

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

In the Matter of the Application of)
Grain Belt Express Clean Line LLC for a)
Certificate of Convenience and Necessity)
Authorizing It to Construct, Own, Operate,)
Control, Manage, and Maintain a High)
Voltage, Direct Current Transmission Line)
and an Associated Converter Station)
Providing an Interconnection on the)
Maywood - Montgomery 345 kV transmission)
Line.)

Case No. EA-2016-0358

**RESPONSE OF THE EASTERN MISSOURI LANDOWNERS ALLIANCE
TO PARAGRAPH 79 OF GRAIN BELT EXPRESS CLEAN LINE APPLICATION**

COMES NOW the Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners ("Show Me"), by and through its counsel and respectfully responds to paragraph 79 of the Application of Grain Belt Express Clean Line LLC, ("Grain Belt"). In support of this Response, Show Me states as follows:

1. On August 30, 2016, Grain Belt filed an application for a certificate of convenience and necessity in the above referenced file. Paragraph 79 of the Application made the following request:

Grain Belt Express requests that the Commission consider and approve this Application at its earliest convenience, with a decision issued no later than May 15, 2017. Many of the facts contained in this case were presented to the Commission in the 2014 Case. Staff is familiar with these facts and the issues raised in this proceeding, as are most of the parties likely to intervene. This Application commences the last state utility regulatory approval proceeding that is needed before the Project can move forward, given the approvals that have been granted by the utility commissions of Kansas, Illinois and Indiana. Therefore, Grain Belt Express respectfully requests that this case be completed in a timely manner.

2. Show Me opposes Grain Belt’s request that the Commission consider this Application “at its earliest convenience” and, in any event, opposes the arbitrary deadline of “no later than May 15, 2017.” Show Me opposes Grain Belt’s request for several reasons.

3. Section 393.170.3 RSMo. requires that the Commission base its decision on the record and “after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service.” And the Commission’s decision must be “reasonable.” Its decision must be supported by substantial and competent evidence on the whole record. *State ex rel. Associated Natural Gas Co. v. Public Serv. Comm’n.*, 954 S.W.2d 520, 528 (Mo. App. W.D. 1997). It is the record and the record only that the Commission must consider in its final determination. Staff’s familiarity with the facts and issues in this case is not the controlling consideration for the Commission and certainly does not justify any urgency in developing this record. There is no reason to rush to a decision based on what Staff knows.

4. Missouri landowners have in inalienable right to their property. This right is secured by English Common Law, the Declaration of Independence, the U.S. Constitution, the Missouri Constitution, most particularly Article I, Sections 26 and 28 of the latter. The paramount interests to be protected in this proceeding are the inalienable rights of Missouri landowners. Missouri landowners must be given an opportunity to address this Commission to the full extent and develop an adequate record. There is no justification to rush to a decision based on Grain Belt’s request.

5. This case is not as simple as Grain Belt describes in its Application. Show Me particularly disagrees with Grain Belt’s claim that, “This Application commences the last state utility regulatory approval proceeding that is needed before the Project can move forward, given the approvals that have been granted by the utility commissions of Kansas, Illinois and Indiana.” The implication is that the regulatory approval in these three states is a done deal and only Missouri remains to approve the deal. This implication is misleading.

6. The Commission should not succumb to Grain Belt’s implication. On August 10, 2016, the Appellate Court of Illinois, Third District, reversed an order of the Illinois Commerce Commission granting a certificate of public convenience and necessity to Rock Island Clean Line—a case substantially similar to this case—and remanded the case for further proceedings.¹ It did so for many of the reasons expressed by the opponents of the Grain Belt Express project in Case No. EA-2014-0207. The Grain Belt Express Clean Line order from the Illinois Commerce Commission is now on appeal. These considerations should cause the Commission to take great care in its deliberations. Grain Belt’s implication is not a justification to rush off to a decision.

7. The fact that this case is the second to address the Grain Belt proposed project, if it has any bearing at all, should prompt the Commission to take great care in its assessment of the case. In Case No. EA-2014-0207, Grain Belt was given every opportunity to carry its burden of proof. Indeed, the Commission took the unusual step in reopening the record after the briefing schedule was concluded to give Grain Belt a second opportunity to provide additional information. Grain Belt ultimately failed to carry its burden of proof. Although the Commission observed in its *Report and Order* in that case that Grain Belt was free to file again, that permission should not give it the ability to rush its application through the Commission in this case. Rather, the Commission should be all the more skeptical of Grain Belt’s case. The case has been presented once and been found lacking.

8. In addition, Grain Belt proffers “new evidence” in the prefiled direct testimony of Michael P. Skelly.² Show Me disagrees with Mr. Skelly’s characterization that these differences

¹ *Illinois Landowners Alliance v. Illinois Commerce Commission*, 2016 IL App 3d 150099.

² See pages 8-10.

“advance[] its proposal.” Rather, they make the proposal more complex. This additional evidence requires additional scrutiny.

9. Finally, Grain Belt, as the applicant, was fully in control of how it filed this case. It was certainly aware of the requirement to file a notice of a contested case pursuant to Commission Rule 4 CSR 240-4.020(2). It properly did so in Case No. EA-2014-0207. It failed to do so in this case. In either event, it had the discretion to file this case at any time since the Commission’s *Report and Order* in Case No. EA-2014-0207. Grain Belt’s delay should not now be the cause of Show Me and the other landowners to compromise their rights in this proceeding or to their land.

WHEREFORE, Show Me respectfully requests that the Commission not respond to Grain Belt’s request in paragraph 79 of its Application and give careful and due deliberation to Show Me’s and the other landowners’ concerns in this case.

Respectfully submitted,

By: /s/ David C. Linton

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Application to Intervene was sent to all parties of record in File No. EA-2016-0358 via electronic transmission this 27th day of September, 2016.

/s/ David C. Linton