

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

**In the Matter of the Application of Grain )  
Belt Express Clean Line LLC for Certificate )  
of Convenience and Necessity Authorizing it )  
to Construct, Own, Operate, Control, )  
Manage and Maintain a High Voltage, )  
Direct Current Transmission Line and an )  
Associated Converter Station Providing an )  
Interconnection on the Maywood- )  
Montgomery 345 kV transmission line. )**

Case No. EA-2016-0358

**REPLY OF GRAIN BELT EXPRESS TO THE RESPONSES OF MISSOURI  
LANDOWNERS AND SHOW-ME CONCERNED LANDOWNERS TO OBJECTIONS  
TO EXHIBITS OFFERED AT LOCAL PUBLIC HEARINGS**

Grain Belt Express Clean Line LLC (“Grain Belt Express” or “Company”) submits this Reply to the Responses of Missouri Landowners Alliance (“MLA”) and Show-Me Concerned Landowners (“Show-Me”) to the Objections of Grain Belt Express, filed on December 27, 2016, to exhibits offered at the December 7-8 local public hearings conducted in Monroe City, Hannibal, Marceline and Moberly:

1. Pursuant to its Order Setting Local Public Hearings and Directing Notice issued on October 19, 2016, the Commission held a four public hearings on December 7, 8, 13, and 14 in or adjacent to the counties where the Company’s proposed transmission line would be constructed.

2. Both supporters and opponents of the Grain Belt Express Project testified at these eight local public hearings. A major opponent of the Project is Block Grain Belt Express Missouri Corp., a non-profit organization, a number of whose members testified at these hearings.

3. Prior to the local public hearings, the regulatory law judge made clear that parties to the case who intended to testify at the evidentiary hearing could not also testify or offer evidence at the local public hearings. The local public hearings have traditionally been a means for members of the public who had not joined a Commission proceeding to present testimony to Commissioners. This is why local public hearings are conducted. And, as the Commission has long recognized, local public hearings are not a vehicle for either a party, a member of the public, or an organization which has chosen not to intervene in the proceedings to circumvent the law and its evidentiary standards, as well as rules of the Commission.<sup>1</sup>

4. This is particularly true in this proceeding, where responses filed by MLA to the Company's discovery requests have revealed that Block Grain Belt Missouri Corp. ("Block") and MLA are represented by the same counsel and have coordinated their efforts to oppose the Application of Grain Belt Express. See Ex. 1, Response to Data Request 2(b), MLA Responses to 3d Set of Data Requests from Grain Belt Express (verification signed Dec. 23, 2016; response filed Dec. 29, 2016). Indeed, the objections filed by counsel for MLA to the Company's Third Set of Data Requests assert a joint attorney-client privilege between MLA and Block. Because of this relationship and coordination between MLA and Block the Commission should be especially vigilant that the evidentiary standards in this case are not circumvented.

5. Responding to the Objections of Grain Belt Express on December 27 to certain exhibits offered at the December 7-8 local public hearings, counsel for MLA and Block concedes that the Company's evidentiary objections are well taken, based on the undeniable fact that they are hearsay and were not shown to be relevant to the Grain Belt Express Project's transmission

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<sup>1</sup> See Order Regarding Objections and Motion to Strike at 2-3, In re Application of Union Elec. Co. for Permission, Approval and a Certificate of Public Convenience and Necessity to Construct a Utility Waste Landfill at Labadie Energy Center, No. EA-2012-0281 (Aug. 28, 2013).

line proposal or its route. MLA's plea is simply that the Commission should apply "a more lenient standard" when considering the Company's objections. See MLA Response at 1 (Dec. 29, 2016). A similar plea to ignore the rules of evidence is made by intervenor Show-Me. See Response of Show-Me Concerned Landowners at 2 (Dec. 31, 2016). Neither MLA nor Show-Me cite any Commission order, judicial decision or other legal precedent to support their positions.

6. Hearsay to which another party objects is not admitted into evidence and is not considered competent and substantial evidence upon which the Commission can base its decision. State ex rel. Rice v. PSC, 220 S.W.2d 61, 64 (Mo. en banc 1949); State ex rel. Marco Sales, Inc. v. PSC, 685 S.W.2d 216, 218 (Mo. App. W.D. 1984). In another application seeking a certificate of convenience and necessity, the Commission sustained a variety of hearsay objections and rejected the novel "lenient standard" advocated by counsel for MLA, Block and Show-Me. See Order Regarding Objections and Motion to Strike at 2-5, In re Application of Union Elec. Co. for Permission, Approval and a Certificate of Public Convenience and Necessity to Construct a Utility Waste Landfill at Labadie Energy Center, No. EA-2012-0281 (Aug. 28, 2013). In that case the Commission sustained objections to a number of newspaper articles, as well as letters from third parties. Id. at 10-11. It also sustained objections to several government reports and orders that were not shown to be relevant to the specific coal ash issues raised by the application. Id. at 8-9.

7. Consistent with these decisions, the rules of evidence should be applied here without any deviation from the principles of law that govern Commission proceedings. The objections filed by Grain Belt Express should be sustained.

WHEREFORE, Grain Belt Express respectfully requests that the Commission sustain the objections to the exhibits offered into evidence at the December 7-8, 2016 local public hearings.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon all counsel of record in this case on this 3rd day of January 2017.

/s/ Karl Zobrist

Attorney for Grain Belt Express Clean Line LLC