

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) File No. EA-2023-0017
Construct, Own, Operate, Control, Manage, and)
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station)

INITIAL POST-HEARING BRIEF OF
THE MISSOURI LANDOWNERS ALLIANCE¹

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1. Introduction

In Sections 2-5 of this Brief, the MLA addresses four issues involving Grain Belt’s proposed amendments to the CCN granted in EA-2016-0358: the need for the additional 2000 MW of capacity in Missouri; the economic feasibility of the amended Project; Grain Belt’s proposal for “phasing” the Project; and Grain Belt’s proposal to change the easement payments for landowners on the Tiger Connector line.

But first, as Staff has noted, it is less than clear what the final Grain Belt project might look like.² It has certainly been a moving target over the years. The base cost of the project has more than doubled since Grain Belt first filed for a CCN in 2014.³ Ownership changed in mid-stream. The original concept was for Grain Belt to deliver 500 MW to Missouri. Now the figure is five-times that amount. The portion to be delivered to the PJM area has decrease from 3500 MW to 2500 MW.⁴ The total capacity of the line has increased from 4000 to 5000 MW. The Missouri converter station was originally to be located in Ralls county. It is now being moved to Monroe County. And to accommodate that change, the new converter station will require a new 40-mile AC connection to the grid, ending in Callaway County.

In the initial 2014 CCN case, Grain Belt estimated that the project would be completed as early as 2018.⁵ It now hopes that Phase I of the project will be fully

² Exh. 109, Revised Staff Report, p. 2.

³ In the initial 2014 case, the base cost was projected to be \$2.2 billion. Exh. 304, Report and Order p. 10, par. 19. The costs of the transmission upgrades were unknown at that point. Id. p. 13, par. 35. The current estimate of the base cost of the project (not including the cost of upgrades) is now approaching \$5 billion. Exh. 5, Shine Direct, p. 7 lines 1-4.

⁴ The total proposed capacity of the line is 5000 MW. (Grain Belt’s Application, p. 13, par. 33, filed on August 24, 2022.) With 2500 MW now proposed for Missouri, that leaves only 2500 MW for delivery into PJM.

⁵ Application in EA-2014-0207, p. 15, par 37. (EFIS 5)

operational by the end of 2027 – some 9 years behind the original projection.⁶ And Phase II would come some two years later⁷, if it is built at all.

The entire line from Kansas to Indiana was initially intended to be one project. The latest proposal is to construct it in two separate phases, allowing Grain Belt to eliminate Phase II altogether if it so desires. Until the filing of Grain Belt’s testimony in this case, the revenue stream was to come from the sale of capacity on the project to wind generators in Kansas, or to end-use providers further east. Now Grain Belt is also looking to sell or lease an “undivided interest” in the line.⁸

Grain Belt contends that its investors bear the risk of the Project.⁹ However, as Staff has observed, “Invenergy has repeatedly petitioned FERC to require RTOs to pay for the presumed benefits of this and other merchant HVDC projects, which could result in Missouri ratepayers paying for the project regardless of use by Missouri Utilities.”¹⁰

Grain Belt is also in the process of shifting some of the risk of the project to taxpayers, through its application to the DOE for a loan guarantee for a substantial portion of the construction costs.¹¹ And by shifting a portion of the risk of the project to taxpayers, Grain Belt will no longer be bearing all of its risks – raising the question of whether it is still a merchant project.

As Staff notes, final interconnection studies remain incomplete.¹² The entire line was initially intended to be bidirectional. That concept is now subject to question.¹³ All landowners were initially to be paid for each support structure on their property. Grain

⁶ Exh. 2, Sane Surrebuttal, p. 6 lines 7-8.

⁷ Tr. Vol. 7, p. 202, lines 20-21

⁸ Exh. 5, Shine Direct, p. 7 lines 19-21.

⁹ See, e.g., Tr. vol. 7, p. 206 lines 10-13.

¹⁰ Exh. 109, Revised Staff Report, p. 3; testimony of Mr. Sane at Tr. Vol. 7, p. 204 line 17 – p. 205 line 3.

¹¹ Tr. Vol. 9, p. 419 line 23 – p. 421, line 12.

¹² Exh. 109, Revised Staff Report, p. 2.

¹³ Id. p. 2-3.

Belt is now attempting to change the payment schedule for the new Tiger Connector line. The support structures for the DC line were initially to consist of a mixture of lattice structures and monopoles. Now they will all be steel lattice structures.¹⁴

Staff was certainly justified when expressing the following concern about the project:

much of Invenergy’s evidence “depend[s] on puffery, evolving understandings of the project itself, and the constant changes in supply, demand, and pricing of electricity in the market and for that potential supplier or customer.”¹⁵

It should come as no surprise then that Invenergy’s Vice President of Development for Transmission recently made a public statement during a DOE “zoom conference” to the effect that “Invenergy has not yet decided whether or not the Grain Belt line is a merchant project.”¹⁶

Grain Belt later attempted to disclaim that statement¹⁷, but it is difficult to imagine that such a significant remark from such a high-ranking official of Invenergy was a mere slip-of-the-tongue.

The MLA asks the Commission to consider Grain Belt’s history of fluctuating plans and current uncertainties for the project before it authorizes Grain Belt to change course once again.

2. Need for the Increased Capacity of the Missouri Converter Station

Grain Belt is seeking to increase the capacity of the Missouri converter station from 500 MW to 2500 MW. But Grain Belt has failed to demonstrate a need for the

¹⁴ Id. p. 3.

¹⁵ Id. p. 4. (footnote omitted).well-supported

¹⁶ See Commission’s Order Admitting Admission and Late-Filed Exhibit 307, issued June 26, 2023.

¹⁷ See Exh. 307

additional 2000 MW of capacity in Missouri, and has therefore failed to satisfy the “need” requirement of the Tartan factors.¹⁸

As the applicant here, Grain Belt bears the burden of proof, which is “the preponderance of the evidence” standard. In order to meet this test, Grain Belt must convince the Commission it is more likely than not that its allegations are true.¹⁹ And with respect to the Tartan issue of “need”, Grain Belt must establish that the additional service (in this case the 2000 MW of added capacity in Missouri) “would be an improvement justifying its cost.”²⁰

In the previous CCN case, the Commission found that “[t]he Project is needed primarily because of the benefits to MJMEUC and its customers, who have committed to purchase 136 MW of wind power utilizing transmission services purchased from Grain Belt.”²¹

However, if the Commission rejects the request for the five-fold increase in the capacity of the Missouri converter station, Grain Belt would still be authorized to build the Project under the terms of the previous CCN case. And Grain Belt confirms that the MEC contract remains in effect.²² Therefore, even if the proposed increase in the capacity of the Missouri converter station is rejected, the needs of MEC and its customers, as noted by the Commission in the previous CCN case, would still be met under the terms of the existing CCN. And Grain Belt has made it clear it has not abandoned or otherwise relinquished the CCN granted to it in that last proceeding.²³

¹⁸ See list of the five Tartan factors at Exh. 306, Report and Order on Remand, p. 40.

¹⁹ See Exh. 304, Report and Order in EA-2014-0207, p. 20, and Missouri appellate court decisions cited therein.

²⁰ Id. p. 21; (internal quotation mark omitted).

²¹ Exh. 306, Report and Order on Remand, p. 41, 1st full par.

²² Application in this case, August 24, 2022, p. 16 par. 38.

²³ Application in this case, August 24, 2022, p. 43, par. 104.

Accordingly, Grain Belt must demonstrate in this case that the need for the additional 2000 MW is justified on some basis other than its contract with the MEC. It has failed to do so, as evidenced by the total lack of capacity sales at a sustainable rate for even the original 500 MW destined for Missouri.

Under the terms of the FERC order which initially granted Grain Belt the authority to negotiate rates with its customers, Grain Belt is required to solicit potential buyers of capacity through what is called an “open solicitation” process.²⁴

Grain Belt began the customer solicitation process in January of 2015 – more than 8 and a half years ago.²⁵ Yet despite its concerted efforts to do so, since that time Grain Belt has failed to sell a single MW of capacity at market rates.²⁶

As mentioned, Grain Belt does have a contract to sell 136 MW of capacity to the MEC. However, as an inducement to make that sale, Grain Belt offered a rate below market-price to the MEC²⁷, in what Staff and even Grain Belt refer to as a “sweetheart deal.”²⁸ In fact, the rate was so low it would not even allow Grain Belt to recover its investment, meaning the price was not only below-market, but even below-cost.²⁹

When Grain Belt’s initial request for a CCN was rejected by the Commission in July of 2015, Grain Belt had no commitments for the purchase of any capacity from either the Kansas wind generators or the load-serving utilities on the other end.³⁰. One

²⁴ Tr. Vol. 7, p. 177, lines 10-14.

