

PUBLIC VERSION

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	)	

COMPLAINANTS' BRIEF

Complainants respectfully submit this Brief on the two issues designated for Commission consideration in the “Joint List of Issues, Order of Opening, Witnesses and Cross Examination” submitted on behalf of the parties on March 25, 2021.

Issue A: Does the evidence show that Grain Belt’s website and press release demonstrate the Project’s design and engineering is materially different from what was approved in the *Report and Order on Remand* issued in File No. EA-2016-0358?

In File No. EA-2016-0358 (the “CCN case”) the Commission granted Grain Belt’s Application to build the Missouri portion of an interstate transmission line which would cover approximately 780 miles from Kansas to Indiana.<sup>1</sup> This “original project”

---

<sup>1</sup> CNN case, p. 9, pars. 4-5, EFIS 758. See Grain Belt’s Application filed in the CCN case on April 30, 2016, at EFIS 34.

was described in detail both in Grain Belt's Application and in the Commission final Order in the CCN case.

Respondents have subsequently announced publically and unequivocally that they intend to build a transmission project which in a number of respects is materially different in its design and engineering from the project approved in the CCN case. Complainants contend that in opting to make these changes, Respondents have abandoned the CCN for the original project.

If they choose to do so, Respondents have the right to abandon the project approved by the Commission.

In order to prevail on this first issue, Complainant must demonstrate that Respondents have the legal authority to abandon the original project, without Commission approval to do so. If Respondents have no such authority, then they could not have unilaterally abandoned the original project. If that was the case, this Complaint should be dismissed.

But that is not the case. To begin with, Grain Belt applied for and was granted a "line CCN" pursuant to subsection 1 of § 393.170 RSMo.<sup>2</sup>

This statute merely prohibits an electrical corporation from building its proposed facilities unless it first obtains Commission permission to do so. There is nothing in that law which states expressly or by implication that if a CCN is granted, then the utility is legally obligated to build the project authorized by the CCN.

Even if the Commission had the discretion to require that Grain Belt build the project, there is nothing in its Order in the CCN case which purports to impose that

---

<sup>2</sup> Order in CCN case, pp. 5 and 50; *Grain Belt Express Clean Line, LLC v. Public Serv. Comm'n*, 555 S.W.3d 469, 473-74 (Mo. banc 2018).

obligation. The Commission simply granted Grain Belt's Application to build a certain specified transmission line and related facilities, subject to certain conditions.<sup>3</sup>

And Grain Belt's Application only sought authorization from the Commission to build the proposed project.<sup>4</sup> Nowhere in the Application did Grain Belt purport to obligate itself to build the proposed line if the CCN was granted.

So based on the applicable statutory provision dealing with a CCN, the Commission's CCN order, and Grain Belt's Application for the CCN, Grain Belt is free to abandon the original project without any approval from the Commission. All that is required is for Grain Belt to declare that it is doing so.

This would not be the first instance where a utility abandoned a project for which it had been granted a CCN. As discussed in an opinion from the state Supreme Court, Union Electric was granted a CCN in 1975 for the construction of two nuclear generating units in Callaway County, Missouri. Due to changing circumstances, in 1981 the utility decided to abandon the second of the two units. No mention was made in the court's decision of Union Electric asking for or receiving the Commission's permission to walk away from unit number two.<sup>5</sup> It simply abandoned the second unit on its own volition. This case reinforces the proposition that a utility such as Grain Belt may choose to abandon a project for which it has been granted a CCN.

---

<sup>3</sup> Order in CCN case, p. 50.

<sup>4</sup> See Grain Belt's Application for the CCN, pp. 1, 30-31, EFIS 34.

<sup>5</sup> *State ex rel. Union Electric Co. v. Public Serv. Comm'n*, 687 S.W.2d 162, 163-64 (Mo. banc 1985). There does not appear to be a separate Commission case in which it approved the abandonment of the second nuclear unit.

*See also State ex rel. Transport Delivery Co. v. Public Serv. Comm'n*, 382 S.W.2d 823, 827 (Mo. App. 1964) where the appellants argued that a transportation CCN issued by the Commission had been abandoned. The court found there was no showing that the CCN had actually been abandoned, but in addressing the argument the court obviously recognized the possibility that a CCN could be abandoned.

