

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

In the Matter of the Joint Application of )  
Invenergy Transmission LLC, Invenergy )  
Investment Company LLC, Clean Line )  
Energy Partners LLC, Grain Belt Express ) Docket No. 19-GBEE-253-ACQ  
Clean Line LLC and Grain Belt Express )  
Holding LLC for an Order Approving )  
the Acquisition by Invenergy )  
Transmission LLC of Grain Belt Express )  
Clean Line LLC )

**PUBLIC VERSION**

**REBUTTAL TESTIMONY OF KRIS ZADLO  
SENIOR VICE PRESIDENT, INVENERGY LLC**

**ON BEHALF OF JOINT APPLICANTS**

**April 15, 2019**

**\*\*  \*\* Denotes Confidential Information**

## TABLE OF CONTENTS

I.	INTRODUCTION AND PURPOSE OF TESTIMONY .....	1
II.	DISCUSSION OF PROPOSED CONDITION NO. 2 .....	2
III.	DISCUSSION OF PROPOSED CONDITION NO. 3 .....	4
IV.	DISCUSSION OF PROPOSED CONDITION NO. 4 .....	5
V.	DISCUSSION OF PROPOSED CONDITION NO. 5 .....	11
VI.	CONCLUSION.....	12

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 **Q. Please state your name and business address.**

3 **A.** My name is Kris Zadlo and I am the Senior Vice President, Commercial Analytics,  
4 Regulatory Affairs and Transmission for Invenergy LLC. My business address is One  
5 South Wacker Drive, Suite 1800, Chicago, IL 60606.

6 **Q. Are you the same Kris Zadlo who filed Direct Testimony in this proceeding on**  
7 **December 28, 2018?**

8 **A.** Yes.

9 **Q. Please remind the Commission of the relationship of Invenergy LLC to Invenergy**  
10 **Transmission LLC.**

11 **A.** Invenergy LLC is an affiliate of Invenergy Transmission LLC (“Invenergy  
12 Transmission”), the proposed purchaser of Grain Belt Express Clean Line LLC (“GBE”).  
13 Invenergy LLC and Invenergy Transmission have a common parent company, Invenergy  
14 Investment Company LLC (“Invenergy Investment”). Invenergy Transmission is a  
15 special purpose entity that was created for the purpose of acquiring GBE. I will refer to  
16 Invenergy Transmission, Invenergy LLC, and Invenergy Investment collectively as  
17 “Invenergy.”

18 **Q. What is the purpose of your rebuttal testimony?**

19 **A.** On March 26, 2019, Chad Unrein and Leo Haynos filed Direct Testimony on behalf of  
20 the Staff of the Kansas Corporation Commission (“KCC” or “Commission”), wherein  
21 they recommended that the Commission place five conditions on the approval of  
22 Invenergy Transmission’s acquisition of GBE. The five conditions are:

23 1. Invenergy must explicitly recognize that Invenergy Investment is ultimately  
24 responsible for maintaining the financial integrity of GBE and its holding company

- 1           Invenergy Transmission and commit to providing the necessary capital injections  
2           needed to maintain the financial integrity of these entities.
- 3           2. Invenergy must commit to recovering the cost of the GBE project through the rate  
4           authority granted to GBE by FERC to negotiate transmission service agreements for  
5           transmission capacity with its customers. If GBE seeks any alternative cost-recovery  
6           methodology, such as cost recovery through an SPP OATT, GBE would be required  
7           to file an Application with the Commission to amend its Certificate, including  
8           supporting evidence that such an amendment is in accordance with applicable public  
9           convenience standards. Unless and until the Commission issues an Order approving a  
10          change in cost-recovery plan, GBE commits to not recover the transmission project's  
11          costs through the SPP cost allocation process or from Kansas ratepayers.
- 12          3. Invenergy Transmission and GBE agree that Invenergy Investments represents an  
13          "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403 statutes that confer  
14          certain jurisdiction to the Commission regarding access to documents including but  
15          not limited to books and records, submission of contracts, and review of affiliate  
16          transactions detail.
- 17          4. Invenergy shall make preliminary easement payments of \*\*          \*\* of the total  
18          eventual compensation to all Kansas landowners affected by the line siting within 12  
19          months of a Commission decision to extend the 13-803 sunset provision or gaining  
20          approval for a new line siting.
- 21          5. When the GBE project and/or AC Collector System become operational, Invenergy  
22          will maintain sufficient personnel in the region of the facilities such that it can  
23          provide adequate emergency response to any portion of its Kansas operations within  
24          one hour of being notified of an emergency.<sup>1</sup>

25          My colleague, Andrea Hoffman, will address Proposed Condition No. 1 in her Rebuttal  
26          Testimony, filed simultaneously herewith. I will address Proposed Conditions Nos. 2-5.  
27          For ease of reference, each proposed condition is repeated in italics immediately prior to  
28          the relevant discussion below.

