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 Current Transmission Line and an Associated Converter Station Providing an interconnection on the Maywood-Montgomery 345 kV Transmission Line	)	Case No. EA-2014-0207

UNITED FOR MISSOURI, INC.'S INITIAL BRIEF

COMES NOW United for Missouri, Inc. ("UFM"), by and through its counsel, and for its Initial Brief, states as follows:

INTRODUCTION

On March 26, 2014, Grain Belt Clean Line LLC ("Grain Belt") filed with the Missouri Public Service Commission ("Commission") an application ("Application") for a certificate of convenience and necessity ("CCN"), pursuant to Section 393.170.1,[1] for an approximately 750-mile, overhead, multi-terminal ±600 kilovolt (kV) HVDC transmission line and associated facilities ("project") that will deliver up to 500 megawatts of wind-generated power from western Kansas into Missouri. As Grain Belt witness Skelly proposed in written direct testimony filed with the Application, "this additional interconnection will also enhance the reliability of the electric transmission network in Missouri by making available another source of electric power supply, and will promote competition in the supply of generation and transmission service."[2] As

[1] All statutory references are to the Missouri Revised Statutes (2000), as amended, unless otherwise noted.
[2] Ex. 100, p. 17.

described in the Application, the need for the project is substantiated by Missouri's Renewable Energy Standard ("RES"), other states' Renewable Portfolio Standards, the opportunity for load-serving entities and buyers to purchase renewable wind generation, and the desire of wind generators to have an outlet for their services ("Renewable Energy Needs").[3] The Application claims the public interest of the line is found in compliance with RES requirements, reduced reliance on fossil fuel generation and the creation of jobs in Missouri.[4]

Also significant to the Application is that the project will not provide retail service to end-use customers and will not be rate-regulated by the Commission.[5] For that reason, applicants request to be excused from complying with any requirement to file rate schedules and other reporting requirements.[6]

ARGUMENT

Grain Belt seeks to provide a laudable service. They seek to provide clean, pristine wind energy to the environmentally conscious citizens of Missouri and the nation. But their laudable goals must be taken in context. Physicians seek to provide a laudable service. They seek to cure the sick. Farmers provide a laudable service. They feed the hungry in this nation and the world. UFM believes that most entrepreneurs provide valued and laudable goods and services to the human community. The question for the Commission is what it is about Grain Belt Express' proposal that justifies a CCN. And what is it that justifies granting Grain Belt Express the state's power of eminent domain? The answer is that the applicant must provide a "public service," a service offered to the public in the public interest. The applicant fails to offer such a public service in its Application. The Application should be denied.

[3] Application, pp. 7-8.
[4] Application, p. 8.
[5] Application, p. 16.
[6] *Id*.

A. Grain Belt Express' Application does not propose a service which is necessary or convenient for the public service pursuant to Section 393.170.

1. There is no showing that there is a failure, breakdown, incompleteness or inadequacy in the existing regulated facilities.

Grain Belt is seeking a CCN for the project from this Commission pursuant to Section 393.170. In relevant part, that section provides as follows:

> 1. No * * * electrical corporation * * * shall begin construction of a * * * electric plant * * * without first having obtained the permission and approval of the commission.
>
> * * * *
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> 3. The commission shall have the power to grant the permission of approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service.

While Grain Belt has offered a laudable service to the state of Missouri, it has not proposed a service that is "necessary or convenient for the public service," as the statute and case law require. Public convenience and necessity is not supported by a simple desire for a new service, particularly when the service is desired by the applicant and there are no customers seeking such service. In *People's Telephone Exchange v. Public Service Commission*,[7] the court observed,

> Public convenience and necessity is not proven merely by the desire for other facilities. It must be clearly shown there is failure, breakdown, incompleteness or inadequacy in the existing regulated facilities in order to prove the public convenience and necessity requiring the issuance of another certificate. The fact that one does not desire to use present available service does not warrant placing in the field a competing utility.[8]

Grain Belt Express has not proven that there is a failure in the existing regulated facilities. What they have shown is that their desire is to compete with the existing regulated facilities. As the Commission is well aware, the integrated AC transmission system, regulated by the Commission, is the existing infrastructure designed to transmit power from electric generation to the distribution system within the state. Infinity Wind witness Langley testified

[7] 186 S.W.2d 531 (Mo. App. 1945).
[8] *Id*. at 536.

that one of the goals of FERC Order No. 1000 was to integrate public policy projects into the transmission planning processes of MISO and all other RTOs.[9] Indeed, in FERC Order No. 1000, "The Commission requires public utility transmission providers to amend their OATTs to describe procedures that provide for the consideration of transmission needs driven by Public Policy Requirements in the local and regional transmission planning processes."[10] The present facilities and transmission planning processes are adequate to provide the service proposed by Grain Belt Express.

