

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

In the Matter of the Application of Union )  
Electric Company d/b/a Ameren Missouri )  
for Permission and Approval and )  
Certificates of Public Convenience and ) Case No. EA-2024-0237  
Necessity Authorizing it to Construct a )  
Simple Cycle Natural Gas Generation )  
Facility. )

**GRAIN BELT EXPRESS, LLC’S RESPONSE TO AMEREN MISSOURI’S STATEMENT  
OF DISCOVERY DISAGREEMENT OR CONCERN**

COMES NOW Grain Belt Express LLC (“Grain Belt Express”), and respectfully files its Response to the September 23, 2024 Statement of Discovery Disagreement or Concern (“Statement”) filed by Union Electric Company d/b/a Ameren Missouri (“Ameren”) in this proceeding. In support of its Response, Grain Belt Express states as follows:

**I. Ameren’s De Facto Motion to Compel is Premature and Should Be Denied**

1. On September 23, 2024, Ameren filed a Statement of Discovery Disagreement or Concern, noting that it filed its Statement based upon the following discovery requests:

- a. On September 17, 2024, Ameren served its First Set of Data Requests to Renew Missouri, containing six data requests, and on September 19, 2024, Renew Missouri objected to data request numbers 1-5;
- b. On September 18, 2024, Ameren Missouri served its First Data Requests to Grain Belt Express containing twenty-two data requests, and on September 20, 2024, Grain Belt Express objected to all twenty-two requests;
- c. On September 18, 2024, Ameren served its Second Set of Data Requests to Renew Missouri, containing one data request, and on September 20, Renew Missouri objected to that one request.

2. This Response pertains to the First Data Requests to Grain Belt Express only, and thus Grain Belt Express will not respond to Ameren’s substantive arguments regarding the Data Requests to Renew Missouri, though Grain Belt Express reserves the right to address those substantive arguments at the appropriate time. Grain Belt Express does note, however, that the procedural deficiencies in Ameren’s Statement that are discussed below are equally applicable to Renew Missouri.

3. Ameren submits that it filed its Statement in accordance with the Commission’s July 24, 2024 Order Setting Procedural Schedule and Delegating Authority, which set a Discovery Conference for September 26, 2024, and which permits a party with a discovery disagreement or concern involving another party to file a brief statement describing that disagreement or concern and identifying any other parties involved.

4. Ameren further notes that “as of the date of this Statement, these objections have not been resolved by the parties.” While Ameren’s assertion that the objections have not yet been resolved by the parties is accurate, Ameren neglects to state that it has made no attempt to seek resolution of the objections with Grain Belt Express, in clear contravention of Commission Rule 20 CSR 4240-2.090(8).

5. Though Ameren styles its pleading as a “Statement of Discovery Disagreement or Concern,” in reality it is a barely disguised Motion to Compel: “Grain Belt should be compelled to provide information responsive to those requests”;<sup>1</sup> “Grain Belt should be compelled to provide the requested information”;<sup>2</sup> “Grain Belt should be compelled to produce information and documents within its possession, custody or control that are responsive to Ameren Missouri’s

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<sup>1</sup> Ameren’s Statement of Discovery Disagreement, ¶ 37.

<sup>2</sup> *Id.* ¶ 46.

data requests”;<sup>3</sup> “In sum, Grain Belt should be compelled to provide the information requested by Ameren Missouri in Data Requests Nos. 14 through 18 . . .”;<sup>4</sup> and “Ameren Missouri respectfully . . . requests that the Commission . . . compel both Renew Missouri and Grain Belt to respond to Ameren Missouri’s data requests.”<sup>5</sup>

6. As opposed to the “brief statement” describing the discovery disagreement or concern the Commission permits, Ameren filed twenty-eight pages of substantive argument and rhetoric before finally demanding that the Commission compel both Renew Missouri and Grain Belt Express to respond to Ameren’s data requests.

7. 20 CSR 4240-2.090(8) provides that:

Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

8. Although the Commission’s July 24, 2024 Order Setting Procedural Schedule and Delegating Authority waived the requirement in 20 CSR 4240-2.090(8)(B), that a party must seek a telephone conference with the presiding officer before filing a discovery motion, it did not

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<sup>3</sup> *Id.* ¶ 47.

<sup>4</sup> *Id.* ¶ 48.

<sup>5</sup> *Id.* at p. 27.

waive the requirement that a moving party meet and confer in good faith in an effort to resolve discovery disputes prior to filing any discovery motions.

