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

In the Matter of the Application of Grain Belt)
Express, LLC for a Siting Permit for the)
Construction of Two 345 kV Transmission) Docket No. No. 24-GBEE-790-STG
Lines and Associated Facilities Through Gray,)
Meade, and Ford Counties, Kansas.)

PUBLIC RESPONSE TO PETITION TO INTERVENE

Pursuant to K.A.R. 82-1-218(d), Grain Belt Express LLC (“Grain Belt Express”) hereby responds to the July 3, 2024 Petition to Intervene filed by Bradley A. Boyd and Sandra A. Boyd and other members of the Boyd family (“Boyd Landowners”), and states as follows:

I. Background

1. On May 31, 2024, Grain Belt Express filed its Application for Line Siting Permits (“Application”) requesting that the State Corporation Commission of the State of Kansas (“KCC” or “Commission”) issue a siting permit establishing the route for two inter-related transmission lines and associated facilities as part of the previously approved “AC Collector System.”¹

2. On July 3, 2024, the Boyd Landowners filed their Petition to Intervene (“Petition”). In their Petition, the Boyd Landowners state that (1) Grain Belt Express’ proposed route for the Meade-Dodge City Line would traverse across land owned by the Boyd Landowners and near residences located on that land;² (2) the Boyd Landowners were not sought out for feedback in selecting the proposed route;³ and (3) the Boyd Landowners each have an agreement with Invenergy’s affiliate Thresher Wind LLC, in which Thresher Wind LLC agreed “** [REDACTED]

¹ Application for Transmission Line Siting Permits, p. 1 (May 31, 2024) (“Application”).

² Boyd Landowners’ Petition to Intervene, ¶ 2 (July 3, 2024) (“Petition”).

³ *Id.* at ¶ 3.



of the Boyd Intervenors.”⁴

3. Grain Belt Express does not have any opposition to the Boyd Landowners’ intervention but files this Response to correct several misstatements in the Petition, to clarify the relevant law applicable to certain of the Boyd’s claims, and to respond to certain factual allegations.

II. The Boyd Landowners Had Ample Opportunity to Provide Route Feedback Through the Public Engagement Process

4. The Boyd Landowners correctly note that Grain Belt Express stated in its Application that it has demonstrated the reasonableness of the proposed routes by receiving and incorporating feedback from affected stakeholders, including landowners, into the proposed location. The Boyd Landowners then assert that “Invenergy did not seek out any feedback from the Boyd Intervenors.”⁵ This assertion is factually incorrect and misrepresents the comprehensive public engagement and outreach that Grain Belt Express diligently pursued for months preceding the filing of its Application. As explained in the Application and supporting Direct Testimony, Grain Belt Express has taken great pains to ensure that all landowners and other stakeholders have ample notice and input in the routing process—even over and above the statutory requirements.⁶

5. Mr. Boyd notes in his Direct Testimony that accompanied the Petition that he “never heard anything from Invenergy or Thresher Wind until I received the public hearing notice

⁴ *Id.* at ¶ 4.

⁵ *Id.* at ¶ 3.

⁶ *See, e.g.*, Direct Testimony of Emily Hyland, Section II (describing “several opportunities for public input, including a series of in-person public open houses, a virtual public open house, and direct landowner communication”); Direct Testimony of Jamie Precht, pp. 13-14 (describing outreach to federal, state, and local agencies).

letter in the second half of June 2024.”⁷ Again, this factual assertion in Mr. Boyd’s sworn testimony is incorrect. As with all landowners, Mr. Boyd was mailed an invitation⁸ to the open houses the week of February 8, 2024. The postcards referred interested landowners to the project website, KansasACCollector.com, and provided a project email address Connect@kansasaccollector.com, so that landowners could learn more about the AC Collector Lines and contact the Routing Team in advance of the open houses. Mr. Boyd admits that he “heard about a few open houses earlier this year where the community could learn more about the proposed transmission lines”⁹ but states he assumed that the agreement he has with an Invenergy affiliate meant he would be contacted directly when a transmission line route was proposed. Grain Belt Express takes this assumption to mean that Mr. Boyd did not take the opportunity to participate in the open houses and public engagement process, as he was invited to do so in February. If Mr. Boyd elected not to participate in the public engagement process that was his prerogative, but he cannot now reasonably claim that he “never heard from Invenergy” prior to receiving notice of the local public hearing on July 10, 2024.

III. The Boyd Landowners Contract With Thresher Wind LLC Has No Bearing on Grain Belt Express

6. The Boyd Landowners’ Petition admits that the Commission lacks jurisdiction to decide a dispute over their contract with Thresher Wind LLC. They contradict this admission, however, by asking the Commission to deny Grain Belt Express’s proposed route on the grounds that they did not grant Thresher Wind LLC the right ** [REDACTED]

[REDACTED].** They offer no other grounds to find that the proposed route is unreasonable. In effect,

⁷ Direct Testimony of Bradly Boyd, p. 3 (July 3, 2024) (“Boyd Direct Testimony”).

⁸ All mailings pertaining to this proceeding were sent to Boyd Farms, Inc. c/o Brad Boyd, Bradley B. Boyd Trust, and Sandra Boyd Trust to the same address in Meade, Kansas.

⁹ Boyd Direct Testimony, at p. 3.

the Boyd Landowners are asking the Commission to exceed its jurisdiction and impose Thresher Wind LLC's contractual obligations on Grain Belt Express. Relevant and applicable law precludes such a finding.

