

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public
Service Commission held at its
office in Jefferson City on the
17th day of April, 2019.

In the Matter of the Joint Application of Invenergy)
Transmission LLC, Invenergy Investment Company)
LLC, Grain Belt Express Clean Line LLC, and)
Grain Belt Express Holding LLC for an Order)
Approving the Acquisition by Invenergy Transmission)
LLC of Grain Belt Express Clean Line LLC)

File No. EM-2019-0150

ORDER REGARDING MOTION TO COMPEL

Issue Date: April 17, 2019

Effective Date: April 17, 2019

On February 1, 2019, Invenergy Transmission LLC, on behalf of itself and its parent company, Invenergy Investment Company, as well as Grain Belt Express Clean Line LLC, on behalf of its parent company, Grain Belt Express Holding LLC, filed a joint application asking the Commission to approve a transaction whereby Invenergy Transmission will acquire ownership of Grain Belt Express Clean Line. On April 11, intervenors Joseph and Rose Kroner filed a motion to compel Grain Belt Express Clean Line, LLC, to answer their discovery request. The motion asks the Commission to order Grain Belt to admit the accuracy of two pages of a document they submitted to Grain Belt as part of a request for admissions. The Commission ordered Grain Belt to respond to the Kroners' motion by April 15.

The Kroners served their first set of requests for admissions on Grain Belt on March 7. The request asked Grain Belt to admit the accuracy of copies of eleven documents

related to this and other cases before this Commission and various Missouri courts. Grain Belt responded to the request for admissions on April 8, admitting the accuracy of ten of the eleven documents. The only request for admission that is disputed is number 8, which asks Grain Belt to admit the accuracy of the copy of two pages of the Missouri Landowners Alliance's brief filed before the Missouri Supreme Court.¹

Grain Belt objected to request for admission number 8 as follows:

Objection. This Request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Subject to all objections, the Company states as it did not prepare or file the Substitute Brief referred to above, it is unable to admit that Schedule 8 is an accurate copy of the pages contained there.

The Kroners contend Grain Belt's objection is not valid and ask the Commission to compel Grain Belt to admit the accuracy of the copy of the pages from the brief.

Grain Belt responded to the Kroners' Motion to Compel on April 15. Grain Belt opposes the motion to compel for two reasons. First, it argues the Kroners have not met their burden to demonstrate the relevance of their request for admission, contending that the brief of the Missouri Landowners Alliance in another case is not logically or legally relevant to any issue in this case. Second, it argues the Kroners' request for admission is improper and unnecessary: improper because the document was not prepared by or on behalf of Grain Belt, and unnecessary because the Kroners could simply ask the Commission to take administrative notice of the document without any admission of its accuracy by Grain Belt.

¹ This is the wording of the request:

The document attached hereto as Schedule 8 is an accurate copy of the cover page and page i of the "Substitute Brief of Intervenor Missouri Landowners Alliance in Support of Respondent PSC and in Response to Substitute Brief of Appellant Grain Belt Express Clean Line, LLC", filed in Supreme

Commission regulation 4 CSR 240-2.090(1) provides that discovery in cases before the Commission “may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” Therefore, the Commission will look to the Missouri rules of civil procedure for guidance.

Civil Rule 59.01 concerns the request for and effect of admissions. Rule 59.01(a) provides that the scope of the rule includes requests for admission as to “the genuineness of any documents described in the request.” In answering a request for admission, the responding party is required to admit the matter, deny the matter, object to the matter and state each reason for the objection, or set forth in detail the reasons why the responding party cannot truthfully admit or deny the matter. The rule further provides:

A responding party may give lack of information or knowledge as a reason for failure to admit or deny if such party states that the party has made reasonable inquiry and the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.²

The rule allows the requesting party to ask the court to determine whether an answer is appropriate. If the court determines that an answer does not comply with the requirements of the rule, it may order either that the matter is admitted, or that an amended answer be served.³

The Kroners ask Grain Belt to admit that two attached pages (the title page and one page of the table of contents) from a brief filed before the Missouri Supreme Court are *an accurate copy* of those pages. They do not ask Grain Belt to admit the relevance or admissibility of those pages. Nor do they ask Grain Belt to admit the truth of anything

Court Case No. SC96993, which case was heard on transfer from the Eastern District of the Missouri Court of Appeals Case No. ED105932.