²⁵ Tr. Vol. 12 p. 1102 line 7 – p. 1103 line 8.

²⁶ At one point Grain Belt apparently had a contract to sell 25 MW for delivery in Missouri to an Illinois entity called Realgy. Exh. 306, Report and Order on Remand, p. 16, par. 38. However, that contract is no longer included in Grain Belt’s count of firm capacity sales. Transcript Vol. 9, p. 413, lines 14-22; p. 427 lines 14-17; and p. 458 lines 1-11. Accordingly, the Realgy contract will be given no further consideration here.

²⁷ Exh. 702, Grotzinger Rebuttal, p. 11 line 22 – p. 12 line 1.

²⁸ Exh. 109, Revised Staff Report, last two lines of p. 1.

²⁹ See Id., p. 1-2.

³⁰ Exh. 304, Report and Order in EA-2014-0207, p. 10, par. 22.

year later, in June of 2016, Grain Belt finally signed the sweetheart deal with the MEC.³¹

Grain Belt obviously recognized it would need to sell some amount of capacity at some rate to someone in Missouri before making a second try for a CCN here.

Given the nature of the contract with the MEC, it is not a logical barometer of the actual market demand for Grain Belt's product; i.e., the sale of capacity at rates which will sustain the Project. Given that Grain Belt could not sell a single MW at market rates in the eight-plus years after it began to solicit customers, it is quite apparent that there is no demand for even Grain Belt's original 500 MW, much less the additional 2000 it is proposing to add in Missouri.

MEC's contract with Grain Belt allows MEC to purchase between 100-200 MW of capacity.³² Mr. Grotzinger is confident that the MEC will be able to sell the remaining 65 MW they are allowed to purchase from Grain Belt (the 200 maximum less the 136 MW already under contract).³³ The MLA has no reason to doubt Mr. Grotzinger on that point, but this additional 65 MW would all be sold by Grain Belt at the below-market rate applicable to the 136 MW to which MEC has already committed.³⁴

Accordingly, assuming the MEC does sell the full 200 MW to which they are entitled, Grain Belt will still have failed after all these years to sell a single MW of capacity at a market-based rate.

Grain Belt's lack of success is certainly not due to a lack of trying. After the close of the previous CCN case, Grain Belt has been actively seeking, although unsuccessfully, to sell capacity on its line at a sustainable rate.

³¹ Id. p. 13, par. 27.

³² Exh. 306, Report and Order on Remand, p. 13, par. 27.

³³ Tr. Vol. 12, p. 1086 line 18 – p. 1087, line 4.

³⁴ Exh. 306, Report and Order on Remand, p. 15, par. 33.

At one point Grain Belt had signed Memorandums of Understanding (MOUs) with three entities for the sale of capacity on the Project.³⁵ But the period for further good faith negotiations regarding each of those MOUs has now expired.³⁶ Therefore, those parties have no obligation to buy anything from Grain Belt or to even engage in future negotiations with Grain Belt.³⁷

In addition, Grain Belt signed a Letter of Intent with another party regarding the sale of an interest in the Project, but the commercial terms of that proposal had not even been disclosed by Grain Belt to the counter-party at the time the testimony was filed in this case.³⁸ Thus at this point, the Letter of Intent is at best nothing more than a non-binding MOU.

Also, last year Grain Belt submitted proposals to four utilities for the sale of varying interests in the Project.³⁹ Apparently, none of those utilities has accepted or even formally responded to Grain Belt's proposed sales.⁴⁰

As Mr. Sane testified, demand for the project correlates to need.⁴¹ Given the lack of demand for the Project, by his own analogy the lack of "need" is apparent.

Mr. Sane also points to emission reduction goals announced by Ameren and Evergy as indications of a need for the revised project in Missouri.⁴² However, over the past nine years or so Grain Belt has been unable to persuade either utility to purchase any capacity on the line. And if those utilities did view the amended Grain Belt project as even a potential option for meeting their emission reduction goals, one would certainly

³⁵ Exh. 1, Sane Direct, p. 13 lines 7-10; Exh. 104, Lange Rebuttal, p. 14, lines 21-22.

³⁶ Exh. 104, Lange Rebuttal, p. 14, line 21 – p. 15, line 5; Sane Surrebuttal, p. 14, line 18 – p. 15, line 8.

³⁷ Tr. Vol. 8 Redacted Version, p. 231 line 22 – p. 232, line 1.

³⁸ Exh. 104, Lange Rebuttal, p. 15, lines 9-13; Exh. 2, Sane Surrebuttal, p. 15, lines 2-3.

³⁹ Tr. Vol. 8, HCC version, p. 258 line 21 – 259 line 1.

⁴⁰ Id. p. 261 lines 23-25; p. 262 lines 15-17; p. 263 lines 14-16.

⁴¹ Exh. 2, Sane Surrebuttal, p. 15, lines 7-8.

⁴² Exh. 1, Sane Direct, p. 13 line 11 – p. 15, line 2.

have expected them to voice their support in this case for the new Project. That of course did not happen.

One problem Grain Belt will have in selling the added capacity is that it has greatly over-estimated the pool of potential customers within the state of Missouri. Judge Dippell asked Mr. Sane who the intended categories of recipients or customers would be for the added 2000 MW to be injected into Missouri.⁴³ Mr. Sane responded that these customers would fall into two different categories, one being electric utilities and the other being major corporations.⁴⁴ However, Grain Belt will be unable for several reasons to sell any of the added 2000 MW of capacity to corporate facilities located within this state.

First, in its Application in the last CCN case, Grain Belt assured the Commission that its Missouri facilities “will not provide retail service to end-use customers”⁴⁵ That commitment was relied upon by the Commission, where it stated in its Report and Order on Remand that “The project would not provide service to end-use customers or provide retail service in Missouri”⁴⁶ In its Application in this proceeding, Grain Belt made no mention of seeking to change its commitment on this issue.

Moreover, Grain Belt could not provide retail service in Missouri even if it had not assured the Commission it would not do so. In its Application in this case, Grain Belt again sought only a “line certificate” pursuant to Section 393.170.1 RSMo.⁴⁷ Mr. Sane apparently assumed this authorization gave Grain Belt the right to sell transmission

⁴³ Tr. Vol. 7, p. 284 lines 1-6.

⁴⁴ Id. lines 11-15.

⁴⁵ Application, p. 29, par. 76 in case number EA-2016-0358, EFIS 34.

⁴⁶ Exh. 306, Report and Order on Remand, p. 11, par. 14.

⁴⁷ Application, page 1, initial paragraph.

rights to corporations within Missouri.⁴⁸ However, the relevant statutes make no provision for a utility with only a line certificate to provide what would amount to retail service in this state.

In his direct testimony Mr. Sane spoke of energy deals completed by corporate customers in the PJM and MISO markets.⁴⁹ But for good reason, he could not name one such transaction for delivery to a corporate customer in Missouri.⁵⁰

Even if Grain Belt manages to find a utility which will buy any of the additional capacity to be delivered here, there is no guarantee how much of that power would find its way to retail customers in the state of Missouri. As Mr. Sane testified, power from Missouri could potentially be delivered to every utility in MISO.⁵¹ In MISO South, that would include utilities in the states of Arkansas, Louisiana and perhaps parts of Texas.⁵² MISO North includes utilities in all or part of nine other states, including Iowa and Illinois.⁵³

And in further support for the demand for the line, Mr. Sane testified that there are twenty-eight utilities in MISO which have Carbon Reduction goals and twenty-six which have Renewable Energy goals.⁵⁴ The vast majority of those utilities are obviously not located in Missouri.

Furthermore, deliveries to out-of-state utilities would not be confined to those in the MISO footprint. Last year the TVA requested up to 5000 MW of carbon-free energy

⁴⁸ Tr. Vol. 7, p. 293 line 20 – p. 294 line 6.

⁴⁹ Exh. 1, Sane Direct, p. 11, lines 16-17.

⁵⁰ Tr. Vol. 7, p. 197, lines 12-18.

⁵¹ Tr. Vol. 8 Redacted Version, p. 271 lines 3-4.

⁵² Tr. Vol. 7, p. 288, lines 9-17.

⁵³ Tr. Vol. 12, p. 995, lines 5-10.

