC-2022-0059 which has  
5 been filed at the Commission?

6 A. I am.

7 Q. And what is your home address?

8 A. 8475 Southeast Red Brick Road, in Cowgill, 64637.

9 Q. And that's in Missouri?

10 A. Yes.

11 Q. How long have you lived there?

12 A. Since 1977.

13 Q. And what is your birth date?

14 A. October 2, 1943.

15 Q. If I use the term "Transmission Project" or  
16 "Project," can we agree that that refers to the  
17 transmission project under development by Grain Belt  
18 Express, LLC in Missouri?

19 A. Yes.

20 Q. What do you understand the Transmission Project  
21 to be?

22 A. It's a transmission line carrying electricity  
23 over an 800-mile span.

24 Q. And I also may refer to Grain Belt Express, LLC  
25 as "Grain Belt." And you understand that is the

1 company that is developing the Transmission Project?

2 A. I do.

3 Q. Are you aware that Grain Belt holds a Certificate  
4 of Public Convenience and Necessity from the Missouri  
5 Public Service Commission to build the Transmission  
6 Project?

7 A. I do.

8 Q. Are you aware that the certificate from the  
9 Missouri Public Service Commission includes a  
10 requirement that Grain Belt must construct the  
11 Transmission Project along a specific route?

12 MR. AGATHEN: I'm going to object. I  
13 don't think that's exactly what the order says. It  
14 gives leeway for movement of the right-of-way.

15 BY MR. SCHULTE:

16 Q. Subject to some leeway for movement, are you  
17 aware that there's generally a specific route that the  
18 transmission line should follow?

19 A. I've seen a preliminary map.

20 Q. On your property?

21 A. Across the county.

22 Q. Across the entire county?

23 A. (Nodding head.)

24 Q. Have you seen a map specific to your property?

25 A. Yes, I have.

1 Q. And do you own land that will be crossed by the  
2 Transmission Project?

3 A. I do.

4 Q. Where is that land located?

5 A. Along Highway 116.

6 Q. In which county?

7 A. Caldwell.

8 Q. Caldwell County, Missouri?

9 A. That's correct.

10 Q. And is there more than one parcel?

11 A. Yes.

12 Q. How do you own each of those parcels? In what do  
13 you own them? In your own name? In the name of a  
14 trust?

15 A. In my revokable trust.

16 Q. Okay. And what's the title of the revokable  
17 trust?

18 A. The Linda J. McElwee Revokable Trust.

19 Q. How long has the trust owned the four parcels?

20 A. Long time. I'm not sure exactly when we had that  
21 trust made.

22 Q. That's okay.

23 A. Way before 2000. I know that.

24 Q. Okay. So at least 20 years?

25 A. More than that.



1 Q. Is that for all four parcels?

2 A. Every piece of property we owned.

3 Q. Has been in the Linda -- is it Linda Jane --

4 A. Linda J.

5 Q. Linda J. --

6 A. Yes.

7 Q. -- McElwee revokable trust.

8 A. I'm sorry, read that last question to me again.

9 Q. Have all four parcels always been in the Linda J.

10 McElwee Revokable Trust?

11 A. When my late husband and I did that, he had a

12 trust, I had a trust. When he passed away, everything

13 poured over into mine.

14 Q. What was the name of your -- what is the name of

15 your late husband?

16 A. Ronald L. McElwee.

17 Q. Was there a Ronald L. McElwee Revokable Trust?

18 A. There was.

19 Q. And when did your husband die?

20 A. June 16, 2017.

21 Q. Sorry for your loss.

22 A. Thank you.

23 Q. Do you live on the land?

24 A. I do live on my --

25 Q. On any of those four parcels?

1 A. No, I do not.

2 Q. That was a bad question. Thank you for the  
3 clarification. So you owned another piece of property  
4 that you live on in -- is it Cowgill?

5 A. (Nodding head.)

6 Q. Yes.

7 A. South of Cowgill, yes, I do.

8 Q. So the four parcels that are impacted by the  
9 Transmission Project, what are those four parcels used  
10 for?

11 A. Two parcels are in CRP. One parcel is row  
12 cropped. The other parcel my son lives on, and it is  
13 row cropped, as well.

14 Q. Have you ever heard of the Missouri Landowners  
15 Alliance, the Show Me Concerned Landowners, and/or the  
16 Eastern Missouri Landowners Alliance?

17 A. Yes.

18 Q. Are you a member of those groups or any one of  
19 them?

20 A. Yes.

21 Q. Which group or groups are you a member of?

22 A. Missouri Landowners Alliance I think is the one.

23 Q. Okay. Have you donated to such a group or to the  
24 Missouri Landowners Alliance?

25 A. Yes.

1 Q. When did you become a member of the Missouri  
2 Landowners Alliance?

3 A. Before my husband died. I don't remember the  
4 date, but before Ronald died.

5 Q. Okay. And how what was the process to become a  
6 member?

7 MR. AGATHEN: I'm going to object to any  
8 questions about her association with the Missouri  
9 Landowners Alliance. But go ahead and answer.

10 A. I'm sorry. Ask that again, please.

11 BY MR. SCHULTE:

12 Q. What was the process to become a member of the  
13 Missouri Landowners Alliance?

14 A. You just had to be interested in what was going  
15 on.

16 Q. Did you go to a meeting where there was a sign-up  
17 sheet or --

18 A. Yes.

19 Q. Okay. And is there a renewal process, or as far  
20 as you know, once you've signed up, you're a member?

21 A. Well, there was -- there was no membership form.  
22 I don't know how to answer that. I don't know how to  
23 answer that.

24 Q. Okay.

25 A. I don't -- there is no membership roster. There

1 is no membership form. There are no membership dues.

2 That's about all I can tell you about it.

3 Q. Okay. So it was before 2017 that you went to a  
4 meeting?

5 A. That's correct.

6 Q. Do you know about when, other than before 2017?

7 A. No, it was in the summertime, but I don't know  
8 what summer.

9 Q. Okay. Do you attend meetings regularly?

10 A. No.

11 Q. Do you know about when the most recent meeting  
12 you attended?

13 A. Before Ronald died.

14 Q. Are there any other -- do you recall when the  
15 most recent donation you made to the Missouri  
16 Landowners Association was?

17 A. I think it was before Ronald died.

18 Q. Have you been in contact with a land agent  
19 working on behalf of Grain Belt Express?

20 A. I have.

21 Q. And is that regarding a voluntary easement across  
22 your property?

23 A. We talked about that.

24 Q. Okay. Do you recall the land agent's name?

25 A. Jennifer Bentley Town (phonetic). Is that

1 correct?

2 Q. That's what I have in my notes, yes. It's not a  
3 pop quiz.

4 A. Okay.

5 Q. When was the last time you talked with  
6 Ms. Bentley?

7 A. Probably a couple of months ago.

8 Q. Okay. Has the land agent been responsive to  
9 questions that you had about the project?

10 A. She's tried. But she has not always been able to  
11 answer any questions, but that's probably not due to  
12 her.

13 Q. Okay. What questions has she not been able to  
14 answer?

15 A. Well, the questions of our complaint. If we have  
16 to go to condemnation, is Grain Belt going to abide by  
17 the offer of the 110% --

18 Q. Mm-hmm.

19 A. -- and the structural compensation or not, and  
20 she's not been able to answer that.

21 Q. Has she directed you to Polsinelli for those  
22 questions?

23 A. Yes.

24 May I add something there?

25 Q. Sure.

1 THE WITNESS: Is it all right if I add  
2 something?

3 I wrote a letter to Mr. Wright  
4 addressing some of these concerns. I get a form letter  
5 back that told me nothing. That's why we're here.

6 MR. AGATHEN: Just for the record, who's  
7 Mr. Wright?

8 THE WITNESS: I think he's probably the  
9 lead attorney for Polsinelli? I'm not sure. I'm not  
10 sure of that, but I believe him to be the lead attorney  
11 for the Polsinelli.

12 MR. SCHULTE: And for the record,  
13 Mr. Wright is Seth Wright, who is an attorney at  
14 Polsinelli who's handling the condemnation process.

15 THE WITNESS: Okay. Well, that's good  
16 to know.

17 MR. SCHULTE: Also for the record and  
18 for your information, Ms. Callenbach and I represent  
19 Grain Belt with regard to the regulatory process before  
20 the Missouri Public Service Commission.

21 THE WITNESS: Okay.

22 MR. SCHULTE: So we've kind of divided  
23 the workload that way.

24 BY MR. SCHULTE:

25 Q. Before we get to the exhibit, one more question

1 about Ms. Bentley. Do you believe that Ms. Bentley has  
2 been honest with you?

3 A. I have no reason to believe she was not.

4 (Exhibit Number 1 was marked for identification.)

