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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

GRAIN BELT EXPRESS CLEAN LINE, LLC, )  
)  
Application for an Order Granting ) Docket No.  
Grain Belt Express Clean Line, LLC, ) 15-0277  
a Certificate of Public Convenience )  
and Necessity Pursuant to Section )  
8-406.1 of the Public Utilities Act )  
to Construct, Operate, and Maintain )  
a High Voltage Electric Service )  
Transmission Line and to Conduct a )  
Business in Connection Therewith )  
and Authorizing Grain Belt Express )  
Clean Line Pursuant to Sections )  
8-503 and 8-406.1(i) of the Public )  
Utilities Act to Construct the High )  
Voltage Electric Transmission Line. )

Monday, August 17, 2015

Springfield, Illinois

Met, pursuant to notice, at 10:00 A.M.

BEFORE:

Janis Von Qualen, Administrative Law Judge

MIDWEST LITIGATION SERVICES, by  
Robin A. Enstrom, RPR, CSR  
CSR No. 084-002046

1 APPEARANCES:

2 Mr. Owen E. MacBride  
3 Ms. Katherine Cisneros  
4 Ms. Diana Bowman  
5 Schiff Hardin, LLP  
6 233 South Wacker Drive, Suite 6600  
7 Chicago, Illinois 60606

8 (Appearing on behalf of Grain Belt  
9 Express Clean Line, LLC.)

10 Ms. Christine Ericson  
11 Mr. John Sagone  
12 Office of General Counsel  
13 Illinois Commerce Commission  
14 160 North LaSalle Street, Suite C-800  
15 Chicago, Illinois 60601

16 (Appearing on behalf of Staff  
17 witnesses of the Illinois Commerce  
18 Commission by phone.)

19 Mr. Paul G. Neilan  
20 Law Offices of Paul G. Neilan, PC  
21 33 North LaSalle Street, Suite 3400  
22 Chicago, Illinois 60602  
23 (Appearing on behalf of Mary  
24 Ellen Zotos.)

Mr. William Shay  
Mr. Jonathan Phillips  
Shay Phillips, Ltd.  
456 Fulton Street, Suite 255  
Peoria, Illinois 61602

(Appearing on behalf of Landowners  
Alliance of Central Illinois.)

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1 Mr. Edward D. McNamara, Jr.  
2 Mr. Joseph H. O'Brien  
3 McNamara & Evans  
4 931 South Fourth Street  
5 Springfield, Illinois 62703

6 (Appearing on behalf of Concerned  
7 Citizens and Property Owners.)  
8

9 Ms. Laura A. Harmon  
10 Illinois Agricultural Association  
11 1701 Towanda Avenue  
12 Bloomington, Illinois 61702-2901

13 (Appearing on behalf of Illinois  
14 Farm Bureau.)

15 Mr. Charles Y. Davis  
16 Brown, Hay & Stephens  
17 205 South Fifth Street, Suite 700  
18 Springfield, Illinois 62701

19 (Appearing on behalf of Illinois  
20 Farm Bureau.)

21 Mr. Glenn Rippie  
22 Rooney, Rippie and Ratnaswamy  
23 350 West Hubbard Street, Suite 600  
24 Chicago, Illinois 60654

(Appearing on behalf of Rockies  
Express Pipeline, LLC, Rex Encore  
Properties, LLC, and Rex Encore  
Farms, LLC.)

Mr. Sean R. Brady  
Wind on the Wires  
P.O. Box 4072  
Wheaton, Illinois 60189

(Appearing of behalf of Wind  
on the Wires.)

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Mr. Robert Prendergast  
Daley Mohan Groble  
65 West Monroe Street, Suite 1600  
Chicago, Illinois 60603

(Appearing on behalf of BNSF  
Railway Company by phone.)

Mr. Michael Barron  
Fletcher and Sippel  
29 North Wacker, Suite 920  
Chicago, Illinois 60601

(Appearing on behalf of Illinois  
Central Railroad Company by phone.)

Mr. Christopher Webb  
Schmiedeskamp, Robertson, Neu & Mitchell  
525 Jersey Street  
Quincy, Illinois 62301

(Appearing on behalf of Brown Branch,  
LLC, and JAR, LLC, by phone.)

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PROCEEDINGS

JUDGE VON QUALEN: By the authority vested in me by the Illinois Commerce Commission, I now call Docket No. 15-0277. This docket was initiated by Grain Belt Express Clean Line, LLC, which filed an application seeking a Certificate for Public Convenience and Necessity to construct a 600-kilovolt transmission line across the State of Illinois.

May I have appearances for the record. First, starting in Springfield.

MS. CISNEROS: Yes, Your Honor. Katherine Cisneros on behalf of Grain Belt Express Clean Line, LLC, and Owen MacBride and Diana Bowman.

JUDGE VON QUALEN: Address and telephone number, please.

MS. CISNEROS: Yes. 233 South Wacker, Suite 6600, Chicago, Illinois 60622, 312.258.5500.

JUDGE VON QUALEN: Thank you.

Now, can persons on the phone and in Chicago hear?

