

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

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

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 Ford,            )                    Docket No. 13-GBEE-803-MIS  
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.

**ORDER GRANTING LIMITED EXTENSION OF SUNSET PROVISION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records, the Commission finds:

1.        On July 15, 2013, Grain Belt Express Clean Line LLC (Grain Belt) filed an Application pursuant to the Kansas Electric Transmission Siting Act (Siting Act), K.S.A. 66-1,177 *et seq.*, for a siting permit to construct in Kansas approximately 370 miles of the approximately 750-mile HVDC transmission line that continues to Missouri, Illinois, and Indiana, a converter station in Ford County, Kansas, and facilities to interconnect the converter station with the Southwest Power Pool (SPP).<sup>1</sup>

2.        On November 7, 2013, the Commission issued its Order Granting Siting Application (Order), finding that the Grain Belt Express line is necessary because “[w]ithout this project, hundreds of millions of economic development dollars would not be spent in Kansas, and

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<sup>1</sup> Application, July 15, 2013, ¶ 5.

the potential for large scale wind farm development would be lost” and “this project will have significant short- and long-term economic development benefits for the state of Kansas.”<sup>2</sup>

3. In addition to finding a proposed transmission line necessary, before issuing a siting permit, the Commission must also determine the reasonableness of the location of the proposed electric transmission line.<sup>3</sup>

4. After considering comments from landowners, the Commission found the modified proposed route, is reasonable and in the public interest.<sup>4</sup> The Commission granting of a siting permit was conditioned on Grain Belt submitting quarterly reports detailing the progress and costs of the project, and beginning construction of the of the Grain Belt Express Project (Project) within five years from the date of the Order<sup>5</sup> If construction did not start within five years, Grain Belt would be required to submit a new application.<sup>6</sup> Since the Order was issued November 7, 2013, Grain Belt would need to start construction in Kansas by November 7, 2018 or reapply.

5. Before starting construction in Kansas, the Order required Grain Belt to obtain approval from the other states where the Grain Belt Express would be built, namely Missouri, Illinois, and Indiana.<sup>7</sup>

6. The Illinois Courts have issued decisions requiring Grain Belt to acquire property in Illinois before it can submit a new application to the Illinois Commerce Commission for a certificate to build the Illinois portion of the transmission Project.<sup>8</sup> Grain Belt is working to acquire property in Illinois to enable it to file a new certificate application with the ICC.<sup>9</sup>

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<sup>2</sup> Order Granting Siting Application (Order), Nov. 7, 2013, ¶ 36.

<sup>3</sup> *Id.*, ¶ 38.

<sup>4</sup> *Id.*, ¶¶ 46, 52.

<sup>5</sup> Order, ¶ 55.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, ¶ 53.

<sup>8</sup> Joint Motion of Grain Belt Express Clean Line LLC and Commission Staff for Extension of Sunset Term, Sept. 6, 2018, ¶ 8.

<sup>9</sup> *Id.*

7. In July 2015, the Missouri Public Service Commission (MPSC) denied Grain Belt's application for a certificate to build the Missouri portion of the line.<sup>10</sup> Grain Belt appealed the MPSC decision, resulting in a unanimous decision by the Missouri Supreme Court, issued on July 17, 2018, finding the MPSC erred and remanding the matter back to the MPSC to determine whether the Missouri portion of the Project is necessary or convenient for the public service.<sup>11</sup> Once the Missouri Supreme Court issues its mandate, Grain Belt will urge the MPSC to promptly issue a certificate to build the Missouri portion of the Project.<sup>12</sup>

8. On September 6, 2018, Grain Belt and the Commission Staff (Staff) filed their Joint Motion for Extension of Sunset Term (Joint Motion), explaining that the litigation delays in Illinois and Missouri makes it unlikely Kansas construction would begin by November 7, 2018, and requesting extending the sunset date be extended to November 7, 2023.<sup>13</sup> The Joint Motion is limited to a request to extend the sunset date by five years,<sup>14</sup> to allow Grain Belt an opportunity to complete the permitting process and pre-construction activities required prior to beginning construction of the Project in Kansas.<sup>15</sup>

9. The Joint Motion was served electronically to all the parties in the Docket, including those landowners who had intervened to oppose Grain Belt's Application.<sup>16</sup> On September 17, 2018, Matthew Stallbaumer filed his Protest to the Joint Motion.

10. Stallbaumer argues the proposed extension is not in the public interest because: (1) the sunset provision protects landowners from having their lives placed on hold for a project that

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<sup>10</sup> *Id.*, ¶ 9.

<sup>11</sup> *Id.*, at 11.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*, ¶ 17.

<sup>14</sup> *Id.*, ¶ 16.

<sup>15</sup> *Id.*, ¶¶ 16-18.

<sup>16</sup> *Id.*, ¶ 18.

may never be built;<sup>17</sup> (2) the route selection study is five years old and may need to be reconsidered;<sup>18</sup> (3) Grain Belt's financial ability to build the line and its managerial ability to run the line need to be reevaluated;<sup>19</sup> and (4) Grain Belt may not get approval from Illinois or Missouri.<sup>20</sup>

11. On September 24, 2018, Nemaha-Marshall Electric Cooperative, Inc. (NMEC) filed its Reply to the Joint Motion of Grain Belt Express Clean Line LLC's and Kansas Corporations Commission Staff and Proposed Order, expressing its concern about the Project and points to a transmission line collapse in Haskell County, Kansas.<sup>21</sup> NMEC urges the Commission to deny the proposed extension and instead require Grain Belt to pay it to bury its facilities.<sup>22</sup>

12. NMEC is improperly attempting to relitigate the necessity and convenience of the Project. Therefore, the Commission denies the request to review the actual route of the facilities and safety procedures.