## 29   **II.   DISCUSSION OF PROPOSED CONDITION NO. 2**

30          *Proposed Condition No. 2: Invenergy must commit to recovering the cost of the GBE*  
31          *project through the rate authority granted to GBE by FERC to negotiate transmission*  
32          *service agreements for transmission capacity with its customers. If GBE seeks any*  
33          *alternative cost-recovery methodology, such as cost recovery through an SPP OATT,*  
34          *GBE would be required to file an Application with the Commission to amend its*  
35          *Certificate, including supporting evidence that such an amendment is in accordance with*

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<sup>1</sup> Direct Testimony of Chad Unrein, p. 40.

1           *applicable public convenience standards. Unless and until the Commission issues an*  
2           *Order approving a change in cost-recovery plan, GBE commits to not recover the*  
3           *transmission project's costs through the SPP cost allocation process or from Kansas*  
4           *ratepayers.*

5   **Q.    Do the Joint Applicants have any concerns with Staff's Proposed Condition No. 2?**

6   **A.**    Joint Applicants suggest a minor edit to reflect what we believe to be Staff's intent. This  
7           condition is generally consistent with the commitment made by GBE in the Stipulation &  
8           Agreement in Docket No. 11-GBEE-624-COC ("Certificate S&A") and affirmed by  
9           Invenergy in this proceeding.<sup>2</sup> The Certificate S&A is attached hereto as **Exhibit KZ-4**.  
10          However, the second sentence of Proposed Condition No. 2 appears to inadvertently  
11          capture alternative cost-recovery methodologies that do not affect Kansas ratepayers,  
12          such as cost-recovery methodologies through Midcontinent Independent System  
13          Operator, Inc. ("MISO") and PJM Interconnection LLC ("PJM"). While Joint Applicants  
14          do not have any current plans for such cost recovery, if circumstances change in either of  
15          those regions, it would make little sense for GBE to file an application to amend its  
16          Kansas certificate since cost recovery in those regions will not result in cost recovery  
17          from Kansas ratepayers. The intent of this condition appears to be protection of Kansas  
18          ratepayers, so we recommend adding the phrase "affecting Kansas ratepayers" such that  
19          the second sentence of Condition No. 2 would read as follows:

20                    If GBE seeks any alternative cost-recovery methodology *affecting Kansas*  
21                    *ratepayers*, such as cost recovery through an SPP OATT, GBE would be  
22                    required to file an Application with the Commission to amend its  
23                    Certificate, including supporting evidence that such an amendment is in  
24                    accordance with applicable public convenience standards.  
25

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<sup>2</sup> Docket No. 11-GBEE-624-COC, Stipulation & Agreement, ¶ 4.c. (Oct. 10, 2011) (hereinafter, "Certificate S&A").

1 Such edit provides consistency with the Certificate S&A and acknowledges the  
2 Commission's authority to protect Kansas ratepayers.

3 **III. DISCUSSION OF PROPOSED CONDITION NO. 3**

4 *Proposed Condition No. 3: Invenergy Transmission and GBE agree that Invenergy*  
5 *Investments represents an "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-*  
6 *1403 statutes that confer certain jurisdiction to the Commission regarding access to*  
7 *documents including but not limited to books and records, submission of contracts, and*  
8 *review of affiliate transactions detail.*

9 **Q. Do the Joint Applicants have any concerns with Staff's Proposed Condition No. 3?**

10 **A.** Again, Joint Applicants suggest a minor edit to reflect what we believe to be Staff's  
11 intent. As written, Proposed Condition No. 3 is inconsistent with the Certificate S&A. In  
12 the Certificate S&A, the signatories (including Staff) agreed that the KCC was preempted  
13 from acting under K.S.A. 66-1403 unless GBE acts outside the conduct covered by the  
14 jurisdiction of the Federal Energy Regulatory Commission ("FERC").<sup>3</sup> Additionally, the  
15 signatories (including Staff) agreed to GBE's requested waiver of K.S.A. 66-1402, as  
16 long as GBE does not recover costs through the Southwest Power Pool ("SPP") cost  
17 allocation process or from Kansas ratepayers.<sup>4</sup> After the acquisition, GBE will continue  
18 to comply with the Certificate S&A.

19 **Q. Did Mr. Unrein's Direct Testimony in this proceeding acknowledge the Certificate**  
20 **S&A?**

21 **A.** Not explicitly. However, Mr. Unrein justified Proposed Condition No. 3 by tying it to  
22 potential future cost recovery through SPP, if cost allocation rules in SPP were to change

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<sup>3</sup> Certificate S&A, ¶ 4.f.