⁵⁴ Exh. 1, Sane Direct, p. 16 lines 4-5.

that must be operational before 2029.⁵⁵ And as Mr. Sane testified, “The Amended Project, through its AEI interconnect, could be a potential transmission source for this additional energy need.”⁵⁶

The Grain Belt capacity will undoubtedly go to the highest bidders, wherever they are located. Accordingly, even if one or more utilities do buy any of the additional 2000 MW, it is impossible to say how much of that power would stay in Missouri. Or as Mr. Sane testified, it is difficult to say how much of the additional 2000 MW delivered to Missouri would actually be used here.⁵⁷

Staff no doubt felt constrained here by the Commission’s approval of the project in the previous CCN case. Nevertheless, Staff is still concerned that the project “does not have a clearly identified need.”⁵⁸

In summary, despite its on-going efforts to do so, Grain Belt has failed for nine years now to sell even a single MW of capacity at a sustainable rate. Yet they continue to hope that if they build the Project, the customers will come. Given Grain Belt’s track record over these past nine years, it is time to recognize that the emperor has no clothes.

3. Economic Feasibility of the Proposed Amended Project

As Staff has noted, the Tartan factors of “need” and “economic feasibility” are linked: “in order for a company to be successful [i.e., economically feasible], it must offer a good or service that is desired at a given price point [i.e., needed] that also provides a reasonable return above its cost of manufacture.”⁵⁹

⁵⁵ Id. p. 16 lines 9-10.

⁵⁶ Id. lines 18-19.

⁵⁷ Tr. Vol. 8 HCC version, p. 240 lines 10-19.

⁵⁸ Exh. 109, Revised Staff Report, p. 7. See also p. 1.

⁵⁹ Exh. 109, Revised Staff Report, p. 1, last paragraph.

That observation is beyond dispute. And because there has been no showing that 2000 MW of added capacity is needed in Missouri, it logically follows that the revised project cannot possibly be economically feasible.

In the previous CCN case, the Commission found that “it is the 3500 MW portion of the project to be sold in PJM that demonstrates the financial viability of the project overall, since power prices for PJM are generally \$10/MWh higher than prices paid for the energy sold into the MISO market in Missouri.”⁶⁰

In this case Grain Belt presented no evidence of any such price differential. In fact, in this proceeding Mr. Sane cast doubt upon the ability to even calculate such a figure.⁶¹ Yet in the previous case , and relying on Grain Belt’s testimony, it was the \$10 differential which played a large part in the Commission’s determination that the overall project was economic feasibility.⁶² Moreover, under Grain Belt’s phasing proposal, it might never build the portion of the line which would deliver power to the PJM territory.⁶³

Accordingly, Grain Belt will need to justify the economic feasibility of the Project on entirely new grounds in this case.

As a starting point, it is intuitively obvious that the revised project can only be economically feasible if the revenue from the line exceeds its costs, including a reasonable return on the investment. To do so, Grain Belt must necessarily prove two elements: the revenue stream it can reasonably expect from the project, and the total value of its investment in the line.

⁶⁰ Exh. 306, Report and Order on Remand, p. 44, 1st full par.

⁶¹ Tr. Vol. 7, p. 193 line 23 – p. 195 line 8.

⁶² Exh. 306, Report and Order on Remand, p. 44, 1st full par.

⁶³ See discussion of the phasing issue below, at section 4 of this Brief.

As to the first of these factors, when the MLA asked in a data request what Grain Belt's projected revenue would be from the sale of capacity at the Missouri converter station and at the converter station at the Illinois border, Grain Belt objected to the questions in part on the ground that they called for "speculation".⁶⁴ If the amount of the revenue from the Project is speculative, then so too is the economic viability of the project.

Ms. Shine subsequently provided a spread sheet with some projected revenue figures,⁶⁵ but of course Grain Belt had already labeled the revenue projections as "speculative."

Moreover, Staff witness Mr. Stahlman testified that the numbers provided by Ms. Shine in the spread sheet were "hard coded", meaning that he could not verify what was behind those numbers.⁶⁶ Thus in Mr. Stahlman's opinion, Grain Belt has not provided evidence that would enable him to confirm whether Grain Belt's projected revenues for the Project are reasonable.⁶⁷

And at this point, the other half of the equation is also in doubt: the total cost of the Project.

Not including the cost of network upgrades, the estimated base cost of constructing the amended Project has risen to approximately \$4.95 billion.⁶⁸

In response to a data request from the MLA, Grain Belt witness Mr. Carlos Rodriguez indicated that the total updated cost for the network upgrades was

⁶⁴ Tr. Vol. 7, p. 187, lines 1-18.

⁶⁵ Exh. 6, Shine Surrebuttal, Sch. RS-3.

⁶⁶ Tr. Vol. 12, p. 904, lines 13-16; p. 939, line 21 – p. 940 line 2.

⁶⁷ Id. p. 957, lines 12-15.

⁶⁸ Exh. 5, Shine Direct, p. 7, lines 1-4.

approximately \$788 million.⁶⁹ That would bring the total cost of the amended Project to approximately \$5.74 billion.

Mr. Rodriguez testified at the hearing that the latest estimate for the cost of upgrades, as described in his Surrebuttal testimony, was about \$760 million, or down somewhat from the figure in Exhibit 302.⁷⁰ However, his surrebuttal apparently does not specify a single figure for the total of the network upgrades, and his numbers are difficult to compare to the costs on Exhibit 302. In any event, the difference between the two latest estimates is not critical here.

What is significant is the fact that Grain Belt has two additional connections for which there have been no studies, and for which the costs cannot even be estimated.⁷¹ Grain Belt has therefore failed to provide a complete projection of what the final cost of the project will be. And without a reasonable approximation of the final cost of the project, it is logically impossible to determine whether the unknown revenues from the project will cover the unknown costs. In other words, Grain Belt has failed to prove that the amended project is economically feasible.

Grain Belt seemingly has its own doubts about this issue. Invenergy recently filed a formal complaint with the FERC against MISO regarding the way MISO treats the Grain Belt Project in MISO's long-term transmission planning process.⁷² Notably, a group of utility transmission owners, including a subsidiary of Ameren, joined the FERC proceeding with a protest against Invenergy's complaint against MISO.⁷³

⁶⁹ Exhibit 302; Tr. Vol 9, p. 475 lines 1-6.

⁷⁰ Tr. Vol. 9, p. 475, lines 13-21.

⁷¹ Id. p. 476 line 13 – 477 line 3.

⁷² Exh. 104, Lange Rebuttal, p. 4 lines 3-12; Exh. 104, Sane Surrebuttal, p. 11, lines 1-6.

⁷³ Tr. Vol. 7, p. 215, lines 8-17.

Briefly, Invenergy's complaint is that MISO does not include the Grain Belt project in MISO's "base case" in its yearly evaluation of what additional transmission projects MISO should add.⁷⁴ MISO does not do so because it limits the HVDC merchant projects in its base case to those which are sufficiently advanced toward completion, as evidenced by executed interconnection agreements.⁷⁵

As Mr. Sane testified, if Invenergy is successful in its FERC complaint against MISO, the outcome of MISO's planning process would be altered.⁷⁶ More specifically, he testified that the amount of electricity which the Grain Belt project and other HVDC lines will inject into MISO "will necessarily impact modeled production cost savings, congestion and fuel savings and other benefits that MISO identifies in its analyses and ratepayers should only pay for MTEP lines of optimal design."⁷⁷

The consequences of Invenergy's proposal at the FERC were further explained by Mr. Michael Milligan, who likely was the foremost expert in this case on the subject of MISO's planning process.⁷⁸ As Mr. Milligan testified, MISO's "base case" for its planning activities is a starting point, and represents the transmission system as it exists today.⁷⁹ And while the issue is complicated, if MISO did add the Grain Belt line to its base case, Mr. Milligan would expect that change to have some effect on MISO's final modeling results.⁸⁰ And notably, some of what are referred to as MISO's Tranche 1 projects in effect serve some of the same purposes as the Grain Belt Project.⁸¹

⁷⁴ Tr. Vol. 9, p. 211, lines 7-11.

⁷⁵ Exh. 2, Sane Surrebuttal, p. 11, lines 9—11.

⁷⁶ Id. p. 212 line 20 – p. 213 line 2.

⁷⁷ Exh. 2, Sane Surrebuttal, p. 11 lines 6-9.

⁷⁸ See Exh. 850, Milligan Rebuttal, p. 1-2, in particular p. 2, lines 10-11.

⁷⁹ Tr. Vol. 12, p. 1022, lines 10-16.

⁸⁰ Id. p. 1022 line 21 – p. 1023 line 19.

