

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

Before Commissioners:                    Andrew J. French, Chairperson  
   Dwight D. Keen  
   Annie Kuether

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. 24-GBEE-790-STG  
Lines and Associated Facilities through Gray,                                 )  
Meade, and Ford Counties, Kansas.     )

**ORDER DESIGNATING PRESIDING OFFICER;  
PROTECTIVE AND DISCOVERY ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (the “Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1.        On May 31, 2024, Grain Belt Express, LLC (“Grain Belt Express”) filed an application<sup>1</sup> under the Kansas Siting Act, K.S.A. 66-1,177 *et seq.*, requesting that the Commission issue a siting permit establishing the route for two inter-related transmission lines and associated facilities as part of the previously Commission-approved “AC Collector System.”

**Designation of Presiding Officer**

2.        The Commission may designate a presiding officer to conduct prehearing conferences to address any matters appropriately considered in a prehearing conference, including all items listed in K.S.A. 77-517(b) of the Kansas Administrative Procedure Act (“KAPA”). Accordingly, the Commission designates Kyler C. Wineinger, 1500 S.W. Arrowhead Road, Topeka, KS 66604-4027, (785) 271-3109, [k.wineinger@kcc.ks.gov](mailto:k.wineinger@kcc.ks.gov), to serve as Presiding Officer in this Docket. The Commission may designate other staff members to serve in this capacity.

---

<sup>1</sup> Application for Transmission Line Siting Permits (May 31, 2024) (the “Application”).

### **Protective Order**

3. For purposes of this Order, each of the following terms is defined as follows:

(a) **“Confidential Information”** means Information which, if disclosed, would likely result in harm to a party’s economic or competitive interests or which would result in harm to the public interest, generally, and which is not otherwise available from public sources. “Confidential Information” includes without limitation: (1) material or documents as defined at K.A.R. 82-1-221a(a)(1) that contain Information relating directly to specific customers; (2) employee-sensitive Information; (3) marketing analyses or other market-specific Information relating to services offered in competition with others; (4) reports, work papers or other Information related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration; (6) contract negotiations; and (7) Information concerning trade secrets, as well as private technical, financial, and business Information.

(b) **“Information”** means without limitation any documents as defined at K.A.R. 82-1-221a(a)(1), any other materials furnished pursuant to requests for information or other modes of discovery, or any other materials that are otherwise part of the Commission record.

(c) **“Voluminous Information”** means Information, including Confidential Information, comprised of 200 or more pages.

4. K.S.A. 66-1220a and K.A.R. 82-1-221a set forth requirements and procedures regarding Confidential Information in Commission proceedings. The Commission finds it appropriate to issue this Order to establish procedures relating to Confidential Information.

5. In addition, K.S.A. 66-1220a limits the Commission's disclosure of trade secrets or Confidential Information of entities regulated by the Commission. Under K.S.A. 66-1220a(a)(4), the Commission is to consider alternatives to disclosure that will serve the public interest and protect the regulated entity. This Order provides an interim procedure under K.S.A. 66-1220a(a)(4) to facilitate the prompt and orderly conduct of this Docket. This Order governs the treatment and handling of Confidential Information unless otherwise ordered by the Commission.

6. A party may designate any Information as Confidential Information if that party believes, in good faith, to be a trade secret or other Confidential Information. The party requesting that Information be classified as Confidential Information must provide to the Executive Director of the Commission a copy of the Information clearly marked "CONFIDENTIAL" and accompanied by a cover letter containing a written, specific explanation of the confidential nature of each article of Information sought to be classified as Confidential Information and whether the Information constitutes a trade secret or Confidential Information.<sup>2</sup> The party claiming confidentiality has the burden of proving the confidential status of the Information. Designating Information as Confidential Information does not necessarily establish that the Information will be kept from disclosure after review by the Commission.<sup>3</sup>

7. This Order applies to all parties to this Docket, unless otherwise specifically stated. The provisions of this Order apply to Commission technical staff ("Staff"), except that Staff is not required to execute nondisclosure certificates, view Voluminous Information on-site, or return or destroy Confidential Information upon request at the conclusion of the Docket. Third-party experts and consultants used by Staff shall have access to Information and Voluminous Information on the same basis as Staff, except that Staff's third-party experts and consultants are required to read this

---

<sup>2</sup> K.A.R. 82-1-221a(a)(2) through (5).

<sup>3</sup> See K.S.A. 66-1220a.

Order and execute a nondisclosure certificate as contained in **Appendix A**. Parties who do not execute a nondisclosure certificate will not be granted access to Confidential Information filed in this Docket.