<sup>4</sup> Certificate S&A, ¶ 4.g.

1           sometime in the future.<sup>5</sup> Thus, Mr. Unrein appears to recognize that Proposed Condition  
2           No. 3 is contingent on such cost allocation materializing.

3   **Q.   How should Proposed Condition No. 3 be amended to make it consistent with the**  
4   **Certificate S&A?**

5   **A.**   Proposed Condition No. 3 should be modified to only apply in the event that the  
6           Commission issues an order approving a change in cost-recovery plans pursuant to  
7           Condition No. 2. As revised, Condition No. 3 would read as follows:

8                           *In the event that GBE recovers the Project's costs through the SPP cost*  
9                           *allocation process or from Kansas ratepayers, Invenergy Transmission*  
10                          *and GBE agree that Invenergy Investments represents an "Affiliated*  
11                          *Interest" under K.S.A. 66-1401, 66-1402, and 66-1403 statutes that confer*  
12                          *certain jurisdiction to the Commission regarding access to documents*  
13                          *including but not limited to books and records, submission of contracts,*  
14                          *and review of affiliate transactions detail.*

15   **IV.   DISCUSSION OF PROPOSED CONDITION NO. 4**

16                          *Proposed Condition No. 4: Invenergy shall make preliminary easement payments of*  
17                          *\*\* [REDACTED] \*\* of the total eventual compensation to all Kansas landowners affected by the*  
18                          *line siting within 12 months of a Commission decision to extend the 13-803 sunset*  
19                          *provision or gaining approval for a new line siting.*

20   **Q.   Do the Joint Applicants have any concerns regarding Proposed Condition No. 4?**

21   **A.**   Yes. Initially, I am advised by my attorneys that Proposed Condition No. 4 goes beyond  
22           the Merger Standards and the proper scope of review for an acquisition proceeding. Mr.  
23           Haynos bases this proposed condition on Merger Standard (a)(iii), which provides that  
24           the Commission will review “whether *ratepayer benefits* resulting from the transaction  
25           can be quantified.”<sup>6</sup> Mr. Haynos recognizes that “[b]ecause approval of the GBE Project  
26           in Kansas is explicitly conditioned upon the Project not having an impact on Kansas

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<sup>5</sup> Direct Testimony of Chad Unrein, p. 35.

<sup>6</sup> Docket Nos. 172,745-U and 174-155-U, Order, pp. 34-36 (Nov. 15, 1991) (emphasis added).

1 ratepayers or the SPP, this standard as applied to the acquisition in the traditional sense,  
2 has no impact on Kansas ratepayers.”<sup>7</sup> Despite his recognition that this standard is  
3 inapplicable, Mr. Haynos’ proposed condition is based on an unsupported assumption that  
4 “ratepayer” is equivalent to “landowners affected by the GBE Project.”<sup>8</sup>

5 **Q. Why does Mr. Haynos’ interpretation of Merger Standard (a)(iii) create problems?**

6 **A.** As I understand it, the KCC has jurisdiction over retail rates, and Merger Standard (a)(iii)  
7 fits neatly within that jurisdiction. However, I am advised that the Commission does *not*  
8 have jurisdiction over payment structures under easement agreements in the context of  
9 certificate and acquisition proceedings.<sup>9</sup> I am further advised that those determinations  
10 are set out by private contracts or by the courts pursuant to Kansas statutes.<sup>10</sup>  
11 Accordingly, I understand that Mr. Haynos’ interpretation of Merger Standard (a)(iii)  
12 goes beyond the Commission’s jurisdiction in this case.

13 **Q. Beyond the legal issues, are there any practical concerns with Proposed Condition**  
14 **No. 4?**

15 **A.** Yes, there are significant practical issues with applying Proposed Condition No. 4.  
16 Placing a firm deadline by which preliminary easement payments must be made to all

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<sup>7</sup> Direct Testimony of Leo Haynos, p. 14.

<sup>8</sup> *Id.*

<sup>9</sup> *Central Kansas Power Co v. State Corp Comm’n*, 206 Kan. 670 (1971) (“In determining whether the certificate of authority should be granted the primary concern of the commission, public convenience and necessity, should not be allowed to expand into judicial areas of concern, such as a claim of confiscation of property or of impairment of vested rights”); *Kansas Gas & Elec. Co. et. al. v. Pub. Serv. Comm’n of Kansas*, 122 Kan. 462 (1927) (“In the granting or withholding of certificates of convenience, no justiciable question touching confiscation of property or impairment of vested rights can well arise”).