MR. SAGONE: It's a little bit on the

1 soft side, but most of it came through.

2 JUDGE VON QUALEN: Okay. Speak up if  
3 you cannot hear, please.

4 Others wishing to enter an  
5 appearance.

6 MR. NEILAN: Good morning, Your  
7 Honor. Paul Neilan, appearing for Mary Ellen  
8 Zotos. Law Offices of Paul G. Neilan, 33 North  
9 LaSalle Street, Suite 3400, Chicago, Illinois  
10 60602. Telephone 312.580.5483.

11 MR. SHAY: Appearing for intervenor  
12 Landowners Alliance of Central Illinois, NFP,  
13 William Shay and Jonathan Phillips of Shay  
14 Phillips, Limited, 456 Fulton Street, Suite 255,  
15 Peoria 61602. Phone is 309.494.6155.

16 MR. MCNAMARA: Edward D. McNamara Jr.  
17 and Joseph H. O'Brien. Business address is 931  
18 South Fourth Street, Springfield, Illinois 62703.  
19 We appear on behalf of intervenor Concerned  
20 Citizens and Property Owners.

21 MS. HARMON: Good morning, Your  
22 Honor. Laura Harmon on behalf of the Illinois  
23 Farm Bureau, 1701 Towanda Avenue, Bloomington,  
24 Illinois 61702.

1 MR. DAVIS: Good morning. Chuck  
2 Davis. I'm here for the Illinois Agricultural  
3 Association doing business as the Illinois Farm  
4 Bureau. I'm with the law firm of Brown, Hay and  
5 Stephens here in Springfield. 205 South Fifth  
6 Street, Springfield, Illinois 62701, Suite 700.  
7 Our phone number is 217.544.8491. Thank you.

8 MR. RIPPIE: Good morning, Your  
9 Honor. On behalf of Rockies Express Pipeline,  
10 LLC, Rex Encore Properties, LLC, and Rex Encore  
11 Farms, LLC, Glenn -- two n's -- Rippie, R-i-p-p,  
12 as in "Peter," -i-e. Law firm is Rooney, Rippie  
13 and Ratnaswamy, which I will spell for you later.  
14 That's at 350 West Hubbard Street, Suite 600,  
15 Chicago 60654.

16 MR. BRADY: Good morning. Appearing  
17 on behalf of Wind on the Wires is Sean R. Brady.  
18 Address is P.O. Box 4072, Wheaton, Illinois  
19 60189. Phone number is 312.867.0609.

20 JUDGE VON QUALEN: Are there any  
21 others in the room wishing to enter an  
22 appearance?

23 (No response.)

24 JUDGE VON QUALEN: All right. From

1 the Chicago office.

2 MS. ERICSON: Good morning, Your  
3 Honor. On behalf of Commission Staff, Christine  
4 Ericson and John Sagone, 160 North LaSalle  
5 Street, Suite C-800, Chicago, Illinois 60601.

6 MR. PRENDERGAST: Good morning, Your  
7 Honor. Robert Prendergast from the law firm of  
8 Daley Mohan Groble, 65 West Monroe Street, Suite  
9 1600, Chicago 60603, on behalf of --

10 COURT REPORTER: On behalf of who?

11 JUDGE VON QUALEN: Who are you on  
12 behalf of?

13 (No response.)

14 JUDGE VON QUALEN: BNSF Railway.

15 COURT REPORTER: Thank you.

16 JUDGE VON QUALEN: Are there any  
17 others in the Chicago office?

18 (No response.)

19 JUDGE VON QUALEN: Are there any on  
20 the phone who wish to enter their appearance?

21 MR. BARRON: Good morning, Your  
22 Honor. This is Michael Barron, B-a-r-r-o-n,  
23 attorney for Illinois Central Railroad Company.  
24 I'm at the law offices of Fletcher and Sippel --

1 "Sippel" is spelled S-i-p-p-e-l -- and we're at  
2 29 North Wacker, Suite 920, Chicago, Illinois  
3 60606. Phone number 312.252.1511.

4 MR. WEBB: Good morning, Judge. This  
5 is Chris Webb on behalf of Brown Branch, LLC, and  
6 JAR Branch, LLC. Address is 525 Jersey Street in  
7 Quincy, Illinois 62301. Phone number is  
8 217.223.3030.

9 JUDGE VON QUALEN: Are there any  
10 others wishing to enter an appearance in this  
11 matter?

12 (No response.)

13 JUDGE VON QUALEN: Let the record  
14 show no response.

15 I have a few preliminary matters. To  
16 my knowledge, there are no petitions to intervene  
17 which have not been ruled upon.

18 We do have several motions. We have  
19 the motions for administrative notice which were  
20 filed by the Landowners Alliance of Central  
21 Illinois, which is -- we're calling LACI,  
22 L-A-C-I, and by the Illinois Farm Bureau. I have  
23 just recently received a response to those  
24 motions from Grain Belt Express.