Notably, neither Respondents nor Staff has disputed Complainants' contention that Grain Belt may unilaterally abandon the project approved in the CCN case.

Description of the changes announced by Respondents.

Complainants must next demonstrate that Respondents have announced they intend to build a project materially different from that approved by the Commission. If they have, then given that two separate projects cannot be built on the same approved right-of-way, the original project must necessarily have been abandoned.

The most significant change to the original project involves the geographic areas to which the 4,000 MW of power from the line would be delivered. This revision actually consists of several interrelated changes to the original project, each of which is "material" in and of itself.

These changes were first publically disclosed in the press release issued by Respondents on August 25, 2020 (the "press release"). A copy of the press release was attached as Exhibit 1 to the Complaint, and also appears as Exhibit 1 in this case (EFIS 52). The press release was circulated by Respondents externally, as well as being posted on the Grain Belt website.<sup>6</sup>

One change announced in the press release was that the project would now deliver power directly to customers in Kansas.<sup>7</sup> The original project was to deliver power only to converter stations in Missouri and eastern Illinois.<sup>8</sup> There was no mention either in Grain Belt's Application or in the CCN order that the line would deliver power to customers in

---

<sup>6</sup> Tr. 94:1-2, Vol. 1, EFIS 49. All transcript references are to Vol. 1.

<sup>7</sup> Press Release, p. 1.

<sup>8</sup> CCN Order, p. 9, par. 7.

Kansas. As the president of Grain Belt testified in the CCN case, the power generated in Kansas would be delivered “to markets in Missouri and states farther east.”<sup>9</sup>

Perhaps most significantly, the original project was to deliver only 500 MW of power to Missouri, with 3,500 MW going to the Illinois converter station for delivery to the PJM market.<sup>10</sup> But according to the press release, the revised project will now deliver up to 2,500 MW to Kansas and Missouri. Presumably, this leaves only about 1,500 MW for delivery to PJM (assuming the Illinois segment of the line is actually built).<sup>11</sup>

The press release is not clear about exactly how much power will be delivered where, stating that Invenergy would deliver “up to” 2,500 MW to Kansas and Missouri combined.<sup>12</sup> \*\*Confidential Information Removed.

---

13

---

---

---

---

---

\*\* 14

In addition, in contrast to the original project, Respondents are proposing to begin construction of the revised project in Missouri prior to receiving approval for the line in Illinois.<sup>15</sup>

---

<sup>9</sup> Direct Testimony of Michael P. Skelly, Exh. 100, p. 5, lines 2-4, EFIS 364.

<sup>10</sup> CCN Order, p. 9, par. 7, p. 25, par. 75, and page 44.

<sup>11</sup> See Press Release, p. 1. And on their website, Grain Belt states that they are still “evaluating options for the project” in Illinois. (See item 3.e of the Data Request at the second page of Exhibit 2.)

<sup>12</sup> Press Release, p. 1.

<sup>13</sup> Exhibit 8C, first par. of body of the email.

<sup>14</sup> Exhibit 10C

<sup>15</sup> Page 1 of Exhibit A to Exhibit 2, which is an example of a letter sent by Respondents to Missouri landowners. (See answer to DR 2 at page 1 of Exhibit 2).

The changes in the geographic areas where power is to be delivered will have a ripple effect upon the plans for the converter stations and for the necessary interconnections with MISO and PJM. For example, as Respondents have stated, the increase in the power delivered to Missouri will require an expansion of the previously-approved converter station in this state.<sup>16</sup>

Another major change is that Respondents are now planning to add broadband infrastructure to the revised project, to facilitate high-speed internet service in the area near the line.<sup>17</sup> Grain Belt’s Application did not seek authority to include such facilities as part of the original project, and no such authority was granted by the Commission in the CCN case. Although the Commission may not have the authority to regulate this service, its addition definitely represents a major change to the project approved by the Commission.

Finally, as indicated in a letter from Respondents to Missouri landowners, “Grain Belt has moved from monopole to steel lattice structures ....”<sup>18</sup>

Materiality of the changes.

