

EXHIBIT 3

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Landowners Alliance, and)	
Eastern Missouri Landowners Alliance)	
DBA Show Me Concerned Landowners, and)	
John G. Hobbs,)	
)	
Complainants,)	
)	
V.)	
)	Case No. EC-2021-0059
Grain Belt Express LLC, and)	
Invenergy Transmission LLC)	
)	
Respondents.)	

RESPONDENTS’ OBJECTIONS AND RESPONSES TO FIRST SET OF DATA
REQUESTS FROM COMPLAINANTS

Pursuant to 20 CSR 2440-2.090, Grain Belt Express LLC (“GBE”) and Invenergy Transmission LLC (“Invenergy”) (collectively, “Respondents”), through counsel, respectfully these objections and responses to the First Set of Data Requests from Complainants by reproducing the statements and listing Respondents’ responses below each of those Requests.

GENERAL OBJECTIONS

Respondents’ General Objections are incorporated by reference into the responses and objections to data requests set forth below and are stated here for the convenience of the parties.

1. Respondents object to Complainants’ Data Requests to the extent they seek information which is not, and may not have been, within the personal knowledge or possession or control of Respondents or their agents.

2. Respondents object to Complainants’ Data Requests to the extent they seek the production or disclosure of communications prepared by or for Respondents’ lawyers, which communications (a) were made by or to legal counsel

in anticipation of or in connection with litigation, or (b) reflect confidential and privileged communications between or among counsel, representatives of Respondents, and/or non-testifying experts retained for purposes of assisting Respondents or his counsel in these proceedings. Respondents will not produce or disclose such privileged communications.

3. Respondents object to the definition contained herein, and made a part hereof, to the extent it attempts to alter the plain meaning of any term or attempt to impose obligations on Respondents that are inconsistent with and/or in addition to those required under Missouri law.

4. Respondents object to the definition contained in Complainants' Data Requests to the extent they render Complainants' Data Requests vague, ambiguous, overbroad, and/or unduly burdensome.

5. In responding to Complainants' Data Requests, Respondents do not waive, and expressly preserve, the following objections:

- a. all objections regarding competency, relevancy, materiality, and admissibility;**
- b. all objections regarding the use of the responses in any proceeding; and**
- c. all objections to any further data requests involving, or related to, any of the requests in Complainants' Data Requests.**

6. Respondents do not concede that any of their responses to Complainants' Data Requests are admissible evidence at any hearing or any other legal proceeding in which evidence is heard.

Definition:

“Correspondence” includes all forms of written communication, including but not limited to letters, emails and text messages.

Objection:

Complainants reincorporate by reference their General Objections.

Data Requests:

1. *Please provide a copy of all correspondence between either or both of the Respondents on the one hand, and Kansas Governor Laura Kelly and/or any member of her staff on the other, which address (1) any of the changes to the proposed Grain Belt transmission project as referred to in the press release included as Exhibit 1 to the Complaint in this case; or (2) the content of the press release itself.*

Objection:

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Further, this Request is not proportional to the needs of the case.¹ Additionally, this DR requests Correspondence which could more easily be obtained through a request through the Kansas Open Records Act directed to the Governor of Kansas and her staff. Respondents further object to the extent this request calls for confidential business information.

2. *Please provide a copy of all correspondence between either or both of the Respondents on the one hand, and Kansas Secretary of Commerce David Toland and/or any member of his staff on the other, which address (1) any of the changes to the proposed Grain Belt transmission project as referred to in the press release included as Exhibit 1 to the Complaint in this case; or (2) the content of the press release itself.*

Objection:

¹ Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Further, this Request is not proportional to the needs of the case.² Additionally, this DR requests Correspondence which could more easily be obtained through a request through the Kansas Open Records Act directed to the Kansas Secretary of Commerce, his staff, and the Kansas Department of Commerce.³ Respondents further object to the extent this request calls for confidential business information.

3. *Please provide a copy of all correspondence between either or both of the Respondents on the one hand, and Mr. James Owen of Renew Missouri on the other, dealing with (1) the changes announced in the press release included as Exhibit 1 to the Complaint in this case; or (2) the content of the press release itself.*

Objection:

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Further, this Request is not proportional to the needs of the case.⁴ Respondents further object to the extent this request calls for confidential business information.

4. Please provide a copy of all correspondence between either or both of the Respondents on the one hand, and Mr. John Coffman of the Consumers Council of Missouri on the other, dealing with (1) the changes announced in the press

² Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

³ “Thus, even though the information sought is properly discoverable, upon objection the trial court should consider whether the information can be adequately furnished in a manner less intrusive, less burdensome or less expensive than that designated by the requesting party.” *State ex rel. Anheuser v. Nolan*, 692 S.W.2d 325, 328 (Mo. Ct. App. 1985).

⁴ Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

release included as Exhibit 1 to the Complaint in this case; or (2) the content of the press release itself.