1                   Has LACI and the Farm Bureau had an  
2 opportunity to read those -- that response?

3                   MR. PHILLIPS: Jon Phillips, Your  
4 Honor. I have not had a chance. It came in  
5 while I was on my drive down.

6                   MR. DAVIS: Your Honor, I did.  
7 Related to the Farm Bureau's motion, it appears  
8 that Grain Belt has no objection to our motion.

9                   JUDGE VON QUALEN: Then the motion  
10 for the Farm Bureau for administrative notice of  
11 the orders of the Missouri Public Service  
12 Commission is granted.

13                   As to the other two motions for  
14 administrative office -- notice, if you would  
15 take a look at that response and possibly --  
16 Grain Belt requests that the motions be ruled on  
17 based on the response, and I don't know. Perhaps  
18 it will satisfy what you need; perhaps not. I  
19 would like to hear from you on that later.

20                   MR. PHILLIPS: Thank you, Your Honor.

21                   JUDGE VON QUALEN: Later is fine.

22                   I also received a motion for leave to  
23 file revised testimony and exhibits of Mr.  
24 Proctor filed by LACI.

1                   Is there any response to that motion?

2                   MR. MACBRIDE: We don't -- these are  
3 just corrections, as I understood it.

4                   This is Owen MacBride.

5                   I had a little difficulty with the  
6 red line, and I was hoping Mr. Shay had paper  
7 copies to look at. It was sort of difficult to  
8 look at it on the computer. The red line was  
9 confusing. So if I could just have a -- if  
10 Mr. Shay has paper copies of the revised  
11 Exhibits -- or tomorrow, if he can bring them --  
12 we can look at them and sign off. But I believe  
13 it was just corrections, and in that case, I  
14 think we have no objection.

15                   JUDGE VON QUALEN: All right. I'll  
16 hold that, and I'll wait to hear back.

17                   MR. SAGONE: This is Chicago. We're  
18 having a little trouble hearing. If you just  
19 make sure to speak as close to the microphone as  
20 possible.

21                   JUDGE VON QUALEN: We'll try to do  
22 that.

23                   Mr. MacBride simply asked that he be  
24 shown a more clear version of the red line copy

1 before Grain Belt Express indicates that they do  
2 not have an objection.

3 MR. SAGONE: Okay. Thank you. And,  
4 for the record, this is John Sagone.

5 JUDGE VON QUALEN: I also saw a  
6 filing by Mary Ellen Zotos of MEZ Exhibits 4.1  
7 through 4.5, on August the 15th, and I note that  
8 those are included on the exhibit list for Mary  
9 Ellen Zotos. Counsel for Mary Ellen, do you have  
10 an explanation of those?

11 MR. NEILAN: I'm sorry. I'm sorry.  
12 I was focused on something else. I didn't hear.

13 JUDGE VON QUALEN: My question is I  
14 see that additional exhibits have been filed for  
15 Mary Ellen Zotos?

16 MR. NEILAN: Yes.

17 JUDGE VON QUALEN: Exhibits 4.1  
18 through 4.5.

19 MR. NEILAN: Yes, Your Honor.

20 JUDGE VON QUALEN: Can you explain  
21 what those are?

22 MR. NEILAN: Yeah. That was because,  
23 in rebuttal testimony from GBX, it raised  
24 questions as to whether transmission charges were

1 properly passed through, and so that's in support  
2 of the testimony that's already been given by  
3 Michael Severson.

4 JUDGE VON QUALEN: So, in effect,  
5 it's a motion for leave to file additional  
6 testimony?

7 MR. NEILAN: Well, it's in support of  
8 the testimony that's already filed. If that's --  
9 if you would like a motion, I can make an oral  
10 motion right now for leave to file those. There  
11 are only certain sections --

12 JUDGE VON QUALEN: We'll consider  
13 it -- we'll consider it a motion.

14 Does anyone wish an opportunity to  
15 respond to that motion, or is there any objection  
16 to that motion?

17 MS. ERICSON: Your Honor, this is  
18 Christine Ericson for Staff.

19 And Staff would object to that  
20 motion. This was late -- received late. I don't  
21 even think it has been filed. It was circulated,  
22 I guess, on Saturday, and it does appear to be  
23 supplemental rebuttal testimony outside of the  
24 schedule that was approved in this docket; so --

1 and it's really unclear exactly what these  
2 documents are. We haven't had a chance to review  
3 them adequately.

4 So Staff would object. Thank you.

5 MR. MACBRIDE: Judge, this is Owen  
6 MacBride on behalf of Grain Belt.

7 We object as well. First of all, as  
8 you noted, there was no written motion filed.  
9 Frankly, two of the exhibits, we couldn't even  
10 figure out what the purpose was. Five of them we  
11 sort of guessed at, and Mr. Neilan's indicated  
12 their purpose consistent with our guess this  
13 morning. But the first two exhibits -- we don't  
14 even know how they relate to the testimony.

15 But as to the point that Mr. Neilan  
16 articulated, that was a point made by his witness  
17 Mr. Severson in his direct testimony. So, you  
18 know, if they were considered appropriate  
19 support, they should have been offered with his  
20 direct testimony.

