

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

In the Matter of the Application of Grain Belt)
Express LLC for an Amendment to its Certificate)
of Convenience and Necessity Authorizing it to)
Construct, Own, Operate, Control, Manage, and) File No. EA-2023-0017
Maintain a High Voltage, Direct Current)
Transmission Line and Associated Converter)
Station.)

Response in Opposition to Motion to Compel

Grain Belt Express LLC (“Grain Belt Express”) hereby responds in opposition to the Motion to Compel filed by the Missouri Landowners Alliance (“MLA”) and the Eastern Missouri Landowners Alliance (“EMLA” and together with MLA, the “Movants”) and states as follows:

1. On November 13, 2025, counsel for the Movants emailed the parties to File No. EA-2023-0017 (the “CCN Case”) with a set of “Supplemental Data Requests.”

2. On November 14, 2025, counsel for Grain Belt Express responded via email and explained that the Movants do not have any present right to discovery in the CCN Case and Grain Belt Express is under no obligation to respond to the data requests. That email further explained:

The Commission rule states: ‘Discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court.’ 20 CSR 4240-2.090(1). The relevant civil procedure rule states: ‘Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action.’ Rule 56.01(b)(1). There is no pending action before the Commission. Further, the Procedural Order in the case established May 15, 2023 as the final date for discovery in the proceeding. The Report and Order issued on October 12, 2023 is final and appeals of the Report and Order were denied. Grain Belt Express will not provide any further response to these requests.

Grain Belt Express stands by the explanation provided in the November 14, 2025 email and fully incorporates the same into this Response.

3. Despite the clear legal circumstances, the Movants filed a Motion to Compel on November 25, 2025. The Movants attempt to justify their data requests by relying on an expansive

and unsupported view of the term “pending action” as used in Rule 56.01(b)(1). They contend that File No. EA-2023-0017 remains a “pending action” because (1) Grain Belt Express filed an annual status report in compliance with the Report and Order in the CCN Case and (2) the Commission never issued a “Notice Closing File.”

4. First, a compliance filing does not constitute a “pending action.” There is no requested relief in a compliance filing, and thus, there is no possibility of a hearing, no need to prepare for a hearing, and no circumstances by which discovery responses could be admitted into evidence. These circumstances are equivalent to those in an integrated resource planning annual update proceeding, where the Commission recently denied a motion to compel because “there is no possibility of a hearing, no need to prepare for a hearing, and no circumstances by which discovery responses could be admitted into evidence.”¹ As a practical matter, public utilities make continuous compliance filings with the Commission in numerous case files and it would be unwieldy to permit discovery on all of them. It would also be contrary to public policy to open public utilities to discovery every time they make transparent and informative compliance filings.

5. Second, Movants’ reliance on the presence or absence of a “Notice Closing File” is misplaced. As the Movants acknowledged, there is no Commission rule in 20 CSR 4240-2 or elsewhere that requires the Commission to issue a “Notice Closing File,” a “Notice Closing Case,” or a “Notice that File has Closed,” much less prescribes when or under what circumstances such notices must be entered. In practice, the Commission treats these notices as purely administrative tools, issuing them inconsistently. For example, in File No. EA-2021-0167, the Commission issued a “Notice Closing File” less than two months after granting the CCN,² while in File No. EA-2020-

¹ File No. EO-2025-0123, Order Denying Motion to Compel (March 14, 2025).

² File No. EA- 2021-0167 (Order Granting Certificate of Convenience and Necessity issued Feb. 10, 2021; Notice of Closed File issued March 22, 2021).

0371, it issued three separate “Notice Closing File” entries over the course of several years after the CCN order and as annual reports were being filed.³ The Commission has also issued both a “Notice Closing File” and a “Notice Closing Case” in the same proceeding, also while there were ongoing compliance filings.⁴ Other recent CCN cases have final orders but no Notice Closing File or comparable closing notice to date.⁵ The absence of a “Notice Closing File” in this docket therefore says nothing about whether there is a live, pending contested case for discovery purposes, and the Commission’s informal use of such notices cannot bear the jurisdictional weight Movants attempt to place on it.

