

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Cheri Meadows,)
)
Complainant,)
) Case No. EC-2025-0136
)
v.)
)
)
Grain Belt Express LLC,)
)
Respondent)

**GRAIN BELT EXPRESS LLC’S RESPONSE TO STAFF’S REPORT AND RENEWED
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Grain Belt Express LLC (“Grain Belt Express” or “Respondent”), pursuant to the Commission’s November 4, 2024 Order Directing Staff to File a Recommendation and Setting Time for Responses hereby files this Response to Staff’s January 17, 2025 Report and Renewed Motion to Dismiss for Failure to State a Claim and states the following:

I. Background

1. On October 15, 2024, Cheri Meadows (“Ms. Meadows” or “Complainant”) filed a formal complaint against Grain Belt Express (“Complaint”), expressing her opposition to the route of Grain Belt Express’ AC transmission line, the Tiger Connector, across her property located in Callaway County, Missouri.

2. In the Commission’s October 12, 2023 *Report and Order* (“New CCN Order”) in File No. EA-2023-0017, the Commission approved, among other things, the Tiger Connector and its route.

3. Section 386.390 RSMo. authorizes the Commission to hear a complaint “setting forth any act or thing done or omitted to be done” by a public utility to determine whether there has been a violation of “any provision of law subject to the [C]ommission’s authority, of any rule promulgated by the [C]ommission, of any utility tariff, or of any order or decision of the [C]ommission.”¹

4. The only “act or thing done” by Grain Belt Express has been to site the Tiger Connector on the route approved by this Commission.

5. Ms. Meadows alleges that because the Tiger Connector spans her driveway and crosses her property, Grain Belt Express is not in compliance with the Commission’s New CCN Order. Ms. Meadows specifically alleges as follows:

In the order, on page 42, line 140, it states ‘The Routing Team for the Project also tried to avoid built-up areas, residences.... Furthermore, on line 138 of the same page, it states ‘The Project is designed to have a minimal impact to land.’ In the attached pictures, you can clearly see that Grain Belt is not following these two points. Instead, they have avoided completely uninhabited and open land south of my property.²

6. Ms. Meadows’ allegations refer to the Commission’s Findings of Fact in the New CCN Order and not to an ordering paragraph, decision, or condition.

7. In accordance with the Commission’s November 4, 2024 Order, the Commission Staff filed its Report. As part of its investigation, Staff submitted data requests to Grain Belt Express, which the Company responded to in November and December 2024, and January 2025. Staff further noted that it reviewed the information provided by Grain Belt Express, including details regarding its route selection for the Tiger Connector, vegetation management policies, and Grain Belt Express’ communications with Ms. Meadows. Based upon its investigation of Ms.

¹ Section 386.390 RSMo. (emphasis added).

² Complaint at p. 2.

Meadows' Complaint, Staff did not discover any violation of applicable statutes, Commission rules, regulations, or Commission Orders.

8. Grain Belt Express appreciates the thoroughness of Staff's investigation and concurs with Staff's finding that there have been no violations of applicable statutes, Commission rules, regulations, or Commission Orders.

9. Section 386.390 RSMo and 20 CSR 4240-2.070(4) require a complainant to set forth any act or thing done or omitted to be done by a public utility that is claimed to be in violation of any provision of law or of any rule or order or decision of the Commission. Ms. Meadows' Complaint fails to identify any law, rule, or regulation that Grain Belt Express has allegedly violated, thereby leaving "any order or decision of the Commission" as the remaining options for an alleged violation. Ms. Meadows' Complaint allegations cite to the Commission's Findings of Fact in the New CCN Order and not to an ordering paragraph, decision, or condition.

10. In making its Findings of Fact and Conclusions of Law, the Commission is required, after a hearing, to "make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order or requirement in the premises."³ Because Section 386.420 does not detail what constitutes sufficient findings of fact, Missouri Courts have analyzed Section 536.090, which is within Missouri's Administrative Procedures Act and which applies to "every decision and order in a contested case," to fill in the gaps left by Section 386.420.⁴ Section 536.090 RSMo. provides, in pertinent part:

Every decision and order in a contested case shall be in writing, and except in default cases or cases disposed of by stipulation, consent order or agreed settlement, the decision...shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law

³ Section 386.420.2 RSMo.

⁴ *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n of Mo.*, 103 S.W. 3d 813, 816 (Mo.App. W.D. 2003); *State ex rel. Noranda Aluminum v. Pub. Serv. Comm'n*, 24 S.W. 3d 243, 245 (Mo.App. W.D. 2000).

and shall include a concise statement of the findings on which the agency bases its order.