Each of the changes described above is material in and of itself. In combination, it could hardly be argued that the revised project as a whole, with the changes described above, is not materially different in its design and engineering from the project approved by the Commission.

---

<sup>16</sup> Page 1 of Exhibit A to Exhibit 2.

<sup>17</sup> Commission Exhibit 1, item II.5(e) and p. 2 of Exhibit B attached thereto; Second page of Exhibit 2, response to Data Request 3.c.

<sup>18</sup> Page 1 of Exhibit A to Exhibit 2.

In addressing this question, in the context of this issue the word “material” is not a technical term of art.<sup>19</sup> Therefore, it should be taken in its ordinary sense, which may be determined by reference to a dictionary.<sup>20</sup>

The most relevant definition of the adjective “material” in Webster’s New Twentieth Century Dictionary, unabridged, Second Edition, is as follows: “important, essential, or pertinent (to the matter under discussion).” Judge Clark suggested a similar definition of the word, meaning that a “material” change produces something “significantly different.”<sup>21</sup>

Because the word is not a technical term of art, the opinions regarding “materiality” from the engineering witnesses for Respondents and Staff should be given no consideration.<sup>22</sup> If they are, Complainants would note that Staff witness Mr. Lange agreed that if the proposed plan as outlined or may be outlined in Respondents’ press release was implemented, it would require material changes in the project.<sup>23</sup>

With 2,500 MW from the project now going to Missouri and Kansas, as opposed to the 500 MW originally planned for Missouri, that leaves well under half of what was originally planned for the PJM system. These rather dramatic shifts in the amount of power to be delivered to different geographic areas clearly constitute “material” changes to the project under any reasonable meaning of that word. That is particularly true in light of the fact that in deciding the economic feasibility of the project, the Commission

---

<sup>19</sup> Testimony of Staff witness Mr. Lange, Tr. 114:3-12.

<sup>20</sup> See *Battis v. Hofmann*, 832 S.W.2d 937, 939-40 (Mo. App. 1992); *State v. Cates*, 854 S.W.2d 17, 19 (Mo. App. 1993).

<sup>21</sup> Tr. 18:10-14.

<sup>22</sup> See *Elmahdi v. Ethridge*, 987 S.W.2d 366, 371 (Mo. App. 1999) (expert opinion testimony said to be inadmissible on matters of common knowledge).

<sup>23</sup> Tr. 110:22-25.

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 ...<sup>24</sup>

Moreover, the ripple effect of these changes on the size and/or location of the converter stations, as well as the changes in the interconnections with MISO and PJM, also qualify as “material” changes based on the usual sense of that word. In particular, as discussed in more detail below, the commitment to quintuple the size of the Missouri converter station can hardly be viewed as “immaterial”.

Similarly, adding broadband capability to the project where none at all was originally planned must almost by definition constitute a material change in the design and/or engineering of the project.

Finally, the change in the norm for the support structures will produce a footprint for each lattice structure which is 20 times greater than the footprint for the original monopole structures.<sup>25</sup> This design change is clearly material, and in fact obviates the Commission’s finding in the CCN case that no more than nine acres of land would be taken out of agricultural production as a result of the line’s support structures.<sup>26</sup>

Respondents have unequivocally committed to make these changes to the original project.

Respondents’ unconditional commitment to materially revise the original project is evidenced from a number of sources, starting with the opening of their recent press release. That document begins with the following announcement of how Respondents now intend to proceed: “Grain Belt Express to Increase Local Access to Low-Cost,

---

<sup>24</sup> CCN Order, p. 44. See also p. 25, par 74-75.

<sup>25</sup> According to Grain Belt testimony in the CCN case, a typical lattice structure has a footprint of .018 acres, while the typical footprint for a monopole structure is only .0009 acres. Chart at p. 14 of Arndt direct testimony, Exh. 101, EFIS 365.

<sup>26</sup> CCN Order, p. 34, par. 114.

Homegrown Clean Energy, adding up to \$7B in Energy Savings for Kansas and Missouri Consumers.”

Among other indications that Grain Belt now intends to materially change the original project are these additional, unequivocal statements from their press release:

- “Invenergy Transmission, the owner and developer of the Grain Belt Express transmission line project (‘Grain Belt’) today announced plans to increase local clean energy access and accelerate billions of dollars in economic investment in Kansas and Missouri.”<sup>27</sup> The statement does not say Respondents “might” or “are considering” those plans. It says they are hereby announcing them.