21 So we would -- we'd object to the  
22 late submission of these exhibits.

23 JUDGE VON QUALEN: Does any other  
24 party wish to respond to the motion?

1 (No response.)

2 JUDGE VON QUALEN: Mr. Neilan, would  
3 you like to reply?

4 MR. NEILAN: Yes, Your Honor. Thank  
5 you.

6 I don't think there's anything really  
7 surprising in it. The first two exhibits go to  
8 need because they show fixed forward prices in  
9 the PJM market which I think is key to what GBX  
10 is alleging and other witnesses are alleging in  
11 terms of why this project is needed. I think  
12 it's important to show that price trend in the  
13 market, and Mr. Severson can authenticate those.

14 With regard to the other documents,  
15 again, there are only certain provisions of those  
16 documents that we have identified as the key  
17 passages, and those relate to pass-throughs of  
18 transmission costs and what is the custom and  
19 usage in the industry because basically the  
20 testimony from GBX is that, you know, either they  
21 don't know what the custom and usage of the  
22 industry is or what Mr. Severson said is not.  
23 And we didn't have a chance to answer their  
24 rebuttal which was filed subsequently to ours.

1 So I don't think it's anything that goes beyond  
2 what he said, but it basically buttresses that  
3 testimony.

4 JUDGE VON QUALEN: All right. The  
5 motion for leave to file MEZ Exhibits 4.1 through  
6 4.5 is denied.

7 You may use those exhibits as  
8 appropriate during cross-examination, perhaps.

9 I had one other preliminary matter.  
10 I think I may have started this, but we've used  
11 both GBE and GBX to refer to Grain Belt. Does  
12 Grain Belt have a preference to which we use?  
13 Let's choose one.

14 MR. MACBRIDE: Well, I'm just --  
15 Grain Belt has not used either acronym in its  
16 testimony, but other parties have used both of  
17 the ones you just referred to. So I guess I  
18 would defer to -- I'm not sure I can comment on  
19 which has been the predominant one that's been  
20 used to date.

21 JUDGE VON QUALEN: Is there anyone  
22 here that has a preference?

23 MR. RIPPIE: We used X. So I guess  
24 we like X.

1                   JUDGE VON QUALEN: All right. X is  
2 fine. Okay, then. Let's all use GBX to the  
3 extent we want to use initials for Grain Belt  
4 Express. I think it will help the court  
5 reporter, and it will help me.

6                   Now, we should -- does anyone else  
7 have any preliminary matters before we begin the  
8 evidentiary?

9                   MR. NEILAN: Just to clarify, I  
10 think it was Exhibits 4.1 through 4.7 were  
11 supplemental.

12                  JUDGE VON QUALEN: Okay. 4.1 through  
13 4.7.

14                  MR. NEILAN: And I think you  
15 mentioned through 4.6, but it's through 4.7.

16                  JUDGE VON QUALEN: Thank you for that  
17 clarification.

18                  MR. BARRON: Judge, this is Michael  
19 Barron for Illinois Central Railroad Company.

20                  For my witness who is going to be  
21 simply submitting an affidavit because no one  
22 sought cross-examination on him, once that  
23 affidavit is filed on the Commission's docket,  
24 should I simply go ahead and dial up at the

1 beginning of one of the days of the hearing and  
2 simply to move to admit that affidavit into  
3 evidence?

4 JUDGE VON QUALEN: That's fine with  
5 me, yes.

6 MR. BARRON: I'm just wondering what  
7 time would be -- I'm just wondering what time is  
8 appropriate for me to dial in to move the  
9 affidavit into evidence.

10 JUDGE VON QUALEN: At the first of  
11 the hearing would probably be the easiest for  
12 you. Generally, we do it when we have a short  
13 amount of it time to fill in for administrative  
14 matters.

15 MR. BARRON: Okay. Okay. Just what  
16 time are we going to be starting Wednesday -- or  
17 Tuesday, Wednesday, and Thursday? I know it was  
18 going to start earlier.

19 JUDGE VON QUALEN: I believe we  
20 decided on 9:00 A.M.

21 MR. BARRON: 9:00 A.M. Okay. Thank  
22 you. That's all I've got.

23 MR. MCNAMARA: I have one other  
24 matter.

1                   Go ahead.

2                   MR. PHILLIPS: No, please.

3                   MR. MCNAMARA: Pursuant to paragraph  
4 1, we were to distribute a list of exhibits. I  
5 think most of them have been filed on e-Docket.  
6 I've got copies of mine if anyone wants them.

7                   Need it, Owen?

8                   MR. MACBRIDE: Yeah. Thank you.

9                   MR. MCNAMARA: Anyone else need a  
10 copy of our exhibits?

11                  MR. PHILLIPS: Good morning, Your  
12 Honor. This is Jon Phillips for Landowners  
13 Alliance of Central Illinois.

14                  We had filed a motion to compel with  
15 regards to certain data requests with Wind on the  
16 Wires. I believe I e-mailed the group, but I'd  
17 just like to orally note that we're withdrawing  
18 that motion to compel. We've received  
19 satisfactory responses to everything.

