

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Mark Sievers, Chairman
 Thomas E. Wright
 Shari Feist Albrecht

In the Matter of the Application of Grain)	
Belt Express Clean Line LLC for a Siting)	
Permit for the Construction of a High)	
Voltage Direct Current Transmission Line in)	Docket No. 13-GBEE-803-MIS
Ford, Hodgeman, Edwards, Pawnee, Barton,)	
Russell, Osborne, Mitchell, Cloud, Washington,)	
Marshall, Nemaha, Brown, and Doniphan)	
Counties Pursuant to K.S.A. 66-1,177, et seq.)	

**PREHEARING OFFICER'S PREHEARING ORDER
AND RECOMMENDATIONS TO THE COMMISSION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. The Commission has designated Jay Van Blaricum to be Prehearing Officer in this case.¹ Having examined the files, the Prehearing Officer concludes as follows:

1. On July 15, 2013, Grain Belt Express Clean Line LLC (Grain Belt Express) filed an Application pursuant to K.S.A. 66-1,177 et seq. with the Commission. The Application is for a siting permit conferring on Grain Belt Express the right to construct the Kansas portion of a multi-terminal ± 600 kilovolt (kV) high voltage direct current (HVDC) transmission line, and an HVDC converter station and associated transmission facilities, running from near the Spearville 345 kV substation in Ford County, Kansas, to a delivery point near the Sullivan 765 kV substation in Sullivan County, Indiana.

¹ Order Designating Prehearing Officer, (July 9, 2013).

2. On October 4, 2013 at 9:30 a.m. in the Commission's Third Floor Hearing Room, the Prehearing Officer presided over a Prehearing Conference in this docket. The prehearing conference was held to determine preliminary matters and procedure for the evidentiary hearing in this docket.

3. At the Prehearing Conference, the parties discussed multiple issues, including opening statements, testifying witnesses, cross-examination of witnesses, closing statements, post-hearing briefs, and the interests of intervenors as they relate to the subject matter of this proceeding.

4. Westar Energy, Inc., stated it was satisfied by Grain Belt Express' testimony regarding the issues Westar raised in its Petition to Intervene, and did not intend to participate in the evidentiary hearing or post-hearing briefs. Westar's witness, David Benak, will not appear at the evidentiary hearing and the parties' attorneys have waived cross-examination of that witness.

5. Similarly, Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC were satisfied with Grain Belt Express's testimony and will not participate in the evidentiary hearing or post-hearing briefs.

6. The parties wish to make opening statements. Grain Belt Express will proceed first, and will be allotted fifteen minutes for their opening statement. ITC Great Plains, LLC and Nemaha-Marshall County Electric Cooperative, Inc. shall present their opening statements next and will be allotted three minutes each. The other intervenors will present opening statements of five minutes each in the following order: Matthew Stallbaumer, Cythia Dettke Thoreson, Nancy Vogelsburg-Busch, Jana Reed (via telephone), the Irene Miller Family Trust, the Board of Marshall County Commissioners, and CLEANR. Finally, Commission Staff shall present its opening statement, and will be allotted fifteen minutes to do so.

7. Grain Belt Express plans to call six witnesses in the following order: Mark Lawlor, Michael Skelly, Tim Gaul, David Berry, Wayne Galli, and John McBeath. Mr. Skelly must complete his testimony by noon on Wednesday, October 9, 2013, and Mr. McBeath is only available on Wednesday, October 9, 2013, and will need to be moved up in the sequence as needed. The order of cross-examination of these witnesses shall be as follows: ITC, Nemaha-Marshall County Electric Cooperative, CLEANR, Marshall County, and Staff. Staff waived cross-examination but reserved the right to ask questions of any witness who deviates from their pre-filed testimony.

8. Staff plans to call two witnesses, in the following order: Tom DeBaun and Michael Wegner. The order of cross-examination of these witnesses shall be as follows: ITC, Nemaha-Marshall County Electric Cooperative, CLEANR, Marshall County, and Grain Belt Express.

9. The parties represented by counsel all waived closing statements unless the post-hearing briefs are cancelled, at which point Staff would request five minutes for a closing statement. Several of the *pro se* intervenors asked the Commission to decide whether they should present closing statements or file post-hearing briefs.

10. Grain Belt Express wishes to address certain arguments of Marshall County and CLEANR as preliminary matters at the evidentiary hearing.