<sup>10</sup> *See* Docket No. 13-GBEE-803-MIS, Order Granting Siting Permit, ¶ 49 (Nov. 7, 2013) (recognizing that land impact issues “are either best addressed in separate proceedings before the district courts of Kansas or do not fall within the Commission’s jurisdiction to grant or withhold line siting applications under the statutory standard expressed above.”)



1 Kansas landowners unnecessarily and improperly restricts the ability of GBE, and by  
2 extension Invenergy, to conduct Project development according to its proven best  
3 practices which have resulted in the successful delivery of over 20,220 MW of generation  
4 projects and 392 miles of transmission lines.<sup>11</sup> Staff agrees that “[t]he management  
5 credentials presented by Mr. Zadlo are impressive.”<sup>12</sup> Preemptively stipulating when and  
6 where GBE and Invenergy must make capital expenditures is contrary to the finding that  
7 Invenergy has impressive management credentials and thus the ability to advance the  
8 Project accordingly. Importantly, this deadline, in a vacuum, does not account for the  
9 many other Project development activities that must be carefully sequenced prior to and  
10 in parallel with easement acquisition in order to ensure efficient scheduling and  
11 deployment of capital to minimize Project costs and facilitate timely delivery, including  
12 but not limited to:

- 13 • Completing the regulatory processes in the various states;
- 14 • Closing on the Membership Interest Purchase Agreement;
- 15 • Completing environmental permitting requirements, including extensive  
16 consultation with state and federal agencies;
- 17 • Advancing Project engineering, including detailed design of the route to conform  
18 with environmental permitting requirements and landowner considerations;
- 19 • Conducting an open solicitation for Project capacity;
- 20 • Negotiating transmission service agreements with customers; and
- 21 • Obtaining financing for construction of the Project.

22 There are endless variables that could impact the timing of this process, such that placing  
23 a firm deadline on payments to all Kansas landowners restricts the ability of GBE and

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<sup>11</sup> Direct Testimony of Kris Zadlo, pp. 6, 8.

<sup>12</sup> Direct Testimony of Leo Haynos, p. 12.

1           Invenergy to efficiently manage Project development, and thus severely inhibits the  
2           Project's likelihood of success.

3   **Q.   Isn't it also true that the siting of the line is still subject to slight modification?**

4   **A.**   Yes, the siting of the line is subject to change within the parameters of the siting permit  
5           granted by the Commission in Docket No. 13-GBEE-803-MIS ("13-803 Docket"). In the  
6           13-803 Docket, the Commission stated:

7                   Approval of the siting permit is expressly conditioned on Grain Belt  
8                   Express's continued flexibility in working with all affected landowners.  
9                   The Commission approves minor adjustments to the location of the line as  
10                  necessary to minimize landowner impact but requires material, major  
11                  adjustments, and any such adjustment for which landowners would not  
12                  have received notice, be approved by the Commission before  
13                  implementation.

14  
15           Accordingly, GBE is *required* to be flexible when determining the exact location of the  
16           line in relation to the approved route. Additionally, the environmental permitting process  
17           in concert with detailed Project engineering may result in adjustments to the location of  
18           the line to minimize impacts on environmentally sensitive areas and take into  
19           consideration landowner preferences. Therefore, it would be premature and wasteful to  
20           be required to make capital expenditures for securing easements that may not be  
21           ultimately used.

22   **Q.   What is your response to Mr. Haynos' concerns about the certainty of the line's**  
23           **impact on landowners' property?**

24   **A.**   GBE and Invenergy fully understand and respect the uncertainty surrounding landowner  
25           impact from the Project, which has been an unfortunate consequence of regulatory  
26           uncertainty in other states that has hindered Project progress. It is important to clarify  
27           that, despite Invenergy's concerns with Proposed Condition No. 4, it is in no way

1 discounting the importance of landowner participation in the GBE Project and reaffirms  
2 its commitment to working with host communities to foster mutually beneficial  
3 relationships; this commitment is reflected in Invenergy's track record of successfully  
4 negotiating over 16,000 lease agreements with landowners, entirely on a voluntary basis,  
5 across its project portfolio.<sup>13</sup> GBE and Invenergy are planning, upon approval of the  
6 Transaction, to reengage affected landowners to provide Project updates and to be a  
7 resource for interested parties. This effort to become a known commodity in host  
8 communities and to develop and foster local relationships is an important first step in the  
9 land acquisition process that must not be overlooked simply for the sake of quickly  
10 obtaining easements.

11 **Q. How will Staff's Proposed Condition No. 4 impact landowner certainty?**

12 **A.** The best way to obtain certainty regarding the Project is to utilize available capital in an  
13 efficient and logical manner. Each of the development activities listed above will add  
14 incremental certainty to the Project. Inefficient use of capital will decrease certainty by  
15 putting unnecessary financial and logistical strain on the Project. Accordingly, while the  
16 intended result of Proposed Condition No. 4 is to increase certainty, it will actually have  
17 the opposite effect.