5 BY MR. SCHULTE:

6 Q. Okay. So have you seen what has been marked as  
7 Exhibit 1? The first page is an envelope, addressed to  
8 Seth Wright at Polsinelli.

9 A. Mm-hmm.

10 Q. And the return address appears to be your return  
11 address. It's a little bit cut off.

12 A. Mm-hmm.

13 Q. And the second page is a letter from you to  
14 Mr. Wright. Have you seen this letter before?

15 A. Yeah, I wrote it.

16 Q. Did anyone help you write the letter?

17 A. No, sir.

18 Q. And you sent this letter to Seth Wright at  
19 Polsinelli?

20 A. I did.

21 Q. On or about June 18, 2021?

22 A. Yes.

23 Q. In the first paragraph of the letter you indicate  
24 that the proposed line will cross four parcels of  
25 farmland that you own?

1 A. Yes.

2 Q. And you're asking for maps with easement-specific  
3 drawings, the width of the easement, the measurements  
4 of the tower pads, the height of the towers, and  
5 exactly where the line would cross?

6 A. Yes.

7 Q. In the second paragraph, you ask about the rate  
8 of compensation?

9 A. That's correct.

10 Q. And then if you turn to the next page of the  
11 exhibit, there's a letter from Polsinelli dated  
12 June 8th. Did you include that letter with the letter  
13 to Mr. Wright?

14 If you flip back to the second page, it actually  
15 says "enclosure"?

16 A. I believe I did. I know I did, because I sent  
17 the one with Ronald's name on it, not mine.

18 Q. Okay.

19 A. They sent duplicates.

20 Q. Yes. Right. And yes, at the top of the June 8  
21 letter from Polsinelli, it indicates that it was mailed  
22 to the Ronald L. McElwee Senior Revokable Trust. Is  
23 that the trust -- is that your late husband's name?

24 A. It is.

25 Q. And is that the trust that previously owned some



1 of the parcels at issue?

2 A. Yes.

3 Q. Has that trust been dissolved and the parcels  
4 rolled into the Linda J. McElwee Trust?

5 A. Yes.

6 Q. Thank you. If I use the term "60-Day Notice  
7 Letter," do you have an understanding of what that  
8 means?

9 A. Sort of.

10 Q. I know you're not an attorney, so I'm not asking  
11 for a legal opinion. I'm just wondering about your  
12 general understanding of the process.

13 So do you understand that a 60-Day Notice Letter  
14 is a legal requirement in Missouri that requires Grain  
15 Belt to provide at least 60-Day's notice to landowners  
16 prior to filing a condemnation petition with the  
17 district court?

18 A. I understand that.

19 Q. Okay. And do you understand this letter that's  
20 dated June 8 to be the 60-Day Notice Letter?

21 MR. AGATHEN: I'm going to object that  
22 that calls for legal conclusion. But go ahead and  
23 answer if you can.

24 A. Well, not exactly, but the last sentence he wrote  
25 back if we're not -- within 60-Days -- so I assume that

1     meant 60-Day letter.

2     Q.       Okay. For ease of reference, if I refer to this  
3     June 8 letter as a 60-Day Notice, will you I understand  
4     each other if I use that terminology?

5     A.       I believe so.

6                   MR. AGATHEN: Keep that.

7                   THE WITNESS: Keep this? Okay.

8     BY MR. SCHULTE:

9     Q.       Starting at the bottom of the first page of the  
10    60-Day Notice Letter, there's some language in all  
11    capital letters.

12    A.       Yes.

13    Q.       Do you understand that to be a legal description  
14    of one of the four parcels that you own, or that your  
15    trust owns?

16    A.       I believe it to be a legal description of one of  
17    the parcels.

18    Q.       And did you receive a letter like this, a 60-Day  
19    Notice Letter for each of the four parcels that are  
20    held in the trust?

21    A.       I believe so, but I can't swear to that.

22    Q.       That's fine. And you indicated that you received  
23    multiple copies of the same notices, some in the name  
24    of the Ronald L. McElwee Senior Revokable Trust, some  
25    in the name of Linda J. McElwee Revokable Trust?

1 A. 13.

2 Q. 13 letters total?

3 A. Yes.

4 (Exhibit Number 2 was marked for identification.)

5 BY MR. SCHULTE:

6 Q. All right. This will be Exhibit 2. Actually,  
7 before we move on to the Exhibit 2, I just want to  
8 review the dates, the order of events.

9 The 60-Day Notice dated June 8 was received by  
10 you, prior to your letter to Polsinelli on June 18, is  
11 that accurate?

12 A. Yes, it is.

13 Q. And so was this 60-Day Notice Letter or the 13  
14 60-Day Notice Letters that you received, what prompted  
15 the June 18 letter asking for more information?

16 A. I could not get the information I sought, that I  
17 asked for. No one has told me this stuff.

18 Q. The stuff in this --

19 A. Yes, I didn't have this information.

20 Q. -- letter? At the date of June 18 or today? Do  
21 you still not have that information?

22 A. Some I don't.

23 Q. Okay. Do you know which ones you don't? What  
24 information you still don't have?

25 A. Well, let me look at this.

1 I still don't know the width of the easements,  
2 the measurements of the tower pads exactly, the height  
3 of the towers, and I'm still not sure exactly where the  
4 line's going to cross.

5 Q. Okay.

6 A. And I don't know about what they're going to  
7 offer as far as the 10% adder and the structure  
8 payments if we have to go to condemnation. So I don't  
9 know any of that stuff.

10 Q. Okay. Turning to Exhibit 2, this is a letter  
11 dated June 29 from Polsinelli with Seth Wright's  
12 contact information at the upper, right-hand corner.  
13 And it's addressed to Linda McElwee at 8475 Red Brick  
14 Road in Cowgill, Missouri. Have you seen this letter  
15 before?

16 A. I have not.

17 Q. You've never seen this letter?

18 A. No, I have not.

19 Q. Understanding that you haven't seen this letter  
20 before, there is a brief summary of the Grain Belt's  
21 contact with you regarding the project. So could we go  
22 through those, and to the best of your recollection if  
23 you recall the accuracy of them?

24 So on June 17, 2020, so over a year ago, do you  
25 recall being contacted by a land agent named Jessica

1 Levsen working on behalf of Grain Belt?

2 A. I don't remember this person. I talked with  
3 someone, but I don't remember the name.

4 Q. That's fine. I'm not great with names either.

5 But does this look generally accurate, that in June of  
6 2020 you had discussions, or at least a discussion with  
7 a land agent on behalf -- working on behalf of Grain  
8 Belt?

9 A. I'm sorry, repeat that please.

10 Q. And I understand if you don't recall exact dates  
11 or names. But do you believe it is approximately  
12 accurate that in June of 2020 you had a conversation  
13 with a land agent working on behalf of Grain Belt?

14 A. Probably, yes.

15 Q. Do you recall telling the land agent that you  
16 received a packet, but you would not give permission  
17 for the lines to go across your land?

18 A. There were documents sent to me, but did not  
19 address the questions that I had expressed to  
20 Mr. Wright earlier.

21 Q. I'm sorry. I'm going back in time here. So over  
22 a year ago?

23 A. Okay.

24 Q. Okay. So in June of 2020, not June of 2021?

25 A. Okay. That's true, I said no.

1 Q. Okay. Did you say that you did not want any  
2 further contact?

3 A. Probably, yes.

4 Q. Do you recall in August of 2020 receiving  
5 easement documents for your review, that is a form,  
6 easement agreement including compensation?

7 A. Their easement documents didn't show the map and  
8 gave me a number.

9 Q. And then we discussed the June 8, 2021, so  
10 jumping ahead now a year. We discussed the June 8,  
11 2021 letter that I referred to as a 60-Day Notice  
12 Letter. So you recall that?

13 A. Yes.

14 Q. And then it indicates on June 24, Seth Wright  
15 received your letter dated June 18 requesting  
16 additional information.

17 MR. AGATHEN: I'm going object. She has  
18 no way of knowing the answer to that.

19 MR. SCHULTE: Sure. That's fine.

20 BY MR. SCHULTE:

21 Q. But that is in line with the time period where  
22 you sent a letter to Mr. Wright?

23 A. It looks to be. It would have been helpful had I  
24 seen this document before we got here today.

25 Q. And my apologies if it doesn't reach you. It was

1 my understanding it was mailed to you.

2 And then that also indicates, the last bullet  
3 indicates that on June 25, 2021, Land Agent Jennifer  
4 Bentley reached out to you to provide requested  
5 information. Does that sound accurate to you?

6 A. Yes, it is.

7 Q. Did Ms. Bentley answer questions about these --  
8 let me make sure -- the width of the easement, the  
9 measurement of tower pads, the height of towers and  
10 where the line would cross?