20                  JUDGE VON QUALEN: Thank you,  
21 Mr. Phillips.

22                  MR. RIPPIE: Good morning, Your  
23 Honor. It's Glenn Rippie on behalf of Rockies  
24 Express Pipeline for this purpose.

1                   Your Honor, Rockies Express Pipeline  
2                   and GBX have continued to work cooperatively  
3                   during the preparation of this hearing, and we  
4                   believe we are at an arrangement that adequately  
5                   protects safety and integrity of the pipeline as  
6                   well as meeting the interests of both -- other  
7                   interests of both parties.

8                   It's our intention to file a  
9                   stipulation with respect to that with the  
10                  Commission, in all likelihood, tomorrow, and that  
11                  stipulation will obviate the need for the  
12                  submission of the testimony of Mr. Schramm as  
13                  well as, I understand it -- and I'll let  
14                  Mr. MacBride speak to this -- a portion of the  
15                  testimony of Mr. Galli. It will also lead me to  
16                  be able to waive the cross-examination time that  
17                  I have reserved on behalf of the pipeline.

18                  JUDGE VON QUALEN: I would just ask  
19                  that, before you file it -- or at the same time  
20                  as filing it but before moving it, let the other  
21                  parties and myself have a copy of the stipulation  
22                  so that it's known what has been agreed to.

23                  MR. RIPPIE: Very well, Your Honor.

24                  MR. MACBRIDE: And, Judge, with

1 respect to Mr. Galli's testimony that Mr. Rippie  
2 referred to, a portion of his rebuttal testimony  
3 responds to the issues raised by Rockies  
4 Pipeline. So I defer to how you want that to be  
5 handled, but that -- that portion of his  
6 testimony won't be offered. We could refile the  
7 exhibit, a revised version, with it deleted or  
8 simply crossed through or simply indicate orally  
9 that that portion is not being offered. Whatever  
10 your preference is.

11 JUDGE VON QUALEN: Yeah. I would ask  
12 the parties to refile. The cross-through is  
13 fine. That way the pagination stays the same and  
14 everyone knows what has been removed. Thank you.

15 Are there any other preliminary  
16 matters?

17 (No response.)

18 JUDGE VON QUALEN: Hearing none,  
19 then, the witnesses who will testify today who  
20 are in the room, please stand and raise your  
21 right hand.

22 (Four witnesses were duly sworn.)

23 JUDGE VON QUALEN: All right.

24 Mr. Lawlor.

1 MARK LAWLOR,  
2 of lawful age, having been produced, sworn, and  
3 examined on behalf Grain Belt Express, testified  
4 as follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MS. CISNEROS:

7 Q. Good morning.

8 A. Good morning.

9 Q. Can you please state your full name  
10 and business address.

11 A. Mark Lawlor. I'm located out of the  
12 Kansas City area, but my business address is 1001  
13 McKinney, Suite 700, Houston, Texas 77002.

14 Q. Who is your employer, and what is  
15 your present position?

16 A. Clean Line Energy Partners, and the  
17 position is director of development.

18 Q. Have you prepared certain testimony  
19 and exhibits that you wish to offer in this  
20 proceeding that were prefiled with the  
21 Commission's e-Docket system?

22 A. Yes.

23 Q. Do you have before you a document  
24 that is titled Direct Testimony of Mark O. Lawlor

1 on Behalf of Grain Belt Express Clean Line, LLC,  
2 that is identified as Grain Belt Express 7.0?

3 A. Yes.

4 Q. And Grain Belt Express Exhibit 7.0  
5 consists of a cover page, followed by a table of  
6 contents and 34 pages of written questions and  
7 answers; correct?

8 A. Correct.

9 Q. Is Grain Belt Express Exhibit 7.0 the  
10 prepared direct testimony you wish to offer in  
11 this proceeding?

12 A. Yes.

13 Q. Do you have any corrections or  
14 changes to make to Grain Belt Express Exhibit  
15 7.0?

16 A. No.

17 Q. If I were to ask you at this hearing  
18 the questions in Grain Belt Express Exhibit 7.0,  
19 would your answers be the same?

20 A. Yes.

21 Q. Do you have before you documents that  
22 have been marked for identification as Grain Belt  
23 Express Exhibits 7.1 through 7.21?

24 A. Yes.

1           Q.     Are these exhibits to your direct  
2 testimony?

3           A.     They are.

4           Q.     Were Grain Belt Express Exhibits 7.1  
5 through 7.21 prepared under your supervision and  
6 direction?

7           A.     Yes.

8           Q.     Do you have any corrections or  
9 changes to make to any of Grain Belt Express  
10 Exhibits 7.1 through 7.21?

11          A.     No.

12          Q.     Is the content of these exhibits true  
13 and accurate to the best of your knowledge and  
14 belief?

15          A.     No.

16          Q.     Are these exhibits further identified  
17 and described in your prepared direct testimony?

18          A.     Yes.

19          Q.     Do you have before you a document  
20 that is titled Rebuttal Testimony of Mark O.  
21 Lawlor on Behalf of Grain Belt Express Clean  
22 Line, LLC, that is identified as Grain Belt  
23 Express Exhibit 7.22?