18 **Q. How will the Commission know that GBE is making progress on the development  
19 activities listed above?**

20 **A.** GBE is already required to provide quarterly updates to the Commission, so it can track  
21 the progress of the Project. As set forth in the Certificate S&A, the current categories for  
22 the reports are as follows:

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<sup>13</sup> Direct Testimony of Kris Zadlo, p. 8.

- 1 (1) Percent completion of project
- 2 (2) Amount spent to date
- 3 (3) Amount previously expected to have been spent to date
- 4 (4) Total budget of project (and explanations of increases/decreases)
- 5 (5) SPP Agreements and Invoices
- 6 (6) Agreements with other Kansas jurisdictional public utilities
- 7 (7) FERC Filings.<sup>14</sup>

8 As an alternative to Staff's Proposed Condition No. 4, Joint Applicants suggest adding  
9 "number of executed easement agreements in Kansas" to the list of metrics reported on a  
10 quarterly basis.

11 **Q. In addition to reporting requirements, how else will the Commission be sure that**  
12 **Invenergy and GBE are making progress towards landowner certainty?**

13 **A.** There will continue to be a sunset provision on the siting permit granted by the  
14 Commission in the 13-803 Docket. On September 6, 2018, Staff and GBE filed a Joint  
15 Motion in the 13-803 Docket requesting a five year extension of the siting permit, which  
16 was originally set to expire on November 7, 2018.<sup>15</sup> In order to allow the Commission to  
17 review Invenergy Transmission's proposed acquisition of GBE, the siting permit was  
18 temporarily extended until December 2, 2019. The Joint Motion for a full five-year  
19 extension will be considered by the Commission after the conclusion of this proceeding.  
20 The sunset provision on the siting permit creates significant motivation for Invenergy and

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<sup>14</sup> Certificate S&A, ¶ 4.e.

<sup>15</sup> Joint Motion of Grain Belt Express Clean Line LLC and Staff for Extension of Sunset Term, Docket No. 13-GBEE-803-MIS (Sept. 6, 2018).

1 GBE to proceed expeditiously with the many development activities, as described above,  
2 that must be completed prior to commencing construction on the Project.

3 **V. DISCUSSION OF PROPOSED CONDITION NO. 5**

4 *Proposed Condition No. 5: When the GBE project and/or AC Collector System become*  
5 *operational, Invenergy will maintain sufficient personnel in the region of the facilities*  
6 *such that it can provide adequate emergency response to any portion of its Kansas*  
7 *operations within one hour of being notified of an emergency.*

8 **Q. Does Invenergy have any concerns with Proposed Condition No. 5?**

9 **A.** Generally speaking, Invenergy appreciates and agrees with the goal of Proposed  
10 Condition No. 5, which is to protect public safety. Our concern, however, is with the  
11 very specific and rigid “one hour” response time.

12 **Q. What is your concern with requiring a one-hour response time?**

13 **A.** A rigid one-hour response time does not account for all the potential circumstances that  
14 could surround an emergency event. For example, if the transmission line is damaged  
15 due to an ice storm or a tornado, complying with the one-hour response time would  
16 require a person, or more likely crew of linemen, to risk their lives by traveling in  
17 treacherous conditions. Further, if the transmission line is damaged, it will be de-  
18 energized instantaneously from a remote operations center, which mitigates a significant  
19 amount of the risk to public safety; with automated protection schemes in place to  
20 remotely eliminate any electrical hazard to the general public, it is inappropriate to  
21 require human response within a specified timeframe to clear physical hazards when  
22 doing such might endanger the safety and wellbeing of such responders. Also, given the  
23 participant-funded nature of the Project, which is dependent upon provision of  
24 transmission service in order to receive payment, it is in GBE and Invenergy’s best  
25 interest to quickly and safely respond to emergency events to minimize the amount of

1 time the transmission line is out of service, including removal or repair of damaged  
2 equipment. Thus, specifying a time by which GBE must respond to an emergency event  
3 does not add motivation or incentive to respond and restore service where it was  
4 otherwise lacking.

5 **Q. What do the Joint Applicants propose as an alternative to Proposed Condition No.**  
6 **5?**

7 **A.** Replace the rigid one-hour requirement with a commitment to follow good utility  
8 practices, such that the condition would read:

9 When the GBE project and/or AC Collector System become operational,  
10 Invenergy will maintain sufficient personnel in the region of the facilities such  
11 that it can provide adequate emergency response to any portion of its Kansas  
12 operations *in accordance with good utility practices*.

13 **VI. CONCLUSION**

14 **Q. Does this conclude your testimony?**

15 **A.** Yes.