11 A. The preliminary drawings showed supposedly where  
12 the line was to cross. The other information was not  
13 forthcoming.

14 Q. Okay. And did you indicate to Ms. Bentley that  
15 you were subsequently able to locate the easement  
16 paperwork sent to you in 2020?

17 A. I did.

18 Q. Okay. But you did not have a preliminary  
19 drawing. Did you receive a preliminary drawing from  
20 Ms. Bentley?

21 A. No.

22 Q. You indicated couple questions ago that you did  
23 have a preliminary drawing, though?

24 A. There was in the first packet from August of  
25 2020 --

1 Q. Okay.

2 A. -- when I found the old one, but I don't think  
3 the line is where it's supposed to be now.

4 Q. You think the line has moved?

5 A. I think it perhaps a little. I'm not sure. I  
6 couldn't tell.

7 Q. Okay. Well, what is the basis of that  
8 understanding?

9 A. Probably from where the surveyors were working.

10 Q. Where the surveyors were working?

11 A. Yes.

12 Q. If I use the term "30-Day Offer Letter," do you  
13 have an understanding of what that means?

14 A. Explain, please.

15 Q. Similar to the 60-Day Notice Letter, there is a  
16 legal requirement in Missouri that requires Grain Belt  
17 to provide an offer based on a licensed appraisal at  
18 least 30 days prior to filing a condemnation petition  
19 with the district court. Have you heard that  
20 explanation before?

21 A. Yes.

22 Q. Did you receive a 30-Day Offer Letter from Grain  
23 Belt for the four parcels?

24 A. Yes.

25 Q. And do you have a copy of the complaint that was



1 filed? I have extras if you don't.

2 A. I didn't bring my iPad. That's what it's on.

3 Q. Can you turn to Exhibit 1 to about halfway  
4 through?

5 MR. SCHULTE: Bless you.

6 THE WITNESS: Allergies.

7 MS. CALLENBACH: Me, too. They're  
8 terrible.

9 BY MR. SCHULTE:

10 Q. Exhibit 1 is a letter from Polsinelli dated July  
11 20, 2021 to the Ronald L. McElwee Senior Revokable  
12 Trust at 8475 Southeast Red Brick Road in Cowgill,  
13 Missouri. Do you see that?

14 A. I do.

15 Q. Is it your understanding that this is one of the  
16 30-Day Offer Letters?

17 A. Yes.

18 Q. And do you see some again there's some text in  
19 all capital letters. There's a first paragraph in all  
20 capitals. It's preceded by an explanation that, "This  
21 is an easement located on a property in Caldwell County  
22 with the following legal description."

23 A. Yes.

24 Q. And then there's a paragraph below that  
25 indicates, "The above legal description refers to the

1 full parcel. However, the specific easement required  
2 is anticipated to be only approximately 10 acres, and  
3 the following is an approximate description of the  
4 easement which may be modified as a result of detailed  
5 survey work." And then there's some more language in  
6 all capital letters?

7 A. I see that, yes.

8 Q. And there the second to last paragraph, starts  
9 with "Grain Belt"?

10 A. Mm-hmm, yes.

11 Q. Says, "Grain Belt is prepared to offer you  
12 compensation in the amount of \$33,012 for the easement  
13 it seeks through the property described above. This  
14 amount is based on the attached appraisal."

15 Do you see that?

16 A. I see that.

17 Q. There is no appraisal attached to Exhibit 1. Do  
18 you see that?

19 A. Well, that -- now I see that.

20 Q. Yeah. Did you receive an appraisal, though, when  
21 you received this letter?

22 A. It was all attached.

23 MR. SCHULTE: Okay. Let's mark another  
24 exhibit, Exhibit 3.

25 (Exhibit Number 3 was marked for identification.)

1 MR. AGATHEN: You're done with this for  
2 a while.

3 THE WITNESS: Okay.

4 MS. CALLENBACH: Thank you.

5 MR. AGATHEN: I feel like I'm back in  
6 school.

7 MR. SCHULTE: It's a lot of paperwork.

8 MS. CALLENBACH: Pass them back.

9 BY MR. SCHULTE:

10 Q. I've handed you what's been marked as Exhibit 3.  
11 And I'd like you to compare -- actually, do you still  
12 have Exhibit 1 open?

13 A. Yes, I do.

14 Q. I'd like you to compare Exhibit 3 to -- the  
15 Deposition Exhibit 3 to Exhibit 1 of the complaint.

16 A. I'm sorry, run that by again, please.

17 Q. Yeah.

18 MR. AGATHEN: Compare this -- if I can  
19 get the first page.

20 THE WITNESS: Oh, okay. That makes  
21 sense. Okay.

22 BY MR. SCHULTE:

23 Q. Does it appear to be the same document?

24 A. It is.

25 Q. The first couple of pages?

1 A. Yes, it is.

2 Q. And the third page of Exhibit 3 has a certified  
3 mail return receipt. Do you see that?

4 A. I do.

5 Q. Did you receive this letter by certified mail?

6 A. It was left in my mailbox. I did not sign for  
7 any of these letters. My mail carrier thought he was  
8 doing a good deed, so he signed in my name and sent  
9 them on through.

10 Q. Okay. But you did receive those in your mailbox  
11 ultimately?

12 A. Is this for all four pieces or just the one  
13 he's --

14 Q. This is for one of the four parcels.

15 A. Yes. Yes, I have this document.

16 Q. And is the appraisal that's the attachment  
17 beginning at page 4 of Exhibit 3, does that look like  
18 the appraisal that was attached to this document?  
19 Understanding it's a long -- it's a very long document.

20 A. Yes, it looks like it.

21 Q. Okay. Did you review this appraisal closely when  
22 you received it?

23 A. I did.

24 Q. Did you review the maps of the easement? Looks  
25 like it's on page 15 of the appraisal.

1 A. Yes, I did.

2 Q. On page 2 of the appraisal there's a few  
3 definitions at the top, and then there's a paragraph  
4 that begins, "Proposed Project Description." Do you  
5 see that?

6 A. I do. Okay.

7 Q. And there's a sentence towards the bottom, I  
8 think it's the second-to-last sentence. It describes  
9 the typical easement width of 150 feet wide, and in  
10 certain instances it may have a width of up to 200  
11 feet?

12 A. I see that.

13 Q. And do you see there in the last sentence it  
14 discusses the typical structures will be 40-foot-by-  
15 40-foot base?

16 A. I do.

17 Q. With height of 130 feet to 160 feet?

18 A. I see that.

19 Q. And it gives the typical span between the  
20 structures of 1,250 to 1,500 linear feet?

21 A. I see that.

22 Q. And did you receive offer letters and appraisals  
23 for each of the four parcels that you own or that the  
24 trust owns?

25 A. I did. I did.

1 Q. You did?

2 A. Yes.

3 Q. Are you familiar with the complaint that was  
4 filed at the Missouri Public Service Commission in your  
5 name on August 27, 2021?

6 A. I am.

7 Q. Did you hire Mr. Agathen, Mr. Paul Agathen to  
8 provide legal representation to you for that complaint?

9 A. He is my attorney.

10 Q. Are you paying Mr. Agathen for his legal  
11 services?

12 MR. AGATHEN: I'll object. That's not  
13 relevant here. But go ahead and answer.

14 A. I've not paid him anything yet.

15 BY MR. SCHULTE:

16 Q. Do you have an agreement to pay him?

17 A. A gentleman's agreement.

18 Q. Well, when did you and Mr. Agathen agree that he  
19 would represent you in this matter?

20 A. Back in the spring.

21 Q. The spring of 2021 of this year?

22 A. That's correct.

23 Q. Was it before you received the 60-Day Notice  
24 Letter in June?

25 A. I believe so, yes.

1 Q. So at that time, you had not received this 60-Day  
2 Notice Letter, what was the purpose of hiring  
3 Mr. Agathen at that time?

4 A. In all the correspondence I had with your law  
5 firm I could not get the answers that I wanted to  
6 proceed with a negotiation that made sense to me.

7 Q. Did you have correspondence with Polsinelli prior  
8 to June of 2021?

9 A. They've been sending me stuff for over a year.

10 Q. What stuff have they sent other than the  
11 June 8 -- other than the 60-Day Notice Letter?

12 A. There were the preliminary drawings, which I  
13 think have changed. And then all the letters that  
14 they've sent me over that time, bunches of mail.

15 Q. Were those -- okay. So I think according to the  
16 time line in the letter, that you did not receive, but  
17 we did go over that time line.

18 MR. SCHULTE: That's Exhibit 2?

19 MS. CALLENBACH: Yes.

20 BY MR. SCHULTE:

21 Q. It indicates that in the summer of 2020, Contract  
22 Land Staff -- they go by the acronym CLS -- sent you  
23 easement documents, but respected your wishes to not  
24 make any further contact. And then between August 10,  
25 2020 and June 8, 2021, there was no communication.