8. A party designating Information as Confidential Information shall make the Confidential Information available to parties seeking access or discovery under the restrictions of this Order, if such disclosure is not otherwise privileged or objectionable on other evidentiary grounds. Disclosure of Confidential Information shall be made to attorneys of record and to authorized representatives, including third-party experts, who are consulting with parties or intend to file testimony in this Docket. Attorneys or authorized representatives seeking access to Confidential Information shall first read this Order and execute a nondisclosure certificate as provided in Appendix A. In instances where a utility's rates are being reviewed, attorneys and representatives of the utility whose rates are being reviewed are not required to sign a nondisclosure certificate in order to receive copies of Information containing the utility's own Confidential Information. The nondisclosure certificate shall contain the signatory's name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of a party to this Docket. The nondisclosure certificate shall be filed in the Docket. The party claiming confidentiality shall provide legible copies of the Confidential Information to requesting parties by serving one copy upon counsel for the requesting party. The requesting party may copy the Confidential Information and make the copy or copies available to its authorized representatives who have executed and filed a nondisclosure certificate. If a response to a discovery request requires the duplication of Voluminous Information, or the Voluminous Information is not easily copied because of its binding or size, the furnishing party may require that such Voluminous Information be viewed on its own premises. If duplication of Voluminous

Information can be accomplished without undue burden on the party disclosing the Voluminous Information, the Voluminous Information may be copied at the expense of the requesting party.

9. A party may designate pre-filed testimony and exhibits as Confidential Information pursuant to this Order. The specific grounds for the designation as Confidential Information shall be stated in writing at the time the designation is made or the testimony filed. Any party obtaining Confidential Information may use or refer to such Confidential Information in pre-filed or oral testimony provided that the confidentiality is maintained, unless otherwise ordered by the Commission.

10. If Information to be disclosed in response to a data request contains Confidential Information designated by another party to this Docket, the furnishing party shall maintain the confidential status by marking the Confidential Information as confidential and only provide a response to parties that have executed nondisclosure certificates. If Information that a party intends to use in this Docket or that would be disclosed in response to a data request contains Confidential Information obtained from a source outside of this Docket, the party intending to use or provide the Confidential Information must notify the original source which claimed confidential status to allow that entity to decide whether to claim confidentiality in this Docket.

11. When pleadings, pre-filed testimony, or exhibits include Confidential Information, the parties are to comply with the following procedures:

(a) File seven<sup>4</sup> copies of the complete Information at issue, including all Confidential Information. The cover is to clearly state “CONFIDENTIAL VERSION.” Confidential pages must be stamped “CONFIDENTIAL” and the specific Confidential Information must be identified by being underlined.

---

<sup>4</sup> Only one copy must be submitted when a party utilizes electronic filing.

(b) File one copy with the Confidential Information redacted, for use as public Information. The cover must clearly state “PUBLIC VERSION.”

(c) File one copy of the portions that contain Confidential Information in a separate envelope marked “CONFIDENTIAL.” That filing will be maintained in the Docket Room file under seal. If there are multiple portions containing Confidential Information and it is impracticable to separate the portions with the Confidential Information, the party may file instead one copy of the entire Information that clearly states “CONFIDENTIAL.”

12. Confidential Information in the form of testimony may be offered and subject to cross-examination at hearings. Parties have the right to object to the admissibility of Confidential Information on standard evidentiary grounds such as relevance. Confidential Information received into evidence will be kept under seal. Confidential Information shall be discussed only after the proceeding is closed to all persons other than the Commission, Staff, hearing examiners, court reporters, attorneys of record, and individuals to whom the Confidential Information is available under the terms of this Order. Parties shall make every effort at hearings to ask and answer questions in such a way as to preserve the confidentiality of Confidential Information without the need to close the hearing. The transcript of live testimony or oral argument disclosing Confidential Information shall be kept under seal and copies provided only to persons entitled to access to Confidential Information. Neither the parties nor their attorneys may disclose or provide copies of the contents of such transcripts to anyone other than those who have access to the Confidential Information under the terms of this Order.

13. If a party disagrees with a claim that Information is Confidential Information or should not be disclosed, the parties shall first attempt to resolve the dispute on an informal basis.

If the parties cannot informally resolve the dispute, the party contesting the designation as Confidential Information may file a motion with the Commission. Staff should also be prepared to challenge a designation as Confidential Information when Staff believes the Information does not meet the definition of Confidential Information. When a dispute concerning confidentiality is brought before the Commission, the Commission will review the matter to determine: (1) if the party claiming confidentiality has met its burden of establishing the designation as Confidential Information is proper; and (2) whether disclosure of the Confidential Information is warranted under K.S.A. 66-1220a. The contested Confidential Information shall not be disclosed pending the Commission's ruling.