24          A.     Yes, I do.

1 Q. Grain Belt Express Exhibit 7.22  
2 consists of a cover page and table of contents,  
3 followed by 26 pages of written questions and  
4 answers; correct?

5 A. Correct.

6 Q. Is Grain Belt Express Exhibit 7.22  
7 the rebuttal testimony you wish to offer in this  
8 proceeding?

9 A. Yes.

10 Q. Do you have any corrections or  
11 changes to make to Grain Belt Express Exhibit  
12 7.22?

13 A. No.

14 Q. If I were to ask you at this hearing  
15 the questions in Exhibit 7.22, would your answers  
16 be the same?

17 A. Yes.

18 MS. CISNEROS: We offer the exhibits  
19 submitted by Mr. Lawlor into evidence and offer  
20 Mr. Lawlor for cross-examination.

21 JUDGE VON QUALEN: I'll withhold  
22 ruling on the evidence.

23 And is there any cross-examination?

24 MR. DAVIS: Yes, Your Honor.

1 MR. PHILLIPS: Your Honor -- sorry.

2 This is Jon Phillips.

3 I think there's a -- there's no  
4 longer someone sitting at -- or an empty desk  
5 there.

6 JUDGE VON QUALEN: Aha. Let me see  
7 if I can get some technical assistance.

8 Chicago, do you hear me?

9 MR. SAGONE: Yes, Your Honor.

10 JUDGE VON QUALEN: Barely, I can hear  
11 you.

12 MR. SAGONE: We've lost the video  
13 link, but we can hear you at this time.

14 JUDGE VON QUALEN: All right. Let me  
15 go and check about the video link, and when I  
16 come back, we can continue, I think, without the  
17 video for a while --

18 MR. SAGONE: We've actually already  
19 got IT on it. So you don't have to worry about  
20 that part.

21 JUDGE VON QUALEN: Very well, then.  
22 Let's continue.

23 Cross-examination.

24 MR. DAVIS: Yes.

1 CROSS-EXAMINATION

2 QUESTIONS BY MR. DAVIS:

3 Q. Mr. Lawlor, my name is Chuck Davis,  
4 and I have Laura Harmon here with me. We  
5 represent the Illinois Farm Bureau, and I do have  
6 a few questions for you.

7 If you don't understand a question or  
8 you don't hear me, please ask and I'd be happy to  
9 repeat the question.

10 In your testimony you reference  
11 publication of a website for this project  
12 pursuant to Section 8-406.1; is that correct?

13 A. Do you have the page reference for  
14 me?

15 Never mind. I found it. Yes. Yes,  
16 it's in here.

17 Q. Are you in charge of the website?

18 A. Not directly.

19 Q. What is your involvement with the  
20 website?

21 A. I help oversee content, edits,  
22 updates.

23 Q. And are you a part of this process  
24 because of your job related to the Grain Belt

1 project?

2 A. Yes.

3 Q. Are you in charge of the public  
4 outreach portion of the Grain Belt proposed  
5 project?

6 A. Yeah. I describe in my direct  
7 testimony my roles and responsibility as it  
8 relates to this project. So I oversee public  
9 outreach among other things.

10 Q. I took a look at the website, and it  
11 references that the Missouri application to the  
12 Missouri Public Service Commission for Grain Belt  
13 was denied; is that correct?

14 A. Yes.

15 Q. Is it correct that the project in  
16 Illinois cannot proceed and will not be built  
17 unless and until Missouri approval occurs with  
18 this proposed project?

19 A. Yeah. The project involves four  
20 states; and, you know, by definition, you know,  
21 we would need the necessary approval in all four  
22 states to ultimately complete the project. And I  
23 describe in my testimony, as does Mr. Skelly, our  
24 available options to secure the necessary

1       approvals in Missouri.

2               Q.     So at this point there's no approval  
3       in Missouri, and unless and until that occurs,  
4       you are not able to proceed in Illinois; is that  
5       correct?

6               A.     Well, that would all be dependent  
7       upon, you know, the outcome of this docket, what  
8       the Order would instruct.

9               Q.     I guess I could simplify the  
10       question.  So, like you said, these states  
11       interconnect.  The line runs across several  
12       states.  If you can't build it in Missouri,  
13       you're not going to be able to build it in  
14       Illinois; correct?

15              A.     Yeah.  As I mentioned, it's a single  
16       project across four states.

17              Q.     In your testimony, you state -- and  
18       I'll quote -- "Grain Belt Express seeks to  
19       acquire as much of the required right-of-way as  
20       possible through voluntary negotiated  
21       transactions.  Grain Belt Express will not seek  
22       condemnation authority on a parcel unless and  
23       until it has exhausted reasonable efforts to  
24       acquire a transmission line easement through a

1 voluntary negotiated agreement."

