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REDACTED PURSUANT TO FERC RULE 903 AND 18 C.F.R. 388.112

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Grain Belt Express LLC	)	Docket No. ER24-59-000

MOTION OF THE ILLINOIS LANDOWNERS ALLIANCE FOR SUMMARY DISPOSITION OF GRAIN BELT EXPRESS LLC'S APPLICATION FOR AMENDMENT TO NEGOTIATED RATE AUTHORITY

To: Presiding Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Pursuant to Rules 212 and 217 of the Rules of Practice and Procedure (the "Commission Rules") of the Federal Energy Regulatory Commission (the "Commission," or "FERC"), the Illinois Landowners Alliance (the "ILA")[1] hereby moves (this "Motion") the Presiding Administrative Law Judge to summarily dismiss with prejudice Grain Belt Express LLC's ("GBX") Application for Amendment to Existing Negotiated Rate Authority filed on October 6, 2023 (the "2023 GBX FERC Application") in this Docket. As explained below, and as the 2023 GBX FERC Application itself discloses, the

[1] The following are the members of the Illinois Landowners Alliance: Nafsica Zotos; the Illinois Agricultural Association, d/b/a the Illinois Farm Bureau; Concerned Citizens and Property Owners; Concerned Peoples Alliance; and York Township Irrigators.

upstream ownership of GBX, together with its negotiated rate authority, was sold to an unaffiliated buyer more than three years ago without compliance with Federal Power Act ("FPA") Section 203 (16 USC 824b). GBX therefore does not lawfully hold any negotiated rate authority that can be amended, and the 2023 GBX FERC Application is thus a nullity that the Commission must dismiss with prejudice.

I. BACKGROUND AND SUMMARY.

GBX was formed in or about 2010 as a Delaware limited liability company named Grain Belt Express Clean Line LLC.[2] At that time, GBX was a wholly owned subsidiary of Grain Belt Express Holding LLC, a Delaware limited liability company ("GBX Clean Line Holding").[3] In or about 2013, GBX reorganized as an Indiana limited liability company, and changed its name to "Grain Belt Express LLC"; GBX Clean Line Holding remained the sole member of this Indiana limited liability company. (2015 Illinois CPCN Application, ¶¶1, 2).

The Commission granted GBX authority to sell interstate electric transmission

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[2] *Verified Application for an Order Granting Grain Belt Express LLC, as a Qualifying Direct Current Applicant, a Certificate of Public Convenience and Necessity Pursuant to Sections 8-406(b-5) and 8-406.1 of the Illinois Public Utilities Act*, filed July 26, 2022 (the "2022 Illinois CPCN Application") with the Illinois Commerce Commission (the "ICC"), Ill. C.C. Docket No. 22-0499 (the "2022 Illinois Docket"), available at: https://www.icc.illinois.gov/docket/P2022-0499/documents/326508 (last checked December 20, 2023), at pg. 1.

[3] *Verified Application of Grain Belt Express Clean Line LLC for a Certificate Of Public Convenience and Necessity to Construct, Operate and Maintain A High Voltage Electric Transmission Line* filed April 10, 2015 (the "2015 Illinois CPCN Application"), Ill. C.C. Docket No. 15-0277, available at https://www.icc.illinois.gov/docket/P2015-0277/documents/227725 (last checked December 20, 2023) at ¶2).

service at negotiated rates in 2014. (FERC Docket No. ER14-409-000, *Application for Authorization to Sell Transmission Service at Negotiated Rates, Grain Belt Express Clean Line LLC,* 147 FERC ¶61,098 (2014) (the "FERC 2014 GBX Order").

Pursuant to a Membership Interest Purchase Agreement dated as of November 9, 2018 (the "MIPA") by and among Invenergy Transmission LLC, a Delaware limited liability company ("Invenergy Transmission"), GBX, and GBX Clean Line Holding, the latter sold all of its membership interest in GBX to Invenergy Transmission. Invenergy Transmission and GBX Clean Line Holding are unrelated parties. Pursuant to Commission Rule 903 and 18 C.F.R. 388.112, a redacted, public copy of the MIPA has been filed as Exhibit A to this Motion; a confidential, proprietary copy has also been filed with the Commission pursuant to Rule 903 and 18 C.F.R. 388.112. The transactions contemplated by the MIPA closed on or about January 28, 2020. As explained in greater detail below, the transaction value of the MIPA is far in excess of the $10,000,000 threshold amount in FPA Section 203(a)(1)(A), 16 USC 824b(a)(1)(A).

Pursuant to the MIPA, ownership and control over FERC-granted negotiated rate authority was transferred by means of an upstream ownership sale from one company (GBX Clean Line Holding) to another, unaffiliated company (Invenergy Transmission). Neither GBX, GBX Clean Line Holding nor Invenergy Transmission ever sought or obtained the Commission's authorization of this disposition of GBX's negotiated rate authority as required by FPA Section 203(a)(1)(A). Consequently, GBX does not lawfully hold any negotiated rate authority that it can amend. The failure to obtain

Commission approval under FPA Section 203 for GBX Clean Line Holding's sale of its membership interest in GBX to Invenergy Transmission is fatal to the 2023 GBX FERC Application.

II. STANDARDS FOR SUMMARY DISPOSITION.

The Commission's standards for summary disposition under Rule 217 are well-settled. The Commission applies Rule 217 in a manner analogous to a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. *Phillips Pipe Line Co. v. Phillips Pipe Co.*, 67 FERC ¶63,002, at ¶65,002. Summary disposition is warranted when the party bearing the burden of proof fails to make a showing sufficient to establish the existence of an essential element of its case. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23.

"…[I]n presenting a case before FERC Administrative Law Judges, Commission precedent establishes that an applicant is 'required to present all the proof that they intend to offer in support of the issues on which they have the burden of proof [which] must be offered [in the] prefiled direct evidentiary submittal.'" *N. Border Pipeline Co.*, 115 FERC ¶¶63,064, 65,297 (2006). GBX fails to establish its prima facie case because it cannot make a showing of an essential element of its case, i.e., that it holds negotiated rate authority; therefore, no genuine issue of fact exists that is material to the factual and legal scope of this Docket. *California ex rel. Lockyer v. British Columbia Power Exch. Corp.*, 130 FERC ¶¶P63,017, 66,194 (2010).

Because the 2023 GBX FERC Application offers no proof to support GBX's

claim that it holds negotiated rate authority from the Commission, no requirement exists for the Commission to hold a hearing based on GBX's unsupported, conclusory allegation that it has that authority. *Illinois Municipal Electric Agency v. Central Illinois Public Service Company*, 76 FERC ¶61,084 at ¶61,483 (1996); *City of Holyoke Gas and Electric Dept. v. FERC*, 954 F2d 740, 744 (DC Cir. 1992); *General Motors Corp. v. FERC*, 656 F2d 791, 798, n. 20 (DC Cir. 1981).

Rule 217(b) of the Commission's Rules provides that if the decisional authority determines that there is no genuine issue of material fact to the decision of a proceeding, the decisional authority may summarily dispose of all or part of that proceeding. The Commission has elaborated that for summary disposition to be appropriate, two conditions must be met: (i) the nonmoving party must have been afforded a reasonable opportunity to present arguments and factual support, and that evidence must be viewed in the most favorable light for the nonmoving party, and (ii) the Commission must find that a hearing is unnecessary and would not affect the ultimate disposition of an issue because there are no material facts in dispute, or because the facts presented by the nonmoving party have been accepted in reaching the decision. *Columbia Gulf Transmission Company*, 79 FERC ¶61,351 (1997).

In determining whether GBX has been afforded a reasonable opportunity to present its evidence, the Commission must keep in mind that GBX was obligated to present all evidence necessary to sustain its position when it filed its direct case. As the Commission itself has explained:

> In terms of practice at this Commission, applicants are required to present all the proof which they intend to offer in support of the issues on which they have the burden of proof and the initial burden of going forward. Applicants are at liberty to offer as much or as little of the affirmative proof readily available to them on such issues as they deem necessary or desirable, but such affirmative proof as they intend to offer must be offered before they rest their direct presentation – in this instance, their prefiled direct evidentiary submittal. Applicants are not at liberty to hold back affirmative proof at this stage in order to introduce it at a later stage of the trial, and an applicant indulging in such practice must suffer the consequences of this action.

Southern California Edison Company and San Diego Gas and Electric Company, 50 FERC ¶63,012 at ¶65,065 (1990).

With regard to Rule 56 of the Federal Rules of Civil Procedure, the U.S. Supreme Court has stated that where a party fails to adduce sufficient evidence to establish the existence of any single element essential to the party's claim, there are no material facts in dispute because, "in such a situation, there can be no ‘genuine issue of material fact,’ since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Celotex v. Catrett*, 477 U.S. 317, 322-23 (1986). The 2023 GBX FERC Application on its face fails to show that GBX has the negotiated rate authority it seeks to amend, and therefore its Application is ripe for summary disposition by dismissal with prejudice.

GBX does not and cannot allege in its Application the threshold fact that GBX holds the negotiated rate authority that it seeks to amend. The Commission never approved the sale of GBX Clean Line Holding’ membership interest in GBX to Invenergy Transmission, as required by FPA Section 203. GBX, now owned by Invenergy Transmission, cannot amend a negotiated rate authority that it does not hold.

Because GBX cannot establish the essential element of its prima facie case that it even has negotiated rate authority, no disputed issue of material fact exists in this Docket, and the Presiding Administrative Law Judge should summarily dismiss with prejudice the 2023 GBX FERC Application.

III. ARGUMENT.

A. GBX's Limited Answer to the Missouri Landowners Alliance Discloses Its Error in Not Seeking FPA Section 203 Approval from the Commission.

In response to a previously filed Answer of the Missouri Landowners Alliance filed in this Docket, GBX filed its Motion for Leave to Submit Limited Answer and Limited Answer on November 13, 2023 (the "GBX Limited Answer"). In its Limited Answer, GBX asserts that FPA Section 203(a)(1)(A) does not apply to GBX Clean Line Holding's sale of all the membership interest in GBX to Invenergy Transmission because GBX's "…transmission line has not yet been built, much less energized," because "[GBX] does not have any rate schedules on file [with the Commission] or associated books and records…," and because its "…facilities are not yet subject to the jurisdiction of the Commission." (GBX Limited Answer, pgs. 1-2).

GBX's claims are flatly wrong. At the outset, if GBX were not subject to the Commission's jurisdiction until it has physical assets or rates on file with the Commission, then the 2023 GBX FERC Application itself is neither necessary nor appropriate.

B. Facilities Subject to Section 203 Include "Paper" Facilities Such as Negotiated Rate Authority.

The Commission has made it clear that FPA Section 203 jurisdiction attaches to the transfer of paper facilities alone, such as the books and records and wholesale power sale contracts of a power marketing subsidiary. *NorAm Energy Servs., Inc.*, 79 FERC at ¶61,108, 61,500 (1997); *see also, Portland General Elec. Co.*, 81 FERC ¶61,374 (1997) (asserting FPA Section 203 jurisdiction over the transfer of related purchase and sales contracts from one subsidiary to another).

Enova Corporation and Pacific Enterprises, 79 FERC ¶61,107, involved a merger between two holding companies that were not themselves public utilities. The Commission held that FPA Section 203 approval was still required because the merger resulted in the transfer of the jurisdictional facilities of two Enova subsidiaries, San Diego Gas & Electric Company and Enova Energy, a power marketer, to a new holding company. In *Enova*, the Commission stated that:

> …while section 203 is applicable only to actions taken by public utilities, we will look beyond the corporate form of a transaction, and regard a parent and subsidiary as one company, in instances where the control over a public utility and its jurisdictional facilities is transferred from one corporate entity to another. Further, the fact that the Commission does not have jurisdiction over every aspect of a proposed corporate transaction does not mean that the Commission has to ignore those aspects of the transaction that effect a change in control over a public utility's jurisdictional facilities.

Enova Corp., 79 FERC ¶61,107, at ¶61,493 (1997).

The Commission thus made it clear that regardless of the form of the corporate rearrangement, FPA Section 203 jurisdiction attaches whenever direct or indirect control

over a public utility and its jurisdictional facilities is transferred from one company to another, which is exactly the type of transfer that GBX Clean Line Holding and Invenergy Transmission effected under the MIPA.

The Commission's decision in *Enova Corp.* removes all doubt about whether FERC has jurisdiction over paper facilities:

> The text of section 203 focuses on jurisdictional "facilities." Over the course of the development of the electric industry, the traditional focus of "facilities" has been on physical facilities, such as transmission lines and related equipment, for example. However, "facilities" also has been defined to include contracts, accounts, memoranda, papers, and other records (often referred to as "paper facilities"). Without such an interpretation, a large class of entities (power marketers) could engage in sales for resale in interstate commerce with no regulation, even if they were affiliated with, or wholly owned by, traditional public utilities owning physical facilities, since such interstate wholesale sales may not be regulated by the states.

79 FERC at ¶61,489. Likewise, in *Citizens Energy Corporation*, 35 FERC ¶61,198 (1986), the Commission stated that a power marketer is a "public utility" under Section 201(e) of the FPA by virtue of its wholesale sales transactions and the underlying paper facilities. Paper facilities have been recognized as subject to Commission jurisdiction for more than eighty years:

> ...Section 201(b) confers jurisdiction over not only facilities (1) for interstate transmission but also--and disjunctively--over facilities (2) for interstate wholesale sales. If the Commission has no jurisdiction under Section 201(b) over generation facilities, then that part of that section conferring jurisdiction over facilities for interstate wholesale sales becomes meaningless --unless there is a third category of facilities, i.e., those used neither for transmission nor for generation. We must, therefore, look for that third category. We find it in petitioner's corporate organization, contracts, accounts, memoranda, papers and other records, in so far as they are utilized in connection with such sales.

Hartford Elec. Light Co. v. Fed. Power Com, 131 F.2d 953, 961 (2nd Cir. 1942).

That GBX does not yet have any physical transmission assets has no bearing on the question of whether GBX Clean Line Holding's sale of negotiated rate authority to Invenergy Transmission requires FPA Section 203 authorization by the Commission. GBX's negotiated rate authority was a paper jurisdictional facility. The Commission's Section 203 jurisdiction attached to the sale of GBX's membership interest under the MIPA. No party involved in that transaction ever sought or obtained from the Commission Section 203 approval for that sale.

C. GBX Is a "Public Utility" Under the FPA Because Its Negotiated Rate Authority Is a Paper Jurisdictional Facility.

1. The FPA's Definition of "Public Utility."

A "public utility" is any person who owns or operates facilities used for the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce but does not include the United States, a state or any agency, authority, or instrumentality of, or any corporation that is wholly owned by, the United States or any state. 16 U.S.C. Section 824(e).

2. GBX's Negotiated Rate Authority Is Itself a Jurisdictional Facility.

The Commission granted negotiated rate authority to GBX under the FERC 2014 GBX Order. That order expressly states that GBX does not own or control any facilities in any of SPP, PJM or MISO service territories. Contrary to the assertions in the GBX Limited Answer, the FERC 2014 GBX Order states that GBX will be subject to the

Commission's jurisdiction and open access requirements. (FERC 2014 GBX Order, ¶13, ¶13 n.18).

The FERC 2014 GBX Order expressly allows GBX to engage in bilateral negotiations with each potential customer. (FERC 2014 GBX Order, ¶11). The FERC 2014 GBX Order obligates GBX to ensure that its customer selection process is not unduly discriminatory or preferential, and otherwise satisfies the criteria of the Commission's 2013 Policy Statement. (FERC 2014 GBX Order, ¶¶10, 11, 16). It also grants, at GBX's request, (i) waivers of the full reporting requirements of Subparts B and C of Part 35 of the Commission's regulations, with certain exceptions; (ii) waiver of the FERC Form 1 Annual Report filing requirement; and (iii) waiver of Part 141 of FERC's regulations, with certain exceptions. (FERC 2014 GBX Order, ¶33).

GBX's application to FERC for negotiated rate authority and its request for waivers of certain Commission regulations reveal the utter incoherence of its assertion that until it has energized physical facilities it is not subject to the Commission's jurisdiction. If that were so, then GBX would not have had to ask the Commission for authority to begin solicitations and negotiations, or to waive the Commission's reporting and filing requirements referred to in the FERC 2014 GBX Order. Indeed, were GBX correct in its assertion that the Commission has no jurisdiction over it until it has energized physical facilities, there would be no need to bother with the Commission at all until it was ready to put iron in the ground. GBX is a merchant transmission service provider, and its ownership or control of physical assets is irrelevant to the question of

whether the Commission has jurisdiction over it.

Equally absurd is GBX's argument that the MIPA deal isn't subject to FPA Section 203 because GBX doesn't yet have any rate schedules on file with the Commission. (GBX Limited Answer, pg. 2). GBX was granted negotiated rate authority as a merchant transmission service provider, and therefore it will not file with the Commission any cost-based rates for its transmission services. GBX's negotiated rate authority functions as a tariff that prescribes a formula, namely, the best rate that GBX can negotiate with its customers in a free market without being unduly discriminatory or preferential.

Just as the market-based rate authority that the Commission has granted to financial players is a facility used in the sale of electricity for resale, so is GBX's negotiated rate authority a facility that it has used and will continue to use as a merchant transmission service provider in its business of transmitting electricity in interstate commerce.

3. GBX Already Conducts Itself as a Public Utility.

Although in its Limited Answer GBX tells the Commission that it is not a public utility and that the Commission has no jurisdiction over it, GBX's activities outside of the District of Columbia tell rather a different story. Using its Commission-granted negotiated rate authority, GBX has already entered into a contract to sell firm capacity on its proposed transmission line to an organization representing Missouri municipal electric utilities. *Report and Order of the Missouri Public Service Commission* dated October 12,

2023, File No. EA-2023-0017, pgs. 15-16, ¶¶40-41; a copy of this Report and Order is attached to this Motion as Exhibit B.

4. GBX's Claim That It Can Freely Trade Its Negotiated Rate Authority Would Lead to Absurd Results.

In GBX's view, the Commission has no jurisdiction over GBX's activities until GBX hammers iron into the ground (GBX Limited Answer, pgs. 2-3); until that time, GBX is free to transfer that negotiated rate authority like a collectable baseball card. GBX's logic makes a mockery of both the process by which the Commission determines whether an applicant should be granted negotiated rate authority and the Commission's authority to review and approve sales, mergers and other transactions under FPA Section 203.

5. The Sale of GBX to Invenergy Transmission Raises Cross-Subsidization and Affiliate Abuse Issues That the Commission Should Review.

In determining whether a transaction subject to FPA Section 203 is consistent with the public interest, the Commission has sought to guard against potential cross-subsidization and affiliate abuse. *Transactions Subject to FPA Section 203*, 113 FERC ¶61,315. GBX states that the chief objective of its proposed transmission line is to transmit renewable energy from west Kansas to points east in the PJM and MISO footprints.

Invenergy Transmission is a direct or indirect subsidiary of Invenergy, LLC

("Invenergy"). (2022 Illinois CPCN Application, ¶2).[4] On information and belief, Invenergy Transmission is affiliated with Invenergy Wind Development LLC ("Invenergy Wind") and Invenergy Solar Development LLC ("Invenergy Solar"). As of March 10, 2022, Invenergy Wind and Invenergy Solar had eight generator interconnection requests pending with Southwest Power Pool, Inc. ("SPP"). *Invenergy Wind Development LLC, Invenergy Solar Development LLC*, 178 FERC ¶61,169 at ¶62,104 (March 10, 2022). The 2023 GBX FERC Application makes no mention of any of these eight generator interconnection requests, but Invenergy Transmission's acquisition of GBX has the potential for cross-subsidization and affiliate abuse. The Commission could have reviewed those issues had Invenergy Transmission or GBX Clean Line Holding properly requested authorization under FPA Section 203 for the sale of GBX.

D. Section 203 Applies to GBX Clean Line Holding's Sale of Its Ownership Interest in GBX to Invenergy Transmission Because It Was the Sale of a Jurisdictional Facility.

The "…practical reasons for Section 203 [of the FPA]... went further than to prevent loading down the [electric utility] industry with unnecessary facilities. It was to prevent speculation in utility properties and to insure that they be bought and sold in the public interest"; and Section 203 of the FPA was intended… "to protect the public against an uneconomic realinement [*sic*]." *Duke Power Company*, 36 FPC 399, 402

[4] https://www.icc.illinois.gov/docket/P2022-0499/documents/326508

(1966), *rev'd. on other grounds*, *Duke Power Company v. Federal Power Commission*, 401 F.2d 930 (DC Cir. 1968). Changes in corporate ownership are directly the subject of FPA Section 203. *Central Vermont Public Service Corp.*, 39 FERC ¶61,295, at ¶61,960 (1987); *Savannah Electric & Power Co. and Southern Co.*, 42 FERC ¶61,240 (1988). Both *Central Vermont* and *Savannah Electric* involved changes in upstream corporate ownership that transferred the legal ownership of jurisdictional facilities. In both of these cases the Commission held that FPA Section 203 approval was required for the transfer of jurisdictional facilities by means of changes in corporate ownership. FERC's jurisdiction under Section 203 turns on changes in ownership. *Atlantic City Electric Co. v. FERC*, 295 F.3d 1, 12-13 (DC Cir. 2002).

E. The Value of the Transaction Contemplated by the MIPA is Well in Excess of the $10,000,000 Threshold Amount in 16 USC 824b(a)(1)(A).

1. Request for Confidential Treatment of the MIPA under Rule 903 and 18 C.F.R. 388.112.

In the 2022 Illinois CPCN Application, GBX sought, and the ICC granted, a certificate of public convenience and necessity ("CPCN") for the part of GBX's proposed interstate transmission line that would be sited in Illinois.[5]

The MIPA was the subject of discovery undertaken in the 2022 Illinois Docket. GBX requested, and on September 14, 2022, the ICC granted, a protective order (the "ICC Protective Order") regarding the MIPA pursuant to 220 ILCS 5/4-404 and Section

[5] https://www.icc.illinois.gov/docket/P2022-0499/documents/326508

200.430 of the ICC's Rules of Practice, 83 Ill. Adm. Code Section 200.430. A copy of the ICC Protective Order, together with the related motion by GBX, is attached to this Motion as Exhibit C. The MIPA is relevant to this Motion for Summary Disposition because it discloses the transaction value of GBX Clean Line Holding's sale of its membership interest in GBX to Invenergy Transmission.

a) Portions of the MIPA Are Confidential.

Pursuant to Commission Rule 903(b) and 18 C.F.R. 388.112, the ILA states that some of the information contained in the MIPA is exempt from the mandatory public disclosure requirements of the Freedom of Information Act under 5 U.S.C. 552(b)(4).

b) ILA Request for Confidential Treatment of the MIPA.

Pursuant Commission Rule 903(b)(1) and 18 C.F.R. 388.112, the ILA hereby requests that the Presiding Administrative Law Judge not disclose the MIPA, except to participants in this Docket under the conditions set forth in Commission Rule 903(d) and (e). As required by Commission Rule 903(b)(1) and 18 C.F.R. 388.112, this request is being served on participants in this Docket by means of the service of this Motion on those participants.

The ILA requests that the Presiding Administrative Law Judge enter a Protective Order substantially in the form of Exhibit D hereto, including the Non-Disclosure Certificate attached thereto.

c) Redacted Copy of MIPA Filed with Commission.

Pursuant to Commission Rule 903(b)(2) and 18 C.F.R. 388.112, concurrently with

the filing of this Motion the ILA has filed (i) the original MIPA, each page of which bears a legend that the MIPA contains confidential and proprietary information that is exempt from disclosure, and (ii) a second, public copy of the MIPA in which the information for which the ILA requests nondisclosure have been redacted.

d) Reason for Confidential Treatment of MIPA.

Pursuant to Commission Rule 903(b)(3) and 18 C.F.R. 388.112, the ILA hereby states that the redacted portions of the MIPA must be treated as confidential information and exempt from disclosure under 5 U.S.C. 552(b)(4) because the information was disclosed to the ILA under the ICC Protective Order, which requires confidential treatment of such information.

e) Portions of This Motion Regarding Transaction Value Are Redacted.

Portions of this Motion discuss the transaction value of the sale by GBX Clean Line Holding to Invenergy Transmission of its membership interest in GBX. Consistent with Rule 903, 18 C.F.R. 388.112, and the foregoing request for confidential treatment of portions of the MIPA, certain sections of this Motion have likewise been redacted.

2. The Transaction Value of the Sale of GBX by GBX Clean Line Holding to Invenergy Transmission is Far in Excess of $10,000,000.

Pursuant to 18 CFR 33.1(b)(3), the Commission rebuttably presumes that the market value for transactions between non-affiliated companies such as GBX Clean Line Holding and Invenergy Transmission is the transaction price.

a) [redacted]

[redacted]

[redacted]

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[6] [redacted]

[redacted]

[7] [redacted]

[redacted]

b) [redacted]

[redacted]

F. No Blanket Authorization Applies to the Sale of GBX's Membership Interests.

The 2023 GBX FERC Application does not allege that any of the blanket authorizations provided for in 18 CFR 33.1(c) applies to the transactions effected under the MIPA, and none of them, in fact, apply.

G. Cases Cited by GBX Do Not Support Its Argument That FPA Section 203 Does Not Apply to the Transactions Contemplated by the MIPA.

The cases that GBX relies on to support its assertion that it isn't a public utility subject to Commission jurisdiction until it builds its transmission line are all inapposite.

1. TransWest Express.

TransWest Express LLC, 174 FERC ¶61,160 (2021), which GBX cites in support of its position that it is not a public utility (GBX Limited Answer, pg. 1, n.4) is irrelevant to the instant case because it did not concern any upstream ownership change nor any

sale or disposition of any jurisdictional facilities. The applicant in *TransWest* sought authority to sell transmission services at negotiated rates, approval of the applicant's proposed capacity allocation process, and waiver of certain Commission filing requirements. The order does contain a statement that the Commission's action on these requests does not make TransWest a public utility; however, that statement was made by TransWest, not the Commission. 174 FERC at ¶61,599, n.4.

Further, TransWest's assertion that it is not subject to the Commission's jurisdiction is as incoherent on its face as GBX's, and for the same reason. TransWest requested waivers of certain Commission filing requirements. If TransWest were not subject to the Commission's jurisdiction, then there would be no reason to request waivers of the Commission's filing requirements.

2. New York Transco.

New York Transco, LLC, 151 FERC ¶61,005 (2015), does not support GBX's argument that it is not subject to the Commission's jurisdiction. First, *New York Transco* does not involve a change in upstream ownership of a public utility. The case involved the transfer of certain physical transmission facilities, none of which were yet energized or even in existence, along with related books and records. The Commission dismissed the *New York Transco* application for lack of jurisdiction under FPA Section 203, but *New York Transco* is inapposite to the instant case because the applicant was not a merchant transmission service provider, and had filed proposed rate schedules with the Commission that the Commission had not yet accepted. 151 FERC ¶¶61005, 61,055 n.8.

New York Transco does not support GBX's position. In the instant case, GBX's negotiated rate authority was on file with the Commission via the FERC 2014 GBX Order.

3. Pattern Energy Group.

GBX's citation to *Pattern Energy Group LP*, 178 FERC ¶61,090 (2022), is equally unavailing. In *Pattern Energy*, the applicants submitted a request under FPA Section 205 to change their project from AC to HVDC, increase their project's capacity from 1500 MW to 3000 MW, and use a 5% favorable weighting factor in their selection of an anchor transmission customer. They also requested that the Commission continue their negotiated rate authority after an upstream ownership change. *Pattern Energy* provides no support for GBX's argument that entities that have been granted negotiated rate authority by the Commission but which have not yet built their projects are not subject to the Commission's jurisdiction. (See GBX Limited Answer, pg. 2, pg. 2 n. 8).

To the contrary, *Pattern Energy* supports the ILA's argument that a change in upstream ownership of an entity with negotiated rate authority is subject to the Commission's jurisdiction:

> Because SunZia Transmission's upstream ownership will change due to Pattern's acquisition of equity interests in SunZia Transmission, the specific circumstances upon which the existing negotiated rate authority was granted in 2017 for the Initial Capacity will change. Therefore, we will conduct a de novo analysis to determine whether the Project continues to meet the requirements for negotiated rate authority using the criteria set forth in the 2013 Policy Statement.

178 FERC at ¶61,545. Nothing in *Pattern Energy* supports GBX's position (GBX Limited Answer, pg. 2, n. 7) that the holder of negotiated rate authority for a not-yet-built transmission project may freely trade that authority by changing its upstream ownership until the moment that holder hammers iron into the ground. Had *Pattern Energy* involved only a change in upstream ownership without any change in rates, FPA Section 203 would have applied.

4. Ameren Transmission Company, Lucky Corridor LLC

The same flawed logic that GBX uses in its reading of *Pattern Energy* infects its reading of *Ameren Transmission Company*, *Lucky Corridor, LLC*, 172 FERC ¶61,123 (2020). Just as in the instant case and *Pattern Energy*, *Ameren Transmission, Lucky Corridor* involved a transaction in which Ameren Transmission Company would acquire the ownership of two merchant transmission development companies, Lucky Corridor LLC and Mora Line LLC, neither of which had physical facilities. 172 FERC at ¶61,897. However, the *Ameren Transmission* parties submitted their request to the Commission under FPA Section 205 because they proposed certain changes to their capacity allocation process that would apply to 350 MW of then-unsubscribed capacity. Under the Commission's 2013 Policy Statement, the Commission reviews changes in capacity allocation processes under FPA Section 205. 172 FERC at ¶¶61,899-61,900; *2013 Policy Statement*, 142 FERC 61,038 at ¶¶15, 23. Not only does *Ameren Transmission* not support GBX's argument for its *carte blanche* trading of negotiated rate authority, but the

Commission's statements also indicate the need for its approval of transactions of the type contemplated by the MIPA:

> Because Lucky Corridor's and Mora Line's upstream ownership will change due to Ameren Transmission's acquisition of Lucky Corridor, the specific circumstances upon which the existing negotiated rate authority was granted in 2015 will have changed. Therefore, we conduct a de novo analysis to determine whether the Projects continue to meet the requirements for negotiated rate authority, using the criteria set forth in the 2013 Policy Statement.

172 FERC at ¶61,898.

5. PPL Electric Utils. Corp. and Fla. Power & Light Co.

Also unavailing are GBX's citations to *PPL Electric Utils. Corp.*, 168 FERC ¶61,046 (2019) and *Fla. Power & Light Co.*, 161 FERC ¶61,254 (2017). Both of these dockets concerned applications under FPA Section 203 for transfers of physical assets, but the Commission dismissed both these cases because in each one the value of the assets in question was less than the $10,000,000 threshold in FPA Section 203(a)(1)(A). Neither of these cases support GBX's argument (GBX Limited Answer, pg. 3, pg. 3 n. 8) that the Commission lacks jurisdiction under FPA Section 203 if no physical facilities are involved.

IV. CONCLUSION.

GBX has the burden of proving in its direct case that it has the negotiated rate authority that it seeks to amend. Neither GBX, GBX Clean Line Holding, nor Invenergy Transmission sought or obtained the Commission's approval of the corporate ownership

sale contemplated by the MIPA, as required by FPA Section 203. The Commission should find that GBX does not lawfully hold negotiated rate authority and summarily dismiss the 2023 GBX FERC Application with prejudice since GBX has nothing to amend.

WHEREFORE, the ILA respectfully requests that the Presiding Administrative Law Judge enter an order finding that GBX does not lawfully hold negotiated rate authority and dismissing the 2023 GBX FERC Application with prejudice.

Dated: December 28, 2023

NAFSICA ZOTOS

By: /s/ Paul G. Neilan
Her Attorney

ILLINOIS AGRICULTURAL ASSOCIATION, d/b/a ILLINOIS FARM BUREAU

By: /s/ Charles Y. Davis
Its Attorney

CONCERNED CITIZENS AND PROPERTY OWNERS

By: /s/ Kara J. Wade
Its Attorney

CONCERNED PEOPLES ALLIANCE

By: /s/ Brian R. Kalb
Its Attorney

YORK TOWNSHIP IRRIGATORS

By: /s/ William F. Moran, III
Their Attorney

Attachments to this Motion:

Exhibit A – (PUBLIC, REDACTED COPY) Membership Interest Purchase Agreement dated as of November 9, 2018 (the "MIPA") by and among Invenergy Transmission LLC, GBX and GBX Clean Line Holding LLC.

Exhibit B – Report and Order of the Missouri Public Service Commission dated October 12, 2023, File No. EA-2023-0017

Exhibit C – Illinois Commerce Commission Protective Order dated September 14, 2022, with Related GBX Motion

Exhibit D – Form of Protective Order, Including Non-Disclosure Certificate

EXHIBIT A

to

Motion of the Illinois Landowners Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority

Membership Interest Purchase Agreement dated as of November 9, 2018 by and among Invenergy Transmission LLC, Grain Belt Express Holding LLC, and Grain Belt Express LLC.

PUBLIC, REDACTED COPY

MEMBERSHIP INTEREST PURCHASE AGREEMENT

By and among

Grain Belt Express Holding LLC ("Seller")

and

Invenergy Transmission LLC ("Buyer")

And

Grain Belt Express Clean Line LLC ("Company")

Dated as of November 9, 2018

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Exhibits and Schedules

Seller's Disclosure Schedules:

MEMBERSHIP INTEREST PURCHASE AGREEMENT

This MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "Agreement"), is made and entered into as of November 9, 2018 (the "Effective Date"), by and among Invenergy Transmission LLC ("Buyer"), Grain Belt Express Holding LLC ("Seller"), and Grain Belt Express Clean Line LLC ("Company"). Buyer, Seller and Company shall each individually be referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the Company is developing a high voltage direct current transmission line (as further described in Exhibit A, the "GBX Transmission Line"), and associated transmission facilities, which are being designed to run from Ford County, Kansas, to Sullivan, Indiana, with a mid-point converter station in Ralls County, Missouri (together with all assets associated therewith, the "Project").

WHEREAS, Seller is the beneficial and record holder of all of the issued and outstanding membership interests of the Company (the "Membership Interests").

WHEREAS, Seller wishes to sell, and Buyer wishes to purchase, the Membership Interests on the Closing Date on the terms and subject to the conditions of this Agreement.

WHEREAS, concurrently with the execution and delivery of this Agreement, Seller and the Company and Buyer are executing the Development Management Agreement (defined below) [redacted]

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, representations, warranties, and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1
DEFINITIONS AND CONSTRUCTION

1.1 Definitions.

As used in this Agreement, the following terms shall have the meanings ascribed to them below:

"**Acquisition Proposal**" shall mean any written offer, proposal, inquiry or indication of interest from any third party relating to any transaction involving (a) any acquisition or purchase by any Person (other than Buyer or an Affiliate of Buyer) of any of the Membership Interests; (b) any merger, consolidation, business combination, or other similar transaction involving the Company; (c) any sale, lease, exchange, transfer, acquisition or disposition of the assets of the Company or its Affiliates, which assets are required for the

Project; or (d) any liquidation, dissolution, recapitalization or other significant corporate reorganization of the Company.

"**Affiliate**" of a specified Person shall mean any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the Person specified. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"**Agreement**" shall have the meaning given to it in the Preamble to this Agreement and shall include all exhibits, schedules (including the Disclosure Schedules) and annexes hereto, as any of the same may be amended, modified or supplemented from time to time.

"**Ancillary Documents**" shall mean the Assignment of Membership Interests, the Development Management Agreement, [redacted] the other documents identified in Section 6.1, and any additional documents evidencing or necessary to record any transfer to or from the Company contemplated by this Agreement or any of the foregoing documents.

"**Applicable Law**" shall mean all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over a Person (as to that Person), this Agreement, or the Project, as applicable.

"**Applicable Permits**" shall mean all Permits for or necessary for the development, construction, ownership, leasing, operation or maintenance of the Project.

"**Assignment of Membership Interests**" means the assignment of membership interests in the form of Exhibit B hereto.

"**Balance Sheet**" shall have the meaning set forth in Section 4.12.1.

"**Balance Sheet Date**" shall mean October 31, 2018.

"**Benefit Plan**" shall mean "employee benefit plan," as such term is defined in Section 3(3) of ERISA, or other pension, bonus, profit sharing, stock option or other agreement or arrangement providing for employee remuneration or benefits, including a "multiemployer plan," as that term is defined in Section 4001(a)(3) of ERISA.

"**Books and Records**" shall mean all books, files, papers, agreements, material correspondence, databases, information systems, programs, software, documents, records and documentation thereof related to the Company or any of the Project Assets, in each case, in all formats in which they are reasonably and practically available, including original and electronic

versions, where applicable, in each case, in the possession or control of Seller or any of its Affiliates to the extent relating to the Project.

"**Business Day**" shall mean any day other than a Saturday, Sunday or a day on which commercial banks are closed in the State of New York.

"**Buyer**" shall have the meaning given to it in the Preamble to this Agreement, and shall include its successors or assigns.

"**Buyer Consents and Approvals**" shall have the meaning given to it in Section 5.5.

"**Buyer Indemnified Party**" shall mean Buyer, its successors and assigns, its Affiliates, and its Representatives.

"**Claim Certificate**" has the meaning given to it in Section 8.9.2

"**Closing**" shall have the meaning given to it in Section 2.2.

"**Closing Date**" shall have the meaning given to it in Section 2.2.

"**Closing Payment**" shall have the meaning set forth in Section 3.1.

"**Code**" shall mean the United States Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"**Commercial Operation Date**" shall mean, with respect to the Project (or any Material Project Portion), the date upon which the Project (or the applicable Material Project Portion) is physically completed, commissioned and fully operational and capable of continuous operation, is energized and will have interconnected with the interconnection provider's system in accordance with an interconnection agreement with an interconnection provider, is available to transmit electricity and is available to provide service under any executed transmission service agreement, delivery service agreement or similar agreement.

"**Commission Approvals**" shall mean (i) the KCC CP Certificate Matters, (ii) the MPSC Approvals, (iii) Permits necessary or materially desirable for the Project from the Illinois Commerce Commission and (iv) Permits necessary or materially desirable for the Project from the Indiana Utility Regulatory Commission.

"**Company**" shall have the meaning given to it in the recitals of this Agreement.

"Condemnation" shall have the meaning given to it in Section 6.3.1.

"**Confidential Information**" shall mean any and all information provided (i) either by Buyer or any of its Affiliates to Seller or by Seller or any of its Affiliates to Buyer or in writing and identified by the Disclosing Party as confidential and (ii) any and all information with respect to the Project, the Project Assets, or the Transaction.

"**Continuous**" or "**Continuously**" shall mean uninterrupted, except for interruptions (i) of one (1) month or less due to any circumstances, or (ii) of any duration, so long as (x) such interruption results from a force majeure event, change in Applicable Law, or other event outside of the reasonable control of one or more of the parties that own or are utilizing the applicable Material Project Portion, and (y) the utilization of the applicable Material Project Portion resumes promptly after the resolution of such force majeure event, change in Applicable Law or other event.

"**Contract**" shall mean any written or oral contract, lease, sublease, license, purchase order, commitment, note, bond, deed of trust, evidence of Indebtedness, mortgage, indenture, binding bid, letter of credit, security agreement or other similar instrument entered into by a Person or by which a Person or any of its assets are bound, including all amendments, modifications or supplements thereto.

"Damages" shall mean and include any loss, damage, injury, decline in value, lost opportunity, liability, claim, demand, settlement, judgment, award, fine, penalty, tax, fee (including any legal fee, accounting fee, expert fee or advisory fee), charge, cost (including any cost of investigation) or expense of any nature.

"**Development Costs**" shall have the meaning set forth in the Development Management Agreement.

"**Development Management Agreement**" shall mean the Development Management Agreement, dated as of the Effective Date, by and among Seller, the Company and Buyer, attached hereto as Exhibit H.

"**Disclosure Schedules**" shall mean the disclosure schedules attached to this Agreement and dated as of the Effective Date.

"**Disclosing Party**" shall have the meaning given to it in Section 10.3.

"**Dispute**" shall have the meaning given to it in Section 10.4.

"**Dollar**" or "**$**" shall mean United States dollars.

"**Effective Date**" shall have the meaning given to it in the Preamble to this Agreement.

"**Environment**" shall mean soil, land surface or subsurface strata, surface waters (including navigable waters and ocean waters), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life, cultural and historic resources, and any other environmental medium or natural resource related to the Project.

"**Environmental Claims**" shall mean any claims, actions, suits, fine, penalty, request, demand, complaint, consent decree, notice, proceeding, investigation or Order imposed upon, asserted against or incurred, directly or indirectly, whether made by a Governmental Authority or another Person, arising from, in connection with, as a result of or in any way related

to any of the following: (a) the Release or Threat of Release of any Hazardous Substances on, in, over, under, from or affecting the Environment, the Real Property subject to the Real Property Documents or the Project or any portion thereof; (b) the treatment, storage, disposal, Release or Threat of Release, or the arrangement or transportation for treatment, storage or disposal, of any Hazardous Substances on, in, over, under, from or affecting any other property; or (c) any actual or alleged violation of, any actual or alleged failure to comply with, or any actual or alleged Liability arising under or in connection with any Order, Permit (including any Environmental Permits), decree, rule, regulation, requirement or demand of any Governmental Authority, or any Environmental Laws, affecting the Environment, the Real Property subject to the Real Property Documents or the Project.

"**Environmental Event**" shall mean the Release or Threat of Release or the presence or suspected presence or Remediation of any Hazardous Substances.

"**Environmental Laws**" shall mean any legal requirement or Applicable Law pertaining to the quality of, protection, clean-up, Remediation or damage of or to the Environment, including the following laws: the Clean Air Act, 42 U.S.C. §7401, et seq.; the Clean Water Act, 33 U.S.C. §1251, et seq.; the Resource, Conservation and Recovery Act, 42 U.S.C. §6901, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.§ 9601, et seq.; the Safe Drinking Water Act, 42 U.S.C. §300f, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.; the Rivers and Harbors Act, 33 U.S.C. §401, et seq.; the Transportation Safety Act of 1974, 49 U.S.C. §1801 et seq.; and the Endangered Species Act, 16 U.S.C. §1531, et seq.; the National Environmental Policy Act, 42 USC § 4321 et seq.; the National Historic Preservation Act, 16 U.S.C § 470 et seq.; Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 et seq.); and the Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq. (including any future change in judicial or administrative decisions interpreting or applying any of the Applicable Laws, rules or regulations referred to herein) relating to emissions, disposals, discharges, releases or threatened releases of any Hazardous Substances into ambient air, land, soil, subsoil, surface water or groundwater or any adverse impacts or damage to natural resources (including protected species) or cultural or historic resources.

"**Environmental Permits**" shall mean any Permit pertaining to any Environmental Laws.

"**ERISA**" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"**FERC**" shall mean the Federal Energy Regulatory Commission and its successors, including its staff acting under delegated authority.

"**Financial Statements**" has the meaning set forth in Section 4.12.1.

"**FPA**" shall mean the Federal Power Act, as amended, and the rules and regulations promulgated thereunder.

"**Fundamental Representations**" means the representations and warranties contained in Section 4.1 (*Organization*), Section 4.2 (*Authority*), Section 4.3 (*Title to Membership Interests*), Section 4.4 (*Binding Effect*), Section 4.5 (*No Violation*), Section 4.8 (*Consents and Approvals*), Section 4.16 (*Brokers or Finders*), Section 5.1 (*Organization*), Section 5.2 (*Authority*), Section 5.3 (*No Violations*), Section 5.4 (*Binding Effect*), Section 5.5 (*Consents and Approvals*) and Section 5.6 (*Brokers or Finders*).

"**GAAP**" means generally accepted accounting principles in the United States of America as recognized by the American Institute of Certified Public Accountants, consistently applied for a Person throughout the specified periods and maintained on a consistent basis for a Person throughout the period or periods indicated and consistent with such Person's prior financial practice.

"**GBX Transmission Line**" shall have the meaning given to it in the Recitals to this Agreement.

"**Governmental Authority**" shall mean any (a) national, state, county, municipal or other local government (whether domestic or foreign) and any political subdivision thereof, (b) any court or administrative tribunal, (c) any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity of competent jurisdiction (including any zoning authority, FERC, any state regulatory commission or any comparable authority), (d) any non-governmental agency, tribunal or entity that is vested by a governmental agency with applicable jurisdiction, or (e) any arbitrator with authority to bind a Party at law or otherwise.

"**Hazardous Substances**" shall have the meaning given to it in Section 4.13.1.

"**Indebtedness**" of any Person at any date shall mean, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except accounts payable of less than Fifty Thousand Dollars ($50,000) in the aggregate, (d) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities (or property), (e) all obligations of such Person to reimburse any bank or other Person in respect of amounts paid or advanced under a letter of credit or other instrument, (f) all obligations of others secured by a Lien on any asset of such Person, whether or not such obligation is assumed by such Person, and (g) all obligations of others guaranteed directly or indirectly by such Person or as to which such Person has an obligation substantially the economic equivalent of a guaranty.

"**Indemnified Parties**" means the Seller Indemnified Parties and the Buyer Indemnified Parties.

"**Indemnifying Party**" has the meaning given to it in Section 8.7.2.

"**Intellectual Property**" means all intellectual property, including: (a) patents, inventions, discoveries, processes, designs, techniques, developments, technology, and related

improvements and know-how, whether or not patented or patentable; (b) copyrights and works of authorship in any media, including computer hardware, software, firmware, applications, files, systems, networks, databases and compilations, documentation and related textual works, graphics, advertising, marketing and promotional materials, photographs, artwork, drawings, articles, textual works, and Internet site content; (c) trademarks, service marks, trade dress, logos, Internet domain names, any and all common law rights thereto, and registrations and applications for registration thereof, all rights therein provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing; and (d) trade secrets and confidential information, including the ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

"**Interconnection Queue Positions**" means (i) PJM Queue Position X3-028 and (ii) the Company's Interconnection Rights under or with respect to that certain Interconnection Agreement between ITC Great Plains, LLC, Southwest Power Pool, Inc, and Grain Belt Express Clean Line LLC, dated October 17, 2016.

"**Interconnection Rights**" means any and all of Seller's or its Affiliates' rights and interests in interconnection rights related to the Project, including but not limited to, the Interconnection Queue Positions, agreements, studies, reports or other documents relating to the interconnection of the Project, including any interconnection agreements.

[redacted]

"**Interconnection Termination Notice**" shall have the meaning given to it in Section 3.3.

"**Interim Period**" shall have the meaning given to it in Section 7.2.2.

"**Interim Period Matters**" shall have the meaning given to it in Section 7.9.

"**Knowledge**" shall mean, (i) with respect to Seller, the Company and with respect to any matter, any facts, circumstances or other information relating thereto, the actual knowledge of David Berry, Jayshree Desai, Hans Detweiler or Michael Skelly (with no duty of inquiry or investigation); and (ii) with respect to Buyer and with respect to any matter, any facts, circumstances or other information relating to Buyer or relating to the Company, the Project or the Project Assets prior to the Closing Date, the actual knowledge of those individuals employed by Buyer or its Affiliates prior to the expiration of the Interim Period and for whom the development of the Project is one of their primary responsibilities (with no duty of inquiry or investigation).

"**KCC**" shall mean the Kansas State Corporation Commission.

"**KCC Certificate**" shall mean, collectively, (a) the "Order Approving Stipulation & Agreement And Granting Certificate", issued December 7, 2011, in Docket No. 11-GBEE-

624-COC, *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*, and (b) the "Order Granting Siting Permit" issued November 7, 2013 (as modified in a non-material manner by the KCC's "Order on Petitions for Reconsideration and Order Nunc Pro Tunc" issued on December 19, 2013), and the "Order Granting Limited Extension of Sunset Provision" issued on October 4, 2018, in Docket No. 13-GBEE-803-MIS, *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, 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.*

"**KCC CP Certificate Matters**" shall mean each of the following from the KCC with respect to the KCC Certificate (or applicable portions thereof): (1) an extension of the KCC Certificate to a date no earlier than the date that is five (5) years following the original expiration date of the KCC Certificate (which is November 7, 2018) and (2) approval of the change in ownership of the Project to the Buyer.

"**Liabilities**" shall mean any and all liabilities, Indebtedness, obligations, commitments, losses, damages, expenses, claims, deficiencies, or guaranties of any type, whether accrued or unaccrued, asserted or unasserted, fixed absolute or contingent, matured or unmatured, liquidated or unliquidated, incurred, due or to become due, known or unknown, whenever or however arising (including whether arising out of any Contract or tort based on negligence, strict or joint and several liability, or otherwise).

"**Lien**" shall mean any mortgage, deed of trust, lien (choate or inchoate), pledge, charge, security interest, assessment, reservation, absolute assignment, collateral assignment, hypothecation, option, purchase right, defect in title, encroachment or other burden, or encumbrance of any kind, whether arising by contract or under any Applicable Law and whether or not filed, recorded or otherwise perfected or effective under any Applicable Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

"**Losses**" shall mean any and all actual losses, liabilities, claims, damages (including any governmental penalty or punitive damages), deficiencies, diminution in value, interest, costs and expenses and any actions, judgments, costs and expenses (including reasonable attorneys' fees and all other reasonable expenses incurred in investigating, preparing or defending any litigation or proceeding commenced incident to the enforcement of this Agreement).

"**Made Available**" shall mean made available to Buyer in the https://grainbeltexpresscleanline.datarooms.com site designated for this Agreement as the folder labeled "Grain Belt Express Data Room for Invenergy."

"**Material Adverse Effect**" shall mean any event, change, occurrence, circumstance, development or effect, which, individually or when taken together with the effect of all other events, changes, occurrences, circumstances, developments or effects, has caused or

could reasonably be expected to cause a (a) material adverse effect on the business, assets, prospects, operations, property or condition (financial or otherwise) of the Project, the Project Assets, the Company or Seller, taken as a whole, (b) a material adverse effect on the KCC Certificate, the KCC CP Certificate Matters or the MPSC Approvals or the proceedings for such matters, (c) material adverse effect on the validity or enforceability of this Agreement, the Ancillary Documents, the Project Contracts or the transactions contemplated hereby and thereby, (d) material adverse effect on the performance of or ability of Seller to perform its obligations hereunder or under the Ancillary Documents or the Project Contracts, or (e) material adverse effect on Buyer's ability to construct the Project and place it into commercial operation; provided, however, that the determination of whether a Material Adverse Effect has occurred shall exclude the following events, changes, occurrences, circumstances, developments and effects: (i) any event or circumstance resulting from either changes in the international, national or regional electric industry in general or changes in general international, national or regional economic or financial conditions, and that does not have a disproportionate impact on the Project, as compared to similar electric transmission development projects in the U.S. (including changes in the electric generating, transmission or distribution industry, the wholesale or retail markets for electricity, the general state of the energy industry, including natural gas and natural gas liquid prices, the transmission system, interest rates, outbreak of hostilities, terrorist activities or war), (ii) wholesale or retail prices for transmission capacity or changes in such prices, (iii) any change in Applicable Law or regulatory policy, (iv) effects of weather or meteorological events, (v) strikes, work stoppages or other labor disturbances, or (vi) the execution and delivery of this Agreement, any Ancillary Document or the transactions contemplated thereby, or the announcement of such transactions.

[redacted]

"**Membership Interests**" shall have the meaning given to it in the Recitals of this Agreement.

"**MPSC**" shall mean Missouri Public Service Commission.

"**MPSC Approvals**" shall mean (1) the MPSC Certificate and (2) the MPSC's approval of the change in ownership of the Project to the Buyer.

"**MPSC Certificate**" shall mean a Certificate of Convenience and Necessity or equivalent approval from the MPSC authorizing the construction of the Project.

"**MW**" shall mean megawatts.

"**Notice to Proceed**" shall mean the issuance of a full notice to proceed (or equivalent) for the sustained and significant construction toward the full construction of the Project (or Material Project Portion, if applicable).