Moreover, Grain Belt Express has no customers seeking its service.[11] All Grain Belt Express has is speculation and market projections. They have "interest" from certain wind generators, but they have no commitments from actual customers or load serving entities.[12] Infinity Wind suggests that Grain Belt Express is "trying to open up a whole new avenue for customers."[13] Mr. Langley characterizes the Grain Belt Express Application as a request to set up a competitive structure based on free market principles.[14] While Mr. Langley wants a competitive structure to engage free market principles, this is not the type of service the Commission is permitted to authorize. The public has not expressed that their needs are not being met by the existing regulated services.

2. The Application proposes a service that constitutes destructive competition.

Of particular note in this case is the Commission's obligation to prevent destructive competition.

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[9] Tr. 14:876.
[10] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, III FERC Stats. & Regs., Regs. Preambles ¶ 31,323 at P 203 (2011) ("FERC Order No. 1000").
[11] Tr. 10:120.
[12] Tr. 10:120, 152.
[13] Tr. 10:64.
[14] Tr. 14:877.

> From analysis of court decisions on this subject, the general purpose of what is necessary and convenient encompasses regulated monopoly for destructive competition, prevention of undesirable competition and prevention of duplication of service. The underlying public interest is and remains the controlling concern, because cut-throat competition is destructive and the public is the ultimate party which pays for such destructive competition.[15]

What Grain Belt Express is proposing is the very epitome of destructive competition. Grain Belt Witness Skelly testified that its business success depends on it being "ahead of the market."[16] In his direct testimony, Mr. Skelly observed, "Further, the Project will promote competition in the supply of transmission service and power generation."[17] Infinity Wind, in its opening statement, compared wind generation being brought to market via the Grain Belt Express line as "wheat or corn, soybeans, any of the agricultural products that we have to offer in Kansas as well."[18]

Grain Belt Express made a herculean effort in its opening statement to equate its project to the interstate highway system.[19] Infinity Wind supported the analogy in its opening statement.[20] The evidence does not bear out these claims; the analogy is not apt. The existing AC transmission system regulated by this Commission is the apt analogy to the interstate highway system. The existing AC transmission system is subjected to an extensive planning process for the good of the entire system and the public, as is the interstate highway system. The project proposed by Grain Belt is being designed to bypass that transmission planning process for the benefit of particular wind generators located in a particular location. It is a competitive effort to get around the regulated, integrated transmission system. The regulatory process should

[15] *Public Water Supply*, at 154.
[16] Tr. 10:256.
[17] Ex. 200, p. 5.
[18] Tr. 10:63.
[19] Tr. 10:46.
[20] Tr. 10:64

not be used to foster competing infrastructures to what has already been found adequate for the public need. To do so would foster destructive competition.

3. There is no showing that Grain Belt Express is willing to offer its facilities to the public service.

What is crucial to understand is that the Public Service Commission Law is not intended to permit the exercise of property rights and grant the state's power of eminent domain without a concomitant commitment to subject the investment to regulation by this Commission. In *State ex rel. Harline v. Public Service Commission,* the Court observed that both electrical corporations and the Commission have obligations under Section 393.130.

> The dominating purpose in the creation of the Public Service Commission was to promote the public welfare. To that end the statutes provided regulation which seeks to correct the abuse of any property right of a public utility, not to direct its use.[21]
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> Section 393.130 specifically requires that 'every electrical corporation * * * shall furnish and provide such service instrumentalities * * * as shall be adequate * * *'. . . . The certificate of convenience and necessity is a mandate to serve the area covered by it, because it is the utility's duty, within reasonable limitations, to serve all persons in an area it has undertaken to serve.[22]

With the CCN comes a "mandate to serve." And just as the first sentence in section 393.130 imposes a mandate to serve, the second sentence of Section 393.130 requires the electrical corporation to submit to the Commission's ratemaking authority. "All charges made or demanded by any * * * electrical corporation * * * for * * *electricity * * * or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission." Transcending both of these obligations is the Commission's obligation to guard against the abuse of an electrical corporation's property right.