**VERIFICATION**

STATE OF Illinois            )  
  ) ss.  
COUNTY OF Cook            )

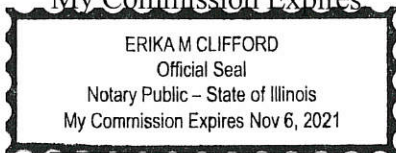
I, Kris Zadlo, being duly sworn, on oath state that I am the Senior Vice President, Commercial Analytics, Regulatory Affairs and Transmission for Invenergy LLC, that I have read the foregoing testimony and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

By: *Kris Zadlo*  
Kris Zadlo

The foregoing pleading was subscribed and sworn to before me this April 12, 2019.

*Erika M Clifford*  
Notary Public

My Commission Expires:



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

In the Matter of the Application of Grain )  
Belt Express Clean Line LLC for a Limited )  
Certificate of Public Convenience to )  
Transact the Business of a Public Utility in )  
the State of Kansas )

Docket No. 11-GBEE-624-COC

Received  
on  
**OCT 10 2011**  
by  
State Corporation Commission  
of Kansas

**JOINT MOTION TO APPROVE STIPULATION AND AGREEMENT**

Grain Belt Express Clean Line LLC (Clean Line), Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectfully), Energy for Generations, LLC (E4G), and the Citizen’s Utility Ratepayer Board (CURB) (collectively, the Joint Movants), respectfully move the Commission for an Order approving the Stipulation and Agreement filed concurrently with this Motion. The Stipulation is attached to the Motion as Attachment A. In support of this Motion the Joint Movants state the following:

1. On March 7, 2011, Clean Line filed its Application for a Limited Certificate of Public Convenience to Transact the Business of Public Utility in the State of Kansas.
2. CURB, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar), ITC Great Plains, LLC (ITC), Sunflower Electric Power Corporation (Sunflower), Mid-Kansas Electric Company, LLC (MKEC), and E4G filed for and were granted intervention by the Commission in March and April 2011.
3. On May 19, 2011, the Commission conducted a Prehearing Conference during which the above-listed parties (the Parties) submitted a jointly agreed upon procedural schedule. On June 22, 2011, the Commission issued its Order Adopting Report and Recommendation of Prehearing Officer approving the jointly proposed procedural schedule.



4. On August 19, 2011, Westar, ITC, and Staff filed direct testimony, pursuant to the procedural schedule. CURB, Sunflower, MKEC, and E4G did not file testimony. On September 9, 2011 Staff filed cross-answering testimony and on September 19, 2011 Clean Line filed rebuttal testimony.

5. In accordance with the procedural schedule, a settlement conference was held at the Commission offices on September 26, 2011. On September 29, 2011, all parties to the docket convened for a Prehearing Conference. At the Prehearing Conference, ITC, Sunflower/MKEC and Westar indicated for the first time that they had objections to the Commission granting Clean Line's Certificate unless it was limited to exclude AC Collector lines. The AC Collector lines are the transmission lines from the future wind farms to Clean Line's converter station. These lines were specifically included in Clean Line's application and testimony, and are an integral part of the project proposed by Clean Line in this docket.

6. On September 30, 2011, Staff, Westar, and Clean Line filed individual Contested Issues lists, and ITC, Sunflower, and MKEC filed a Joint Disputed Issues List. The disputed issues filed by Westar, ITC, Sunflower, and MKEC contain this issue regarding the AC Collector lines.

7. Despite the disparate positions submitted in the contested issues lists, the Parties continued to work toward reaching a unanimous agreement in this matter.

8. On October 7, 2011, the Joint Movants reached an agreement based on the filed positions of the Parties. The Stipulation anticipates the granting of a certificate of convenience and necessity to Clean Line for its high voltage direct current (HVDC) project, which includes converter stations, lines to connect the converter station to the Southwest Power Pool (SPP) and the alternating current gathering lines necessary to connect Kansas wind generators to the HVDC

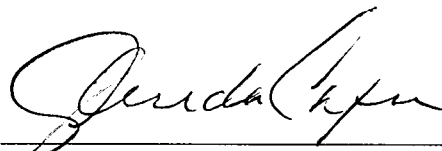
line, conditioned on Clean Line's representation that it will use a cost allocation methodology that does not seek direct cost recovery from SPP or the Kansas ratepayers. Further, Clean Line will provide to the Commission's Executive Director, Director of Utilities and General Counsel quarterly reports with updates on the status of the project. The Joint Movants also agree to waive cross-examination of each other's witnesses at the evidentiary hearing beginning on October 10, 2011. Staff and Clean Line will present a witness at the beginning of the hearing to provide testimony in support of the Stipulation in accordance with the Commission's standards for review of settlement agreements.