"**Obtained Permits**" shall have the meaning given to it in Section 4.14.1.

"**Order**" shall mean any order, writ, injunction, Permit, judgment, decree, ruling, assessment, settlement, stipulation, determination or arbitration award of any Governmental Authority or arbitrator.

"**Outside Date**" shall have the meaning given to it in Section 6.3.

"**Party**" or "**Parties**" shall have the meaning given to them in the Preamble to this Agreement.

"**Permit**" shall mean (a) any action, approval, consent, waiver, exemption, variance, franchise, order, judgment, decree, permit, authorization, right, registration, filing, submission, tariff, rate, certification, plan or license of, with or from a Governmental Authority or (b) any required notice to, any declaration of, or with, or any registration by any Governmental Authority.

"**Permit Applications**" shall have the meaning given to it in Section 4.14.2.

"**Permitted Liens**" shall mean (a) Liens for Taxes if the same are not due and delinquent, (b) Liens listed on Schedule 1.1(b) granted by Seller in connection with the procurement of Permits or the procurement of utility agreements and interconnection and transmission rights, (c) as of any time prior to the Closing hereunder, any Liens that are discharged in full before or at the Closing, (d) Liens created by the act or omission of Buyer, (e) zoning, building and other generally applicable land use restrictions which are not violated by the current or proposed use of the Project, (f) any Lien individually or in the aggregate, (i) arising in the ordinary course of business by operation of law that is not yet due or delinquent, and (ii) that does not interfere in any material respect with the Company's ability to locate, construct, operate and maintain the Project; (g) easements, rights of way and similar restrictions of record that do not, individually or in the aggregate, materially interfere with the Company's uses or occupancy of Real Property; (h) zoning ordinances, building codes and other land use regulations regulating the use or occupancy of Real Property or the activities conducted thereon which are imposed by any Governmental Authority having jurisdiction over such Real Property and which are not violated by the current use or occupancy of such Real Property or the operation of the Project and that do not interfere in any material respect with the Company's ability to locate, construct, operate and maintain the Project; (i) any matters that would be disclosed by an accurate survey of Real Property that do not, individually or in the aggregate, materially interfere with the Company's present uses or occupancy of such Real Property; (j) other imperfections of title or Liens, which would not materially impair the value of the Real Property to which it relates; and (k) any other Liens created or permitted with the written consent of Buyer in its sole discretion.

"**Person**" shall mean any natural person, corporation, company, voluntary association, limited liability company, partnership, firm, association, joint venture, trust, unincorporated organization, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"**Pre-Closing Period**" shall have the meaning in Section 4.7.2.

"**Post-Closing Period**" shall have the meaning in Section 4.7.1.

"Proceeding" shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation that is, has been or may in the future be commenced, brought, conducted or heard at law or in equity or before any Governmental Authority or any arbitrator or arbitration panel.

"**Project**" shall have the meaning given to it in the Recitals to this Agreement.

"**Project Assets**" means all of the right, title and interest of Seller, the Company or their Affiliates in and to the property and assets, real, personal or mixed, tangible and intangible, of every kind and description, wherever located, related to the Project held by Seller, the Company or their Affiliates (or which such Persons are entitled to hold), including, without limitation, the following:

(a) the Membership Interests and any rights, benefits and interests related thereto or derived therefrom;

(b) the Real Property Documents;

(c) all Contracts, agreements and documents, including the Interconnection Rights;

(d) all Permits and all Permit Applications or renewals thereof pertaining to the Project;

(e) all Books and Records, Reports and Studies, data, books, safety and maintenance manuals, engineering and design plans, blue prints and as-built plans, specifications, procedures and similar items relating to the development, ownership, construction, licensing, leasing, operation, repair or regulation of the Project;

(f) all of the tangible and intangible rights and property material to the Project, including such rights and property pertaining to development, ownership, construction, leasing, licensing, operation, repair or maintenance of the Project;

(g) all insurance benefits, including claims, rights and proceeds, arising from or relating to the Project Assets;

(h) all rights or claims against third parties relating to the Project Assets, whether choate or inchoate, known or unknown, contingent or non-contingent; and

(i) all rights relating to warranty and/or damage payments related to the Project Assets, deposits and prepaid expenses, claims for refunds of utility charges and rights to offset in respect thereof.

"**Project Contract**" shall mean the Contracts that the Company is party to or that Seller or any of its Affiliates is party to in respect of the Project, including the Real Property Documents.

"**Project Insurance Policies**" shall have the meaning given in Section 4.21.

"**Prudent Industry Practices**" shall mean those practices, methods, equipment, specifications, standards and acts and the level of supervision and monitoring of performance as are generally used by those engaged in or approved by a significant portion of the electric power industry for similar transmission facilities of comparable type and complexity in similar locations in the United States that at a particular time in the exercise of good judgment and in light of the facts known at the time the decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Laws, accepted standards of professional care, equipment manufacturer recommendations, safety, environmental protection, economy and expedition. Prudent Industry Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather include a spectrum of possible practices, methods or acts commonly employed in the electric power transmission industry.

"**PUHCA**" shall mean the Public Utility Holding Company Act of 2005, as amended, and the rules and regulations promulgated thereunder.

[redacted]

"**Quarterly Payment Date**" has the meaning given to it in Section 3.1.4.

"**RA Confirmation Date**" has the meaning given to it in Section 6.3.3.

"**Real Property**" shall mean (a) any real property that is, immediately prior to the Effective Date, (i) owned, leased or subleased by the Company or (ii) for which the Company holds an option to acquire fee ownership, a lease or a sublease of real property or an easement, and (b) any real property located within ten (10) miles on either side of the currently identified route of the Project described in Exhibit J attached hereto.

"**Real Property Documents**" shall mean each agreement, deed, permit, instrument, lease, sublease, or document, including any crossing agreements, subordination agreements, purchase agreements or options, which provides the Company with interests in or to the Real Property or that otherwise provides the Company with Real Property rights in furtherance of the Project or to purchase interests in the Real Property.

"**Receiving Party**" shall have the meaning given to it in Section 10.3.

"**Release**" shall mean any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, leaching on or into the Environment or into or out of any property.

"**Remediation**" shall mean any cleanup activity or other remedial action undertaken under any Environmental Laws, conducted as required by any Environmental Laws, any Governmental Authority, Permits, Orders or in accordance with generally accepted practices by professionals in the business of environmental cleanup, remediation or disposal of Hazardous Substances.

"**Reports and Studies**" shall have the meaning given to it in Section 4.15.

"**Representatives**" means, as to any Person, its officers, directors, employees, partners, members, stockholders, counsel, agents, accountants, advisers, engineers, and consultants.

"**Restricted Activity**" shall have the meaning given to it in Section 3.1.2(f)(i).

"**Restricted Person**" shall have the meaning given to it in Section 3.1.2(f)(i).

"**Seller**" shall have the meaning given to it in the Preamble to this Agreement.

"**Seller's Closing Date Reps**" shall have the meaning given to it in the introductory paragraph of Article 4.

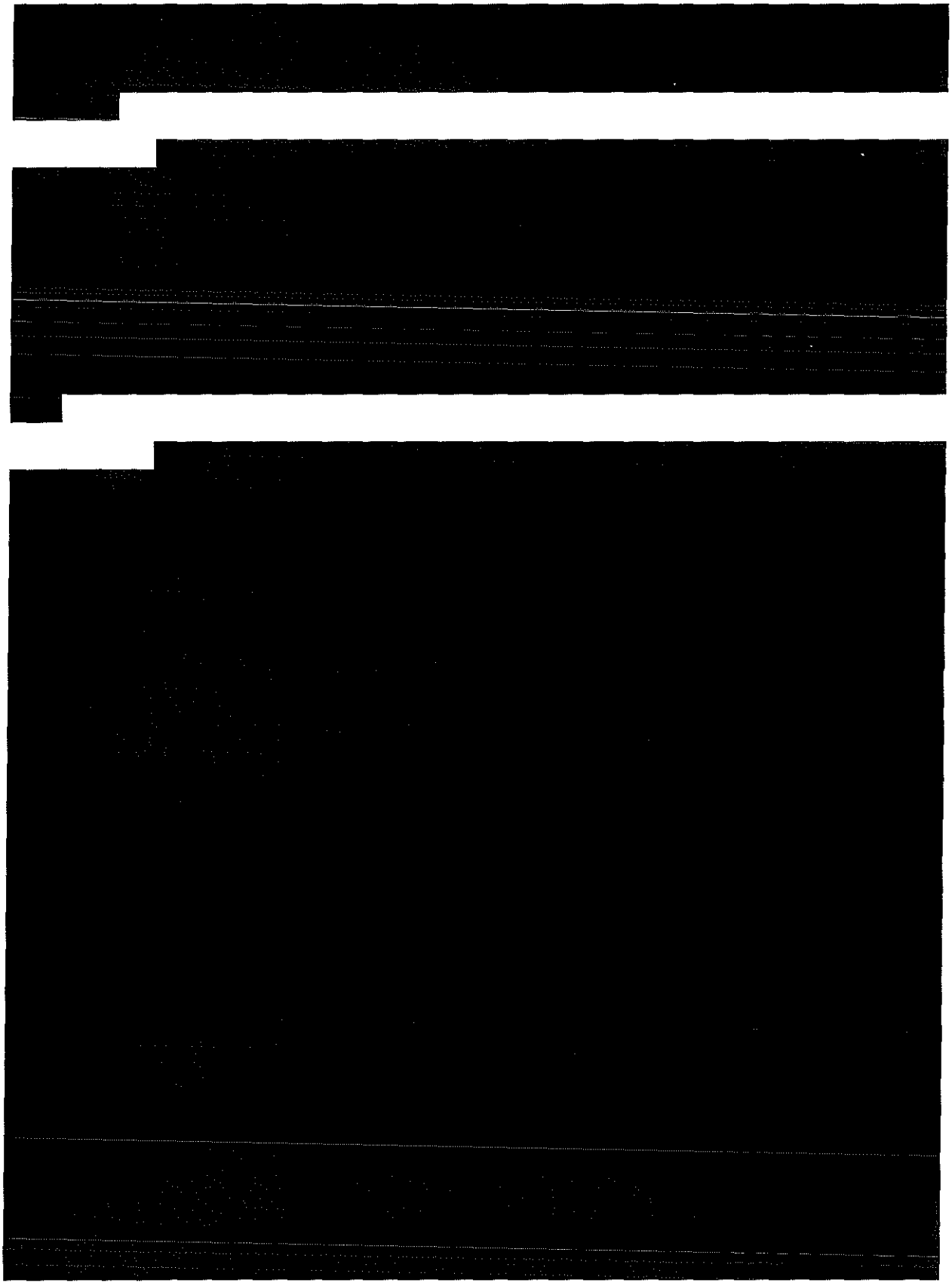
"**Seller Consents and Approvals**" shall have the meaning given to it in Section 4.8.

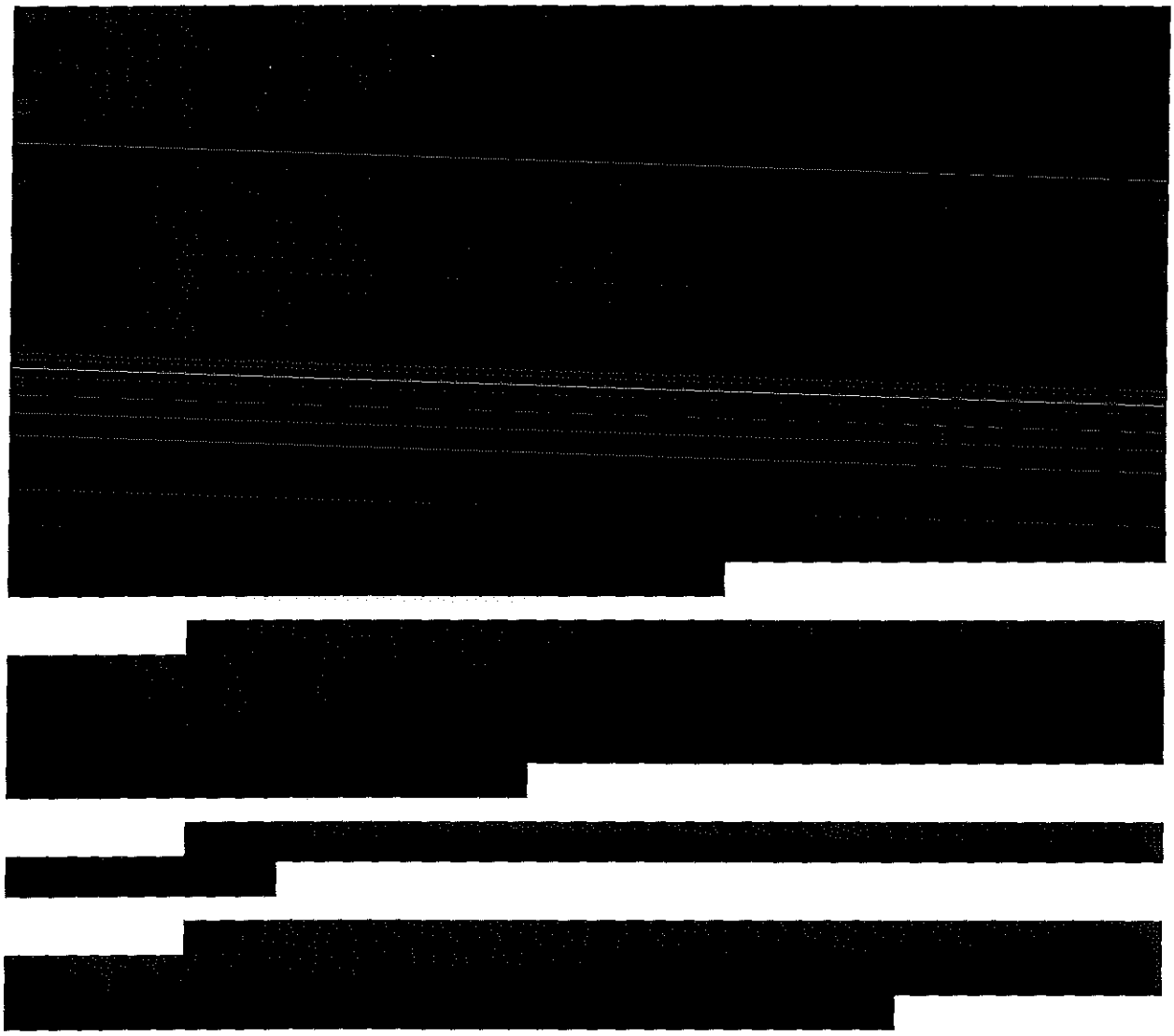
"**Seller Indemnified Party**" shall mean Seller, its successors and assigns, its Affiliates, and its Representatives.

[redacted]

"**Set-Off Amount**" shall have the meaning given to it in Section 10.17.

[redacted]





"**Support Obligations**" shall mean any guaranties, letters of credit, bonds, equity contribution agreements, comfort letters, deposits, collateral, or other financial security or credit support arrangements.

"**Survey**" shall mean any ALTA survey of any part or parcel of the Real Property.

"**Tax**" or "**Taxes**" shall mean any federal, state, local or foreign income, gross receipts, license, payroll, employment, unemployment, disability, social security, excise, severance, stamp, occupation, premium, windfall profit, environmental, customs, duty, capital stock, franchise, profit, withholding, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax, impost, levy or duty of any kind whatsoever, including any interest, penalty, or addition thereto, whether any such Tax is disputed or not.

"**Tax Return**" shall mean any return, declaration, report, claim for refund, or information return or statement relating to Taxes of any kind or nature filed or required to be

filed with any Governmental Authority, including any schedule or attachment thereto, and including any amendment thereof.

"**Third Party Claim**" has the meaning given to it in Section 8.6.

"**Threat of Release**" shall mean a reasonable likelihood of a Release that may require action in order to prevent or mitigate damage to the Environment that may result from such Release.

"**Title Reports**" means any title commitments, preliminary title commitments or reports prepared by any title company with respect to the Real Property.

"**Transaction**" shall have the meaning given to it in Section 2.1.

"**Transfer**" shall mean any direct or indirect transfer, sale, assignment, conveyance, lease or other disposition (whether through a utility investment or otherwise) of all or a portion of the Membership Interests or other direct or indirect equity interests in the owner of the Project (or any Material Project Portion) or any assets of the Project (or any Material Project Portion).

"**Transfer Tax**" shall mean any sales Tax, conveyance Tax, recording Tax, value added Tax, transaction privilege Tax, transaction Tax, conveyance fee, use Tax, stamp Tax, stock transfer Tax or other similar Tax, including any related penalties, interest and additions thereto.

"**Use**" shall mean (a) the actual transmission of electricity across the Project (or Material Project Portion), or (b) the right to use (by contract or otherwise), any of the transmission capacity of the Project (or Material Project Portion).

1.2 Construction. A reference to an annex, schedule, exhibit, article or section or other provision shall be, unless otherwise specified, to annexes, schedules, exhibits, articles, sections or other provisions of this Agreement which are incorporated herein by reference; any reference in this Agreement to another agreement, document, Applicable Law or Applicable Permit shall be construed as a reference to that other agreement, document, Applicable Law or Applicable Permit as the same may have been, or may from time to time be, varied, amended, supplemented, substituted, novated, assigned or otherwise transferred from time to time; any reference in this Agreement to "this Agreement," "herein," "hereof" or "hereunder" shall be deemed to be a reference to this Agreement as a whole and not limited to the particular article, section, schedule, exhibit or provision in which the relevant reference appears and this Agreement as varied, amended, supplemented, substituted, novated, assigned or otherwise transferred from time to time; references to any Party shall, where appropriate, include any successors, transferees and permitted assigns of such Party; references to the term "includes" or "including" shall be deemed to mean "includes, without limitation" or "including, without limitation"; references to "or" shall be deemed to be disjunctive but not necessarily exclusive (*i.e.*, unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or"; all accounting terms not specifically defined

herein shall be construed in accordance with GAAP; and terms defined in this Article 1 shall include the singular as well as the plural.

1.3 The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

ARTICLE 2
PURCHASE AND SALE

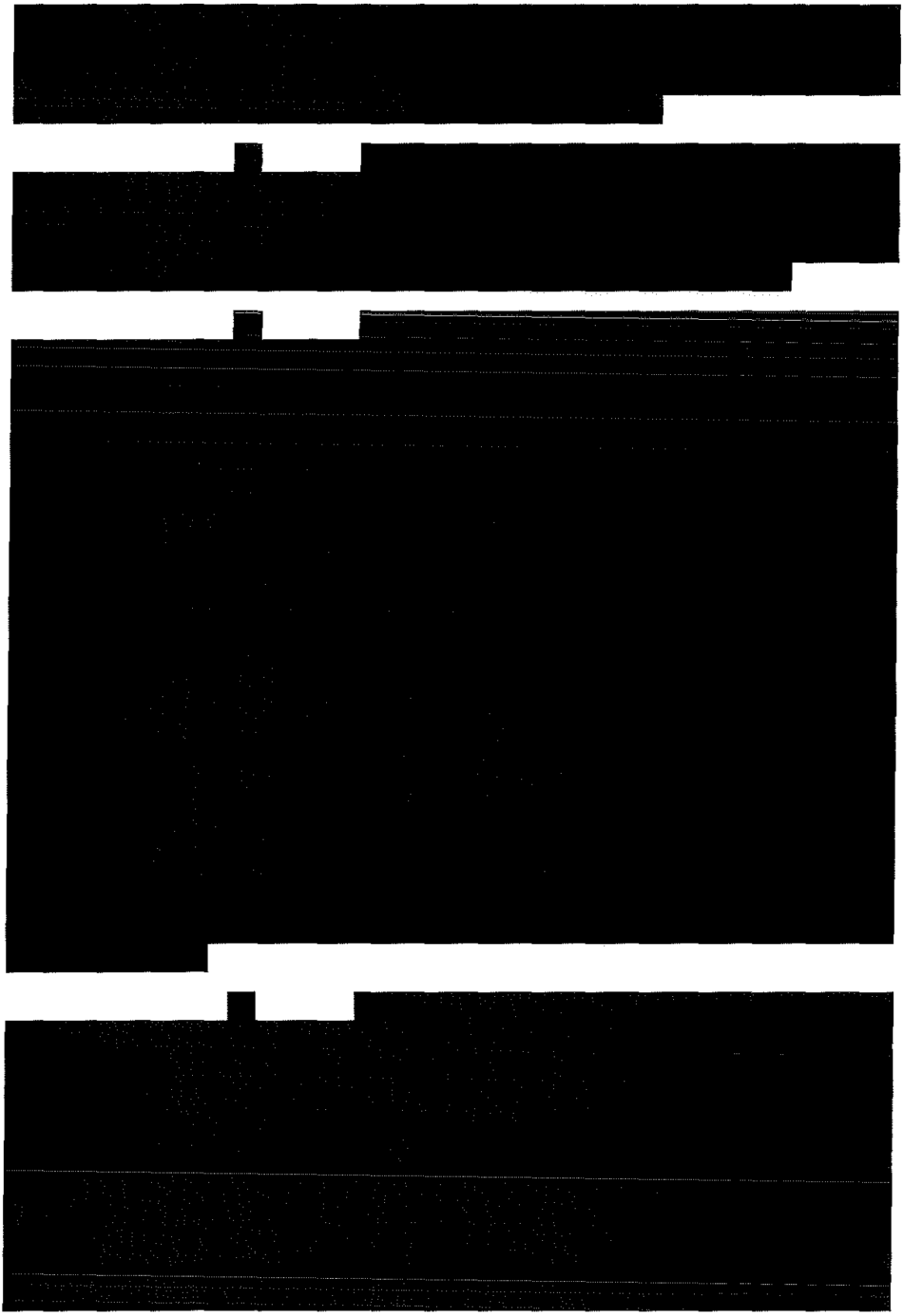
2.1 Purchase and Sale. On the Closing Date and subject to and upon the terms and conditions of this Agreement, Seller shall irrevocably, unconditionally sell, assign, transfer, convey and deliver to Buyer, and Buyer shall irrevocably and unconditionally purchase, acquire and accept from Seller, all of the Membership Interests, free and clear of all Liens and rights of others (the "Transaction").

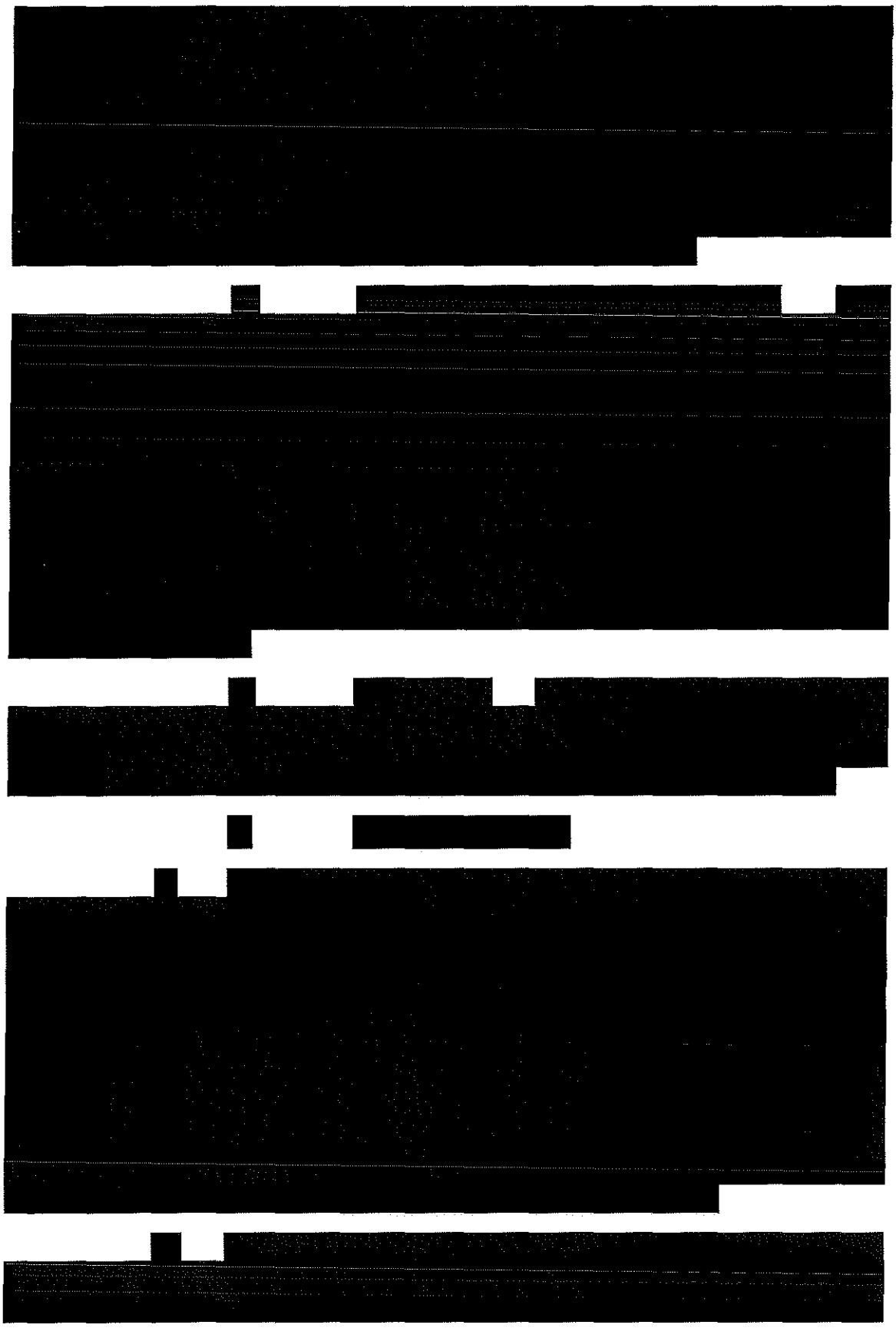
2.2 Closing. Subject to the satisfaction (or waiver in writing by Buyer or Seller, as applicable) of all of the conditions precedent set forth in Article 6, the consummation of the Transaction (the "Closing") shall take place at the offices of Buyer, located at One South Wacker Drive, Suite 1800, Chicago, IL 60606, on the date all of the conditions precedent set forth in Article 6 have been satisfied (or waived in writing by Buyer or Seller, as applicable), or at such other time and place as Seller and Buyer may mutually agree in writing (the "Closing Date").

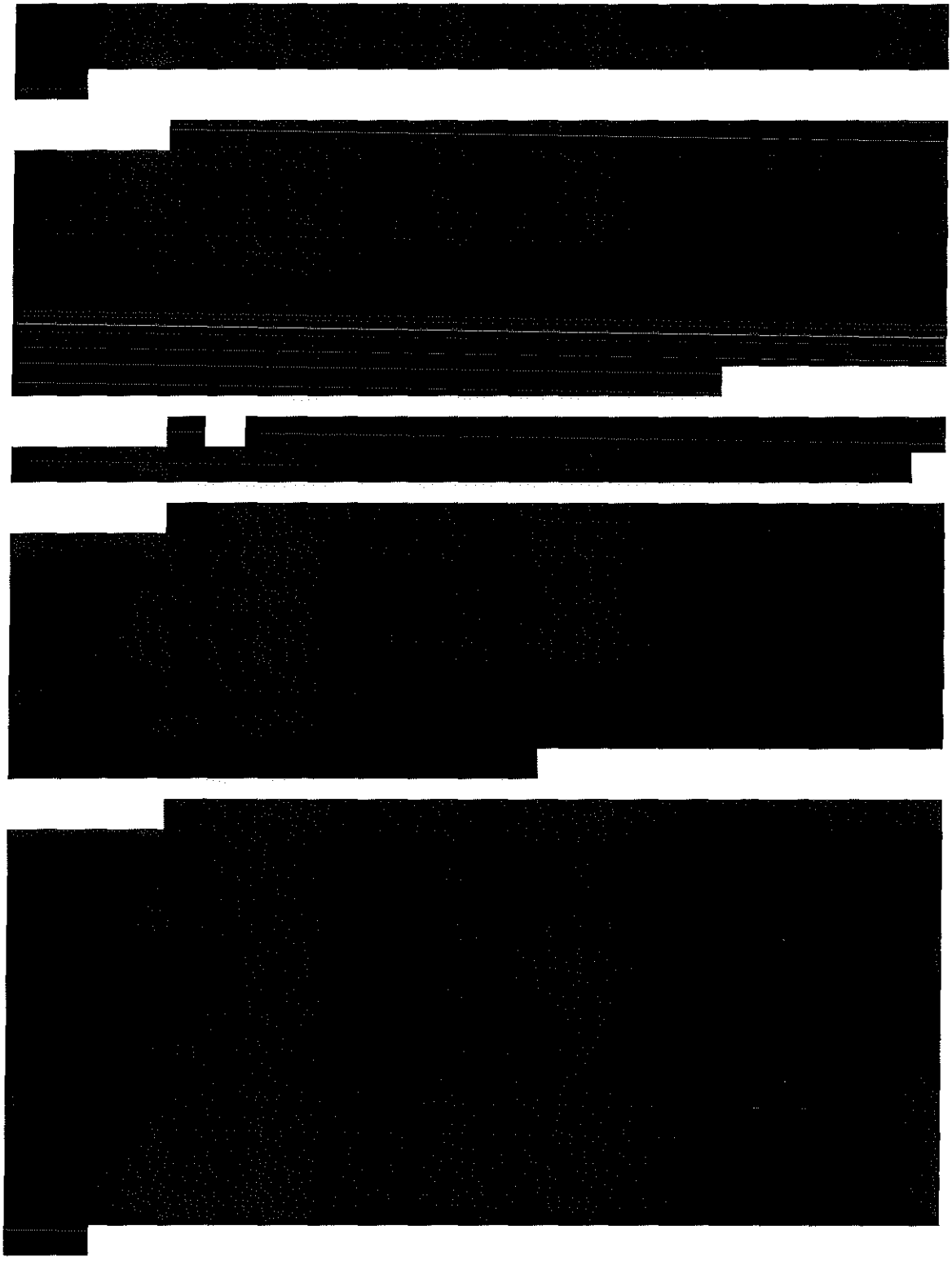
ARTICLE 3
PURCHASE PRICE AND PAYMENT

3.1 Purchase Price. Upon the terms and subject to the conditions set forth in this Agreement, Buyer shall make payment to Seller by wire transfer of immediately available funds to the accounts specified in writing by Seller for such purpose, as follows:

[redacted]



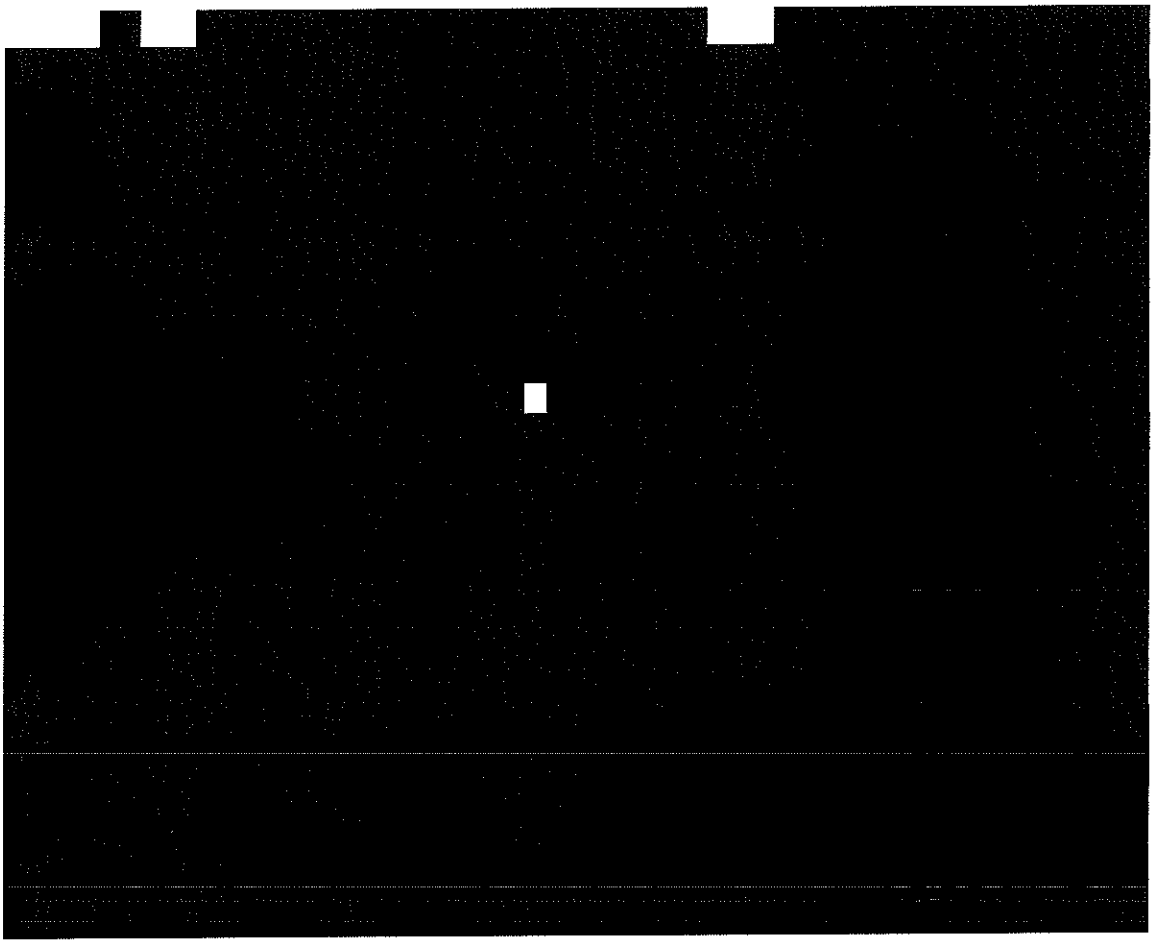




3.1.5 Audit Rights. Upon five (5) Business Days' prior notice to Buyer, Seller shall have the right, during normal business hours, to audit the accounts, books and records of Buyer (or its relevant Affiliates, including the Company) to the extent reasonably necessary to verify the accuracy of the reported electricity interconnected to,

and delivered via, the Project, and the calculation of any Subscription Payment and any STS Payments made pursuant to this Agreement. Any such audit(s) shall be undertaken by Seller, or its Representatives, accountants and attorneys, with reasonable frequency, at reasonable times and appropriate locations and in conformance with generally accepted auditing standards. Buyer shall, or shall cause its relevant Affiliates to, cooperate reasonably with any such audit. The costs of any audit shall be paid by Seller, unless the audit reveals a discrepancy or discrepancies in excess of five percent (5%) of the amounts reported in favor of Seller, in which case, Buyer shall pay the reasonable and documented costs of the audit. If the Parties agree that a supplemental Subscription Payment or STS Payment is due to Seller (as a result of information revealed by the audit, Buyer's error or otherwise), then Buyer shall make (or cause its relevant Affiliate to make) such payment to Seller within ten (10) Business Days of such agreement. If Buyer, in good faith, disputes any supplemental amount claimed due pursuant to an audit hereunder or other claim of error by Seller, Buyer shall notify Seller of the specific basis for the dispute and Buyer shall pay that portion of supplemental Subscription Payment or STS Payment, as applicable, that is undisputed, if any, on or before the due date.

3.2 Manner of Payment. Unless otherwise directed by Seller, Buyer shall pay the amounts due hereunder to Seller by wiring the applicable amounts in immediately available funds to the account designated by Seller on Schedule 3.2.



[redacted]

3.4 Transfer Taxes; Fees. Seller shall timely pay all Transfer Taxes and filing fees associated with the Transaction. If Seller does not timely pay any such amounts, Buyer may pay such amounts directly, and Seller agrees to promptly reimburse Buyer for any such amounts paid by Buyer. If Seller does not promptly reimburse Buyer for any such amounts, Buyer may setoff such amounts against any obligations of Buyer to Seller.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer (x) that the statements contained in this Article IV (excepting Section 4.24) are true and correct as of the Effective Date and (y) that the statements contained the Fundamental Representations in this Article IV, Section 4.19, and Section 4.24, and to Seller's Knowledge, Section 4.7, Section 4.9 and Section 4.10, (collectively, the representations referenced in this clause (y), "**Seller's Closing Date Reps**") are true and correct as of the Closing Date:

4.1 Organization. Each of Seller and the Company (a) has been duly formed, is validly existing and is in good standing under its jurisdiction of formation and (b) has been duly qualified to do business in and is in good standing in all jurisdictions in which its properties (or the character of its business) require such qualification, except where the failure to be so qualified would not materially affect its ability to perform such actions.

4.2 Authority. Seller has the requisite power and authority to own the Membership Interests, to execute and deliver this Agreement and the Ancillary Documents and to perform fully its obligations hereunder and thereunder and under the Project Contracts and Permits to which it is a party, including transferring, or causing the transfer of, the Membership Interests to Buyer. Company has the requisite power and authority to carry on its business as currently conducted.

4.3 Title to Membership Interests.

4.3.1 Seller is the lawful record and beneficial owner of the Membership Interests constituting one hundred percent (100%) of the issued and outstanding ownership, equity and voting interests in the Company. Seller owns the Membership Interests free and clear of all Liens except for applicable restrictions on transfer under federal and state securities laws.

4.3.2 There are no outstanding warrants, options, rights, or other securities, agreements, subscriptions or other commitments, arrangements or undertakings pursuant to which any Person is or may become obligated to issue, deliver or sell, or cause to be issued, delivered or sold, any additional ownership, equity or voting interests or other securities of the Company or to issue, grant, extend or enter into any such warrant, option, right security, agreement, subscription or other commitment, arrangement or undertaking.

4.3.3 There are no outstanding options, rights or other securities, agreements or other commitments, arrangements or undertakings pursuant to which the Company is or may become obligated to redeem, repurchase, or otherwise acquire or retire any Membership Interests or other securities of the Company or any securities of the type described in this Section 4.3.3, which are presently outstanding or which the Company is currently obligated to issue in the future.

4.3.4 There are no outstanding options, rights, or other securities, agreements or other commitments, arrangements or undertakings pursuant to which the Seller is or may become obligated to sell, transfer or assign any portion of the Membership Interests, or any securities of the type described in this Section 4.3.4 with respect to the Company, which are presently outstanding or which the Company is currently obligated to issue in the future.

4.3.5 There are no Contracts relating to the voting of the Membership Interests.

4.3.6 The Company is not obligated to make any distributions with respect to any Membership Interests.

4.4 Binding Effect. Seller has taken all necessary limited liability company action to authorize, effect and approve the transactions set forth in this Agreement and the Ancillary Documents, including transferring the Membership Interests to Buyer. This Agreement has been duly executed and delivered by Seller and constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity). Upon the execution and delivery by Seller or the Company of the Ancillary Documents to which it is a party, each such Ancillary Document will constitute the legal, valid and binding obligation of Seller or the Company, as applicable, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

4.5 No Violations. Seller's execution and delivery of this Agreement and the execution and delivery by Seller and the Company of the Ancillary Documents, together with the consummation and performance of their obligations hereunder and thereunder (including causing the transfer of the Membership Interests to Buyer) do not (a) conflict with or violate the organizational documents of Seller or the Company, (b) conflict with or violate or constitute a default or trigger any "change of control" rights, remedies under, or impose or create any Lien, acceleration of remedies, any buy-out right or any rights of first offer or refusal or of termination under any Project Contract, (c) conflict with or violate any Applicable Law or Order applicable to Seller, the Company, or any of their properties or assets, including the Project Assets or (d) require the consent or approval of

any Person, which has not already been obtained or will be obtained on or prior to the Closing Date and shall be delivered to Buyer prior to the Closing.

4.6 Project Assets.

4.6.1 Schedule 1.1(a) is a true, correct and complete list of all material Project Assets. To Seller's Knowledge, the Company has good, marketable and indefeasible title to all the Project Assets listed on Schedule 1.1(a), subject to any Permitted Liens.

4.6.2 Except as set forth on Schedule 4.6.2(i), to Seller's Knowledge, there are no condemnation or other land use proceedings by or before any Governmental Authority, now pending or threatened with respect to the Project, or any portion thereof, material to the development, construction, leasing, licensing, ownership, operation or maintenance of the Project that would adversely affect, interfere with or alter in any material respect the use of the Real Property or the development of the Project nor has Seller, the Company or any of their Affiliates received written notice of any pending special assessment proceedings affecting any portion of the Real Property which propose to impose new special assessments upon the Real Property or any portion thereof. Except as set forth on Schedule 4.6(ii), none of Seller, the Company or any of their Affiliates has received written notice of any proposals, plans, studies, or investigations of any Governmental Authority which has or could reasonably be expected to have a Material Adverse Effect.

4.6.3 Exhibit J provides a map identifying the Real Property and Schedule 4.6.3 is a true, correct and complete list of the Real Property Documents to which the Company is a party.

4.6.4 With respect to each of the Real Property Documents:

(a) each Real Property Document is legal, valid, binding, and enforceable against the Company and, to Seller's Knowledge, each other party thereto, in accordance with its terms;

(b) to Seller's Knowledge, each Real Property Document is in full force and effect and no defaults have occurred and are continuing thereunder, and no event has occurred which, with or without notice or lapse of time or both, would constitute a breach or default thereunder or permit termination, modification or acceleration by any party under any such Real Property Document, and, to Seller's Knowledge, neither Seller nor the Company has received from, or given to, any counterparty thereto any written notification that any event has occurred which (whether with or without notice, lapse of time or both) would constitute a material breach or default thereunder;

(c) true, correct and complete copies of the Real Property Documents and all amendments to any of the Real Property Documents have been Made Available to Buyer;

(d) no Real Property Document has been materially amended, modified or supplemented except as described in Schedule 4.6.3;

(e) all amounts due and payable by the Company through the Effective Date under any Real Property Document have been fully paid, and no counterparty to any such Real Property Document has any right to offsets or defenses in connection therewith;

(f) neither Seller nor the Company is required to deliver to any landowner or any other Person any letter of credit, cash deposit or any similar financial assurance under any Real Property Document;

(g) the Company is a party to each of the Real Property Documents and has not assigned or transferred all or any of its interests under the Real Property Documents to any Person; and

(h) there are no disputes, oral agreements or forbearance programs as to any of the Real Property Documents.

4.6.5 Except as set forth on Schedule 4.6.5, there are no commitments or agreements between Seller, the Company or any of their Affiliates and any Governmental Authority or public or private utility affecting the Real Property, or any portion thereof, or any improvements, the Obtained Permits or the Permit Applications.

4.6.6 Other than amounts payable pursuant to the Real Property Documents and applicable federal, state and local Taxes, there are no rents, royalties, fees, Taxes or other amounts payable or receivable by Seller or the Company in connection with any of the Real Property Documents.

4.6.7 Except for Clean Line Energy Partners, LLC, no Persons that are Affiliates of Seller (other than the Company) are involved in the development of the Project. No Affiliate of Seller (other than the Company) is party to any Project Contract.

4.6.8 There are no existing or continuing claims against the Project or the Project Assets by any prior developers of the Project (or partners of or investors in Seller, the Company, or any of their Affiliates).

4.6.9 Neither Seller nor the Company has used or operated under any other name, including a "doing business as" name or title. At no time during its existence has the Company had any subsidiaries, and the Company does not hold equity interests, directly or indirectly, in any other Person or have any obligation to acquire equity interests in any other Person and is not a participant in any joint venture, partnership or similar arrangement.

4.6.10 The Company does not hold any assets, is not party to any Contracts or other obligations, and has no Liabilities other than those related to the development of the Project. Since its formation, the Company does not conduct, and has

never conducted, (a) any business other than the development or ownership of the Project, or (b) any operations other than those incidental to the development or ownership of the Project. The Company has not incurred any capital expense or acquired any real or personal property other than as specifically related to the Project.

4.7 Taxes.

4.7.1 Buyer shall not be liable for Taxes of Seller except: (i) as set forth on Schedule 4.7 and (ii) for Taxes due on or after the Closing Date (the "**Post-Closing Period**").

4.7.2 All material Tax Returns required to have been filed by or with respect to Seller, the Company, the Project and the Project Assets have been duly and timely filed (or, if due between the date hereof and the Closing Date (the "**Pre-Closing Period**"), will be duly and timely filed), and each such Tax Return was true correct and complete in all material respects. All Taxes required to be paid by Seller, the Company or with respect to the Project or any of the Project Assets (whether or not shown or required to be shown on any Tax Return) during the Pre-Closing period have been, or will be duly and timely paid. Each of Seller and the Company has adequately provided for and fully accrued, in its books of account and related records, liability for all Taxes relating to the Pre-Closing Period, even if not yet due and payable.

4.7.3 There is no action or audit now pending, threatened, or to Seller's Knowledge, proposed action or audit against, or with respect to, Seller, the Company, the Project or any of the Project Assets in respect of any Taxes. Neither Seller nor the Company is the beneficiary of any extension of time within which to file any Tax Return, nor has Seller or the Company made (or had made on its behalf) any requests for such extensions. There are no Liens (except Permitted Liens) for Taxes on any of the Project Assets. Neither the Seller nor the Company has commenced a voluntary disclosure proceeding in any state or local or non-U.S. jurisdiction that has not been fully resolved or settled.

4.7.4 Each of Seller and the Company has withheld and paid all material Taxes required to be withheld or collected by the Company in a timely manner, and has complied in all material respects with all information reporting and backup withholding requirements, including maintenance of required records with respect thereto.

4.7.5 There is no dispute or claim concerning any liability for Taxes with respect to Seller, the Company or the Project Assets for which written notice has been provided, threatened or asserted, or which is otherwise Known to Seller. No issues have been raised in any examination by any Governmental Authority with respect to Seller or the Company that, by application of similar principles, reasonably could be expected to result in a proposed deficiency for any other Tax period of such Person not so examined for which the statute of limitations has not closed. Neither Seller nor the Company has waived (and is not subject to a waiver of) any statute of limitations in respect of Taxes or agreed to (and is not subject to) any extension of time with respect to a Tax assessment or deficiency.

4.7.6 Except as provided in Schedules 4.6.5 and 4.7, neither Seller nor the Company has received (or is subject to) any ruling from any Governmental Authority or entered into (or is subject to) any agreement with a Governmental Authority with respect to Taxes (other than with respect to property Taxes unrelated to the Project).

4.7.7 None of Seller, the Company or any of their Affiliates is party to any Tax allocation or sharing agreement.

4.7.8 For purposes of Section 1445(b)(2) of the Code, neither Seller nor the Company is a "foreign person" as defined in Section 1445(f)(3) of the Code.

4.7.9 Neither the Seller nor the Company has received a material Tax holiday or Tax incentive or grant in any jurisdiction that based on applicable Law could be subject to recapture at or following the Closing.

4.7.10 The Company has never been a party to any "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code or Treasury Regulation Section 1.6011-4.

4.7.11 Each of Seller and the Company is treated as a "disregarded entity" for U.S. federal income tax purposes pursuant to Treasury Regulation Section 301.7701-3(b)(1)(ii) and has been at all times since its formation a "disregarded entity" for federal income tax purposes and applicable state and local income tax purposes and no elections have been filed with the IRS or with any state or other jurisdiction to treat either Seller or the Company as an association taxable as a corporation.

4.8 Consents and Approvals. Except as set forth on Schedule 4.8, neither Seller nor the Company is, nor will Seller or the Company be, required to give any notice or obtain any consent, approval, order or authorization of or registration, declaration or filing with or exemption from (collectively, the "Seller Consents and Approvals") any Governmental Authority or any other Person in connection with the execution and delivery of this Agreement or the Ancillary Documents or the consummation of the transfer of the Membership Interests to Buyer.

4.9 Compliance with Law. The Company has complied in all material respects with all Applicable Laws and Orders, and neither Seller nor the Company has received any written notice of any non-compliance with, or any violation of, any Applicable Law or Order. To Seller's Knowledge, Seller and each of Seller's Affiliates have complied in all material respects with all Applicable Laws and Orders related to the Project Assets and the Project, and Seller has no Knowledge of any non-compliance with, or any violation of, any Applicable Law or Order by Seller or any of Seller's Affiliates (including the Company).

4.10 Litigation. Except as set forth in Schedule 4.10, none of Seller, the Company and any of their Affiliates has received written notice of any Proceeding, and there is no Proceeding pending or, to Seller's Knowledge, threatened in writing against

Seller related to the Project, the Company or that relates in any way to the Project, this Agreement or the Ancillary Documents or any Project Assets.

4.11 Project Contracts.

4.11.1 Schedule 4.11.1 is a true, correct and complete list of the Project Contracts, and there has not been any amendment, waiver or termination of any Project Contract other than as set forth on such Schedule 4.11.1.

4.11.2 Each Project Contract has been duly authorized, executed and delivered as applicable by the Company, Seller, and their Affiliates, and constitutes a legal, valid, binding and enforceable agreement of such Person, and, to Seller's Knowledge, the respective counterparties thereto, and will not be rendered invalid or unenforceable as a result of the transactions contemplated by this Agreement and the Ancillary Documents, except, in each case, as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights and subject to general equitable principles.

4.11.3 None of the Company, Seller or any of their Affiliates, or, to Seller's Knowledge, any other Person, is in material breach of or in default under any Project Contract to which such Person is a party, and no event has occurred which with the passage of time or giving of notice or both would constitute such a default, result in a loss of material rights or permit termination or acceleration under, or result in the creation of any Lien under any Project Contract. None of the Company, Seller or any of their Affiliates has waived any of its material rights under any Project Contract.

4.11.4 True, correct and complete copies of all Project Contracts have been Made Available to Buyer.

4.12 Financial Statements; No Undisclosed Liabilities.

4.12.1 Financial Statements. Seller has Made Available to Buyer true and correct copies of the Company's unaudited balance sheet (the "Balance Sheet") as of the Balance Sheet Date, and the related unaudited statement of income and cash flows for the year-to-date period then ended, each certified by an officer or authorized representative of the Company (together with the Balance Sheet, the "Financial Statements"). The Financial Statements (a) have been prepared in accordance with GAAP (or are accompanied by GAAP reconciliations, other than footnotes), using the same accounting principles, policies and methods as have been historically used in connection with the calculation of the items reflected thereon, and (b) present fairly in all material respects the financial condition of the Company as of the Balance Sheet Date.

4.12.2 No Undisclosed Liabilities. The Company has no Liability that would be required to be disclosed in a balance sheet prepared in accordance with GAAP, except Liabilities (a) under Project Contracts, (b) reflected or reserved in the Financial Statements, or (c) incurred pursuant to this Agreement.

4.13 Environmental Matters.

4.13.1 Except as provided in Schedule 4.13.1, neither Seller nor the Company is subject to any binding and enforceable orders issued by a court or Governmental Authority with jurisdiction over the Project or applicable Real Property, or any consent decree with such a Governmental Authority, in each case relating to protection of the Environment related to the Project: (a) including any requirements related to soil, environmental, cultural, habitat, water or geologic resources, (b) including any requirements related to Releases of petroleum and petroleum-derived products, pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes (collectively, "Hazardous Substances"), (c) relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Substances, or (d) including the requirements set forth in Environmental Laws.

4.13.2 There are no pending Environmental Claims or, to Seller's Knowledge, Environmental Claims threatened in writing arising under or pursuant to any Environmental Law or Environmental Permit asserting any actual or potential Environmental Event or violation or future violation of any Environmental Law with respect to or affecting the Project. There are no other pending Environmental Claims or, to Seller's Knowledge, Environmental Claims threatened in writing with respect to or affecting the Project.

4.13.3 Except as set forth in any of the Reports and Studies, none of Seller, the Company, or their Affiliates has and, to Seller's Knowledge, no other Person has made, caused or allowed any (a) Releases of Hazardous Substances which have occurred on the Real Property that is the subject of a Real Property Document, or (b) Releases of Hazardous Substances which have occurred immediately adjacent to the Real Property that is the subject of a Real Property Document, in each case which are or were required to be investigated or reported by Seller, the Company, or their Affiliates, or with respect to the Project or any Project Assets, under any Environmental Law.