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Further, this Request is not proportional to the needs of the case.⁵ Respondents further object to the extent this request calls for confidential business information.

5. Please provide a copy of all correspondence between Mr. Kris Zadlo of Invenergy Transmission on the one hand, and officers, employees or agents of Invenergy Transmission or its affiliated companies on the other, dealing with (1) the changes announced in the press release included as Exhibit 1 to the Complaint in this case; or (2) the content of the press release itself.

Objection:

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, this DR requests all correspondence dealing with “changes announced in the press release” by Mr. Kris Zadlo. Mr. Zadlo leads strategic commercial activities connected to the Grain Belt Express transmission line project, including contemplated and actual changes to the project. Forcing Mr. Zadlo to disclose all communications relating to these communications would force him to review thousands of documents, many of which are irrelevant to the present issue—whether Respondents violated the terms of the CCN through actual design and

⁵ Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

engineering changes to the project.⁶ For the foregoing reasons, this Request is not proportional to the needs of the case.⁷

Respondents further object to the extent this request calls for confidential business information and information protected under attorney-client privilege and work product privilege.

6. Please provide a copy of all correspondence compiled on or after March 20, 2020 (one year after the CCN was issued by the Missouri Commission to Grain Belt) between Mr. Kris Zadlo of Invenenergy Transmission on the one hand, and officers, employees or agents of Invenenergy Transmission or its affiliated companies on the other, dealing with possible changes in the transmission project approved in Case No. EA-2016-0358, other than changes already addressed in response to the preceding item.

Objection:

In addition to their foregoing General Objections, Respondents object that, as written, this Request is overly broad, intrusive, vague, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, the DR requests all correspondence about *any* possible changes to the transmission project. Mr. Zadlo leads strategic commercial activities connected to the Grain Belt Express transmission line project, including contemplated and actual changes to the project. The ambit of the DR would encompass virtually any correspondence would have relating to the project.⁸ Accordingly, this Request is not proportional to the needs of the case.⁹

Further, depending on the definition of “possible changes,” this DR could include changes regardless of whether those changes advanced past brainstorming,

⁶ “Order Concerning Discovery Conference,” *In Re Union Elec. Co.*, No. EO-2004-0108, 2004 WL 716776 (Mar. 16, 2004) (finding requests for “all documentation” to be overbroad).

⁷ Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

⁸ *See* fn. 2.

⁹ Mo. Sup. Ct. R. 56.01 (as amended by L.2019, S.B. No. 224).

let alone whether they actually occur. This DR also does not qualify the term “change.” Given that Complainants’ argument is based on its belief that Respondents are impermissibly making *material* changes, this DR is overbroad and not reasonably calculated to lead to admissible evidence.¹⁰

Finally, Complainant’s allegations of improper “changes” revolve entirely on the substance of August 25, 2020 Press Release. There are no allegations beyond what was said in the press release that Respondents have pursued other actual material “changes” to the design or engineering of the projects. Therefore, a fishing expedition into *any* contemplated change to the project is overbroad and not reasonably calculated to lead to admissible evidence.¹¹

Respondents further object to the extent this request calls for confidential business information and information protected under attorney-client privilege and work product privilege.

7. *On what date did Invenergy decide to approve the “phased construction plan” announced in the press release attached as Exhibit 1 to the Complaint in this case?*

Response:

There was no formal approval process for this press release.

8. *Do Respondents presently plan to eventually seek regulatory approval from the Missouri Commission for the changes described in the press release attached as Exhibit 1 to the Complaint in this case, assuming no other significant changes are proposed to the project as originally approved?*

¹⁰ “Order Concerning Discovery Conference,” *In Re Union Elec. Co.*, No. EO-2004-0108, 2004 WL 716776 (Mar. 16, 2004) (finding a DR was overbroad where it was not sufficiently precise so as to readily determine which documents fall within the requests and which do not).

¹¹ *State ex rel. Kawasaki Motors Corp., U.S.A. v. Ryan*, 777 S.W.2d 247, 253 (Mo. Ct. App. 1989) (finding discovery requests overbroad, burdensome and oppressive where they were not limited to the issues raised in the petition).

Response:

Yes.

9. *If the answer to the preceding item is “yes”, on what date or approximate date do Respondents anticipate they will file for such approval.*

Response:

Respondents do not have a date or approximate date scheduled at this time.

VERIFICATION OF RESPONSES

The responses provided to the foregoing Data Request Nos. 7-9 have been collected from various sources at Invenenergy Transmission LLC and Grain Belt Express LLC, and are true and accurate to the best of my knowledge and belief.

Signed: /s/ Kris Zadlo
Kris Zadlo
Senior Vice President
Invenenergy LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objections and responses was served upon all parties of record by electronic mail this 29th day of December, 2020.

/s/ Andrew O. Schulte
Attorney for Respondents