9. Moreover, Grain Belt Express' substantive responses to Ameren's data requests are not due until September 26, 2024 (three days after the Ameren filed its Statement). As Grain Belt Express indicated in its September 20, 2024 Objections to Ameren's First Data Requests, notwithstanding its objections, Grain Belt Express intends to provide substantive responses to the majority of Ameren's requests on the due date. Ameren's filing of a motion to compel, absent a meet and confer or any communication with Grain Belt Express whatsoever, prior to the due date for substantive responses, is premature, procedurally improper, and should be denied by the Commission, particularly in light of Grain Belt Express' commitment to respond to the majority of Ameren's discovery requests. As the Commission has previously recognized:

[T]he Complainants had not conferred in good faith with Respondents in an attempt to resolve the objections to the data requests or arranged for a discovery conference with the presiding officer and opposing counsel to attempt to resolve the dispute as required by 20 CSR 4240-2.090(8)(A) and (B) at the time of filing their motions...the pleadings from the Complainants, even if construed as proper motions to compel, which they are not, were filed prematurely.<sup>6</sup>

The Commission has also noted that:

Experience has shown that bringing the parties together to discuss a discovery dispute can lead to agreements that will avoid the need for a formal order from the Commission. Such an agreement can result in the completion of discovery much sooner than if a formal order from the Commission is required. The Commission is not willing to waive the application of this rule [20 CSR 4240-2.090(8)]. As a result, Staff's motion to compel discovery is premature and will be denied.<sup>7</sup>

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<sup>6</sup> See Docket No. WC-2006-0082, February 27, 2007 *Order Denying Motion to Compel and Denying Request for Sanctions*, at p. 4 (emphasis added).

<sup>7</sup> See Docket No. GC-2006-0378, August 8, 2006, *Order Denying Staff's Motion for Order to Show Cause, Enforce Subpoena and Compel Answers to Deposition Questions and Order Scheduling a Discovery Conference*, at p. 2 (emphasis added).

10. In its Statement, Ameren claims that by the testimony of its witness Emily Piontek, Renew Missouri has “placed front and center in this CCN application matter issues related to the ability (or lack thereof) of the Grain Belt Project to provide capacity...and supply a reliable energy supply during severe weather,” among other things.<sup>8</sup> Ameren further claims that Ms. Piontek’s testimony “made the purported benefits of the Grain Belt Project the primary centerpiece of her criticisms of the Castle Bluff Project.”<sup>9</sup>

11. Ameren’s characterization is easily refuted by the plain reading of Ms. Piontek’s recommendation, which states:

Renew Missouri urges the Commission to direct Ameren to consider alternative resources that can provide comparable attributes, be that through entering into a contract with the Grain Belt Express; building new supply-side, paired renewable energy-and-battery storage resources; or sourcing energy and capacity via adjacent markets. The Company should be ordered to do this by modeling the benefits of geographically dispersed, diverse renewable resources and comparing those to the attributes of the proposed Project, as well as the specific economic impact of the Project versus the Grain Belt Express Project, BESS, and other renewable resources. Critically, we urge the Commission to further interrogate the Company’s logic of using what is purportedly a capacity-only resource to meet those customers’ energy demands. Finally, we recommend that the Commission encourage the Company to pursue comparable new renewable energy projects that would be eligible for financial incentives included in the IRA and BIL.

12. In other words, Ms. Piontek made many recommendations for the Commission to consider as alternatives to the Castle Bluff Project, only one of which was the Grain Belt Express Project. Ms. Piontek’s recommendations are entirely consistent with Renew Missouri’s general mission to advance renewable energy.

13. Ameren’s mischaracterizations of Ms. Piontek’s testimony and use of carefully edited quotations from Ms. Piontek’s testimony is what has placed the Grain Belt Express Project “front and center” in this proceeding.

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<sup>8</sup> Ameren’s Statement of Discovery Disagreement, ¶ 34 (emphasis added).

<sup>9</sup> *Id.* ¶ 33 (emphasis added).

14. Grain Belt Express reserves the right to respond to all the substantive arguments in Ameren's "Statement" at such time when a motion to compel is timely filed and properly before the Commission. At this time, however, Ameren's arguments are not ripe for Commission determination.

WHEREFORE, Grain Belt Express respectfully requests the Commission accept this Response and deny Ameren's motion to compel as premature.

Respectfully submitted,

*/s/ Anne E. Callenbach*

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ATTORNEYS FOR GRAIN BELT EXPRESS LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the parties listed on the official service list by email, 25<sup>th</sup> day of September, 2024.

*/s/ Anne E. Callenbach*  
Anne E. Callenbach