4.14 Permits. Part I of Schedule 4.14 includes all Permits obtained by the Company or obtained by Seller or any Seller Affiliate with respect to the Project. Part II of Schedule 4.14 lists all Permits for which the Company has filed applications (but has not yet received Permits) or for which Seller or a Seller Affiliate (other than the Company) has filed applications (but has not yet received Permits) with respect to the Project. Seller has Made Available to Buyer true, correct and complete copies of all applications and Permits listed in Part I and Part II of Schedule 4.14. Each Permit listed on Part I of Schedule 4.14 was validly issued, is in full force and effect and, except as set forth on Part III of Schedule 4.14, is not subject to an appeal or otherwise appealable, and has not been modified, revoked or amended since its issuance.

4.15 Reports and Studies. Seller has Made Available to Buyer true, correct and complete copies of the Reports and Studies listed on Schedule 4.15. Schedule 4.15 includes a list of all material Reports and Studies and all Reports and Studies obtained since the date that is two (2) years prior to the Effective Date. "Reports and Studies"

means reports, studies, and tests prepared by any third party (and all amendments and supplements thereto) related to the Project or the Project Assets, prepared, commissioned by, or delivered or available to, Seller or any Affiliate of Seller, including any such reports, studies and tests that address any of the following matters in connection with the Project: the Real Property, design studies, geotechnical studies, transportation studies, environmental studies, engineering studies, anthropological studies, geotechnical studies, geological studies, cultural resources studies, feasibility studies, air studies, transmission or interconnection studies, flora and fauna studies, wildlife studies (including endangered or threatened species), state department of transportation analyses, zoning studies, and visual impact studies.

4.16 Brokers or Finders. Except as set forth on Schedule 4.16, none of Seller, the Company and any of their Affiliates has engaged any broker, finder or other agent with respect to the transactions contemplated by this Agreement and the Ancillary Documents, any sale or financing of the Project, for which Buyer or the Project could become, or are, liable or obligated and no broker, finder or other agent is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement.

4.17 Regulatory Matters.

4.17.1 Neither Seller nor the Company is an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act of 1940.

4.17.2 Each of Seller and the Company is in compliance with PUHCA and the FPA, to the extent applicable. Neither Seller nor the Company is a "public utility" as that term is defined under Section 201(e) of the FPA or a "transmitting utility" as that term is defined under Section 3(24) of the FPA. Neither Seller nor the Company is (a) a "public-utility company," (b) a "holding company" of any "public-utility company," or (c) a "subsidiary company" of a "holding company" or any "public-utility company" under PUHCA.

4.17.3 Other than as regulated by the energy or public utility regulatory commissions in Kansas, Illinois, Indiana or Missouri or by any local governmental agencies or bodies in those states, neither Seller nor the Company is subject to regulation as a "public utility" or an "electrical corporation" or an "electric utility" or any equivalent entity under state or local laws and regulations governing such entities.

4.18 Intellectual Property.

4.18.1 None of Seller, the Company or any of their Affiliates has any Intellectual Property necessary for the development or use of the Project.

4.18.2 To Seller's Knowledge, neither Seller nor the Company has (a) infringed upon or misappropriated any Intellectual Property rights of any Person or (b) received any written charge, complaint, claim, demand, or notice alleging any such

interference, infringement, misappropriation, or violation (including any written claim that a Person must license or refrain from using any Intellectual Property rights of any such Person in connection with the Project).

4.19 Solvency. No petition or notice has been presented, no order has been presented, no order has been made and no resolution has been passed for the bankruptcy, liquidation, winding-up or dissolution of Seller, the Company or any Affiliate of Seller. No receiver, trustee, custodian or similar fiduciary has been appointed over the whole or any part of the Project Assets or the income of Seller, the Company or any Affiliate of Seller, nor does Seller or the Company have any plan or intention of, or have received any notice that any other Person has any plan or intention of, filing, making or obtaining any such petition, notice, order or resolution seeking the appointment of a receiver, trustee, custodian or similar fiduciary. Each of Seller and the Company is solvent and has sufficient assets and capital to carry on its businesses as now conducted and to perform its obligations hereunder.

4.20 Support Obligations. Except as set forth on Schedule 4.20, no Support Obligations have been issued or posted for the account of the Company.

4.21 Insurance. Schedule 4.21 sets forth a list, as of the date hereof, of all insurance policies maintained by Seller or the Company that insure the Company, the Project or the Company Assets (the "**Project Insurance Policies**"). Such Project Insurance Policies are (a) in full force and effect, all premiums with respect thereto covering all periods up to and including the date as of which this representation is being made have been paid (other than retroactive premiums which may be payable with respect to comprehensive general liability insurance policies), and (b) no notice of cancellation or termination has been received by the owner or holder of any such Project Insurance Policy with respect to any such policy which was not replaced on substantially similar terms prior to the date of such cancellation. Except as set forth on Schedule 4.21, there are no pending claims under the Project Insurance Policies and no Project Insurance Policy provides for any retrospective premium adjustment or other experience-based liability on the part of Seller or the Company.

4.22 Employees; Benefit Plans; Labor Matters.

4.22.1 The Company does not have, nor has it ever had, any employees.

4.22.2 The Company has never sponsored, maintained or contributed to any Benefit Plan. There do not exist now, nor do any circumstances exist that reasonably could be expected to impose, any Liability on the Company with respect to any Benefit Plan that any Person maintains or in the past maintained (or to which such Person ever contributed or was required to contribute) if such Person, together with the Company, could be deemed a single employer within the meaning of Section 4001(b) of ERISA.

4.22.3 The Company is not nor has ever been a party to any collective bargaining agreement or other labor Contract. There has not been, there is not now pending or existing, and, to Seller's Knowledge, there is not threatened, any strike,

slowdown, picketing, work stoppage, employee grievance process, organizational activity, or other material labor dispute involving the Project, or the Company.

4.23 Information. Seller has disclosed and made available to Buyer all material information related to the Project and Known to Seller and to which Seller acquired Knowledge within the two (2) years immediately preceding the Effective Date. To Seller's Knowledge, there is no information Seller has not disclosed to Buyer, or that is not Known by Buyer, that could reasonably be expected to have a Material Adverse Effect.

4.24 Interim Period Information. As of the Closing Date, to Seller's Knowledge, there is no information Known to Seller and to which Seller acquired Knowledge during the Interim Period that Seller has not disclosed to Buyer, or that is not Known by Buyer, and that could reasonably be expected to have a Material Adverse Effect.

4.25 No Other Representations and Warranties. Except for the representations and warranties contained in this Article IV (including the related portions of the Disclosure Schedules), none of the Seller, the Company or any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Seller, the Company or their Subsidiaries, including as to the future revenue, profitability or success of the Company or the Project.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF BUYER

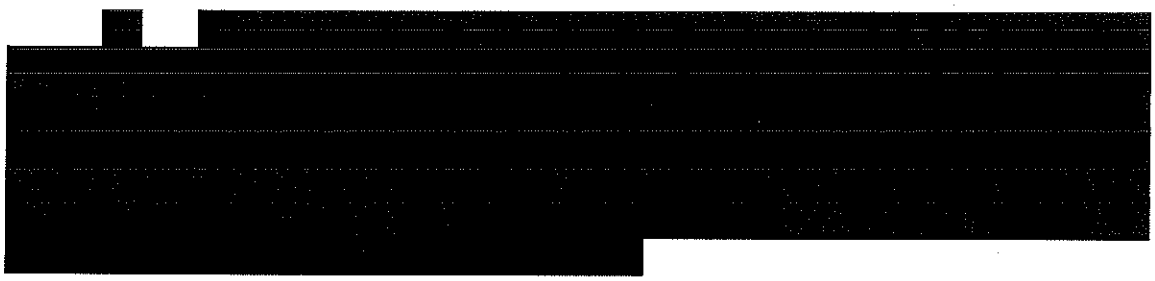
As of the Effective Date and the Closing Date, Buyer hereby represents and warrants to Seller the following:

5.1 Organization. Buyer (a) has been duly incorporated, is validly existing and is in good standing under its jurisdiction of formation and (b) has been duly qualified to do business in and is in good standing in all jurisdictions in which its properties (or the character of its business) requires such qualification.

5.2 Authority. Buyer has the requisite power and authority to execute and deliver this Agreement and to perform fully its obligations hereunder.

5.3 No Violations. Buyer's execution and delivery of this Agreement, together with the performance of its obligations hereunder do not (a) violate the organizational documents of Buyer, (b) violate or constitute a default under any material agreement or instrument to which Buyer is a party or by which Buyer may be bound, (c) violate any Applicable Law, order, writ, injunction, decree, statute, rule or regulation applicable to Buyer, or its properties or assets, or (d) as of the Closing Date, require the consent or approval of any Person, which has not already been obtained or which, if not obtained, could reasonably be expected to have a material adverse effect on Buyer's ability to consummate the Transaction.

5.4 Binding Effect. As of the Effective Date, Buyer has taken all corporate action necessary as of the Effective Date to authorize, effect and approve the transactions set forth herein. As of the Closing Date, Buyer has taken all corporate action necessary as of the Closing Date to authorize, effect and approve the transactions set forth herein. This Agreement has been duly executed and delivered by Buyer and constitutes a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).



5.6 Brokers or Finders. Buyer has not engaged any broker, finder or other agent with respect to the transactions contemplated by this Agreement, any purchase or financing of the Project for which Seller could become, or is, liable or obligated and no broker, finder or other agent is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement.

5.7 Investment Purpose. Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any public distribution thereof. Buyer acknowledges that the Membership Interests are not registered under the Securities Act of 1933, as amended, or any state securities laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act of 1933, as amended or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

5.8 Sufficiency of Funds. Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the amount payable by Buyer to Seller as and when required pursuant to Section 3.1.1.

5.9 Legal Proceedings. Buyer has not received written notice of any Proceeding, and there is no Proceeding pending or, to Buyer's knowledge, threatened in writing against Buyer which seeks a writ, judgment, order, injunction or decree restraining, enjoining or otherwise prohibiting or making illegal any of the transactions contemplated under this Agreement or the Ancillary Documents.

5.10 No other Representations and Warranties. Notwithstanding anything to the contrary contained in this Agreement, Seller agrees that Buyer is making no

representation or warranty whatsoever, express or implied, except those applicable representations and warranties contained in this Article 5.

ARTICLE 6
CONDITIONS PRECEDENT

6.1 Conditions Precedent.

6.1.1 Conditions Precedent to Buyer's Obligation to Close. The obligations of Buyer to consummate the Transaction and take the other actions required to be taken by Buyer on or prior to the Closing Date are subject to the satisfaction of each of the following conditions (except to the extent waived in writing by Buyer) on or prior to the Closing Date:

(a) Representations and Warranties. All of the representations and warranties of Seller in this Agreement shall have been true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representations or warranty not qualified by materiality or Material Adverse Effect) on and as of the Effective Date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). All of Seller's Closing Date Reps shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representations or warranty not qualified by materiality or Material Adverse Effect) on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). Other than Seller's Closing Date Reps, the representations and warranties of Seller in Article 4 of this Agreement shall be true and correct in all respects as of the Closing Date (except for those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date), except where the failure of such representations and warranties to be true and correct would not reasonably be expected to have a Material Adverse Effect. Notwithstanding anything to the contrary, all of Seller's representations and warranties shall be modified, if applicable, pursuant to the terms of Section 7.9 hereof.

(b) Covenants. Seller shall have performed and complied with all agreements and covenants required by this Agreement to be performed or complied with by Seller prior to or on the Closing Date.

(c) Closing Deliverables. Seller shall have delivered or caused to be delivered to Buyer the following:

(i) the Assignment of Membership Interests duly executed by Seller;

(ii) a certificate of an appropriate officer of Seller in the form attached hereto as Exhibit C, dated as of the Closing Date, certifying to the effect of clauses (a) and (b) of this Section 6.1.1;

(iii) a certificate of the secretary of Seller, dated as of the Closing Date, in the form of Exhibit C, certifying as to and, as applicable, attaching copies of (i) the organizational documents of Seller and the Company, (ii) resolutions authorizing the execution, delivery and performance of this Agreement and each Ancillary Document to which Seller or the Company is a party and the consummation by Seller of the transactions contemplated hereby and thereby, (iii) the incumbency of the officers of Seller executing this Agreement and the Ancillary Documents to be executed by Seller on the Closing Date as contemplated herein; and (iv) good standing certificates of the Company and Seller, dated no earlier than five (5) Business Days prior to the Closing Date;

(iv) a certificate from Seller, in the form of Exhibit E, as to the non-foreign status of Seller, satisfying in all respects the requirements of Section 1.1145-(2)(b)(2) of the Treasury Regulations;

(v) evidence that all of the Project Assets that were not in the name of the Company as of the Effective Date have been duly transferred to the Company on terms reasonably acceptable to Buyer and that all third-party consents to effect any such transfer have been obtained, in each case, in form and substance reasonably acceptable to Buyer;

(vi) copies of all Real Property Documents, and, to the extent in Seller's possession, originals of all Real Property Documents, and, to the extent in Seller's possession, copies of any Title Reports or Surveys;

(vii) copies of all Project Contracts, Obtained Permits, Permit Applications, Books and Records (that are in Seller's possession), Reports and Studies; and

(viii) such other certificates, instruments or documents required by the provisions of this Agreement or otherwise necessary or appropriate to transfer the Membership Interests in accordance with the terms hereof and consummate the Transaction, and to vest in Buyer or its Affiliates and its or their successors and assigns full, complete, absolute, legal and equitable title to the Membership Interests, free and clear of all Liens.

(d) No Liens. Buyer shall have received the results through a date that is within ten (10) Business Days of the Closing Date (or through such earlier date as Buyer may agree, in its sole discretion), of: (i) searches of the UCC records of the applicable Secretaries of State against Seller, Company and any other person or entity from whom Seller or Company acquired the Project Assets, evidencing that no UCC financing statements have been filed against (A) Seller in respect of the Membership Interests, or (B) any of the Project Assets; and (ii) Tax Lien, judgment and litigation

searches and searches of any other appropriate records that Buyer reasonably and timely requests of Seller in Kansas, Missouri, Indiana and Illinois evidencing that no other Lien exists against the Membership Interests and that no other Lien (other than a Permitted Lien) exists against any of the Project Assets.

(e) Material Adverse Effect. Since the Effective Date, no event or condition has occurred which has or could reasonably be expected to have a Material Adverse Effect that has not ceased to exist prior to the Closing.

(f) Regulatory Approvals. Subject to Buyer's termination rights in Section 6.3.3 below (including that the RA Confirmation Date shall have occurred without termination of this Agreement), each of the MPSC Approvals and the KCC CP Certificate Matters shall have been issued and be effective.

6.1.2 Conditions Precedent to Seller's Obligation to Close. The obligations of Seller to consummate the Transaction and take the other actions required to be taken by Seller on or prior to the Closing Date are subject to the satisfaction of each of the following conditions (except to the extent waived in writing by Seller) on or prior to the Closing Date:

(a) Representations and Warranties. All of the representations and warranties of Buyer in this Agreement shall have be true and correct in all material respects as of the Effective Date and the Closing Date (except, in each case, to the extent that any of representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date).

(b) Covenants. Buyer shall have performed and complied in with all agreements and covenants required by this Agreement to be performed or complied with by Buyer prior to or on the Closing Date.

(c) Closing Deliverables. Buyer shall have delivered or caused to be delivered to Seller the following:

(i) the Assignment of Membership Interests, duly executed by Buyer;

[redacted]

(iii) a certificate of an appropriate officer of Buyer in the form attached hereto as Exhibit F, dated as of the Closing Date, certifying to the effect of clauses (a) and (b) of this Section 6.1.2; and

(iv) a certificate of the secretary of Buyer, dated as of the Closing Date, in the form of Exhibit F, certifying as to and, as applicable, attaching copies of (i) organizational documents of Buyer, (ii) resolutions authorizing the

execution, delivery and performance of this Agreement and each Ancillary Document to which Buyer is a party and the consummation by Buyer of the transactions contemplated hereby and thereby, (iii) the incumbency of the officers of Buyer executing this Agreement and the Ancillary Documents to be executed by Buyer on the Closing Date as contemplated herein; and (iv) a good standing certificate dated no earlier than five (5) Business Days prior to the Closing Date.

(d) Closing Payment. Buyer shall have paid to Seller the Closing Payment.

(e) Consents and Approvals. Buyer shall have obtained the Buyer Consents and Approvals (provided that, if Buyer waives any Buyer Consent or Approval and the Parties are able to consummate the Transaction pursuant to Section 6.1.4, Seller shall be deemed to have waived this condition precedent to Closing).

6.1.3 Conditions to Obligations of Each Party to Close. The respective obligations of each Party to consummate the Transaction and take the other actions required to be taken by each Party on or prior to the Closing Date shall be subject to the satisfaction of the following conditions (unless waived in writing by Buyer or Seller, as applicable): (a) there shall not be in effect any Order issued by any Governmental Authority preventing the consummation of the Transaction, seeking any Damages as a result of the Transaction, or otherwise materially and adversely affecting the right or ability of the Company to develop, construct, own, lease, license, operate or maintain the Project or the Project Assets or of Buyer to acquire the Membership Interests, nor shall any Proceeding be pending that seeks any of the foregoing; and (b) there shall not be any Applicable Law prohibiting Seller from selling the Membership Interests, prohibiting Buyer from acquiring the Membership Interests or prohibiting the Company from developing, constructing, owning, leasing, licensing, operating or maintaining the Project or the Project Assets, or that makes this Agreement or the consummation of the Transaction illegal.

6.1.4 Waiver of Conditions. If a Party's election to waive a condition precedent to Closing in this Section 6.1 (or any portion thereof) and to cause Closing to occur would result in it being unlawful for Seller or the Company to consummate this Transaction, then the Parties shall mutually agree on an approach to consummate the Transaction (which may include Seller or the Company transferring Project Assets or terminating any Contracts or Permits) so that the Transaction can be consummated without violating any applicable laws (and each Party agrees that if there is any approach that allows the Transaction to be consummated without violating any applicable laws, each Party agrees to such approach), but any such transfer of Project Assets or termination of Contracts or Permits shall not affect any of the other terms of this Agreement. If the Closing occurs, then all conditions precedent to such Closing set forth in this Section 6.1 shall be deemed to have been satisfied or waived by the Party benefited by such conditions.

6.2 Obligations Related to Conditions Precedent. Seller shall use commercially reasonable efforts to cause each of the conditions specified in Section 6.1.1

to be satisfied on or before the Outside Date. Buyer shall use commercially reasonable efforts to cause each of the conditions specified in Section 6.1.2 to be satisfied on or before the Outside Date.

6.3 Termination. The obligations of Buyer and Seller to consummate the Transaction may be terminated prior to the Closing by any Party by the delivery by either Party of a written notice to the other Party stating that this Agreement is being terminated, at any time after 11:59 pm (Central Time) on the date that is fifteen (15) months after the Effective Date (which may be extended by agreement of the Parties, the "**Outside Date**"), if by such time all of the conditions precedent set forth in Article 6 have not been satisfied (or waived in writing by Buyer or Seller, as applicable); provided, that the terminating party is not, on the date of termination, in material breach of any provision of this Agreement. If Buyer determines, in its reasonable discretion, that the conditions set forth in Section 6.1.1(c) (Closing Deliverables), Section 6.1.1(e) (Material Adverse Effect) or Section 6.1.1(f) (Regulatory Approvals) cannot be met on or prior to the Outside Date, Buyer shall be entitled to terminate this Agreement by providing written notice to Seller. Notwithstanding anything to the contrary contained in this Agreement, either Buyer or Seller (as indicated below) shall have the right, prior to the Closing Date, to terminate this Agreement if any of the following events shall have occurred prior to the Closing Date:

6.3.1 If all or any material portion of the Project Assets are taken or threatened to be taken by a condemnation, eminent domain or similar Proceeding (a "**Condemnation**"), Seller shall notify Buyer promptly in writing of such fact. Subject to the next sentence, Seller may at its sole option in accordance with Prudent Industry Practices repair or replace any such Project Assets. If such asset is (i) not replaced within seven (7) Business Days after Condemnation and (ii) the exclusion of such asset from the Project Assets could reasonably be expected to have a Material Adverse Effect, then Buyer shall be entitled to terminate this Agreement by providing written notice to Seller and Seller shall be under no obligation to replace or repair such asset.

6.3.2 If, all or any material portion of the Project Assets are expropriated or are the subject of a pending or, to the Knowledge of Seller, contemplated expropriation which has not been consummated, Seller shall notify Buyer promptly in writing of such fact. Subject to the next sentence, Seller shall at its sole option replace or repair any expropriation to the Project Assets in accordance with Prudent Industry Practices. If such expropriation would have a Material Adverse Effect or the Project Assets expropriated have not been repaired or replaced, Buyer shall be entitled to terminate this Agreement by providing written notice to Seller and Seller shall be under no obligation to replace or repair any expropriation.

6.3.3 Buyer shall be permitted to terminate this Agreement by providing written notice to Seller, at any time after the issuance of any of the KCC CP Certificate Matters and the MPSC Approvals and before the date that is within two (2) Business Days after the expiration of the last to expire statutory appeal period that is applicable to the issuance or approval of the MPSC Approvals (by the MPSC) or the KCC CP

Certificate Matters (by the KCC) (such later date, the "**RA Confirmation Date**"), that any of such MPSC Approvals or KCC CP Certificate Matters either (i) includes, with respect to the KCC CP Certificate Matters, a condition imposed by the KCC with respect to the KCC CP Certificate Matters that is not included in the KCC Certificate as of the Effective Date, (ii) includes, with respect to the MPSC Approvals, a condition imposed by the MPSC with respect to the MPSC Approvals that is not included in the conditions that Company agreed to accept in Section IV: Conditions Related to the Project, of the Initial Post-Hearing Brief of Applicant Grain Belt Express Clean Line LLC (MPSC Docket No EA-2016-0358), or (iii) is subject to an actual appeal by any individual or group opposed to the Project. As used in this Section 6.3.3, "statutory appeal period" shall mean, with respect to each of the MPSC Approvals and the KCC CP Certificate Matters, the appeal period prescribed by statute or applicable regulations within which the Company or any other Person may challenge or appeal the approval of such MPSC Approval or such KCC CP Certificate Matter, but shall not include any additional appeal period that may be available to the Company or any other Person that challenges or appeals such approval after the expiration of such initial appeal period. Buyer's written notice delivered pursuant to this Section 6.3.3 shall state the basis upon which Buyer asserts that any of the circumstances in clauses (i), (ii) or (iii) above have occurred. Buyer's failure to terminate this Agreement pursuant to this Section 6.3.3 with respect to any of the MPSC Approvals or KCC CP Certificate Matters on or before the RA Confirmation Date shall constitute Buyer's acceptance of all of the KCC CP Certificate Matters and the MPSC Approvals and Buyer's waiver of its right to terminate this Agreement pursuant to this Section 6.3.3.

6.3.4 If any of the KCC Certificate, the KCC CP Certificate Matters (after their issuance), or the MPSC Approvals (after their issuance) is rescinded or amended (and if such amendment would have a Material Adverse Effect) and was not the result, directly or indirectly, of any action of Buyer or its Affiliates, Buyer shall be entitled to terminate this Agreement by providing written notice to Seller.

6.3.5 If a Governmental Authority shall have issued an Order or taken any other action (which Order the Parties hereto shall use their commercially reasonable efforts to lift) permanently restraining, enjoining or otherwise prohibiting the Transaction and such Order or other action shall have become final and non-appealable, either Party shall be entitled to terminate this Agreement by providing written notice to the other Party.

6.3.6 If a Material Adverse Effect shall have occurred, which (a) cannot be cured on or before ten (10) Business Days after such occurrence and (b) has not been waived by Buyer, then Buyer shall be entitled to terminate this Agreement by providing written notice to Seller.

6.3.7 If Seller or the Company shall become insolvent, or shall suffer or consent to or apply for the appointment of a receiver, trustee, custodian or liquidator of itself or any of its property, or shall generally fail to pay its debts as they become due, or shall make a general assignment for the benefit of creditors; or shall file a voluntary

petition in bankruptcy, or seeking reorganization, in order to effect a plan or other arrangement with creditors or any other relief under the Bankruptcy Reform Act, Title 11 of the United States Code, as amended or recodified from time to time ("**Bankruptcy Code**"), or under any state or federal law granting relief to debtors, whether now or hereafter in effect; or shall file an answer admitting the jurisdiction of the court and the material allegations of any involuntary petition; or shall be adjudicated a bankrupt, or an order for relief shall be entered against such Person by any court of competent jurisdiction under the Bankruptcy Code or any other applicable state or federal law relating to bankruptcy, reorganization or other relief for debtors; then Buyer shall be entitled to terminate this Agreement by providing written notice to Seller.

6.3.8 If the Development Management Agreement [redacted] is rescinded, terminated or rendered unenforceable for any reason, or the Company or Seller is in material default under the Development Management Agreement or [redacted], then Buyer shall be entitled to terminate this Agreement by providing written notice to Seller.

6.3.9 This Agreement may be terminated by Buyer in accordance with Section 7.9.

6.3.10 This Agreement may be terminated by Buyer if Seller is in material default under this Agreement and such default is not cured within thirty (30) days after written notice from Buyer.

6.3.11 This Agreement may be terminated by Seller if Buyer is in material default under this Agreement and such default is not cured within thirty (30) days after written notice from Seller.

6.3.12 This Agreement may be terminated at any time by the mutual written consent of Buyer and Seller.

6.4 Effect of Termination. If this Agreement is terminated pursuant to Section 6.3, all rights and obligations of the Parties hereunder shall terminate and no Party shall have any liability to the other Party, except for the rights and obligations of the Parties in Section 3.3 (*Interconnection Support Obligation*), this Section 6.4 and in Section 7.2.1 (*Payment of Seller Support Costs*), Article 8 (*Survival; Indemnification*), Article 9 *(Notices)*, Sections 10.1 *(Expenses)*, 10.3 *(Confidentiality)*, 10.4 *(Dispute Resolution)*, 10.14 *(Specific Performance)*, and 10.15 *(Public Announcements)*, which shall survive the termination of this Agreement. Notwithstanding anything to the contrary contained herein but subject to Section 7.9 herein, termination of this Agreement pursuant to Section 6.3 shall not release any Party from any liability for any breach by such Party of the terms and provisions of this Agreement prior to such termination.

ARTICLE 7
COVENANTS OF BUYER AND SELLER

7.1 Development Management Agreement.

7.1.1 Engagement. Seller and the Company have engaged Buyer to manage the development of the Project during the Interim Period pursuant to and in accordance with the Development Management Agreement. Pursuant to the Development Management Agreement [redacted] during the Interim Period, Buyer shall control, perform, execute and fund the development of the Project, including the Project's day to day activities and affairs, ordinary course matters, significant matters and strategic direction and decisions, all in accordance with and as more fully set forth in the Development Management Agreement. The Development Management Agreement grants Buyer agency authority to perform such activities on behalf of the Project, Seller and the Company, including the authority to execute documents on behalf of, and bind, the Project, Seller and the Company, all in accordance with and as more fully set forth in the Development Management Agreement.

7.1.2 Authority. During the Interim Period, Seller and the Company shall inform interested parties, stake holders, Governmental Authorities (including the MPSC, the KCC and the public utility commissions in Illinois and Indiana) and other third parties of Buyer's pending acquisition of the Project pursuant to this Agreement and Buyer's management of the development of the Project during the Interim Period pursuant to the Development Management Agreement. To the extent consistent with Applicable Law and pursuant to the terms of the Development Management Agreement, Seller and the Company shall direct and inform all such Persons to deal directly with Buyer regarding matters concerning the Project and that Buyer has taken control of the management of the Project.

7.2 Conduct of Business Pending the Closing.

7.2.1 From and after the Effective Date and until the earlier of the Closing Date and the termination of this Agreement pursuant to Section 6.3 (such period, the "Interim Period") and unless Buyer shall otherwise consent or agree in writing, Seller covenants and agrees to (in accordance with and subject to the Development Management Agreement, including Buyer's obligation to pay for the "Seller Support Costs" as defined in the Development Management Agreement): (a) use commercially reasonably efforts to not take any action that could reasonably impair the development of and maintenance the Project, (b) use commercially reasonable efforts to protect the Project and maintain the Project Assets in good repair, (c) maintain insurance coverage in amounts adequate to cover the reasonably anticipated risks of the Company and consistent with Prudent Industry Practices, (d) use commercially reasonable efforts to cause the Company to maintain goodwill with suppliers, contractors, Governmental Authorities, consultants, advisors, any other counterparties to Project Contracts, and any other participants in the Project, (e) provide Buyer prompt notice of any material communication, document or information, and promptly deliver to Buyer any material communications, notices or other documents or writings from any Person, in each case regarding the Project that is received by, or is in the possession of, Seller or the Company and (f) otherwise reasonably cooperate with and support Buyer in the development of the

Project and supply as promptly as practicable Buyer with any additional information or documentary material that is in Seller's possession, and, at Buyer's reasonable request, promptly execute such documents, that may be necessary or helpful to the Project. Buyer agrees that, except for Seller's refusal or failure to make any introductions requested by Buyer to any counterparties to Project Contracts, Governmental Authorities, or other material participants in the Project within a reasonable period of time after Buyer's written request, Seller shall not be in default of its obligation to provide cooperation and support pursuant to this Section 7.2.1 or pursuant to the Development Management Agreement unless Seller fails to provide the requested cooperation and support within a reasonable period of time after Buyer's written request for same pursuant to this Section 7.2.1 or pursuant to the Development Management Agreement and Buyer has agreed to pay (and pays in advance, if required under the circumstances) for any Seller Support Costs that will be incurred in connection with Seller's provision of such cooperation and support, as more particularly set forth in the Development Management Agreement. Except for payment of any Seller Support Costs that Buyer agrees to pay in advance or pay directly to any consultant, contractor or other third party engaged by Seller pursuant to this Section 7.2.1, Buyer shall reimburse Seller for such Seller Support Costs within thirty (30) days after receiving from Seller a request for payment, together with an invoice or other proof of payment by Seller. For clarity, any Seller Support Costs paid by Buyer pursuant to this Agreement or the Development Management Agreement, shall be Development Costs under the Development Management Agreement [redacted].

7.2.2 During the Interim Period, unless Buyer shall otherwise consent, agree in writing or otherwise cause to occur during the Interim Period pursuant to the Development Management Agreement, Seller covenants and agrees not to (and to cause its Affiliates and the Company not to) take any of the following actions:

(a) merge, combine or consolidate with any other entity;

(b) issue, sell or transfer any equity interest in the Company;

(c) acquire (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or collection of assets constituting all or substantially all of a business or business unit;

(d) sell, lease, mortgage, pledge, transfer or otherwise encumber, in whole or in part, any of the Project Assets or allow any of the Project Assets to become subject to any Liens (other than Permitted Liens);

(e) change, alter, amend or modify the corporate or organizational documents of the Company;

(f) enter into any Contracts or arrangements relating to the Project;

(g) undertake any recapitalization, reorganization, liquidation, dissolution, winding up, or not maintain the Company's existence as a limited liability company;

(h) engage in any line of business other than the continued development of the Project;

(i) amend, modify or supplement any Project Contract, Obtained Permit or Permit Application;

(j) enter into any transactions with any Affiliate of Seller relating to the Project;

(k) permit any Project Contract, Obtained Permit or Permit Application to lapse or terminate except at the expiration of its stated term (and in such a circumstance Seller shall timely to apply for a new, renewal or extension of any such Permit in consultation with Buyer);

(l) incur any Liabilities in respect of the Project Assets;

(m) amend any submissions to any Governmental Authority relating to the Project (including any applications for Permits, Permit modifications, or modifications to construction schedules) except in accordance with Section 7.2;

(n) enter into any compromise or settlement of any Proceeding relating to the Company or the Project Assets;

(o) permit any drawings under any Support Obligations, or commit a breach or default under any Support Obligations, or permit any Support Obligations to lapse, expire or be terminated, or make or permit any withdrawals of any Support Obligations posted in connection with any Project Contract;

(p) cancel, waive, release or otherwise compromise any debt or claim or any right of significant value, in each case, in respect of the Company or the Project Assets;

(q) (i) create, incur or assume any Indebtedness for borrowed money; (ii) mortgage, pledge or otherwise encumber, incur or suffer to exist any Lien on any of its properties or assets, except for Permitted Liens, (iii) create or assume any Indebtedness, except accounts payable and other Liabilities incurred under the Contracts, (iv) guaranty any Indebtedness of another Person or enter into any "keep well" or other agreement to maintain any financial condition of another Person, or (v) make any loans, advances or capital contributions to, or investments in, any other Person;

(r) redeem or repurchase, directly or indirectly, any equity interests of the Company or declare, set aside or pay any dividends or make any other

distributions, except cash distributions, with respect to any equity interest in the Company;

(s) institute any Proceeding relating to the Project;

(t) hire any employee or adopt a Benefit Plan or incur any Liability under a Benefit Plan;

(u) make or change any election concerning Taxes or Tax Returns, change an annual accounting period, adopt or change any accounting method, file any amended Tax Return, enter into any closing agreement with respect to Taxes, settle any Tax claim or assessment or surrender any right to claim a refund of Taxes or obtain or enter into any Tax ruling, agreement, contract, understanding, arrangement or plan;

(v) make any material change in the accounting methods used by Seller or the Company, except as required by GAAP;

(w) take any affirmative action, or fail to take any reasonable action within its control, as a result of which a Material Adverse Effect is reasonably likely to occur;

(x) take any other action with respect to the Project other than in accordance with this Agreement and the Development Management Agreement; or

(y) commit or agree orally or in writing to do any of the foregoing.

7.3 Commission Approvals.

7.3.2 During the Interim Period and subject to the terms and conditions of the Development Management Agreement (including Buyer's obligation to pay any "Seller Support Costs" as defined therein), (a) to the extent Buyer cannot perform any matter with respect to the Commission Approvals directly, Seller and the Company agree

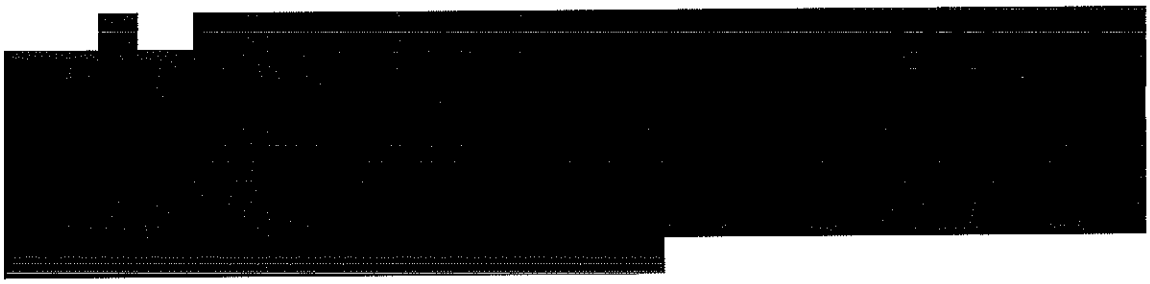
to reasonably cooperate and support Buyer's direction regarding such matter, including by executing and delivering such documents reasonably necessary or helpful to such matter, (b) inform Buyer of any material communication received by Seller or the Company from any Governmental Authority with respect to the Commission Approvals and, to the extent Seller receives any other filings, material communications or notices from any Governmental Authority or other Person with respect to the Commission Approvals, deliver copies of such materials to Buyer, (c) cooperate in good faith with Buyer and the applicable Governmental Authorities and provide such information and communications to Buyer and such Governmental Authorities as Buyer and such Governmental Authorities may reasonably request in connection with the Commission Approvals and (d) otherwise reasonably cooperate with and support Buyer in the pursuit of the Commission Approvals and supply as practicable Buyer with any additional information or documentary material as Buyer may reasonably request in connection with the Commission Approvals, and, at Buyer's reasonable request, promptly execute such documents, that may be reasonably necessary or helpful to the Commission Approvals.

7.4 Buyer Access.

7.4.1 From and after the Effective Date and until the earlier of the Closing Date and the termination of this Agreement pursuant to Section 6.3, Seller shall, and shall cause the Company and its other Affiliates to, (a) provide Buyer and its Representatives, accompanied by a Representative of Seller, reasonable access to the Real Property to inspect the Project, (b) provide Buyer, promptly upon receipt by Seller or Company, copies of all newly available material documents, reports, studies, contracts, permits, licenses, governmental approvals, specifications, data, other tangible or electronic items regarding the Project, and (c) make reasonably available to Buyer (at Buyer's request) all consultants and advisors to Seller or Company who have performed or are performing work related to the Project. Seller shall, and shall cause Company to, use reasonable efforts to procure any and all consents required to disclose to Buyer, any additional due diligence materials becoming available during such period regarding the Project.

7.4.2 From and after the Effective Date and until the earlier of the Closing Date and the termination of this Agreement pursuant to Section 6.3, Seller shall, and shall cause the Company and its other Affiliates to, provide Buyer and its Representatives with reasonable access, upon reasonable prior notice and during normal business hours, to the Books and Records of Seller pertaining to the Project and any of the Project Assets, as well as all Books and Records of the Company; provided, however, that (a) such access does not unreasonably disrupt the normal operations of Seller or the Company, (b) any such access shall be conducted at Buyer's expense and (c) Buyer shall not have access to any individual performance or evaluation records, medical histories or other information that in Seller's reasonable judgment is privileged, sensitive or the disclosure of which would reasonably be expected to subject Seller, the Company or any Affiliate of Seller to risk of material liability. Buyer and Seller agree to conduct meetings as necessary in order to update one another as to on-going matters relating to the development of the Project.

7.4.3 In connection with the access rights granted under this Section 7.3, Buyer agrees to comply with all safety and security obligations of Seller and the Company that are disclosed to Buyer in advance of such access.



7.6 Further Assurances and Cooperation; Non-Compete.

7.6.1 Each Party agrees to execute and deliver, or cause its respective Affiliates to execute and deliver, such further documents and instruments and to take such commercially reasonable further actions after the Closing Date as may be necessary or desirable and reasonably requested by the other Party to give effect to the transactions contemplated by this Agreement.

7.6.2 Following Closing, (a) subject to Section 10.3, Seller shall not, and shall cause its Affiliates, employees, officers and directors to not, materially discuss the Project, its development or any of its affairs with any Person without Buyer's written authorization and (b) Buyer shall be free to hire, contract with or engage any of Seller's or its Affiliates' Representatives or other individual (notwithstanding any agreement to the contrary that Seller or its Affiliates may have with such Representative or other individual) and Seller and its Affiliates shall not be able to restrict in any manner the ability of Buyer or its Affiliates to hire or contract with any individual and no consent from Seller or its Affiliates shall be required for Buyer or its Affiliates to hire or contract with any individual.

7.7 Notification of Completion or Failure of Conditions. Each Party to this Agreement will promptly notify the other Party of any satisfaction or failure of conditions under this Agreement; and each Party shall keep the other Party reasonably apprised with respect to the status of satisfaction of the notifying Party's obligations hereunder.

7.8 Intercompany Obligations. At or prior to the Closing, Seller shall cause all intercompany account obligations (including Indebtedness) between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be settled by either causing such accounts and obligations to be (a) paid and discharged, including by netting of payables and receivables involving the same parties, or (b) cancelled without Seller or the Company paying any consideration therefor. In addition, other than the Ancillary Documents, any Contracts listed on Schedule 7.8, or as otherwise authorized by Buyer prior to the Closing Date, Seller shall cause all intercompany Contracts between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be terminated and (i) neither the Seller, nor any Affiliate of Seller, shall have any surviving rights or obligations under

any Contract between the Company, on the one hand, and Seller or any other Affiliate of Seller (other than the Company) on the other hand and (ii) the Company shall not have any surviving rights or obligations under any such Contract.

7.9 Updated Information. Seller and Buyer each agree that, if at any time during the Interim Period, any event occurs as a result of which its respective representations and warranties contained herein would then include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading, the Party whose representation or warranty is affected shall promptly notify the other Party of the occurrence of the same, which notice shall include all information then available regarding the occurrence and any required updates to the Disclosure Schedules. Buyer may terminate this Agreement upon notice to Seller in the event any such disclosure or update of such Disclosure Schedules made by Seller has or could reasonably be expected to have a Material Adverse Effect and Seller has not cured such matter within thirty (30) days of such notice. During the Interim Period, Seller additionally agrees to promptly notify Buyer of any of the following that occur to Seller's Knowledge (provided that Seller shall have no obligation to notify Buyer of any matter pursuant to this Section 7.9 if such matter is already Known to Buyer): (a) any event or condition that occurs that could reasonably be expected to have a Material Adverse Effect, (b) the institution of any Proceeding with respect to the Project, the Company or Seller or (c) any event or condition that will result in, or could reasonably be expected to result in, the failure of Seller to timely satisfy any of the closing conditions specified in Section 6.1.1 of this Agreement. In the event of Seller's breach of a representation or warranty that is discovered by or disclosed to Buyer during the Interim Period pursuant to this Section 7.9, or Seller's disclosure of an event, condition or other matter pursuant to this Section 7.9 that could reasonably be expected to have a Material Adverse Effect, then Buyer's sole remedy with respect to such a breach or disclosure shall be to terminate this Agreement, [redacted].

7.10 No Negotiation. During the Interim Period, neither Seller nor any of its Affiliates (or its or their agents or Representatives) shall, directly or indirectly: (a) solicit, initiate, or facilitate the making, submission or announcement of any Acquisition Proposal to any Person other than Buyer or an Affiliate of Buyer; (b) furnish any nonpublic information regarding Seller, the Company, the Project, the Project Assets or the terms of or transactions contemplated by this Agreement, to any Person other than Buyer or an Affiliate of Buyer in connection with or in response to an Acquisition Proposal or an inquiry or indication of interest that could lead to an Acquisition Proposal; or (c) engage in discussions or negotiations with any Person other than Buyer or an Affiliate of Buyer with respect to any Acquisition Proposal or an inquiry or indication of interest that could lead to an Acquisition Proposal. In the event Seller, any of its Affiliates, its agents or Representatives receive any Acquisition Proposal by any Person other than Buyer or an Affiliate of Buyer, Seller shall: (i) immediately notify Buyer of

receipt of such Acquisition Proposal; (ii) comply with covenants (a), (b), and (c) of this Section 7.10; and (iii) immediately inform any and all third parties making the Acquisition Proposal of the covenants and prohibitions set forth in this Section.

7.11 Tax Matters. Buyer shall (i) prepare and timely file all Tax Returns that the Company is required under Applicable Laws during the Post-Closing Period and (ii) timely pay all Taxes required to be paid with respect to such Tax Returns. Buyer shall provide Seller with a copy of all Tax Returns of the Company that end on or include the Closing Date within thirty (30) days of filing and shall make such revisions to such Tax Returns that Seller reasonably requests. Seller shall cause an amount equal to any Pre-Closing Taxes paid by Buyer in connection with the filing of such Tax Returns to be paid to Buyer no later than fifteen (15) days after such payment by Buyer. Seller shall provide Buyer with a copy of all Tax Returns of the Company during the Pre-Closing Period. This provision does not apply to income taxes or taxes in lieu of income taxes. For the avoidance of doubt, each party shall file its own income tax return in a manner consistent with Section 7.1.2(u) and pay all taxes associated with such filing as it relates to the Pre-Closing Period and after the Closing Date.

[redacted]

ARTICLE 8
SURVIVAL; INDEMNIFICATION

8.1 Survival of Representations, Warranties, Covenants and Agreements. The representations, warranties, covenants, agreements and obligations of Seller and Buyer contained in this Agreement are material, were relied on by such Parties, and will survive the Closing Date as provided in Section 8.4.

8.2 Indemnification by Seller. From and after the Closing Date, subject to the terms and limitations set forth in this Agreement, Seller hereby indemnifies and holds harmless the Buyer Indemnified Parties in respect of, and holds each of them harmless from and against, (a) any and all Losses suffered, incurred or sustained by any of them or to which any of them become subject, resulting from, arising out of or related to any inaccuracy in or breach of any representation, warranty, covenant, agreement or obligation made by Seller in this Agreement, any Ancillary Document or any certificate delivered by Seller pursuant to this Agreement, (b) any Transfer Taxes payable by Seller hereunder, and (c) Taxes of the Company to the extent attributable to any Pre-Closing Tax Period, provided, however, that the foregoing indemnities shall not apply to Losses caused by the gross negligence, fraud or willful misconduct of Buyer or its agents, officers, employees or contractors.

8.3 Indemnification by Buyer. From and after the Closing Date, subject to the terms and limitations set forth in this Agreement, Buyer hereby indemnifies and holds

harmless the Seller Indemnified Parties in respect of, and holds each of them harmless from and against, (a) any and all Losses suffered, incurred or sustained by any of them or to which any of them become subject, resulting from, arising out of or relating to any inaccuracy in or breach of any representation, warranty, covenant, agreement or obligation made by Buyer in this Agreement, any Ancillary Document or any certificate delivered by Buyer pursuant to this Agreement and (b) Taxes of the Company to the extent attributable to any period following the Closing, provided, however, that the foregoing indemnity shall not apply to Losses to the extent caused by the gross negligence, fraud or willful misconduct of Seller or its agents, officers, employees or contractors.

8.4 Period for Making Claims. No claim under this Agreement (except as provided below) may be made unless such Party shall have delivered, with respect to any claim for inaccuracy or breach of any representation, warranty, covenant, agreement or obligation made in this Agreement, a written notice of claim prior to the date falling [redacted] after the Closing Date provided, however, that (i) the Fundamental Representations, and the indemnification obligations for inaccuracies or breaches with respect thereto, shall survive indefinitely following the Closing Date, (b) the representations and warranties in Section 4.7, and the indemnification obligations for inaccuracies or breaches with respect thereto, shall survive the Closing Date until sixty days (60) following the expiration of the applicable statute of limitations, (iii) the representations and warranties in Section 4.13, and the indemnification obligations for inaccuracies or breaches with respect thereto, shall survive the Closing for four (4) years following the Closing Date, and (iv) the covenants, agreements and obligations in this Agreement to be performed shall survive until the date on which they have been fully performed; provided further, that, if written notice for a claim of indemnification has been provided by the Indemnified Party pursuant to Section 8.9.2 on or prior to the applicable survival expiration date, then the obligation of the Indemnifying Party to indemnify the Indemnified Party pursuant to this Article 8 shall survive with respect to such claim until such claim is finally resolved.

8.5 Limitations on Claims.

8.5.1 Neither Party shall have any obligation to indemnify the other Indemnified Party until the aggregate amount of all Losses incurred by such Party that are subject to indemnification pursuant to this Article 8 equals or exceeds [redacted]

[redacted]

8.5.3 Payments by an Indemnifying Party pursuant to Section 8.2 or Section 8.3 in respect of any Loss shall be limited to the amount of any liability or

damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received by the Indemnified Party (or the Company) in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses.

8.5.4 In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except, in each case, in the case of Third Party Claims.

8.5.6 Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

8.5.7 There shall be no limitation on the liability of Buyer or the Company for any of Buyer's or the Company's payment obligations under Section 3.1 of this Agreement and no such payments shall be credited towards achievement of a liability threshold or limitation on liability in this Section 8.5.

8.6 Indemnification Procedure and Third Party Claims. The Indemnifying Party shall assume on behalf of the Indemnified Party and conduct with due diligence and in good faith (a) the defense or settlement of any claim (including appeals) by any Person other than the Indemnifying Party (a "**Third Party Claim**"), whether or not the Indemnifying Party shall be joined therein, and the Indemnified Party shall cooperate with the Indemnifying Party in such defense, (b) any and all negotiations with respect thereof, and (c) the assertion of any claim against any insurer with respect thereto. The Indemnified Party shall not compromise or settle any such Third Party Claim or agree to extend any applicable statute of limitations without the prior written approval of the Indemnifying Party. If such Third Party Claim is asserted against an Indemnified Party, the Indemnified Party shall notify the Indemnifying Party within a reasonable period of time of receipt of knowledge of such Third Party Claim and the Indemnified Party shall promptly provide to the Indemnifying Party all information that it has received with respect to such Third Party Claim. The Indemnified Party will continue to provide the Indemnifying Party with all reasonably available information, assistance and authority to enable the Indemnifying Party to effect such defense or settlement, and upon the Indemnifying Party's payment of any amounts due in respect of such Third Party Claim,

the Indemnified Party will, to the extent of such payment, assign or cause to be assigned to the Indemnifying Party the claims of the Indemnified Party, if any, against such third parties in respect of which such payment is made. Without relieving the Indemnifying Party of its obligations hereunder or impairing the Indemnifying Party's right to control the defense or settlement thereof, the Indemnified Party may elect to participate through separate counsel in the defense of any such Third Party Claim. The fees and expenses of counsel retained by the Indemnified Party shall be at the expense of such Indemnified Party unless (a) the Indemnified Party's participation is as a result of a material conflict of interest between the Indemnifying Party and such Indemnified Party in the conduct of the defense of such Third Party Claim (in which case the Indemnifying Party shall not have the right to control the defense or settlement of such Third Party Claim on behalf of such Indemnified Party, but no settlement shall be entered into without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld), or (b) the Indemnifying Party shall not have employed counsel to assume the defense of such Third Party Claim within a reasonable time after notice of the commencement thereof (and in such cases the reasonable fees and expenses of counsel shall be at the expense of the Indemnifying Party).

8.7 Exclusive Remedy. Subject to Section 10.14, and except with respect to Losses arising from or related to fraud or willful misconduct of the other Party and except for Buyer's and the Company's payment obligation under Section 3.1 of this Agreement, the Parties acknowledge and agree that the indemnification obligations of the parties contained in this Agreement shall, if the Closing Date occurs, be the sole and exclusive remedy of the Parties hereto and their Affiliates, successors and assigns with respect to any and all claims for Losses sustained or incurred arising out of or relating to any breach of representation, warranty, covenant or agreement contained in this Agreement, including any claims with respect to environmental, health and safety matters, including any such matters under any Environmental Laws, provided, however, that the Parties may seek to enforce the provisions of this Agreement by injunction or other equitable relief. Each Party hereby expressly waives and disclaims, and agrees that it shall not assert, any right, remedy (including the remedy of rescission) or claim in respect of any such breach or Losses based on any cause or form of action whatsoever, except as and to the extent permitted in this Article 8. Nothing in this Section is intended to constitute a waiver or limitation of any rights that either Party (or their respective Affiliates) may have to assert claims against third parties, including contractors performing any work in connection with the Project.

8.8 Adjustments to Purchase Price. Amounts paid in respect of the indemnification obligations pursuant to this Agreement shall be treated by Buyer and Seller as adjustments to the Purchase Price, except to the extent such amounts may not be properly so treated for Tax purposes by Law.

8.9 Additional Indemnity Provisions. The indemnification obligations of Seller and Buyer hereunder shall be subject to the following terms and conditions:

8.9.1 To the extent that an Indemnifying Party has discharged any claim for indemnification hereunder, the Indemnifying Party shall be subrogated to all rights of the Indemnified Party against any Person to the extent of the Losses that relate to such claim. Any Indemnified Party shall, upon written request by the Indemnifying Party following the discharge of such claim, execute an instrument reasonably necessary to evidence such subrogation rights.