1 A. Well, it says August 10th you sent me easement  
2 documents to review, and I believe I got those.

3 Q. Okay. In 2020. And then was there any  
4 correspondence that's missing here between August 10,  
5 2020 and June 8, 2021?

6 A. I have no way of knowing that.

7 Q. But you don't recall anything in particular?

8 MR. AGATHEN: I'm going to object. The  
9 witness just answered that she had no way of knowing.

10 Go ahead and try and answer if you can.

11 THE WITNESS: Okay.

12 A. I did talk with Ms. Bentley several times between  
13 there on the phone.

14 BY MR. SCHULTE:

15 Q. Okay. You said you had a gentleman's agreement  
16 with Mr. Agathen. Is your payment to him based on some  
17 outcome or event?

18 A. No.

19 Q. What is it based on?

20 A. If we get the answers we need.

21 Q. Then you will pay him?

22 A. If he sends me a bill, I will pay.

23 MR. AGATHEN: Pardon?

24 THE WITNESS: You send me a bill, I  
25 will.



1 BY MR. SCHULTE:

2 Q. Did you know Mr. Agathen before you hired him?

3 A. Only by reputation.

4 Q. So was he recommended to you?

5 A. Not exactly.

6 Q. How did you know about his reputation?

7 A. From the landowners association.

8 Q. And were you aware, or are you aware today that  
9 Mr. Agathen filed previous complaints against Grain  
10 Belt on behalf of the association?

11 A. I know nothing about that.

12 Q. Sorry. I should clarify. I'm using the word  
13 "association." I believe it's the Missouri Landowners  
14 Alliance. Is that what you're referring to when you  
15 said "association"?

16 A. That's how I got his name.

17 Q. From the Missouri Landowners Alliance?

18 A. Yes, that's how I got his name, yes.

19 Q. I just wanted to make sure the record was clear.

20 A. Yes.

21 Q. I think we were using --

22 A. Yes.

23 Q. -- the wrong term.

24 Okay. But you're not aware of the previous  
25 complaints against Grain Belt filed by the Missouri

1 Landowners Alliance?

2 MR. AGATHEN: Objection. The witness  
3 already answered she wasn't.

4 A. I don't know anything about that.

5 BY MR. SCHULTE:

6 Q. Do you know Gary Marshall in Monroe County?

7 A. I do not.

8 Q. Do you know Marvin or Jim Daniel in Monroe  
9 County, Missouri?

10 A. I do not.

11 Q. Do you know a John Hobbs in Randolph County?

12 A. I don't.

13 Q. And do you remember a Michael McCune (phonetic)  
14 in Randolph County?

15 A. No, sir.

16 Q. Are you still involved in discussions with  
17 Mrs. Bentley?

18 Maybe a better question: When was the last time  
19 you spoke with Mrs. Bentley?

20 A. A couple of months ago, I think.

21 Q. Are you still considering signing of a voluntary  
22 easement as opposed to going through condemnation?

23 A. I'm not sure how I want to answer that. Let me  
24 think about that for a minute.

25 Nobody wants to go to court.

1 Q. Fair enough.

2 A. Nobody wants their land taken away. And there we  
3 are.

4 Q. Does Mr. Agathen represent you regarding the  
5 easement package that you've been discussing with  
6 Ms. Bentley? Does Mr. Agathen represent you regarding  
7 that easement package?

8 A. We've not talked about that.

9 Q. Okay. Is there another attorney that is  
10 representing you with regard to that easement package?

11 A. I have not signed any agreement with anyone else.

12 Q. You have not signed an agreement for legal  
13 representation with anyone else?

14 A. I've not signed an agreement with any other  
15 attorney.

16 Q. Is there an attorney that you've been discussing  
17 the easement package with that you have not signed an  
18 agreement with?

19 A. Yes.

20 Q. What is that attorney's name?

21 A. Paul Henry.

22 Q. And when did you engage Mr. Henry to represent  
23 you on the easement package?

24 MR. AGATHEN: Objection. I don't think  
25 the witness stated that she actually engaged him to

1 represent her, just that she had discussions with him.

2 MR. SCHULTE: I'll rephrase.

3 A. I've signed no papers. Is that -- is that the  
4 question?

5 MR. SCHULTE: I'll rephrase.

6 MR. AGATHEN: Let him ask.

7 BY MR. SCHULTE:

8 Q. When did you begin discussions with Mr. Henry?

9 A. I can tell you where it was. It was at the  
10 elevator in Cowgill. Probably couple of months ago?  
11 Probably a couple of months ago. It was in the  
12 summertime. It was hot.

13 Q. Okay. So more recently than you began  
14 discussions with Mr. Agathen?

15 A. Yes.

16 Q. Has Mr. Henry explained the condemnation process  
17 to you?

18 MR. AGATHEN: Objection. That would  
19 call for attorney/client privilege communication.

20 You shouldn't answer that.

21 THE WITNESS: I shouldn't answer that?  
22 Okay.

23 BY MR. SCHULTE:

24 Q. I'm not asking about any details of the -- just  
25 generally, have you -- do you have an awareness of the

1 condemnation process?

2 A. Vaguely.

3 Q. What do you understand the condemnation process  
4 to be?

5 A. That everything we're talking about here today is  
6 sent somewhere, and somebody in a position of power  
7 makes some kind of a decision. Is that correct --

8 Q. Generally, yes.

9 A. -- in regular people terms?

10 Q. Do you understand that the person in control  
11 would be a district court judge?

12 A. Well, I didn't know that before. I thank you for  
13 telling me.

14 Q. Are you aware that there's a process in which the  
15 judge appoints three disinterested commissioners,  
16 individuals to determine the fair market value of what  
17 the easement payment will be?

18 A. I've heard that, but just -- but just farmers  
19 talking.

20 Q. Okay. And Grain Belt has not yet filed a  
21 condemnation petition regarding any of your parcels,  
22 correct?

23 A. Not that I know of.

24 Q. So as we sit here today, we don't know the  
25 outcome of the condemnation process.

1 A. No.

2 Q. Do you know anyone by the name of Loren Sprouse?

3 And I'm sorry. I realized I didn't spell the names that  
4 I was saying earlier, but I'll spell this one.

5 L-O-R-E-N, S-P-R-O-U-S-E. Do you know anybody by that  
6 name?

7 A. I've been acquainted with the Sprouse family for  
8 over 40 years, and yes, I'm acquainted with Loren.

9 Q. And you're aware that he also owns land that will  
10 be crossed by the transmission line?

11 A. Yes.

12 Q. Have you seen the letter that Mr. Agathen sent to  
13 Polsinelli on behalf of Mr. Sprouse on approximately July  
14 29, 2021?

15 A. I'm not sure I have.

16 Q. Okay. Do you have the complaint in front of you  
17 still? I believe it's this document.

18 THE WITNESS: It's this one?

19 MS. CALLENBACH: Exhibit 2, I think.

20 BY MR. SCHULTE:

21 Q. Can you turn to Exhibit 4? Do you see this is a  
22 letter from Paul Agathen dated July 29 to Mr. Seth Wright  
23 at Polsinelli?

24 A. I see that.

25 Q. And the first paragraph states that Mr. Loren

1 Sprouse has an ownership interest in three parcels of  
2 land on the proposed Grain Belt right-of-way. Do you  
3 see that?

4 A. I see that.

5 Q. Have you seen this letter before?

6 A. I recognize it now at the bottom of the complaint  
7 letter, yes.

8 Q. And does this letter include the same three  
9 questions that were sent by Mr. Agathen on your behalf?

10 A. Not exactly. Pretty close, but not exactly.

11 Evidently none of us are getting the same  
12 answers.

13 Q. What's the difference between these questions and  
14 the questions that Mr. Sprouse sent?

15 MR. AGATHEN: I think the documents  
16 speak for themselves. I think there are differences,  
17 and she can't answer on that.

18 BY MR. SCHULTE:

19 Q. Are you aware that on August 19, 2021,  
20 Mr. Agathen, Grain Belt representatives, and staff of  
21 the Missouri Public Service Commission held a  
22 conference call to discuss the issues raised by this  
23 July 29, 2020 letter from Mr. Agathen?

24 A. I believe that would be the next letter, right?  
25 Is that right? Maybe not.

1 Q. The -- no.

2 A. No.

3 Q. I'm asking about a conference call.

4 MR. AGATHEN: Could you repeat the  
5 question?

6 MR. SCHULTE: Yeah.

7 BY MR. SCHULTE:

8 Q. Are you aware that on August 19, 2021,  
9 Mr. Agathen, Grain Belt representatives, and the  
10 Missouri Public Service Commission staff held a  
11 conference call to discuss the issues raised by the  
12 July 29 letter?