9. Joint Movants believe the Stipulation is reasonable and in the public interest, and as such respectfully request that the Stipulation be approved as the Commission's Order in this docket.

WHEREFORE, Joint Movants respectfully request the Commission approve the Stipulation as proposed by the signatory parties thereto.

Respectfully Submitted,

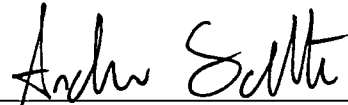
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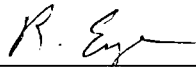
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CLEAN LINE LLC



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ATTORNEY FOR CURB

Attachment  
A

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

In the Matter of the Application of Grain )  
Belt Express Clean Line LLC for a Limited )  
Certificate of Public Convenience to Transact ) Docket No. 11-GBEE-624-COC  
the Business of an Electric Public Utility in the )  
State of Kansas. )

**STIPULATION AND AGREEMENT**

COME NOW Grain Belt Express Clean Line LLC (“Clean Line”), the Staff of the Kansas Corporation Commission (“Staff”), the Citizens’ Utility Ratepayer Board (“CURB”), and Energy for Generations, LLC (“E4G”), (referred to collectively as the “Signatories”), and hereby submit to the Kansas Corporation Commission (“Commission”) for consideration and approval the following Stipulation and Agreement (“Stipulation”).

**I. BACKGROUND**

1. On March 7, 2011, Clean Line filed an Application for a limited certificate of public convenience and necessity (“Certificate”) to site, construct, own, operate and maintain bulk electric transmission facilities located in the State of Kansas, and requested a Transmission Only Certificate under K.S.A. 66-131. The Certificate requested would allow Clean Line to develop the Grain Belt Express Clean Line (“Grain Belt Express”), which will be a ±500 or ±600 KV high-voltage direct-current (“HVDC”) transmission line capable of delivering 3,500 MW of power from Kansas to other load centers. The Grain Belt Express will originate in western Kansas near Spearville, Kansas and traverse east across Kansas into Missouri and possibly through Illinois into Indiana. The Grain Belt Express will be approximately 550 miles long (or

longer should it continue into Illinois and Indiana) and will deliver renewable energy to the Midwest Independent System Operator (“MISO”) markets and/or PJM Interconnection, LLC (“PJM”) markets.

2. Because Clean Line’s rates and services will be regulated under the jurisdiction of the Federal Energy Regulatory Commission (“FERC”), the Application also requested the Commission declare Clean Line exempt from, or in the alternative, waive certain statutory requirements as follows:

K.S.A. 66-101b	Rates and Service
K.S.A. 66-101c-f	Publication & Regulation of Rates
K.S.A. 66-117	Rates and Schedules
K.S.A. 66-122	Accounts and Reports
K.S.A. 66-128 through 128p	Valuation of Property for Ratemaking Purposes
K.S.A. 66-1402 and 1403	Submission of Affiliate Contracts and Fixing Rates Impacted by Affiliate Contracts

3. On June 22, 2011, the Commission issued an Order adopting the report and recommendations of the prehearing officer, establishing a procedural schedule for this docket which included, in part, discovery between the parties, the filing of direct, cross-answering and rebuttal testimony, a settlement conference and an evidentiary hearing. The settlement conference was held on September 26, 2011 at the Commission’s offices in Topeka, Kansas. All parties attended, and based upon discussions held at that meeting and thereafter, an agreement for resolution of the issues involved in this docket was reached between Staff, CURB, E4G and Clean Line.

## II. TERMS OF THE STIPULATION AND AGREEMENT

4. The Signatories hereby agree that the following terms, if adopted by the Commission as its Order in this docket, are a reasonable and fair settlement of the issues herein and promote the public interest in the State of Kansas:

- a. Clean Line should be granted a Transmission Only Certificate of Public Convenience and Necessity pursuant to K.S.A. 66-131 to operate as a public utility in Kansas for the purpose of constructing and operating a HVDC transmission line and associated facilities as contemplated by its Application, including converter stations, lines to connect the converter station to SPP and a collector system comprised of AC gathering lines needed to connect generators in western Kansas to the Project (“AC Collector System”) (collectively, “the Project”).
- b. The Certificate granted to Clean Line for this Project should clearly include the authority to construct and operate the AC Collector System, which is an integral part of the overall Project. Clean Line does not have to seek further certification, or any amendments to this Certificate, in order to construct or operate the AC Collector System or the Project. Clean Line will make all filings required under the Kansas Transmission Line Siting Act, K.S.A. 66-1,177 *et seq.*, and the Wire Stringing rules, K.A.R. 82-12-1 *et seq.*
- c. It is the intent of the Signatories that the cost of the Project and any AC Collector System owned by Clean Line will not be recovered through the SPP cost allocation process or from Kansas ratepayers. As such, the Signatories recommend that the Commission’s Order condition the granting of the Certificate upon Clean Line’s representation that there will be no Project or AC Collector System cost allocation to SPP or recovery of Project

or AC Collector System costs from Kansas ratepayers, other than de minimis costs ancillary to any needed interconnection to SPP. If, after the Commission grants Clean Line a Certificate with the noted condition, Clean Line determines that it will modify this cost recovery process in a way that is inconsistent with this condition, Clean Line will file an application with the Commission to amend its Certificate, including evidence supporting such amendment in accordance with applicable public convenience standards.