8.9.2 In the event that any Indemnified Party to this Agreement proposes to make any claim for indemnification pursuant to this Article 8, the Indemnified Party making the claim shall promptly deliver on or prior to the date upon which the applicable representations and warranties or covenants expire pursuant to the terms of this Agreement and within a reasonable time of discovery of the breach of or nonperformance of any covenant or obligation to be performed under this Agreement, a certificate signed by the Party making the claim or an officer of the Party making the claim (the "**Claim Certificate**") to Seller or Buyer, whichever is applicable (such party from whom indemnification is sought the "**Indemnifying Party**"), which Claim Certificate shall (A) state the occurrence giving rise to the claim and that the Loss or liability has been properly accrued or is anticipated; (B) specify the section of this Agreement under which such claim is made; (C) specify in reasonable detail each individual item of Loss or other claim (including copies of all material written evidence thereof), the amount thereof if reasonably ascertainable, the date such Loss or liability was incurred, properly accrued or is anticipated, the basis for any anticipated Loss or liability and the nature of the misrepresentation, breach of warranty or the claim to which such Loss is related. The Indemnified Party making the claim need only state what is required in subsections (A)-(C) above and shall not be required to admit or deny the validity of the facts or circumstances out of which such claim arose. Failure to provide notice under this Section shall not obviate any Party's indemnity obligations under this Agreement.

[redacted]

ARTICLE 9
NOTICES

9.1 Any notice or other communication required, permitted or contemplated hereunder shall be in writing, and shall be addressed to the Party to be notified at the address set forth below or at such other address as a Party may designate for itself from time to time by notice hereunder:

To Buyer:	Invenergy Transmission LLC One South Wacker Drive, Suite 1800 Chicago, IL 60606 Attn: Legal Department Telephone: (312) 224-1400 Email: GeneralCounsel@invenergyllc.com
with a copy to:	Sheppard Mullin Richter & Hampton LLP 70 West Madison Street, 48th Floor Chicago, IL 60602-4498 Attn: Matt Bonovich Telephone: (312) 499-6309 Email: mbonovich@sheppardmullin.com
To Seller:	Grain Belt Express Holding LLC c/o Clean Line Energy Partners LLC 1001 McKinney, Suite 700 Houston, TX 77002 Attn: Jayshree Desai Telephone: (832) 319-6325 Email: jdesai@cleanlineenergy.com
with a copy to:	Akin Gump Strauss Hauer & Feld LLP 1999 Avenue of the Stars, Suite 600 Los Angeles, CA 90067-6022 Attn: Thomas Dupuis Telephone: (213) 254-1212 Email: tdupuis@akingump.com

9.2 Each notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (i) if sent by first class, registered, or certified United States mail or overnight delivery service, return receipt requested, postage prepaid, upon receipt by the receiving Party, (ii) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or paid through an arrangement with such carrier, the next Business Day after the same is delivered by the sending Party to such carrier, (iii) if sent by electronic mail and if concurrently with the transmittal of such electronic mail the sending Party contacts the receiving Party at the phone number set forth above to indicate such electronic mail has been sent (which indication by phone may be done by leaving a voicemail for the receiving Party at such phone number), at the time such electronic mail is transmitted by the sending Party as shown by the electronic mail transmittal confirmation of the sending Party, or (iv) if delivered in person, upon receipt by the receiving Party.

ARTICLE 10
MISCELLANEOUS

10.1 Expenses. Except as otherwise expressly set forth in this Agreement, all fees, costs and expenses incurred by a Party in connection with this Agreement and the transactions contemplated hereby, shall be the obligation of the Party incurring such fees, costs or expenses.

10.2 No Stockholder or Member Liability. The Parties acknowledge and agree that the officers, directors, stockholders, members, managers, other security holders, employees and consultants of Buyer, Seller and their respective Affiliates are not parties to this Agreement and that the representations, warranties, covenants and agreements made in this Agreement are provided only by Buyer and Seller, as the case may be. The Parties agree that neither Party shall have recourse against any officer, director, stockholder, member, manager, other security holder, employee or consultant of Buyer, Seller or their respective Affiliates under or in connection with this Agreement, whether for any representation, warranty, covenant, agreement (including any indemnification) or otherwise, [redacted].

10.3 Confidentiality. Neither Party shall disclose to any Person Confidential Information provided by one Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"). Confidential Information shall not be used for any purposes other than the purposes set forth in this Agreement, shall be held in strict confidence by the Receiving Party and shall not be disclosed without the prior consent of the Disclosing Party, except to such Party's Affiliates, Representatives or Governmental Authorities with a need to know the Confidential Information for the purposes of performing work or reviewing information related to this Agreement or the Project. The Receiving Party shall advise all such Persons receiving Confidential Information that such information is confidential and shall require such Persons to observe the confidentiality terms set forth in this Section 10.3. Notwithstanding anything in this Section 10.3 to the contrary, the Parties shall have no obligation with respect to any Confidential Information which (a) is proven to have been known by the Receiving Party prior to its disclosure by the Disclosing Party, (b) is, or becomes, publicly known through publications or otherwise without breach of this Agreement or any other obligation of confidentiality, (c) is received by the Receiving Party from a third party who rightfully discloses it without restriction on its subsequent disclosure and without breach of this Agreement; (d) is shown by an acceptable evidence to have been independently developed by the Receiving Party without access to, or use of, the Confidential Information, (e) is approved for release by authorization of the Disclosing Party, (f) is required to be disclosed by the Receiving Party pursuant to Applicable Law (*e.g.*, SEC disclosure obligations), or (g) is disclosed to Affiliates or Representatives of such Party directly involved in supporting Transaction and related due diligence, and to those involved in the creation of any Confidential Information exchanged pursuant to the Transaction and related due diligence, but only if such Affiliates or Representatives are advised of the confidential nature of such Confidential Information. Notwithstanding the foregoing, Buyer shall be

permitted to disclose Confidential Information related to the Project to any Person (x) after the Closing and (y) to the extent related to Buyer's development of the Project pursuant to this Agreement and the Development Management Agreement, during the Interim Period.

10.4 Dispute Resolution. The Parties shall attempt to resolve all disputes arising out of or in connection with the interpretation or application of any of the provisions of this Agreement or in connection with the determination of any other matters arising under this Agreement (each, a "**Dispute**") by mutual agreement in accordance with this Section 10.4.

10.4.1 Negotiation Period. If any Dispute arises between the Parties, then the disputing Party shall promptly notify the non-disputing Party of the Dispute and each Party shall cause a senior officer of its management with decision-making authority to meet, within ten (10) days of the non-disputing Party's receipt of notice of the Dispute, at the offices of the non-disputing Party, or at any other mutually agreed location, and to negotiate and attempt to resolve the Dispute on an amicable basis. If the Parties fail to resolve the Dispute for any reason within twenty (20) days after such notice, then each Party shall be free to pursue any right or remedy available at law or in equity, subject to and in accordance with this Agreement.

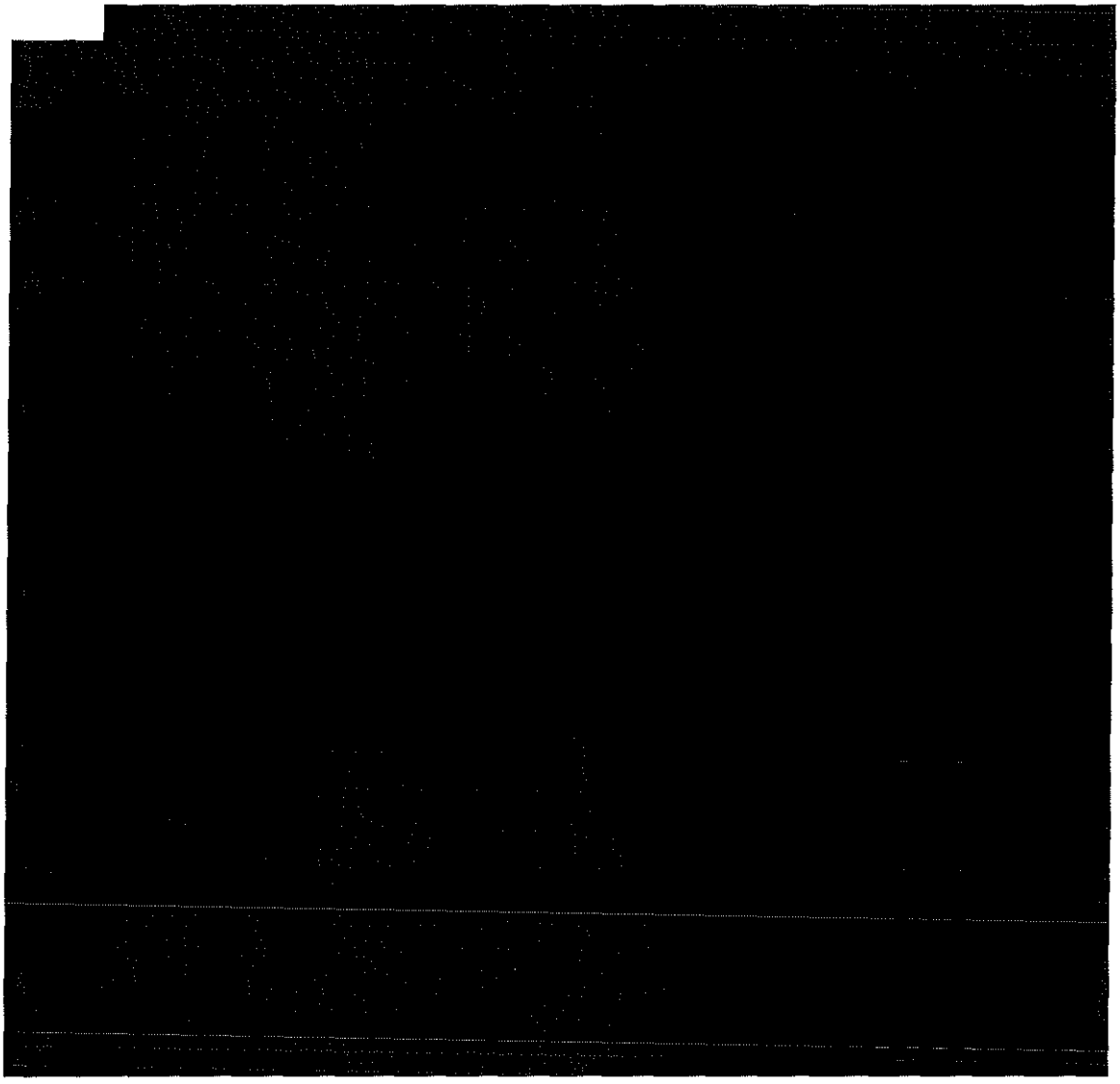
10.4.2 Continuation of Performance. Unless otherwise agreed in writing, the Parties shall continue to perform their respective obligations under this Agreement during any proceeding by the Parties in accordance with this Section 10.4.

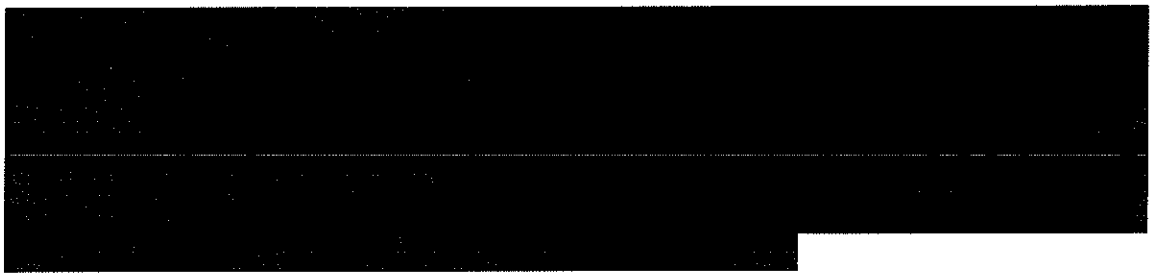
10.4.3 Consent to Jurisdiction. Each of the Parties irrevocably consents and agrees that any judicial proceeding arising from or related to any Dispute may be brought in any of the state or federal courts having jurisdiction over this Agreement and located in New York, New York or the Southern District of New York, as applicable, and that, by execution and delivery of this Agreement, each Party (a) accepts the non-exclusive jurisdiction of the aforesaid courts, (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court and agrees that such final, nonappealable judgment may be enforced by suit on the judgment or in any other manner provided by Applicable Law, (c) irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of venue of any suit, action, or proceeding with respect to this Agreement in any such court, and further irrevocably waives, to the fullest extent permitted by Applicable Law, any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum, (d) agrees that service of process in any such action may be effected by delivering a copy thereof by the means of notice set forth in Article 9 hereof, to such Party at its notice address set forth herein, or at such other address of which the other Party hereto shall have been notified, and (e) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by Applicable Law. The Parties acknowledge that the foregoing consent to jurisdiction in federal or state courts in New York, New York or the Southern District of New York, as applicable, is not

intended to be exclusive, and that either Party may bring an action in any other federal or state court having jurisdiction over the matter in dispute and the Parties.

10.4.4 Waiver of Jury Trial. Should any Dispute result in a judicial proceeding, each of the Parties knowingly, voluntarily, and intentionally waives, to the extent permitted by Applicable Law, any right it may have to a trial by jury in respect of any such proceeding. Furthermore, each of the Parties waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. This provision is a material inducement for the Parties to enter into this Agreement.

10.4.5 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD APPLY ANY OTHER LAW.





10.6 Entire Agreement. This Agreement and the Ancillary Documents represent the entire understanding and agreement between the Parties hereto and thereto with respect to the subject matter hereof and thereof and supersedes all prior oral and written understandings and all contemporaneous oral negotiations, commitments and understandings between the Parties. This Agreement represents the result of negotiations between the Parties, each of which has been represented by counsel of its own choosing, and none of which has acted under duress or compulsion, whether legal, economic or otherwise. Accordingly, this Agreement shall be interpreted and construed in accordance with its usual and customary meaning, and the Parties hereby waive the application, in connection with the interpretation and construction of this Agreement, of any Applicable Law to the effect that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed draft or any earlier draft of this Agreement. Buyer and Seller may only amend or modify this Agreement, in such manner as may be agreed upon, by a written instrument executed by the Parties.

10.7 Severability. Any provision of this Agreement which is invalid, illegal or unenforceable shall be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof or rendering that or any other provision of this Agreement invalid, illegal or unenforceable. Upon such determination that any provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

10.8 Section Headings. The section headings are for the convenience of the Parties only and in no way alter, modify, amend, limit, or restrict the contractual obligations of the Parties.

10.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. This Agreement and any amendments hereto, to the extent executed and delivered by means of a facsimile machine or e-mail of a PDF file containing a copy of an executed agreement (or signature page thereto), shall be treated in all respects and for all purposes as an original agreement or instrument and shall have the same binding legal effect as if it were the original signed version thereof.

10.10 Cooperation. Each of the Parties agrees to perform all such acts (including executing and delivering such instruments and documents) as shall be reasonably requested by the other Party to fully effectuate each and all of the purposes and intent of this Agreement. Following the Closing Date, Seller agrees to assist Buyer and the Company in securing debt and equity financing for the Project, including executing and delivering such estoppels and other documents reasonably requested by Buyer or the Persons providing such debt or equity financing, all at no cost to Seller and without altering any of Seller's rights or obligations hereunder or under the Ancillary Documents or with respect to the transactions contemplated hereby or thereby.

10.11 No Third-Party Beneficiaries. This Agreement is entered into for the sole benefit of the Parties, and except as specifically provided in this Agreement (including with respect to Indemnified Parties), no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

10.12 Time of Essence. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence. If the date specified in this Agreement for giving any notice or taking any action is not a Business Day (or if the period during which any notice is required to be given or any action taken expires on a date which is not a Business Day), then the date for giving such notice or taking such action (and the expiration date of such period during which notice is required to be given or action taken) shall be the next day which is a Business Day.

10.13 Waiver. Neither the failure of nor any delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power or privilege shall preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by Applicable Law, except as otherwise expressly provided in this Agreement: (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one Party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other Party, (b) no waiver that may be given by a Party shall be applicable except in the specific instance for which it is given, and (c) no notice to or demand on one Party shall be deemed to be a waiver of any obligation of such Party or of the right of the Party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

10.14 Remedies. Seller and Buyer acknowledge that the rights of each Party to consummate the transactions contemplated hereby are unique and recognize and affirm that in the event of a breach of this Agreement by either Party, money damages may be inadequate and the non-breaching Party may have no adequate remedy at law. Accordingly, the Parties agree that such non-breaching Party shall have the right, in addition to any other rights and remedies existing in its favor at law or in equity, to enforce their rights and the other Party's obligations hereunder not only by an action or

actions for damages but also by an action or actions for specific performance, injunctive and/or other equitable relief (without posting of bond or other security). IN NO EVENT SHALL ANY PARTY OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, SHAREHOLDERS, PARTNERS, DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES BE LIABLE FOR ANY SPECIAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOST PRODUCTION, COST OF CAPITAL, LOSS OF GOODWILL, LOST REVENUES, OR LOSS OF CONTRACTS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EACH PARTY HEREBY RELEASES THE OTHER FROM ANY SUCH LIABILITY.

10.15 Public Announcements. No public announcement (whether in the form of a press release or otherwise) shall be made by or on behalf of Seller or its Representatives with respect to the subject matter of this Agreement unless: (a) Buyer has agreed in writing to such public announcement, which permission shall not be unreasonably withheld (provided that Buyer shall be deemed to have consented to the issuance by Seller of any public announcement with respect to the subject matter of this Agreement that is in substantially the same form and substance of any public announcement made by Buyer with respect to the subject matter of this Agreement), or (b) such public announcement is required by Applicable Law and Seller has given prior written notice in accordance with Article 9 to Buyer as promptly as practicable prior to such announcement. Any such public announcement made by Seller under this Section 10.15 shall be made only in accordance with a text mutually agreed upon by the Parties, such agreement not to be unreasonably withheld or delayed. Following the Effective Date and until the termination of this Agreement (if ever), Buyer and its Representatives may, in their discretion without the consent of Seller, make any public announcement (whether in the form of a press release or otherwise) with respect to the subject matter of this Agreement, but the commercial terms of this Agreement shall not be disclosed or announced without the prior written approval of both Buyer and Seller.

10.16 Setoff. Notwithstanding any provision to the contrary herein, Seller shall be permitted to setoff against any payments due and payable by Seller to Buyer hereunder the amount of any unpaid payments by Buyer to Seller hereunder, and Buyer shall be permitted to setoff against any payments due and payable by Buyer to Seller hereunder the amount of any unpaid payments by Seller to Buyer hereunder; provided, that, in each case, such right of set-off shall only be exercised (i) in good faith based on the bona fide determination by the Party setting-off such amount that such amount is due to such Party under this Agreement (the "Set-Off Amount"), and (ii) upon notice to the Party to whom an amount is otherwise due and payable under this Agreement specifying in reasonable detail the basis for such set-off and providing such Party with ten (10) Business Days to cure such amounts. With respect to any amount set-off by a Party pursuant to this Section 10.17, if a final determination is made that the Set-Off Amount (or any portion thereof) was greater than the amount of the other Party's liability or obligation to which such Set-Off Amount was applied, then the Party that exercised such set-off right shall pay such excess Set-Off Amount to the other Party hereunder promptly after such final determination, together with interest on such excess Set-Off Amount at the Default

Interest Rate from the date on which such set-off right was exercised until the date that the excess Set-Off Amount is paid.

10.17 Interest Upon Late Payment. If either Party should fail to pay the other Party any sum to be paid by such Party under this Agreement within ten (10) Business Days after such payment is due, then with respect to any such late payment, to the maximum extent allowed by law, the amount of such late payment shall accrue interest at a per annum rate equal the per annum rate of interest from time to time as published in the Wall Street Journal under "Money Rates" as the prime lending rate plus two percent (2%) (the "**Default Interest Rate**") (calculated from the date such late payment was due through the date such late payment plus such interest is paid in full), which amounts shall be payable to the applicable Party upon demand therefor.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the date first above written.

BUYER:

Invenergy Transmission LLC,
a Delaware limited liability company

LEGAL REVIEWED

By: Kris Zadlo
Name: Kris Zadlo
Title: Vice President

SELLER:

Grain Belt Express Holding LLC,
a Delaware limited liability company

By:_____
Name:
Title:

COMPANY:

Grain Belt Express Clean Line LLC,
an Indiana limited liability company

By:_____
Name:
Title:

[Signature page to MIPA]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the date first above written.

BUYER:

Invenergy Transmission LLC,
a Delaware limited liability company

By: _____
Name:
Title:

SELLER:

Grain Belt Express Holding LLC,
a Delaware limited liability company

By: _____
Name: Jayshree Desai
Title: Authorized Representative

COMPANY:

Grain Belt Express Clean Line LLC,
an Indiana limited liability company

By: _____
Name: Jayshree Desai
Title: Authorized Representative

DEVELOPMENT MANAGEMENT AGREEMENT

This **DEVELOPMENT MANAGEMENT AGREEMENT** (the "***Agreement***"), made as of November 9, 2018, ("***Effective Date***") by and between **GRAIN BELT EXPRESS CLEAN LINE LLC**, an Indiana limited liability company ("***Owner***"), **GRAIN BELT EXPRESS HOLDING LLC**, a Delaware limited liability company ("***Holdings***" and together with Owner, collectively, the "***Owner Parties***"), and **INVENERGY TRANSMISSION LLC**, a Delaware limited liability company ("***Manager***"), referred to collectively as "***Parties***" and individually as "***Party***".

WHEREAS, Owner is developing a high voltage direct current transmission line and associated transmission facilities, which are being designed to run from Ford County, Kansas, to Sullivan, Indiana, with a mid-point converter station in Ralls County, Missouri (the "***Project***"); and

WHEREAS, Manager or certain of its Affiliates have expertise in development management services for the development of high voltage direct current transmission lines and their associated facilities;

WHEREAS, Manager, as buyer, and Holdings, as seller, and Owner are party to that certain Membership Interest Purchase Agreement, dated as of the date hereof (the "***MIPA***") and any capitalized terms used but not defined in this Agreement shall have the meanings given to them in the MIPA; and

WHEREAS, Manager and Owner Parties desire to set forth the full scope of Manager's obligations, responsibilities, and authority with respect to the development of the Project before the Closing Date.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I
DEVELOPMENT MANAGEMENT

1.01 Scope of Work. Manager shall manage the business and affairs of the Project, and all activities incidental thereto, and shall perform (or cause to be performed) all services related to the development, ownership and maintenance of the Project, and any other assets of the Owner related to the Project, and all activities and matters incidental thereto, including the services more particularly described in the scope of work attached as Exhibit A hereto and made a part hereof (such services, collectively, the "***Work***" and such scope of work, the "***Scope of Work***"). To the extent that any such action is not a Restricted Action or otherwise expressly excluded from the Scope of Work under this Agreement, Manager is hereby authorized to take, or to cause the Owner or any of its subsidiaries to take, such action (and in the case of Restricted Actions, such actions shall only be taken in accordance with this Agreement). [redacted]

1.02 Standard of Performance. Subject to Section 9.01, Manager shall use commercially reasonable efforts to perform the Work, and shall perform the work in good faith, in each case consistent with Prudent Industry Practices, this Agreement, the MIPA and all Applicable Law, in each case in all material respects.

1.03 Reports. Manager shall provide copies of any reports regarding the Project that Manager provides to any Governmental Authority, and upon the reasonable request of Owner Parties with reasonable frequency, shall provide updates regarding the Project to Owner Parties.

1.04 Manager Agency and Authority. Throughout the Term, the Parties agree that, notwithstanding Owner's ownership of the Project, Manager shall have and shall maintain control of the Project with respect to matters relating to development, ownership and maintenance of the Project, and any other assets of the Owner related to the Project, and all activities and matters incidental thereto. Owner Parties acknowledge and agree that Manager will act as agent for and on behalf of Owner with respect to the Project at all times during the Term. To the extent necessary in connection with its role as agent for Owner hereunder, during the Term, Manager will have care, custody and control over the Project in all day-to-day activities. Subject to the provisions of this Agreement and with respect to the Work, Owner Parties hereby authorize Manager to, during the Term, act on behalf of Owner and bind the Owner and execute documents by and on behalf of the Owner. Manager will provide Owner Parties notice and a copy of any such binding act or executed document.

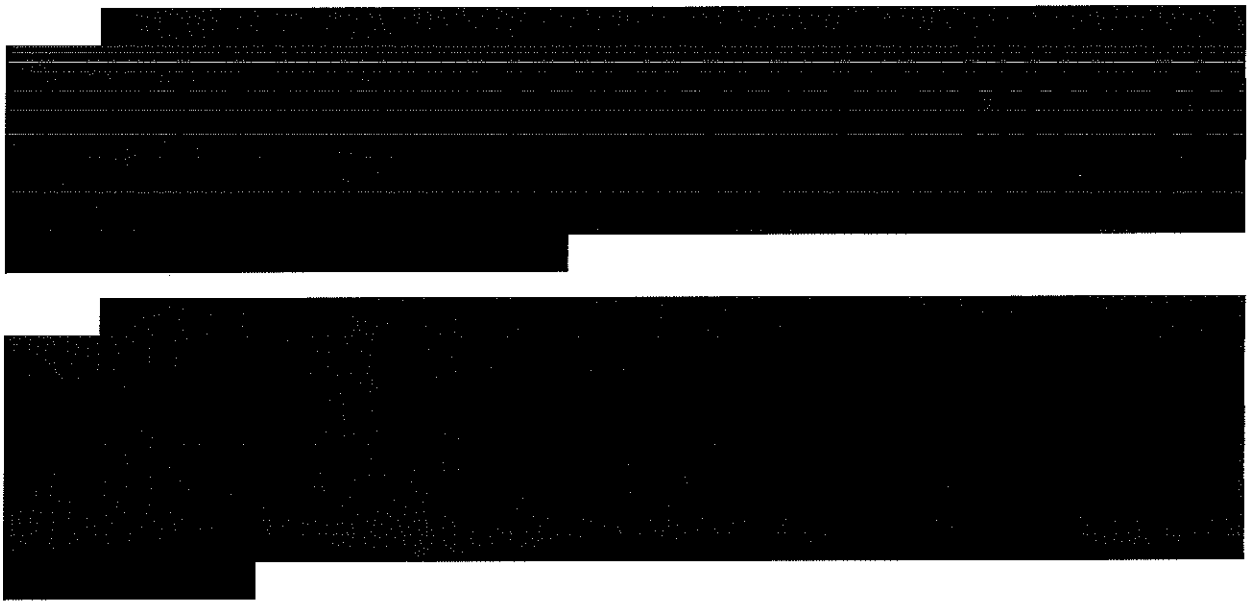
1.05 Treasury Management. During the term, Manager shall account for, arrange for, coordinate and pay all amounts due and payable with respect to the development of the Project, [redacted]

1.06 Owner Parties Cooperation and Limitations. From time to time during the Term and subject to Manager's agreement to pay all Seller Support Costs as Development Costs, Owner Parties shall reasonably cooperate with and support Manager in furtherance of the Work, including providing information, preparing and reviewing written materials, attending hearings, proceedings and meetings and introducing Manager to relevant parties and stakeholders. Other than such cooperation and support, Owner Parties agree that they shall not, during the Term, take any action with respect to the Project without Manager's written request, other than as directed or requested by Manager. As used herein, the term "***Seller Support Costs***" means the third-party costs incurred, or to be incurred, by the Owner Parties to engage consultants, legal counsel or other advisors, as well as reasonable travel and lodging expenses, in connection with providing the Owner Parties' support and cooperation pursuant to this Section 1.06 and pursuant to the MIPA, provided that Owner Parties shall obtain Manager's prior consent prior to incurring any such Seller Support Costs.

1.07 Access. During the Term, Owner Parties shall provide Manager and its representatives with reasonable access, upon reasonable prior notice and during normal business hours, to the Books and Records of Owner Parties pertaining to the Project and any of the Project Assets, including all Books and Records of Owner.

1.08 Restricted Actions. The authority granted to the Manager in this Agreement is expressly limited by the provisions of this Section 1.08. In furtherance of the foregoing, without the prior consent of any Owner Party, Manager shall not, and shall cause its Affiliates, directors, managers and officers, and shall instruct its other Representatives, not to take any of the actions set forth on Exhibit B (to the extent Manager has authority hereunder to cause any such action occur) (each such action, a "***Restricted Action***", and collectively, the "***Restricted Actions***").

ARTICLE II
PAYMENTS



2.03 Accounting. Manager shall maintain an accurate accounting of Development Costs, which records Manager will make available to Owner Parties upon reasonable request from any Owner Party with reasonable frequency.

ARTICLE III
TIME OF COMMENCEMENT AND COMPLETION

3.01 The Work to be performed shall commence upon the Effective Date and shall proceed without interruption throughout the Term.

ARTICLE IV
PERSONNEL

4.01 Development Personnel. Manager shall provide and make available qualified and competent professional, supervisory, managerial, administrative and other personnel as reasonably necessary to perform the Work in accordance with the terms of this Agreement.

4.02 Manager Representative. Manager shall appoint, and shall designate to Owner Parties, one of Manager's authorized individuals as Manager's representative for purposes of

coordinating with Owner Parties for purposes of this Agreement (the "***Manager Representative***"). The initial Manager Representative shall be Cory Blair, and such individual and any substitution or replacement of the Manager Representative shall have the requisite knowledge, experience and skills to perform such role.

4.03 Owner Party Representative. Owner Parties shall appoint, and shall designate to Manager, one of Owner Parties' authorized individuals as Owner Parties' representative for purposes of coordinating with Manager for purposes of this Agreement (the "***Owner Parties Representative***"). The initial Owner Parties Representative shall be Hans Detweiler, and such individual and any substitution or replacement of the Owner Parties Representative shall have the requisite knowledge, experience and skills to perform such role.

ARTICLE V
SUBCONTRACTORS

5.01 Manager may locate and procure the services of Subcontractors that, in Manager's judgment, may be necessary to complete the Work. The term "***Subcontractor***" shall mean a person (other than employees) or organization who has a direct contract with the Manager or any person or organization directly or indirectly in privity with Manager (including every sub-Subcontractor of whatsoever tier) to perform any portion of the Work for the Project whether for the furnishing of labor, materials, equipment, services or otherwise.

5.02 Manager shall be responsible for all portions of the Work performed by any Subcontractor engaged by Manager to the same extent as if such Work had been performed by Manager itself.

ARTICLE VI
DOCUMENTS AND WORK PRODUCT

6.01 All documents, information and other work product prepared or developed by Manager or its Affiliates, employees, or representatives in connection with the performance of the Work, including all records, reports and accounts related thereto, shall be maintained by Manager, and shall be the property of Manager and Company, and, if this Agreement expires or is terminated without Closing having occurred, Manager shall deliver such materials to Owner Parties upon such expiration or termination of this Agreement.

ARTICLE VII
ASSIGNMENT

7.01 Neither Party may assign this Agreement or the performance of all or any of its obligations hereunder without the prior written consent of the other Party. Any assignment in violation of this Article VII shall be voidable at the sole discretion of the non-assigning Party.

ARTICLE VIII
TERM AND TERMINATION

8.01 This Agreement, and the Work hereunder, shall commence on the Effective Date and continue through the earlier of (a) the Closing Date or (b) the termination of this Agreement in accordance with this Article VIII (the "***Term***").

8.02 If Manager is in material breach of any provision of this Agreement, the MIPA [redacted] and such breach is not cured within thirty (30) days after receiving written notice thereof from any Owner Party identifying the nature of such purported breach in reasonable detail, any Owner Party may terminate this Agreement [redacted] If any Owner Party is in material breach of any provision of this Agreement, the MIPA [redacted] and such breach is not cured within thirty (30) days after receiving written notice thereof from Manager identifying the nature of such purported breach in reasonable detail, Manager may terminate this Agreement.

8.03 In the event the MIPA expires or is otherwise terminated, this Agreement shall automatically terminate simultaneously with such expiration or termination of the MIPA without any further action by Manager or Owner Parties.

8.04 In the event of any expiration or termination of this Agreement, all amounts accrued and owed by Owner Parties to Manager shall remain due and payable in accordance with this Agreement [redacted]

8.05 Notwithstanding any expiration or termination of this Agreement, Articles II, VI, VIII, IX, X, XI, and XII and Sections 5.02 and 9.04 shall survive any such expiration or termination of this Agreement, and no other provisions or obligations shall survive any such expiration or termination of this Agreement.

ARTICLE IX
REMEDIES; LIMITATION OF LIABILITY

9.01 Manager shall have no liability to the Owner Parties for violation of, breach of, non-compliance with or otherwise with respect to any provision of this Agreement other than to the extent any such liability is the result of the gross negligence, willful misconduct, fraud or any criminal act or omission of Manager, any of its Affiliates or any of their respective employees, and in such case, Manager's liability shall be limited to the amount of Development Payments actually paid in cash to Manager and any indemnification pursuant to Section 9.04.

9.02 In no event shall any Party be liable to any other Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple.

9.03 During the Term of this Agreement, at its own expense and not as a Seller Support Cost, Owner shall maintain commercial general liability insurance of not less than $2,000,000 per occurrence and in the aggregate, with Manager named as an additional named insured with respect to such insurance coverage. During the Term of this Agreement, at its own expense and not as a Development Cost, Manager shall maintain commercial general liability insurance of not less than $2,000,000 per occurrence and in the aggregate, with the Owner Parties named as additional named insureds with respect to such insurance coverage. Each Party shall provide evidence of its maintenance of insurance coverage pursuant to this Section 9.03 upon the reasonable request of the other Parties to this Agreement. Each Party shall waive all subrogation rights that its insurers may have or acquire again the other Party.

9.04 Manager agrees to indemnify, defend and hold harmless the Owner Parties and their respective owners, shareholders, members, managers, Affiliates, employees, agents and representatives from and against any and all third party claims, liabilities, demands, damages, losses, penalties and charges that result, or are alleged to have resulted, from the gross negligence, willful misconduct, fraud or any criminal act or omission of Manager, any of its Affiliates or any of their respective employees. Owner Parties agree to indemnify, defend and hold harmless Manager and their respective owners, shareholders, members, managers, Affiliates, employees, agents and representatives from and against any and all third party claims, liabilities, demands, damages, losses, penalties and charges that result, or are alleged to have resulted, from the gross negligence, willful misconduct, fraud or any criminal act or omission of Owner Parties, any of their Affiliates or any of their respective employees.

ARTICLE X
NOTICE

10.01 Any notice or other communication required, permitted or contemplated hereunder shall be in writing, and shall be addressed to the Party to be notified at the address set forth below or at such other address as a Party may designate for itself from time to time by notice hereunder:

To Manager:

Invenergy Transmission LLC
One South Wacker Drive, Suite 1800
Chicago, IL 60606
Attn: Legal Department
Email: GeneralCounsel@invenergyllc.com
Phone: 312-224-1400

To Owner Parties:

Grain Belt Express Holding LLC and
Grain Belt Express Clean Line LLC
c/o Clean Line Energy Partners LLC
1001 McKinney, Suite 700
Houston, TX 77002
Attn: Jayshree Desai
Telephone: (832) 319-6325
Email: JDesai@cleanlineenergy.com

with a copy to:

Akin Gump Strauss Hauer & Feld LLP
1999 Avenue of the Stars, Suite 600
Los Angeles, CA 90067-6022
Attention: Thomas Dupuis
E-mail: tdupuis@akingump.com
Telephone: (213) 254-1212

10.02 Each notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (i) if sent by first class, registered, or certified United States mail or overnight delivery service, return receipt requested, postage prepaid, upon receipt by the receiving Party, (ii) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or paid through an arrangement with such carrier, the next Business Day after the same is delivered by the sending Party to such carrier, (iii) if sent by electronic mail and if concurrently with the transmittal of such electronic mail the sending Party contacts the receiving Party at the phone number set forth above to indicate such electronic mail has been sent (which indication by phone may be done by leaving a voicemail for the receiving Party at such phone number), at the time such electronic mail is transmitted by the sending Party as shown by the electronic mail transmittal confirmation of the sending Party, or (iv) if delivered in person, upon receipt by the receiving Party.

ARTICLE XI
CONFIDENTIALITY

11.01 No Party shall disclose to any Person Confidential Information provided by one Party (the "***Disclosing Party***") to another Party (the "***Receiving Party***"). Confidential Information shall not be used for any purposes other than the purposes set forth in this Agreement and the MIPA, shall be held in strict confidence by the Receiving Party and shall not be disclosed without the prior consent of the Disclosing Party, except to such Party's Affiliates, Representatives or Governmental Authorities with a need to know the Confidential Information for the purposes of performing work or reviewing information related to this Agreement or the Project. The Receiving Party shall advise all such Persons receiving Confidential Information that such information is confidential and shall require such Persons to observe the confidentiality terms set forth in this Section 11.01. Notwithstanding anything in this Section 11.01 to the contrary, the Parties shall have no obligation with respect to any Confidential Information which (a) is proven to have been known by the Receiving Party prior to its disclosure by the Disclosing Party, (b) is, or becomes, publicly known through publications or otherwise without breach of this Agreement or any other obligation of confidentiality, (c) is received by the Receiving Party from a third party who rightfully discloses it without restriction on its subsequent disclosure and without breach of this Agreement; (d) is shown by an acceptable evidence to have been independently developed by the Receiving Party without access to, or use of, the Confidential Information, (e) is approved for release by authorization of the Disclosing Party, (f) is required to be disclosed by the Receiving Party pursuant to Applicable Law (e.g., SEC disclosure obligations), or (g) is disclosed to

Affiliates or Representatives of such Party directly involved in supporting Transaction and related due diligence, and to those involved in the creation of any Confidential Information exchanged pursuant to the Transaction and related due diligence, but only if such Affiliates or Representatives are advised of the confidential nature of such Confidential Information. Notwithstanding the foregoing, Manager shall be permitted to disclose Confidential Information related to the Project to any Person after the Closing. "***Confidential Information***" shall mean any and all information provided (i) either by Owner Parties or any of their Affiliates to Manager or by Manager or any of its Affiliates to Owner Parties or in writing and identified by the Disclosing Party as confidential and (ii) any and all information with respect to the Project, the Project Assets, or the Transaction.

ARTICLE XII
ADDITIONAL PROVISIONS

12.01 Independent Contractor. It is expressly understood and agreed by the Parties that Manager, in performing its obligations under this Agreement, shall be deemed an independent contractor and not an employee of any Owner Party and nothing contained in this Agreement shall be construed to mean that Manager and any Owner Party are joint venturers or partners or to establish any contractual relationship between any Owner Party and any Subcontractors.

12.02 Performance of Work During the Pendency of Disputes. Unless the Parties expressly agree otherwise in writing, in the event that a dispute shall arise under this Agreement, Manager shall continue during the pendency of such dispute to perform the Work and shall perform all other undisputed obligations required to be performed by it under this Agreement as if no dispute shall have arisen.

12.03 Captions and Titles. Captions and titles of the different Articles and Sections of this Agreement are solely for the purpose of aiding and assisting in the location of different material in this Agreement and are not to be considered under any circumstances as parts, provisions or interpretations of this Agreement.

12.04 Severability. If any provision of this Agreement is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of the Agreement and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of the Agreement shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

12.05 Entire Agreement. This Agreement, together with the MIPA and the other Ancillary Documents, represent the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral and written understandings and all contemporaneous oral negotiations, commitments and understandings between the Parties. This Agreement, together with the MIPA and the other Ancillary Documents, represents the result of negotiations between the Parties, each of which has been represented by counsel of its own choosing, and none of which has acted under duress or compulsion, whether legal, economic or otherwise. Accordingly, this Agreement shall be interpreted and construed in accordance with its

usual and customary meaning, and the Parties hereby waive the application, in connection with the interpretation and construction of this Agreement, of any Applicable Law to the effect that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed draft or any earlier draft of this Agreement.

12.06 Amendments. No amendments, modifications or extensions of this Agreement shall be valid unless evidenced in writing and signed by all the Parties hereto.

12.07 No Waiver. Any delay, waiver or omission by a Party to exercise any right or power arising from any breach or default with respect to any of the terms, provisions or covenants of this Agreement shall not be construed to be a waiver by such Party of any subsequent breach or default of another Party of the same or other terms, provisions or covenants.

12.08 Not for the Benefit of Third Parties. This Agreement is entered into for the sole, exclusive benefit of the Parties, and except as specifically provided herein, no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

12.09 Counterparts/Electronic Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement. This Agreement and any amendments hereto, to the extent executed and delivered by means of a facsimile machine or e-mail of a PDF file containing a copy of an executed agreement (or signature page thereto), shall be treated in all respects and for all purposes as an original agreement or instrument and shall have the same binding legal effect as if it were the original signed version thereof.

12.10 Dispute Resolution, Governing Law and Consent to Jurisdiction.

(a) All disputes arising hereunder, unless resolved by mutual agreement of the Parties, shall be resolved by any of the state or federal courts having jurisdiction over this Agreement and located in New York, New York or the Southern District of New York, as applicable.

(b) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD APPLY ANY OTHER LAW. Manager hereby (i) irrevocably consents, for itself and its legal representatives, partners, successors and assigns, to the jurisdiction of any of the state or federal courts having jurisdiction over this Agreement and located in New York, New York or the Southern District of New York, as applicable, for all purposes in connection with any action or proceeding which arises from or relates to this Agreement; (ii) waives any right it may have to personal service of summons, complaint, or other process in connection therewith, and agrees that service may be made by registered or certified mail addressed to Manager at its last known principal place of business; and (iii) waives its right to a trial by jury.

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

GRAIN BELT EXPRESS CLEAN LINE LLC,
an Indiana limited liability company

By: _____
Name: Jayshree Desai
Title: Authorized Representative

GRAIN BELT EXPRESS HOLDING LLC,
a Delaware limited liability company

By: _____
Name: Jayshree Desai
Title: Authorized Representative

INVENERGY TRANSMISSION LLC,
a Delaware limited liability company

By: _____
Name:
Title:

[Signature page to DMA]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

GRAIN BELT EXPRESS CLEAN LINE LLC,
an Indiana limited liability company

By:_____
Name:
Title:

GRAIN BELT EXPRESS HOLDING LLC,
a Delaware limited liability company

By:_____
Name:
Title:

INVENERGY TRANSMISSION LLC,
a Delaware limited liability company

LEGAL HC REVIEWED

By: Kris Zadlo
Name:
Title: Kris Zadlo
Vice President

[Signature page to DMA]

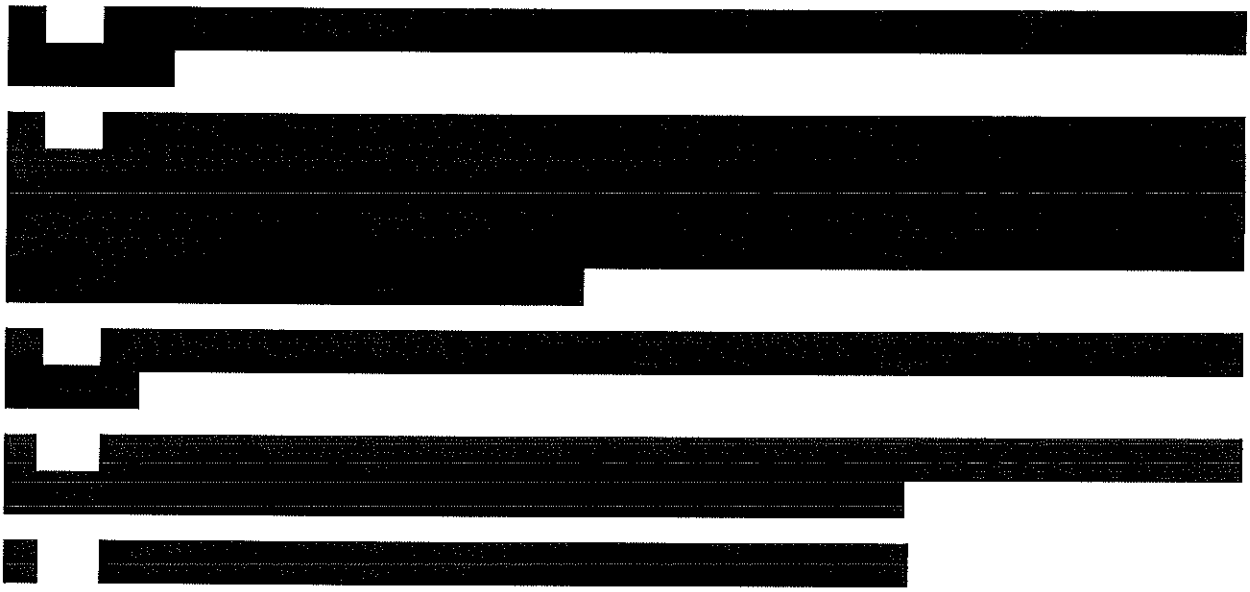
EXHIBIT A

Scope of Work

[redacted]

EXHIBIT B

Restricted Actions



Invenergy

Qualifications and Experience
Of Invenergy LLC's Management Team

Senior Management

Michael Polsky, Founder and Chief Executive Officer: With more than 30 years of experience in the energy industry, Michael Polsky is widely recognized as a pioneer and industry leader in the cogeneration and independent power industry in North America. Polsky founded Invenergy, a leading clean energy company, 15 years ago. Previously, in 1991, Polsky founded SkyGen Energy – a developer, owner, and operator of natural gas-fueled generating plants – which was purchased by Calpine Corporation in 2001. Before forming SkyGen, Polsky co-founded and was President of Indeck Energy Services Inc. Polsky holds an MSME Degree from Kiev Polytechnic Institute and an MBA from the University of Chicago. In 2002, Polsky endowed a center for Entrepreneurship at the University of Chicago Graduate School of Business which is named after him.

Jim Murphy, Invenergy President and Chief Operating Officer: Jim Murphy has more than 30 years of financial and management experience in the energy industry. He has managed the negotiation and execution of more than $15 billion in private equity and debt investments, power plant acquisitions and sales, and project debt and equity financing. He is a founding member of Invenergy LLC and responsible for the general management of the company, corporate and project finance, risk management, and asset optimization. Murphy is currently a member of the Board of Directors of the American Wind Energy Association ("AWEA"). Prior to the formation of Invenergy, he was Chief Financial Officer at SkyGen Energy LLC, a Vice President with financial advisory and investment firm The Deerpath Group, Inc. and a manager with Arthur Andersen. He earned a BS from the University of Illinois, magna cum laude, and is a Certified Public Accountant.

Jim Shield, Executive Vice President and Chief Commercial Officer: With more than 25 years of experience in all aspects of the power generation industry, Jim Shield is responsible for the development, marketing, engineering, and construction of Invenergy's wind, solar, and thermal energy projects worldwide. During his career, Shield has developed over 10,000 MW of power projects and negotiated over 3,000 MW of long-term energy off-take agreements. Prior to joining Invenergy, Shield held various positions, including Senior Vice President-East Region with Calpine Corporation. Prior to that role, he was a key contributor in building SkyGen Energy from a start-up company and a project manager at Indeck Energy Services. Shield has a BS in Mechanical Engineering from the University of Michigan and an MBA from DePaul University. He is a Registered Professional Engineer in the State of Illinois.

Bryan Schueler, Executive Vice President and Chief Development Officer: A 25-year veteran of the power industry, Bryan Schueler is responsible for project development at Invenergy. He has experience in plant operations and engineering, as well as the development, permitting, and construction of biomass, wind, landfill gas, and natural gas projects. Over the course of two decades, Schueler has successfully managed the development and construction of more than 20 wind farms and more than 2,500 MW of natural gas-fired facilities. Before joining Invenergy, Schueler was a project director at Calpine, fulfilling the same role he held earlier at SkyGen. Previously, he was a performance engineer at a 1,000 MW coal station for Commonwealth Edison. Schueler has a BS in Mechanical Engineering from Purdue University and an MBA from the University of Illinois.

Project Management Team

Art Fletcher, Senior Vice President, Renewable Engineering and Project Management: Art Fletcher is responsible for leading the engineering and project management groups through development and construction of Invenergy's wind, solar, and energy storage projects. He has 30 years of experience in managing heavy civil and power construction projects domestically and abroad. During his ten years with Invenergy, he has overseen the construction of over 6,000 MW wind, solar, storage and natural gas-fueled energy generation projects. A registered Professional Engineer in the state of Illinois, Fletcher graduated from the University of Illinois at Urbana-Champaign with a BS in Aeronautical and Aerospace Engineering and holds a Masters Degree in Geoenvironmental Engineering from the Illinois Institute of Technology.

Christopher M. Carter, Director, Renewable Project Management: Chris Carter is responsible for directing project management teams for Invenergy's renewable energy projects. He has 16 years of experience in contract negotiation, material procurement, right-of-way issues, utility interconnections, and construction of electrical transmission and substations. Carter is a licensed Professional Engineer, with a BS in Civil Engineering from Texas A&M University and a Masters Degree in Project Management from Northwestern University.

EXHIBIT B

to

Motion of the Illinois Landowners Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority

Report and Order of the Missouri Public Service Commission Dated October 12, 2023, File No. EA-2023-0017

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express LLC for an Amendment to its Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage, and Maintain a High Voltage, Direct Current Transmission Line and Associated Converter Station	)))))))	**File No. EA-2023-0017**

REPORT AND ORDER

Issue Date: October 12, 2023

Effective Date: November 11, 2023

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express LLC for an Amendment to its Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage, and Maintain a High Voltage, Direct Transmission Line and Associated Converter Station	)))))	**File No. EA-2023-0017**

REPORT AND ORDER

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APPEARANCES

GRAIN BELT EXPRESS:

Frank A. Caro, Anne E. Callenbach, Andrew O. Schulte, **Sean Pluta**, **and Jared Jevons**, Counsel, Polsinelli, 900 West 48th Place, Suite 900, Kansas City, Missouri, 64112.

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:

Kevin Thompson, Scott Stacey, Eric Vandergriff, and Travis Pringle, Public Service Commission, 200 Madison Street, Suite 800, PO Box 360, Jefferson City, Missouri 65102.

OFFICE OF THE PUBLIC COUNSEL:

Nathan Williams and Marc Poston, Public Counsel, Post Office Box 2230, Jefferson City, Missouri 65102.

ASSOCIATED INDUSTRIES OF MISSOURI:

Marc H. Ellinger, Counsel, Ellinger & Associates, 308 East High Street, Suite 300, Jefferson City, Missouri 65101.

CLEAN GRID ALLLIANCE:

Sean Brady and Judith Willis, Counsel, The Law Office of Judith Anne Willis, PO Box 106088, Jefferson City, MO 65110.

MISSOURI LANDOWNERS ALLIANCE, EASTERN MISSOURI LANDOWNERS ALLIANCE, DUSTIN HUDSON, GARY AND CAROL RIEDEL, AND NORMAN FISHEL:

Paul Agathen, 485 Oak Field Court, Washington, MO 63090.

MISSOURI CATTELMEN'S ASSOCIATION, MISSOURI CORN GROWERS ASSOCIATION, INC., MISSOURI FARM BUREAU FEDERATION, MISSOURI PORK ASSOICATION, AND MISSOURI SOYBEAN ASSOICATION:

Brent Haden, Counsel, Haden & Colbert, LLC, 827 East Broadway, Suite B, Columbia, MO 65201.

MISSOURI ELECTRIC COMMISSION:

Peggy A. Whipple, Doug Healy, and Alex Riley, Counsel, Healy Law Offices, 3010 East Battlefield, Suite A, Springfield, MO 65804.

RENEW MISSOURI:

Alissa Greenwald, Renew Missouri, PO Box 413071, Kansas City, MO 64141, **Andrew Linhares**, Renew Missouri, 3115 South Grand Avenue, Suite 600, St. Louis, MO 63118.

SIERRA CLUB

Sarah Rubenstein, Madeline Semanisin, and Ethan Thompson, Great Rivers Environmental Law Center, 319 N. 4th Street, Suite 800, St. Louis, MO 63102.

UNION ELECTRIC COMPANY:

James B. Lowery, JBL Law, LLC, 9020 South Barry Road, Columbia, MO 65201.

WILLIAM W. HOLLANDER AND AMY JO HOLLANDER:

William W. Hollander, Wion & Hollander, PC, 1114 South Laclede Station Road, St. Louis, MO 63119.