14. All persons who are afforded access to Confidential Information under the terms of this Order shall neither use nor disclose such Confidential Information for purposes of business, competition, or any other purpose other than preparing for and litigating this Docket. During the course of this Docket, parties shall keep Confidential Information secure in accordance with the purposes and intent of this Order. At the conclusion of this Docket, including judicial review, if any, a party claiming that Information was Confidential Information may require that other persons in possession of its Confidential Information return or destroy all such Confidential Information and all Information containing, summarizing, or otherwise embodying such Confidential Information. If the party claiming confidentiality requests destruction of the Confidential Information, the person destroying the Confidential Information shall certify its destruction. Counsel shall be entitled to retain memoranda or pleadings including or embodying Confidential Information to the extent reasonably necessary to preserve a file on this Docket.

## **Discovery Order**

15. The Commission finds that formalizing discovery procedures and clarifying the obligations of the parties will help ensure a full and efficient investigation of the issues in this Docket. This Order will govern the conduct of discovery in this Docket unless otherwise ordered by the Commission. Parties may request modified or additional discovery procedures, or may request that the Commission set a discovery pre-hearing conference.

16. **General procedures.** Discovery in Commission proceedings is limited to issues that are “clearly relevant.”<sup>5</sup> After a docket is opened, any party may serve upon any other party written discovery or data requests. Such data requests shall identify with reasonable particularity the Information sought. Data requests must be designed to elicit material facts within the knowledge of the parties. Data requests that require conclusions of law or answers to hypothetical questions generally are not permitted. Cross-examination through the use of data requests is inappropriate. Copies of data requests shall be served upon all other parties to the Docket, unless a party otherwise requests. Data requests and responses shall be served through the Commission’s CoreShare document control system. Any party that objects to using CoreShare may file a motion requesting to be excused from the requirement, provided the party shows good cause for why it cannot comply. Data requests that are sent by a party after 5:00 p.m. shall be deemed to have been received the following business day.<sup>6</sup>

17. **Data Request Responses.** Responses to Staff data requests are due within seven days of receipt of the data request.<sup>7</sup> Responses to all other data requests are due within 10 days of

---

<sup>5</sup> K.A.R. 82-1-234a(a).

<sup>6</sup> See K.A.R. 82-1-205 (providing Commission Office Hours).

<sup>7</sup> Under K.A.R. 82-1-217, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.”



receiving the data request. In computing the period of time for responding, the day on which the data request was issued is not counted. Furthermore, for purposes of calculating all discovery-related deadlines, intermediate Saturdays, Sundays, and legal holidays shall be excluded.<sup>8</sup> Parties may agree to extensions or reductions of time in which to respond or object to a data request. Responses to data requests shall be verified and identify the person or persons who actually prepared the response and can answer additional questions relating to the response. Each data request shall be answered separately and preceded by the data request to which the response pertains. Responses shall be clearly identified and, if consisting of several pages, shall be labeled and organized in a manner that makes review of the pages convenient. Parties are under a continuing duty to supplement their discovery responses upon learning that information previously disclosed is incomplete or incorrect in any material respect. If a response to a data request requires the duplication of Voluminous Information or of Information that is not easily copied because of its binding or size, a party may require that any party other than Staff review the Voluminous Information on its own premises. If duplication of Voluminous Information can be accomplished without undue burden, the Voluminous Information may be copied at the expense of the requesting party.

18. **Objections to Data Requests.** If the parties have agreed to electronic service, and a party objects to answering a particular data request, the party shall object in writing to the party that issued the data request within five days of receiving the data request.<sup>9</sup> If the parties have not agreed to electronic service, and a party objects to answering a particular data request, the objecting

---

<sup>8</sup> This constitutes an explicit limited waiver of K.A.R. 82-1-217(a). This waiver is consistent with the Commission's precedential *Order Granting Petition for Reconsideration of Discovery Order*, issued November 10, 2016, in Docket No. 17-KPPE-092-COM.

<sup>9</sup> As noted above, intermediate Saturdays, Sundays, and legal holidays shall be excluded when calculating discovery-related deadlines, which constitutes a limited waiver of K.A.R. 82-1-217(a).

party shall object in writing to the issuing party within five days after receiving the data request, plus three days if service is by mail. The written objection shall specifically explain all grounds relied upon for objecting to each data request. Any objections not provided at that time will be considered waived. If an objection pertains only to part of a data request, that part shall be clearly identified and the responding party shall provide any non-objectionable Information covered by the remainder of the data request. Parties shall negotiate in good faith to resolve discovery disputes. If resolution is not possible, the party seeking discovery may file with the Commission a motion to compel. Motions to compel must have the data request and response at issue attached. Motions to compel are required to be served by hand delivery, electronic mail, facsimile, or next-day delivery service. Responses to motions to compel are to be filed within three days after receiving the motion. The Commission may act immediately on motions to compel if necessitated by time constraints or the procedural schedule in the Docket.