13 A. I don't know that. I don't know anything about  
14 that.

15 Q. Okay. Mr. Agathen did not discuss that with you?

16 MR. AGATHEN: Objection. That calls for  
17 attorney/client privileged communication.

18 You shouldn't answer that.

19 MR. SCHULTE: I'm not --

20 THE WITNESS: Okay.

21 MR. SCHULTE: -- asking for any of the  
22 details of the discussion, just whether or not that  
23 particular phone call, you were made aware of it.

24 THE WITNESS: No --

25 MR. AGATHEN: That still calls for



1 attorney/client privileged communication.

2 You shouldn't answer that.

3 BY MR. SCHULTE:

4 Q. Are you familiar with the letter that Mr. Agathen  
5 sent to Polsinelli on approximately August 20, 2021?

6 A. Is it in our packet?

7 Q. Yes. It would be Exhibit 2 to the complaint.

8 A. I'm sorry. Ask me again what you want to know.

9 Q. Sorry. I don't think I had a question pending.

10 A. Okay.

11 Q. Exhibit 2 to the complaint is a letter from Paul

12 A. Agathen dated August 20, 2021 to Seth Wright at  
13 Polsinelli.

14 A. I see that.

15 Q. And the letter begins, "I am writing to ask for  
16 clarification of Grain Belt's position on payments to  
17 my clients with Mrs. Linda McElwee in the matter of her  
18 easement for transmission right of -- or easement for  
19 the transmission right-of-way -- I'm sorry. If the  
20 matter of her matter of her easement for the  
21 transmission right-of-way goes to court in a  
22 condemnation proceeding." Do you see that?

23 A. I see the first paragraph, yes.

24 Q. So have you seen this letter before?

25 A. Well, if it's attached to the complaint, I have.

1 Q. Did Mr. Agathen write the letter?

2 MR. AGATHEN: Objection. Witness has no  
3 way of knowing that.

4 A. I assume he did. He signed it. I'm sorry.

5 BY MR. SCHULTE:

6 Q. Did you review the letter before it was sent  
7 before August 20?

8 A. I don't think so.

9 Q. Did you and Mr. Agathen discuss the letter before  
10 it was sent?

11 A. We discussed the topics that I wanted addressed.  
12 Is that the question?

13 Q. Sure. Did you authorize Mr. Agathen to send this  
14 letter on your behalf?

15 A. Yes.

16 Q. When did you authorize him to send that letter?

17 A. Why don't you ask me something easy, like when  
18 was my last dentist appointment? My God, man.

19 Let's see. I don't -- sometime before August 20,  
20 obviously.

21 Q. Okay.

22 A. That's all I can tell you.

23 Q. Can you turn to Exhibit 3 of the complaint just a  
24 few pages back?

25 A. Yes.

1 Q. This is a letter from Polsinelli to Paul Agathen  
2 dated August 24, 2021. Do you see that?

3 A. I do see this.

4 Q. Have you seen this letter before?

5 A. If it's connected to the complaint, I have.

6 Q. Do you understand this to be a response to the  
7 August 20 letter from Mr. Agathen?

8 A. Yes, it says there, "Response to your letter."

9 Q. Do you see in the fourth paragraph down it  
10 states, "We discussed these matters at length in our  
11 phone conference on August 19 with representatives of  
12 MPSC staff present. We've provided detailed  
13 explanations on our position during the call.

14 "We also discussed the inappropriate nature of  
15 your questions as the purpose of the questions is not  
16 in the spirit of good faith negotiations, but to set up  
17 a baseless complaint at the MPSC."

18 Do you see that?

19 A. I see this.

20 Q. Did you and Mr. Agathen discuss this letter?

21 A. This letter?

22 Q. Yes.

23 A. I don't think so.

24 Q. Did you read this letter before the complaint was  
25 filed?

1 A. I don't remember. I don't remember.

2 Q. So you don't recall if you asked Mr. Agathen what  
3 the phone call on August 19 was about?

4 A. I don't remember that we -- we haven't talked  
5 that much. I don't know, but we didn't talk about  
6 this, no.

7 Q. Okay. So you didn't ask him what the detailed  
8 explanations were?

9 A. No, sir.

10 Q. Do you understand that the complaint that was  
11 filed at the MPSC has two counts, that is there are two  
12 issues that the complaint seeks to have readdressed  
13 by --

14 A. Yes.

15 Q. -- the Missouri Public Service Commission?

16 A. I understand that.

17 Q. Count II is a legal issue regarding the  
18 applicability of the landowner protocols, and that's a  
19 legal question, so I won't ask you too much about that.

20 But just so we're all on the same page, could you  
21 please turn to page 14 of the complaint itself?

22 There's a paragraph in the middle of the page that  
23 begins with all-capital "Wherefore." Do you see that?

24 A. I do.

25 Q. And it reads, "Wherefore, under Count II,

1 Complainant respectfully asks the Commission to rule  
2 that if the matter of her easement goes to  
3 condemnation, then Respondent is still obligated under  
4 the terms of the Commission order in the CCN case, and  
5 the documents and testimony submitted there by Grain  
6 Belt to make payment for structures and the 10% adder  
7 in accordance with the terms of the landowner  
8 protocol." Do you see that?

9 A. I see that.

10 Q. And Count I alleges that Grain Belt is required  
11 to give yes or no answers to the questions as set forth  
12 in the August 20 letter. And we can turn to --

13 MS. CALLENBACH: Page 8.

14 MR. AGATHEN: Could you hold on a  
15 second? What specifically, what portion of the  
16 complaint are you referring to?

17 MR. SCHULTE: Page 8.

18 BY MR. SCHULTE:

19 Q. Towards the bottom, there's a paragraph that  
20 begins with all-capital "Wherefore." Do you see that?

21 A. I do see that.

22 Q. And it reads, "Wherefore, for the reasons set  
23 forth above, Complainant respectfully contends that  
24 Respondent is in violation of the provisions of the CCN  
25 order making compliance with the code of conduct and

1 the landowner protocol mandatory on the part of  
2 Respondent.

3 "Accordingly, Complainant respectfully asks,  
4 under Count I, that the Commission order Respondent to  
5 provide definitive answers to the three questions set  
6 forth in paragraph 15 above, as requested in the letter  
7 referenced therein."

8 Do you see that?

9 A. I \$do see, that.

10 Q. So is that count asking the Commission to require  
11 yes or no answers to the questions?

12 MR. AGATHEN: Objection. That calls for  
13 legal conclusion, but go ahead and answer if you can.

14 A. I understand it to mean that.

15 BY MR. SCHULTE:

16 Q. Okay. Have you ever donated to a non-profit  
17 organization?

18 MR. AGATHEN: Objection. That's not  
19 relevant here, but --

20 THE WITNESS: I can answer that?

21 MR. AGATHEN: (Nodding head.)

22 A. Certainly.

23 BY MR. SCHULTE:

24 Q. And those donations were voluntary, correct?

25 A. That's correct.

1 Q. Nobody's making you do it?

2 A. That's true.

3 Q. There's no contract that requires you to do it?

4 A. No.

5 Q. So if you wanted to stop making the donations,  
6 you could do so?

7 A. That's correct.

8 Q. Has anybody at the non-profit that you donate  
9 ever ask you to guarantee in writing that you will make  
10 future voluntary payments?

11 MR. AGATHEN: Objection. Again, it's  
12 not relevant here. But go ahead and answer.

13 A. No.

14 BY MR. SCHULTE:

15 Q. Has anyone at the non-profits that you donate ask  
16 you to guarantee in writing that you will not make  
17 future voluntary payments?

18 MR. AGATHEN: Objection. Same basis.  
19 Go ahead.

20 A. No.

21 THE WITNESS: I really would like a  
22 glass of water.

23 MS. CALLENBACH: 10-minute break?

24 (A break was taken from 10:11 a.m. until 10:17 a.m.)

25 BY MR. SCHULTE:

1 Q. Can you turn back to Exhibit 2 of the complaint?

2 A. Are we through with page 8?

3 Q. Yes. Exhibit 2 is the August 20 letter from  
4 Mr. Agathen to Mr. Wright. Do you see that?

5 A. I do.

6 Q. And this was written by Mr. Agathen on your  
7 behalf?

8 A. Yes.

9 Q. And the questions that you're seeking answers to  
10 begin at the bottom of page 1, and I'll read them.

11 "If the matter goes to condemnation, will Grain  
12 Belt pay Mrs. McElwee for support structures that are  
13 built on the right-of-way?

14 "Two, if the answer to the first question is yes,  
15 will the payment still be in the amount of 18,000 per  
16 lattice structure?

