

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt	)	
Express LLC for an Amendment to its Certificate of	)	
Convenience and Necessity Authorizing it to Construct	)	Case No. EA-2023-0017
Own, Operate, Control, Manage, and Maintain	)	
a High Voltage, Direct Current Transmission Line	)	
And Associated Converter Station	)	

MOTION TO COMPEL ANSWERS TO DATA REQUESTS,
AND CONDITIONAL REQUEST FOR VARIANCE OR WAIVER OF
DISCOVERY RULES

For the reasons set forth below, the Missouri Landowners Alliance (MLA) and the Eastern Missouri Landowners Alliance (EMLA) respectfully ask the Commission to direct Grain Belt Express LLC (Grain Belt) to submit full and complete answers to the seventeen data requests submitted by Movants to Grain Belt on November 13, 2025. A copy of those data requests is attached as Exhibit 1.

In support of this Motion, Movants respectfully state as follows:

1. The purpose of the data requests is to aid in determining whether Grain Belt has exercised the authority conferred by the Certificate of Convenience and Necessity (CCN) in this case within two years of the Commission’s final Report and Order. If Grain Belt has not done so, then by law the CCN is now null and void .

2. The The Report and Order granting the CCN in this case was issued on October 12, 2023, effective November 11, 2023.

3. The CCN was issued pursuant to Section 393.170.1 RSMo.¹ As the Commission noted at page 89 of the Report and Order, under subsection 3 of that statute “unless Grain Belt exercises the authority conferred by the CCN within two years, the

¹Report and Order, October 12, 2003, p. 5, 69.

CCN becomes null and void.” This forfeiture presumably would take effect, if at all, on November 12, 2025; i.e., two years after the effective date of the CCN Order had passed.

4. The data requests at issue here concern the extent of the work done on the Project by Grain Belt over the past 2 years. The answers, in turn, would go to the issue of whether or not Grain Belt exercised the authority granted by the CCN within 2 years after the effective date of the CCN Order. The data requests concentrate directly or indirectly on the extent of any construction work done on the Project during that period. The extent of construction activity is pivotal, because under the terms of Section 393.170.1, the sole permission granted by the Commission when issuing a CCN is for “construction” of the utility plant in question. And under subsection 3 of that statute, what must be exercised within two years is the “authority conferred by such certificate of convenience and necessity”, that being the construction of the project. Or as stated by the Missouri Court of Appeals in an earlier Grain Belt case, it is the “authority to begin construction of electric plant” which must be exercised within the two year period.² As is thus apparent, the data requests are directly relevant to the possible forfeiture of Grain Belt’s CCN.

5. In an email of November 14, 2025, counsel for Grain Belt objected to providing any answers to the data requests. A copy of that email is transcribed at Exhibit 2.

6. Grain Belt begins by noting that discovery at the Commission may be had by the same means and under the same conditions as in circuit court, and that the Rule there allows discovery of any relevant matter “involved in the pending action.” Grain Belt contends there is no pending action here, hence no discovery is allowed.

²*Missouri Landowners Alliance v. Public Service Commission*, 593 S.W.3d. 632, 645 (Mo App. 2020)

7. Grain Belt takes too restrictive a view of the term “pending action.” Earlier this month they filed in this docket a “Notice of Compliance” and the annual status report required by the CCN Order. Thus the Commission clearly is not treating this case as having been fully disposed of. If that was the intent, the Commission could easily have said so. In the prior Grain Belt CCN case, for example, at the conclusion of the proceedings the Commission filed a “Notice Closing File”, issued there on January 28, 2025.³ No such notice was issued in this proceeding. In fact, the Commission’s EDFS system says this case is still “Open”. Under Grain Belt’s logic, if this case is no longer pending then no party would have the right to even inquire about the assertions made by Grain Belt in its annual status report. However, in the CCN Order the Commission indicated that those annual filings would be subject to review.⁴

8. The only apparent alternative for Movants to obtain the requested information would be to file a formal complaint, and then file the data requests in the new proceeding. But that option puts the cart before the horse: it would require the filing of a complaint without benefit of much of the information on which a complaint might be considered. Pursuing discovery first is clearly the more logical alternative.

9. Grain Belt also objects to the data requests as follows: “Further, the Procedural Order in the case established May 15, 2023 as the final date for discovery in the proceeding.” Movants suggest that this “final” discovery date was only intended to control the procedural schedule leading up to the final round of evidentiary hearings. It seems unlikely that the intent of that 2023 order was to prohibit discovery related to an issue which could not possibly surface for another two years.

³ Case No. EA-2016-0358.

⁴Report and Order p. 75, par. 14.

10. The circuit court Rule relied upon by Grain Belt, 56.01(b)(1), goes on to state that discovery must conform to the following guidelines:

provided the discovery is proportional to the needs of the case considering the totality of the circumstances, including but not limited to, the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Here, each of these criterion speaks loudly in favor of going forward with the proposed discovery.

11. If the Commission deems it necessary in disposing of this Motion, Movants respectfully ask the Commission pursuant to its Rule 20 CSR 4240-2.205 (waiver or variance of Commission rules), or 20 CSR 4240-2.090(2)G) (modification of time limits for discovery), to extend the dates of discovery to accommodate the potential issues raised by the material in attached Exhibit 1. There is certainly no statutory provision which would preclude the Commission from doing so.

12. On November 18, 2025, counsel for Grain Belt and counsel for Movants discussed their respective positions on the need for Grain Belt to respond to the data requests at issue here. They were unable to reach any consensus.

WHEREFORE, Movants respectfully ask the Commission to (1) direct Grain Belt to fully and completely answer the data requests attached at Exhibit 1, within twenty days of the Order disposing of this Motion; and (2) if deemed necessary, to modify any prior procedural orders in this case so as to permit this discovery to move forward.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon all parties by email this 25th day of November, 2025.

/s/ Paul A. Agathen