11. Also to be addressed as preliminary matters at the evidentiary hearing are the issues of the intervention status of the intervenors, whether the intervenors may present oral testimony at the evidentiary hearing although the cutoff for filing intervenor testimony was August 9, 2013, and whether the intervenors may present exhibits into the record at the evidentiary hearing. Grain Belt Express objected to both the tendering of oral testimony and

exhibits by the intervenors. CLEANR stated it plans to offer three witnesses to give oral testimony, with supporting exhibits, over Grain Belt Express' objection. CLEANR also plans to move the Commission to continue the hearing past the 120 day statutory deadline and allow witnesses to present oral testimony. Marshall County has also argued the 120-day deadline in this case is directory, and not mandatory, citing *In re Wine*, 46 Kan. App. 2d 134 (2011). Grain Belt Express objected to CLEANR's motion as coming after the September 30, 2013 deadline for prehearing motions as set in the Order Adopting Procedural Schedule. Grain Belt Express also requested Commission clarification on whether exhibits prepared in response to issues raised at the evidentiary hearing would be required to be pre-marked and exchanged with the parties in advance.

12. The Prehearing Officer asked the intervenors at the Prehearing Conference to state their legal interest in this proceeding, what they plan to present at the evidentiary hearing, how their materials are relevant to the applicable statutory standard, and what they want the Commission to do in this case. The Stallbaumers are concerned about effect of the proposed route on the value of land they intend to leave to their children, and request that Grain Belt Express be required to bury the proposed transmission line. Ms. Thoreson stated her family's farm would be affected by the proposed route, and concurred with the positions of the Stallbaumers and Marshall County. Ms. Vogelsburg-Busch stated the proposed route would impact her and her company, and also concurred with the positions of Marshall County. Don Miller and Jana Reed stated they are owners of mineral interests affected by the proposed route, and would like the line to be shifted from the east side of their property to the west side. The Irene L. Miller Family Trust stated through its representative that it was also concerned about oil and gas production, and would like Grain Belt Express to consider alternative routes with less

impact on the oil and gas industry. The attorney for CLEANR stated that the organization is objecting to the necessity and reasonableness of the proposed transmission line. Marshall County's attorney stated concerns about the power to be transported on the proposed transmission line being transported out of Kansas, the impact on its tax base and local economy, and also asked Grain Belt Express to bury the transmission line and follow public roads.

13. At the Prehearing Conference, the Prehearing Officer did not make any determinations on whether the intervenors' participation should be limited. However, it is the opinion of the Prehearing Officer that the orderly and prompt conduct of the proceedings would be promoted by limiting the participation of the *pro se* intervenors and Marshall County to giving opening statements and filing post-hearing briefs. As Grain Belt Express argued, the interests as stated by these intervenors are not relevant to the applicable statutory standard and were previously raised at public hearings and in public comments in this case. Thus, any discussion of these issues at the evidentiary hearing would be duplicative of statements already contained in the record.

14. The Prehearing Officer therefore makes the following recommendations to the Commission, to be considered as preliminary matters at the evidentiary hearing: limit the *pro se* intervenors' and Marshall County's participation in this proceeding to giving opening statements and filing post-hearing briefs, and deny any request to admit testimony or exhibits in support thereof presented after the August 9, 2013 deadline.

WHEREFORE, THE PREHEARING OFFICER FINDS AND CONCLUDES:

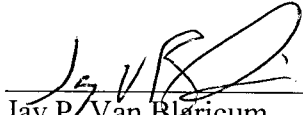
A. The procedure for the evidentiary hearing to be held October 8 through October 10, 2013, shall be as laid out above.

B. The Prehearing Officer recommends the Commission limit the *pro se* intervenors' and Marshall County's participation in this proceeding to giving opening statements and filing post-hearing briefs, and deny any request to admit testimony or exhibits in support thereof presented after the August 9, 2013 deadline.

C. The parties have 15 days from the date of electronic service of this order to petition the Commission for reconsideration.²

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

Dated: 10-4-13


Jay P. Van Blaricum
Prehearing Officer

JV

² K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529(a)(1).

OCT 04 2013

CERTIFICATE OF SERVICE

13-GBEE-803-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Prehearing Officer's Prehearing Order and Recommendations to the Commission was served by electronic mail this 4th day of October, 2013, to the following parties who have waived receipt of follow-up hard copies:

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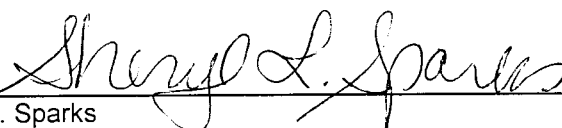
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