- “Economic recovery and long-term economic competitiveness in Kansas and Missouri depend on new investment, more jobs, and tapping into low-cost, homegrown clean energy, which Grain Belt is moving full speed ahead to deliver, said Kris Zadlo, SVP [with Invenergy] .... Grain Belt is proud to increase our investment in Kansas and Missouri to rebuild the economy, deliver billions of dollars in energy cost savings, and meet growing renewable energy demand.”<sup>28</sup> (emphasis added). No ambiguities there.

- “As the new owner of Grain Belt, Invenergy Transmission plans to increase the project’s delivery capacity to Kansas and Missouri to up to 2,500 megawatts of the line’s 4,000 megawatt capacity .... Previously, 500 megawatts of the transmission line’s capacity was slated for delivery to Missouri.”<sup>29</sup> (emphasis added). Again, Respondents’ plan to increase delivery of power to these two states was expressed in unequivocal terms.

---

<sup>27</sup> Press Release, p. 1.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

- "Grain Belt will provide critical power infrastructure to the region benefiting residents for decades to come."<sup>30</sup>

- Governor Laura Kelly of Kansas is quoted in the press release as stating that "[t]his impressive project is the latest example of Kansas' place as a wind energy leader in our region and beyond."<sup>31</sup>

- According to the Kansas Secretary of Commerce, "the unwavering commitment from Governor Kelly to further support renewable sources is paying off in many ways, including this tremendous step forward in the Grain Belt Express." He is further quoted as saying that the revised project "will deliver a significant economic boost to our rural communities in particular. The news couldn't come at a better time."<sup>32</sup>

Clearly, these statements from the two Kansas officials would have been authorized for inclusion in the press release only if those individuals had been convinced that Respondents actually plan to move forward with the changes announced in the press release. Had Respondents told them that the revised plans were merely under consideration, the reaction from the Kansas officials would no doubt have been different from what they are quoted as saying in the press release.

- A representative of Renew Missouri is quoted in the press release as saying that "the benefits of Grain Belt have only grown with billions of dollars of added savings ...."<sup>33</sup> Again, this statement is nonsensical unless the speaker had been led to believe that Respondents are committed to moving forward with the changes announced in the press release.

---

<sup>30</sup> *Id.*

<sup>31</sup> Press release, p. 2.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

- Perhaps the clearest commitment by Respondents to materially change the original project is the following statement from the press release: “With increased delivery to Missouri ... Grain Belt will double its overall economic investment in Missouri to \$1 billion .... Grain Belt will now make available as much as half or more of the project’s total capacity for Missourians.”<sup>34</sup>

The importance of this statement lies in how this additional \$500 million is to be spent on the project. As Mr. Zadlo acknowledged, the additional \$500 million announced in the press release represents the added cost of increasing the capacity of the Missouri converter station by five-fold: from the original 500 MW to 2,500 MW.<sup>35</sup> One could hardly argue that this change is not material.

And Respondents did not state that they were merely “considering” or “contemplating” the additional \$500 million investment, which was earmarked for quintupling the size of the Missouri converter station. Instead, the press release states unequivocally that the new plans for the project “would” double the investment in Missouri to \$1 billion.

In addition to the press release, in a letter sent from Respondents to landowners just this past December, Respondents included the following statements, again made unequivocally and with no hint that the plans announced therein were anything short of a firm commitment:<sup>36</sup>

- “As you may be aware from recent news, Grain Belt Express has announced a proposed plan to increase the project’s delivery capacity for Kansas and Missouri consumers.”

---

<sup>34</sup> *Id.*

<sup>35</sup> Tr. 80:17-24.

<sup>36</sup> The letter to landowners is shown at Exhibit A to Exhibit 2.

- “Under this plan, up to 2,500 megawatts of Grain Belt’s 4,000-megawatt capacity would be delivered to Kansas and Missouri consumers .... This requires expanding the already-approved converter station in northeast Missouri.” Again, Respondents do not equivocate. The new plan “requires” the expansion of the Missouri converter station. As it turns out, it requires a five-fold increase in the size of that converter station.