6. Finally, Movants’ threat to file a complaint and *then* issue discovery reveals their true intent, which is merely to harass Grain Belt Express.⁶ The threat also violates Commission

³ File No. EA-2020-0371 (Order Approving Compliance Tarriff issued July 5, 2022; Notices Closing File issued on Feb. 23, 2024, Dec. 13, 2024, and May 28, 2025).

⁴ File No. EA-2022-0234 (Order Approving Settlement issued Dec. 18, 2022; Notice Closing File issued January 23, 2023; Notice Closing Case issued Oct. 20, 2025).

⁵ File No. EA-2022-0099 (Order Approving Stipulation and Agreement issued July 7, 2022); File No. EA-2024-0147 (Order Granting Certificate of Convenience and Necessity issued April 10, 2024); File No. EA-2024-0292 (Order Granting Stipulation and Agreement and Certificates of Convenience and Necessity issued July 31, 2025); File No. EA-2025-0028 (Order Granting Certificate of Convenience and Necessity issued April 30, 2025); File No. EA-2025-0075 (Report and Order issued July 31, 2025).

⁶ If Movants were to follow through on its threat, it would continue a pattern of frivolous complaints by MLA and EMLA. Since 2020, MLA and/or EMPA have filed four complaint cases at the Commission and a complaint in Circuit Court in Randolph County against Grain Belt Express regarding the Certificated Project. Each of these cases was resolved in favor of Grain Belt Express. See *Missouri Landowners Alliance and Gary Mareschal v. Grain Belt Express, LLC, et al.*, PSC Case No. EC-2020-0408, Motion to Withdraw Complaint (Jan. 12, 2021) (voluntarily dismissed due to lack of evidence); *Missouri Landowners Alliance, and Eastern Missouri Landowners Alliance DBA Show Me Concerned Landowners, and John G. Hobbs v. Grain Belt Express LLC, et al.*, PSC Case No. EC-2021-0034, Report & Order, p. 13 (Jan. 20, 2021) (the Commission saw “no basis” for the relief sought); *Missouri Landowners Alliance, and Eastern Missouri Landowners Alliance DBA Show Me Concerned Landowners, and John G. Hobbs v. Grain Belt Express LLC, et al.*, PSC Case No. EC-2021-0059, Report & Order, p. 20 (Aug. 4, 2021) (Commission found that complainants “failed to meet their burden of proof.”); *Missouri Landowners Alliance, et al., v. Grain Belt Express LLC, et al.*, 20RA-CV01317, Judgment of Dismissal, p. 7 (June 1, 2021) (the Circuit Court of Randolph County dismissed the declaratory action, finding “there is no cause of action before this Court authorizing it to grant the relief requested by Plaintiffs” and that Plaintiffs “fail to allege the essential elements for

rules that require all claims, requests, demands, and arguments not be presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.⁷ Further, factual contentions must have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.⁸ Such investigation and discovery, however, cannot be based on mere suspicion. Discovery may not be used merely as a “fishing expedition” or be used as a “factual dragnet.”⁹ Accordingly, MLA’s threat to file a complaint and then embark on a fishing expedition should be viewed as baseless and improper.

7. Because discovery is improper for all the reasons set forth above, the Commission should also deny the Movants’ request for waiver or variance of its discovery rules.

WHEREFORE, Grain Belt Express requests that the Commission deny the Motion to Compel and Conditional Request for Variance or Waiver of Discovery Rules.

Respectfully submitted,

/s/ Andrew O. Schulte

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declaratory relief.”); *McElwee v. Grain Belt Express LLC*, PSC Case No. EC-2022-059 (voluntarily dismissed by Complainant).

⁷ 20 CSR 4240-2.080(6)(A).

⁸ 20 CSR 4240-2.080(6)(C).

⁹ *State ex rel. Boswell v. Curtis*, 334 S.W. 2d 757, 760 (Mo. App. Spr. D. 1960); *Concerned Citizens for Crystal City. City of Crystal City*, 334 S.W. 3d 519, 523 (Mo.Ct.App. 2010) *citing* *Misischia v. St. John’s Mercy Medical Center*, 30 S.W. 3d 848, 864 (Mo.Ct. App. 2000).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by email or U.S. mail, postage prepaid, this 5th day of December, 2025.

/s/ Andrew O. Schulte
Attorney for Grain Belt Express LLC