[21] 343 S.W.2d 177, 181 (Mo. App. 1960).
[22] *Id.*

These are rights and obligations that are inextricably intertwined in the provision of utility service, rights and obligations commonly referred to as the regulatory compact.[23]

Grain Belt Express' project is simply not suited for a CCN. Grain Belt Express' Application seeks to rend this regulatory compact in two. It seeks the authority of a CCN for a competitive service without submitting its facilities or service to the authority of this Commission or to the public service.[24] The Commission has no authority to grant Grain Belt Express the CCN while permitting it to avoid the statutory obligations contained in Section 393.130.

4. Grain Belt Express' proposal is detrimental to the public interest.

Grain Belt Express' project is detrimental to the public interest. This is true for a couple of reasons. First and foremost, granting the CCN will grant Grain Belt Express a right to exercise the state's power of eminent domain against private landowners for the sake of a private enterprise. As is discussed below, rights in private property are among the most honored rights in our country. The Commission may not grant Grain Belt Express the right to condemn private property for the benefit of a private enterprise that will not be subject to the supervision of this Commission.

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[23] [The regulatory compact] arises out of a "bargain" struck between the utilities and the state. As a quid pro quo for being granted a monopoly in a geographical area for the provision of a particular good or service, the utility is subject to regulation by the state to ensure that it is prudently investing its revenues in order to provide the best and most efficient service possible to the consumer. At the same time, the utility is not permitted to charge rates at the level which its status as a monopolist could command in a free market. Rather, the utility is allowed to earn a "fair rate of return" on its "rate base." Thus, it becomes the Commission's primary task at periodic rate proceedings to establish a level of rates and charges sufficient to permit the utility to meet its operating expenses plus a return on investment which will compensate its investors. *United States Gypsum, Inc. v. Indiana Gas Co. Inc.*, 735 N.E.2d 790, 797 (Ind. 2000), citing *Indiana Gas Co., Inc. v. Office of Utility Consumer Counselor* ("*Indiana Gas I*"), 575 N.E.2d 1044, 1046 (Ind.Ct.App.1991).

[24] Application, p. 16.

Second, there is credible evidence that the project will add congestion to the Ameren Missouri and MISO systems. Staff witness Kliethermes testified that the project will likely cause congestion on the MISO system,[25] producing uneconomic dispatch and unnecessary fuel expense.[26] The project will interject reliability and economic concerns the regulatory structure of the state was designed to guard against.

B. Grain Belt's Private Enterprise does not Justify Granting it the Authority of Eminent Domain

There is likely no right in our nation that is more sacrosanct than the right of private property. Second only to the rights of life and liberty, the right to property is considered a foundational right on which we base our liberty. Sir William Blackstone described the English common law right to private property as follows:

> SO great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community. If a new road, for instance, were to be made through the grounds of a private person, it might perhaps be extensively beneficial to the public; but the law permits no man, or set of men, to do this without consent of the owner of the land. In vain may it be urged, that the good of the individual ought to yield to that of the community; for it would be dangerous to allow any private man, or even any public tribunal, to be the judge of this common good, and to decide whether it be expedient or no. Besides, the public good is in nothing more essentially interested, than in the protection of every individual's private rights, as modelled by the municipal law. In this, and similar cases the legislature alone can, and indeed frequently does, interpose, and compel the individual to acquiesce. But how does it interpose and compel? Not by absolutely stripping the subject of his property in an arbitrary manner; but by giving him a full indemnification and equivalent for the injury thereby sustained. The public is now considered as an individual, treating with an individual for an exchange. All that the legislature does is to oblige the owner to alienate his possessions for a reasonable price; and even this is an exertion of power, which the legislature indulges with caution, and which nothing but the legislature can perform.[27]

Again, Blackstone writes of the three fundamental rights in the English common law:

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[25] Ex. 206, p. 32.
[26] Ex. 206, p. 18.
[27] 1 William Blackstone, Commentaries *135. All citations to the Commentaries on the Laws of England by William Blackstone are made to a Facsimile of the First Edition of 1765-1769, published by The University of Chicago Press (Chicago & London, 1979)

> In these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen: liberties more generally talked of, than thoroughly understood; and yet highly necessary to be perfectly known and considered by every man of rank or property, lest his ignorance of the points whereon it is founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed.[28]

The Constitution of the state of Missouri adopts Blackstone's common law in Article I, Section 28:

> That private property shall not be taken for private use with or without compensation, unless by consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in the manner prescribed by law; and that when an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be judicially determined without regard to any legislative declaration that the use is public.