- “Grain Belt Express will be seeking regulatory approval for this plan.” Again, this is a firm commitment to proceed with the project as modified by the announced changes. If Respondents had not already committed to making these changes, there would be no need to state that they “will be seeking regulatory approval” for the changes. This statement also recognizes that the changes being made are “material” enough to require Commission approval under the terms of the CCN decision.<sup>37</sup>

- The letter also states that Respondents will be seeking approval to begin construction of the line prior to obtaining approval for the Illinois segment of the project.<sup>38</sup> This statement confirms the description of the new project in the press release as constituting a “phased construction plan.”<sup>39</sup>

And as counsel for Respondents conceded, “if phasing was to occur so that the Missouri and Kansas portion of the line was built before the Illinois and Indiana portion of the line, then we would likely consider that a material change and be before the Commission.”<sup>40</sup> So the newly announced phasing plan definitely constitutes a material change to the project.

---

<sup>37</sup> CCN Order, p. 52, par. 6.

<sup>38</sup> Page 1 of Exh. A to Exhibit 2.

<sup>39</sup> Exh. 1, par. 1.

<sup>40</sup> Tr. 30:7-12.

- A series of emails shown at Exhibit 6 indicate that a woman named Kimberly, acting on behalf of Grain Belt, was soliciting comments from the Governor of Kansas to be used in the August 25 press release. In an email of August 6, she informed a number of Kansas officials that “The project is moving into its next phase and the company plans to announce this development.”<sup>41</sup> (emphasis added). She did not tell the Kansas officials that the project might be moving into a new phase. Instead, she unequivocally assured them that the project “is” moving into the next phase.

- Finally, in his response to Data Request No. 8, Mr. Zadlo simply answered “yes” to the following question:

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?<sup>42</sup>

This answer says, plainly and simply, that Respondents do in fact “presently” plan to seek Commission approval for the changes they announced in the press release. Mr. Zadlo did not say they might do so, or that they were considering that as an option. He said they will be seeking approval for those changes, which necessarily means they have already decided to make the revisions announced in the press release. It follows that Respondents have abandoned the project as approved in the CCN case.

The press release also mentions that Grain Belt will seek regulatory approvals “to the extent necessary” for the revised project. That of course is a given. Respondents have no choice but to seek regulatory approval for what amounts to a new transmission project. But that fact has no bearing on the question of whether they have already

---

<sup>41</sup> Exhibit 6, p. 1.

<sup>42</sup> Exh. 3, DR no. 8.

decided, as they have said, to move “full speed ahead” with the revised project. And again, the statement reinforces the fact that Respondents themselves consider the proposed changes to be “material” enough to require Commission approval.

In attempting to explain away their answer to Data Request No. 8, Respondents claim that the revisions announced in the press release are merely “contemplated changes.”<sup>43</sup> But that explanation misses the point. As of today the specifics of the new plan may well be in the “contemplated” stage, with final details still to be determined.

However, that does not mean Respondents have not already committed to building the project in accordance with the announcements in the press release, as opposed to the project approved in the CCN case. In fact, they have as much as promised officials in Kansas that those changes will be forthcoming.

Perhaps at some point Respondents realized the potential consequences of their announced changes to the project. But taking them at their word up to that point, they have clearly stated they are already committed to making material changes to the project originally approved by the Commission. For Respondents to now dismiss the press release as nothing more than “a marketing exercise” simply demonstrates a complete lack of transparency and credibility.<sup>44</sup>

The same holds true for their after-the-fact attempt to dismiss the press release as merely announcing the supposed benefits of the line and “an openness by Grain Belt to increase the converter station and dropoff in Missouri.”<sup>45</sup> That document goes well

---

<sup>43</sup> Exhibit 200, p. 2, EFIS 61.

<sup>44</sup> See Tr. 76:21-22.

<sup>45</sup> Tr. 94:19-22.

beyond that characterization. In fact, the additional consumer benefits would materialize only if the changes announced in the press release were implemented.<sup>46</sup>

The more credible statements from Respondents concerning this project are those made before the Complaint was filed here. Assuming Respondents were not deliberately misleading Missouri landowners, public officials, and the general public up to that point, those statements can only mean that they have already decided to materially alter the project approved by the Commission.