⁸¹ Id. p. 1025 line 9 – 20.

Invenergy no doubt knows exactly what it was doing in filing the complaint case against MISO. If it is successful, its efforts in that proceeding could prevent MISO from pursuing alternative transmission service that could duplicate Grain Belt's Project. If Grain Belt is attempting to eliminate competition from the MISO projects, it is fair to ask how confident Grain Belt could be in its own financial viability.

Notably, Invenergy filed its Complaint against MISO in August of last year, and asked that it be "fast tracked" by the FERC. Yet to date, the FERC has taken no action on the Complaint.⁸²

On the issue of financial viability, Grain Belt has apparently recognized a need for additional revenue sources in order to bolster the viability of its Project. Until now, Grain Belt's revenue was to be derived solely from the sale of capacity on the line.⁸³ Now, as another means to raise revenue, Grain Belt is also offering to sell or lease an undivided interest in the ownership of the line itself.⁸⁴

Ms. Shine stated that the undivided interests would be a sale for the exclusive use of the line by the purchaser.⁸⁵ However, exclusive use is not a public use. While the issue is not ripe for a decision in this case, if Grain Belt sells undivided interests for all or a significant portion of the Project, the MLA contends Grain Belt would no longer be a "public utility" or serve a "public use."

⁸² Tr. Vol. 7, p. 220, lines 11-23.

⁸³ See Exh. 306, Report and Order on Remand, p. 11 par. 13

⁸⁴ Exh. 5, Shine Direct, p. 7, lines 19-21; Tr. Vol. 9 p. 417 lines 16-22.

⁸⁵ Id. p. 415, lines 11-12.

At this point, because of the evolving nature of the Project, Staff has not been able to assess its economic feasibility.⁸⁶ The MLA would go a step further, and contends that Grain Belt has definitely failed to meet the Tartan requirement of economic feasibility.

4. The “Phasing” Issue

Grain Belt is proposing a change to the financing conditions included by the Commission in the previous CCN case, in order that Grain Belt may build Phase I of the Project without securing any financing for Phase II.⁸⁷ The financing and construction of each phase would be independent of the other. Thus if the phasing proposal is approved by the Commission, Grain Belt would be under no obligation, ever, to build Phase 2.

Staff does not support the “phasing” proposal.⁸⁸ As Mr. Stahlman testified, in the previous CCN case the Commission found that what now amounts to Phase II under the new proposal was the key to the financial viability of the project as a whole. Thus as Mr. Stahlman testified, “By constructing the project in two phases, it creates additional uncertainty about the feasibility of the project.”⁸⁹ And the Staff position on phasing remained the same at the hearings, despite the contentions made in Grain Belt’s surrebuttal.⁹⁰

Furthermore, the expected cost of the project has approximately doubled. Given that Grain Belt must still honor its sweetheart deal with the MEC, this raises the question of the economic feasibility of the project going forward “since the proposed amendment will make the project rely on more sales in MISO and less in PJM.”⁹¹

⁸⁶ Exh. 109, Revised Staff Report, p. 4 and p. 7.

⁸⁷ See Grain Belt’s Application in this proceeding, p. 12-13, par. 30-32 and p. 39 par. 86; Exh. 19, Chandler Direct, p. 18 line 4 – p. 19 line 18.

⁸⁸ Exh. 107, Stahlman Rebuttal, p. 1, lines 20-22.

⁸⁹ Id. p. 2, lines 4-11.

⁹⁰ Tr. Vol. 10, p. 808, lines 1-8.

⁹¹ Id. p. 2 lines 15-18.

The phasing proposal was also addressed by Staff witness Ms. Claire M. Eubanks. As she testified, at this point Staff does not support the proposed phasing of the project.⁹² Grain Belt acknowledges, she stated, that financing of the project is one of the three major issues in constructing the line. Therefore, “Ensuring GBE fully finances the entire project before constructing on easements is a landowner protection.”⁹³ Accordingly, Ms. Eubanks concluded that a modification of the financing provisions approved in the previous CCN case is not warranted.⁹⁴

Even two Grain Belt witnesses acknowledged that building both phases of the project is more economically efficient than building only Phase I.⁹⁵

Grain Belt contends that its phasing proposal is needed because land acquisition in Illinois significantly trails that in Missouri and Kansas.⁹⁶ However, the lack of progress in Illinois is due in part at least to the fact that Grain Belt did not pursue the acquisition of easements in Illinois as aggressively as it did in Missouri.

Grain Belt received its latest approval for the line from the Illinois Commission in March of this year.⁹⁷ It’s land acquisition there “is still in very early stages.”⁹⁸ The reason is that Grain Belt did not begin any direct activity related to the acquisition of easements in Illinois until after it had received the Order from the Illinois Commission earlier this year.⁹⁹ And Grain Belt’s witness on this issue, Mr. Kevin Chandler, was not aware of any law or regulation in Illinois which would have prevented Grain Belt from

⁹² Exh. 102, Eubanks Rebuttal, p. 3, lines 20-22.

⁹³ Id. p. 3 line 22 – p. 4 line 4.

⁹⁴ Id. p. 4, lines 5-6.

⁹⁵ Tr. Vol. 9, p. 391 line 19 – p. 392 line 1; p. 412 lines 18-23.

⁹⁶ Exh. 20, Chandler Surrebuttal, p. 6 lines 7-8.

⁹⁷ Id. p. 6, line 6.

⁹⁸ Id. line 3.

⁹⁹ See Tr. Vol. 10, p. 598 line 25 – p. 599 line 7.

going forward prior to the issuance of the Illinois order with all of the preliminary steps in the easement acquisition process.¹⁰⁰

Grain Belt cannot logically blame this delay in the easement acquisition process in Illinois on the desire to wait until after receipt of the Illinois Order approving the Project. In Missouri, well before this Commission approved the CCN in EA-2016-0305, Grain Belt had already acquired 39 easements for the line in this state.¹⁰¹ It is little wonder that land acquisition in Illinois lags that in Missouri.

Finally, when he asked himself in the context of the phasing issue whether Grain Belt would construct Phase I if it did not also have approval for Phase II, Mr. Sane answered “Potentially no.”¹⁰²

This comment can mean only one of two things: either it is an empty threat to hold hostage the supposed benefits to Missouri from Phase I if Grain Belt is not successful on the phasing issue; or Phase I alone is not the economically viable project that Grain Belt claims it to be.¹⁰³

5. Grain Belt’s Proposed Change to the payment Schedule for the Tiger Connector Line.

Under the terms of the Landowner Protocol incorporated in the Commission’s Order in the last CCN case, Grain Belt was required to pay 110% of the fair market value of the easement property, plus an additional payment for any support structures built upon the property.¹⁰⁴ Grain Belt is now proposing a change to that payment schedule, applicable only to landowners on the Tiger Connector line: it would pay 150% of the fair

¹⁰⁰ Id. p. 598 lines 14-23.

¹⁰¹ Exh. 306, Report and Order on Remand, p. 37.

¹⁰² Exh. 2, Sane Surrebuttal, p. 18 lines 6-8.

¹⁰³ Id. p. 17, lines 1-16, stating that Phase I would “remain economically viable throughout the Project life without any additional delivery into PMJ”. See also Exh. 6, Shine Surrebuttal, stating that “Upon completion, Phase I will be independently economically viable...”, p. 7, line 15; and p. 8, lines 3-4.

¹⁰⁴ Exh. 19, Chandler Direct, p. 15, lines 15-18.

market value for the easement property, but would eliminate any payments to landowners for support structures.¹⁰⁵

As an alternative, the MLA proposes that the Commission direct Grain Belt to offer the landowners on the Tiger Connector line the option of either accepting Grain Belt's proposal, or accepting the payment structure adopted by the Commission in the last CCN case. This option would help to ensure that no landowner is harmed financially by Grain Belt's proposal to amend the payment schedule adopted in the last CCN case.

Grain Belt offers several reasons for eliminating the structure payments for landowners on the Tiger Connector line. First, they point out that recently enacted House Bill 2005 includes the 150% requirement for new transmission projects. However, that legislation does not even apply to the Grain Belt project¹⁰⁶, and so the legislation itself does not support the elimination of structure payments on the Tiger Connector line.

Grain Belt also argues that even though HB 2005 does not apply to Grain Belt's Project, some stakeholders requested that the 150% provision from that legislation should be applied to the Tiger Connector.¹⁰⁷ However, nowhere does Grain Belt claim that in making such a request, any party or stakeholder agreed that in return, the landowners would forfeit their right to payments for support structures. If Grain Belt desired to include that provision as part of its "agreement" with stakeholders, it should have made that fact clear from the outset.