The Missouri Supreme Court adheres to the views of eminent domain expressed by Blackstone. The right of eminent domain resides in the sovereign for its own public purposes and does not inhere naturally to public service corporations. The exercise of eminent domain is in derogation of the right of citizens and any statute delegating that power must be strictly construed, and the body claiming the right, must be able to point to statute that explicitly or necessarily implies the right.[29] Electrical corporations have been granted by the legislature the right to exercise the state's power of eminent domain.[30] However, the only reason electrical corporations are authorized to exercise the power of eminent domain is because the land taken is devoted to the public service. Grain Belt Express does not propose to devote its investment to the public service. This Commission must strictly construe its statute in this case to guard

[28] 1 William Blackstone, Commentaries *140.
[29] *State ex rel. Missouri Cities Water Co. v. Hodge*, 878 S.W.2d 819, 820 (Mo. banc., 1994).
[30] Section 523.010.

against authorizing the use of the state's power of eminent domain for a private enterprise and must deny Grain Belt Express' Application.

C. The Grain Belt Express Application Does Not Meet the Tartan Test.

Staff witness Beck concluded that Grain Belt Express has not satisfied the Tartan criteria.[31] He is correct.

In order to implement its decision making process, the Commission typically applies five criteria in CCN cases ("Tartan criteria"). The Application must satisfy all five criteria. The criteria are:

(1) There must be a need for the service the applicant proposes to provide;

(2) The proposed service must be in the public interest;

(3) The applicant's proposal must be economically feasible;

(4) The applicant must have the financial ability to provide the service; and

(5) The applicant must be qualified to provide the proposed service.[32]

1. Grain Belt Express' Application Fails the Criteria that the Service Fill a Need.

Grain Belt Express argues that its proposal fulfills a need in that it assist users to meet Renewable Energy Needs.[33] However, this is not the type of need specified by the criteria. The criteria requires the applicant produce actual customers, not public interest arguments in the guise of customers. The Commission has made clear that the exclusive focus of this inquiry is

[31] Ex. 201, p. 8.
[32] *In re Tartan Energy Company*, Report and Order, Case No. GA-94-127 (September 16, 1994).
[33] Application, pp. 6-7.

prospective users of electric services.[34] As a matter of fact, the Commission denies applications for CCNs in the absence of requests for the utility's services.[35]

In *Union Electric*, three entities sought CCNs in what they believed to be a competitive environment. While the Commission granted Union Electric Company and St. Joe Light & Power Company area certificates to clear up ambiguities about the extent of their service authority to provide service based upon line certificates, it denied a CCN to Platte-Clay Electric Service Company, a wholly owned subsidiary of Platte Clay Electric Cooperative. The Commission concluded that the evidence established that all prospective users of electric service could secure service from either the parent Cooperative, Union Electric Company or St. Joe Light & Power Company. A fourth entity was not necessary. Authorizing yet another entity to serve the area would simply promote destructive competition.

Grain Belt Express' situation is identical to Platte-Clay Electric Service Company's in the *Union Electric* case. No prospective electric service customer will go without power simply because the proposed project is not built. If the Commission shifts its focus and looks only to the load serving entities in the state of Missouri, no load serving entity has appeared in this case on behalf of Grain Belt Express requesting service. No RTO has expressed the need for the service. The evidence just does not indicate that any customers will be unable to acquire electric service without the CCN.

2. Grain Belt Express' Application Fails the Criteria that the Project is in the Public Interest.

[34] *In Re Union Electric Company*, Report and Order, Case No. EA-87-159, EA-88-124, and EA-89-80 (April 27, 1990).
[35] *Id.*

This Commission has determined that, generally speaking, positive findings with respect to the other four factors in the Tartan criteria will, in most instances, support a finding that the application will promote the public interest.[36] That is not the case with this Application. As the evidence shows and UFM has previously argued, there is no public need for the project. Instead of relying on actual customers' needs for the service, Grain Belt Express attempts to argue the public interest of renewable energy in the guise of need. For Grain Belt Express, the public interest of renewable energy does double duty as both need and public interest under the criteria. Therefore, if the Commission buys the idea that public interest can be substituted for the need, it must analyze the public interest of this unique request.