PRO SE:

Patricia Stemme, 12601 E. Remie Road, Centralia, MO 65240**.**

CHIEF REGULATORY LAW JUDGE: Nancy Dippell

REPORT AND ORDER

I. Procedural History

On August 24, 2022, Grain Belt Express LLC (Grain Belt) filed an application with the Commission, pursuant to Section 393.170.1, RSMo,[1] 20 CSR 4240-2.060 and 20 CSR 4240-20.045, to "amend [the] existing certificate of convenience and necessity"[2] (CCN) granted to Grain Belt in File No. EA-2016-0358.[3] The current application requests authority "to construct, install, own, operate, maintain, and otherwise control and manage an approximately 800-mile, overhead, multi-terminal ±600 kilovolt (kV) high-voltage, direct current (HVDC) transmission line and associated facilities including converter stations and alternating current (AC) connector lines (the "Project")."[4]

The Commission issued notice of the application and provided an opportunity for interested persons to intervene. The Commission granted intervention to the following parties: Norman Fishel, Gary and Carol Riedel, Dustin Hudson, Missouri Landowners Alliance, and Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners (collectively referred to as the "Missouri Landowners Alliance" or "MLA"); David and Patricia Stemme; Union Electric Company d/b/a Ameren Missouri (Ameren Missouri); Missouri Joint Municipal Electric Utility Commission d/b/a Missouri Electric Commission ("MEC" and formerly known as "MJMEUC"); Renew Missouri Advocates

[1] All statutory references are to the Missouri Revised Statutes (2016), as revised, unless otherwise noted.
[2] Although the application referenced an amendment of its prior certificate, the Commission treats this application as a request for a new certificate pursuant to 393.170.1, RSMo, for the Tiger Connector, relocated converter station, and the increased capacity of the transmission line.
[3] Exhibit 306, Report and Order on Remand (issued March 20, 2019). The Report and Order on Remand granted Grain Belt a CCN to construct, own, operate, control, manage, and maintain a high voltage, direct current transmission line and associated facilities within Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri, as well as an associated converter station in Ralls County (referred to herein as the "Original Project").
[4] File No. EA-2023-0017, *Application to Amend Existing Certificate of Public Convenience and Necessity*, (filed August 24, 2023), page 1.

d/b/a Renew Missouri (Renew Missouri); William W. Hollander and Amy Jo Hollander; Sierra Club; Clean Grid Alliance; Associated Industries of Missouri; and Missouri Farm Bureau Federation, Missouri Cattlemen's Association, Missouri Pork Association, Missouri Corn Growers Association, and Missouri Soybean Association (collectively referred to as the "Agriculture Associations").

The Commission conducted three public hearings to receive comments from the general public.[5] The Commission held an evidentiary hearing on June 5-8, 2023.[6] On June 26, 2023, the Commission overruled pending objections to admission #7 and Exhibit 307 and admitted those items into the evidentiary record. The parties submitted initial briefs on July 7, 2023, and reply briefs on July 14, 2023.

During the evidentiary hearing, the parties presented evidence relating to the following unresolved issues[7] previously identified by the parties:

1. Does the evidence establish that the following amendments to the Certificate of Convenience and Necessity ("CCN") held by Grain Belt Express LLC ("Grain Belt Express") are "necessary or convenient for the public service" within the meaning of that phrase under section 393.170, RSMo:

    a. Relocating the Missouri converter station from Ralls County to Monroe County and increasing the capacity of the Missouri converter station from 500 MW to 2500 MW.

[5] Transcript, Vols. 3-5. Two public hearings were held virtually via WebEx video and telephone conference and one local public hearing was held in Mexico, Missouri.
[6] Transcript, Vols. 7-12.
[7] Issue 3 presented by the parties in their *Joint List of Issues, Order of Witnesses, Order of Cross-Examination, and Order of Opening Statements,* (filed May 22, 2023), was withdrawn by Grain Belt prior to the evidentiary hearing and therefore was not litigated. That issue was:

> Should the Commission approve a modification of Ordering Paragraph 5 in the Report & Order on Remand in Case No. EA-2016-0358, such that easements obtained by means of eminent domain must be returned to the fee simple title holder if Grain Belt Express LLC does not satisfy the Financing Conditions within seven years, rather than five years, from the date that such easement rights are recorded with the appropriate county recorder of deeds?

b. Relocating the AC connector line (the "Tiger Connector") from Ralls County to Monroe, Audrain, and Callaway Counties.

c. Constructing the Project in two phases.
    i. If the Commission determines that constructing the project in two phases is "necessary or convenient for the public service," should the Commission approve a modification to the "Financing Conditions," as set forth in Section I of Exhibit 1 to the *Report & Order on Remand* in Case No. EA-2016-0358, to allow for constructing the Project in two phases?

2. Should the Commission approve a modification of the Landowner Protocols, as referenced and incorporated into the *Report & Order on Remand* in Case No. EA-2016-0358, to modify the compensation package offered to Tiger Connector landowners?

* * *

3. If the Commission approves any or all of the foregoing amendments, what conditions, if any, should the Commission impose?

II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

A. Project Description

1. In Commission File No. EA-2016-0358, Grain Belt Express Clean Line LLC was granted authority with conditions to construct, own, operate, control, manage, and maintain a HVDC electric transmission facilities within Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri, as well as an associated converter station in Ralls County pursuant to the *Report and Order on*

Remand (the "Original CCN Order" and the authority granted will be referred to herein as the "Original CCN") pursuant to Section 393.170.1, RSMo.[8]

2. In File No. EM-2019-0150, the Commission approved the acquisition of Grain Belt Express Clean Line LLC by Invenergy Transmission LLC. The entity name changed in Commission File. No. EN-2020-0385 to Grain Belt Express LLC (Grain Belt[9]).[10]

3. Grain Belt is a limited liability company organized under the laws of the State of Indiana. Grain Belt is a wholly-owned subsidiary of Invenergy Transmission LLC, a Delaware limited liability company, which is a wholly-owned subsidiary of Invenergy Renewables LLC. Invenergy Renewables LLC is also a Delaware limited liability company.[11]

4. Grain Belt filed the current application for a CCN pursuant to Section 393.170.1, RSMo, 20 CSR 4240-2.060, and 20 CSR 4240-20.045 requesting to amend its Original CCN.[12]

5. The transmission line proposed to be constructed by Grain Belt in the original application for CCN was an approximately 780-mile, overhead, multi-terminal +600 kilovolt (kV) high-voltage, direct current (HVDC) transmission line and associated facilities (collectively, the "Original Project").[13]

[8] Exhibit 306, Report and Order on Remand (issued March 20, 2019). *See also,* Exhibit 1, Direct Testimony of Shashank Sane, p. 6.
[9] As Grain Belt Express Clean Line LLC and Grain Belt Express LLC are essentially the same company for purposes of these applications, they may be referred to interchangeably in this order.
[10] Ex. 1, Sane Direct, pp. 6-7.
[11] Ex. 1, Sane Direct, p. 3.
[12] Ex. 1, Sane Direct, p. 4.
[13] Ex. 306, Report and Oder on Remand, paragraph 4.

6. The Missouri portion of the Original Project would have been located in the Missouri counties of Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe, and Ralls.[14]

7. The Original Project would have delivered 500 megawatts (MW) of wind-generated electricity from western Kansas to customers in Missouri, and another 3,500 MW to states further east.[15]

8. In the current application, Grain Belt proposes to construct, install, own, operate, maintain, and otherwise control and manage an approximately 800-mile, overhead, multi-terminal +\- 600 kilovolt kV HVDC transmission line, and associated facilities including converter stations and alternating current (AC) connector lines in two phases (collectively, the "Project").[16]

9. The Project as proposed will have three converter stations. One converter station will be located in western Kansas, where wind-generating facilities will connect to the transmission line via AC lines. The two other converter stations in eastern Missouri and eastern Illinois will deliver electricity to the AC grid through interconnections with transmission owners in the systems of the Midcontinent Independent System Operator, Inc. (MISO), Southwest Power Pool (SPP), and PJM Interconnection, LLC (PJM).[17]

10. Phase I of the Project will interconnect to ITC Great Plains' Saddle 345 kV substation, which will break the 345 kV double circuit line between the Clark County substation and the Spearville/Ironwood substations in Ford County in southwestern

[14] Ex. 306, Report and Order on Remand, para. 5.
[15] Ex. 306, Report and Order on Remand, para. 5.
[16] Ex. 1, Sane Direct, p. 4.
[17] Ex. 7, Rodriguez Direct, p. 7.

Kansas, near Dodge City.[18] From the converter station near Dodge City, Kansas, the HVDC transmission line will cross approximately 370 miles to the Kansas-Missouri border.[19] The HVDC transmission line will cross the Kansas River south of St. Joseph and enter Missouri. From there, the HVDC transmission line will traverse approximately 156 miles to a converter station in Monroe County, Missouri.[20]

11. In Phase I of the Project, Grain Belt proposes to construct the Missouri converter station in Monroe County instead of Ralls County. An AC tie line will move from Ralls County to Monroe, Audrain, and Callaway Counties. The AC tie line, known as the "Tiger Connector," will be approximately 40 miles, traversing south from the converter station in Monroe County, through Audrain County, and terminating in Callaway County at points of interconnection with the MISO system along the Ameren Missouri 345 kV AC transmission line connecting the McCredie substation and the Montgomery substation.[21] The proposed converter station will also interconnect with the Associated Electric Cooperative Incorporated (AECI) system at the McCredie 345 kV substation.[22]

12. The Project will also change the size of the Missouri converter station from 500 MW to 2500 MW.[23] Thus, Phase I will deliver 2,500 MW into Missouri, including 1,500 MW into MISO and an additional 1,000 MW into AECI.[24]

13. Phase II of the Project will comprise construction from the converter station in Monroe County approximately 58 miles in Missouri to the Illinois border.[25] Phase II will

[18] Ex. 7, Rodriguez Direct, p. 6.
[19] Ex. 7, Rodriguez Direct, p. 6.
[20] Ex. 7, Rodriguez Direct, p. 6.
[21] Ex. 1, Sane Direct, p. 8; and Ex. 7, Rodriguez Direct, pp 6-7.
[22] Ex. 1, Sane Direct, p. 8; and Ex. 7, Rodriguez Direct, pp 6-7.
[23] Ex. 1, Sane Direct, p. 8.
[24] Ex. 3, Sane Surrebuttal, p. 17.
[25] Ex. 7, Rodriguez Direct, pp. 6-7.

continue approximately 207 miles through Illinois to the Indiana border terminating at the substation in Sullivan County, Indiana, and will deliver an additional 2,500 MW into the PJM markets.[26]

14. The Project will not modify the route of the HVDC portion of the transmission line in Missouri.[27]

15. The target date is to start Phase II construction approximately 18 months after the start of Phase I construction.[28]

16. The Project will utilize voltage sourced converter (VSC) technology, which is the same technology that enables connection to islanded off-shore wind. This technology is a significant upgrade from the line commutated converter (LCC) HVDC technology proposed in the Original CCN. Unlike the LCC HVDC technology, the Project utilizing the VSC HVDC technology will not require a connection to the existing grid in SPP, but by connecting to the system, it will allow for a more robust operation and for the ability to provide emergency energy and ancillary services in the future, such as voltage control and black-start capabilities, if required. The exchange to the network will be tightly controlled by the HVDC system, to ensure minimal impact to the grid. Another advantage of the modern VSC technology is that it does not require commutation to take place as the LCC technology did. The design of the converter allows for current flow in any direction by controlling the voltage of the converter.[29]

17. The HVDC technology of the Project is still the most cost-effective and efficient way to move large amounts of electric power over long distances and can transfer

[26] Ex. 3, Sane Surrebuttal, p. 17; and Ex. 7, Rodriguez Direct, pp. 6-7.
[27] Ex. 19, Chandler Direct, p. 8.
[28] Ex. 9, White Direct, p. 16.
[29] Ex. 7, Rodriguez Direct, p. 8.

significantly more power with lower line losses over longer distances than comparable AC lines.[30]

18. AC lines used for long-haul applications require more switching and substations and take more lines to move large amounts of power over a long distance than HVDC lines.[31]

19. The HVDC design will provide a congestion-free delivery source of power, unlike using an interconnected AC system to move power.[32]

20. The Project's development, construction, and operations costs would be borne by Grain Belt's investors and the transmission customers. The Project's costs would not be recovered through the cost allocation process of MISO, PJM, or SPP.[33]

21. The Project is a participant-funded, "shipper pays" transmission line. Grain Belt would recover its capital costs by entering into voluntary, market-driven contracts with entities that want to become transmission customers of the Project.[34]

22. This pricing arrangement is typical for transmission lines operated by the transmission owner members of SPP, MISO and PJM. It is also similar to the contractual arrangements for natural gas and other pipelines.[35]

23. In connection with its grant of authority by the Federal Energy Regulatory Commission (FERC) to negotiate rates for transmission service, Grain Belt Express has committed to turn over functional control of the Project, including scheduling responsibilities, to an RTO (which will be SPP, MISO or PJM) and to operate the

[30] Ex. 7, Rodriguez Direct, pp. 8-9; and Ex. 306, Report and Order on Remand, para. 10.
[31] Ex. 7, Rodriguez Direct, p. 9.
[32] Ex. 7, Rodriguez Direct, p. 9.
[33] Ex. 6, Shine Surrebuttal, p. 13.
[34] Ex. 5, Shine Direct, p. 9; Ex. 6, Shine Surrebuttal, p. 13.
[35] Ex. 5, Shine Direct, p. 9.

transmission line pursuant to an open access transmission tariff (OATT) that would be filed with and subject to the jurisdiction of FERC under the Federal Power Act and FERC regulations.[36]

24. Under FERC requirements, Grain Belt has the authority to charge negotiated rates for the capacity on the Grain Belt line and is required to solicit potential buyers of capacity through an open solicitation process.[37]

25. Grain Belt customers would consist principally of wind energy producers in western Kansas and wholesale buyers of electricity, such as utilities, municipalities, and commercial and industrial customers.[38]

26. The Project will cross approximately 578 parcels in Phase 1 in Missouri, of which approximately 366 easements have been voluntarily obtained.[39]

27. Grain Belt has filed 19 condemnation cases in Missouri, of which approximately six have been concluded in negotiated settlement and four through the court proceedings.[40]

28. Grain Belt has acquired 87 percent of the easements for the transmission line in Phase 1 under voluntary agreement, of which approximately 70 percent are for Missouri landowners. Approximately 25 to 30 percent of the easements in Missouri for Phase 2 have been acquired.[41]

29. Grain Belt uses a standard form of agreement when acquiring easement rights from Missouri landowners. The agreement includes the right to construct, operate,

[36] Ex. 9, White Direct, p. 20.
[37] Transcript, Vol. 7, pp. 176-177.
[38] Ex. 1, Sane Direct, pp. 15, 20, 34-35.
[39] Tr. Vol. 10, p. 644-645 and 675-676.
[40] Tr. Vol. 10, pp. 676-677.
[41] Tr. Vol. 10, pp. 645-646 and 684-685.

repair, maintain, and remove an overhead transmission line and related facilities, along with rights of access to the right-of-way for the transmission line.[42]

30. The easement agreement limits the landowner's legal rights and use of the easement property, including prohibiting any landowner activity that would interfere with Grain Belt's use of the easement.[43]

B. Need for the Project

31. The Commission previously found there was a need for the Original Project.[44]

32. The need for MEC and its customers to obtain energy from the Project still exists as verified by MEC's Chief Markets Officer Rebecca Atkins,[45] Chief Executive Officer John Twitty,[46] and Chief Electric Operations Officer John Grotzinger.[47]

a. Demand

33. MEC witness John Grotzinger testified credibly that the Project will provide MEC's members with needed affordable renewable energy.[48]

34. MEC is a joint action agency organized to promote efficient wheeling, pooling, generation, and transmission arrangements to meet the energy requirements of municipal utilities in the State of Missouri.[49]

35. MEC has 72 Missouri municipal utility members and advisory member municipal utilities in Arkansas. Together, MEC's members serve over 350,000 Missouri

[42] Ex. 19, Chandler Direct, Schedule KC-4.
[43] Ex. 19, Chandler Direct, Schedule KC-4.
[44] Ex. 306, Report and Order on Remand.
[45] Ex. 701, Atkins Rebuttal, pp. 3 and 8.
[46] Ex. 700, Twitty Rebuttal, p. 7.
[47] Ex. 702, Grotzinger Rebuttal, pp. 4, 12, and 14.
[48] Ex. 702, Grotzinger Rebuttal, p. 4.
[49] Ex. 700, Twitty Rebuttal, p. 3.

electric customers and over 500,000 total electric customers.[50] Their combined peak load is approximately 2,600 MW.[51]

36. MEC owns generation that supplies some of its members' energy needs, but it has primarily relied on transportation service agreements (TSAs) and purchase power agreements (PPAs) with other utilities to provide renewable energy to its members.[52]

37. MEC has loads and/or resources located within the transmission systems of several members of MISO, SPP, and the Associated Electric Cooperative Incorporated (AECI). MEC has been successful in obtaining ownership in large base load and intermediate generators to serve its members and continues to seek new opportunities. MEC has an interest in and need for low-cost energy, and in renewable energy, for consumption by its members.[53]

38. The Missouri Public Energy Pool (MoPEP) is a group of 35 Missouri cities for which MEC provides full requirements for wholesale energy, capacity, and ancillary services.[54]

39. MEC's wholesale customers, including MoPEP, have a demand for affordable renewable energy, as some are leaders within Missouri in providing renewable energy to their customers.[55]

40. On June 2, 2016, MEC entered into a TSA with Grain Belt. Under the agreement, MEC agreed to purchase a minimum of 100 MW and up to 200 MW of firm

[50] Ex. 700, Twitty Rebuttal, p. 3.
[51] Ex. 700, Twitty Rebuttal, p. 3.
[52] Ex. 700, Twitty Rebuttal, pp. 3-4.
[53] Ex. 700, Twitty Rebuttal, p. 5.
[54] Ex. 700, Twitty Rebuttal, p. 4.
[55] Ex. 700, Twitty Rebuttal, p. 8.

transmission capacity rights on the Project from Grain Belt's western converter station in Ford County, Kansas to the converter station in Missouri for the benefit of its existing full-requirements pool members and other members. In addition, MEC agreed to purchase 25 MW of capacity (with the option to purchase another 25 MW) from the Missouri converter station to the Sullivan Substation in PJM. This allows MEC utilities the ability to directly make off-system sales into the PJM market and derive additional financial benefits.[56]

41. The MEC contract remains in place and that demand for electricity supplied by the transmission line continues to grow.[57]

42. The TSA between MEC and Grain Belt is affordable and will allow predictable, stable cost increases in transmission well into the future.[58]

43. MEC also executed a PPA with Iron Star Wind Project, LLC (Iron Star), now with Iron Star's assignee, Santa Fe Wind Project, LLC (Santa Fe).[59] This PPA would allow low-cost renewable energy to flow across Grain Belt's transmission line and into MISO where MoPEP and individual MEC members can deliver that renewable energy to their customers.[60]

44. MEC's agreements with Grain Belt and Santa Fe will allow low-cost renewable energy to flow into MISO and also into AECI.[61]

45. In December 2016, MoPEP committed to purchase 60 MW of wind energy over the Grain Belt transmission line.[62]

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[56] Ex. 700, Twitty Rebuttal, p. 4 and Schedule JT-3; and Ex. 702, Grotzinger Rebuttal, p. 4.
[57] Ex. 1, Sane Direct, p. 13.
[58] Ex. 700, Twitty Rebuttal, pp. 4-5 and Schedules JT-3, 4, 5, 6, and 7.
[59] Ex. 700, Twitty Rebuttal, p. 3 and Schedule JT-8, 9, and 10.
[60] Ex. 700, Twitty Rebuttal, p. 4.
[61] Ex. 700, Twitty Rebuttal, p. 4 and 6.
[62] Ex. 702, Grotzinger Rebuttal, p. 4, 6, and Schedule JG-11.

46. The following Missouri cities have contracted to purchase Kansas wind energy delivered over the Grain Belt transmission line: City of Kirkwood, 25 MW; City of Hannibal, 15 MW; City of Columbia, 35 MW; and City of Centralia, 1 MW. These contracts, when combined with the MoPEP agreement, commit at least 136 MW of wind energy available to MEC through its transmission service agreement with Grain Belt.[63]

47. Other specific evidence of interest in transmission across Grain Belt's line can be found in Mr. Twitty's Highly Confidential – Competitive Rebuttal Testimony.[64]

48. The demand from other MEC members for energy transmitted over the Grain Belt transmission line is expected to exceed the 64 MW remaining for subscription under the Grain Belt TSA and the Santa Fe PPA.[65]

49. There is demand from MoPEP's 35 member cities and their customers for renewable energy. For example, the City of Columbia has a renewable portfolio standard that exceeds the Missouri Renewable Energy Standard. Other MoPEP customers continue to express a desire for more renewable energy.[66] Additionally, MoPEP offered 20 MW option at a small premium over other resources in its portfolio and it was quickly fully subscribed with additional demand unmet.[67]

50. MoPEP previously had a contract with Illinois Power Marketing Company to provide 100 MW of coal energy and capacity that expired in 2021.[68] That contract was replaced by SPP combined-cycle natural gas generation, SPP wind generation capacity, and the Santa Fe PPA. The MISO Grain Belt portion of that replacement has been

[63] Ex. 702, Grotzinger Rebuttal, p. 5-6 and Schedules JG-12 and JG-13.
[64] Ex. 700(HC-C), Twitty Rebuttal, p. 6 and Schedule JT-12.
[65] Ex. 702, Grotzinger Rebuttal, p. 6.
[66] Ex. 702, Grotzinger Rebuttal, p. 7.
[67] Ex. 702, Grotzinger Rebuttal, p. 7.
[68] Ex. 306, Report and Order on Remand, FOF 29.

temporarily filled with higher-cost short-term energy purchases pending the full commercial operation of Grain Belt. The customers of the 35 MoPEP cities are paying the additional cost of these more expensive resources.[69]

51. Industrial retail customers also have expressed demand for additional renewable energy.[70] This is demonstrated by the industrial wholesale customers placing renewable energy goals in their corporate procurement policies. The Project will help MoPEP's member cities to remain or become more attractive location for those industries.[71]

52. Large corporate energy customers accounted for 37% of all carbon free energy added to the grid since 2014. In 2021 corporate buyers procured 11 GW of carbon free energy power. The demand in 2022 and beyond is projected to exceed the record amount from 2021.[72]

53. A number of businesses have expressed interest in buying renewable power. A non-exhaustive list of companies operating in Missouri are members of the Clean Energy Buyers Association and have made commitments to use renewable energy: 3M, Anheuser-Busch Companies, LLC, Burns & McDonnell, The Boeing Company, Cargill, Emerson, Dow, General Mills, Google LLC, GM, Ikea, Meta Platforms, Inc., Nestlé USA, Proctor & Gamble, T-Mobile, Occidental Petroleum Corporation, Unilever, and Walmart.[73]

[69] Ex. 702, Grotzinger Rebuttal, p. 7.
[70] Ex. 702, Grotzinger Rebuttal, p. 8.
[71] Ex. 702, Grotzinger Rebuttal, pp. 8-9.
[72] Ex. 1, Sane Direct, p. 11.
[73] Ex. 1, Sane Direct, p. 15.

54. Several Missouri municipal governments, including Kansas City, St. Louis, Columbia, and University City, have also made pledges to increase use of renewable energy in city facilities.[74]

55. Other credible sources showed a demand for the Project from outside of Missouri. Specifically, as of December 4, of 2021, 70% of the 30 largest U.S. electric and gas utilities have net-zero equivalent targets or were moving to comply with aggressive carbon reduction mandates. The majority of these utilities reside within the MISO and PJM footprints.[75] Additionally, a study commissioned by MISO to assess the clean energy goals of utilities within its footprint through 2040 showed that 28 have carbon reduction goals and 26 have renewable energy goals.[76] Also, the Tennessee Valley Authority requested up to 5,000 MW of carbon-free energy that must be operational by 2029. Because the Project will have the capability to deliver energy into MISO South via its AECI interconnection, it could be a potential transmission source for this additional energy need.[77]

56. Both Ameren Missouri and Evergy have announced carbon emission reduction goals. These goals show there will be demand and a need to expand the delivery capability of the Original Project.[78]

57. The Project is targeted for Phase I to be fully operational by the end of 2027.[79] This timeline is aligned to coincide with Ameren Missouri's and Evergy Missouri's milestones of significantly reducing fossil fuel generation and increasing renewable

[74] Ex. 1, Sane Direct, p. 15.
[75] Ex. 1, Sane Direct, pp. 15-16.
[76] Ex. 1, Sane Direct, p. 16.
[77] Ex. 1, Sane Direct, p. 16.
[78] Ex. 1, Sane Direct, p.13.
[79] Ex. 2, Sane Surrebuttal, p. 6.

energy generation sources by 2030.[80] In its 2022 Integrated Resource Plan (IRP) Ameren Missouri has set a target timeline of 2026 - 2030 to add 1,000MW of wind energy to their resource mix.[81] Grain Belt will provide Missouri utilities with a superior generating resource pool with higher capacity factors, better availability during times of need and the geographic diversity necessary to balance potential extreme grid conditions in the SPP, AECI, and MISO regions.[82]

58. Further evidence of demand was from Mr. Goggin who credibly testified that in his experience in Texas, parts of MISO, SPP, and California, over the last 15-plus years, every time there has been a proactive expansion of transmission to areas with high quality renewable resources, those transmission lines are typically immediately subscribed if not oversubscribed.[83]

b. Increased Capacity – Decreased Cost of Renewable Energy

59. Increasing the flow of low-cost, high capacity factor energy will reduce power prices in the MISO and SPP markets, particularly in periods when local renewable resources in Missouri are operating at below-average levels.[84]

60. A benefit of increasing the capacity of the transmission line is that MEC's Mid-Missouri Municipal Power Energy Pool (MMMPEP) may also take the opportunity to participate because of its proximity to AECI. MMMPEP could take some of the renewable

[80] Ex. 2, Sane Surrebuttal, pp. 6 and 15; and Ex. 9, White Direct, p. 15.
[81] Ex. 2, Sane Surrebuttal, p. 6.
[82] Ex. 2, Sane Surrebuttal, p. 6; and Ex. 600, Goggin pp. 6-7.
[83] Tr. Vol 12, p. 1002.
[84] Ex. 2, Sane Surrebuttal, p. 14 (referring to the PA Consulting Study and Ex. 3, Repsher Direct, pp. 10-11); Ex. 3, Repsher Direct, Schedule MR-2, pp. 12-13; Ex. 600, Goggin Rebuttal, pp. 5-6.; Ex. 306, Report and Order on Remand, FOF 43-44; and Tr. Vol. 12 at 980.

energy that Grain Belt would inject into that node, thus avoiding the need for a costly separate transmission path through MISO or the SPP.[85]

61. Although the additions and modifications to the Project Grain Belt seeks may have altered MEC's analysis and some of the earlier numbers from when the Original CCN was granted, Grain Belt remains the best option for low cost renewable energy delivered into MISO. Across the MISO footprint, in the year 2028, Grain Belt's Project is projected to reduce the marginal energy component of the locational marginal price (LMP) on average by $1.77/MWh, which savings applied to the MISO load will amount to over $1.1 billion.[86]

62. The LMPs at the nodes of particular interest to MEC had an annual average drop ranging from $1.10/MWh to $37.56/MWh after the injection of Grain Belt renewable energy into AECI and MISO.[87] Mr. Grotzinger credibly testified that he expected the benefits of Grain Belt to continue throughout the life of MEC's 20-plus year contract.[88]

63. Grain Belt engaged PA Consulting Group, Inc. to analyze the market impacts of the Grain Belt transmission project. PA Consulting compiled the *Missouri Interstate Transmission Need: The Public Benefit of Grain Belt Express* report (the "PA Consulting Report"). PA Consulting's analysis conservatively assumes that only a fraction of generators in the queue will ultimately come online.[89]

64. The PA Consulting Report and Mr. Repsher's conclusion is that expanding the Original Project to the Project will lower energy and capacity costs in Missouri by

[85] Ex. 702, Grotzinger Rebuttal, p. 6.
[86] Ex. 702, Grotzinger Rebuttal, pp. 4, 11, and 13.
[87] Ex. 702, Grotzinger Rebuttal, pp. 4 and 11-13.
[88] Ex. 702, Grotzinger Rebuttal, p. 4 and 14.
[89] Ex. 3, Repsher Direct, Schedule MR-2; and Ex.4, Repsher Surrebuttal, p. 4.

approximately 6.1% over the 2027-2066 period, resulting in over $17.6 billion of savings for Missouri residents, on an undiscounted basis. The PA Consulting Report also found the Project is projected to reduce emissions of CO_2, SO_2, and NOx in Missouri by 9.3%, 19.2%, and 17.2%, respectively, enhancing local utilities' abilities to meet their climate and reliability goals, while also delivering immediate local air quality and health benefits. Quantifying these emission reduction benefits to the state, Mr. Repsher's conclusion was that the Project could offer Missouri over $7.6 billion in social benefits from 2027-66, in addition to the over $17.6 billion in direct ratepayer savings in the energy and capacity costs over this same period—bringing the total cumulative benefit to over $25.3 billion by 2066.[90]

65. The Project will provide access to a greater volume of renewable resources and the resources from the Project will provide a better fit to local capacity needs than local solar resources.[91] The most pressing capacity need is for winter peak capacity typically occurring from 7:00 a.m. to 8:00 a.m. during the winter.[92] While solar does not have high capacity at that time of day, those early morning hours are typically the strongest for Kansas wind resources, providing on average 52% capacity factor.[93] When paired with solar, this increases to 61%.[94]

66. These resources can provide year-round capacity value as well. When summer peak capacity from 4:00 p.m. to 6:00 p.m. is required, the wind and solar portfolio provided by the Project offers on average a 67% capacity factor.[95] The value of

[90] Ex. 3, Repsher Direct, p. 6 and Schedule MR-2, p. 4
[91] Ex. 2, Sane Surrebuttal, p. 7.
[92] Ex. 2, Sane Surrebuttal, p. 7.
[93] Ex. 2, Sane Surrebuttal, p. 7.
[94] Ex. 2, Sane Surrebuttal, p. 7.
[95] Ex. 2, Sane Surrebuttal, p. 7.

time-shifted solar in Kansas provides load carrying capacity that is superior to local solar because it better aligns with system peak. Mr. Sane credibly testified that 160 MW of solar in Kansas provides the same capacity value as 450 MW of local Missouri solar, saving Missouri ratepayers approximately $600 million in avoided costs.[96]

67. The Project can deliver wind from Kansas that is uncorrelated to solar production within MISO.[97] This relationship will reduce risk of supply shortfall and therefore reduce the need for backup generation.[98] The Project can also deliver solar energy from Kansas that will continue producing at a higher capacity factor for nearly two hours later than solar within Missouri, reducing the pace of ramping required in the evening.[99]

68. The Project is needed because it will result in $17.6 billion in savings to Missouri ratepayers and $7.6 billion in social benefits,[100] compared to the projected $5.7 billion cost of the Project.[101]

69. The annual cost savings to MEC member cities (not-for-profit utilities) that participate in the Project is likely to result in rate relief for the cities' customers, or investments in their systems.[102]

c. Grid Stability, Resilience, and National Security

70. The Project will also increase grid stability. The HVDC converter, proposed to be located in Monroe County, can serve as a critical grid asset to ensure grid stability.

[96] Ex. 2, Sane Surrebuttal, p. 7.
[97] Ex. 1, Sane Direct, p. 20; and Ex. 2, Sane Surrebuttal, p. 8.
[98] Ex. 2, Sane Surrebuttal, p. 8.
[99] Ex. 2, Sane Surrebuttal, p. 8.
[100] Ex. 3, Repsher Direct, p. 6.
[101] Tr. Vol. 9, pp. 346-349 and 374-375.
[102] Ex. 700, Twitty Rebuttal, p. 7.

As more fossil (synchronous) generation is retired, the result is a transmission system with a lower short circuit ratio, which may be prone to instability.[103]

71. Grain Belt also could provide black-start capability without dependency on local generation and onsite fuel.[104] The Project has this potential because of its technical capabilities: 1) voltage source converter technology, which can quickly reverse the direction of current, and 2) its converter stations capable of bidirectional flow.[105]

72. The three DC/AC converter stations (one each in Kansas, Missouri, and Illinois) will have the capability to inject or withdraw capacity to or from different markets, providing reliability during periods of supply shortages.[106] The Project will provide Missouri with access to energy connected to SPP and PJM in addition to Grain Belt's resources.[107]

73. These technical capabilities benefit national security because across four balancing authorities they provide outage protection, energy diversity, power flow control, interregional transfers, black-start support, and increased energy independence.[108] Serving as the backbone of the grid, HVDC can perform as both the extension cord bringing electricity to customers impacted by disruptive events and jumper cables needed to restart grids suffering from outages.[109] Witness Jonathon Monken, Principal at Converge Strategies, LLC, provided additional analysis about how the Project, including

[103] Ex. 2, Sane Surrebuttal, p. 8.
[104] Ex. 2, Sane Surrebuttal, pp. 8-9; Ex. 8, Rodriguez Surrebuttal, p. 13.
[105] Ex. 9, White Direct, pp. 4-5.
[106] Ex. 2, Sane Surrebuttal, p. 9.
[107] Ex. 2, Sane Surrebuttal, p. 9.
[108] Ex. 13, Monken Direct, p. 8.
[109] Ex. 9, White Direct, pp. 4-5.

the Tiger Connector, would enhance reliability and resiliency values with regard to national security.[110]

74. The Department of Defense has more than 500 installations and 300,000 buildings nationwide with a substantial dependence on private electricity infrastructure for maintaining and executing critical missions.[111] Executive Order 14057, "Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability," indicates the Department of Defense has a target of procuring carbon-free power on a 24/7 basis to support national defense missions, which will require long-range, cross-regional transmission with enhanced controllability to meet its real-time demand.[112]

75. Grain Belt does not yet have authority from MISO to operate bidirectionally and has not requested or undertaken the incremental investment needed to allow for bidirectional operations.[113] However, bidirectional power flow is inherent to the selected technology type and the contract between Grain Belt and Siemens (the converter station supplier) provides for delivery of bidirectional converter stations.[114]

76. Although registration, studies, and agreements are required to fully utilize black-start services, the Project will be operationally capable of providing black-start services.[115]

77. Extreme weather events, such as Winter Storm Uri and Winter Storm Elliot, have shown the need for greater interregional transmission capacity to allow greater

[110] Ex. 13, Monken Direct, pp. 4-12 and Schedule JM-2.
[111] Ex. 1, Sane Direct, p. 19.
[112] Ex. 1, Sane Direct, p. 19.
[113] Ex. 102, Eubanks Rebuttal, pp. 12-13.
[114] Ex. 10, White Surrebuttal, pp. 4-5.
[115] Ex. 8, Rodriguez Surrebuttal, p. 13; and Ex. 11, Petti Direct (adopted by Baker), Schedule AP-2, pp. 33-34.

sharing of energy across regions during periods of grid challenges.[116] The approximately 530 miles between Grain Belt's Kansas and Missouri converter stations will mitigate these risks. It is unlikely that an extreme weather event affecting eastern Missouri will simultaneously affect western Kansas.[117]

78. The Project provides Missouri ratepayers with an insurance policy against extremely high energy prices and catastrophic loss of load situations that have affected multiple utilities in recent years. The HVDC line will also provide connectivity to the broader SPP market in Phase I and into PJM in Phase II.[118]

79. MISO estimated that new transmission pathways will result in a 16-hour reduction in loss of load every three years and a value of $3,500/MWh of lost load. Applying the same assumptions to the new transmission pathways created by Grain Belt Express represents a savings of $56 million every three years based on 1,000 MW of MISO interconnection. The MISO Independent Market Monitor (IMM) actually places a much higher value on the cost of lost load at $23,000/MWh rather than the $3,500/MWh used by MISO. Using the higher IMM cost, the value of mitigated lost load from Grain Belt Express is $368 million every three years.[119]

80. Witness Anthony Petti, Managing Consultant at Guidehouse Inc., also provided evidence of the reliability and resiliency value provided by the Project.[120] For example, using projected injections from the Project and cost of new entry for generation capacity, Grain Belt estimated that the Project will mitigate additional reliability driven

[116] Ex. 1, Sane Direct, pp. 17-19; and Ex. 2, Sane Surrebuttal, p. 10.
[117] Ex. 2, Sane Surrebuttal, p. 9.
[118] Ex. 2, Sane Surrebuttal, p. 10.
[119] Ex. 2, Sane Surrebuttal, p. 10.
[120] Ex. 11, Petti Direct (adopted by Baker), pp. 6-7 and Schedule AP-2.

generation capacity investments of approximately $526 million per year and approximately $7.6 billion for the life of the Project (assuming an asset lifespan of 30 years and a discount rate of 6.057%) for a 5,000 MW line capacity.[121] Of these total Project benefits, the savings generated by reduced procurement obligations were broken down by region in Table 9 of the Guidehouse Report. Using SPP's regional cost of new entry, the Project was shown to be capable of saving approximately $85 million per year for AECI customers in Missouri and $145 million per year for customers in MISO Load Resource Zones 4 through 7 (which includes Missouri).[122]

81. The Guidehouse Report also estimated the influence of the Project over MISO's Planning Reserve Auction (PRA). MISO's PRA is designed to ensure Local Resource Zones have procured enough generation capacity to meet their respective Local Reserve Requirement and MISO Regions have met the Planning Reserve Margin Requirement for the year.[123] The Guidehouse Report estimated the Project will attribute an annual savings of $410.9 million or a savings of $346.0 million based upon a $60/MW-day Auction Clearing Price (ACP) to MISO.[124] The portion of these annual savings benefitting Missouri would be approximately $28 million to $33 million of MISO PRA auction clearing price savings per year.[125]

82. The Guidehouse Report also provides evidence that the Project will mitigate high energy prices during extreme weather events.[126] Guidehouse examined the frequency and impact of recent extreme weather events, including their impact on

[121] Ex. 11, Petti Direct (adopted by Baker), p. 9.
[122] Ex. 11, Petti Direct (adopted by Baker), p. 9.
[123] Ex. 11, Petti Direct (adopted by Baker), p. 10.
[124] Ex. 11, Petti Direct (adopted by Baker), p. 11.
[125] Ex. 11, Petti Direct (adopted by Baker), p. 11.
[126] Ex. 11, Petti Direct (adopted by Baker), pp. 7-8 and Schedule AP-2.

emergency energy prices, and estimated the potential benefit the Project could have provided during the scenarios.[127] The Guidehouse Report estimated that, had the Project been in operation during Winter Storm Uri and transmitted 2,500 MW of electricity east to west, the Project could have saved SPP participants over $300 million in costs.[128] The Guidehouse Report also estimated the total savings generated by the Project with a capacity of 5,000 MW for Winter Storm Uri, the Northeast "Bomb Cycle" cold weather snap of 2017/2018, the Northeast "Polar Vortex" of 2014 and the Midwest "Polar Vortex" of 2019 at $407 million.[129]

83. There are no other similar projects on the market or in development that will offer Missouri utilities and other load interest direct access to a geographically diverse supply of high-capacity renewable energy via a permanently uncongested path, as cost effectively, during critical hours when the capacity is most needed.[130]

84. The Project is needed for the reliability and resilience of the grid and national security.[131]

d. Two Phases

85. Staff objected to allowing the Project to be completed in phases because the Illinois Commerce Commission had recently approved the Illinois portion of the project.[132] However, approval by the Illinois Commerce Commission is not the only thing required to ready the Illinois portion of the Project for construction.[133] Other items to

[127] Ex. 11, Petti Direct (adopted by Baker), p. 7.
[128] Ex. 11, Petti Direct (adopted by Baker), p. 7.
[129] Ex. 11, Petti Direct (adopted by Baker), pp. 7-8.
[130] Ex. 600, Groggin Rebuttal, pp. 24-25.
[131] Ex. 1, Sane Direct, p.17; Ex. 14, Monken Direct, pp. 6-7 and Schedule JM-2; and Tr. Vol. 9, pp. 549-550.
[132] Ex. 102, Eubanks Rebuttal, p. 4.
[133] Ex. 19, Chandler Direct, pp. 5-7.

consider include the divergent land acquisition and development timelines in Kansas and Missouri, as compared to Illinois.[134]

86. Grain Belt requested to complete the Project in phases primarily due to the fact that land acquisition for Phase II significantly trails land acquisition for Phase I.[135]

87. As of May 2023, Grain Belt Express has obtained over 87% of the easements for Phase I, which includes 366 easements in Missouri.[136] Land acquisition in Missouri is in an advanced stage largely due to the full-scale land acquisition efforts since the Commission issued the Original CCN in 2019.[137]

88. Land acquisition for Phase II remains in very early stages. Grain Belt did not receive a certificate of public convenience and necessity in Illinois until March 2023. In the interim, judicial reviews and the Illinois statutory environment delayed Grain Belt from pursuing the land acquisition process, environmental permitting process, and engineering in Illinois.[138]

89. It is expected to take two years or more for Grain Belt to obtain the necessary land acquisitions in Illinois.[139]

90. By allowing the Project to be completed in two phases, more low-cost renewable energy will flow sooner across Grain Belt's transmission line and into the MISO region and AECI territory where it will be delivered to the MEC members who have already executed contracts, and other members are expected to participate.[140]

[134] Tr. Vol. 10, pp. 811-812 and 827-828.
[135] Ex. 20, Chandler Rebuttal, p. 5.
[136] Ex. 20, Chandler Rebuttal, p. 5.
[137] Ex. 20, Chandler Rebuttal, pp. 5-6.
[138] Ex. 20, Chandler Surrebuttal, p. 6.
[139] Ex. 20, Chandler Surrebuttal, p. 6.
[140] Ex. 702, Grotzinger Rebuttal, p. 6.

91. Allowing the Project to be completed in phases will bring many of the benefits of the transmission line to Missouri sooner. Otherwise, those benefits will likely be delayed further by the administrative and judicial processes of other states.[141]

C. Applicant's Qualifications and Financial Ability

92. In the Commission's *Report and Order on Remand*[142] the Commission found that Invenergy's management team had extensive experience in developing, constructing, and operating transmission and energy infrastructure projects.[143]

93. Grain Belt has shown through the testimony of each of its witnesses that it continues to possess the degree of expertise required to carry out the engineering, procurement, construction, equipment design, routing and land acquisition tasks required to construct the Project and place it into operation.[144]

94. Grain Belt's qualifications were not contested and Staff found that Grain Belt has the requisite qualifications.[145]

95. The Commission previously concluded that Grain Belt and Invenergy had the financial ability to proceed with the Original Project.[146] The Commission also found that "Invenergy's financial condition is very strong."[147]

[141] Ex. 1, Sane Direct, p. 10.
[142] Ex. 306, Report and Order on Remand, pp. 42-43.
[143] Ex. 306, Report and Order on Remand, pp. 42-43.
[144] Ex. 9, White Direct, pp. 7-12.
[145] Ex. 103, Hull Rebuttal, p. 2.
[146] Ex. 306, Report and Order on Remand, pp. 42-43.
[147] Ex. 306, Report and Order on Remand, p. 43 ("Invenergy's financial condition is very strong, as Invenergy and its affiliates have in excess of $9 billion in total assets and $3 billion in total equity on a consolidated basis. Invenergy has demonstrated that it has the ability to raise capital for large energy projects through access to its vast network of private debt and equity investors, having raised more than $30 billion of financing in connection with the successful development of more than 20,046 MW in projects in the United States, Canada, Europe, Central America, and Japan.")

96. Grain Belt Express continues to have access to the necessary financial resources to carry out the development work for the Project, prior to engaging in project-specific financings for the construction of the Project. Invenergy Renewables has sufficient capital resources to provide the funding necessary to enable Invenergy Transmission and its subsidiaries to undertake the initial development and permitting work for the Project.[148]

97. Grain Belt has a viable plan for raising the capital necessary to finance the cost of constructing the Project on a project financing basis.[149] Specifically, after advancing development and permitting activities to a status at which developers of wind and solar generation facilities and other potential customers of the transmission line are willing to enter into commercial agreements for an undivided interest (purchase or lease) or long-term contracts for transmission capacity on the Project, Grain Belt will enter such contracts with interested parties that satisfy necessary creditworthiness requirements.[150] Grain Belt will then raise debt capital using the aforementioned contracts as security for the debt.[151]

98. Grain Belt anticipates utilizing a combination of commercial and governmental sources of financing, and, at this time, is still evaluating all potential options for financing. Options for governmental sources of financing include the Western Area Power Administration (WAPA) Transmission Infrastructure Program (TIP); and the Bipartisan Infrastructure Bill Transmission Facilitation Program; Department of Energy loans to non-federal borrowers for transmission facilities pursuant to the Inflation

[148] Ex. 5, Shine Direct, pp. 5-6.
[149] Ex. 5, Shine Direct, pp. 5-14.
[150] Ex. 5, Shine Direct, pp. 7-8.
[151] Ex. 5, Shine Direct, pp. 7-8.

Reduction Act and potentially other government funding options. Additional equity capital may also be raised to help finance construction of the Project, or Grain Belt's existing investors may make additional equity investments in the Project.[152]

99. No party has challenged the financial ability of Grain Belt and Staff found that Grain Belt has the requisite financial ability.[153]

D. Economic Feasibility of the Project

100. In its *Report and Order on Remand*, when determining the Original Project was economically feasible the Commission put some emphasis on the fact that the 3,500 MW portion of the Original Project to be sold in PJM demonstrated the financial viability of the project overall, since power prices for PJM were generally $10/MWh higher than prices paid for the energy sold into the MISO market in Missouri.[154]

101. In its *Report and Order on Remand* the Commission also found support for the Original Project being economically feasible because the project would link customers in Missouri, who desire to purchase low-cost wind power from western Kansas, with wind generation companies like Santa Fe, who propose to supply that energy, all under a business model, under which Grain Belt assumes the financial risk of building and operating the transmission line.[155]

102. The Commission also found in its *Report and Order on Remand* that the economic feasibility of the Original Project was demonstrated by (a) a very strong corporate demand for renewable energy in PJM where users will pay a higher price; (b) the cost of generating wind energy in western Kansas continuing to drop; (c) wind speeds

[152] Ex. 5, Shine Direct, p. 10.
[153] Ex. 108, Won Rebuttal, p. 6.
[154] Ex. 306, Report and Order on Remand, pp. 43-44.
[155] Ex. 306, Report and Order on Remand, p. 44.

in western Kansas that are substantially higher than Missouri, Illinois, Indiana, and Iowa; and (d) Kansas wind generators were able to produce energy at a lower cost because of two Kansas tax incentives and the low cost to construct wind farms.[156]

103. In its *Report and Order on Remand,* the Commission also found support for the economic feasibility of the project because the cost of the project would not be recovered from Missouri ratepayers through either SPP or MISO regional cost allocation tariffs.[157]

104. The economic model of the Project remains similar to the Original Project, though demand from customers and utilities has grown in recent years. There is a significant interest in wind development in Kansas as evidenced by the many gigawatts of projects in SPP's queue. This interest is expected to grow due to the tax incentives in the Inflation Reduction Act.[158]

105. The total cost of the Project will be approximately $4.95 billion, plus network upgrade costs, for a total of approximately $5.7 billion.[159]

106. Although the revised projected cost of the entire Project ($4.95 billion) is higher than the 2016 projected cost ($2.35 billion), the Project remains economically feasible because the cost of alternative resources has also significantly increased, while the demand for renewable energy continues to grow. Accordingly, even with the higher projected cost, the energy and capacity offered by the Project is more economically attractive than the alternatives.[160]

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[156] Ex. 306, Report and Order on Remand, p. 44.
[157] Ex. 306, Report and Order on Remand, p. 44.
[158] Ex. 1, Sane Direct, p. 29.
[159] Ex. 1, Sane Direct, p. 29; Ex. 5, Shine Direct, p. 7; and Tr. Vol. 9, p. 349.
[160] Ex. 1, Sane Direct, p. 29.

107. The projected cost to construct Phase I of the Project and place it in operation is approximately $3.52 billion, not including the upgrade costs for RTO interconnections. The projected cost to construct Phase II of the Project and place it in operation is approximately $1.43 billion, not including the upgrade costs for RTO interconnections. A portion of the Kansas converter station may be built with Phase II, in which case, a proportional amount between the phases would change.[161]

108. Each phase of the Project will be independently economically viable upon completion.[162]

109. Grain Belt has the financial resources to carry out necessary development work prior to engaging in project-specific financings for the construction of each Phase of the Project.[163] Grain Belt's debt service from the construction loans will be covered by revenue from transmission capacity contracts.[164]

110. Debt service coverage ratio is a metric used by lenders to ensure there is sufficient revenue to repay the debt service.[165] These ratios are typically 1.25 to 1.5.[166]

111. Debt service coverage ratio is calculated using a numerator consisting of the cash available for debt service, which is the long-term contract revenue net of operating expenses over the denominator being principal and interest.[167]

112. The Project is an interregional transmission line because it will extend from Kansas to Indiana and cross the seams of three regions, SPP, MISO, and PJM.[168]

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[161] Ex. 5, Shine Direct, p. 7.
[162] Ex. 6, Shine Surrebuttal, pp. 7-8.
[163] Ex. 5, Shine Direct, pp. 5-6.
[164] Ex. 5, Shine Direct, p. 10.
[165] Ex. 5, Shine Direct, pp. 10-11; and Tr. Vol. 9, p. 424.
[166] Ex. 5, Shine Direct, pp. 10-11.
[167] Tr. Vol. 9, pp. 424-425.
[168] Ex. 600, Groggin Rebuttal, pp. 3-4.

113. Since the Project will employ a participant-funded or "shipper pays" model, under which the costs of the Project are imposed on shippers who use the transmission line, none of those costs will be recovered through the cost allocation process of MISO, PJM, or SPP.[169] Accordingly, none of these costs will be passed through to Missouri ratepayers, and will not result in an increase in the transmission component of their retail rates. Missouri retail customers will only incur costs related to the Project to the extent that their local utility voluntarily chooses to purchase transmission capacity on the Project or purchases power transmitted on the Project by a third party.[170]

114. Compared to wind energy from Kansas delivered to Missouri with the Project, wind energy generated in MISO and delivered to Missouri is substantially more expensive due primarily to transmission congestion costs.[171]

115. The price figures for solar presented by Witness Goggin on behalf of the Clean Grid Alliance also showed that the cost of solar energy from Kansas delivered to Missouri is also significantly lower than that of solar in MISO.[172] And, those prices did not account for the Inflation Reduction Act's creation of a solar production tax credit, which greatly reduces the cost and price of higher-quality solar resources like those in Kansas.[173]

116. There is a growing demand for clean energy from large corporate customers. These customers represent an increasing amount of renewable energy procurement, accounting for 37% of all carbon-free energy added to the grid since 2014.

[169] Ex. 6, Shine Surrebuttal, p. 13.
[170] Ex. 5, Shine Direct, p. 9; Ex. 6, Shine Surrebuttal, p. 13; Ex. 109, Staff Report, p. 6; and Application to Amend CCN, para. 85.
[171] Ex. 600, Goggin pp. 5-6.
[172] Ex. 600, Goggin Rebuttal, pp. 7-8.
[173] Ex. 600, Goggin Rebuttal, p. 9.

Of the energy deals completed by corporate customers to date, 22% are within PJM markets and 13% are within MISO markets. The trend of high demand for carbon free energy continued in 2021 with corporate buyers procuring 11 GW of power. The demand in 2022 and beyond is projected to exceed the record amount from 2021.[174]

117. When Phase I is completed, the Project will deliver 2,500 MW into Missouri, including 1,500 MW into MISO and an additional 1,000 MW into AECI.[175] That delivery, once contracted, supports Phase I construction and is sufficient for Phase I to remain economically viable throughout the Project life without any additional delivery into PJM.[176]

118. Allowing the Project to be constructed in phases will also give Grain Belt a head-start in completing the entire length of the Project as one half of the line will already be constructed. While Phase I is not physically or economically reliant on Phase II, Phase II is physically reliant on Phase I.[177] Streamlining Phase II will, therefore, accelerate the realization of the benefits of the completed Project.

