

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 REPLY TO OFFICE OF PUBLIC COUNSEL’S  
RESPONSE IN OPPOSITION TO MOTION TO DISMISS AND REQUEST FOR  
RULING OR ORAL ARGUMENT ON THE MOTION TO DISMISS**

Grain Belt Express LLC (“Grain Belt Express”) hereby replies to the Office of Public Counsel’s (“OPC”) January 27, 2025 *Response in Opposition to Motion to Dismiss* and requests a ruling or oral argument on Grain Belt Express’ pending motion to dismiss. In support of its Reply and procedural requests, Grain Belt Express states as follows:

**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. Numerous pleadings and responsive pleadings followed, and on January 17, 2025, 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. Meadows' Complaint, Staff did not discover any violation of applicable statutes, Commission rules, regulations, or Commission Orders.

3. Grain Belt Express filed a response to Staff's Report on January 24, 2025, within which Grain Belt Express renewed its previously filed Motion to Dismiss Ms. Meadows' Complaint for failure to state a claim. On January 27, 2025, OPC filed a response in opposition to Grain Belt Express' Motion to Dismiss.

## **II. Response to OPC**

4. OPC's claimed rationale for filing its response in opposition to the Motion to Dismiss is "because the public interest is best served by allowing the Missouri public to file complaints, as they are lawfully entitled to do under Section 386.390 RSMo, without an attorney's understanding of the applicable laws or regulations." Grain Belt Express does not disagree with OPC's assertions and has not disputed Ms. Meadows' right to file a complaint.

5. OPC next claims that, "even if a complainant does not cite to a particular law or regulation, the public should still have their cases heard when a complaint explains in practical terms the basis for the complaint, and a law, rule, order or tariff may be implicated by the allegations contained in the complaint." OPC advocates for a liberal interpretation of the formal complaint requirements contained in 20 CSR 4240-2.070(4) in the case of a *pro se* complainant such as Ms. Meadows.

6. Grain Belt Express is not opposed to such a liberal interpretation and is mindful that navigating public utility and regulatory statutes and regulations can be thorny even for those

who practice in the regulatory arena on a regular basis. Liberal interpretation notwithstanding, however, Ms. Meadows' Complaint still fails OPC's interpretation of complaint requirements, in that it does not contain an allegation that can be tied back to a violation of a law, rule, tariff, or Commission Order. If a Complaint does not contain an allegation that can be tied to a violation of law, rule, or commission Order, jurisdiction is improper. "To plead a proper complaint before the Commission, at a minimum, there must be an allegation of a violation of a law, rule, order or decision of the Commission."<sup>1</sup> "Without some pleading of a violation, at least some imperfect pleading, it is not a properly pled complaint and it does not trigger the hearing requirement in Section 386.390."<sup>2</sup>

7. OPC offers two examples of how it believes Ms. Meadows' complaint satisfies its more liberal standard, citing to Sections 386.310 RSMo and 393.140(5) RSMo as the potential "law, rule, order or tariff" that "may be implicated by the allegations in the complaint." However, even if one takes Ms. Meadows' allegations as true, they still fail to implicate the statutes cited by OPC.

8. First, OPC's argument that the complaint implicates Section 386.310, regarding complaints on safety issues, is implicated in this proceeding is vastly premature and not yet ripe for Commission review and decision, as the Tiger Connector that will be sited on Ms. Meadows' property has not yet been constructed. Section 386.310 states that upon complaint the Commission has the authority to require every public utility to maintain and operate its facilities in such a manner as to promote and safeguard the health and safety of its employees, customers, and the

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<sup>1</sup> File No. EC-2010-0364, September 8, 2010 *Order Dismissing Complaint*, at p. 6, citing *State ex rel. Ozark Border Elec. Co-Op v. Public Service Comm'n of Missouri*, 924 S.W.2d 597, 600 (Mo.App.1996).

<sup>2</sup> *Id.* at p. 8, citing *State ex rel. Div. of Transp. v. Sure-Way Transp., Inc.*, 948 S.W. 2d 651, 656 (Mo.App.1997).

public. Grain Belt Express does not question the Commission's authority. However, Ms. Meadows has not demonstrated a present or imminent safety concern with the Tiger Connector, and has merely offered speculation regarding her fears of the transmission line failing. In order that a controversy be ripe for adjudication, a "sufficient immediacy" must be established.<sup>3</sup> Ripeness does not exist when the question rests solely on a probability that an event will occur.<sup>4</sup> The Tiger Connector that will be sited on Ms. Meadows' property has not yet been constructed, and to hold a hearing discussing nebulous questions regarding the safety of a future transmission line is administratively inefficient.