7. As the Commission is aware, Grain Belt Express is a regulated, transmission-only public utility within the State of Kansas, and holds a certificate of convenience and necessity ("CCN") from the Commission to construct, own, operate, and maintain an overhead, multi-terminal high voltage direct current transmission line and associated facilities, including a converter station, an AC switchyard, and *alternating current collector lines* (the "Grain Belt Express Project" or "Project"). The Commission granted a CCN for the Project on December 7, 2011, and that CCN specifically includes the authority to construct and operate the AC Collector System, which includes the AC Collector Lines that are being sited in this proceeding. As a public utility, Grain Belt Express is required to obtain a siting permit for the AC Collector Lines, in accordance with K.S.A. 66-1,177 *et seq.*, to establish the route for the Meade-Dodge City line and the Bucklin-Dodge City line.

8. In contrast, Thresher Wind LLC, is a renewable energy developer wholly unregulated by the Commission. While both entities are affiliates of Invenergy, Thresher Wind and Grain Belt Express are developing entirely different projects and operate in entirely separate regulatory spheres.

9. The Boyd Landowners conflate the two projects without reason. This conflation is clearly demonstrated by the following sentence in the Petition; "if a public utility made an agreement with an affected landowner and completely ignored that agreement in submitting its siting application, then such impacts the reasonableness of the actions of the public utility and the

reasonableness of the proposed route.”¹⁰ No public utility made an agreement with the Boyd Landowners. Grain Belt Express, not Thresher Wind LLC, is the entity required to engage in the line siting process and is not a party to any agreement with the Boyd Landowners. Likewise, Thresher Wind LLC is not a participant in this statutory transmission line siting process. The Boyd Landowners offer no justification for the Commission to impose Thresher Wind LLC’s contractual obligations upon Grain Belt Express.

10. Further, the timing and sequence of the two developments make the Boyd Landowners’ claims untenable. Grain Belt Express has possessed a certificate of convenience from this Commission for the Grain Belt Express Project, including the AC Collector Lines, since 2011. Thresher Wind LLC was formed in 2020, and the Boyd Landowners signed their agreements with Thresher Wind LLC in 2022. The Commission should not entertain the Boyd Landowners’ attempt to intermix Grain Belt Express’ decade-old authority to build the AC Collector Lines with a contractual arrangement concerning a newly-formed wind project’s gen-tie line. To do otherwise would unnecessarily blur the jurisdictional lines between a statutory transmission line siting proceeding and a non-jurisdictional contractual dispute, overburden the record with extraneous factual assertions and arguments, and detract from the primary goal of this proceeding, which is to establish the necessity for and the reasonableness of the proposed routes for the Meade-Dodge City line and the Bucklin-Dodge City line.

11. As will be addressed in rebuttal testimony to be filed on July 26, 2024, avoiding landowners who have contracts with legally distinct entities would inappropriately and unnecessarily prejudice the routing process.

IV. Grain Belt Express Remains Committed to Crafting a Solution to the Boyd Landowners’ Concerns With the Proposed Route

¹⁰ Petition, ¶ 6.

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12. The Boyd Landowners have proposed an alternate route for consideration by Grain Belt Express that would re-route the line further away from the areas of their property the Boyd Landowners find objectionable. While Grain Belt Express appreciates this attempt to find alternative route options, unfortunately, the proposed re-route put forth by the Boyd Landowners is a nonstarter. K.S.A. 66-1,178 requires Grain Belt Express to provide notice to all potentially impacted landowners within 660 feet of the centerline of the proposed transmission line. To allow for micro-siting and minor route adjustments, Grain Belt Express provided notice to landowners within 1000 feet of the proposed centerline. The potential re-route suggested by the Boyd Landowners would require impacting landowners that has not yet received notice of the proposed line. Accepting a re-route that implicates multiple additional landowners would require Grain Belt Express to withdraw this current application and initiate the landowner notice requirements all over again. In addition to burdening over fifty new parcels owned by multiple new landowners, the area of land suggested by the Boyd Landowners raises myriad other concerns due to environmental issues, additional impacts to lesser prairie chicken known habitats, greater proximity to other residences, and potentially other geological and environmental pitfalls.

13. Grain Belt Express intends to address the Boyd Landowner proposed re-route in its rebuttal testimony to be filed on July 26, 2024 and will provide greater detail at that time. However, Grain Belt Express is compelled to note in this Response that at this late hour it would be demonstrably inefficient to withdraw its current line siting application, re-issue notice to both current landowners and multiple new landowners, and begin the line siting process anew. That said, Grain Belt Express believes it can work with the Boyd Landowners to craft a proposed re-route that will work for the benefit of all parties within the current line siting application process.

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WHEREFORE, Grain Belt Express respectfully requests the Commission accept this Response.

Respectfully submitted,

/s/ Anne E. Callenbach _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties listed below by email or U.S. mail, postage prepaid, this 15th day of July, 2024.

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/s/ Anne E. Callenbach

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VERIFICATION

I, Anne Callenbach, do solemnly, sincerely and truly declare and affirm that I am counsel to Grain Belt Express LLC, that I have read the foregoing pleading and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief, and this I do under the pains and penalties of perjury.

By: /s/ Anne Callenbach
Anne Callenbach

July 15, 2024