2 MS. CISNEROS: Can you point him to  
3 where in the testimony that is?

4 MR. DAVIS: Sure. One moment,  
5 please.

6 Q. (By Mr. Davis) I believe it begins  
7 at line 523, on page 24. Is that an accurate  
8 representation of what I just stated? Lines 523  
9 through 527.

10 A. That line references the AIMA, unless  
11 my lines are different. Is that what you have?

12 MS. CISNEROS: Are you in direct  
13 testimony?

14 Q. (By Mr. Davis) It's Exhibit 7.0,  
15 page 24 of 34.

16 A. Okay. I think my pages are off for  
17 some reason, but I see it now.

18 Q. So is what I stated what's accurately  
19 reflected in your testimony?

20 A. Yes.

21 Q. Tell me what you mean by "reasonable  
22 efforts." "Exhaust reasonable efforts" -- what  
23 does that mean?

24 A. So we will engage with landowners

1 once the route has been approved by the  
2 Commission. We have -- as I outline in my  
3 testimony, there are certain state statutory  
4 requirements regarding notice and the initiation  
5 of negotiations. We have also -- as I've  
6 outlined in my testimony, compensation that we've  
7 offered is outlined, how we will offer to pay for  
8 the easement access, and typically it just  
9 involves a series of meetings and discussions  
10 about the individual's property.

11 We will have land agents that will  
12 work with us and for us to go and meet  
13 individually with landowners, walk their  
14 property, make necessary notations on land usage,  
15 calculate what the easement payments would be,  
16 and work with them to sign the agreement, as I  
17 mention here, which would be a voluntary easement  
18 agreement.

19 Q. So focusing on that "exhaust  
20 reasonable efforts," do you have any internal  
21 criteria at the company regarding the number of  
22 visits that you have with a landowner before you  
23 throw your hands up and say, "This isn't going to  
24 work"?

1           A.     No.  It's a little more nuance than  
2     setting hard and fast rules.  Depends upon the  
3     individual in each case and the desires they have  
4     whether they choose to make amendments or  
5     recommend amendments to the agreement.  They  
6     might have their own particular circumstances  
7     that require additional attention.

8                     But the point that we want to  
9     emphasize is that we want to give all the  
10    necessary time to work with each landowner and  
11    address their concerns.  We know that this  
12    process sometimes can take many, many months,  
13    maybe a year, to do so.  And, you know, the way  
14    our schedule is set up, we don't foresee, you  
15    know, that needing to be compressed.  So we'll  
16    give folks, you know, the necessary time to work  
17    through the issues that we can work together on.

18           Q.     So your "reasonable efforts" relate  
19    to things such as the amount of time it takes to  
20    negotiate an easement, the price that you might  
21    arrive at, the relative terms of the easement  
22    agreement.  Am I missing anything?  Are those  
23    correct?

24           A.     Those are some of them.  I mean,

1 it -- like I said, there's a lot of individual  
2 factors. It's availability to, you know, meet in  
3 person; availability to, you know, spend time  
4 with that landowner addressing their concerns or  
5 issues. Oftentimes it takes multiple in-person  
6 meetings. If they have counsel, you know, might  
7 be exchanging, you know, drafts of easement  
8 agreements. Exhibits need to be drawn up. Yeah.  
9 There's a -- there's a lot that goes into  
10 ultimately getting an agreement signed.

11 Q. Let me give you a hypothetical  
12 scenario. So you have an offer on the table to a  
13 landowner, and then you don't sign on the dotted  
14 line. You don't get to the end. But then you  
15 get condemnation authority. Does that change the  
16 terms of the deal, or do you keep the deal that  
17 you have on the table with the landowner?

18 A. Well, again, it's probably going to  
19 be a case-by-case situation. If a landowner has  
20 a unique situation that goes beyond what we've  
21 made as a uniform offer, that would -- that would  
22 vary. But we do not -- we're not proposing to  
23 change the offer that we have before or after  
24 entering into a condemnation proceeding.

1           Q.     Is it correct that in other states --  
2     in your testimony, in Missouri or in Kansas --  
3     that you've made commitments to keep the deal on  
4     the table just like I described even after  
5     condemnation authority is obtained?

6           A.     I would -- you have to refer me to  
7     where that was made, but as a general rule, yes,  
8     we -- our offer -- like I say, we're -- our goal  
9     throughout this project and throughout every  
10    state is that the offer be, you know, uniform and  
11    not special treatment.  However, unique  
12    circumstances of someone's property will be  
13    considered, but there's not a difference in  
14    compensation dependent upon when you would sign  
15    an easement.

16          Q.     So you say no special treatment.  On  
17    the opposite side of that, is there no negative  
18    treatment if you wait to sign an easement until  
19    after condemnation authority has been obtained by  
20    Grain Belt?

21          A.     Yeah.  As a general rule, we will  
22    keep the same offer that we had, you know, prior  
23    to seeking that authority.

24          Q.     Is it correct that Grain Belt has not

1 committed to using a monopole structure over a  
2 lattice structure for this project in Illinois?