In cases before the Commission under Section 393.190, an applicant must show that the transfer of facilities is not detrimental to the public interest. In such cases, the Commission must weigh the benefits and detriments in the transaction. The Western District Court of Appeals has indicated that the Commission is not limited to narrowly considering possible benefits and detriments but must consider reasonably expected consequences of the transaction.[37] As applied in this case, Grain Belt Express claims that its project will benefit the public interest in helping entities comply with renewable energy standards. Against these public benefits, the Commission must weigh countervailing considerations.

The benefits proposed by Grain Belt Express are mere speculation and of limited value. Grain Belt Express cites Section 393.1020, the Missouri Renewable Energy Standard, as a public interest justification for its Application. Yet, Section 393.1020 directs electrical corporations in the state, under the supervision of the Commission, to generate or purchase electricity generated

[36] *In re Tartan Energy Company*, Report and Order, Case No. GA-94-127 (September 16, 1994), p. 23.
[37] *State ex rel. AG Processing, Inc. v. Public Service Commission*, 120 S.W.3d 732 (Mo. banc 2003) ("*AGP*").

from renewable energy resources. The statutory obligation is imposed on electrical corporations and not on independent transmission entities. No electrical corporations have come forward expressing a need for Grain Belt Express' service in order to comply with the Missouri Renewable Energy Standard. Moreover, the Federal Energy Regulatory Commission has taken steps to assure that the transmission system is planned in a manner to accommodate Public Policy Requirements in a more efficient and cost-effective manner.[38] The public interest benefit of the project is minimal at best.

This minimal benefit is countered by significant detriments to the public interest from the project. First, the general purpose of Public Service Commission Law, as it relates to CCNs, is the prevention of duplication of facilities and destructive competition.[39] It is clear from the Application and the evidence that Grain Belt Express perceives this to be a competitive endeavor, making these facilities duplicative of the regulated facilities and a source of destructive competition. Grain Belt Express sees this project so strongly in terms of a competitive endeavor that it took a "being ahead of the market"[40] posture toward its development.

As *AG Processing* makes clear, the Commission must not only consider direct benefits and detriments of its decisions. It must also consider reasonable consequences. What signal or precedent will granting Grain Belt Express the CCN set for other competitors? What will its decision mean for future competitive HVDC projects? If the Commission steps outside the bounds of its traditional regulatory posture, what course will it be charting for the electric utility

[38] FERC Order No. 1000, at P 203.
[39] *Public Water Supply Dist. No. 8*, at p. 154. See also *State ex rel. Union Elec. Co. v. Public Service Comn'n*, 770 S.W.2d 283 (Mo. App. W.D., 1989).
[40] Tr. 10:256.

transmission infrastructure? These are all questions the Commission must consider if it is inclined to grant the Application.

Second, the project portends significant congestion issues with its development. Staff witness Kliethermes provides credible evidence that the project may cause congestion on the MISO system,[41] producing uneconomic dispatch and unnecessary fuel expense.[42] As a result, the project will interject reliability and economic concerns, potentially increasing electric rates.

Third, and likely the most significant detriment, Grain Belt Express will have the state's power to take private property for its project. UFM addressed the issue of eminent domain at some length above. Suffice it to say in this context that, if the Commission grants Grain Belt Express a CCN, Grain Belt Express will be authorized to use the power of the state to take the private property of Missouri landowners for their private project with no concomitant obligation to submit its conduct to the authority of the Commission or the obligation to provide service upon request from the public.

3. Grain Belt Express is not logistically prepared to undertake the project which is the subject of the Application.

Criteria (3)-(5) are as follows and relate to the Applicant's capability of providing the required public service:

(3) The applicant's proposal must be economically feasible;

(4) The applicant must have the financial ability to provide the service; and

(5) The applicant must be qualified to provide the proposed service.

[41] Ex. 206, p. 32.
[42] Ex. p. 18.

