

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

In the Matter of the Application of Grain Belt Express)
Clean Line LLC for a Certificate of Convenience and)
Necessity Authorizing it to Construct, Own, Operate,)
Control, Manage, and Maintain a High Voltage, Direct) Case No. EA-2014-0207
Current Transmission Line and an Associated Converter)
Station Providing an interconnection on the Maywood-)
Montgomery 345 kV Transmission Line)

REPLY BRIEF OF
THE MISSOURI FARM BUREAU FEDERATION

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INTRODUCTION

This brief will address the same issues addressed in Missouri Farm Bureau's initial brief, focusing on eminent domain, which Grain Belt Express and Staff address in their initial briefs.

ARGUMENT

In its initial brief, Staff proposes two conditions limiting Grain Belt Express' use of eminent domain should the Commission grant a CCN:

22. That Grain Belt Express complete and make regional transmission organization interconnection studies based on the Missouri Converter Station having one GW of capacity and based on the potential of the transmission project for exporting energy from the MISO and the PJM, and importing energy into the SPP, with an opportunity for parties to review the studies and bring issues before the commission, prior to Grain Belt Express commencing any eminent domain proceedings in Missouri.
23. That Grain Belt Express may not commence any eminent domain proceedings until after the actual construction of at least 25% of the completed cost, excluding engineering, planning, and land purchase costs, of the Missouri Converter Station.

(Staff initial brief, p.12).

Both of these conditions were originally proposed by Staff witness Stahlman in his rebuttal testimony (Exhibit 202). Thus, Grain Belt Express responded to these conditions in its initial brief, rejecting them both.

Condition No. 22 requires that when certain regional transmission studies are completed, the parties have an opportunity to review the studies and bring issues before the Commission before Grain Belt Express can initiate any eminent domain proceedings against landowners. In its initial brief at page 43, Grain Belt Express stated: "To the extent that Staff's condition concerning 'acceptance' of these matters by this Commission anticipates a future process, potentially adversarial, the Company does not agree."

Grain Belt Express' position on this condition is very problematic. First, these are all studies that should have been completed before Grain Belt Express ever filed its application for a CCN. Now, Grain Belt Express wants to preclude the parties from having a meaningful process to consider and vet these studies, and bring any concerns before the Commission.

Contrast this with Grain Belt Express' position on Condition Nos. 6 and 7 regarding what type of grass seed to plant during restoration after construction. Grain Belt Express says it "prefers a policy that would require it to coordinate with landowners, restoration specialists, state and federal agencies, professional arborists and environmental groups on the appropriate restoration practices, as particular issues are encountered on specific areas of real estate." (Grain Belt Express Initial Brief, p. 51). Grain Belt Express wants a committee to decide how to re-seed land damaged by construction, but doesn't want parties to have any meaningful process on addressing important regional transmission studies. The irony is striking.

Condition No. 23 requires Grain Belt Express to have completed at least 25% of the construction of the Missouri Converter Station before commencing any eminent domain proceedings. In its initial brief on page 53, Grain Belt Express indicates that since it has already agreed not to construct and install any transmission facilities on easement property until it has obtained the financing needed to construct the project, this condition is "unnecessary". Nothing could be further from the truth.

There may be lots of steps between getting financing and starting construction. All the necessary interconnection studies may not be completed. Certain permits may not be in place. Getting financing does not necessarily mean that the project will get built.

In addition, this condition requiring the Missouri Converter Station to be 25% constructed before eminent domain proceedings can commence will show whether Grain Belt

Express is really committed to serving Missouri. Putting actual steel in the ground shows a commitment that this Commission needs to see before allowing Grain Belt Express to involuntarily take some of the best farmland in the country.

Finally, Grain Belt's interest in having eminent domain power shows that this Commission needs to be careful about granting eminent domain powers to Grain Belt Express. Staff understands this as well as the landowners. Staff witness Dan Beck, throughout his cross-examination testimony, pointed out areas where landowners need more input to address concerns about land issues:

Q: But it's also true that you need to be careful about chemical treatment of stumps, and that if you're using the wrong chemicals, you could damage other portions of the land, true?

A: Yes. But my intention there was really --- or the way I understood the Callaway Franks was to address concerns of specific landowners that had their own opinion about the use of chemical treatments.

(Tr., p. 1733).

* * * * *

Q. And does staff have an objection to that proviso?
[Minor deviations from the line after Commission approval]

A. Again, it doesn't seem to give the landowners any recourse if Grain belt makes a decision other than what they want.

(Tr., pp. 1734-35).

* * * * *

Q. What is staff's concerns with the minor deviations latitude?

A. It's undefined, and then ultimately a --- what may seem like a minor deviation, for example, to a company producing a 750-mile transmission line might seem like a major deviation to an individual landowner. So there's a difference in interest there that really isn't addressed.

(Tr., pp. 1752-53).

CONCLUSION

It is important to remember that the current landowners own the land, not Grain Belt Express. Grain Belt Express could potentially negotiate an easement to use the land for certain purposes. Missouri Farm Bureau is concerned that eminent domain power would give Grain Belt Express an unfair advantage over landowners as well as competitors. Missouri law strictly limits the use of eminent domain, and in this case, such a company should never be given the power of eminent domain.

WHEREFORE, Missouri Farm Bureau respectfully offers this Reply Brief and prays that the Commission conform its decision in this case to the arguments contained herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 22nd day of December, 2014.



Terry M. Jarrett