119. Grain Belt Express estimates that it will take approximately two years for land acquisition in Illinois to reach the current level of land acquisition in Missouri.[178] As discussed by Witness Shine, lenders require evidence of an advanced project developmental stage in order to obtain financing, and the progress of land acquisition, or lack thereof, plays a crucial role in advancing the Project to a point that financing would be achievable.[179]

[174] Ex. 1, Sane Direct, p. 11.
[175] Ex. 2, Sane Surrebuttal, pp. 17-19.
[176] Ex. 2, Sane Surrebuttal, pp. 17-19; and Ex. 6, Shine Surrebuttal, Schedule RS-4.
[177] Ex. 2, Sane Surrebuttal, pp. 17-19; and Ex. 6, Shine Surrebuttal, Schedule RS-4.
[178] Ex. 20, Chandler Surrebuttal, p. 6.
[179] Ex. 20, Chandler Surrebuttal, pp. 7-8.

120. Lenders will only advance money once certain conditions have been met. Those conditions may include (a) having all necessary permits, (b) having procured any remaining financial commitments beyond lenders' funding to complete construction, and (c) having a high degree of certainty on budget and timeline. This due diligence by the lenders helps ensure that projects proceed prudently.[180]

121. Construction lenders will not release funds to begin construction unless Grain Belt demonstrates that it has commitments for sufficient financing to construct the entire Phase of the Project. Lenders will not take the risk that additional necessary financing cannot be obtained, resulting in an incomplete project with limited collateral value.[181] Therefore, if the Commission approves the Project to be completed in phases, and Phase I has the capability to be completed and operated independently of Phase II, the Commission should alter the financing condition[182] for the Project so that Grain Belt cannot install transmission structures on associated with each phase on easement property in Missouri until it has obtained adequate funding to complete each respective phase of the Project.[183]

122. Economic modeling continues to support the Commission's findings in the *Report and Order on Remand* that the Grain Belt transmission line links economic centers of demand in Missouri with low-cost suppliers in Kansas. Since 2019, that demand from customers and utilities has grown tremendously. The production tax credits and investment tax credits offered in the Inflation Reduction Act will increase the amount of generation seeking to interconnect to the Project and further saturate the current Kansas

[180] Ex. 5, Shine Direct, p. 12.
[181] Ex. 5, Shine Direct, p. 12.
[182] Ex. 306, Report and Order on Remand, Attachment 1 (Exhibit 206 in File no. EA-2016-0358), Section I.
[183] Ex. 5, Shine Direct, pp. 4-5 and 12; and Ex. 108, Won Rebuttal, pp. 7-8.

market. Adding transmission capacity to move this low-cost energy out of Kansas to other population centers will lower costs for consumers regionally, allowing the entire region to benefit from these low-cost sources of power.[184]

E. Public Interest

123. The Grain Belt Project would lower wholesale energy pricing in Missouri.[185]

124. As found above, the Project could reduce total energy and capacity expenditures for Missouri residents by over $17.6 billion and create $7.6 billion in social benefits from avoided emissions during the 2027-66 period.[186] Avoided emissions include the reduction of CO_2, SO_2, and NOx in Missouri by 9.3%, 19.2%, and 17.2%, respectively.[187] Reducing CO_2 by 9.3% is the equivalent of removing over 13 million gasoline cars from Missouri roads for one year.[188] And the reduction in SO2 and NOx represents a reduction in air pollution, and therefore, a reduction in respiratory illness.[189]

125. Adding transmission capacity to the power grid improves reliability by creating more numerous and robust energy pathways from sources to loads, allowing more economic flow, and increasing available capacity during times of transmission or generator outages.[190]

126. The Department of Defense, Department of Energy, RTOs, and the National Association of Regulatory Commissioners (NARUC) have all recognized the need to

[184] Ex. 1, Sane Direct, pp. 33-34; and Ex. 600, Goggin Rebuttal, pp. 8-9.
[185] Ex. 3, Repsher Direct, p. 10.
[186] Ex. 3, Repsher Direct, Schedule MR-2, p. 14.
[187] Ex. 3, Repsher Direct, Schedule MR-2, p. 15.
[188] Ex. 3, Repsher Direct, Schedule MR-2, p. 15.
[189] Ex. 3, Repsher Direct, Schedule MR-2, p. 16.
[190] Ex. 3, Repsher Direct, Schedule MR-2, p. 16.

mitigate the risks of "nation state adversaries to deliberately target grid infrastructure . . . [.]"[191]

127. The Project will enhance the reliability and resilience of the grid by interconnecting four regions with the potential for black-start and bidirectional capabilities. The combination of these features makes the Project a unique system restoration resource, potentially capable of restarting the electric system from a shutdown condition.[192]

128. HVDC transmission lines with VSC technology, like the Project, have demonstrated the capability to restart a major power grid, and are an additional option to power system operators in the event of power disruptions from major storm events.[193]

129. The Project will add interregional transfer capacity that will help with hardening and redundancy of transmission infrastructure to support military installations in Missouri and elsewhere.[194]

130. The Project advances the public interest through its impact on local economic, fiscal, and employment benefits.[195] For example, the Project will support 5,747 construction jobs statewide over a three-year period and a significant number of construction jobs in the Missouri counties it crosses: 247 for Audrain County, 318 for Buchanan County, 243 for Caldwell County, 66 for Callaway County, 303 for Carroll County, 362 for Chariton County, 226 for Clinton County, 804 for Monroe County, 356 for Ralls County, and 284 for Randolph County.[196] In addition to construction jobs, the Project

[191] Tr. Vol 9, pp. 551-553.
[192] Ex. 11, Petti Direct (adopted by Baker), Schedule AP-2, p. 34.
[193] Ex. 11, Petti Direct (adopted by Baker), Schedule AP-2, pp. 34-35; and Tr. Vol. 9, p. 554.
[194] Tr. Vol. 9, pp. 550-551.
[195] Ex. 21, Loomis Direct, pp. 7-8 and Schedule DL-2, pp. 10-14.
[196] Ex. 21, Loomis Direct, pp.7-8.

will support 104.4 long-term positions statewide and long-term jobs in the Missouri counties it crosses: 10.6 for Audrain County, 3.8 for Buchanan County, 1.9 for Caldwell County, 0.3 for Callaway County, 3.2 for Carroll County, 4.1 for Chariton County, 1.4 for Clinton County, 16.2 for Monroe County, 2.0 for Ralls County, and 2.6 for Randolph County.[197] These jobs are estimated to result in total worker earnings from the Project for Missouri of $586,118,331 during the three-year construction period and $8,113,077 during the operation phase of the Project.[198]

131. The state will also benefit from economic output and increased income tax generation from wages paid during construction in Missouri and during the operation phase of the Project. During the construction phase of the Project, it will support over $986 million in economic output for Missouri, and during the first 20 years of the Project's life, over $15.8 million in long-term output supported annually for Missouri.[199]

132. Grain Belt estimates that it will pay property taxes of approximately $13.9 million in Missouri during the first full year and $183.2 million during the first 20 years of operation.[200]

133. Grain Belt will source materials such as wire, steel, and aggregate within the state of Missouri, which will support the creation of jobs for those suppliers.[201]

134. Grain Belt developed the Missouri Landowner Protocol as part of its approach to right-of-way acquisition for the transmission line project.[202] The Landowner Protocol is a comprehensive policy of how Grain Belt interacts, communicates, and

[197] Ex. 21, Loomis Direct, p. 8.
[198] Ex. 21, Loomis Direct, p. 8, Schedule DL-2, pp. 10–14.
[199] Ex. 21, Loomis Direct, p. 8, and Schedule DL-2, pp. 10–14.
[200] Ex. 21, Loomis Direct, Schedule DL-2, p. 6.
[201] Ex. 21, Loomis Direct, Schedule DL-2, p. 7.
[202] Ex. 306, Report and Order on Remand, FOF 109.

negotiates with affected landowners and includes: the establishment of a code of conduct, its approach to landowner and easement agreement negotiations, a compensation package, updating of land values with regional market studies, tracking of obligations to landowners, the availability of arbitration to landowners, the Missouri Agricultural Impact Mitigation Protocol, tracking of obligations to landowners, the availability of arbitration to landowners, and a decommissioning fund.[203]

135. For those landowners whose property the HVDC main line of the Project will cross, Grain Belt will offer three types of compensation: an easement payment, structure payments, and crop or damages payments.[204] For those landowners whose property the AC Tiger Connector of the Project will cross, Grain Belt proposes to offer two types of compensation: an easement payment and crop or damages payments.[205]

136. If Grain Belt obtains an easement from a landowner, the property will still belong to the landowner and can be utilized for activities such as farming, recreation, and other activities that do not interfere with the operation of the transmission line. After construction of the facilities, the landowner will retain the ability to continue agricultural production on the entirety of the easement area except for the relatively small footprint of the structures, which typically occupy less than 1% of the total easement area.[206]

137. If the Project should be retired from service, Grain Belt has committed to establish a decommissioning fund to pay for the following wind-up activities: 1) dismantling, demolishing and removing all equipment, facilities and structures;

[203] Ex. 19, Chandler Direct, Schedule KC-5 (Landowner Protocol); and Ex. 20, Chandler Surrebuttal, p. 18 and Schedules KC-6 (Code of Conduct) and KC-7 (Missouri Agricultural Impact Mitigation Protocols).
[204] Ex. 19, Chandler Direct, p. 15; and Ex. 24, Exhibit C and Exhibit D to HVDC Easement.
[205] Ex. 19, Chandler Direct, p. 15; and Ex. 24, Exhibit C and Exhibit D to AC Easement.
[206] Ex. 19, Chandler Direct, p. 15; and Ex. 20, Chandler Surrebuttal, p. 16.

2) terminating all transmission line easements and filing a release of such easements in the real property records of the county in which the property is located; 3) securing, maintaining and disposing of debris with respect to the Project facilities; and 4) performing any activities necessary to comply with applicable laws, contractual obligations, and that are otherwise prudent to retire the Project facilities and restore any landowner property within the easements to its original condition.[207]

138. The Project is designed to have a minimal impact to land.[208] In Phase I for the HVDC Main Line approximately 9 acres will be taken out of agricultural production. For Phase I Tiger Connector approximately 0.2 acres will be taken out of agricultural production. And for the Phase II HVDC Main Line, approximately 7 acres will be taken out of agricultural production.[209]

139. To minimize the effects on agricultural land, wherever practicable, for both the HVDC Main Line and the Tiger Connector, Grain Belt attempted to site structures outside of agricultural land, even if the parcel is primarily agricultural.[210]

140. The Routing Team for the Project also tried to avoid built-up areas, residences, wetlands, forested areas, center pivot irrigation, and where practical, to follow existing developed corridors such as roads and existing transmission and distribution lines.[211]

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[207] Ex. 306, Report and Order on Remand, FOF 113. See also, *Initial Brief of Grain Belt Express,* (filed July 7, 2023), pp. 54-56.
[208] Ex. 10, White Surrebuttal, pp. 10-11.
[209] Ex. 10, White Surrebuttal, p. 11. (The rough estimates are based upon the structure spotting and tower base geometries as of November 23, 2022. Tower base geometries that were counted towards agricultural land impacted were for all towers on parcels that are primarily used for crop production according to the 2019 National Land Cover Database.)
[210] Ex. 10, White Surrebuttal, p. 11.
[211] Ex. 17, Burke Direct, p. 6.

141. While there are no federal or Missouri requirements regarding agricultural impact mitigation practices for constructing overhead transmission lines, Grain Belt has created the Missouri Agricultural Impact Mitigation Protocol, which establishes standards and policies to avoid, minimize, or mitigate any negative agricultural impacts that may result due to transmission line and converter facilities construction and operation.[212]

142. One provision of the Easement Agreement states that, except in an emergency, Grain Belt will provide at least 24-hours' notice to landowners in advance of accessing their property for the first time for the purpose of constructing, modifying, or repairing the facilities.[213] A condition ordered in the Original CCN, and agreed to by Grain Belt in this case, states that Grain Belt will make "reasonable efforts to contact landowners" before entering the right of way.[214]

143. Grain Belt's management team will assign a land liaison to the Project to communicate with landowners prior to entry on their properties, during construction operations and after construction activities are completed, to address any concerns and maintain consistent communications. These positions will be filled by employees who have experience in both the construction industry and working knowledge of agriculture practices. This dual knowledge base will aid in conducting successful construction operations across agriculture lands.[215]

144. Although there are benefits to Missouri associated with Phase II of the Project, the majority of the benefits accrue to Missouri in Phase I. If the Project is not

[212] Ex. 20, Chandler Surrebuttal, Schedule KC-7, p. 2.
[213] Ex. 19, Chandler Direct, Schedule KC-4, para. 2.f.
[214] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358), Condition VI.1.
[215] Ex. 1, Sane Direct, pp. 27-28.

constructed in phases, the benefits that would accrue to Missouri as a result of the Project will not occur until land acquisition has reached an advanced state in Illinois such that financing for both Phase I and Phase II could be obtained. As a result, the benefits to Missouri, including reliability and resiliency benefits, economic benefits, and environmental benefits will be delayed.[216]

F. Conditions

145. In Grain Belt's Original CCN granted in the *Report and Order on Remand* in File No. EA-2016-0358,[217] the Commission found that the benefits of the project to Missouri outweighed the interests of the individual landowners, many of whose concerns the Commission addressed through conditions placed on the CCN. The Commission found that numerous conditions to which Grain Belt voluntarily agreed were reasonable and necessary, and ordered them. The conditions included provisions related to financing, interconnection, nearby utility facilities, emergency restoration, construction and clearing land, maintenance and repair of the line and right-of-way, and landowner interactions and right-of-way acquisition.[218]

146. In addition, the Original CCN required Grain Belt to comply with the Missouri Landowner Protocol, including but not limited to a filed Code of Conduct and the Missouri Agricultural Mitigation Impact Protocol (collectively referred to as the "Protocols"), and to incorporate those terms and obligations into any easement agreement with Missouri landowners. The Protocols are a comprehensive policy governing how Grain Belt

[216] Ex. 20, Chandler Surrebuttal, pp. 7-8.
[217] Ex. 306, Report and Order on Remand.
[218] Ex. 306, Report and Order on Remand, Attachment 1 (Exhibit 206 in File No. EA-2016-0358).

interacts, communicates and negotiates with affected landowners, and to avoid, minimize or mitigate agricultural impacts.[219]

147. The Easement Agreement filed in this case provides that "in the event of a conflict between this Agreement and the conditions of the Protocols, the provisions more favorable to the Landowner shall control to the extent of such conflict."[220]

148. One issue brought to the Commission by the parties is whether to modify the Missouri Landowner Protocol regarding compensation. In the *Report and Order on Remand*, the Commission granted Grain Belt a CCN but directed that it must comply with the Missouri Landowner Protocol, including, but not limited to, a Code of Conduct and the Missouri Agricultural Mitigation Impact Protocol, and to incorporate the terms and obligations of the Missouri Landowner Protocol into any easement agreements with Missouri landowners.[221]

149. The Missouri Landowner Protocol required the compensation to be offered to landowners for the Original Project to include:

a. an easement payment of 110% of fair market value of the easement;

b. a structure payment consisting of a one-time payment of $6,000 or $500 annually for a monopole or lattice mast structure, and a one-time payment of $18,000 or $1500 annually for a lattice structure with annual increases of 2% for as long as a structure is located on the easement area; and

c. an agricultural impact payment on a case-by-case basis.[222]

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[219] Ex. 19, Chandler Direct, Schedule KC-4 (Easement Agreement); and Exhibit 20, Chandler Surrebuttal, Schedules KC-6 (Code of Conduct) and KC-7 (Missouri Agricultural Impact Mitigation Protocol).
[220] Ex, 19, Chandler Direct, Schedule KC-4, paragraph 22.
[221] Ex. 306, Report and Order on Remand, Ordered Paragraph 8.
[222] Ex. 19, Chandler Direct, Schedule KC-5 (Missouri Landowner Protocol – For Right-of-Way Acquisition for the Grain Belt Express).

150. Grain Belt has agreed to, or requested, certain conditions being ordered by the Commission for this Project. This includes:

a. All conditions established by the R*eport and Order on Remand* remaining in place with the exceptions and modifications below.[223]

b. Modification of the "Financing Condition" set forth in Section I.1. of Attachment 1 to the *Report and Order on Remand*[224] so that it allows Grain Belt to build the Project in two phases without procuring financing for both phases (the whole Project) before beginning installation of transmission facilities on easement property in Missouri for any one phase.[225]

c. That Grain Belt shall not install transmission facilities associated with Phase I on easement property in Missouri until it has submitted documentation to Commission Staff regarding compliance with all applicable federal and Missouri environmental permits associated with Phase I. Further, Grain Belt shall not install transmission facilities associated with Phase II on easement property in Missouri until it has submitted documentation to Commission Staff regarding compliance with all applicable federal and Missouri environmental permits associated with Phase II.[226]

d. The Missouri Landowner Protocol Missouri Landowner Protocol – For Right-of-Way Acquisition, as referenced and incorporated into the *Report and Order on Remand* at Ordered Paragraph 8, be modified to allow compensation to

[223] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358).
[224] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358).
[225] This modified condition was proposed by Staff Witness Won (Ex. 108, Won Rebuttal, pp. 7-8.) and modified further by the testimony of Grain Belt Witness Shine (Ex. Ex. 6, Shine Surrebuttal, pp. 4-5).
[226] Tr. Vol. 9, pp. 556-557; Ex. 101, Cunigan Rebuttal, pp.4-9 (Condition requested by Staff Witness Cunigan); Ex. 16, Stelzleni, pp. 3-4 (Grain Belt's agreement to the condition).

the Tiger Connector Landowners for the easement of 150% of fair market value and agricultural impact payment to be valued on a case-by-case basis as set out in Exhibit 19, Direct Testimony of Kevin Chandler, Schedule KC-5.

e. If Grain Belt is designated as a system restoration resource by a regional transmission organization, it shall provide notice of such designation to Staff, subject to external confidentiality protections limiting disclosure of certain documents or information.[227]

151. Other conditions agreed to by Grain Belt and ordered by the Commission in the *Report and Order on Remand* included:

a. Grain Belt and Invenergy agreed that Invenergy Transmission, LLC and Invenergy Investment Company, LLC shall cooperate with Staff in providing reasonable access to Invenergy's un-redacted consolidated financial records (including *in camera* review of notes to financial statements) until completion or official abandonment of the Original Project.

b. Grain Belt and Staff agreed that if Grain Belt acquires any involuntary easements in Missouri by means of eminent domain and does not obtain the necessary financial commitments within five years of the date such easement rights are recorded, Grain Belt agrees to return possession of the easement to the landowner within 60 days and record the dissolution of the easement without requiring any reimbursement of payments by the landowner.

c. Grain Belt and Invenergy agreed that if there are any material changes in the design and engineering of the Project from what is contained in the

[227] This modification was suggested in Ex. 102, Eubanks Rebuttal, p. 17. Grain Belt indicated it did not object at Ex. 7, Rodriguez Surrebuttal.

application, Grain Belt will file an updated application subject to further review and determination by the Commission.

d. Grain Belt and Invenergy agreed that if outstanding regional transmission organization studies raise any new issues, then the Commission must be satisfied with how Grain Belt resolves the issues.

e. Grain Belt agreed to file with the Commission a copy of its annual report that is filed with FERC.[228]

152. Staff proposed that if the Commission grants a CCN for the Project, that it define "material change" to include: (1) a change in the converter station location or point(s) of interconnection; (2) a modification of 100 MW in converter station design size; (3) a change of a half billion dollars in estimated cost; or (4) a change of 100 MW of obtaining the injection rights of the full 1,500 MW into MISO and 1,000 MW into AECI, or a change in 100 MW of obtaining the rights to withdraw from MISO a currently proposed 0 MW.[229]

153. If the Commission grants a CCN for the Project, MLA proposed that the Commission direct Grain Belt to offer the landowners on the Tiger Connector the option of either accepting Grain Belt's compensation proposal of a one-time 150% proposal, or the 110% plus per structure compensation plan of the HVDC line landowners.

154. The Missouri Farm Bureau, Missouri Cattlemen's Association, Missouri Soybean Association, Missouri Corn Growers Association, and Missouri Pork Association

[228] Ex. 306, Report and Order on Remand, Ordered Paragraphs.
[229] Ex. 107, Stahlman Rebuttal, pp. 8-9.

sent a letter to Grain Belt requesting that landowners on the Tiger Connector be offered at least 150% of fair market value.[230]

155. Mr. Chandler testified that from a processing and record keeping perspective, it would be difficult for Grain Belt to accommodate different payment schedules for different landowners on the Tiger Connector.[231]

156. It is unlikely that many landowners would benefit from opting for the 110% plus per structure compensation plan of the HVDC line landowners.[232] However, a landowner with a small parcel of land with a structure on it, could receive more compensation with the same plan as the HVDC landowners than the 150% without structure compensation.[233]

III. Conclusions of Law

A. Statutory Authority

A. The Commission may lawfully issue a CCN to Grain Belt. Grain Belt has applied for a line certificate under Section 393.170.1, RSMo.[234]

B. Section 386.020(15), RSMo, defines an "electrical corporation" as "every corporation, [or] company…owning, operating, controlling or managing any electric plant…[.]" Electric plant is defined in Section 386.020(14), RSMo, as "all real estate… and personal property…used or to be used for or in connection with or to facilitate

[230] Ex. 19, Chandler Direct, p. 16 (citing a July 21, 2022 letter from the Agricultural Associations).
[231] Tr. Vol. 10, p. 695.
[232] Tr. Vol. 10, p. 650.
[233] Tr. Vol. 10, pp. 818-819.
[234] Section 393.170.1, RSMo, states that "No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system, other than an energy generation unit that has a capacity of one megawatt or less, without first having obtained the permission and approval of the commission . . ."

the…transmission…of electricity for…power…[.]" Grain Belt is an "electrical corporation" within the meaning of Section 386.020(15), RSMo, and subject to the jurisdiction of the Commission.

C. While the Commission only has authority over facilities that are devoted to public use, an entity that constructs and operates a transmission line bringing electrical energy from electrical power generators to public utilities that serve consumers is a necessary and important link in the distribution of electricity and qualifies as a public utility.[235] As the Commission previously found in its *Report and Order on Remand,* Grain Belt's Project will serve the public use, and Grain Belt qualifies as a public utility.[236]

D. Since Grain Belt brought the application, it bears the burden of proof.[237] The burden of proof is the preponderance of the evidence standard.[238] In order to meet this standard, Grain Belt must convince the Commission it is "more likely than not" that its allegations are true.[239]

E. When making a determination of whether an applicant or project is convenient or necessary, the Commission has traditionally applied five criteria, commonly known as the Tartan factors, which are as follows:

i. There must be a need for the service;

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[235] *State ex rel. Buchanan County Power Transmission Co. v. Baker*, 9 S.W.2d at 592. While the Buchanan County transmission company was determined not to be a public utility because it transmitted electricity to a private company for private use, the court clearly implied that if the electricity had been transmitted to a public utility for public use the transmission company would also be considered to be a public utility.

[236] *Missouri Landowners All. v. Pub. Serv. Comm'n*, 593 S.W.3d 632 (Mo. Ct. App. 2019).

[237] "The burden of proof, meaning the obligation to establish the truth of the claim by preponderance of the evidence, rests throughout upon the party asserting the affirmative of the issue". *Clapper v. Lakin*, 343 Mo. 710, 723, 123 S.W.2d 27, 33 (1938).

[238] *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 Mo. banc 1996).

[239] *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999*); Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

ii. The applicant must be qualified to provide the proposed service;

iii. The applicant must have the financial ability to provide the service;

iv. The applicant's proposal must be economically feasible; and

v. The service must promote the public interest. [240]

F. When determining whether the project is necessary or convenient for the public service, the "term 'necessity' does not mean 'essential' or 'absolutely indispensable', but that an additional service would be an improvement justifying its cost."[241]

G. Section 393.170.3, RSMo, states that "[t]he commission may by its order impose such condition or conditions as it may deem reasonable and necessary."

H. Public policy must be found in a constitutional provision, a statute, regulation promulgated pursuant to statute, or a rule created by a governmental body. The public interest is a matter of policy to be determined by the Commission.[242] It is within the discretion of the Commission to determine when the evidence indicates the public interest would be served.[243] Determining what is in the interest of the public is a balancing

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[240] *In re Tartan Energy,* Report and Order, 3 Mo.P.S.C. 3d 173, Case No. GA-94-127, 1994 WL 762882 (September 16, 1994).

[241] *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. Ct. App. 1993).

[242] *State ex rel. Public Water Supply District v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980). The dominant purpose in creation of the Commission is public welfare. *State ex rel. Mo. Pac. Freight Transport Co. v. Public Service Commission*, 288 S.W.2d 679, 682 (Mo. App. 1956).

[243] *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, 848 S.W.2d 593, 597 -598 (Mo. App. 1993). That discretion and the exercise, however, are not absolute and are subject to a review by the courts for determining whether orders of the P.S.C. are lawful and reasonable. *State ex rel. Public Water Supply Dist. No. 8 of Jefferson County v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980).

process.[244] In making such a determination, the total interests of the public served must be assessed.[245] In Missouri, state energy policy can be found in laws such as the Renewable Energy Standard,[246] established by vote of the Missouri public in 2008, and the Energy Efficiency Investment Act (MEEIA),[247] promulgated by the Missouri legislature in 2013, as well as the Comprehensive State Energy Plan, an initiative implemented by the Missouri Division of Energy in 2015. Consistent with these state policies, this Commission has in the past expressed strong support for the "development of economical renewable energy sources to provide safe, reliable, and affordable service while improving the environment and reducing the amount of carbon dioxide released into the atmosphere."[248]

I. Subsection 523.025, RSMo, effective August 28, 2022, states, in part:

> If an electrical corporation as defined in section 386.020 . . . acquires any involuntary easement in this state by means of eminent domain and does not obtain the financial commitments necessary to construct a project for which the involuntary easement was needed in this state within seven years of the date that such easement rights are recorded with the appropriate county recorder of deeds, the corporation shall return possession of the easement to the fee simple title holder within sixty days and cause the dissolution of the easement to be recorded with the county recorder of deeds. In the event of such return of the easement to the title holder, no reimbursement of any payment made by the corporation to the title holder shall be due.

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[244] *In the Matter of Sho-Me Power Electric Cooperative's Conversion from a Chapter 351 Corporation to a Chapter 394 Rural Electric Cooperative*, Case No. EO-93-0259, Report and Order issued September 17, 1993 , 1993 WL 719871 (Mo. P.S.C.).
[245] *Id*.
[246] Section 393.1030, RSMo.
[247] Section 393.1075, RSMo.
[248] Ex. 306, Report and Order on Remand, p. 45 (citing, *In the Matter of the Application of KPC&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri,* File No. EA-2015-0256, Report and Order issued March 2, 2016, p. 15. See also, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan,* File No. EO-2018-0092, Report and Order issued July 11, 2018, p. 20; *In the Matter of Union Electric Company d/b/a Ameren Missouri's Voluntary Green Program/Pure Power Program Tariff Filing*, File No. EO-2013-0307, Report and Order issued April 24, 2013, p. 14.)

J. Section 523.039, RSMo, states:

> For eminent domain proceedings of any agricultural or horticultural property by an electrical corporation as defined in section 386.020 . . . for the purposes of constructing an electric plant subject to a certificate of convenience and necessity under subsection 1 of section 393.170 just compensation shall be an amount equivalent to fair market value multiplied by one hundred fifty percent, as determined by the court. The provisions of this subsection shall not apply to applications filed pursuant to section 393.170 prior to August 28, 2022.

K. Section 523.277, RSMo. Creates the Office of Ombudsman for Property Rights, appointed by the Public Counsel, to "assist citizens by providing guidance, which shall not constitute legal advice, to individuals seeking information regarding the condemnation process and procedures."

L. Condemnation proceedings are governed by Chapter 523, RSMo, and are the purview of the state courts. The process includes protections for landowners including, a court review of whether the company negotiated in good faith;[249] the requirement for applications filed after August 28, 2022, for payment for agricultural or horticultural land at 150% of fair value,[250] and Section 523.265, RSMo, which allows a landowner to propose alternate locations under this procedure:

> within thirty days of receiving a written notice sent under section 523.250, the landowner may propose to the condemning authority in writing an alternative location for the property to be condemned, which alternative location shall be on the same parcel of the landowner's property as the property the condemning authority seeks to condemn. The proposal shall describe the alternative location in such detail that the alternative location is clearly defined for the condemning authority. The condemning authority shall consider all such alternative locations. This section shall not apply to takings of an entire parcel of land. A written statement by the condemning authority to the landowner that it has considered all such alternative locations, and briefly stating why they were rejected or accepted, is conclusive evidence that sufficient consideration was given to the alternative locations.

[249] Section 523.256, RSMo.
[250] Section 523.256, RSMo.

IV. Decision

Grain Belt has come to the Commission for approval of a CCN for the Project. As stated above, in determining whether the Project is necessary or convenient, the Commission traditionally applies five criteria. The Commission finds those criteria are a suitable way to guide it in making a determination on this application.

A. Need for the Project

The main objective of the Project is to transport clean, low-cost electricity from renewable generation plants to be built in southwestern Kansas, which has high-capacity factor wind and solar resources, to the electricity markets in Missouri and Illinois and other states located within, or adjacent, to the MISO and PJM grids. The Project will be capable of delivering up to 2,500 MW of power into the MISO and AECI grids at a delivery point in Missouri, and up to 2,500 MW of power into the PJM grid, at a delivery point in western Indiana. This extra transmission capacity will both help meet regional energy needs and diversify sources of energy across the region.

In the *Report and Order on Remand,* the Commission found that there was a need for the Original Project. In this application, Grain Belt has shown that the need still exists and that there is also a need for the Project.

The Project is needed because of the benefits to MEC and its customers, who have committed to purchase 136 MW of wind power utilizing the transmission service purchased from Grain Belt. Additionally, the testimony showed that the remaining 64 MW that is the subject of the TSA between Grain Belt and MEC is very likely to be fully subscribed, as soon as there is some certainty to the Project.

There was also substantial evidence of increasing demand for renewable energy from Missouri cities, industrial, large corporate, and utility customers that are setting renewable energy standards and carbon reduction goals. The MISO study, the PA Consulting Study, and the testimony also showed the trend is toward industrial retail and wholesale, commercial, and large corporate customers demanding a greater amount of renewable energy. Both Ameren Missouri and Evergy have also announced carbon reduction goals further demonstrating a need for renewable energy.

Further, in a state whose regulated utilities participate in two separate regional transmission organizations, it is appropriate to consider the Project's effect on other market participants and the various regional transmission organizations. There was significant evidence of demand from outside of Missouri and evidence that the influx of low-cost, high capacity factor energy will reduce prices in the MISO and SPP markets. The Project was shown to be the best option for low cost renewable energy delivered into MISO. Savings across the MISO footprint in the year 2028 was estimated to be over $1.1 billion.

The PA Consulting Report found that expanding the Original Project into the Project will lower energy and capacity costs in Missouri by approximately 6.1 percent over the period of 2027-2066, resulting in over $17.6 billion of savings for Missouri residents. In addition to the financial savings, the PA Consulting Report also found the Project is projected to reduce emissions of CO_2, SO_2, and NOx in Missouri by 9.3%, 19.2%, and 17.2%, respectively, enhancing local utilities' abilities to meet their climate and reliability goals, while also delivering immediate local air quality and health benefits. PA Consulting

quantified these emission reduction benefits as over $7.6 billion in social benefits for the 2027-2066 time period, for total cumulative benefits of more than $25.3 billion by 2066.

Need is also evident in that the Project is needed for reliability and resiliency of the grid and for national security. And by increasing the size of the transmission capacity and adding the Tiger Connector, including moving the converter station and AC line, the Project will bring the interconnectivity to multiple regions to improve the reliability and resiliency of the grid for Missourians and in the interest of national security. This will help guard against price spikes and outages such as those experienced by Winter Storm Uri and Elliot.

Finally, because Phase II is substantially behind Phase I in the easement acquisitions, it is clear that requiring the whole Project to be built before allowing the Phase 1 (Kansas through the Tiger Connector) portion to become operational, will only serve to delay the benefits to Missouri and the region. Thus, there is a need to allow the Project to be completed in phases and therefore, make the amendments to the financing requirements previously placed on Grain Belt.

In sum, the Project is needed as demonstrated by the agreements with the MEC, expressed demand from municipalities, executed Memorandums of Understanding (MOUs), demand from commercial and industrial customers, the carbon emission reduction goals and/or net-zero equivalent targets of local utilities, and demand outside of Missouri. The Project is also needed because it will result in $17.6 billion in savings to Missouri ratepayers and $7.6 billion in social benefits. Additionally, the Project is needed for the reliability and resilience of the grid and national security. Finally, phasing of the Project is needed to hasten the benefits brought to Missourians and the region.

B. Applicant's Qualifications and Financial Ability

In the Commission's *Report and Order on Remand* the Commission found that Invenergy's management team had extensive experience in developing, constructing, and operating transmission and energy infrastructure projects. Grain Belt has shown that it continues to possess the degree of expertise required to carry out the engineering, procurement, construction, equipment design, routing and land acquisition tasks required to construct the Project and place it into operation. Grain Belt's qualifications were not contested and Staff found that Grain Belt has the requisite qualifications.

The evidence also showed that Grain Belt has a viable plan for raising the capital necessary to finance the cost of constructing the Project on a project financing basis. Specifically, after advancing development and permitting activities to a status at which developers of wind and solar generation facilities and other potential customers of the transmission line are willing to enter into commercial agreements for an undivided interest (purchase or lease) or long-term contracts for transmission capacity on the Project, Grain Belt will enter such contracts with interested parties that satisfy necessary creditworthiness requirements. Grain Belt will then raise debt capital using the aforementioned contracts as security for the debt and may also raise additional equity capital.

No party has challenged the financial ability of Grain Belt and Staff found that Grain Belt has the requisite financial ability. Likewise, the Commission concludes that Grain Belt has the qualifications and financial ability to develop, construct, and operate the Project.

C. Economic Feasibility of the Project

Grain Belt's Project is economically feasible because it links customers in Missouri who desire to purchase low-cost wind power from western Kansas with wind generation companies like Santa Fe who propose to supply that energy, all under a business model under which Grain Belt assumes the financial risk of building and operating the transmission line. Moreover, the cost of the project will not be recovered from Missouri ratepayers through either SPP or MISO regional cost allocation tariffs.

When analyzing the economic feasibility of the Original Project, the Commission relied, in part, on the fact that the 3500 MW portion of the project to be sold in PJM that demonstrates the financial viability of the project overall, since power prices for PJM are generally $10/MWh higher than prices paid for the energy sold into the MISO market in Missouri. Although the Project will deliver less energy to the PJM market, it will now deliver more energy to Missouri, AECI, and MISO.

Although the revised projected cost of the entire Project ($4.95 billion) is higher than the 2016 projected cost ($2.35 billion), the Project remains economically feasible, because the cost of alternative resources has also significantly increased, while the demand for renewable energy continues to grow. Accordingly, even with the higher projected cost, the energy and capacity offered by the Project is more economically attractive than the alternatives.

Economic modeling continues to support the Commission's findings in the *Report and Order on Remand* that the Project links economic centers of demand in Missouri with low-cost suppliers in Kansas. Since the Original CCN was granted, that demand from customers and utilities has continued to grow. The production tax credits and investment

tax credits offered in the Inflation Reduction Act will only increase the amount of generation seeking to interconnect to the Project and further saturate the current Kansas market. Adding transmission capacity to move this low-cost energy out of Kansas to other population centers will lower costs for consumers regionally, allowing the entire region to benefit from these low-cost sources of power.

The Project is projected to produce $17.6 billion in direct ratepayer benefits for the 2027-2066 period. These $17.6 billion in ratepayer benefits more than offset the associated costs ($5.7 billion) of the Project without even considering the significant reliability and resilience benefits that the Project brings.

The economic feasibility of Phase II of the Project has not been demonstrated to have changed since the Original CCN was granted. There is still a very strong corporate demand for renewable energy in all regions to which the Project will connect. With that demand and the Inflation Reduction Act incentives, the economics of bringing renewable energy from western Kansas into Missouri and beyond continues to make the project economically feasible.

An additional safe guard on the economic feasibility of the Project is the lenders for the project. Lenders will only advance money once certain conditions have been met. Those conditions may include (a) having all necessary permits, (b) having procured any remaining financial commitments beyond lenders' funding to complete construction, and (c) having a high degree of certainty on budget and timeline. This due diligence by the lenders will help ensure that the Project will be economically feasible from the lenders point of view before proceeding. Further, as indicated below, because Grain Belt and its

customers and investors will ultimately bear the risk of the Project not being financially feasible, the public interest benefits outweigh the economic feasibility risks.

D. Public Interest

Determining what is in the interest of the public is a balancing process in which the Commission must consider the total interests of the public served. Additionally, consistent with state policies established by statute (created by the Missouri Legislature and by initiative petition by Missouri voters), such as the Renewable Energy Standard[251] and the MEEIA,[252] this Commission has in the past expressed support for the "development of economical renewable energy sources to provide safe, reliable, and affordable service while improving the environment and reducing the amount of carbon dioxide released into the atmosphere."[253]

The Project will lower energy production costs in Missouri under future energy scenarios developed by MISO and will have a substantial and favorable effect on the reliability of electric service in Missouri, particularly through its effect on renewable energy diversity in the region. Geographic diversity in wind and solar resources inevitably helps to reduce system variability and uncertainty in regional energy systems. In addition, the Project will provide positive environmental impacts, since displacement of fossil fuels for wind and solar power will reduce emissions of carbon dioxide, sulfur dioxide, and nitrogen

[251] Section 393.1030, RSMo.
[252] Section 393.1075, RSMo.
[253] See Exhibit 306, Report and Order on Remand, p. 45, (citing to *In the Matter of the Application of KPC&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri,* File No. EA-2015-0256, Report and Order issued March 2, 2016, p. 15. See also, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan,* File No. EO-2018-0092, Report and Order issued July 11, 2018, p. 20; *In the Matter of Union Electric Company d/b/a Ameren Missouri's Voluntary Green Program/Pure Power Program Tariff Filing*, File No. EO-2013-0307, Report and Order issued April 24, 2013, p. 14.)

oxide, and reduce water usage in Missouri. Additionally, the annual cost savings to MEC member cities that participate in the Project will likely be passed through to their residential and industrial customers in the form of rate relief or invested in their electrical distribution systems benefitting Missourians.

The Project will support the equivalent of 5,757 total construction jobs over three years. These jobs are estimated to result in total worker earnings for Missouri of $586,118,331 during the three-year construction period and $8,113,077 during the operation phase of the Project. The Project will also result in significant property tax benefits in the state of Missouri. Further, the Project will create temporary construction jobs and permanent jobs within the state of Missouri. For example, the Project will support the equivalent of 5,747 construction jobs statewide over a three-year period. In addition to these construction jobs, the Project will support approximately 104 long-term positions statewide. These jobs are estimated to result in total worker earnings from the Project for Missouri of $586,118,331 during the three-year construction period and $8,113,077 during the operation phase of the Project.

The negative impacts of the Project on the land and landowners, while not completely removed, will be mitigated by the conditions placed on the grant of the CCN including (a) a landowner protocol to protect landowners; (b) compensation payments; (c) a binding arbitration option for easement negotiations; (d) a decommissioning fund; and (e) an agricultural impact mitigation protocol to avoid or minimize negative agricultural impacts. Agricultural impacts will also be reduced because no more than nine acres of land in Missouri will be taken out of agricultural production as a result of Project structures.

An additional factor mitigating landowner impact is that in the Protocols Grain Belt has committed to considering landowner requests for alternate routes, including potential co-locations in existing developed corridors such as roads and transmission and distribution lines. The Protocols also require that Grain Belt strive to implement certain elements into its easement negotiations, including "[p]roviding a review and approval process for landowner-requested micro-siting changes on their property."[254] The Commission expects that Grain Belt will seriously consider and provide responses in writing to these landowner requests and, as required in the Protocols, will track and follow through with the obligations it and its agents have made with landowners.[255] Additionally, the Commission expects Grain Belt going forward to provide the same response method in as an efficient manner as possible to all the landowners, not just the landowners in which it is involved in condemnation proceedings.

Also mitigating any harm to landowners, are the numerous provisions in the Protocols and the Easement Agreement related to repair or compensation for damage to crops, livestock, and land improvements.[256] However, because there are a number of provisions in several documents, the landowners will need to be knowledgeable of all the remedies available to them. The Commission would highlight in particular Paragraph 22, of the Easement Agreement which states "[i]n the event of a conflict between this Agreement and the conditions of the Protocols, the provision more favorable to Landowner shall control to the extent of such conflict." This and other provisions giving

[254] Ex. 19, Chandler Direct, Schedule KC-5, p. 2.
[255] Ex. 19, Chandler Direct, Schedule KC-5, Section 6 Tracking of Landowner Obligations.
[256] Ex. 19, Chandler Direct, Schedules KC-5 (Missouri Landowner Protocol – For Right-of-Way Acquisition for the Grain Belt Express) and KC-4 (Easement Agreement); Exhibit 20, Chandler Surrebuttal, Schedules KC-6 (Code of Conduct) and KC-7 (Missouri Agricultural Impact Mitigation Protocol); Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358); and other conditions set out in this *Report and Order*.

deference to the landowner, as well as the requirement in the agreed to conditions that all Grain Belt contractors carry and maintain a minimum of $1 million of liability insurance to respond to landowners' damage claims,[257] help mitigate any harm from the easement itself.

Finally, the Commission notes that Chapter 523, RSMo, has additional protections for landowners facing condemnation proceedings at the circuit court. These include a review of negotiations in good faith, compensation at 150% for agricultural or horticultural land, and a process for landowners to propose alternate locations.

It is the Commission's responsibility to balance the interests of all stakeholders, including the affected landowners, to determine what is in the best interest of the general public as a whole. The evidence in the case demonstrated that the Project will create both short-term and long-term benefits to ratepayers and all the citizens of the state. In the Commission's view, the broad economic and environmental benefits; the demand from municipalities, industrial, and retail business for renewable energy; the increased resiliency and reliability of the grid; the benefits to national security; and other benefits of the Project to the entire state of Missouri and beyond outweigh the interests of the individual landowners. Many of the landowners' concerns will be addressed through carefully considered conditions placed on the CCN.

There can be no debate that our energy future will require more diversity in energy resources, particularly renewable resources. We are witnessing a worldwide, long-term and comprehensive movement toward renewable energy. The energy on the Project provides great promise as a source for affordable, reliable, safe, and

[257] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358), Condition VI.2.

environmentally-friendly energy that will increase resiliency of the grid. The Project will facilitate this movement in Missouri, will thereby benefit Missouri citizens, and is, with the conditions set out below, in the public interest.

The Commission also finds it in the public interest to allow the project to proceed in phases, so that the benefits to Missourians may be realized faster. As such, the Commission will change the conditions previously placed on the Original Project to facilitate the Project proceeding in two phases.

E. Conditions

The parties have proposed certain conditions to be ordered if the Commission granted Grain Belt a CCN for the Project. The Commission finds that some additional conditions are reasonable and necessary, as explained below. The Commission concludes that the remaining proposed conditions are unreasonable, unnecessary, or moot, so those will not be adopted.

Grain Belt has agreed to certain conditions being placed on the grant of a CCN for the Project. Grain Belt has agreed to all the conditions from the Original CCN as set out in the *Report and Order on Remand*, except with changes to the Financing Condition and the changes to the easement compensation provision for landowners along the Tiger Connector (AC line). The Commission has found that the completion of the Project in two phases is needed to provide benefits of the Project to Missourians faster and is in the public interest. Likewise, the Commission finds that it is reasonable and necessary for the Financing Condition for the Project to be changed from that previously granted, so that Grain Belt may build the Project in two phases.

Grain Belt also asks to modify the Landowner Protocols to authorize compensation to the Tiger Connector Landowners at 150% of fair market value. Section 523.039 became effective on August 28, 2022, just four days after Grain Belt filed this application. Subsection 523.039.2 requires electrical corporations filing applications for a certificate of convenience and necessity on August 28, 2022 or later to pay in eminent domain proceedings the fair market value of any agricultural or horticultural property 150% of the fair market value of the property. Grain Belt claims that, in keeping with the spirit of the compensation plan in the statute, and at the request of the Agricultural Associations, it proposes to pay the landowners for the Tiger Connector 150% of fair market value for their easements. However, Grain Belt is proposing to eliminate the structure payments for the Tiger Connector landowners.

At this time it is unknown how many, if any, of the Tiger Connector landowners might benefit from the 110% plus structures compensation plan versus the 150% compensation plan. However, the Commission is not persuaded by Grain Belt's suggestion that a company undertaking a multi-billion dollar, multistate project such as this is not sophisticated enough to keep track of a few landowners requesting the same payment option as it is offering to all the other landowners along the HVDC Missouri line. Therefore, to mitigate any possible harm to the landowners, the Commission finds it is reasonable and necessary to require Grain Belt to include the option of either compensation plan for the Tiger Connector landowners.

As reflected by the conditions the Commission is ordering below, Grain Belt will be required to file an application for a new certificate, if there are design and engineering changes that are materially different from the Project. Staff recommended that if the CCN

was granted, the Commission should define the term "material change." However, the Commission was not persuaded that it would serve the public interest to limit the definition of material change to Staff's specific terms. Therefore, the Commission will not adopt Staff's proposed definition.

The potential use of the easement for installation, operations, and maintenance of fiber optic and other communication equipment is an element of the Easement Agreement between Grain Belt and individual landowners.[258] The Commission notes that nothing precludes the Company offering or a landowner receiving, additional compensation if Grain Belt elects to use or make use of the easement through the sale, lease, or any other manner to a third party or any other entity for the purposes of providing telecommunication, broadband, fiber optic, or similar services in the future. The Commission urges Grain Belt to compensate landowners for any additional utilization of the secured easements.

Additionally, Grain Belt agreed to some reporting requirements regarding being designated as a system restoration resource by a RTO, and not beginning to install transmission facilities on easement property in Missouri, until it has submitted certain documentation to Staff regarding compliance with federal and Missouri environmental permits. The Commission finds that this condition is also reasonable and necessary.

Grain Belt presented evidence, including the study completed by Mr. Loomis that showed the Project would benefit Missouri through job creation and economic benefits to the state of Missouri and local communities where the transmission line is being constructed. The Commission finds it reasonable for Grain Belt to provide the

[258] See, Ex. 19, Chandler Direct, Schedule KC-4, para. 2.c.

Commission with a yearly annual report through its first three years of operation of both phases of the transmission line to show the actual economic impact the Project. Thus, the Commission will direct Grain Belt to provide an annual report.

Another provision of concern to the Commission in the Easement Agreement is the provision that states that except in an emergency Grain Belt will provide at least 24-hours' notice to landowners in advance of accessing their property for the first time for the purpose of constructing, modifying, or repairing the facilities.[259] The Commission is aware of the condition ordered in the Original CCN, and agreed to by Grain Belt in this case, that Grain Belt will make "reasonable efforts to contact landowners" before entering the right of way.[260] The Commission strongly encourages Grain Belt (and its contractors) to enhance landowner communications and relations by making every effort to make contact with landowners and provide as much notice as possible, but at least 72-hours' notice, prior to any initial construction or planned maintenance. In order to monitor these efforts and communications, the Commission finds it reasonable and necessary to direct Grain Belt to include in an annual report the types of notice provided to landowners and the amount of time given for those notices, with explanation of the reasons for any notice given in less than 72-hours.

The Commission highlights that Grain Belt has represented to the Commission that it will appoint a land liaison to the Project to communicate with landowners prior to entry on their properties, during construction operations and after construction activities are completed, to address any concerns and maintain consistent communications.

[259] Ex. 19, Chandler Direct, Schedule KC-4, para. 2.f.
[260] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358), Condition VI.1.

Additionally, one condition agreed to by Grain Belt and being ordered by the Commission is that after construction is completed, every landowner will be contacted personally to ensure construction and clean-up has been done properly and to settle any damage complaints.[261]

The Commission notes that the easements that Grain Belt proposes to offer to landowners with the various compensation formulas and Protocols are complex. The Commission encourages the landowners to know their rights before entering into any easement negotiations. Section 523.277, RSMo, created the Office of the Ombudsman for Property Rights to provide guidance, but not legal advice, to individuals seeking information regarding the condemnation process and procedures. The Commission finds it reasonable for Grain Belt to include in its Missouri Landowner Protocol contact information for the Ombudsman for Property Rights and a reference to the statute creating it.

If Grain Belt does not comply with the conditions set out in this order (including the Missouri Landowner Protocol,[262] Code of Conduct,[263] Agricultural Impact Mitigation Protocol[264] and the agreed to conditions[265]) a complaint may be brought to the Commission in accordance with Section 386.390, RSMo, and Commission Rule 20 CSR 4240-2.070. If, in a complaint proceeding, the Commission determines that Grain Belt has violated the provisions of the Commission's order or other law within the Commission's jurisdiction, the Commission may decide to file an action in circuit court to seek penalties

[261] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358), Condition VII.5.
[262] Ex. 19, Chandler Direct, Schedule KC-5 (Missouri Landowner Protocol – For Right-of-Way Acquisition for the Grain Belt Express).
[263] Exhibit 20, Chandler Surrebuttal, Schedules KC-6 (Code of Conduct).
[264] Exhibit 20, Chandler Surrebuttal, Schedules KC-7 (Missouri Agricultural Impact Mitigation Protocol).
[265] Ex. 306, Report and Order on Remand, Attachment 1 (formerly Exhibit 206 in File No. EA-2016-0358).

against Grain Belt. In such case, Grain Belt could be subject to penalties payable to the Public School Fund ranging from $100 to $2,000 per day of noncompliance, pursuant to Section 386.570, RSMo. However, the Commission notes that it does not have jurisdiction over eminent domain proceedings. Decisions regarding eminent domain, including any determination of whether Grain Belt has negotiated in good faith, are the purview of the state courts.[266] The Commission also does not have authority over contract disputes and cannot interpret or enforce contracts (such as an easement agreement) or award monetary damages or remedies. Landowners must seek those remedies from the courts.

Finally, the Commission notes that under Section 393.170.3, RSMo, unless Grain Belt exercises the authority conferred by the CCN within two years, the CCN becomes null and void.

V. Summary

In making this decision, the Commission has considered the positions and arguments of all of the parties. After applying the facts to the law to reach its conclusions, the Commission concludes that the substantial and competent evidence in the record supports the conclusion that Grain Belt has met, by a preponderance of the evidence, its burden of proof to demonstrate that it is qualified for a certificate of convenience and necessity for the Project under Section 393.170.1, RSMo. Therefore, the Commission will grant the Grain Belt application for the Project, subject to the conditions ordered below.

[266] See, Section 523.256, RSMo.

THE COMMISSION ORDERS THAT:

1. Grain Belt's application for a certificate of convenience and necessity filed on August 24, 2022, is granted with the conditions set out below.