19. **Limitations on Discovery.** The Commission may limit discovery to protect a party against unreasonable, cumulative, or duplicative discovery requests; to prevent undue delay in the proceeding; to avoid unnecessary burden, expense, or harassment; or to otherwise maintain the orderly and efficient progress of the Docket. Upon finding that a party has abused the discovery process, the Commission may deny the right to continue discovery.

20. **Sanctions.** A motion for sanctions for discovery violations may be filed at any time during the Docket or may be initiated by the Commission. A motion for sanctions must contain sufficient factual allegations to detail the alleged violation and specify the relief requested. Motions for sanctions are required to be served by hand delivery, electronic mail, facsimile, or next-day delivery service. Responses to motions for sanctions must be filed within 10 days after receiving the motion.

(a) The Commission will consider any relevant factors when reviewing a motion for sanctions, including whether discovery has been conducted in bad faith or for an improper purpose such as causing unnecessary delay or needless increase in the cost of the Docket; whether the discovery process has been abused in seeking or resisting discovery; and whether parties have failed to obey Commission Orders.

(b) Sanctions imposed by the Commission may include limiting or disallowing further discovery; holding that designated facts be deemed admitted for purposes of the Docket; refusing to allow a party to support or oppose a claim or defense or prohibiting the party from introducing designated matters in evidence; disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; striking pleadings or testimony; staying further proceedings until an order is obeyed; disallowing a party's right to participate in the Docket; dismissing the application or filing with or without prejudice; requiring the offending party to pay the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and imposing any other sanction or remedy available to the Commission by law.

**THEREFORE, THE COMMISSION ORDERS:**

- A. Kyler C. Wineinger is designated as Presiding Officer in this Docket.
- B. The provisions of this Order apply throughout this Docket.
- C. This Order is procedural and constitutes a non-final agency action.<sup>10</sup>

---

<sup>10</sup> K.S.A. 77-607(b)(2).

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 06/11/2024



---

Lynn M. Retz  
Executive Director

KCW

**APPENDIX A**

Docket No. 24-GBEE-790-STG  
THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

**NONDISCLOSURE CERTIFICATE**

I, \_\_\_\_\_, have been presented a copy of the *Order Designating Presiding Officer; Protective and Discovery Order* issued in Docket No. 24-GBEE-790-STG on the \_\_\_\_ day of \_\_\_\_\_, 2024.

I have requested access to Confidential Information produced in the above-captioned Docket on behalf of \_\_\_\_\_.

I certify that I have read the above Order and agree to abide by its provisions.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party/Employer

\_\_\_\_\_  
Address (City, State, and Zip code)

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email

**CERTIFICATE OF SERVICE**

24-GBEE-790-STG

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on 06/11/2024.

KEVIN CHANDLER, DIRECTOR, TRANSMISSION  
BUSINESS DEVELOPMENT  
GRAIN BELT EXPRESS LLC  
ONE SOUTH WACKER DRIVE, STE 1800  
CHICAGO, IL 60606  
kchandler@invenergy.com

NICOLE LUCKEY, SENIOR VICE PRESIDENT  
GRAIN BELT EXPRESS LLC  
ONE SOUTH WACKER DRIVE, STE 1800  
CHICAGO, IL 60606  
nluckey@invenergy.com

BRAD PNAZEK, VP TRANSMISSION BUSINESS  
DEVELOPMENT  
GRAIN BELT EXPRESS LLC  
ONE SOUTH WACKER DRIVE, STE 1800  
CHICAGO, IL 60606  
bpnazek@invenergy.com

BRIAN G. FEDOTIN, GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
b.fedotin@kcc.ks.gov

CARLY MASENTHIN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
c.masenthin@kcc.ks.gov

KYLER C. WINEINGER, ASSISTANT GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
k.wineinger@kcc.ks.gov

ANNE E. CALLENBACH, ATTORNEY  
POLSINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
acallenbach@polsinelli.com

JARED R. JEVONS, ATTORNEY  
POLSINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
jjevons@polsinelli.com

ANDREW O. SCHULTE, ATTORNEY  
POLSINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
aschulte@polsinelli.com

**CERTIFICATE OF SERVICE**

24-GBEE-790-STG

/S/ KCC Docket Room  
KCC Docket Room

---