UFM addresses all three of these criteria as one, being related to the feasibility of the project. These criteria speak of feasibility of the project and not just qualification. Understood in this way, it is clear that the Application calls for the Commission to make a decision based upon insufficient evidence, but also puts the Commission in a paradox, as UFM will explain.

UFM does not dispute the qualifications of Grain Belt Express and its affiliates in their experience in providing electric utility services. However, because of the way the service is structured—as a private enterprise and not as a public service—it is uncertain whether those technical and financial capabilities will be immediately available to provide the service. When confronted with the three questions above of whether the Applicant will be able to bring the project to completion and provide service, the answer is we simply do not know. Grain Belt Express' "get ahead of the market place" approach is backward to the regulatory process set forth in the Public Service Commission Law.

There are many unanswered questions that indicate that Grain Belt Express has not and cannot answer the question whether this project is feasible. Staff has determined that Grain Belt Express has not met the Tartan criteria. Of particular note, Mr. Beck observes that the economic feasibility of the project will be determined in the marketplace and not by preliminary studies.[43] Staff has identified a number of conditions designed to help Grain Belt Express show Tartan compliance after the fact.[44] A quick perusal of Schedule DAB-14 to Mr. Beck's testimony shows many conditions Staff seeks to impose on the project related to studies and analyses that directly pertain to the feasibility of the project.

This Application has created a paradox for the Commission in that it seeks to obtain a CCN for a private enterprise, something not contemplated by the Public Service Commission

[43] Ex. 201, p. 11.
[44] Ex. 201, p. 8.

Law. Grain Belt Express wants to prove its case, but it cannot prove its case because the market forces it depends on to prove its case cannot be brought to bear until after the Commission rules. This paradox places the Commission in a situation that is untenable. It must grant the Application, if it is inclined to grant the application, only to have the case proved after the approval. The Commission does not have the authority to approve the Application in this manner.

In addition, Grain Belt Express is not prepared to deal with functional control of the project. Each of the jurisdictional electric utilities within the state that have turned functional control of their transmission facilities over to an RTO have made application to this Commission for authority to do so. As a matter of fact, the Commission's precedent on the transfer of functional control of transmission facilities from jurisdictional utilities to RTOs is rather extensive, including the following cases:

Case No. EO-2003-0271 (authorizing Ameren Missouri to transfer functional control to MISO for a term of five years)
Case No. EO-2006-0141 (authorizing Empire District Electric Company to transfer functional control to SPP for a period of years)
Case No. EO-2006-0142 (authorizing Kansas City Power & Light Company to transfer functional control to SPP for a period of years)
Case No. EO-2008-0046 (denying Aquila, Inc. authority to transfer functional control to MISO)
Case No. EO-2009-0179 (authorizing KCP&L – Greater Missouri Operations to transfer functional control to SPP for a period of years)

The Commission has found that utilities with transmission facilities devoted to the public service in the state of Missouri must obtain authorization prior to transferring functional control of those facilities to an RTO. Each of the companies have continuing obligations to come to this Commission for further authorization to continue the transfer of functional control.

Grain Belt Express proposes to transfer functional control to PJM without this Commission's authorization.[45] The Commission can look at Grain Belt Express' oversight in one of two ways, either that Grain Belt Express intends to flout the Commission's authority, or it simply anticipates that this project is not intended for the public service in the state of Missouri and, therefore, does not need the Commission's authority. Does this Commission want Grain Belt Express to transfer functional control of the project to PJM? That case has not been submitted to this Commission and yet Grain Belt presumes that it will happen. What happens if the Commission denies that authority?

CONCLUSION

Grain Belt Express desires to provide a valuable service, the provision of clean, pristine wind power to the state and nation. UFM is pleased that Grain Belt Express is attempting to find a nitch in the market place to provide this service created by the Missouri Renewable Energy Standard. UFM respects Grain Belt Express' efforts to enter into the economy in this manner. However, UFM also respects the years and sometimes generations of investment and toil Missouri farmers and other landowners have made on their land. While Grain Belt Express has every right to enter into negotiations to buy the land it needs to make its economic investment in the state's renewable energy market place, it should not be allowed to use the power of the state to take land Missouri property owners.

[45] Tr. 12:479-481.

WHEREFORE, UFM prays that the Commission reject the Application.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was sent to all parties of record in File No. EA-2014-0207 via electronic transmission this 8th day of December, 2014.

/s/ David C. Linton