13. On September 26, 2018, Staff filed its Response to the Protest of Matthew Stallbaumer to the Motion of Grain Belt Express Clean Line LLC and Commission Staff for Extension of Sunset Term, claiming Stallbaumer's Protest erroneously interprets the purpose of the five-year sunset provision.<sup>23</sup> According to Staff, the purpose of the sunset provision was not to protect landowners, but to prevent the Project for stalling at the border.<sup>24</sup>

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<sup>17</sup> Protest of Matthew Stallbaumer to the Motion of Grain Belt Express Clean Line LLC and Commission Staff for Extension of Sunset Term (Stallbaumer Protest), Sept. 17, 2018, ¶ 11.

<sup>18</sup> *Id.*, ¶ 12.

<sup>19</sup> *Id.*, ¶ 13.

<sup>20</sup> *Id.*, ¶ 14.

<sup>21</sup> Reply to the Joint Motion of Grain Belt Express Clean Line LLC's and Kansas Corporations Commission Staff and Proposed Order, Sept. 24, 2018, ¶¶ 3-4.

<sup>22</sup> *Id.*, ¶ 5.

<sup>23</sup> Staff's Response to the Protest of Matthew Stallbaumer to the Motion of Grain Belt Express Clean Line LLC and Commission Staff for Extension of Sunset Term, Sept. 26, 2018, ¶ 7.

<sup>24</sup> *Id.*

14. In addressing Stallbaumer's concerns that Grain Belt may no longer have the financial, managerial and technical ability to complete the Project, Staff explains Grain Belt's quarterly status reports filed in the 14-GBEE-527-CPL Compliance Docket demonstrate that Grain Belt Express continues to meet the requirements of the Kansas Siting Act, K. S .A. 66-1, 177 *et seq.*<sup>25</sup> Therefore, Staff recommends denying Stallbaumer's Protest.

15. On September 27, 2018, Grain Belt filed its Response to Protest of Matthew Stallbaumer, explaining that extending the Sunset Provision would not alter its obligations to work with all affected landowners to restore any affected land to its pre-construction condition when possible.<sup>26</sup> Grain Belt also advises that personnel changes happen routinely and do not impact the Commission's finding that the Project was necessary and convenient.<sup>27</sup>

16. The Commission finds Stallbaumer's concerns regarding Grain Belt's financial, managerial and technical ability to complete the Project compelling based on Stallbaumer alleging: (1) many of Grain Belt's employees have left the company<sup>28</sup> and (2) Grain Belt has recently sold its non-transmission assets to ConnectGen LLC.<sup>29</sup> To allow the Commission time to evaluate Grain Belt to submit evidence of its financial, managerial and technical ability to complete the Project, the Commission grants an extension of the sunset provision until March 1, 2019.

17. Therefore, by November 29, 2018, the Commission directs Grain Belt to submit evidence of its financial, managerial and technical ability to complete the Project.

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<sup>25</sup> *Id.*, ¶ 9.

<sup>26</sup> Response of Grain Belt Express Clean Line LLC to Protest of Matthew Stallbaumer, Sept. 27. 2018, ¶ 1.

<sup>27</sup> *Id.*, ¶ 2.

<sup>28</sup> Stallbaumer Protest, ¶ 13.

<sup>29</sup> *Id.*

18. Stallbaumer and NMEC can file pleadings limited to Grain Belt's financial, managerial and technical ability to complete the Project. Stallbaumer's and NMEC's pleadings are due by December 21, 2018.

19. The Commission directs Staff to file a Report and Recommendation by February 6, 2019, evaluating Grain Belt's financial, managerial and technical ability to complete the Project. Upon review of Staff's Report and Recommendation, the Commission will determine whether a hearing is necessary. If a hearing is necessary, the Commission may extend the Sunset deadline to enable it to conduct a hearing.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Sunset Term is extended until March 1, 2019 to allow Grain Belt to advise the Commission of its financial, managerial and technical ability to complete the Project.

B. By November 29, 2018, Grain Belt shall submit evidence of its financial, managerial and technical ability to complete the Project. Stallbaumer's and NMEC's responses to Grain Belt's submission are due by December 21, 2018. Their responses are limited to Grain Belt's financial, managerial and technical ability to complete the Project.

C. Staff is directed to file a Report and Recommendation by February 6, 2019, evaluating Grain Belt's financial, managerial and technical ability to complete the Project.

D. Any party may file and serve a petition for reconsideration pursuant to requirements and time limits established by K.S.A. 77-529(a)(1).<sup>30</sup>

E. The Commission retains jurisdiction over the subject matter and the parties to enter further orders as it deems necessary.

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<sup>30</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/04/2018



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Lynn M. Retz  
Secretary to the Commission

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## CERTIFICATE OF SERVICE

13-GBEE-803-MIS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 10/04/2018.

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