Based on the foregoing, the design and engineering of the project presently being pursued by Respondents is materially different from that approved in the CCN case.

Issue B: Did the public announcement of those contemplated changes violate the Commission's Report and Order on Remand granting Grain Belt a certificate of convenience and necessity ("CCN") in File No. EA-2016-0358?

Given that Respondents do not intend to build the original project as approved by the Commission, that project has in effect been abandoned by the Respondents – much as Union Electric did with respect to their second nuclear unit.

As discussed above, Respondents have every right to abandon the original transmission project. However, in doing so the CCN for that project became nothing but a meaningless nullity. Once a project will no longer be built, there is no logical basis for concluding that the CCN somehow survives the abandonment of the project itself. Respondents can no longer be planning to build the project approved in the CCN case if they have already committed to building something else instead.

---

<sup>46</sup> See, e.g., the second full paragraph of the press release, Exh. 1, p. 1, linking the changes in delivery to the supposed \$7 billion in electricity costs for Kansas and Missouri consumers.

Complainants are not arguing here that the Commission has the authority to revoke Grain Belt's CCN. Instead, Complainants contend that by abandoning the original project, Grain Belt itself has voluntarily forfeited what has become a meaningless CCN. A CCN for a project that will never be built in accordance with that CCN is logically nothing more than a hollow nullity.

There appears to be no case law on this proposition one way or the other. That no doubt reflects the fact that utilities in Missouri tend to know what they will build before they go through the process of seeking a CCN from the Commission.

If the Commission agrees that Grain Belt has voluntarily forfeited its CCN for the approved project, then of course at this point Respondents have no valid CCN to build anything in Missouri. That being the case, under Missouri law Grain Belt would no longer be an electrical corporation, and would therefore have no right to exercise the power of eminent domain.<sup>47</sup>

Yet as the evidence demonstrates, Grain Belt still publically claims to have the power of eminent domain for property on the right-of-way in Missouri.<sup>48</sup> If they do not actually have that power, then Respondents are wrongly continuing to negotiate easements from Missouri landowners using the leverage of eminent domain as a fall-back to a voluntary easement. Mr. Lowenstein stated was is intuitively obvious when he testified that this puts Grain Belt in a superior position when negotiating with landowners.<sup>49</sup>

---

<sup>47</sup> See § 523.010, which grants the power of condemnation to electrical corporations and other similar entities.

<sup>48</sup> Direct testimony of Donald Lowenstein, Tr. 43:3-15. See also the cite to Grain Belt's website at par. 14 and footnote 10 of the Complaint.

<sup>49</sup> Tr. 45:1-8.

If Respondents have forfeited the CCN for the project, then Complainants respectfully submit that Respondents are violating the Commission's CCN order by publically advising Missouri landowners that they have the power of eminent in Missouri when in fact they have no valid CCN to build anything in this state.

Requested Relief.

Based on the foregoing, Complainants respectfully ask the Commission to issue an Order in this case which includes the following three findings: (1) that Respondents have already decided they will not build the transmission project as originally approved in the CCN case, but are seeking instead to build a project which includes design and engineering changes which are materially different from that presented in Grain Belt's Application in the CCN case; (2) accordingly, Grain Belt has abandoned the project originally approved by the Commission, thus voluntarily forfeiting its CCN for that project; and (3) in the absence of a valid CCN, Grain Belt is in violation of the Commission's CCN order by pursuing easements with Missouri landowners under the guise of having the power of eminent domain with respect to its proposed transmission project.

WHEREFORE, Complainants respectfully ask the Commission to grant the relief requested in the preceding paragraph.

Respectfully submitted

/s/ Paul A. Agathen  
Paul A. Agathen  
Attorney for Complainants  
Mo Bar No. 24756  
485 Oak Field Ct.  
Washington, MO 63090  
636-980-6403  
[Paa0408@aol.com](mailto:Paa0408@aol.com)

Certificate of Service

I certify that a copy of the foregoing was served this 18<sup>th</sup> day of May, 2021 by email on counsel for all parties of record.

/s/ Paul A. Agathen  
Paul A. Agathen