17 "Number three, if the matter goes to  
18 condemnation, will Grain Belt still pay Mrs. McElwee  
19 110% of the fee value of the property on the easement?"

20 And then it says, "We ask you to provide a yes or  
21 no answer to these questions, or possibly a 'not  
22 applicable' answer to question Number 2."

23 Did I read all of that accurately?

24 A. Your reading is accurate.

25 Q. Would you prefer yes answers to these questions?



1 A. I think yes would be appropriate.

2 Q. And yes would be more money for you, correct?

3 MR. AGATHEN: Objection. More than  
4 what?

5 MR. SCHULTE: Well, if the answer is  
6 more than if the answer is no.

7 A. I'm sorry, that didn't make very good sense to  
8 me. Try again.

9 BY MR. SCHULTE:

10 Q. If the answer is yes to these questions, do you  
11 understand -- well, let's go one at a time.

12 If the answer is yes to Question 1 and  
13 Question 2, that would be would mean Grain Belt is  
14 committing to pay \$18,000 per lattice structure, even  
15 in the event that the proceeding goes to condemnation?

16 A. That's what I understand it to say.

17 Q. And if the answer to Question Number 3 is yes,  
18 that means that Grain Belt is committing to not only  
19 pay 100 percent of the fee value of the property on the  
20 easement, but 110%?

21 A. That's the way I understand it.

22 Q. And so these questions are asking Grain Belt to  
23 commit to making payments over and above what would be  
24 awarded by a court --

25 MR. AGATHEN: Objection.

1 Q. -- in a condemnation proceeding?

2 MR. AGATHEN: Calls for a legal  
3 conclusion obviously.

4 A. I have no idea how that all would work.

5 BY MR. SCHULTE:

6 Q. You have no idea what the payments would be in  
7 condemnation?

8 A. No. If these answers are no, then how do I know  
9 that Grain Belt is going to honor their first  
10 commitment to me in what they offered? That's the crux  
11 of the matter.

12 Q. Okay. So you're asking Grain Belt to guarantee  
13 or commit to making a voluntary payment sometime in the  
14 future?

15 A. No.

16 MR. AGATHEN: Objection. Again, calls  
17 for legal conclusion, because based on Count II, if  
18 we're successful, if the Complainant is successful in  
19 Count II of the complaint, then Grain Belt would be  
20 obligated to make those payments anyway.

21 MR. SCHULTE: Correct. And the  
22 complaint states that Count I is likely moot in that  
23 scenario. So Count I is only relevant in a scenario  
24 where the payments are voluntary.

25 BY MR. SCHULTE:

1 Q. Let's turn to page 8 of the complaint,  
2 paragraph 30. Do you see -- are you there?

3 A. I am, yes.

4 Q. "If the Commission rules in Complainant's favor  
5 on Count II of this complaint, then this Count I is  
6 seemingly moot.

7 "However, if the Commission rules in Respondent's  
8 favor on Count II, then a decision on Count I is still  
9 crucial to Complainant's efforts at making a rational  
10 decision about how to proceed in easement negotiations  
11 with Respondent."

12 Did I read that correctly?

13 A. You did.

14 Q. So second scenario beginning with the, "However,  
15 if the Commission rules on Respondent's favor on  
16 Count II," that assumes that Respondent, which is Grain  
17 Belt -- do you understand that Respondent is Grain  
18 Belt?

19 A. Yes.

20 Q. If the Commission rules in Grain Belt's favor on  
21 Count II, then they are not obligated to make 110%  
22 payment or the 18,000 structure payments?

23 MR. AGATHEN: I'm going to object. I  
24 mean, the language speaks for itself and you're really  
25 asking the witness to reach a legal conclusion here.

1 Q. I'm trying to understand --

2 MR. AGATHEN: But go ahead and answer if  
3 you can.

4 BY MR. SCHULTE:

5 Q. I'm just trying to understand --

6 A. Why --

7 Q. -- what the complaint is about?

8 A. Okay. The complaint is about -- now, this is  
9 hearsay.

10 THE WITNESS: Can I talk about hearsay?  
11 No?

12 MR. AGATHEN: (Shaking head.)

13 THE WITNESS: Okay.

14 A. If I don't voluntarily agree to what Grain Belt  
15 has offered, and Grain Belt takes me to condemnation,  
16 there could be a possibility that I would get less than  
17 the original offer, and nobody wants that.

18 BY MR. SCHULTE:

19 Q. So you're trying to guard against the possibility  
20 you would get less money through condemnation?

21 A. I think anyone would, yes.

22 Q. And paragraph 30 indicates that if the Commission  
23 says Grain Belt is obligated to make the 10% adder and  
24 18,000 per-structure payments, then Count I is moot  
25 because Grain Belt is under a legal obligation to make

1     those payments, correct?

2                   MR. AGATHEN: I'm going to object again.

3     The language there speaks for itself. You're asking --

4                   MR. SCHULTE: This is Ms. McElwee's  
5     complaint. I'm trying to understand the basis for this  
6     complaint.

7                   MR. AGATHEN: You're just repeating  
8     basically what paragraph 30 states. It speaks for  
9     itself.

10    BY MR. SCHULTE:

11    Q.     The question was: If Grain Belt is obligated to  
12    make those payments, then the questions are moot. Do  
13    you agree with that?

14    A.     If Grain Belt is obligated to make the payments  
15    that they have offered in the beginning, or up until  
16    time we go to condemnation, then that would answer our  
17    question.

18    Q.     Right. And payments they offered in the  
19    beginning included the 10% adder and the 18,000  
20    per-structure payment?

21    A.     It did.

22    Q.     And if the reverse is true and Grain Belt is not  
23    obligated to make the payments, then you want answers  
24    to these three questions?

25    A.     Yes.

1 Q. So if Grain Belt is not obligated to make the  
2 payments, that means they are voluntary payments,  
3 correct?

4 A. I'm not sure that I would call them voluntary.  
5 If they have, in good faith, offered something to a  
6 landowner, then they should stand by their word. Is  
7 that what you're asking me?

8 Q. Do you think that Grain Belt would not stand by  
9 its word if you signed the voluntary agreement?

10 A. I don't know that.

11 Q. You have no reason to think that Grain Belt would  
12 sign a voluntary agreement with you and not make the  
13 payments under that voluntary agreement, do you?

14 A. I believe they would -- I believe if they signed  
15 it, they would hold to their word.

16 Q. Okay. But if, for whatever reason, you do not  
17 sign a voluntary agreement with Grain Belt, you  
18 understand it would proceed to condemnation?

19 A. Yes, I understand that.

20 Q. And you understand -- I asked these questions  
21 earlier, but I want to make sure that we're on the same  
22 page -- that Grain Belt has not yet filed a  
23 condemnation petition on any of your parcels?

24 A. I understand that.

25 Q. You understand that the condemnation process will

1 be controlled by a district court judge?

2 A. I understand that.

3 Q. And that judge will appoint three disinterested  
4 commissioners?

5 A. I understand that, too.

6 Q. And we don't yet know what those commissioners  
7 will include in the determination of fair market value  
8 for the easement?

9 MR. AGATHEN: I'm going to object. That  
10 really does call for legal conclusion. But the witness  
11 can answer as best she can.

12 A. I have no idea what the requirements of those  
13 land commissioners are, whether they have one or more  
14 land appraisals at their disposable or what their  
15 requirements are. I've not done this. I don't know.

16 BY MR. SCHULTE:

17 Q. So, do you have an understanding that you will  
18 have an opportunity to make your own case in a  
19 condemnation proceeding about what you should be paid?

20 A. I hope so.

21 Q. It would be a bad system of law if you didn't.

22 A. Yes.

23 Q. And you understand that Grain Belt will have an  
24 opportunity to make a case for what they think they  
25 should pay?

1 A. Absolutely.

2 Q. And you understand that nobody knows what a  
3 yet-to-be-appointed judge and yet-to-be-appointed  
4 commissioners will decide between those two arguments?

5 A. No one knows.

6 Q. So are you asking Grain Belt to agree now,  
7 without knowing the outcome of that condemnation  
8 proceeding, to pay 110% of whatever the condemnation  
9 proceeding determines is a fair market value, plus  
10 18,000 in structure payments?

11 A. That would seem to be probably the best I could  
12 hope for.

13 Q. And you're asking them to make a yes or no  
14 commitment to that 10% adder or the 18,000 now?

15 MR. AGATHEN: Objection. We've already  
16 gone over this several times.

17 BY MR. SCHULTE:

18 Q. You do want the answers now, though, correct?

19 A. To our three points?

20 Q. Yes.

21 A. Well, yes.

22 Q. As soon as possible?

23 A. As soon as we can get it, yes.

24 Q. Before the condemnation is filed -- before the  
25 condemnation petition is filed?



1 A. Preferably? When are you going to condemn me?

2 Q. We don't know that.

3 A. Okay. Am I allowed to ask questions back?

4 Q. Let's go back to the questions. Exhibit 2 to the  
5 complaint.

6 A. We may have to order pizza.

7 THE WITNESS: Don't put that on the  
8 record.

9 BY MR. SCHULTE:

10 Q. Okay. "Question 1, if the matter goes to  
11 condemnation, will Grain Belt pay Mrs. McElwee for  
12 support structures which are built on the right-of-way?