- d. Clean Line will cooperate with the SPP as appropriate. If the Project or any portion of the AC Collector system owned by Clean Line is to be connected with the SPP system, Clean Line will complete all studies required by SPP for both the Project and the AC Collector System owned by Clean Line prior to the completion of any such connection. This process will include obtaining approval by the SPP Transmission Working Group (“TWG”) of any interconnection request for either the Project or any portion of the Clean Line owned AC Collector System to the SPP system. Clean Line agrees to make the results of the SPP studies available to the Staff for its review.
- e. Upon being granted a Certificate by the Commission, Clean Line agrees to submit quarterly progress reports thereafter to the Executive Director, General Counsel and Director of Utilities of the Commission. Upon submitting the reports, Clean Line will also file in the docket a Notice of Submittal. Such reports shall include the following information:
  - (1) Percent completion of project
  - (2) Amount spent to date
  - (3) Amount previously expected to have been spent to date
  - (4) Total budget of project (and explanations of increases/decreases)

- (5) SPP Agreements and Invoices
- (6) Agreements with other Kansas jurisdictional public utilities
- (7) FERC Filings

In addition, if an application for siting approval is not filed under K.S.A. 66-1,177 *et seq.* the reports will include:

- (8) Status of routing.
  - (9) Status of public outreach/public meetings.
  - (10) Status of right-of-way and real estate acquisition in Kansas.
- f. Clean Line agrees to withdraw its request for waiver of K.S.A. 66-101b through 66-101f, K.S.A. 66-117, K.S.A. 66-128 through 66-128p, and K.S.A. 66-1403. The Signatories agree that the FERC preempts the Kansas Commission unless Clean Line acts outside the conduct covered by FERC jurisdiction, at which time the Kansas Commission will decide the applicability of these statutes. In addition, Clean Line agrees to withdraw its request for waiver of K.S.A. 66-122.
- g. The Signatories agree to support Clean Line's request for waiver of K.S.A. 66-1402. The waiver of K.S.A. 66-1402 will be effective only as long as Clean Line continues to utilize a cost recovery mechanism consistent with section 4.c. above.
- h. Clean Line will make all required "EL" filings in accordance with K.A.R. 82-12-1 *et seq.*, as amended, for any transmission line that it builds.

### III. OTHER PROVISIONS

5. If the Commission accepts this Stipulation in its entirety and incorporates the same into a final order without material modifications, the Signatories shall be bound by its

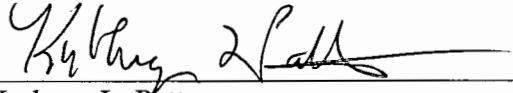


terms and the Commission's Order incorporating its terms as to all issues addressed herein and in accordance with the terms hereof, and will not appeal the Commission's Order on these issues.

6. The Signatories agree that the Application of Clean Line, as modified by this Stipulation, can be found by the Commission to be consistent with the public interest, and accordingly recommend that the Commission so find and that this Stipulation be approved.

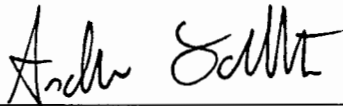
7. No Signatory shall be deemed to have approved, accepted, agreed, or consented to any principle or precedential determination, or be prejudiced or bound thereby in any other current or future proceeding before the Commission except as provided for herein.

IN WITNESS WHEREOF, the Signatories have executed and approved this Stipulation and Agreement, effective as of the 10<sup>th</sup> day of October, 2011, by subscribing their signatures below.



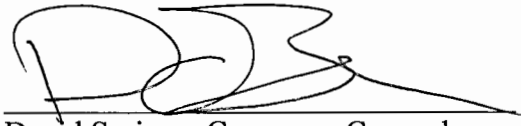
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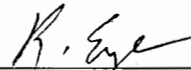
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**CERTIFICATE OF SERVICE**

11-GBEE-624-COC

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Joint Motion to Approve Stipulation and Agreement was hand-delivered this 10th day of October, 2011, to the following:

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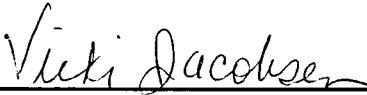
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