2. In accordance with its August 24, 2022 application, Grain Belt is authorized to:

a. relocate the Missouri converter station of the Project from Ralls County to Monroe County and to increase the capacity of the Missouri converter station from 500 MW to 2,500 MW.

b. relocate the AC connector line (the "Tiger Connector") from Ralls County to Monroe, Audrain, and Callaway Counties.

c. construct the Project in two phases:

i. Phase I will comprise construction of an HVDC line beginning in Southwestern Kansas near Dodge City and running to a converter station in Monroe County, Missouri, and continuing with an AC tie line (the "Tiger Connector") in Monroe County, Audrain County, and terminating in Callaway County at points of interconnection with MISO system along the Ameren Missouri 345 kV AC transmission line connecting the McCredie substation and the Montgomery substation and also interconnect with the AECI system at the McCredie 345 kV substation.

ii. Phase II will comprise construction from the converter station in Monroe County approximately 58 miles in Missouri to the Illinois border. Phase II will continue approximately 207 miles through Illinois to

the Indiana border terminating at the substation in Sullivan County, Indiana, and will deliver an additional 2,500 MW into the PJM markets.

iii. The "Financing Conditions," as set forth in Section I of Attachment 1 to the *Report and Order on Remand* in File No. EA-2016-0358 are adopted with the change that will allow the Project to be constructed in two phases without the necessity to secure financing for both phases before beginning construction of Phase I. The Financing Conditions approved and adopted by the Commission for the Project are:

> Grain Belt Express will not install transmission facilities associated with Phase I of the Project on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of Phase I of the Project. Further, GBE will not install transmission facilities associated with Phase II of the Project on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of Phase II of the Project. The term "install transmission facilities" means "to affix permanently to the ground transmission towers or other transmission equipment, including but not limited to bases, poles, towers and structures, such wires and cables as Grain Belt shall from time to time suspend therefrom, foundations, footings, attachments, anchors, ground connections, communications devices and other equipment, accessories, access roads and appurtenances, as Grain Belt may deem necessary or desirable in connection therewith, but shall not include (A) preparatory work such as surveys, soil borings, engineering and design, obtaining permits and other approvals from governmental bodies, acquisition of options and easements for right of-way, and ordering of equipment and materials, and (B) site preparation work and procurement and installation of equipment and facilities on property owned in fee by Grain Belt Express including the converter station site." To allow the Commission to verify compliance with this condition, GBE shall file the following documents with the Commission at such a time as GBE is prepared to begin to construct electric transmission facilities in Missouri associated with Phase I and Phase II, respectively:

i. On a confidential basis, equity and loan or other debt financing agreements and commitments entered into or obtained by GBE or its parent company for the purpose of funding the respective Phase of the transmission project that, in the aggregate, provide commitments for the total cost of such Phase.

ii. An attestation by an officer of GBE that GBE has not, prior to the date of the attestation, installed transmission facilities associated with the respective Phase on easement property; or a notification that such installation is scheduled to begin on a specified date.

iii. A statement of the total cost of the respective Phase, broken out by the categories of engineering, manufacturing and installation of converter stations; transmission line engineering; transmission towers; conductor; construction labor necessary to complete the Phase; right-of way acquisition costs; and other costs necessary to complete the Phase, and certified by an officer of GBE, along with a reconciliation of the total cost of such Phase in the statement to the total cost of such Phase as of the Application to Amend (i.e., $3.52 billion for Phase I and $1.43 billion for Phase II as set forth in the Direct Testimony of Aaron White); and property owned in fee by GBE associated with the respective Phase, including the converter station sites.

iv. A reconciliation statement certified by an officer of GBE showing that (1) the agreements and commitments for funds provided in subsection (i), above, are equal to or greater than the total cost of the Phase provided in subsection (iii), above; and (2) the contracted transmission service revenue is sufficient to service the debt financing of the Phase (taking into account any planned refinancing of debt).

3. The conditions to which Grain Belt agreed and were approved and adopted as Attachment 1[267] to the *Report and Order on Remand* are approved and adopted for the Project. Attachment 1 is attached and incorporated herein by reference, as if fully set forth. Grain Belt is ordered to comply with the conditions in Attachment 1.

4. The conditions to which Grain Belt and Rockies Express Pipeline LLC agreed in Exhibit 205 in File No. EA-2016-0358 continue to be in effect. Exhibit 205 from

[267] Previously marked as Exhibit 206 in File No. EA-2016-0358.

File No. EA-2016-0358 is attached as Attachment 2 and incorporated herein by reference as if fully set forth. Grain Belt is ordered to comply with the conditions in Attachment 2.

5. Grain Belt's owners, including, but not limited to, Invenergy Transmission LLC, Invenergy Investment Company LLC, and any related subsidiaries, shall cooperate with the Commission's Staff in providing reasonable access to its un-redacted financial records until the completion or official abandonment of the Project.

6. If Grain Belt acquires any involuntary easement in Missouri by means of eminent domain proceedings ("easement") and does not obtain the financial commitments referred to in Section I(1) and Section I(1)(a) of the Conditions Agreed to by Grain Belt and Staff (Attachment 1) within five years of the date that such easement rights are recorded with the appropriate county recorder of deeds, Grain Belt shall return possession of the easement to the fee simple title holder ("title holder") within 60 days and cause the dissolution of the easement to be recorded with the county recorder of deeds. In the event of such a return of the easement to the title holder, no reimbursement of any payment made by Grain Belt to the title holder shall be due.

7. If the design and engineering of the project is materially different from how the Project is presented in Grain Belt's application filed on August 24, 2022, Grain Belt must file a new CCN application with the Commission for further Commission review and determination to permit and authorize such changes.

8. If any outstanding studies included as conditions raise any new issue(s), then the Commission must be satisfied with how Grain Belt resolves the issue(s).

9. Grain Belt shall comply with the Missouri Landowner Protocol (Attachment 3), including, but not limited to, a Code of Conduct (Attachment 4) and the Missouri

Agricultural Mitigation Impact Protocol (Attachment 5), and incorporate the terms and obligations of the Missouri Landowner Protocol into any easement agreements with Missouri landowners.

10. Grain Belt shall revise its Missouri Landowner Protocol to allow landowners along the Tiger Connector to have the option for compensation at the 110% plus structure payments the same as the landowners along the HVDC line.

11. Grain Belt shall maintain the Missouri Landowner Protocol relating to a decommissioning fund as directed in the *Report and Order on Remand* as follows:

> At the commencement of construction of the Project, Grain Belt shall establish a decommissioning fund in an amount reasonably necessary to perform the wind-up activities described below, at Grain Belt's sole cost and expense, for any portion of the Project that has been constructed and installed. The amount of the decommissioning fund shall be increased as construction of the Project progresses sufficient to cover wind-up activities for any Project facilities that have been constructed and installed. The decommissioning fund may be collateralized with a letter of credit or cash, or any combination thereof. In any circumstance in which the Project is retired from service or abandoned prior to service, Grain Belt shall promptly perform the following wind-up activities:
>
> a. dismantling, demolishing and removing all equipment, facilities and structures;
>
> b. terminating all transmission line easements and filing a release of such easements in the real property records of the county in which the property is located;
>
> c. securing, maintaining and disposing of debris with respect to the Project facilities; and
>
> d. performing any activities necessary to comply with applicable laws, contractual obligations, and that are otherwise prudent to retire the Project facilities and restore any landowner property.

12. Grain Belt shall promptly file with the Commission a copy of each annual report that Grain Belt or Invenergy files with FERC.

13. Grain Belt shall include the following information in its Missouri Landowner Protocol:

> Section 523.277, RSMo, created the Office of the Ombudsman for Property Rights, appointed by the Office of the Public Counsel, to provide guidance to individuals seeking information regarding the condemnation process and procedures. Landowners can contact the Ombudsman at:
>
> Phone: 573.751.4857
> Fax: 573.751.5562
> Email: mopco@opc.mo.gov
> Website: eminentdomain.mo.gov

14. Grain Belt shall provide annual reports every year until the line has been in service three full years. Staff and Grain Belt shall jointly develop a reporting format, metrics, and schedule for these reports and file a proposal for the composition of the reports no later than February 29, 2024. The process, review, retention of the reports, and reporting conditions should be narrowly tailored to consolidate the information, and to avoid requiring duplicate information provided to other agencies. The reports that Grain Belt shall provide are as follows:

a. Actual data regarding the economic impact of job creation in the state of Missouri including: the number of Missourians employed, total gross wages paid to Missourians, total payroll taxes paid on behalf of employed Missourians, number of contracted entities domiciled in Missouri, landowner payments and protocol complaint resolution, eminent domain proceedings, damage disputes, and any other data deemed appropriate to address concerns expressed by the Commission that would be considered valuable to provide in such report(s).

b. Information regarding the types of notice provided to landowners and the amount of time given for those notices, with explanation of the reasons for any notice given to landowners in less than 72-hours of accessing their property.

c. Information regarding the number and types of landowner complaints and obligations received and tracked in accordance with the Missouri Landowner Protocol, Section 6 and elsewhere; how those complaints and obligations were resolved or addressed; and within what timeframe they were resolved or addressed.

15. All waivers from Ordered Paragraph 11 in the *Report and Order on Remand* remain in effect.[268]

16. This order shall become effective on November 11, 2023.

BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman
Kolkmeyer CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).
Hahn, C. dissents.

Dippell, Chief Regulatory Law Judge

[268] Effective August 28, 2019, the Commission's rules were transferred from Title 4, Division 240 of the Code of State Regulations to Title 20, Division 4240 of the Code of State Regulations.

CONDITIONS AGREED TO BY GRAIN BELT EXPRESS CLEAN LINE LLC AND THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

In re Grain Belt Express Clean Line LLC, No. EA-2016-0358

Based on the conditions and recommendations in the Staff Rebuttal Report submitted on January 24, 2017, and subsequent discussions between the Staff of the Missouri Public Service Commission ("Staff") and Grain Belt Express Clean Line LLC ("Grain Belt"), Staff and Grain Belt have agreed to the following conditions.

I. Financing Conditions (Staff Rebuttal Report at 63-64)

1. Grain Belt will not install transmission facilities on easement property in Missouri until it has obtained commitments for funds in an amount equal to or greater than the total cost to build the entirety of this multi-state transmission project. To allow the Commission to verify compliance with this condition, Grain Belt shall file the following documents with the Commission at such a time as Grain Belt is prepared to begin to construct electric transmission facilities in Missouri:

(a) On a confidential basis, equity and loan or other debt financing agreements and commitments entered into or obtained by Grain Belt or its parent company for the purpose of funding Grain Belt's multi-state transmission project that, in the aggregate, provide commitments for the total project cost.

(b) An attestation by an officer of Grain Belt that Grain Belt has not, prior to the date of the attestation, installed transmission facilities on easement property; or a notification that such installation is scheduled to begin on a specified date.

(c) A statement of the total multi-state transmission project cost, broken out by the categories of engineering, manufacturing and installation of converter stations; transmission line engineering; transmission towers; conductor; construction labor necessary to complete the project; right-of-way acquisition costs; and other costs necessary to complete the project, and certified by an officer of Grain Belt, along with a reconciliation of the total project cost in the statement to the total project cost as of the Application of $2.35 billion; and property owned in fee by Grain Belt including the converter station sites.

(d) A reconciliation statement certified by an officer of Grain Belt showing that (1) the agreements and commitments for funds provided in subsection (a), above, are equal to or greater than the total project cost provided in subsection (c), above; and (2) the contracted transmission service revenue is sufficient to service the debt financing of the project (taking into account any planned refinancing of debt).

II. Interconnection Studies and Safety (Staff Rebuttal Report at 64, 67)

1. Grain Belt will provide Staff with completed RTO Interconnection Agreements and any associated studies. Should the studies raise new issues, Grain Belt will provide its plan to address those issues.

Attachment 1

2. Grain Belt will provide to the Commission completed documentation of the Grain Belt plan, equipment, and engineering drawings to achieve compliance with NERC standards for a project of this scope and size, the National Electric Safety Code for a project of this scope and size, 4 CSR 240-18.010, the Overhead Power Line Safety Act (Section 319.075-.090), and any other applicable Missouri state law for a project of this scope and size prior to the commercial operational date of the Project.

III. Nearby Utility Facilities (Staff Rebuttal Report at 64-66)

1. Grain Belt shall use commercially reasonable efforts (as defined below) to obtain detailed location information on each existing underground utility plant, either crossed by or in close proximity to its proposed route, and to contact and coordinate with the owners of each such facility prior to construction.

(a) Grain Belt intends to undertake several related steps to obtain information about underground utilities. Grain Belt intends to hire a qualified survey firm with experience in locating underground utilities. Prior to field survey, Grain Belt intends to assemble desktop information about underground utility locations along the project route. This desktop information may be assembled by the survey firm, by a different contractor, or by Grain Belt itself. The desktop information will draw from both public and proprietary sources. Publicly available sources may include, but are not limited to, databases maintained by State utility regulatory bodies, Railroad Commissions, Departments of Transportation, Oil & Gas Commissions, Departments of Natural Resources, Municipal Utility Districts, Rural Water Districts, County Engineering Offices, and Electric Cooperatives. Proprietary sources may include, but are not limited to, databases and mapping information such as those maintained by Ventyx or Platts, and GIS or CAD files maintained by underground utility owners and provided to Grain Belt. In advance of field operations Grain Belt will engage in detailed title research to identify all easements of record for each parcel of land traversed by the Grain Belt Project. Field survey will utilize one or more detection methods to "sweep" sections of the right-of-way for underground utilities. These methods may include, but are not limited to: identification of above-ground staking or signage, magnetic, sonic and acoustic technologies, ground penetrating radar, radio frequency detection, and vacuum excavation. The extent of survey coverage will be determined by consulting with the project engineering and construction contractors.

(b) Commercially reasonable efforts, in the context of obtaining information about underground utility plant, are efforts sufficient to identify nearby infrastructure at specific excavation locations for the Project facilities (e.g., foundations for transmission line structures), as well as nearby infrastructure that can be identified using the aforementioned methods within the right-of-way of the Project, as specified by the project engineering and construction contractors, coordination with the utility owner, and applicable laws and regulations. "Commercially reasonable" in this context does not refer to a specific or maximum dollar amount.

2. Grain Belt will show the Commission, before it begins commercial operation of any part of the multi-state Project, that it built the entire multi-state Grain Belt proposed HVDC transmission line with dedicated metallic return conductors which are operational and that the entire multi-state Project has operational protection and control safety systems that automatically

de-energize the Project within approximately 150 milliseconds of when an abnormal or fault condition occurs.

3. Grain Belt will perform engineering studies to determine if the operation of the Grain Belt proposed HVDC transmission line, the Grain Belt proposed Missouri converter station, and the Grain Belt-owned portion of the AC electric transmission line connecting the Grain Belt proposed Missouri converter station to the AC grid have adverse impacts on nearby facilities. These engineering studies must include, but not be limited to the following:

(a) the effects of tower footing groundings, if used;

(b) analysis of metallic underground facilities;

(c) other AC power lines and telecommunications facilities that are located within a distance from the Grain Belt proposed HVDC transmission line, as determined by an appropriately qualified expert, where there may be adverse effects on the facilities;

(d) a determination whether there are locations where the Grain Belt proposed HVDC transmission line parallels a pipeline and an existing AC power line and, if so, whether there are any combined effects on steel pipelines (and other underground metallic facilities); and

(e) the effects of Grain Belt proposed transmission line(s) connecting the Grain Belt proposed Missouri converter station to the AC grid.

If any of these studies show that mitigation measures are identified/needed, those measures must be in place prior to commercial operation of the Grain Belt proposed transmission line.

These studies must be made available to Staff and affected facility owners at least 45 days prior to commercial operation of the Grain Belt proposed HVDC transmission line.

Grain Belt must disclose to Staff and affected facility owners how the parameters for conducting the studies were determined (e.g., continuous 24-hour recordings at a certain time of year).

These studies must be conducted by persons knowledgeable in: (1) HVDC power lines; (2) DC-to-AC converter stations; (3) Pipeline cathodic protection systems; (4) Corrosion of underground metallic facilities; (5) Interference with AC utility lines; (6) Interference with telecommunications facilities; (7) Effects of DC and AC interference on the facilities identified in Exhibit 3, as amended by Grain Belt's Addendum to the Application, and all additional facilities subsequently identified.

4. Grain Belt must file "annual status updates" on discussions with Staff regarding need for additional studies of the impacts of its facilities on other facilities in Missouri, a summary of the results of any additional studies, and any mitigation measures that have been implemented to address underground metallic structures, telecom facilities and AC lines. Mitigation measures indicated by future studies must be implemented within three (3) months of discovery that additional mitigation measures are needed, or as quickly as reasonably practical thereafter.

IV. Emergency Restoration Plans (Staff Rebuttal Report at 66)

1. Grain Belt must provide a copy of the final Grain Belt Emergency Restoration Plan to the Commission prior to the commercial operations date for the Grain Belt Project.

V. Construction and Clearing (Staff Rebuttal Report at 67-68)

1. Prior to construction, Grain Belt will notify all landowners in writing of the name and telephone number of Grain Belt's Construction Supervisor so that they may contact the Construction Supervisor with questions or concerns before, during, or after construction. Such notice will also advise the landowners of the expected start and end dates of construction on their properties.

2. Prior to construction, Grain Belt's Construction Supervisor will personally contact each landowner (or at least one owner of any parcel with multiple owners) to discuss access to the right-of-way on their parcel and any special concerns or requests about which the landowner desires to make Grain Belt aware.

3. From the beginning of construction until end of construction and clean-up of the right-of-way is complete, Grain Belt's Construction Supervisor will be on-site, meaning at or in the vicinity of the route, or on-call, to respond to landowner questions or concerns.

4. If requested by the landowner, Grain Belt will cut logs 12" in diameter or more into 10 to 20 foot lengths and stack them just outside the right-of-way for handling by the landowner.

5. Stumps will be cut as close to the ground as practical, but in any event will be left no more than 4" above grade.

6. Stumps will be treated to prevent regrowth consistent with industry best practices. Vegetation treatments will consider vegetation types, site specific land uses, and any environmental sensitivities. Grain Belt will notify all landowners of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property.

7. Unless the landowner does not want the area seeded, disturbed areas will be reseeded consistent with reclamation best practices in consultation with landowners, restoration specialists, and government agencies.

8. Best management practices will be followed to minimize erosion, with the particular practice employed at a given location depending upon terrain, soil, and other relevant factors.

9. Gates will be securely closed after use.

10. Should Grain Belt damage a gate, Grain Belt will repair that damage.

11. If Grain Belt installs a new gate, Grain Belt will either remove it after construction and repair the fence to its pre-construction condition, or will maintain the gate so that it is secure against the escape of livestock.

12. Grain Belt will utilize design techniques intended to minimize corona.

13. Should a landowner experience radio or television interference issues believed by the landowner to be attributed to Grain Belt's line, Grain Belt will work with the landowner in good faith to attempt to solve the problem.

14. Grain Belt will clearly mark guy wires.

VI. Maintenance and Repair (Staff Rebuttal Report at 68-69)

1. With regard to future maintenance or repair and right-of-way maintenance after construction is completed, Grain Belt will make reasonable efforts to contact landowners prior to entry onto the right-of-way on their property to advise the landowners of Grain Belt's presence, particularly if access is near their residence.

2. All Grain Belt contractors will be required to carry and maintain a minimum of one million dollars of liability insurance available to respond to damage claims of landowners. All contractors will be required to respond to any landowner damage claims within 24 hours. All contractors will be required to have all licenses required by state, federal, or local law.

3. If herbicides are used, only herbicides approved by the EPA and any applicable state authorities will be used, and herbicides will be used in strict compliance with all labeling directions.

4. Routine maintenance will not occur during wet conditions so as to prevent rutting.

5. Existing access roads will be used to access the right-of-way wherever available.

6. Prior to commencing construction, Grain Belt will notify all landowners in writing of the Transmission Vegetation Management Policy and of the specific vegetation treatments for each landowner's property. Grain Belt will personally meet with each landowner who requests such a meeting to determine if the landowner does or does not want herbicides used on the landowner's property. If the landowner does not want herbicides used, they will not be used.

VII. Landowner Interactions and Right-of-Way Acquisition (Staff Rebuttal Report at 43-45, 69)

1. The certificate is limited to the construction of this line in the location specified in the application, and as represented to the landowners on the aerial photos provided by Grain Belt, unless a written agreement from the landowner is obtained, or the company gets a variance from the Commission for a particular property, provided, however, minor deviations to the location of the line not exceeding 500 feet will be permitted as a result of surveying, final engineering and design, and landowner consultation, so long as the line and required easements stay within the property boundaries of that landowner and do not involve a new landowner.

2. Absent a voluntary agreement for the purchase of the property rights, the transmission line shall not be located so that a residential structure currently occupied by the property owners will be removed or located in the easement requiring the owner to move or relocate from the property

3. Grain Belt shall survey the transmission line location after construction and record the easement location with the Recorder of Deeds in the appropriate counties. Grain Belt shall also file a copy of its survey in this case.

4. Every landowner from whom Grain Belt requires an easement will be contacted personally, and Grain Belt will negotiate with each such landowner in good faith on the terms and conditions of the easement, its location, and compensation therefor. Each landowner will receive an Easement Agreement pertaining to such landowner's land, which Easement Agreement will contain a drawing that shows the location of the easement.

5. After construction is completed, every landowner will be contacted personally to ensure construction and clean-up was done properly, to discuss any concerns, and to settle any damages that may have occurred.

6. If a landowner so desires, Grain Belt will give the landowner a reasonable period of time in advance of construction to harvest any timber the landowner desires to harvest.

7. Grain Belt's right-of-way acquisition policies and practices will not change regardless of whether Grain Belt does or does not yet possess a Certificate of Convenience or Necessity from the Commission.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grain Belt Express Clean Line LLC for a Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage And Maintain a High Voltage, Direct Current Transmission Line and an Associated Converter Station Providing an Interconnection on the Maywood-Montgomery 345 kV transmission line.	)	Case No. EA-2016-0358

GRAIN BELT EXPRESS RESPONSE TO
ROCKIES EXPRESS PIPELINE LLC'S FIRST SET
OF DATA REQUESTS TO GRAIN BELT EXPRESS CLEAN LINE LLC

Grain Belt Express Clean Line LLC ("GBX") states the following in response to the data requests propounded by Rockies Express Pipeline LLC ("REX"):

1. GBX's application and the testimony and schedules filed in support propose preferred and alternative routes for GBX's high voltage, direct current electric transmission line and associated converter station (the "HVDC Project") that may involve multiple crossings of, and run parallel to, REX's existing high pressure natural gas pipeline (the "Pipeline"). None of said filings address the potential impacts of GBX's HVDC Project on REX's Pipeline, however. It is REX's position that it is not permissible to design, construct or operate GBX's HVDC line in a manner that would pose a risk to the safety or integrity of REX's pipeline. Does GBX support REX's position?

RESPONSE: Yes.

2. REX intends to study the potential impacts of the HVDC Project on the Pipeline. However, the testimony of GBX's witnesses, Anthony Wayne Galli and Thomas F. Shiflett, and the schedules attached thereto, indicate that the design and engineering of the HVDC project is still in a preliminary state. If comprehensive engineering and design work for the HVDC Project have yet to commence, please answer the following:

a) At what identifiable stage or step during the HVDC Project engineering and design work processes does GBX believe that potential impacts of the HVDC Project to the Pipeline may be determined?

RESPONSE: The appropriate time to begin studies would be after the final route alignment and structure spotting exercises are completed. Once a route is approved, significant engineering activities will begin on an engineering commencement date to determine structure locations. At that time enough detail will be available to perform the studies to determine if any mitigation measures will be necessary.

b) Does GBX intend to give REX prompt, advance notice that the stage or step identified in GBX's answer to the immediately preceding question is about to commence?

RESPONSE: Yes.

c) REX anticipates that it will need technical information about the HVDC Project, as well as information about how GBX intends to operate the HVDC Project, in order for REX to study how the HVDC Project might impact the safety or integrity of the Pipeline. Does GBX intend to share such technical and operational information as REX may reasonably request for this purpose? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes, subject to the execution of confidentiality agreements to protect such information.

d) If GBX's answers to questions b) and c) are in the affirmative, will GBX collaborate with REX to study how the HVDC Project might impact the safety or integrity of the Pipeline? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes.

3. After studying the HVDC Project, REX's pipeline safety engineers may determine that monitoring, testing and/or mitigation steps are required in order to safeguard the Pipeline from potential adverse effects of the HVDC Project. Does GBX agree that in such event, GBX should be responsible for the costs of installing and operating such monitoring and testing equipment and mitigation measures? If GBX's answer is conditional, please state GBX's conditions.

RESPONSE: Yes, GBX should be responsible for all such costs warranted by reasonable engineering and commercial practices.

4. State whether GBX would be responsible for all direct damages to REX proximately caused by construction and/or ongoing operation of the HVDC Project, including direct damages from fault currents.

RESPONSE: Yes, GBX would be responsible.

VERIFICATION OF RESPONSE

The answers provided to this Set of Data Requests have been collected from various sources at Clean Line Energy Partners LLC and Grain Belt Express Clean Line LLC, and are true and accurate to the best of my knowledge and belief.

Signed: _____

Position: GENERAL COUNSEL

Clean Line Energy Partners LLC

Date: 12/14/17

Grain Belt Express
TRANSMISSION LINE

Missouri Landowner Protocol

For Right-of-Way Acquisition for the Grain Belt Express

Invenergy

Table of Contents

Introduction

The Grain Belt Express ("Grain Belt Express Project" or "Project") has established the Landowner Protocol ("Protocol") as part of Grain Belt Express LLC's ("Grain Belt Express" or "Company") approach to Right-of-Way ("ROW") acquisition for the Project, in order to recognize and respect the interest of the landowners. The Project involves both high voltage direct current ("HVDC") components and alternating current ("AC") components. The Landowner Protocol is a comprehensive policy of how Grain Belt Express interacts, communicates, and negotiates with affected landowners. The Landowner Protocol includes: the establishment of a Code of Conduct, the Company's approach to landowner and easement agreement negotiations, the Company's compensation package, updating of land values with regional market studies, the Missouri Agricultural Impact Mitigation Protocol ("MO Ag Protocol"), the tracking of obligations to landowners, the availability of arbitration to landowners, and the establishment of a decommissioning fund.

1. Code of Conduct

Grain Belt Express has implemented a Code of Conduct for its employees and ROW acquisition agents, with the goal of acquiring voluntary transmission line easements by respectfully talking to and understanding the concerns and priorities of landowners. The Code of Conduct governs all communications and interactions with property owners and occupants of affected property. Grain Belt Express requires all employees, agents and representatives to follow the Code of Conduct, which among other Company principles, requires that (I) all communications with property owners and occupants be factually correct and made in good faith (2) all communications and interactions with property owners and occupants be respectful and reflect fair dealing and (3) all communications and interactions with property owners and occupants respect the privacy of property owners and other persons. Landowners are provided with contact information for both ROW agents, as well as contact information for the corporate office of Invenergy Transmission LLC ("Invenergy Transmission"), the parent company of Grain Belt Express, in order to ensure that a landowner can directly contact the Vice President of Invenergy Transmission or any other corporate employee leading land efforts on behalf of Invenergy Transmission (the "Land Team") to report any possible violations of the Code of Conduct. Reported violations of the Code of Conduct are taken seriously and are investigated by the Vice President and the Invenergy Transmission management team.

2. Approach to Landowner and Easement Agreement Negotiations

Grain Belt Express is committed to conducting easement negotiations in a fair manner that is respectful of property rights. The Company desires to establish and maintain long-lasting relationships with landowners. Grain Belt Express strives to implement the following key elements as part of its approach to easement negotiations:

- Communicating the overall need for the Project to landowners;
- Seeking to actively involve landowners in the routing process during the open-house and public meetings, as well as during one-on-one meetings between land agents and landowners;
- Providing clear information to landowners on the routing criteria used by Grain Belt Express;
- Providing a review and approval process for landowner-requested micro-siting changes on their property;
- Demonstrating respect for private property rights and existing land uses;
- Offering a fair and comprehensive compensation package for transmission line easements, which is described in more detail below;

- Utilizing the same methodology for determining compensation for all landowners in order to ensure that all landowners receive fair and consistent compensation, regardless of who they are or when they sign an easement agreement; provided however, that the methodology for the HVDC portion of the Project can be different than the AC portion of the Project as set forth in Section 3;
- Listening to landowner concerns and establishing a process for negotiating easement provisions where possible to address these concerns; and
- Documenting agreements with landowners to ensure that negotiated provisions and obligations are met during construction, maintenance and operation.

The goal of these policies is to obtain voluntary transmission line easements. Because of its approach to compensation, which provides options for ongoing annual payments, the Company recognizes that it is entering into a long-term business relationship with landowners and the intent is to start that relationship off based on a solid foundation of respect and fairness. Grain Belt Express's approach to landowner negotiations will not change regardless of when these negotiations take place.

3. Compensation

There are three primary components to the compensation being offered to landowners by Grain Belt Express for the HVDC portion of the Project:

1. **Easement Payment.** Grain Belt Express will pay landowners for the total acreage comprising the easement area. The easement payment is meant to reflect at a minimum the fair market value of such easement area. The per-acre estimated fair market value of the landowner's property is determined by multiplying the average per acre value of recent sales for similar land types in the county by 110%. (110% is used to ensure a fair estimate.) The easement area of some of the easements to be acquired may be very small in size. Therefore, for such parcels Grain Belt Express will provide landowners with a minimum payment of $2,000 per parcel, regardless of the size of the easement area on their land.

2. **Structure Payment.** Grain Belt Express will pay landowners for each transmission line structure on the landowner's property. The landowner has the right to elect to receive a one-time payment or annual payments. Annual payments will be escalated at 2% per year and will be paid for as long as a structure is located on the easement area. Structure payments are based on the type of structure, as follows:

Type of Structure	One-Time Payment	Annual Payment
Monopole or Lattice Mast Structure	$6,000	$500
Lattice Structure	$18,000	$1,500

3. **Agricultural Impact Payment.** Grain Belt Express will pay landowners for any agricultural-related impact ("Agricultural Impact Payment") resulting from the construction, maintenance or operation of the Project, regardless of when they occur and without any cap on the amount of such damages. For example, if the landowner experiences a loss in crop yields that is attributed to the operation of the Project, then Grain Belt Express will pay the value of such loss in yield for so long as such losses occur. In other words, the intent is that the landowner be made whole for any damages or losses that occur as a result of the Project for so long as the Project is in operation. Grain Belt Express will pay landowners an advanced Agricultural Impact Payment

prior to construction, based on the estimated anticipated damages, with a true-up payment, if needed, paid after construction. Landowners may, at their option, choose to negotiate ongoing recurring Agricultural Impact Payments based on anticipated losses, or a one-time up front Agricultural Impact Payment based on anticipated losses. Due to the uniqueness of each parcel of land, the timing and type of Agricultural Impact Payment are meant to be negotiated with each landowner on a case-by-case basis in order to satisfy the unique characteristics of each parcel of land as well as the specific concerns of each such landowner. With regard to losses of marketable timber, Grain Belt Express will pay the landowner for the value of such marketable timber, as determined by a certified forester, and the timber removed shall still belong to the landowner and may be sold or used by the landowner.

There are two primary components to the compensation being offered to landowners by Grain Belt Express for the AC portion of the Project:

1. **Easement Payment.** Grain Belt Express will pay landowners for the total acreage comprising the easement area. The per-acre offer is determined by multiplying the average per acre value of recent sales for similar land types in the county by 150%. The easement area of some of the easements to be acquired may be very small in size. Therefore, for such parcels Grain Belt Express will provide landowners with a minimum payment of $2,000 per parcel, regardless of the size of the easement area on their land.

2. **Agricultural Impact Payment.** Grain Belt Express will pay landowners an Agricultural Impact Payment based on the same methodology described above for landowners on the HVDC portion of the Project.

Grain Belt Express is only seeking an easement, which will allow Grain Belt Express to use a portion of landowners' property necessary for the placement and operation of a transmission line. The property will still belong to landowners and can be utilized for activities such as farming, recreation, and other activities that do not interfere with the operation of the transmission line. After construction of the facilities, the landowner will retain the ability to continue agricultural production on the entirety of the easement area except for the relatively small footprint of the structures, which typically occupy less than 1% of the total easement area.

4. Update to Land Values

Prior to re-commencing easement negotiations, Grain Belt Express will hire a regional appraisal firm with agricultural expertise to perform county-wide market data studies to determine the average per-acre value in each county for specific land types (i.e. crop, pasture, timber, etc.), taking into consideration the size of the comparable sales parcels, as well as any agricultural data that is available on soil type or productivity in connection with such sales, such as state available ratings or scales of soil productivity. The appraisal firm will provide comparable fee sales by land use and land productivity in each county for the previous two years (or more if insufficient comparable sales are available for the previous two years). These comparable sales will be averaged to develop an average fair market value for each land use type. Such average values will then be increased by 10% for HVDC portions of the Project and 50% for AC portions of the Project to create the proposed per acre offer for each land use type in each county. In the event that any land values have decreased since Grain Belt Express' previous market analysis, Grain Belt Express will honor the higher per acre offer offered previously to landowners. Every 12 months, Grain Belt Express will analyze and update market data analysis as

appropriate in order to determine if there are changes to the average fair market value for each land type in each county.

5. Agricultural Mitigation Policies

Grain Belt Express has established several agricultural mitigation policies to avoid, minimize and mitigate any impacts to agricultural land or activities, which are described in the Missouri Agricultural Impact Mitigation Protocol ("MO Ag Protocol"). To support this effort, the Company has agreed to hire an agricultural inspector (the "Agricultural Inspector") to monitor construction activities and verify compliance with the MO Ag Protocol. Best practices, construction standards and policies detailed in the MO Ag Protocol include:

- landowner/tenant coordination, and advance notice of access to private property;
- provision of Grain Belt Express contact information for reporting inferior agricultural impact mitigation work;
- standards for support structure and above ground facilities type and placement;
- mechanisms to address impacts to important agricultural improvements, including drainage tiles, and irrigation systems;
- implementation of soil protection measures; including, decompaction, fertilization, stabilization, repair of damaged soil conservation practices, and erosion prevention; removal of construction debris upon completion of construction;
- repair or compensate landowner to repair any damage to private property;
- topsoil segregation, and soil and rock removal from support structure holes/foundations;
- landowner coordination on clearing of trees and brush, and compensation for trees of commercial value;
- development of Organic Farm Site Plans to mitigate any negative impacts to organic farms;
- indemnification of landowners and tenants from third party claims, losses and expenses;
- gate installation and maintenance procedures;
- remediation of diminished communication circuits due to transmission structures; and
- compensation for any lost revenue from agricultural or conservation program unenrollment.

6. Tracking of Landowner Obligations

Grain Belt Express utilizes software programs to capture and report procedures in place for tracking obligations negotiated by landowners in easement agreements and other legal agreements, as well as any obligations captured by agents or other employees in activity notes or landowner questionnaires ("Landowner Obligations"). Additionally, the primary construction contractor will designate one or more full time employees to act as a liaison among landowners, contractors and subcontractors and Grain Belt Express to assist in tracking and addressing Landowner Obligations or other landowner concerns (the "Land Liaison Managers"). Prior to entering a landowner's property for surveys or construction, Grain Belt Express will gather all Landowner Obligations and notify all surveyors, the Land Liaison Managers, and any other field personnel of such Landowner Obligations. During surveys and construction, a member of the Land Team will work with landowners and the Land Liaison Managers and contractors to address any issues or concerns raised by landowners.

The Agricultural Inspector shall monitor construction activities to ensure that such construction activities are performed in compliance with the MO Ag Protocol and any Landowner Obligations. The Agricultural Inspector will have a professional background in agriculture, soil and water conservation, and general farm operations or practices and will receive specific training on the implementation of the MO Ag

Protocol. The Agricultural Inspector will be directly available to landowners during construction to address their concerns and to ensure that Grain Belt Express is meeting any Landowner Obligations or the obligations set forth in the MO Ag Protocol. The Land Team will provide the list of Landowner Obligations to the Agricultural Inspector and to the Land Liaison Manager. Landowners will be able to report any violations of these obligations directly to the Agricultural Inspector and if the Agricultural Inspector determines that such a violation exists, the Agricultural Inspector shall have the authority to stop the construction activities that are in violation of the Landowner Obligations or in violation of the MO Ag Protocol. After construction, the Land Team will work with landowners, crop adjusters, the Land Liaison Manager and the Agricultural Inspector to provide for the evaluation and final settlement of any Agricultural Impact Payment in accordance with the provisions negotiated by landowners in their easement agreements. After construction is completed, the Land Team will ensure that every landowner is contacted personally to confirm that all Landowner Obligations and obligations under the MO Ag Protocol were met during construction, to discuss any concerns, and to confirm that all payments were settled. Grain Belt Express will continue to be in contact with landowners throughout the operation of the Project with regard to ongoing damages, if any, and for those landowners who have elected annual structure payments.

7. Binding Arbitration

If Grain Belt Express and a landowner have reached agreement on the form of easement but are unable to reach agreement on the appropriate compensation, then at the landowner's request, Grain Belt Express will submit the issue of landowner compensation to binding arbitration. Arbitration will be administered by the American Arbitration Association (the "AAA") in accordance with its Commercial Arbitration Rules. Any arbitration will take place in Missouri, and will be conducted under Missouri law. Arbitrators shall be appointed as provided in the AAA Commercial Arbitration Rules, but shall be selected from a pool of qualified arbitrators who are familiar with land use and land values in Missouri.

8. Decommissioning Fund

At the commencement of construction of the Project, Grain Belt Express shall establish a decommissioning fund in an amount reasonably necessary to perform the wind-up activities described below, at Grain Belt Express' sole cost and expense, for any portion of the Project that has been constructed and installed. The amount of the decommissioning fund shall be increased as construction of the Project progresses sufficient to cover wind-up activities for any Project facilities that have been constructed and installed. The decommissioning fund may be collateralized with a letter of credit or cash, or any combination thereof. In any circumstance in which the Project is retired from service or abandoned prior to service, Grain Belt Express shall promptly perform the following wind-up activities:

- dismantling, demolishing and removing all equipment, facilities and structures;
- terminating all transmission line easements and filing a release of such easements in the real property records of the county in which the property is located;
- securing, maintaining and disposing of debris with respect to the Project facilities; and
- performing any activities necessary to comply with applicable laws, contractual obligations, and that are otherwise prudent to retire the Project facilities and restore any landowner property.

Grain Belt Express
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Code of Conduct

Grain Belt Express requires that its employees and representatives follow a Code of Conduct, which provides that all representatives treat every landowner with consideration and respect. In addition, Grain Belt Express strives to build and maintain long-lasting relationships with landowners by working in a respectful and collaborative manner for the life of the project. Below is the text of the Code of Conduct.

Grain Belt Express Project Code of Conduct for Right-of-Way Agents and Subcontractor Employees

This Code of Conduct applies to all communications and interactions with property owners and occupants of property by all right-of-way agents and subcontractor employees representing Grain Belt Express in the negotiation of right-of-way and the performance of surveying, environmental assessments and other activities for the Grain Belt Express project on property not owned by Grain Belt Express.

I. All communications with property owners and occupants must be factually correct and made in good faith.

a. Do provide maps and documents necessary to keep the landowner properly informed.
b. Do not make false or misleading statements.
c. Do not purposely or intentionally misrepresent any fact.
d. If you do not know the answer to a question, do not speculate about the answer. Advise the property owner that you will investigate the question and provide an answer later.
e. Follow-up in a timely manner on all commitments to provide additional information.
f. Do not send written communications suggesting an agreement has been reached when, in fact, an agreement has not been reached.
g. If information provided is subsequently determined to be incorrect, follow up with the landowner as soon as practical to provide the corrected information.
h. Do provide the landowner with appropriate contact information should additional contacts be necessary.

II. All communications with property owners and occupants of property must be respectful and reflect fair dealing.

a. When contacting a property owner in person, promptly identify yourself as representing Grain Belt Express.

b. When contacting a property owner by telephone, promptly identify yourself as representing Grain Belt Express.

c. Do not engage in behavior that may be considered harassing, coercive, manipulative, intimidating or causing undue pressure.

d. All communications by a property owner, whether in person, by telephone or in writing, in which the property owner indicates that he or she does not want to negotiate or does not want to give permission for surveying or other work on his or her property, must be respected and politely accepted without argument. Unless specifically authorized by Grain Belt Express, do not contact the property owner again regarding negotiations or requests for permissions.

e. When asked to leave property, promptly leave and do not return unless specifically authorized by Grain Belt Express.

f. If discussions with the property owner become acrimonious, politely discontinue the discussion and withdraw from the situation.

g. Obtain unequivocal permission to enter property for purposes of surveying or conducting environmental assessments or other activities. Clearly explain to the property owner the scope of the work to be conducted based on the permission given. Attempt to notify the occupant of the property each time you enter the property based on this permission.

h. Do not represent that a relative, neighbor and/or friend have signed a document or reached an agreement with Grain Belt Express.

i. Do not ask a relative, neighbor and/or friend of a property owner to convince the property owner to take any action.

j. Do not represent that a relative, neighbor and/or friend supports or opposes the Grain Belt Express project, unless asked.

k. Do not suggest that any person should be ashamed of or embarrassed by his or her opposition to the Grain Belt Express project or that such opposition is inappropriate.

l. Do not suggest that an offer is “take it or leave it”.

m. Do not threaten to call law enforcement officers or obtain court orders.

n. Do not threaten the use of eminent domain.

III. All communications and interactions with property owners and occupants of property must respect the privacy of property owners and other persons.

a. Discussions with property owners and occupants are to remain confidential.

b. Do not discuss your negotiations or interactions with other property owners or other persons.

c. Do not ask relatives, neighbors and/or friends to influence the property owner or any other person.

Grain Belt Express
An INVENERGY TRANSMISSION Project

Missouri Agricultural Impact Mitigation Protocol

For the construction of Grain Belt Express

Invenergy

Invenergy Transmission LLC | One South Wacker Drive | Suite 1800 | Chicago, Illinois 60606

Attachment 5

Table of Contents

Introduction

Grain Belt Express LLC ("Grain Belt Express" or "Company") will enact the following standards and policies as it constructs the Grain Belt Express transmission line ("Project"), an approximately ±600 kV High Voltage Direct Current (HVDC) transmission line and related facilities, on agricultural land in Missouri. The standards and policies in this Missouri Agricultural Impact Mitigation Protocol ("Missouri Ag Protocol", "Protocol" or "AIMP") will serve to avoid, minimize, and/or mitigate negative agricultural impacts that may result due to transmission line and converter facilities construction and operation.

The AIMP shall remain valid for the entire construction period of the Project. The AIMP will also apply to future operation and maintenance actions needed for the Project. After the Project commences operations, the Company will revise and update the AIMP to reflect the most current standards, policies, and best practices for electric transmission line operational activities in agricultural lands.

The below prescribed construction standards and policies only apply to Project activities occurring partially or wholly on privately owned agricultural land. They do not apply to the construction activities occurring on highway or railroad rights-of-way, on other publicly owned land, or on land owned in fee by the Company.

The mitigative actions specified in the construction and operation standards set forth in this Protocol will be implemented in accordance with the conditions listed below.

Definitions

AC – Alternating Current

Agricultural Land - Land used for cropland, hayland, pasture land, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs.

Agricultural Inspector (AI) – A special construction inspector employed by Grain Belt Express LLC to ensure that construction in agricultural land performed by or on behalf of the Company complies with the conditions of this Plan. The AI will typically have an agricultural background and has received specific training on the implementation of the Plan.

Grain Belt Express LLC or Company - References to Grain Belt Express LLC or the Company shall refer to Grain Belt Express LLC, and any contractor or sub-contractor in the employ of Grain Belt Express LLC or Invenergy Transmission LLC for the purpose of completing the Grain Belt Express project or any mitigative actions contained herein.

Compaction – The process where soil loses tilth and porosity as a result of the application of an external load. Compacted soils typically have high physical density, low water infiltration and percolation rates, and may have poor plant root penetration. Compaction can occur at both the soil surface and subsurface. Compare to Rutting.

Completion of Construction - The point in construction when all physical equipment has been installed and inspected for the complete Missouri portion of the Project.

Cropland - Land used for growing row crops and small grains, or hay.

DC – Direct Current

Electric Line - Includes the electric transmission line and its related appurtenances.

Landowner - Person(s) holding legal title to property from whom the Company is seeking, or has obtained, a temporary or permanent easement, or any person(s) legally authorized by a Landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such Landowner's property.

Protocol - This Agricultural Impact Mitigation Protocol (AIMP or Protocol), pertaining to the construction and operation/maintenance of the Grain Belt Express HVDC line and related converter facilities located in Missouri.

Project - means the Grain Belt Express HVDC transmission line and related facilities to be constructed, owned, and operated/maintained by Grain Belt Express LLC.

Right-of-way (ROW) - Includes the permanent and temporary easements that the Company acquires for the purpose of constructing and operating the Project.

Rutting – Soil rutting typically occurs at the soil surface and is caused by plastic and fluid movement of soils when subjected to an external load. The affected soils lose all soil structure and the resulting movement can mix the soil surface with the subsurface under extreme conditions.

Tenant - refers to the person(s) primarily responsible for working or managing the Agricultural Land, if not the Landowner.

Topsoil - The uppermost layer of the soil that has the darkest color or the highest content of organic matter, more specifically defined as the "A" horizon.

Mitigative Action Conditions

A. All Grain Belt Express LLC employees and representatives of the Project engaged in coordination with landowners regarding agricultural issues will be trained in the implementation of actions and the specific policies described herein.

B. All mitigative actions are subject to modification through negotiation by Landowners and a representative of the Company. Certain policies require the Company to consult with the Landowner and/or Tenant of a property

C. The Company will engage in good faith efforts to consult with both Landowners and Tenants of a given property in accordance with the terms of this Protocol.

D. For all actions described herein, the Company may negotiate with Landowners for Landowners to carry out certain mitigative actions that Landowners wish to perform themselves.

E. Unless otherwise specified, the Company will, as practicable, complete the mitigative actions contemplated by these policies within 45 days of the Completion of Construction of the Electric Line, weather and Landowner permitting. Temporary repairs to agricultural drainage systems, conservation measures, or other necessary infrastructure will be made as needed by the Company during the construction process to minimize the risk of additional property impact. If weather delays construction or completion of any mitigative action, the Company will provide the Landowner with an estimate of the time needed for completion of the mitigative action.

F. All mitigative actions pursuant to these policies will extend to associated future construction, maintenance, and repairs by the Company.

G. In addition to notifying Landowners of mitigation actions, the Company will use good faith efforts to identify all affected Tenants along the route of the proposed transmission line. The Company will endeavor to keep Tenants informed of the Project's status and other factors that may have an impact upon their farming operations.

H. The Company agrees to include this Plan as part of its submission to the Missouri Public Service Commission.

I. The Company will implement the mitigative actions contained in these policies to the extent that they do not conflict with the requirements of any applicable federal, state, or local laws, rules, regulations, or other permits and approvals that must be obtained by Grain Belt Express LLC for the Project.

J. To the extent a mitigative action provided in this Plan is determined to be unenforceable in the future due to requirements of other permits issued for the Project, the Company will so inform the Landowner and/or Tenant and will work with them to develop a reasonable alternative. In addition, no other provision herein shall be affected by the unenforceable provision, and the remainder of the Protocol shall be interpreted as if it did not contain the unenforceable provision.

K. The Company will incorporate by reference the terms of this Protocol in easement agreements executed with Landowners on Agricultural Land. However, in the event of a conflict between this the conditions of this Protocol and an easement agreement, the easement agreement will control.

Construction Standards and Policies

1. **Landowner/Tenant Coordination**

   Prior to construction, Grain Belt Express LLC will coordinate with the Landowner and Tenant to identify the types of crops grown or livestock raised on the property, as well as identification and location of any agricultural infrastructure that may be located on the property and be potentially impacted by the Project (e.g., water wells, irrigation equipment, drainage systems, access roads/turn roads, equipment staging pads, etc.)

2. **Advance Notice of Access to Private Property**

   Except in the event of an emergency, the Company will provide the Landowner with a minimum of 24 hours prior notice before accessing his/her property for the first time for the purposes of constructing, modifying or repairing the Electric Line.

   Prior notice shall first consist of a personal contact or a telephone contact, whereby the Landowner is actually informed of the Company's intent to access the Landowner's land. If the Landowner cannot be reached in person or by telephone, the Company will mail or hand deliver to the Landowner's home a written notice of the Company's intent.

3. **Reporting of Inferior Agricultural Impact Mitigation Work**

   Prior to construction of the electric line, the Company will provide the Landowner with a phone number and address to contact Grain Belt Express LLC should the Landowner observe inferior work relating to the agricultural impact mitigation work that is performed on the Landowner's property. The Company will respond to Landowner and Tenant telephone calls and correspondence within three business days.

In addition, the Company will provide the Landowner with the phone number and contact information for an Agricultural Inspector as discussed in Section 14 of this Protocol.

4. Support Structure Type and Placement

A. The use of guy wires on Croplands will be avoided to the extent practicable. If guy wires are required, they will be marked with highly visible guards. A concerted effort will be made to place guy wires and their anchors out of Croplands, placing them instead along existing division lines (*e.g.,* property lines, section, quarter, and half section lines, field edges, and/or fence lines) and on land not used for Croplands.

B. Grain Belt Express LLC will discuss structure placement issues with Landowners. To the extent reasonably practicable, support structures will be spaced in such a manner as to minimize their interference with Cropland.

C. Grain Belt Express LLC will provide the Global Positioning System ("GPS") coordinates of the Project support structure locations, including guy wire anchors, to all Landowners or Tenants.

5. Above Ground Facilities

A. Permanent above ground facilities in Cropland will be limited to support structures, conductors, communication lines, guy wires, and anchors.

B. Temporary access roads, if needed, will be designed so as to not impede proper surface and subsurface drainage and will be built to accommodate mitigation measures for soil erosion, other conservation measures, and subsurface tile drainage. Upon abandonment, temporary roads may be left intact through mutual agreement of the Landowner and Grain Belt Express LLC unless otherwise restricted by federal, state, or local regulations.

C. Permanent access roads, if needed, will be designed so as to not impede proper drainage and will be built to accommodate mitigation measures for soil erosion.

D. Pull pads, construction pads, and tower pads will be needed on a temporary basis during construction. Pad sites will be designed so as to not impede proper drainage and will be built to mitigate soil erosion on or near the pad site locations. Pad sites will be sited in locations that avoid and/or minimize disturbance impacts to land and the farming operation, to the extent practicable.

6. Drainage Tile

A. Prior to Construction activities, Grain Belt Express LLC will send out letters to Landowners inquiring about the location of pre-existing drainage improvements (e.g., ditches, culverts, tiles, levees, or terraces) in areas where the Project facilities are planned. The Company will also request that Landowners coordinate with any Tenants that may also have information related to the request.

B. If the Company is advised of possible interference with drainage improvements, it will make good faith efforts to relocate Project facilities to the extent practicable, to avoid and/or minimize drainage interference.

C. If adverse effects to drainage improvement(s) are unavoidable, the Company will relocate or reconfigure the drainage improvement to the extent practicable and pursuant to an agreement between the Landowner and Grain Belt Express LLC. If drainage improvements are damaged as a result of construction and repair is necessary, the Company shall reference any available county Soil and Water Conservation District specifications to aid in the repair. Drainage improvements will be repaired with materials of at least the same quality and to an operating condition similar to or better than that which was damaged.

D. The Company will complete all temporary repairs of drainage tiles within a reasonable time following the identification of an impacted tile. Unless otherwise agreed to by the Landowner, all permanent repairs will be performed within 45 days following final construction reclamation of the Project, weather permitting.

E. Affected Landowners may elect to negotiate a fair settlement with the Company for the Landowner or Tenant to undertake the responsibility for repair, relocation, or reconfiguration of the damaged drainage feature; however, in these cases Grain Belt Express LLC will not be responsible for correcting repairs after completion of the electric line.

7. Irrigation Systems

A. If the Project facilities intersect an operational center pivot or spray irrigation system, the Company will communicate with the Landowner or Tenant on the anticipated duration of construction and the amount of time the irrigation system may be out of service.