13 "Question Number 2, if the answer to the first  
14 question is yes, will the payment still be in the  
15 amount of 18,000 per lattice structure?"

16 Do you see that?

17 A. I do.

18 Q. If Grain Belt answers yes to the first and second  
19 questions, it will be committing to pay 18,000 per  
20 lattice structure, regardless of whether the court  
21 determines that there should be a payment for lattice  
22 structures?

23 MR. AGATHEN: I'm going to object again.  
24 This is a legal conclusion that you're asking the  
25 witness to provide. But go ahead and answer as best

1     you can.

2                   MR. SCHULTE:   These are your...

3     A.         I understand if they say yes, they will commit to  
4     compensating my land \$18,000 per lattice structure.  Is  
5     that the answer?  Yes.

6     BY MR. SCHULTE:

7     Q.         Regardless of the outcome --

8     A.         Yes.

9     Q.         -- of the condemnation proceeding --

10    A.         If they say yes, then I'm going to hold them to  
11    it, yes.

12    Q.         And if they say yes to Question Number 3, they  
13    will be obligated to pay 10% adder to whatever fee  
14    value is determined by the condemnation proceeding?

15               MR. AGATHEN:  Same objection.  Calls for  
16    legal conclusion.  But go ahead and try and answer.

17    A.         I think the answer is the same.  Yes, I believe  
18    that that's -- those are the questions that have been  
19    the sticking point all along.  We could not get the  
20    answers to.  I will not be bullied.

21    Q.         Do you feel that you've been bullied?

22    A.         Maybe put pressure on a little bit.

23               THE WITNESS:  I should not have said  
24    that, should I?

25    BY MR. SCHULTE:

1 Q. When did you -- you said you hired Mr. Agathen  
2 the spring of this year?

3 A. That's correct.

4 Q. Did you contact Mr. Agathen or did he contact  
5 you?

6 A. I was given his name, and that person said,  
7 "Would it be all right if I had Mr. Agathen call you?"  
8 Because he and I talked -- Loren and I had talked about  
9 some of these same questions.

10 I said, "Sure. I need help."

11 Q. Had you raised these questions to Grain Belt at  
12 that time?

13 A. I asked the land agent several times.

14 Q. And what was the land agent's response?

15 A. She'd get back to me.

16 Q. Did she ever direct you to Polsinelli?

17 A. She did.

18 Q. Had Polsinelli been asked these questions?

19 A. In the letter I wrote to Mr. Wright when I talked  
20 about compensation. I thought that that would be kind  
21 of an understood thing.

22 Q. Exhibit 1 is a thin -- Exhibit 1 to the ...

23 A. Complaint?

24 Q. No. Sorry. Exhibit 1, Deposition Exhibit 1. It  
25 was introduced today.

1 A. This one?

2 Q. Yes.

3 A. Okay. And we look down here at the bottom  
4 paragraph, "Also understand the rate of compensation  
5 was outlined to others and I would need to see this, as  
6 well." And I never heard anything back about that.

7 Q. Rate of compensation was outlined to others?

8 A. That's what I understood.

9 Q. Does that refer to the voluntary compensation  
10 rate or the condemnation compensation rate?

11 A. I don't know of anyone who's gone through  
12 condemnation at this point.

13 Q. Do you believe that in a response to this  
14 letter -- do you believe this letter is requesting yes  
15 or no answers to whether Grain Belt will pay 18,000 for  
16 structure payments and 10% adder to the fair market  
17 value?

18 A. That question was not asked in my letter. But  
19 the rate of compensation should include some of that, I  
20 would think. But I'm not an attorney.

21 Q. So other than this letter, had you raised those  
22 questions to any Grain Belt representatives?

23 MR. AGATHEN: I'm going to object unless  
24 you also include the letter that I sent on behalf of  
25 Mrs. McElwee.

1 BY MR. SCHULTE:

2 Q. I'm asking about the time period before the  
3 letter from Mr. Agathen. Either of the letters, the  
4 Sprouse letter or your letter?

5 A. Go back and start the beginning of the question  
6 again, please.

7 Q. Sure.

8 A. Because we've muddied the waters and I'm having  
9 trouble keeping it all together.

10 Q. Sure. I'm trying to keep it clear for you. The  
11 letter -- the first letter from Mr. Agathen to  
12 Polsinelli with these questions was sent on behalf of  
13 Mr. Sprouse. Do you understand that?

14 A. Yes, I do.

15 Q. And that was on July 29, 2021?

16 A. Yes, I see that.

17 Q. And your letter, the letter that Mr. Agathen  
18 wrote on behalf of you, was dated August 20, 2021  
19 correct?

20 A. Yes.

21 Q. And I asked you whether prior to those letters  
22 had these questions about an \$18,000 structure payment  
23 and a 10% adder ever been asked to a Grain Belt  
24 representative. You referenced this letter from June  
25 18, 2021. Was there any other method of raising these

1 questions prior to these letters from Mr. Agathen?

2 A. I don't think so because at that point,  
3 condemnation had not come into it, and that's where the  
4 questions were. If you condemn my property, are you  
5 obligated to do what you say you're going to do in the  
6 prior offer before we go to condemnation?

7 Q. Right.

8 A. Does that make sense to you?

9 Q. Yes.

10 A. Does to me.

11 Q. So Mr. Agathen contacted you or asked Mr. Sprouse  
12 if he could contact you?

13 A. Yes.

14 Q. In spring of this year?

15 A. Yes.

16 MR. AGATHEN: Could you rephrase that?  
17 I think there was a double question in there.

18 BY MR. SCHULTE:

19 Q. Did Mr. Agathen contact you in the spring of this  
20 year?

21 A. Yes.

22 Q. What was the purpose of that contact?

23 A. Mr. Sprouse had talked with Mr. Agathen about my  
24 concerns, which were the same as his concerns.

25 Q. Was it the concerns expressed in the July 29 and

1 August 20 letters from Mr. Agathen.

2 A. Let me go back to these letters.

3 Yes.

4 Q. If we establish that Grain Belt had not been  
5 asked the questions in the July 29 letter or the August  
6 20 letter, until July 29 and August 20, how is it that  
7 Mr. Agathen contacted you in the spring of this year  
8 about those questions and not being able to get answers  
9 to them?

10 A. We talked in the spring about what was happening  
11 with my land. And then later, the letters were written  
12 and complaint was filed because I could not get what I  
13 thought were the appropriate answers.

14 I wish I'd written all those conversations with  
15 everyone down, but I didn't think about it.

16 Q. But you don't recall asking about the \$18,000  
17 payment and 10% adder in specific terms?

18 MR. AGATHEN: I'm sorry, asking who?

19 MR. SCHULTE: To any Grain Belt  
20 representative.

21 MR. AGATHEN: Thank you.

22 BY MR. SCHULTE:

23 Q. Prior --

24 A. No, because at that point we were not talking  
25 condemnation.

1                   MR. SCHULTE:   Okay.   I don't think I  
2   have any further questions.   You will have an  
3   opportunity to see the transcript when it's completed,  
4   and you'll be able to make any corrections to it.

5                   THE WITNESS:   Yes.

6                   MR. SCHULTE:   And about when will the  
7   transcript be available?

8           (An off-the-record discussion was held.)

9                   MR. SCHULTE:   Those are all the  
10   questions that I have for you, Ms. McElwee.   Thank you  
11   for your time today.   And I believe your counsel has  
12   some questions.

13                  MR. AGATHEN:   Hello.   Are you ready for  
14   about another 20 minutes, or would you prefer a break?

15                  THE WITNESS:   No, go ahead.

16                  MR. AGATHEN:   Okay.

17                  THE WITNESS:   We're good.

18                                 EXAMINATION

19   BY MR. AGATHEN:

20   Q.         I just wanted to clarify one thing first.   When  
21   we were discussing the filing of this compliant, you  
22   suggested that you should pay me a fee, correct?

23   A.         Yes.

24   Q.         And did I tell you no?

25   A.         Yes.



1 Q. And did I ever indicate that I expected something  
2 after the case was completed?

3 A. No.

4 Q. Did you offer, in lieu of an attorney's fee, to  
5 send me some peanut brittle?

6 A. I did.

7 Q. And that was the only payment that we ever  
8 discussed?

9 A. Yes, sir. And Drew gets some, too, you know, for  
10 using his office.

11 Q. Do you have a copy of the complaint handy?

12 A. I do.

13 Q. Were you given the opportunity to review and  
14 comment and approve the draft of the complaint before  
15 it was filed?

