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	)	File No. EA-2016-0358

REPLY BRIEF OF SIERRA CLUB, NRDC AND RENEW MISSOURI

We will not attempt an exhaustive refutation of all arguments in the opponents' initial briefs, some of which are best left to other parties or, occasionally, are too absurd to bother with; few stones have been left unturned. We will address the decision of the Court of Appeals, Western District, concerning Ameren's Mark Twain Line, and the Commission's question of how construction of the converter station may be ensured.

1. The Commission may lawfully issue to Grain Belt Express Clean Line LLC the certificate of convenience and necessity ("CCN") for the high-voltage direct current transmission line and converter station without waiting for county consents.

Show Me Concerned Landowners (brief pp. 4–7, 14–6) and Missouri Farm Bureau (brief p. 5) argue that the Commission has no jurisdiction at all. Well, in that case GBE does not need a CCN. Actually, though, it does need a line certificate under § 393.170.1, RSMo, but that is the extent of the Commission's jurisdiction since GBE is not offering retail service as a rate-regulated entity.

As to the Court of Appeals' decision in *Neighbors United against Ameren's Power*

Line v. PSC and Ameren Transmission Co. of Illinois (ATXI), WD79883 (slip op. March 28, 2017), it would be nice if the Court would clarify how § 393.170.1 fits in. The Court of Appeals made no reference to 393.170.1 or the corresponding parts of 4 CSR 240-3.105, nor to line certificates or area certificates. Instead, the Court relied on 393.170.2 (slip op. 6, 8), 4 CSR 240-3.105(1)(D)1 (slip op. at 3, 4, 6, 8) and 3.105(2) (slip op. at 6), which concern area certificates. It even refers to "both subdivisions of section 393.170," citing subdivisions .2 and .3 as if .1 did not exist (slip op. 8). We cannot conclude that the Court meant to decide the issue in this case, which is whether county assents must be obtained before issuance of a line certificate. The Court never said that a transmission line requires an area certificate, but it treated the Mark Twain line as if it did.

A line certificate is given for construction of electric plant, including transmission lines, under § 393.170.1 and 4 CSR 240-3.105(1) (B) ("If the application is for electrical transmission lines, gas transmission lines or electrical production facilities…"). Corresponding to this is 3.105(1)(C): "When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect."

An area certificate is issued for the exercise of a franchise under 393.170.2 and 4 CSR 240-3.105(1)(A)("If the application is for a service area"). Corresponding to this is 3.105(1)(D), which the Court of Appeals relied on ("When approval of the affected governmental bodies is required, evidence must be provided as follows:").

Show Me's interpretation of 393.170 is correct until it reaches the wrong conclusion (brief at 12). Section 393.170.3 brings together the two types of CCN for procedural purposes, but it preserves the distinction between them:

> The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction [393.170.1] or such exercise of the right, privilege or franchise [393.170.2] is necessary or convenient for the public service.

There is no mention of local approval in 393.170.3, only in 393.170.2. It is therefore clear that proof of local consent before issuance of a CCN applies only to area certificates.

a. Discriminatory rates.

Missouri Landowners Alliance (MLA) argues that MJMEUC's first-mover rate is discriminatory (brief at 57–8). Show Me attempts to make the same argument in a veiled form (brief at 8). The argument is wrong for two reasons. First, this transmission rate is not an IOU retail rate subject to the Commission's jurisdiction. Second, § 393.130 forbids any "electrical corporation" to discriminate among its own customers; it does not prevent different utilities from having different rates. Rather than being "anti-competitive," MJMEUC's rate would more accurately be called competitive: MJMEUC negotiated a favorable rate for being the first Missouri subscriber to the line.

b. Duplicative service.

Duplicative service is an argument made by Show Me (brief at 16–8) and MFB (brief at 6). But MJMEUC has a need for capacity and energy that GBE can meet at the lowest cost while also satisfying its members' desire for renewable energy. This is not a duplication of any service now existing in Missouri.

2. The HVDC transmission line and converter station are "necessary or convenient for the public service" within the meaning of that phrase in section 393.170, RSMo.

Economic feasibility.

Staff has inched closer to approval, saying the conditions GBE has assented to "mitigate" Staff's concerns (brief at 23) but that there is still insufficient evidence (brief at 18, 22). Staff wants every RTO interconnection study, every transmission upgrade and the Mark Twain line to be nailed down now (brief at 19–23). Nevertheless, GBE has agreed to provide RTO studies and financing information for the whole multi-state line (Exh. 206, pp. 1–2).