11. Missouri law provides that an agency needs to provide the “basic findings” upon which its decision rests. Although detailed summaries of the facts are not required in an agency’s order, the “findings should be sufficient to demonstrate how the controlling issues have been decided.”⁵ The findings of fact in a Commission order provide the basis for determining whether the Commission’s decision is supported by substantial and competent evidence.⁶

12. The findings of fact to which Ms. Meadows cites in her Complaint merely describe the landscape surrounding the legal basis for the Commission’s decisions and are designed to provide a reviewing court with a glimpse into the Commission’s rationale for a specific finding. Findings of fact in a Commission Order are not legal requirements or conditions on a public utility’s CCN and do not set forth “any act or thing done or omitted to be done by a public utility” so as to provide a basis for a Complaint.

13. Accordingly, there is no law, rule, Commission order, Commission decision, or Protocol that has been violated by Grain Belt Express, and the Commission Staff’s investigation corroborates this conclusion. If a complainant alleges that a regulated utility is violating the law, its own tariff, or is otherwise engaging in unjust or unreasonable actions, the complaint has the burden of proving the allegations of his or her complaint.⁷ The standard for meeting this burden of proof is the preponderance of the evidence standard.⁸ Ms. Meadows has not met this burden.

⁵ *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm’n of Mo.*, 103 S.W. 3d 813, 818 (Mo.App. W.D. 2003)(internal citations omitted).

⁶ *Id.*

⁷ *Howard v. Union Electric Company, d/b/a Ameren UE*, 2008 WL 5274284 (Mo.P.S.C. 2008), citing *State ex rel. GS Technologies Operating Co., Inc. v. Public Service Commission*, 116 S.W. 3d 680 (Mo.App. 2003)

⁸ *Howard* at 6, citing *Rodriquez v. Suzuki Motor Corp.*, 936 S.W. 2d 104, 109-111 (Mo. Banc 1996).

14. On a motion to dismiss for failure to state a claim, “the petition is reviewed in an almost academic manner, to determine if the facts alleged meets the elements of a recognized cause of action, or of a cause that might be adopted in that case.”⁹ Further, “[a] motion to dismiss is solely a test of the plaintiff’s petition. It assumes that all of plaintiff’s averments are true, and liberally grants to plaintiff all reasonable inferences therefrom. No attempt is made to weigh any facts alleged as to whether they are credible or persuasive.”¹⁰ Ms. Meadows’ allegations that Grain Belt Express did not comply with the Commission’s findings of fact do not give rise to a cause of action because the findings of fact are not a law, rule, Order, or decision with which Grain Belt Express must comply. Ms. Meadows’ Complaint therefore fails to state a claim upon which relief can be granted and should be dismissed.

15. Rule 20 CSR 4240-2.117(2) authorizes the Commission to dispose of any case on the pleadings when not contrary to the law or the public interest. Because Ms. Meadows has failed to identify any law, rule, regulation, Commission order, or Protocol that has been violated by Grain Belt Express there is no justiciable claim before the Commission and administrative efficiency would not be promoted by holding an evidentiary hearing in this case. Ms. Meadow’s failure to state a claim creates a jurisdictional defect, in that her complaint has not identified a claim by which the Commission would have authority to enter any judgment.¹¹ Without properly stating a claim, “substantial justice would not be served” by allowing Ms. Meadows to proceed with a hearing.¹²

⁹ *Richardson v. Richardson*, 218 S.W. 3d, 426, 428 (Mo. banc. 2007).

¹⁰ *Id.*

¹¹ *Crossland Const. Co. v. Alpine Elec. Const. Inc.*, 232 S.W.3d 590, 595 (Mo. Ct. App. 2007); *Gerber v. Schutte Inv. Co.*, 354 Mo. 1246, 1252, 194 S.W.2d 25, 29 (1946); *Wright v. Mullen*, 659 S.W.2d 261, 263 (Mo. Ct. App. 1983).

¹² *Gerber*, 354 Mo. at 1252.

16. Accordingly, the Commission should dismiss the Complaint pursuant to 20 CSR 4240-2.070(7), which provides that, “[t]he [C]ommission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.” Dismissal is also appropriate under 20 CSR 4240-2.116(4).¹³

WHEREFORE, Grain Belt respectfully requests that the Commission: (1) accept this Response to Staff’s Report; (2) dismiss the Complaint for failure to state a claim upon which relief can be granted; and (3) for such further relief as the Commission may deem just and appropriate.

Respectfully submitted,

POLSINELLI PC

/s/ Anne E. Callenbach

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ATTORNEYS FOR RESPONDENT

¹³ “A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved.” 20 CSR 4240-2.116(4).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid, this 24th day of January, 2025.

/s/ Anne E. Callenbach

Attorney for Respondents