At the hearings Mr. Chandler raised two additional arguments against payment for support structures. These contentions were not even mentioned by Mr. Chandler in his Surrebuttal testimony, and only surfaced as seeming after-thoughts during the hearings.

¹⁰⁵ Id. p. 15, line 21 – p. 16 line 1.

¹⁰⁶ Id. p. 16, lines 6-18.

¹⁰⁷ Id. p. 20, line 9; Exh. 20, Chandler Surrebuttal, p. 14, lines 9-11.

First, he claimed that from a processing and record keeping perspective, it would be difficult for Grain Belt to accommodate different payment schedules for different landowners on the Tiger Connector line.¹⁰⁸ That contention is hardly credible for a sophisticated, multi-billion-dollar operation such as Invenergy.

That is particularly true in light of Mr. Chandler's insistence that few if any landowners would benefit anyway from accepting payment for the support structures and only 110% of the value for the easement.¹⁰⁹

Assuming that position is accurate, the few if any landowners who choose that option should clearly not be a significant tracking problem for Invenergy's computer systems. And at \$6,000 per monopole structure on the Tiger Connector line¹¹⁰, if few or no landowners choose that option, then the added cost to Grain Belt would be lost in the rounding of this multi-billion-dollar project.

Finally, Mr. Chandler claimed at the hearings that this option would be challenging to landowners because Grain Belt does not know at this point exactly where the structures will be located.¹¹¹

This argument certainly does not square with Grain Belt's assertion that it has been working with individual landowners on the HVDC line to negotiate the location of structures on their property.¹¹² In any event, the argument under-estimates the ability of landowners to make a logical decision, based on the data available at the time an easement is signed. If nothing else, the landowner can delay a decision on that issue until the location of the structures is finalized.

¹⁰⁸ Tr. Vol. 10, p.695, lines 3 – 10.

¹⁰⁹ Id. p. 650, lines 4-12.

¹¹⁰ Exh. 19, Chandler Direct, p. 15 lines 17-18

¹¹¹ Tr. Vol. 10, p. 695, lines 10-17.

¹¹² Exh. 19, Chandler Direct, p. 6 lines 14-18.

For a company which insists it is doing what is right by landowners,¹¹³ Grain Belt's position on this issue is difficult to understand. Their suggested change should be rejected in favor of the MLA's proposal to offer landowners a choice between Grain Belt's proposed payment schedule for the Tiger Connector property, and the payment schedule approved by the Commission in the last CCN case. That suggestion would minimize or eliminate the number of landowners who would be financially harmed by Grain Belt's proposal to change the rules.

And finally, Staff agrees that under certain circumstances, a landowner would likely not see the same benefit under the new Grain Belt proposal as he or she would have seen under the payment schedule from the last CCN case.¹¹⁴

6. Other studies and testimony.

The MLA's arguments on the above four issues are not dependent on the testimony of some of Grain Belt's witnesses and its supporters. However, because this additional evidence could be deemed relevant to the MLA's arguments, it is addressed in the sections of this brief which follow.

(a) The Guidehouse Report sponsored by Messrs. Petti and Baker

Mr. Anthony Petti sponsored what is referred to as the "Guidehouse Report", which found that the amended project would produce seven types of improvements and benefits.¹¹⁵ His testimony was later adopted by another Guidehouse representative, Mr. Robert Baker.¹¹⁶

¹¹³ See e.g., Exh. 1, Sane Direct, p. 27 line 16 – p. 28 line 3; Id. p. 35, lines 17-19; Exh. 19, Chandler Direct, p. 9 line 3 – p. 13 line 14.

¹¹⁴ Tr. Vol. 10, p. 818, lines 23-25.

¹¹⁵ Exh. 11, Petti Direct, p. 7 lines 4-12

¹¹⁶ Exh. 12, Baker Surrebuttal, p. 5 line 6.

Staff witness Claire M. Eubanks reviewed the Guidehouse Report, and found it to be deficient, or of concern, in a number of respects.¹¹⁷ At the hearings, she testified that Staff's basic objections to the Report were that the benefits it calculated only materialize if the entire Phase 1 and Phase II segments are completed, if the line is fully subscribed, and if there are enough generators to use the line.¹¹⁸ Obviously none of these conditions has yet been met by Grain Belt.

Staff witness Mr. Lange voiced additional concerns about the benefits calculated in the Guidehoue Report, questioning "what those would be and where those would manifest. I can't necessarily say that that will happen and I think that that goes to a lot of the issues that Staff is having, you know, with the Guidehouse study itself."¹¹⁹

To the list of Ms. Eubanks concerns, the MLA would add the following:

- The Report purports to quantify the hypothetical savings which could have resulted had the Grain Belt project been in service at the time of winter storm Uri, but it fails to even estimate what the savings to the state of Missouri might have been.¹²⁰
- The same is true with respect to the hypothetical savings attributed to the Grain Belt project from three other storms analyzed in the Report.¹²¹
- The Report does not even purport to evaluate any incremental monetary benefits of approving the Amended Project vis-à-vis the project as approved in the prior CCN case.¹²² Accordingly, the Commission cannot determine from the Guidehouse

¹¹⁷ Exh. 102, Eubanks Rebuttal, at p. 12 lines 1-3; p. 13 lines 2-7; p. 13 lines 13-15; p. 13 lines p. 13 lines 19-21; p. 13 line 22 – p. 14 line 1; p. 14 lines 9-12; and p. 14, line 18 – p. 15 line 1.

¹¹⁸ Tr. Vol. 10, p. 813, lines 12-20.

¹¹⁹ Id. p. 837 line 21 – p. 838 line 4.

¹²⁰ Tr. Vol. 9, p. 513 line 8 – p. 515, line 1.

¹²¹ Id. p. 515 line 2 – 24.

¹²² Id. p. 516 line 5 – 22.

Report what savings, if any, might be realized if it allows Grain Belt to move from the status quo to the amended project.

- To Mr. Baker's knowledge, neither MISO nor any other RTO has determined that the revised Project is necessary for reliability or stability of the electric grid in Missouri. Nor is he aware of MISO or any other RTO having determined that the Project is needed to relieve congestion on the grid. Nor is he aware of any documentation which demonstrates that the amended Project is the least cost method of improving the reliability of the bulk power system in Missouri. In fact, Guidehouse has performed no analysis which would show that the Grain Belt project is the least cost method of achieving any of the seven major benefits claimed for the Project by Mr. Petti.¹²³

In short, there is nothing in the Guidehouse Report which would refute the MLA's preceding arguments regarding the four actual issues before the Commission.

(b) The PA consulting report sponsored by Mr. Mark Repsher

Mr. Mark Repsher works for the PA Consulting Group, and on behalf of Grain Belt submitted what is referred to as the PA Consulting Report.¹²⁴ In general, the intent of this analysis was to measure the impact on power costs and emissions reductions if the Commission were to approve Grain Belt's proposed amended project (the "Expanded GBX case"), as opposed to going forward with the Project as approved in the previous CCN case (the "Status Quo Case").¹²⁵

¹²³ Id. p. 516 line 25 – p. 518 line 5.

¹²⁴ Exh. 3, Repsher Direct, p. 3 lines 3-4; p. 4 line 23.

¹²⁵ Id. p. 5, lines 12-17.

Staff witness Mr. Michael Stahlman testified that Mr. Repsher's analysis is irrelevant to the Commission's decision in this case.¹²⁶ He summarized why that is so, as follows:

Mr. Repsher assumes a blend of generation that is not part of this proposed project and that does not exist. The analysis includes hypothetical benefits with unrealistic assumptions, which is discussed below, and the expenditures necessary to construct the new generation is not included in his analysis. Additionally he incorrectly assumes that a reduction in energy and capacity price will automatically result in lower rates for Missouri ratepayers. Finally, Mr. Repsher assumes that the project is economically feasible by crediting all benefits, even those to non-Invenergy parties, to Invenergy.¹²⁷

As Mr. Grotzinger of the MEC correctly observed, "it is tremendously difficult to forecast many years into the future"¹²⁸ That observation is certainly applicable to the "unrealistic assumptions" included in the PA Consulting Report.

(c) The economic study sponsored by Dr. David G. Loomis

Grain Belt witness Dr. David Loomis submitted a computer-generated analysis which purports to quantify the economic impact of the revised Project on the Missouri economy in terms of increased jobs, labor earnings and fiscal impacts.¹²⁹ As discussed below, the study includes inappropriate data as inputs to the IMPLAN computer model. But more significantly, even if the results of the study were accurate, it provides nothing of any use to the Commission in deciding any of the issues in this case. Accordingly, the MLA joins with Staff in recommending "that the Commission give no weight to this study as a basis to approve or reject the project."¹³⁰

¹²⁶ Exh. 107, Stahlman Rebuttal, p. 4 lines 15-16.