MLA likewise tries to exploit uncertainty (brief at 10) the unknown (pp. 8-9) and "speculation" (p. 15–6) as arguments against the line.

"Feasibility" connotes what can be done, not what has been done before the CCN is issued. A certificate of convenience and necessity is not a license for the Commission to micromanage a project or police the procedures of entities beyond Missouri's and the Commission's jurisdiction. It is not a guarantee that a project will be built.

GBE has shown that the line can be paid for and turn a profit based on sales in Missouri and PJM using a viable method of participant funding that holds Missouri ratepayers harmless. This satisfies the literal meaning of economic feasibility.

Need.

Staff compiles a long list of Grain Belt's arguments but concludes that the line will only provide "transmission capacity," not generation capacity or energy (brief at 13–4).

This overlooks the AC congestion problems in MISO[1] and the congestion pricing and other costs in SPP, which are averted by a DC line.[2] Staff and MLA also overlook the demand for renewable energy by corporations and MJMEUC members. This need is uniquely served by a DC line that can function as a wind-only line.

Staff argues that the GBE is unnecessary to meet the RES, and that Ameren can buy the renewable energy credits from KCPL's two new Missouri wind farms (brief at 16). However, even if Ameren bought all the RECs from those windfarms, it would not be nearly enough to meet their REC requirements.[3]

MLA goes to great lengths to dispute the 55% capacity factor for Kansas wind (brief at 18–23). Under questioning by MLA's counsel, Mr. Goggin testified that the figure was reliable based on upward trends in Kansas capacity factors and on the fact that Kansas wind generation is often curtailed because there is not enough transmission to get the energy out; therefore capacity factors appear lower than they could be.[4] Improvements in wind technology also back the 55% figure.[5]

MLA strenuously argues that MJMEUC has made no binding commitment to take any capacity from GBE (brief at 6-16). MJMEUC can best answer this. We note that MLA witness Jaskulski and Show Me witnesses Justis and Shaw have been thoroughly debunked, and their concessions noted, in other parties' initial briefs (GBE, pp. 40–6; MJMEUC at 14–5; Infinity Wind at 14–5).

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[1] Berry, T. 929.
[2] Langley, T. vo. 16, 1188:18–1191:23.
[3] Goggin, T. vol. 16, pp. 1125–9.
[4] T. vol. 16, 1141:12–1142:5; 1150:21–5.
[5] T. 1172:7–1173:12.

Mr. Jaskulski admitted that MJMEUC will save $3 million, but only because of the discounted rate.[6] There is no reason to disregard the actual terms of the bargain. MLA says GBE "in effect created" the need (brief at 50). MJMEUC would presumably not take even a good deal unless it had a need, and that need is on the record.

MLA asserts that there are better alternatives to GBE in solar and Missouri wind (brief at 10, 17). Having proposed these alternatives, it is their burden to substantiate them. We take it as common knowledge around the PSC that solar is only available in small increments and with a much lower capacity factor, and that the production from Missouri wind farms, which are still small in number, is entirely spoken for.

Commissioner Question: If the Commission wanted to condition the effectiveness of the CCN on the actual construction of the proposed converter station and the actual delivery of 500 MW of wind to the converter station, how would it do so?

The line must be built, and therefore the CCN issued, before the converter station may be added. However, the converter station is part of the application, and GBE is open to this condition being imposed (GBE opening brief, p. 70). Staff points out that by offering this service, GBE will be obligated to provide it (Staff brief, p. 27). Also, the Commission can entertain a complaint for violation of a CCN, so a condition that the converter station must be built can be enforced. *Summit Investment, LLC v. Osage Water Co.,* SC-2014-0214, WC-2014-0215, 2015 WL 6577445 (Report and Order, Oct. 22, 2015).

[6] Exhibit 307, p. 5:104–5, p. 6:118–20.

CONCLUSION

WHEREFORE Sierra Club, NRDC and Renew Missouri ask the Commission to approve the application of Grain Belt for a certificate of convenience and necessity with such reasonable conditions as are necessary.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 24th day of April, 2017, to all counsel of record.

/s/ Henry B. Robertson
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