B. If, as a result of construction activities, an irrigation system interruption results in crop damages, either on the right-of-way or off the right-of-way, Landowners and/or Tenants (as appropriate) will be compensated.

C. The Company will work with Landowners and/or Tenants to minimize any permanent impacts to irrigation systems and will negotiate appropriate compensation for any permanent impacts in the easement agreements.

8. Restoration of Soils of Compaction and Rutting

A. The Company will attempt to avoid and minimize the potential for compaction or rutting to occur as a result of construction and operation activities. Avoidance and minimization mechanisms for compaction may include, but are not limited to, defining travel corridors to reduce the area traversed by equipment, restricting construction equipment to timber mats, requiring the use of low psi tire or tracked equipment, and limiting construction during wet weather.

B. The Company will restore rutted and compacted land to as near as practicable to its pre-construction condition. For example, soil remediation efforts for compaction may include decompaction or deep tillage as necessary. Depending on the severity, rutted land may require recontouring, liming, tillage, fertilization, or use of other soil amendments.

C. Unless the Landowner opts to do the restoration work, or specifies other arrangements that are acceptable to Grain Belt Express LLC, the following remediation techniques will be performed on lands directly affected by compaction:

1) The Company will decompact soil to a depth of 18 inches any Cropland that has been compacted by construction equipment used for the construction or maintenance of the Project, and

2) The Company will chisel to a depth of 12 inches any pasture or hayland that has been compacted by construction equipment used by Grain Belt Express LLC for the construction or maintenance of the Project.

D. The Company will repair or pay to have repaired any compaction or rutting within 45 days, weather and Landowner permitting, of the Completion of Construction.

9. Fertilization and/or Seeding of Disturbed Soil

A. If desired by the Landowner, within 45 days of Completion of Construction of the electric line, weather and Landowner permitting, Grain Belt Express LLC will agree to apply fertilizer and lime to cropland that has been disturbed by construction and maintenance of the electric line in order to help restore fertility to disturbed soils and to promote establishment of vegetative cover. The Company will apply the fertilizer at a rate established by the local NRCS, FSA, or Agriculture Extension office, unless the Landowner specifies other arrangements that are acceptable to the Company.

B. If necessary to reduce erosion in cultivated crop lands or to reclaim managed hay or pasture lands, The Company will reseed disturbed lands with an appropriate cover crop. The Company will coordinate with the landowner as well as the local NRCS office to determine the appropriate seed mixtures.

C. The Company will reimburse Landowner, on a timely basis, for all agricultural production inputs (i.e., fertilizers of all types and kind) needed to restore crop productivity to the right-of-way, temporary work space(s), or any other portion(s) of Landowner's property where diminished crop yields are directly attributable to the Company's construction, repair, maintenance, and inspection activities. The Landowner must reasonably demonstrate diminished crop yields resulting from the above activities.

D. If the Landowner chooses to apply fertilizer, manure, and/or lime, the cost of those inputs will be included in the damages paid to the Landowner.

E. The Company shall make available to the Landowner the name and contact information of a person acting on behalf of the Company with whom the Landowner can communicate information with regard to diminished crop yields, and need for reimbursement of cost of agricultural inputs. That person will have a background related to soil productivity and crop production.

10. Repair of Damaged Soil Conservation Practices

A. The Company will repair any damage to soil conservation practices (e.g. terraces, grassed waterways, etc.), that is caused by construction of the electric line.

B. If the Company is responsible for repairing any damage to soil conservation practices, the repairs will be made in accordance with county Soil and Water Conservation District practices, consistent with existing farm plans, and any other local, state, or federal requirements, as applicable.

C. The Company will repair or pay to have repaired any damage to soil conservation practices within 45 days, weather and Landowner permitting, of the Completion of Construction of the electric line.

11. Preventing Erosion

A. The Company will work with Landowners to prevent or correct excessive erosion on all lands disturbed by construction by implementing reasonable methods to control erosion. The Company will follow the recommendations of the county Soil and Water Conservation District and any other required permit conditions.

B. The Company will use all reasonable efforts to ensure that erosion control measures are implemented within 45 days, weather and Landowner permitting, of the Completion of Construction of the electric line.

C. For soil disturbance activities during construction or operations that would require a permit under the National Pollutant Discharge Elimination System, the Company will incorporate Best Management Practices as identified in a Storm Water Pollution Prevention Plan.

12. Removal of Construction Debris

As agreed to by the Landowner and Grain Belt Express LLC, the Company will remove any construction debris from Landowner's property within 45 days, weather and Landowner permitting, of the Completion of Construction of the electric line. Litter generated by construction crews will be removed daily.

13. Damage to Private Property

If construction or related activities for the Grain Belt Express damage any private property, the Company will use commercially reasonable efforts to repair any such damaged private property within 45 days, weather and Landowner permitting, of the Completion of Construction of the electric line. If the Landowner is paid to perform the repair work, the Company will pay the ongoing commercial rate for that work.

14. Agricultural Inspector(s)

A. The Company will employ one or more Agricultural Inspector(s) for the Project to verify Grain Belt Express LLC's compliance with the provisions of this Protocol. The Agricultural Inspector will work collaboratively with any other Company representatives in achieving compliance with this Plan. The Agricultural Inspector(s) will be directly available to Landowners and Tenants to address their concerns, after construction is underway.

B. The Agricultural Inspector(s) will have the authority to stop construction activities that are determined to be out of compliance with this Protocol.

C. The Company will document instances of noncompliance and work with construction personnel to identify and implement appropriate corrective actions as needed.

D. The Company will train construction personnel and the Agricultural Inspector on the provisions of this Protocol, company plans and procedures, the Project construction sequences and processes, and provide field training on specific topics as needed.

E. The Company will employ an Agricultural Inspector with a professional background in production agriculture, soil and water conservation, and general farm operations or practices.

15. Topsoil Segregation

In locations where construction activities will include excavating or removing soil, such as for structure foundations, the Company will segregate the topsoil layer from the subsoil and maintain separate spoil piles within designated areas of the construction workspace. Upon completion of construction activities, subsoil and topsoil will be replaced in the reverse order removed. Topsoil will be replaced to the approximate locations from which it was removed. After backfilling is completed, the topsoil would be levelled and graded to match pre-construction contours. Some temporary mounding may be necessary to account for settling.

16. Soil and Rock Removal from Support Structure Holes/Foundations

Excess soil material and possibly rocks may be generated from the area displaced by grading or the excavation associated with foundations for the support structures. The Company will consult with the Landowner as to the disposition of any excess soil material or spoils generated from foundation construction and will remove the same if necessary.

If the Company is to remove excess soil materials or spoils or rocks, the Company will do so within 45 days following Completion of Construction of the electric line, weather and Landowner permitting.

17. Clearing of Trees and Brush from the Easement

A. If trees are to be removed from privately owned land, the Company will conduct an appraisal of the trees to determine if they have commercial value.

B. If there are trees of commercial value, the Company will allow the Landowner the right to retain ownership of the trees with the disposition of the trees to be negotiated at least thirty (30) days prior to the commencement of land clearing, if it is determined by the parties that the trees can be removed safely.

C. The Landowner will be compensated for trees of commercial value based on the most current timber market rates based on the age and type of the timber that will be removed.

D. The Company's intent is to chip or mulch trees and brush not of commercial value; however, it will follow the Landowner's desires, if reasonable and legally permitted, regarding the disposition of trees and brush of no commercial value to the Landowner by windrowing, burial, chipping/mulching or removal from any affected property.

18. Organic Farms

Grain Belt Express LLC will send letters to all Landowners and Tenants prior to construction inquiring about the presence of organic farm production methods. When notified by Landowners of organic farm production and when preferred by the Landowner, the Company will avoid use of treated wood for construction matting and avoid herbicide and fertilizer application.

The Company will coordinate with the owners of any organic farms crossed by the Project regarding the specific certifications of that farm. The Company will work with the organic farmer to develop an Organic Farm Site Plan for the individual farm crossing. The Plan will identify specific certifications or accreditations, and the process by which reclamation will occur on the property to ensure no loss of certifications or accreditations.

19. Indemnification

The Company will indemnify all Landowners and Tenants of Agricultural Land upon which such electric line is installed, their heirs, successors, legal representatives, and assigns (collectively "Indemnitees"), from and against all claims by third parties and losses incurred thereby, and reasonable expenses, resulting from or arising out of personal injury, death, injury to property, or other damages or liabilities of any sort related to the design, construction, maintenance, removal, repair, use or existence of such electric line, including damages caused by such electric line or any of its appurtenances, except where claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such Indemnitees provided further that such Indemnitees shall tender any such claim as soon as possible upon receipt of notice thereof to the Company.

20. Gates

Construction, operation, and maintenance of the Project may require temporary and permanent gates be installed and maintained where the ROW intersects existing fences. Unless otherwise requested by the landowner, temporary gates will be removed following construction. Permanent gates, as needed, will be constructed and maintained to protect against the escape of livestock. The Company will coordinate with the landowner on the type of livestock that are found on the property, and ensure gates are adequately constructed with the appropriate materials.

During construction and operation ingress/egress, the Project will ensure all gates, including existing off-ROW gates used for access, are left as found. Gates that are found to be closed upon approach, will be immediately closed following entry. Gates that are found open upon approach, will be left open.

21. Communication Circuits

In instances where the Landowner's communication circuits are diminished due to the location of the transmission structures, the Company will seek to relocate satellite dishes or similar Landowner communication equipment, at the Company's expense, if such relocation would reasonably improve performance of the equipment. If interference should develop between the Company's new facilities and a landowner's communication circuits that impair performance of the circuits, the Company will seek to eliminate such interference at its own expense within 45 days of receiving a verbal or written notice from the affected Landowner.

22. Agricultural and Conservation Programs

If any impacts associated with the Project cause the landowner's property to be unenrolled from an agricultural land conservation program (e.g., Conservation Reserve Program, CRP), the Company will compensate the landowner from lost revenue resulting from removal of the land from the conservation program. Compensation will be based on the previous payments being made to the Landowner by the conservation program administrator.

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 12th day of October, 2023.

Nancy Dippell

Nancy Dippell
Secretary

MOPSC Digitally signed by MOPSC
Date: 2023.10.12 15:18:14 -05'00'

MISSOURI PUBLIC SERVICE COMMISSION

October 12, 2023

File/Case No. EA-2023-0017

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Nancy Dippell
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.

EXHIBIT C

to

Motion of the Illinois Landowners Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority

Illinois Commerce Commission Protective Order
Dated September 14, 2022
Ill. C.C. Docket No. 22-0499

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

September 14, 2022

Grain Belt Express LLC Application for an Order Granting Grain Belt Express LLC, as a Qualifying Direct Current Applicant, a Certificate of Public Convenience and Necessity pursuant to Sections 8-406(b-5) and 8-406.1 of the Public Utilities Act to Construct, Operate and Maintain a High Voltage Direct Current Electric Service Transmission Line as a Qualifying Direct Current Project and to Conduct a Transmission Public Utility Business in Connection Therewith and Authorizing Grain Belt Express LLC Pursuant to Sections 8-503 and 8-406.1(i) of the Public Utilities Act to Construct the High Voltage Direct Current Electric Transmission Line.	22-0499 **SERVED ELECTRONICALLY**

NOTICE OF ADMINISTRATIVE LAW JUDGE'S RULING

TO ALL PARTIES OF INTEREST:

Notice is hereby given by the Administrative Law Judge that Grain Belt Express LLC's Motion for Entry of a Protective Ruling is Granted.

Notice is also given by the Administrative Law Judge that any Response to the Verified Petition to Intervene of the Citizens Utility Board is due by September 16, 2022. Any Reply is due by September 19, 2022.

Sincerely,

Elizabeth A. Rolando

Elizabeth A. Rolando
Chief Clerk

EAR:lkb
Administrative Law Judge Dolan
(312)814-6652

Staff: Theresa Ebrey, Leyah J. Williams, Michael G. McNally, ICC

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the Chief Clerk, preferably no later than five days before the hearing.

The Chief Clerk may be contacted either by letter at 527 E. Capitol Ave., Springfield, IL 62701, or by telephone at 217-782-7434. In addition, persons using a text telephone have the option of calling via the Illinois Relay Center by dialing 800-526-0844.

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Grain Belt Express LLC	)	
	)	
Application for an Order Granting Grain Belt Express LLC, as a Qualifying Direct Current Applicant, a Certificate of Public Convenience and Necessity pursuant to Sections 8-406(b-5) and 8-406.1 of the Public Utilities Act to Construct, Operate and Maintain a High Voltage Direct Current Electric Service Transmission Line as a Qualifying Direct Current Project and to Conduct a Transmission Public Utility Business in Connection Therewith and Authorizing Grain Belt Express LLC Pursuant to Sections 8-503 and 8-406.1(i) of the Public Utilities Act to Construct the High Voltage Direct Current Electric Transmission Line.	)	**Docket No. 22-0499**

GRAIN BELT EXPRESS LLC'S
MOTION FOR ENTRY OF PROTECTIVE RULING

Grain Belt Express LLC ("Grain Belt Express"), pursuant to § 4-404 of the Public Utilities Act ("PUA"), 220 ILCS 5/4-404, and § 200.430 of the Commission's Rules of Practice, 83 Ill. Adm. Code § 200.430, hereby moves for entry of the attached "Ruling Regarding Protection of Confidential Information" ("Protective Ruling"), Attachment A hereto, to govern the procedures for the designation, production and treatment by receiving parties of confidential information (the "Motion"). In support of this Motion, Grain Belt Express states:

1. On July 26, 2022, Grain Belt Express filed its Verified Application as a Qualifying Direct Current Applicant for a Certificate of Public Convenience and Necessity Pursuant to §§ 8-406(b-5) and 8-406.1 of the PUA (220 ILCS 5/8-406(b-5), 8-406.1) to Construct, Operate and Maintain a High Voltage Direct Current Electric Service Transmission Line as a Qualifying Direct Current Project and to Conduct a Transmission Public Utility Business and Authorizing Grain Belt

Express pursuant to § 8-503 and § 8-406.1(i) of the PUA (220 ILCS 5/8-503, 8-406.1(i)) to Construct the Electric Transmission Line (the "Application"). On July 26, 2022, Grain Belt Express also filed various attachments, as well as prepared testimony and exhibits, in support of its Application.

2. Grain Belt Express anticipates that during the course of this proceeding, parties will request of each other the production and disclosure of confidential and proprietary information such as non-public financial information, commercially and competitively sensitive information and documents, private personnel information and critical energy infrastructure information as defined in 18 C.F.R. § 388.113 (for purposes of this Motion, "Confidential Information"). Further, it is highly likely that data requests propounded to and answered by Grain Belt Express will request or require the provision of Confidential Information.

3. Section 4-404 of the PUA states: "The Commission shall provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation or other entity." 220 ILCS 5/4-404. To that end, § 200.430 of the Commission's Rules of Practice authorizes the Commission and its Administrative Law Judges to enter protective orders "to protect the confidential, proprietary or trade secret nature of any data, information or studies." 83 Ill. Adm. Code § 200.430(a).

4. Additionally, § 7(g) of the Illinois Freedom of Information Act exempts from public disclosure:

> "trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business."

5. Accordingly, Grain Belt Express requests entry of the attached proposed Protective Ruling. The Protective Ruling establishes procedures for designation and production of

Confidential Information, including procedures governing electronic filing of documents on the e-Docket in this proceeding. Specifically, the proposed Protective Ruling provides that parties may electronically file documents containing Confidential Information in both "public" and "proprietary" versions and that Confidential Information filed on e-Docket as "proprietary" will remain protected by the Commission for a period of five (5) years following the date of submission in this proceeding, and such period may be extended upon a showing of good cause pursuant to 83 Ill. Adm. Code § 200.430. The proposed Protective Ruling also provides rules and procedures for the exchange of Confidential Information between parties in this proceeding and the obligations of parties receiving Confidential Information, including procedures for challenges to the claimed status of documents and information as Confidential Information. Additionally, the proposed Protective Ruling recognizes that the obligations of Commission officers and employees regarding information designated as Confidential Information are governed by § 4-404 and § 5-108 (220 ILCS 5/5-108) of the PUA and 83 Ill. Adm. Code § 200.430, 200.605 and 200.1050.

6. Given that information designated as Confidential Information likely will be submitted and/or may be requested and provided in discovery herein, the procedures set forth in the proposed Protective Ruling are reasonable, necessary and appropriate.

7. On August 31, 2022, counsel for Grain Belt Express informed counsel for the Illinois Commerce Commission Staff that Grain Belt Express intends to move for entry of a Protective Ruling.

WHEREFORE, for the reasons set forth above, Grain Belt Express LLC respectfully requests entry of the proposed Protective Ruling, Attachment A hereto.

Respectfully submitted,

GRAIN BELT EXPRESS LLC

By /s/ David Streicker

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ATTACHMENT A
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Grain Belt Express LLC	**)**	
	)	
Application for an Order Granting Grain Belt Express LLC, as a Qualifying Direct Current Applicant, a Certificate of Public Convenience and Necessity pursuant to Sections 8-406(b-5) and 8-406.1 of the Public Utilities Act to Construct, Operate and Maintain a High Voltage Direct Current Electric Service Transmission Line as a Qualifying Direct Current Project and to Conduct a Transmission Public Utility Business in Connection Therewith and Authorizing Grain Belt Express LLC Pursuant to Sections 8-503 and 8-406.1(i) of the Public Utilities Act to Construct the High Voltage Direct Current Electric Transmission Line.	**)**	**Docket No. 22-0499**

TERMS GOVERNING

PROTECTION OF CONFIDENTIAL INFORMATION

In the course of this proceeding, the parties and their attorneys may receive certain confidential or confidential and proprietary information by way of documents, testimony, answers to discovery requests, through informal discussions, or through another method of recording or transmitting information, including but not limited to any electronic, e-mail, or other computer-related communication. To protect against the inappropriate use or disclosure of such information and materials and to facilitate disclosure in this case, it is hereby ordered, pursuant to Sections 4-404 and 5-108 of the Public Utilities Act (the "Act"), 220 ILCS 5/1-101 et seq., and Section 200.430 of 83 Illinois Administrative 200 "Rules of Practice" ("Part 200"), as follows:

Confidential Information Defined

1. "Confidential" as used herein is non-public information maintained by a party in confidence in the ordinary course of business (and which such party seeks to maintain in confidence) and that falls into one or more of the following descriptive categories:

   a. trade secrets and commercial or financial information of a person or entity where the trade secrets or information are proprietary or privileged;

   b. private personnel information, except for executive compensation already disclosed in Securities and Exchange Commission filings; and

   c. such other categories of documents and information as are recognized as confidential under applicable law, by ruling of the Administrative Law Judge(s) ("ALJ") or the Illinois Commerce Commission (the "Commission").

Nothing shall be considered Confidential if it is viewable from public locations, has been publicly disclosed previously, or lawfully received from other sources.

2. "Confidential & Proprietary" as used herein consists of trade secrets and commercial or financial information of a person or entity pertaining to its construction, operations, land acquisitions, costs or pricing, including but not limited to proprietary modeling and analysis related to the construction and operation of the Grain Belt Express LLC project, or which is otherwise competitively sensitive, non-public financial information of third parties, and customer specific information.

3. "Critical Energy Infrastructure Information" or "CEII" includes materials concerning critical infrastructure, the disclosure of which could adversely affect public safety and/or security; such CEII relates to the transmission of energy and could be useful to a person in planning an attack on critical infrastructure. 18 C.F.R. §388.113.

Process for Designation of Information

4. Where any party believes in good faith that a specific document that it will produce contains information that is entitled to protection as confidential or confidential and proprietary under the law, that party ("Producing Party") shall identify such information by marking such information "Confidential," "Confidential & Proprietary" or "Critical Energy Infrastructure Information" ("CEII") signifying that the Producing Party has in good faith made a legal and factual determination that the information is as described. The Producing Party shall visually distinguish such information from other information appearing in the same document, consistent with Section 200.605 of Part 200.

5. If any document contains both confidential and non-confidential information, only the specific portions of the document containing information that the Producing Party considers to be Confidential Information shall be marked as such.

6. Where any Producing Party believes in good faith that specific information it will convey orally includes information that is entitled to protected treatment under the law, that Producing Party shall identify such information by stating that it is "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes Only" or "CEII", signifying that the Producing Party has made a legal and factual determination that Confidential Information will be, or has been, conveyed. The Producing Party shall also provide written confirmation within three business days of such communication to all recipients that "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes Only" or "CEII" information was conveyed. The written confirmation need only generally indicate that "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes

Only" or "CEII" information was provided without repeating the substance of the communication.

7. Each specific document so marked or specific information so identified will be referred to hereafter as "Confidential Information." Confidential Information so designated shall be afforded all protections given to its designation as Confidential, Confidential & Proprietary, Confidential & Proprietary Attorneys' Eyes Only or CEII information as set forth in this protective ruling (this "Ruling"), as applicable, unless and until a contrary ruling is made by the ALJ, or by order of the Commission in this proceeding.

Treatment of Confidential Information

8. Commission members and Commission employees, including Staff witnesses, are governed by Sections 4-404 and 5-108 of the Act and 83 Illinois Administrative Code Sections 200.430, 200.605, and 200.1050 regarding the disclosure of Confidential, Confidential & Proprietary, Confidential & Proprietary Attorneys' Eyes Only and CEII information or documents. Commission members and Commission employees, including Staff witnesses, are not subject to the provisions of this document including, but not limited to, the provisions set forth in Paragraphs 9, 10, 11, 15, 17, 18, 22, 23, 24, 27 and 28.

9. Subject to rights to challenge any Confidential, Confidential & Proprietary, Confidential & Proprietary Attorneys' Eyes Only and CEII designations made by a Producing Party described herein, no information or document that is produced and designated as Confidential Information nor any information contained therein or obtained therefrom, shall be delivered, exhibited or disclosed to any person (other than Commission officers and employees and retained experts (i.e., independent experts hired by the Commission)), who has not read this Ruling, signed Form 1 attached hereto, and delivered Form 1 to the person's counsel of record in

this proceeding, and only such persons who have signed and delivered Form 1 to the Producing Party may access Confidential Information in a virtual data room or virtual discovery room maintained by the Producing Party. Counsel of record shall be responsible for explaining to all such persons to whom Confidential Information is disclosed the obligations of confidentiality specified in this ruling. The Producing Party is not required to provide Confidential Information to any person (other than Commission officers and employees and Commission retained experts) who has not signed Form 1 and delivered Form 1 to the Producing Party.

10. Persons who comply with Paragraph 9 above shall use or disclose the Confidential Information only in preparation for and conduct of this proceeding, and then solely as provided in this Ruling, and shall take all reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Ruling. This includes appropriate precautions to prevent the unauthorized transfer of information in any type of electronic format. All Confidential Information produced or exchanged in the course of this proceeding shall be used solely for the purpose of this proceeding or any appeal arising therefrom.

11. Parties may make Confidential Information available only to those who need access to the information to prepare for this proceeding and who have executed the attached Form 1 as provided in Paragraph 9 above. The number of copies (this includes the dissemination of information in an electronic format including, but not limited to, e-mail transmission) of any Confidential Information made by a party shall not exceed the number of individuals associated with that party that have executed the attached Form 1, unless the Producing Party otherwise agrees in writing. The Producing Party, at its election, may provide a party with copies equal to the number of individuals for that party that have executed Form 1, in which event, additional copies (this includes the electronic scanning of documents or dissemination of electronic

documents via e-mail or by other means of electronic sharing, such as placing electronic documents on a shared access network) shall not be made unless the Producing Party otherwise agrees in writing. After the Commission's final order in this proceeding is entered, and at the request of the Producing Party, parties shall notify the Producing Party of the identity of each person to whom any Confidential Information was disseminated and shall provide the Producing Party with a copy of each such person's signed Form 1 (if not previously provided).

12. If a party inadvertently produces information not marked "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes Only" or "CEII," as applicable, and the Producing Party subsequently notifies the recipient (and confirms in writing) that such information is Confidential Information, the receiving party will treat such information as identified by the Producing Party in accordance with the provisions of this Ruling and will use its best efforts to recall or retrieve any such information that has been distributed not in accordance with this Ruling. This paragraph does not waive the receiving party's right under this Ruling to challenge subsequently such designation on its merits under Paragraph 19 of this Ruling.

13. In the event that any party seeks to use or uses any Confidential Information in testimony, exhibits, discovery responses, cross-examination, briefs or other documents to be filed in this proceeding, the following shall apply:

a. The testimony, exhibits, discovery responses, cross-examination, briefs or other documents containing Confidential Information shall be sealed and served only on applicable Commission employees and the attorneys for the parties granted access to the Confidential Information pursuant to this Ruling. This includes, but is not limited to, the service of documents in electronic formats (such attorneys may distribute Confidential Information so received as provided herein);

b. The pages containing Confidential Information shall be clearly marked and the cover of the testimony or other documents shall indicate that Confidential Information is contained within the document inside. In the case of electronic data or documents, such designation shall be made by including "Confidential" or "Proprietary" in the name of the file containing Confidential Information and in the label of the other media containing electronic data;

c. All Confidential Information shall be redacted from the copies of such testimony, exhibits, discovery responses, briefs or other documents including electronic documents and e-mail that may be provided to individuals and their attorneys who are not granted access pursuant to this Ruling;

d. When a party seeks to file, either electronically or in paper, a document containing Confidential Information, it must file a public redacted version of such document for public viewing and an unredacted Confidential version with the Commission in accordance with Section 200.430(d) of Part 200. If a document contains both public information and Confidential Information, only the specific portions of the document considered confidential by the Producing Party shall be redacted from the public version of the document, consistent with Section 200.605 of Part 200. If the filing is made electronically via the e-Docket system, the public and Confidential versions shall be served in accordance with Section 200.1050(b) of Part 200; and

e. Each Producing Party will maintain a list of all persons granted access to Confidential Information pursuant to this Ruling and will make that list available to other parties upon request.

14. Cross-examination involving Confidential Information shall be conducted during proceedings that will be closed to all those who are not allowed access to the Confidential Information under this Ruling. The transcript of such proceedings shall be kept under seal for the period prescribed herein or for such other time as may be consistent with Part 200.

15. If at any time another court, administrative agency, person or entity subpoenas, requests or orders production of Confidential Information or documents containing the same, the party receiving the subpoena, request or order shall promptly notify the Producing Party of that fact and provide the Producing Party with an opportunity to seek appropriate remedies in order to adequately protect the release of any Confidential Information.

16. When the Commission's order in this proceeding is final and no longer subject to appeal, the sealed portion of the Commission's record (paper and electronic) shall be retained under seal by the Commission for a period of four (4) years, or such other period of time as specified by the Commission in its order, from the date the order was entered, unless such period is extended at some future time pursuant to applicable Commission rules.

17. All Confidential, Confidential & Proprietary, Confidential & Proprietary Attorneys' Eyes Only and CEII information disclosed in this proceeding but not made part of the Commission's record shall be treated as Confidential, Confidential & Proprietary, Confidential & Proprietary Attorneys' Eyes Only or CEII, as applicable, in accordance with this Ruling for a period of five (5) years from the date of submission or for such other period as is agreed to by affected parties unless such period shall be extended at some future time pursuant to applicable Commission rules.

18. After the Commission order in this proceeding becomes final and no longer subject to appeal or to further appeal, all persons possessing Confidential Information or copies of

documents containing Confidential Information (including but not limited to testimony, exhibits, transcripts, discovery, responses, briefs, e-mails, disks) shall, within thirty (30) days after receiving a written, oral, or electronic request from the Producing Party, return all those materials to the Producing Party or shall destroy the materials and certify in writing to the Producing Party that such materials have been destroyed. Persons receiving Confidential Information shall also destroy all notes, working papers, e-mail, disks and computer or other network memories and other documents containing Confidential Information and shall certify in writing to the Producing Party that such notes, working papers, documents and electronic records have been so destroyed within thirty (30) days after receiving a written, oral, or electronic request from the Producing Party to do the same. However, a party need not affirmatively take steps to destroy information that is automatically stored in back-up electronic systems as long as such information is not otherwise retrieved by such party. Counsel for a party may retain one copy of any such notes, memoranda, working papers or other records containing information obtained or derived from any such Confidential Information ("Retained Information") for file purposes. Counsel shall continue to abide by the terms of this Ruling regarding such Retained Information. Applicable periods of protection are addressed elsewhere in this Ruling.

19. If a party does not agree with the Producing Party's designation of documents and information as "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes Only" or "CEII," the party (the "Challenging Party") shall give the Producing Party reasonable written notice, by e-mail, of the objection. The written notice of objection shall identify the specific documents or portions thereof that are the subject of the challenge. The Producing Party and Challenging Party shall attempt to negotiate a mutually satisfactory resolution of the issue. If the Producing Party continues to believe that the Confidential Information contains

information that justifies such designation and in order to preserve the designation, it shall so inform the Challenging Party and file a motion to maintain the designation in response to the Challenging Party's objection(s) to the designation within five (5) business days of receipt of the Challenging Party's objection. A document marked "Confidential," "Confidential & Proprietary," "Confidential & Proprietary Attorneys' Eyes Only," or "CEII" shall be treated as such by all parties during the pendency of any challenge to such designation until the ALJ issues a ruling altering such designation. In a motion to preserve the confidentiality designation of the Producing Party, the Producing Party shall bear the burden to support its designation. The motion in support of the designation shall provide in detail, for each document and/or portion of document under challenge, the basis for seeking Confidential treatment. Parties shall be provided an opportunity to file a written response to such motion.

Confidential & Proprietary Information

20. All Confidential & Proprietary information shall be subject to and receive all of the protections accorded to Confidential Information by Paragraphs 1 through 19 above and shall be subject to and receive the additional protections of this and the following Paragraphs.

21. If the Producing Party reasonably believes that documents or information fall within the definition of "Confidential & Proprietary" in Paragraph 2 above, such that the additional protections below should be provided, the Producing Party shall designate such information "Confidential & Proprietary" (or alternatively, "Conf. & Prop.").

22. Confidential & Proprietary information shall only be provided to or served on counsel of record in this proceeding who have executed Form 1 attached hereto and provided it to the Producing Party. Counsel of record may disclose Confidential & Proprietary information to his or her clients, client representatives and personnel, co-counsel for the same party, and

consultants and experts retained by the party for purposes of this proceeding, who have provided a signed copy of Form 1 to counsel of record, but shall not provide Confidential & Proprietary information to any person who is involved in the sale to or procurement from the Producing Party of goods and services or is involved in competitive activities with the Producing Party. Counsel of record shall be responsible for explaining, to all such persons, to whom Confidential & Proprietary Information is disclosed, the obligations of confidentiality specified in this ruling. After the Commission's final order in this proceeding is entered, and at the request of the Producing Party, counsel of record shall provide the Producing Party with a copy of each such person's signed Form 1 (if not previously provided).

23. Confidential & Proprietary information shall not be disclosed to any employee, consultant, or agent, or any officer or director, of a party other than as permitted by paragraph 22, absent a finding by the ALJ pursuant to Paragraph 19 above (i) that such information is not properly designated as Confidential & Proprietary, or (ii) that such information can be disclosed to specific additional persons subject to such conditions and restrictions as the ALJ shall impose. This Paragraph is also without prejudice to the Producing Party's right to make objections as provided in Paragraph 28 below.

24. Where a Producing Party believes in good faith that the disclosure of material that is "Confidential & Proprietary" also presents a genuine threat of competitive or other injury to the Producing Party or its business, then the Producing Party may designate such material (including but not limited to documents and testimony) as "Confidential & Proprietary Attorneys' Eyes Only" (or alternatively "Confidential & Proprietary AEO," or alternatively "Conf. & Prop. AEO"). Confidential & Proprietary AEO materials and information shall only be provided to or served on counsel of record in this proceeding who have executed Form 1

attached hereto and provided it to the Producing Party. Counsel of record may disclose Confidential & Proprietary AEO information only to (a) his or her co-counsel for the same party, who have provided a signed copy of Form 1 to counsel of record and (b) consultants and experts retained by the party for purposes of this proceeding, who have provided a signed copy of Form 1 to counsel of record. "Confidential & Proprietary AEO" materials and information shall not be disclosed to any other entity, person or party.

Critical Energy Infrastructure Information

25. All CEII shall be subject to and receive all of the protections accorded to Confidential information by, Paragraphs 1 through 19 above, and shall be subject to and receive the additional protections of this and the following Paragraphs.

26. If the Producing Party reasonably believes that documents or information fall within the definition of "CEII" in Paragraph 3 above, such that the additional protections below should be provided, the Producing Party shall designate such information "Critical Energy Infrastructure Information" or "CEII."

27. In-house counsel, outside counsel and other persons entitled to have access to CEII will have access to the Producing Party's CEII information only after he/she executes and delivers Form 1 attached to this Ruling in favor of the Producing Party.

28. As to each party, CEII information shall be disclosed only to its outside counsel of record in these proceedings, its in-house attorneys and other persons who are entitled to have access to CEII in accordance with the regulations and procedures of the Federal Energy Regulatory Commission at 18 C.F.R. §388.113. CEII shall not be disclosed to any other employee, consultant, or agent, or any officer or director of such party absent a finding by the ALJ pursuant to Paragraph 19 above (i) that such information is not properly designated as CEII,

or (ii) that such information can be disclosed to specific additional persons subject to such conditions and restrictions as the ALJ shall impose. This Paragraph is also without prejudice to the Producing Party's right to make objections as provided in Paragraph 29 below.

Other Objections or Information Not Covered By This Ruling

29. This Ruling is not intended to describe all materials to which a party may make an objection to production, and nothing in this Ruling shall prevent a Party from objecting to discovery requests pursuant to the Commission's Rules of Practice or, to the extent applicable, the Illinois Code of Civil Procedure, the Rules of the Supreme Court of Illinois or other law, including but not limited to the relevancy, materiality or admissibility of any information requested. Likewise, nothing in this Ruling prevents any Party from seeking review of any designation made by a Producing Party pursuant hereto.

Remedies

30. Provisions regarding liability for damages and penalties resulting from unauthorized disclosure, and the right to pursue compensatory damages for breach, are not adopted as part of this Protective Ruling. Affected parties are not precluded from agreeing to such terms and provisions among themselves.

Other

31. Designations of information as "Confidential," "Confidential & Proprietary," "Confidential & Proprietary AEO" or "CEII" shall be made in good faith. Blanket designations made without consideration of the nature of the specific information being designated shall not be utilized. Nothing in this Ruling shall limit or supersede any protections applicable to information under other state or federal law.

32. The provisions in the Commission's Rules of Practice, such as those governing the submission of public redacted versions, and the identification on the proprietary copy of the specific information that has been claimed to be confidential, remain fully applicable.

33. This Ruling does not purport to interpret or enforce 220 ILCS 5/4-404 or 5/5-108. This Ruling does not purport to preclude the Commission's Clerk's Office from using its normal procedures in the handling and protection of confidential or proprietary documents on e-Docket or otherwise. Parties may seek modifications or clarifications of this Ruling. This Ruling may be modified where deemed appropriate.

34. Further rulings regarding Confidential Information may be issued as needed.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Grain Belt Express LLC	)	
	)	
Application for an Order Granting Grain Belt Express LLC, as a Qualifying Direct Current Applicant, a Certificate of Public Convenience and Necessity pursuant to Sections 8-406(b-5) and 8-406.1 of the Public Utilities Act to Construct, Operate and Maintain a High Voltage Direct Current Electric Service Transmission Line as a Qualifying Direct Current Project and to Conduct a Transmission Public Utility Business in Connection Therewith and Authorizing Grain Belt Express LLC Pursuant to Sections 8-503 and 8-406.1(i) of the Public Utilities Act to Construct the	)	Docket No. 22-0499

FORM 1: CERTIFICATION FOR PRODUCTION OF CONFIDENTIAL INFORMATION, CONFIDENTIAL & PROPRIETARY INFORMATION, CONFIDENTIAL & PROPRIETARY ATTORNEYS' EYES ONLY INFORMATION AND CRITICAL ENERGY INFRASTRUCTURE INFORMATION

I, _____ , certify that I am a(n) in-house attorney/outside attorney/consultant/employee/in-house expert/independent expert/party (circle one as applicable) for _____, a party to this proceeding, ICC Docket No. 22-0499, and that I need access to Confidential information, Confidential & Proprietary information, Confidential & Proprietary Attorneys' Eyes Only information (alternatively referred to as "Confidential & Proprietary AEO") and Critical Energy Infrastructure Information, as designated under the Ruling Regarding Terms Governing Protection of Confidential Information (the "Ruling"), that will be produced in this proceeding. I have read the Ruling and agree to abide by all of its terms, unless such terms are altered by the Administrative Law Judge ("ALJ") or Commission, at which time the undersigned agrees to be bound by the terms of the Ruling as altered and entered. I further certify that the Confidential information, Confidential & Proprietary information, Confidential & Proprietary Attorneys' Eyes Only information and/or

Critical Energy Infrastructure Information (as designated under the Ruling) will be used solely for the purposes stated in, and as set forth in, the Ruling, and I will not use or disclose Confidential & Proprietary information or Confidential & Proprietary Attorneys' Eyes Only information that I receive in this case to assist or facilitate any competitor, supplier or customer of the Producing Party in decisions or strategies that relate to the sale, purchase, pricing, or marketing the Producing Party's products or services or to competition with the Producing Party's products or services. Additionally, I will not disclose Confidential & Proprietary Attorneys' Eyes Only information to any other entity, person or party, including the party that retained me.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that he/she has read the Protective Ruling and understands its contents and agrees to be bound by the Protective Ruling.

Agreed (signature): _____

Name: _____

Title: _____

Employer: _____

Employer's Address: _____

Party Representing: _____

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he caused Grain Belt Express LLC's Motion for Entry of Protective Ruling in ICC Docket 22-0499 to be served on each of the persons on the Service List by e-mail on September 2, 2022.

/s/ Benjamin Jacobi
Benjamin Jacobi
Attorney for Grain Belt Express LLC

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EXHIBIT D

to

Motion of the Illinois Landowners Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority

Form of FERC Protective Order and Non-Disclosure Certificate

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Grain Belt Express LLC Docket No. ER24-59-000

PROTECTIVE ORDER

(Issued)

1. Participants in this proceeding(s) may exchange documents or materials that are deemed to contain Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII), as those terms are defined herein. Accordingly, IT IS ORDERED THAT this Protective Order shall govern the use of all such material produced by, or on behalf of, any Participant in the above-captioned proceeding(s).

2. The Commission's regulations[1] and its policy governing the labelling of controlled unclassified information (CUI),[2] establish and distinguish the respective designations of Privileged Material and CEII. As to these designations, this Protective Order provides that a Participant:

A. *may* designate as Privileged Material any material which customarily is treated by that Participant as commercially sensitive or proprietary or material subject to a legal privilege, which is not otherwise available to the public, and which, if disclosed, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and

B. *must* designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a), (c).

[1] *Compare* 18 C.F.R. § 388.112, *with* 18 C.F.R. § 388.113. This Protective Order does not alter the respective requirements imposed by these sections on Privileged Material or CEII.

[2] *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*, 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

3. For the purposes of this Protective Order, the listed terms are defined as follows:

A. Participant(s): As defined at 18 C.F.R. § 385.102(b).

B. Privileged Material:[3]

i. Material (including depositions) provided by a Participant in response to discovery requests or filed with the Commission, and that is designated as Privileged Material by such Participant;[4]

ii. Material that is privileged under federal, state, or foreign law, such as work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Privileged Material by such Participant;[5]

iii. Any information contained in or obtained from such designated material;

iv. Any other material which is made subject to this Protective Order by the Presiding Administrative Law Judge (Presiding Judge) or the Chief Administrative Law Judge (Chief Judge) in the absence of the Presiding Judge or where no presiding judge is designated, the

[3] The Commission's regulations state that "[f]or the purposes of the Commission's filing requirements, non-CEII subject to an outstanding claim of exemption from disclosure under FOIA will be referred to as privileged material." 18 C.F.R. § 388.112(a). The regulations further state that "[f]or material filed in proceedings set for trial-type hearing or settlement judge proceedings, a participant's access to material for which privileged treatment is claimed is governed by the presiding official's protective order." 18 C.F.R. § 388.112(b)(2)(v).

[4] *See infra* P 11 for the procedures governing the labeling of this designation.

[5] The Commission's regulations state that "[a] presiding officer may, by order . . . restrict public disclosure of discoverable matter in order to . . . [p]reserve a privilege of a participant. . . ." 18 C.F.R. § 385.410(c)(3). To adjudicate such privileges, the regulations further state that "[i]n the absence of controlling Commission precedent, privileges will be determined in accordance with decisions of the Federal courts with due consideration to the Commission's need to obtain information necessary to discharge its regulatory responsibilities." 18 C.F.R. § 385.410(d)(1)(i).

Federal Energy Regulatory Commission (Commission), any court, or other body having appropriate authority, or by agreement of the Participants (subject to approval by the relevant authority);

v. Notes of Privileged Material (memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Privileged Material);[6] or

vi. Copies of Privileged Material.

vii. Privileged Material does not include:

a. Any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court;

b. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order; or

viii. Additional Subcategories of Privileged Material in Oil Pipeline Proceedings:

a. Section 15(13) Privileged Material:[7] Any materials, permitted to be produced by this Protective Order, concerning the nature, kind, quantity, destination or routing of any products tendered or delivered to a Participant for interstate transportation by or on behalf of a specific shipper, when the identity of the shipper is contained in or may be

[6] Notes of Privileged Material are subject to the same restrictions for Privileged Material except as specifically provided in this Protective Order.

[7] Section 15(13) of the Interstate Commerce Act, 49 U.S.C. § 15(13), prohibits disclosure of information pertaining to the business activities of oil pipeline shippers or consignees. Participants disclosing such information in accordance with the terms of this Protective Order will be deemed to not have contravened the prohibitions of this statutory provision.

discerned from the material to be provided. This subcategory shall not apply if the shipper to whom such information pertains consents that the information be categorized as Privileged Material under the other provisions of this Protective Order or produced outside the scope of this Protective Order.

b. Highly Confidential Privileged Material: A Participant may use this designation for those materials that are of such a commercially sensitive nature among the Participants or of such a private, personal nature that the producing Participant is able to justify a heightened level of confidential protection with respect to those materials.

C. Critical Energy/Electric Infrastructure Information (CEII): As defined at 18 C.F.R. §§ 388.113(a), (c).

D. Non-Disclosure Certificate: The certificate attached to this Protective Order, by which Participants granted access to Privileged Material and/or CEII must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All executed Non-Disclosure Certificates must be served on all Participants on the official service list maintained by the Secretary of the Commission for this proceeding.

E. Reviewing Representative:[8] A person who has signed a Non-Disclosure Certificate and who is:

i. Commission Trial Staff designated as such in this proceeding;

ii. An attorney who has made an appearance in this proceeding for a Participant;

[8] For oil pipeline proceedings involving the additional subcategories of Privileged Material, there shall also be Section 15(13) Reviewing Representatives and Highly Confidential Reviewing Representatives subject to the corresponding terms of this definition.

iii. Attorneys, paralegals, and other employees associated for purposes of this case with an attorney who has made an appearance in this proceeding on behalf of a Participant;

iv. An expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;

v. A person designated as a Reviewing Representative by order of the Presiding Judge, the Chief Judge, or the Commission; or

vi. Employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.[9]

4. Privileged Material and/or CEII shall be made available under the terms of this Protective Order only to Participants and only to their Reviewing Representatives as provided in Paragraphs 6-10 of this Protective Order. The contents of Privileged Material, CEII or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this specific proceeding.

5. All Privileged Material and/or CEII must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to Paragraphs 7-9 of this Protective Order.

6. Privileged Material and/or CEII must be handled by each Participant and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 9 of this Protective Order. Privileged Material and/or CEII shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Material and/or CEII, but such copies automatically become Privileged Material and/or CEII. Reviewing Representatives may

[9] In oil pipeline proceedings, individuals that have direct or supervisory responsibilities over the purchase, sale, marketing, or exchange of crude oil or petroleum products (including liquefied petroleum gases), are ineligible to qualify as a Reviewing Representative.

make notes of Privileged Material, which shall be treated as Notes of Privileged Material if they reflect the contents of Privileged Material.

7. If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 7, such Reviewing Representative may not use information contained in any Privileged Material and/or CEII obtained in this proceeding for a commercial purpose (e.g. to give a Participant or competitor of any Participant a commercial advantage):

A. Energy marketing;

B. Direct supervision of any employee or employees whose duties include energy marketing; or

C. The provision of consulting services to any person whose duties include energy marketing.

8. If a Participant wishes to designate a person not described in Paragraph 3.E above as a Reviewing Representative, the Participant must seek agreement from the Participant providing the Privileged Material and/or CEII. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 3.D of this Protective Order with respect to those materials. If no agreement is reached, the matter must be submitted to the Presiding Judge for resolution.

9. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Material and/or CEII pursuant to this Protective Order until three business days after that Reviewing Representative first has executed and served a Non-Disclosure Certificate.[10] However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order, and must take all reasonable precautions to ensure that Privileged Material and/or CEII are not disclosed to unauthorized persons. All executed Non-Disclosure Certificates must be served on all

[10] During this three-day period, a Participant may file an objection with the Presiding Judge or the Commission contesting that an individual qualifies as a Reviewing Representative, and the individual shall not receive access to the Privileged Material and/or CEII until resolution of the dispute.

Participants on the official service list maintained by the Secretary of the Commission for the proceeding.

10. Any Reviewing Representative may disclose Privileged Material and/or CEII to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Privileged Material and/or CEII are disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 3.D of this Protective Order, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the Non-Disclosure Certificate for as long as the Protective Order is in effect.[11]

11. All Privileged Material and/or CEII in this proceeding filed with the Commission, submitted to the Presiding Judge, or submitted to any Commission personnel, must comply with the Commission's *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*.[12] Consistent with those requirements:

A. Documents that contain Privileged Material must include a top center header on each page of the document with the following text: CUI//PRIV.[13] Any corresponding electronic files must also include this text in the file name.

B. Documents that contain CEII must include a top center header on each page of the document with the following text: CUI//CEII. Any corresponding electronic files must also include this text in the file name.

[11] *See infra* P 19.

[12] 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

[13] The parties in oil pipeline proceedings may desire additional protection in their handling of the following types of material as defined in this Protective Order: Section 15(13) Privileged Material; and Highly Confidential Privileged Material. Participants may incorporate these descriptive subcategories into their document labels as needed (e.g., CUI//PRIV-Section 15(13) or CUI//PRIV-HC).

C. Documents that contain both Privileged Material and CEII must include a top center header on each page of the document with the following text: CUI//CEII/PRIV. Any corresponding electronic files must also include this text in the file name.

D. The specific content on each page of the document that constitutes Privileged Material and/or CEII must also be clearly identified. For example, lines or individual words or numbers that include both Privileged Material and CEII shall be prefaced and end with "BEGIN CUI//CEII/PRIV" and "END CUI//CEII/PRIV".

12. If any Participant desires to include, utilize, or refer to Privileged Material or information derived from Privileged Material in testimony or other exhibits during the hearing in this proceeding in a manner that might require disclosure of such materials to persons other than Reviewing Representatives, that Participant first must notify both counsel for the disclosing Participant and the Presiding Judge, and identify all such Privileged Material. Thereafter, use of such Privileged Material will be governed by procedures determined by the Presiding Judge.

13. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the production or use of Privileged Material and/or CEII on any appropriate ground.

14. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority, to find this Protective Order should not apply to all or any materials previously designated Privileged Material pursuant to this Protective Order. The Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

15. Each Participant governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority.

16. Subject to Paragraph 18, the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), or the Commission shall resolve any disputes arising under this Protective Order pertaining to Privileged Material

according to the following procedures. Prior to presenting any such dispute to the Presiding Judge, the Chief Judge or the Commission, the Participants to the dispute shall employ good faith best efforts to resolve it.

A. Any Participant that contests the designation of material as Privileged Material shall notify the Participant that provided the Privileged Material by specifying in writing the material for which the designation is contested.

B. In any challenge to the designation of material as Privileged Material, the burden of proof shall be on the Participant seeking protection. If the Presiding Judge, the Chief Judge, or the Commission finds that the material at issue is not entitled to the designation, the procedures of Paragraph 18 shall apply.

C. The procedures described above shall not apply to material designated by a Participant as CEII. Material so designated shall remain subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's CEII Coordinator that such material need not retain that designation.

17. The designator will have five (5) days in which to respond to any pleading requesting disclosure of Privileged Material. Should the Presiding Judge, the Chief Judge, or the Commission, as appropriate, determine that the information should be made public, the Presiding Judge, the Chief Judge, or the Commission will provide notice to the designator no less than five (5) days prior to the date on which the material will become public. This Protective Order shall automatically cease to apply to such material on the sixth (6th) calendar day after the notification is made unless the designator files a motion with the Presiding Judge, the Chief Judge, or the Commission, as appropriate, with supporting affidavits, demonstrating why the material should continue to be privileged. Should such a motion be filed, the material will remain confidential until such time as the interlocutory appeal or certified question has been addressed by the Motions Commissioner or Commission, as provided in the Commission's regulations, 18 C.F.R. §§ 385.714, .715. No Participant waives its rights to seek additional administrative or judicial remedies after a Presiding Judge or Chief Judge decision regarding Privileged Material or the Commission's denial of any appeal thereof or determination in response to any certified question. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Material and/or CEII in the files of the Commission.

18. Privileged Material and/or CEII shall remain available to Participants until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Privileged Material and/or CEII is concluded and no longer subject to judicial review. After this time, the Participant that produced the Privileged Material and/or CEII may request (in writing) that all other Participants return or destroy the Privileged Material and/or CEII. This request must be satisfied with within fifteen (15) days of the date the request is made. However, copies of filings, official transcripts and exhibits in this proceeding containing Privileged Material, or Notes of Privileged Material, may be retained if they are maintained in accordance with Paragraph 5 of this Protective Order. If requested, each Participant also must submit to the Participant making the request an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Privileged Material and/or CEII. To the extent Privileged Material and/or CEII are not returned or destroyed, they shall remain subject to this Protective Order.

19. Regardless of any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Judge, the Chief Judge, or the Commission. All CEII designations shall be subject to the "[d]uration of the CEII designation" provisions of 18 C.F.R. § 388.113(e).

20. Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

Presiding Administrative Law Judge

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Grain Belt Express LLC Docket No. ER24-59-000

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Privileged Material[1] and/or Critical Energy/Electric Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of Privileged Material and/or CEII, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____

Printed Name: _____

Title: _____

Representing: _____

Date: _____

[1] If applicable, for pipeline proceedings involving additional subcategories of Privileged Material, the signatory should indicate here whether this Non-Disclosure Certificate additionally governs access to:

□ : Section 15(13) Privileged Material

□ : Highly Confidential Privileged Material

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Grain Belt Express LLC	)	Docket No. ER24-59-000

NOTICE OF FILING

TO: The Parties on the Attached Service List

PLEASE TAKE NOTICE that on December 28, 2023, the undersigned, Paul G. Neilan, an attorney, filed with the Federal Energy Regulatory Commission through its e-File system, the attached **Motion of the Illinois Landowner Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority**, a copy of which is hereby served upon you.

Dated: December 28, 2023

By : **/s/ *Paul G. Neilan***

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CERTIFICATE OF SERVICE

I, Paul G. Neilan, an attorney, hereby certify and state that on December 28, 2023 I served a copy of the foregoing **(1) Notice of Filing of Motion of the Illinois Landowner Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority**, and (2) **Motion of the Illinois Landowner Alliance for Summary Disposition of Grain Belt Express LLC's Application for Amendment to Negotiated Rate Authority**, by electronic mail to each of the persons on the attached Service List.

By: /s/ ***Paul G. Neilan***

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Grain Belt Express LLC	)	Docket No. ER24-59-000

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