² Civil Rule 59.01(d)(2).

asserted on those pages. All the Kroners are asking is that Grain Belt compare the attached pages of the brief with the copy of the brief on file at the Supreme Court and admit that it has been accurately copied. Grain Belt may reasonably be required to make that comparison within the terms of the rule.

A comparison of the two pages from the brief submitted by the Kroners to the brief filed with the Supreme Court reveals that the pages submitted by the Kroners are an accurate copy. As is permitted by Civil Rule 59.01(f), the Commission will find that the matter is admitted. This is not a finding that the document is relevant to any issue before the Commission, nor is it a finding that it should be admitted as evidence in this case. Those determinations will be made at the hearing. Rather, this is simply a finding that the proffered copy is an accurate copy of the brief on file at the Supreme Court.

THE COMMISSION ORDERS THAT:

1. Joseph and Rose Kroner's Motion to Compel Grain Belt to Answer Discovery Request is granted.
2. The accuracy of the copy of the document attached as Schedule 8 to the First Set of Requests for Admissions from Joseph and Rose Kroner to Grain Belt Express Clean Line LLC is deemed admitted.

³ Civil Rule 59.01(f).

3. This order shall be effective when issued.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, and Coleman, CC., concur;
Hall, C., dissents.

Woodruff, Chief Regulatory Law Judge

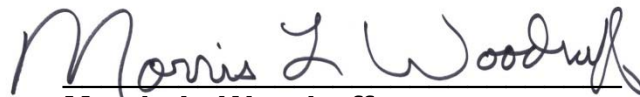
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 17th day of April 2019.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 17, 2019

File/Case No. EM-2019-0150

Missouri Public Service Commission

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounselerservice@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Grain Belt Express Clean Line, LLC

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

Grain Belt Express Clean Line, LLC

Karl Zobrist
4520 Main Street, Suite 1100
Kansas City, MO 64111
karl.zobrist@dentons.com

Grain Belt Express Holding LLC

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

Grain Belt Express Holding LLC

Karl Zobrist
4520 Main Street, Suite 1100
Kansas City, MO 64111
karl.zobrist@dentons.com

Invenergy Investment Company, LLC

Anne E Callenbach
900 W. 48th Place, Suite 900
Kansas City, MO 64112
acallenbach@polsinelli.com

Invenergy Investment Company, LLC

Frank A Caro
900 W. 48th Place, Suite 900
Kansas City, MO 64112
fcaro@polsinelli.com

Invenergy Investment Company, LLC

Andrew O Schulte
900 W. 48th Place, Suite 900
Kansas City, MO 64112-6411
aschulte@polsinelli.com

Invenergy Transmission LLC

Anne E Callenbach
900 W. 48th Place, Suite 900
Kansas City, MO 64112
acallenbach@polsinelli.com

Invenergy Transmission LLC

Frank A Caro
900 W. 48th Place, Suite 900
Kansas City, MO 64112
fcaro@polsinelli.com

Invenergy Transmission LLC

Andrew O Schulte
900 W. 48th Place, Suite 900
Kansas City, MO 64112-6411
aschulte@polsinelli.com

Joseph and Rose Kroner

Paul A Agathen
485 Oak Field Ct.
Washington, MO 63090
paa0408@aol.com

Missouri Joint Municipal Electric Utility Commission

Douglas Healy
3010 E. Battlefield, Suite A
Springfield, MO 65804
doug@healylawoffices.com

Missouri Joint Municipal Electric Utility Commission

Peggy A Whipple
514 E. High Street, Suite A
Jefferson City, MO 65101
peggy@healylawoffices.com

**Missouri Public Service
Commission**
Kevin Thompson
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
kevin.thompson@psc.mo.gov

Renew Missouri
Tim Opitz
409 Vandiver Dr Building 5, Suite
205
Columbia, MO 65202
tim@renewmo.org

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, prominent "M" and "W".

**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.