9. The Tiger Connector is functionally no different than the hundreds of miles of transmission lines currently operating safely throughout the state of Missouri. Moreover, as discussed in its response to Ms. Meadows' Complaint, Grain Belt Express is already governed by extensive safety requirements. Grain Belt Express is required to design, engineer, and maintain the Tiger Connector within the requirements of the National Electric Safety Code ("NESC") and the North American Electric Reliability Corporation ("NERC"), the function of which is to ensure the reliability and security of the bulk power system in North America.

10. Grain Belt Express is also required to comply with the Commission's regulations concerning safety. 20 CSR 4240-18.010 - *Safety Standards for Electrical Corporations, Telecommunications Companies, and Rural Electric Cooperatives* has adopted the current 2023 version of the NESC, which references weather maps from American Society of Civil Engineers, ASCE-7, Minimum Design Loads and Associated Criteria for Buildings and Other Structures. The NESC weather criteria (NESC Section 250) is based on a 100-year Mean Recurrence Interval. It

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<sup>3</sup> *State ex rel. Kansas Power and Light Co. v. Public Service Comm'n of the State of Missouri*, 770 S.W. 2d 740, 742 (Mo. App. W.D. 1989)(internal citations omitted.)

<sup>4</sup> *Id.*

is Grain Belt Express’ practice to establish design performance above the minimum requirements of the NESC by incorporating design performance criteria and recommendations from other industry standards and good practice (*e.g.*, ASCE MOP-74 Guidelines for Electrical Transmission Line Structural Loading, ASCE MOP-111 Reliability-Based Design of Utility Pole Structures, ASCE-48 Design of Steel Transmission Pole Structures, ASCE-10 Design of Latticed Steel Transmission Structures, and other standards and references from Electrical Power Research Institute (“EPRI”), Institute of Electrical and Electronics Engineers (“IEEE”), International Electrotechnical Commission (“IEC”), etc.).

11. Finally, pursuant to the conditions placed upon Grain Belt Express’ certificate, Grain Belt Express must provide a final copy of its Emergency Restoration Plan prior to commercial operation of the Grain Belt Express Project.<sup>5</sup>

12. Accordingly, OPC’s suggestion that the Commission adjudicate a complaint on vague and ambiguous safety allegations concerning a transmission line that is not yet in operation should fail for lack of ripeness.

13. OPC’s next example of how Ms. Meadows’ complaint satisfies its more liberal standard must also fail. OPC claims that Section 393.140(5) RSMo permits the Commission upon complaint to find that the acts of a public utility are not just and reasonable, and to order “the just and reasonable acts and regulations to be done and observed.” Section 393.140(5) is a statement of the general powers of the Commission and is not itself a law, rule, order or tariff that can be violated. Section 393.140(5) states:

[t]he Commission shall: (5) Examine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such

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<sup>5</sup> Case No. EA-2023-0017, Report and Order, Attachment 1, Section IV (Oct. 12, 2023).

persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaints, that the property, equipment or appliances of any such person or corporation are unsafe, insufficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters. (emphasis added).

14. For the Commission to order that “the just and reasonable acts and regulations must be done and observed,” there still must be a properly pled complaint pending before the Commission before a hearing can be held. Here—even after viewing Ms. Meadows’ allegations in the most favorable light and attempting to infer which law, rule, order or tariff may be implicated by her allegations—no such law, rule, order or tariff can be found. Accordingly, dismissal is proper even under OPC’s liberal interpretation of the standard.

15. In addition to the procedural hurdles present with Ms. Meadows’ insufficiently pled complaint, there are also significant practical hurdles to holding a hearing on a complaint in which the complainant has not articulated (or even inferred) a violation of a Commission law, rule, order or tariff. For example, typical hearing preparation necessarily includes a joint list of issues and order of witnesses. Without a specific violation of law being pled, the parties cannot determine the issues for the Commission’s determination. Similarly, without specified issues subject to resolution, the parties cannot determine what witnesses are appropriate to testify at any hearing.

16. Grain Belt Express believes its Motion to Dismiss is ripe for determination. However, if the Administrative Law Judge (“ALJ”) believes that oral arguments would be beneficial to the ALJ and/or the parties, then Grain Belt Express moves for such oral arguments pursuant to 20 CSR 4240-2.140.

WHEREFORE, Grain Belt respectfully requests that the Commission: (1) accept this Reply to OPC's Response in Opposition to Motion to Dismiss; and (2) grant Grain Belt Express' Motion to Dismiss, or, in the alternative, schedule oral argument concerning Grain Belt Express' Motion to Dismiss.

Respectfully submitted,

POLSINELLI PC

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ATTORNEYS FOR RESPONDENT

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 3rd day of February, 2025.

/s/ Anne E. Callenbach

Attorney for Respondents