16 A. Absolutely.

17 Q. And if you turn to Exhibit 3 you would have seen  
18 that letter in connection with your review of the draft  
19 of the complaint, would you not?

20 A. It was all attached, yes.

21 Q. You indicated that you had communicated with a  
22 man named Loren Sprouse about the Grain Belt line?

23 A. Yes.

24 Q. Was that before you and I had any contact about  
25 the line?

1 A. Yes.

2 Q. Approximately how many times did you have contact  
3 with Mr. Sprouse?

4 A. We had two -- at least two conversations early in  
5 the spring. And then I've talked to Loren several  
6 times since then just about other things.

7 Q. Were those communications by phone or in person  
8 or by email?

9 A. They were on the phone. I've never seen Loren in  
10 person.

11 Q. By phone?

12 A. Yeah, mm-hmm.

13 Q. Did you ever communicate with Mr. Sprouse about  
14 the issues of not understanding whether Grain Belt  
15 would pay you for structures on the right-of-way or the  
16 10% amount to be added to the value of the property if  
17 the case went to court?

18 A. Yes.

19 Q. Before you and I had any contact, did you and I  
20 discuss any issues with anyone other than Mr. Sprouse  
21 about what payments Grain Belt might make if the matter  
22 went to condemnation?

23 A. Yes.

24 Q. With whom, to the best of your recollection?

25 A. Mm-hmm. Mr. Farmer, Dennis Farmer who has land.

1 They're going to cross his well. And Jim and Joyce  
2 Stone.

3 Q. Can you spell that name?

4 A. S-T-O-N-E, Jim and Joyce. They are also on the  
5 line to be put through. And my children.

6 Q. Did all three of your telephone conversations, or  
7 two or three, however many there were with Mr. Sprouse,  
8 include a discussion of the payments you might receive  
9 from Grain Belt if the matter went to condemnation?

10 A. We talked about that a little bit.

11 Q. And were those conversations all made prior to  
12 the time that you had any contact with me?

13 A. Yes.

14 Q. Did Mr. Sprouse ask if he could pass on your name  
15 and contact information to me to discuss the issue of  
16 payments from Grain Belt?

17 A. He did.

18 Q. At some point after that, did I contact you about  
19 your problem of not knowing what payments you might  
20 receive from Grain Belt if the matter went to  
21 condemnation?

22 A. Yes.

23 Q. And did I eventually file a complaint on your  
24 behalf with the PSC?

25 A. You did.

1 Q. Regarding those issues?

2 A. Yes.

3 Q. Do you have Exhibit 3 to the complaint handy?

4 That's the letter dated August 24, 2021.

5 A. Yes, I see that.

6 Q. After reading that letter, could you tell if  
7 Grain Belt would be paying you for support structures  
8 on your property if the matter of the easement went to  
9 condemnation?

10 A. No, I could not.

11 Q. After reading that same letter, could you tell if  
12 Grain Belt would be paying you the 10% adder for the  
13 easement property if the matter went to condemnation?

14 A. No, I could not.

15 Q. Has Grain Belt told you how many support  
16 structures they intend to install on your property?

17 A. Seven.

18 Q. And do you know the approximate length the Grain  
19 Belt line would run on your property, approximately?

20 A. I think -- I think it's like two miles. There's  
21 some properties in between mine, but I think it's a  
22 mile here and a mile over there, between -- I can give  
23 you the road numbers if you want them, the road names.

24 Do you want them?

25 Q. No.

1 A. No. Okay.

2 Q. Could you direct your attention to please to  
3 Exhibits 4 and 5 of the complaint. Both regard  
4 Mr. Sprouse?

5 A. Yes. I see that.

6 Q. You had the opportunity to review those two  
7 letters before the complaint was filed with PSC,  
8 correct?

9 A. Yes, I read them.

10 Q. After reading those letters, could you tell if  
11 Grain Belt was planning to pay Mr. Sprouse for the two  
12 types of payments in question if the matter went to  
13 condemnation?

14 A. No.

15 MR. AGATHEN: I'm going to hand the  
16 reporter a copy of a letter dated June 7, 2021, to  
17 Mrs. McElwee, two-page letter, signed by James  
18 Williams, Vice President of Land, Grain Belt Express.  
19 Ask that it be marked for identification as Exhibit 4.

20 (Exhibit Number 4 was marked for identification.)

21 BY MR. AGATHEN:

22 Q. Are you familiar with the letter marked as  
23 Deposition Exhibit Number 4?

24 A. Yes, I am.

25 Q. Is that an accurate copy of the letter actually

1 sent to you by Mr. Williams?

2 A. Yes.

3 Q. I'll direct your attention to the second page of  
4 that letter. It states, among other things, that, "The  
5 Grain Belt compensation offer has several benefits not  
6 typical of transmission offers, including:

7 "An easement payment premium of 110% of the  
8 market value of land and easement areas;

9 "And structure payments of \$18,000  
10 per-structure."

11 Is that generally, correct?

12 A. That's what it says. Yes.

13 Q. Do you recall receiving a copy of this letter on  
14 or shortly after the date on the letter?

15 A. Yes.

16 Q. After reading this portion of the letter that I  
17 just referred to near the top of page 2, could you  
18 determine if Grain Belt planned to make the two  
19 payments in question if the matter went to  
20 condemnation?

21 A. I didn't see anything in there about  
22 condemnation. That's where we come back to our  
23 problem.

24 MR. AGATHEN: I would ask the reporter  
25 to please annex a copy of Exhibit 4 to the deposition

1 transcript. Thank you.

2 That's all I have.

3 MR. SCHULTE: I have a couple questions  
4 about Deposition Exhibit 4.

5 THE WITNESS: That's the one from Mr. --  
6 the letter from Mr. Williams?

7 MR. SCHULTE: Yes.

8 EXAMINATION

9 BY MR. SCHULTE:

10 Q. Page 2 at the top, it begins with, "As with any  
11 public utility project, every landowner has the  
12 opportunity to reach agreement on easement terms and  
13 compensation through voluntary negotiation with Grain  
14 Belt Express.

15 "The Grain Belt Express compensation offer has  
16 several benefits not typical of transmission  
17 compensation offers, including:

18 "An easement payment premium of 110% structure  
19 payments of 18,000 per-structure."

20 Do you see that?

21 A. I do see that.

22 Q. Do you understand that portion of the letter to  
23 be discussing the voluntary negotiation offer?

24 A. I believe it's very clear about voluntary.

25 Q. And have you received that offer?

1 A. I have received an offer.

2 Q. That includes 110% and 18,000 per-structure?

3 A. The offer included that. Is that what you're  
4 asking?

5 Q. Yes.

6 A. You didn't ask if I thought it was correct.

7 Q. But the offer included that?

8 A. Yes, it did. I'm sorry.

9 Q. Okay.

10 A. I'm sorry.

11 THE WITNESS: I'm sorry.

12 MR. AGATHEN: It's all right.

13 THE WITNESS: Going to have another  
14 drink of Diet Coke here.

15 MR. SCHULTE: No further questions.

16 Thank you for your time.

17 THE WITNESS: May I ask some questions?

18 MR. AGATHEN: No.

19 THE WITNESS: No. Oh, boy. Good thing  
20 you're here, huh?

21 (Proceedings adjourned at 10:55 a.m.)

22

23

24

25



1 CERTIFICATE OF REPORTER

2 I, Liebe Stevenson, a Certified Court  
3 Reporter, do hereby certify that the witness whose  
4 testimony appears in the foregoing deposition was duly  
5 sworn by me; that the testimony of said witness was  
6 taken by me to the best of my ability and thereafter  
7 reduced to typewriting under my direction; that I am  
8 neither counsel for, related to, nor employed by any of  
9 the parties to the action in which this deposition was  
10 taken; and further, that I am not a relative or  
11 employee of any attorney or counsel employed by the  
12 parties thereto, nor financially or otherwise  
13 interested in the outcome of the action.

14 /s/ Liebe Stevenson

15 \_\_\_\_\_  
16 LIEBE STEVENSON, C.C.R. #1340

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1 E R R A T A S H E E T

2 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

3 IN RE: LINDA MCELWEE v. GRAIN BELT EXPRESS, LLC

4 Page Line Correction Reason

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17 \_\_\_\_\_

18 Under penalties of perjury, I declare that I have  
19 read my deposition in this matter taken on September  
20 21, 2021, 2021, and that it is true and correct,  
subject to any changes in form or substance entered  
above.

21 \_\_\_\_\_

22 DATE LINDA MCELWEE

23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_