¹²⁷ Id. lines 17-23.

¹²⁸ Exh. 702, Grotzinger Rebuttal, p. 14 line 2.

¹²⁹ Exh. 21, Loomis Direct, p. 4, lines 3-5.

¹³⁰ Exh. 107, Stahlman Rebuttal, p. 8, lines 9-10.

As to the problems with the data, two of the key factors in Dr. Loomis' study were the number of jobs in Missouri created during the three-year construction of the Project, and the earnings resulting from those jobs.¹³¹ Those figures purportedly quantified the benefits solely for the State of Missouri.¹³² However, in compiling the number of new jobs which would be created, Dr. Loomis assumed that 100% of the workers on the project would reside in Missouri.¹³³ In fact, as he acknowledged, workers move from one-time jobs to the next, and so he does not know how many of the construction workers included in his study would actually reside in this state.¹³⁴

Dr. Loomis also assumed there would be no loss of jobs or earnings due to work-related injuries on the construction project.¹³⁵ Unfortunately, regardless of the precautions taken, work-related accidents are bound to happen when constructing a high-voltage transmission project over a three-year period, spanning the entire state.¹³⁶

The failure to reflect these factors in the study obviously results in an overstatement by some unknown amount of the supposed benefits accruing to Missouri.

Actually, the Loomis study fails to demonstrate any economic benefits for Missouri. All the benefits quantified by Dr. Loomis, such as local property taxes, will presumably be included by Grain Belt in the cost of the capacity it sells.¹³⁷ Or in the

¹³¹ Exh. 21, Loomis Direct, Schedule DL-2, p. 6.

¹³² Id.

¹³³ Tr. Vol. 10, p. 708 lines 1-4.

¹³⁴ Id. p 707 lines 15-25.

¹³⁵ Tr. Vol. 10, p. 730 lines 13-25.

¹³⁶ See Tr. Vol. 9, p. 501 line 12 – p 502 line 14, where Grain Belt witness Mr. White discussed the number of OSHA reportable accidents which have occurred over the past four years for Invenergy workers as well as Invenergy contract workers.

¹³⁷ See Tr. Vol 10, p. 15-17.

words of Staff witness Mr. Stahlman, “Taxes and expenditures on the project need to be recovered by Invenergy in order to be feasible.¹³⁸

And the end-use suppliers, such as Ameren, would in turn expect to pass on those same costs to their own retail customers.¹³⁹ So ultimately, in the normal course of events, all of what Dr. Loomis calls economic benefits end up being shouldered by the retail customers who indirectly take energy from the Grain Belt line.

But even if the dollar amounts in the Loomis study were accurate, the results would be useless in this proceeding. The quantification of the benefits from the Project may be a valuable tool for PR purposes, but it tells only one side of the story.

The problem is that the Loomis study quantifies certain economic benefits attributable to the Project, but ignores all the economic detriments which also would result from the line.¹⁴⁰

For example, Grain Belt witness Anthony Petti testified that the addition of the Grain Belt line would mitigate the need for additional reliability driven generation in the amount of \$526 million per year, or \$7.6 billion over the life of the project.¹⁴¹ Similarly, Sierra Club’s witness Mr. Michael Milligan testified that the revised Project will provide “a very high potential to reduce installed capacity”¹⁴²

As Dr. Loomis conceded, if a plant is not built, then of course there will be no jobs created or wages paid on such projects.¹⁴³

¹³⁸ Exh. 107, Stahlman Rebuttal, p. 8, lines 2-3.

¹³⁹ Tr. Vol. 10, p. 722 line 9 – p. 723 line 6.

¹⁴⁰ Tr. Vol. 10, p. 708 line 12 – p. 709 line 7.

¹⁴¹ Exh. 11, Petti Direct, p. 9, lines 12-15. See also the testimony of Mr. Robert Baker, who adopted Mr. Petti’s study, at Tr. Vol. 9, p. 519 lines 2-10 .

¹⁴² Exh. 850, Milligan Rebuttal, p. 3 lines 9-10.

¹⁴³ Tr. Vol. 10, p. 710, lines 9-25.

And for plants which are not built, the loss is not just in the construction jobs which disappear, but also in the operation and maintenance jobs over the life of the plant.

The generation plants displaced by the Project are not the only economic detriments attributable to the Grain Belt line. As Mr. Repsher testified, the supposedly low-cost power from the Grain Belt project also will displace higher cost power from inefficient generators in MISO, at Associated Cooperative, and in other areas.¹⁴⁴ However, Dr. Loomis' IMPLAN model does not reflect any of the consequences of reduced power production at plants in Missouri.¹⁴⁵

Presumably in recognition of these problems, Dr. Loomis was asked several times by Grain Belt supporters if there were other benefits from the line which he did not include in his study.¹⁴⁶

Of course there were. Different Grain Belt witnesses conducted their own unique studies which purported to quantify savings and/or benefits supposedly attributable to the revised Project.¹⁴⁷ But each study must stand or fall on its own. For example, if fault was found with the study sponsored by Mr. Petti, that analysis could hardly be rescued by pointing out that Dr. Loomis found benefits which Mr. Petti had not included in his own study. The same holds true for Dr. Loomis' own analysis. If it is defective, then it should be ignored despite any benefits which other witnesses accounted for. Otherwise, the benefits from these other witnesses would in effect be double-counted.

On another subject, Dr. Loomis stated that he also testified on behalf of Grain Belt regarding economic impacts of the Project in the original Grain Belt CCN case: EA-

¹⁴⁴ Exh. 3, Repsher Direct, p. 11, lines 21-22.

¹⁴⁵ Tr. Vol. 10, p. 715 lines 11-13.

¹⁴⁶ Tr. Vol. 10, p. 788 line 8 – p. 790 line 2; p. 793 lines 6 – 20.

¹⁴⁷ See, e.g., Exh. 11, Petti Direct, Schedule AP-2.

2014-0207.¹⁴⁸ The following findings from that proceeding are equally applicable to the Loomis study in this case:

- “The study by GBE witness David Loomis alleging economic benefits from the Project in Missouri do not address the displacement of jobs and energy production in Missouri due to the Project. The Project would probably make Missouri-based wind projects less likely to be constructed.”¹⁴⁹
- “The study performed by witness Loomis did not attempt to identify any negative economic impacts to Missouri as a result of the construction of the Project.”¹⁵⁰
- “GBE alleges that the Project would result in economic benefits, but its studies are not reliable as they fail to consider any negative economic impacts resulting from job displacement and energy production.”¹⁵¹

The basic problem with Dr. Loomis’ study is further illustrated by the following exchange in that case between then-Chairman Kenney and Dr. Loomis:

“Questions by Chairman Kenney:

Q. Good morning, Dr. Loomis. How are you?

A. Good.

Q. Good to see you. I want to ask just a few follow-up questions regarding the gross economic benefits versus net economic benefits.

A. Yes.

Q. And just to be clear, your study examined the gross economic benefits?

A. That’s correct.

Q. And didn’t take into account the wide variety of potential job losses from other industries?

A. That’s correct.”¹⁵²

¹⁴⁸ Exh. 21, Loomis Direct, p. 4, lines 12-15.

¹⁴⁹ Exh. 304, Report and Order p. 17, par. 54.

¹⁵⁰ Id. at par. 55.

¹⁵¹ Id. at p. 25, second par.

¹⁵² Case No. EA-2014-0207, Transcript Vol. 17, page 1500, lines 5-17. (EFIS 328)

This failure to account for any of the negative economic impacts from the Project leaves the Commission with a meaningless one-sided view of certain consequences of the Project. The testimony is like an auditor reporting that certain books are in order after examining only the deposits and not the withdrawals. Interesting information, perhaps, but not meaningful.

(d). The testimony from the MEC.

Testimony was submitted by three individuals from the Missouri Electric Commission (MEC). A key component of their case was a study compiled for the MEC by an organization named The Energy Authority (TEA). That study was filed as a schedule to the testimony of two of the MEC witnesses.¹⁵³

The TEA study should be ignored by the Commission because it lacks any semblance of reliability or credibility. The study purports to quantify the marginal energy cost reductions across MISO for the year 2028.¹⁵⁴ However, neither MEC witness sponsoring that study even attempted in their rebuttal testimony to show that TEA had any experience in conducting such an analysis, or for that matter had any experience in the electric utility business at all.

The TEA study itself makes no mention of that firm having any experience in the electric transmission business, much less on the specific subject matter presented in its study. And the study was not even signed by anyone at TEA, much less verified as to its accuracy. The study apparently was written by a group of unnamed individuals at TEA, none of whom were present at the hearings for cross-examination.¹⁵⁵ And neither MEC

¹⁵³ Exh. 701, Atkins Rebuttal, Sch. RA-3; Exh. 702, Grotzinger Rebuttal, Sch. JG-14.

¹⁵⁴ Exh. 701, Atkins Rebuttal, p. 3 lines 20-23.

¹⁵⁵ Id. p. 1067, lines 7-10.

witness sponsoring the TEA study had seen or reviewed any workpapers related to that study.¹⁵⁶

Although the TEA study was received into evidence, that does not require the Commission to give any credence to its conclusions. It is certainly not unusual for the Commission to reject or ignore material which has been received into evidence.¹⁵⁷

In addition, and aside from its confusing charts and the lack of a cohesive presentation, the TEA study has two other problems which leave it without value for purposes of this case.

The study apparently compared “locational marginal prices”, or LMPs, for a scenario without any form of a Grain Belt line in the mix (“Business as Usual” case), to a scenario including the full injections from the amended version of the Project (“GBE change case”)¹⁵⁸ However, the issue before the Commission is not a choice between no Grain Belt line at all, or the revised line as proposed in this case. Therefore, to have any value to the Commission, the TEA study should have measured the impact on the marginal prices between the project as approved in the prior CCN case, and the revised project as proposed here.

In addition, the LMPs compared in the TEA study do not consider the cost of transmission, in this case the Grain Belt project itself.¹⁵⁹ Therefore, the Study fails to indicate what the overall impact of the amended project would be, compared to other alternatives. The same holds true for Ms. Atkins “simplified model” of the impact on

¹⁵⁶ Tr. Vol. 12, p. 1075 lines 11-21, and p. 1080 lines 4-7.

¹⁵⁷ See unfortunately, e.g., Exh. 306, Report and Order on Remand, p. 27, par. 84 and 85.

¹⁵⁸ See Exh. 701, Atkins Rebuttal, Sch. RA-3, pp 7-9; Exh. 702 Grotzinger Rebuttal, p. 10 line 22 – p. 11 line 2.

¹⁵⁹ LMPs only take into account the cost of generation, transmission losses and congestion. Exh. 702HCC, Grotzinger Rebuttal, p. 11, lines 5-7. See also Exh. 701, Atkins Rebuttal, p. 3 lines 20-23.

energy costs from adding a new source of supply.¹⁶⁰ This material is but another example of evidence which does not consider all the elements of a legitimate leveled cost of energy analysis, in particular the cost of transmission.

On a different issue, the MEC says it expects that additional municipal systems under its umbrella would consider taking power from the Grain Belt project.¹⁶¹ As mentioned above, the MLA does not doubt that MEC's members will gladly purchase the 64 MW remaining from the original 200 offered to MEC at below-cost rates. However, it remains to be seen how many customers of MEC or any other utility will be willing to buy capacity at market rates negotiated with Grain Belt. So far, none have come forward.

(e). Testimony of Mr. Michael Milligan for the Sierra Club.

Mr. Milligan's testimony, like that of several other Grain Belt supporters, consists largely of a generic discussion of a host of supposed benefits from adding additional transmission in this country – benefits which appear in the abstract to be undisputed, at least if the cost of the new transmission facilities is not considered in the analysis. However, Mr. Milligan never quantified how any of those factors specifically supported the Grain Belt Project.

As one example of this generic approach, Mr. Milligan relied heavily upon a report from the Department of Energy which, he says, found a “pressing need to expand electric transmission.”¹⁶² However, that report is only in draft form, and out for further comment.¹⁶³ It would be premature to rely upon it here.

¹⁶⁰ Exh. 701, Atkins Rebuttal, p. 5, lines 12-23.

¹⁶¹ Id. p. 4 lines 21-22; Exh. 700, Twitty Rebuttal, p. 7 line 23 – p. 8 line 3,

¹⁶² Exh. 850, Milligan Rebuttal, p. 4 lines 8-9; and p. 4 line 5 – p. 7 line 10.

¹⁶³ Tr. Vol. 12, p. 1024 line 21 – p. 1025 line 2.

Mr. Milligan makes no mention of that report specifically referencing the need for or the improvements which might be provided by the Grain Belt project. Merely because one believes there is a general need for new transmission facilities in this country, that does not logically mean that the Grain Belt line is the most efficient means of providing that transmission capacity for Missouri or for MISO in general. And Mr. Milligan had not performed any analysis which specifically attempted to quantify the benefits of the Grain Belt project, nor had he quantified any of the net benefits from any of the supposed advantages which he attributed to the Grain Belt project.¹⁶⁴

In contrast to Mr. Milligan's generalized analysis of the need for new transmission in this country, in the previous CCN case the Commission relied on an economic study which specifically compared the cost to deliver power to Missouri from the Grain Belt project to the cost of other alternatives.¹⁶⁵

In that discussion, the Commission determined that a leveled cost of energy analysis specifically related to the Grain Belt project, such as the one Grain Belt submitted in the previous CCN case, "is the best financial technique to compare different energy generation sources."¹⁶⁶ Here, Mr. Milligan did not provide any type of economic study which quantified any supposed advantages of the Grain Belt project vis-à-vis alternatives. Like the other witnesses supporting Grain Belt here, he simply ignored the key analysis from the last CCN case regarding justification for the Grain Belt line.

¹⁶⁴ Tr. Vol. 12, p. 1034 lines 4-11.

¹⁶⁵ Exh. 306, Report and Order on Remand, p. 26 par. 80-81, and p. 44, 1st full par.

¹⁶⁶ Id. p. 26, par. 80.

Finally, as Staff witness Mr. Lange noted with respect to the supposed benefits calculated by Mr. Milligan, “how to calculate those and to what RTO or where those benefits may manifest themselves in not readily discernible.”¹⁶⁷

(f). Testimony of Mr. Michael Goggin for the Clean Grid Alliance.

Mr. Goggin likewise claims that the Grain Belt project will mitigate a number of the supposed problems with the transmission system affecting Missouri, but he fails to quantify any of these alleged benefits as they relate to the Grain Belt project.

The five major claims made by Mr. Goggin in support of the Project are as follows: (1) that the Project will deliver low-cost renewable power to Missouri;¹⁶⁸ (2) that the energy to be delivered by the Project is needed by Missouri electric utilities;¹⁶⁹ (3) that the Project would foster electricity market competition that reduces prices;¹⁷⁰ (4) that the project would increase reliability and resilience in Missouri and across MISO and SPP;¹⁷¹ and (5) that the Project would reduce pollution and facilitate compliance with environmental regulations.¹⁷²

The problem is, even if one accepts the basic premise of these broad, generalized assertions, Mr. Goggin does not calculate the monetary value of these supposed benefits as they relate to the Grain Belt project.

With respect to the first of these issues, Mr. Goggin begins by touting the high-capacity factors of wind generators in western Kansas, and then translating those figures

¹⁶⁷ Tr. Vol. 10, p. 835 lines 20-25.

¹⁶⁸ Exh. 600, Goggin Rebuttal, p. 4, lines 81-82.

¹⁶⁹ Id. p. 23, lines 464-66.

¹⁷⁰ Id. p. 25, lines 502-04.

¹⁷¹ Id. p. 29, lines 596-98.

¹⁷² Id. p. 32, lines 652-54.

into relative costs of energy production.¹⁷³ He then summarizes the main point of this first topic as follows:

Kansas' renewable resources delivered via the Project are a lower cost option than resources available in or currently deliverable to Missouri, because Kansas resources are more productive ... are less affected by congestion and curtailment, and are not affected by the growing interconnection upgrade costs assigned to generators in MISO.¹⁷⁴

The problem with this analysis is that it fails to account for the cost of transmitting the energy from Kansas to Missouri. In other words, it fails to quantify and compare the capital cost of the Grain Belt project with, e.g. the cost of transmission associated with the MISO projects which Mr. Goggin discusses at page 17 of his testimony. This failure to account for the cost of transmission is no doubt a major factor in the Commission's reliance in the previous CCN case on a levelized cost of energy analysis, which compares alternative costs of energy as delivered to Missouri.¹⁷⁵

As to the supposed need for the Project by Missouri utilities, Mr. Goggin relies upon the fact that the Integrated Resource Plans of Ameren and Evergy call for the addition of new renewable capacity.¹⁷⁶ However, he provides no evidence that the Grain Belt project is in fact the lowest-cost option for meeting those needs, or that it would be in the best interest of those utilities and their customers to purchase capacity from Grain Belt.

As Staff witness Krishana L Poudel testified, in their most recent plans neither utility indicated that the Grain Belt project was needed in order to achieve any of the

¹⁷³ Id. p. 4 line 91 – p. 8 line 168.

¹⁷⁴ Id. p. 22 line 451 – p. 23 line 457.

¹⁷⁵ Exh. 306, Report and Order on Remand, p. 26, par. 80-81.

¹⁷⁶ Exh. 600, Goggin Rebuttal, p. 23 lines 470-473.

goals of their preferred resource plans.¹⁷⁷ And as mentioned, their lack of support for the Grain Belt project in this case is telling.

Mr. Goggin's third claim is that the Project would foster competition that reduces prices. The sole quantification of this claim is based on an eleven-year-old report by a firm named Synapse Energy Economics.¹⁷⁸ Based on Mr. Goggin's testimony, and the age of the analysis, the report undoubtedly had nothing to do with the Grain Belt Project. And too much has changed since that time, including the cost of Grain Belt's line, for the Commission to rely on what Synapse Energy may have said eleven years ago. Had Mr. Goggin wished to validate this third claim, he should have done his own analysis based on updated costs of energy and the Grain Belt project.

Mr. Goggin's fourth point is that the project will increase electric reliability and resilience in Missouri and across MISO and SPP. By example, Mr. Goggin supposedly quantified these benefits by pointing to the savings which hypothetically would have been realized if hypothetically the Grain Belt line would have existed when winter storm Elliott occurred.¹⁷⁹ The problems with this type of analysis were described by Staff witness Claire M. Eubanks with respect to similar claims in the Guidehouse report about different severe weather systems.¹⁸⁰ The MLA will again stand on Ms. Eubanks' analysis of this issue.

Mr. Goggin's last major point is that the Project would reduce pollution, and facilitate compliance with environmental regulations.¹⁸¹ Mr. Goggin purported to estimate the reduction in four types of pollutants attributable to the Grain Belt line

¹⁷⁷ Exh. 105, Poudel Rebuttal, p. 2 lines 18-20 and p. 3 lines 16-19.

¹⁷⁸ Exh. 600, Goggin Rebuttal, p. 27, lines 540-546 and f.n.34 p. 27.

¹⁷⁹ Id. p. 31, lines 624-634.

¹⁸⁰ Exh. 102, Eubanks Rebuttal, p. 10 line 18 – p. 13 line 2.

¹⁸¹ Exh. 600, Goggin Rebuttal, p. 32 lines 652-54.

project.¹⁸² However, he did not attempt to estimate the reduction in those same pollutants which would result from substituting other transmission projects designed to deliver renewable energy to Missouri, in lieu of the Grain Belt line. Thus Mr. Goggin was merely stating the obvious: that substituting clean energy for dirty energy will reduce pollutants. But his analysis begs the critical question of whether the Grain Belt project is more beneficial from a societal standpoint than other alternatives.

The MLA submits that none of the five points raised by Mr. Goggin should affect the decision on any of the issues in this case.

(g). Testimony of Mr. James Owen for Renew Advocates.

Mr. Owen's testimony largely duplicates the same generalized arguments made by Grain Belt and its other allies – such as how the amended project would serve the public interest, and the balance between that public interest and the interests of individual landowners.¹⁸³ Nevertheless, one point made by Mr. Owen deserves additional comment.

Mr. Owen discusses at some length his personal involvement in the passage of House Bill 2005.¹⁸⁴ The MLA contends that the legislation speaks for itself, and Mr. Owen's personal insights into the final package are not relevant to the Commission's decision on any of the issues here.

Mr. Owen states that Grain Belt's amended project "is a good faith effort to comply with the spirit – and the actual provisions – of House Bill 2005"¹⁸⁵ But if that were true, Grain Belt would not be offering to comply only with the landowner compensation section from that legislation. It would also be willing to adopt all other

¹⁸² Id. p. 34, lines 682 – 689.

¹⁸³ See Exh. 800, Owen Surrebuttal, p. 3, lines 13-18.

¹⁸⁴ Id. pp. 13-16.

¹⁸⁵ Id. p. 14.

provisions of HB 2005, including the requirement that the condemnation commission include at least one experienced farmer.¹⁸⁶ Grain Belt has thus far not offered to comply with this “actual provision” of the statute.

In any event, as with other outside witnesses supporting the Grain Belt project, Mr. Owen does not answer the question of whether the supposed benefits of the amended project outweigh its ballooning cost.

(h) Testimony of Mr. Jonathon Monken

The general purpose of Mr. Monken’s testimony was to provide an assessment of the national security value of the Grain Belt project.¹⁸⁷ Mr. Monken obviously made some important points concerning the importance of our nation’s electrical infrastructure in protecting our country’s safety. However, his testimony was so generic in nature that it is of no help to the Commission in reaching a decision on any of the actual issues in this case.

Staff witness Mr. Michael L. Rush made two significant points in this regard:

- While a strong transmission system is definitely a matter of national security, “to claim GBE is somehow uniquely important and a ‘national security imperative’ is not a reasonable assertion.”

- That Mr. Monken’s testimony says nothing about Grain Belt’s proposed amendments and national security.¹⁸⁸

Actually, any transmission project which adds to system reliability will also promote nations security¹⁸⁹ So in that sense, the Grain Belt project is not unique. Mr.

¹⁸⁶ See Sec. 523.040.4 RSMo.

¹⁸⁷ Tr. Vol. 9, p. 546, lines 1-8.

¹⁸⁸ Exh. 106, Rush Rebuttal, p. 3, lines 1-11.

¹⁸⁹ Tr. Vol. 9, p. 546 line 24 – p. 547 line 3.

Monken's analysis would have been more useful had he compared the impact on national security from the Grain Belt project to other transmission projects. However, he made no such comparisons to any of the potential MISO projects, nor to any project being considered for approval by SPP or PJM.¹⁹⁰

Finally, as Mr. Monken acknowledged, when deemed necessary the Department of Defense will intervene or participate in state regulatory proceedings to support the construction of a specific transmission or generation project.¹⁹¹ The DOE obviously did not believe it worthwhile to support the Grain Belt Project.

7. Conditions to a CCN, if the Amended Project is Approved.

In its Amended Position Statement the MLA suggested four conditions to include in a CCN, if one is granted. Those conditions were listed as items (a) through (d).¹⁹²

Staff has recommended a condition which in effect says that all previously ordered conditions from the previous CCN case should remain in place unless otherwise modified by the Commission in this proceeding.¹⁹³ As Staff indicates, Grain Belt has agreed to this condition in its own Position Statement.¹⁹⁴ If the Commission adopts that suggested condition, there would be no need for the first three of the MLA's proposed conditions (a through c).

And if the Commission accepts the joint stipulation of Staff and Grain Belt regarding the need for environmental permits, as read into the record at Transcript Vol. 9, p. 556, line 19 – p. 557 line 15, that would eliminate the need for the last of the MLA's proposed conditions, item (d).

¹⁹⁰ Id. p. 546 lines 16 – 23.

¹⁹¹ Tr. Vol. 9, p. 547, lines 15-20.

¹⁹² MLA's Amended Position Statement, pp. 7-8.

¹⁹³ Staff's Revised Statement of Position, p. 6, 1st bullet point.

¹⁹⁴ Id.

Accordingly, the MLA has no separate suggested conditions to add to a CCN, if one is granted.

Finally, for clarity the MLA agrees with the following recommendation from Staff: “that the Commission restate the conditions ordered in the Report and Order on Remand in Case No. EA-2016-0358 with all modifications ordered by the Commission in this case.”¹⁹⁵

8. Conclusion

WHEREFORE, the MLA respectfully asks the Commission to reject in total the Application filed in this case by Grain Belt on August 24, 2022. If the Commission chooses not to do so, the MLA respectfully requests that the Commission at least adopt the MLA’s positions on the issue of “phasing”, and on Grain Belt’s proposed change to the payment schedule for landowners on the Tiger Connector line.

Respectfully submitted,

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Certificate of Service

A copy of this Initial Post-Hearing Brief was served by electronic mail this 7th day of July, 2023, to counsel for all parties.

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¹⁹⁵ Exh. 109, Revised Staff Report, final par. p. 11.