3 A. Could you repeat the question?

4 Q. Do you know what a monopole structure  
5 is for transmission lines?

6 A. Yes, I do.

7 Q. And do you know what a lattice  
8 structure is, as opposed to a monopole structure,  
9 for a transmission line?

10 A. Yes.

11 Q. Is it accurate that, for your  
12 proposed construction in Illinois, that Grain  
13 Belt has not committed at this point to  
14 exclusively using monopole structures?

15 A. No. That would not be accurate. We  
16 have committed -- and it's been memorialized in  
17 the Agricultural Impact Mitigation Agreement with  
18 the Illinois Department of Agriculture -- that in  
19 agricultural lands we'd be using monopole  
20 structures when -- along tangent, straight-line  
21 segments of a route.

22 Q. I'd ask that you please refer to one  
23 of your sponsored exhibits, which is the AIMA  
24 that you're referring to, which is Exhibit 7.15.

1           A.     Okay.

2           Q.     And I'd ask that you turn to what  
3           appears to be page 4.  It's paragraph 3(A).  The  
4           headline states Support Structure Type and  
5           Placement.  Do you see what I'm referring to?

6           A.     Yes.

7           Q.     Subpart A -- would you read that out  
8           loud for me, please?

9           A.     "Tangent structures (straight-line,  
10           non-turning structures) will utilize only single  
11           drilled pier concrete foundations or direct embed  
12           type foundations that are typical of single pole  
13           type structures.  Clean Line will not utilize  
14           multi-foundation lattice type structures for  
15           tangent structures, though such structures may be  
16           used for turns, long spans such as river  
17           crossings, and similar situations where specific  
18           engineering and environmental challenges are  
19           present."

20          Q.     What would you define as a long span?

21          A.     I would -- anything that is not a,  
22           what I call, typical span, which would require  
23           special engineering.  So we have outlined in  
24           other parts of my testimony the typical span

1 lengths for monopole and lattice structures  
2 generally within a range. So as it qualifies  
3 here, if there are specific engineering and  
4 environmental challenges like crossing a river,  
5 you might need a longer span.

6 Q. How many miles on the Illinois  
7 portion of the project do you believe will  
8 require longer spans and how many do you believe  
9 will require shorter spans?

10 A. I would not be able to venture a  
11 guess. We would have -- Dr. Galli, perhaps,  
12 would be better suited to answer that.

13 Q. How many landowners have signed  
14 voluntary easements in Illinois for this proposed  
15 project?

16 A. We have not begun formal negotiations  
17 with landowners in Illinois.

18 Q. When do you plan to start?

19 A. We would plan to start sometime  
20 following the Order from this Commission in this  
21 docket.

22 Q. Why didn't you start before?

23 A. Well, I outline this in my testimony,  
24 but one of the reasons that we would need to know

1       what the particular route is.  As you know, we  
2       file a proposed and alternate route, and the  
3       Commission will need to determine which of those  
4       will be the ultimate route.  So until that's  
5       known, it's hard for us to know who we would be  
6       negotiating with.

7                Q.     Am I correct that your employer is  
8       Clean Line Energy Partners?  Is that right?

9                A.     Correct.

10              Q.     And are you aware that there are  
11       other projects that Clean Line Energy Partners  
12       has proposed other than the Grain Belt project;  
13       is that correct?

14              A.     I am aware, yes.

15              Q.     How does this compare to your other  
16       projects with the timing of negotiating for  
17       voluntary easements with landowners?  Is this  
18       typical -- that you wait until after you get an  
19       Order from the Commission, or do you typically  
20       engage the public in this before?

21                    MS. CISNEROS:  Objection.  His  
22       testimony is not about the other projects.  He's  
23       speaking directly towards the Grain Belt project  
24       here.

1                   MR. DAVIS: I can lay some more  
2 foundation, Your Honor.

3                   JUDGE VON QUALEN: Very well.

4           Q.       (By Mr. Davis) Let's talk about this  
5 project first, Grain Belt, in Missouri. Did you  
6 start voluntary easement negotiations with  
7 landowners before you went to the Commission?  
8 During the Commission? You haven't obtained an  
9 order approving it yet. What's the status of the  
10 landowner negotiations in Missouri?

11           A.       Yes. We began negotiations with  
12 landowners shortly after filing in Missouri, but  
13 in that case there's not a statutory requirement  
14 such as there is in Illinois to file a proposed  
15 and alternate. It's simply a proposed route. So  
16 in that case we had better knowledge of where the  
17 route would be; and therefore the landowners with  
18 whom we'd be negotiating.

19           Q.       Same question for Kansas.

20           A.       It's the same -- same answer as  
21 Missouri. When we filed, there was a proposed  
22 route. There weren't alternatives in play. So  
23 we knew who the landowners were.

24           Q.       Same question for Indiana.

1           A.     We have not begun negotiations with  
2     landowners in Indiana.  In fact, there's only one  
3     landowner.

4           Q.     The other projects that are proposed  
5     by Clean Line Energy Partners -- are you familiar  
6     in your position at the company with the easement  
7     negotiation process in any of the other projects?

8           A.     No.  I mean, I -- no, I'm not -- I  
9     can't attest to kind of where they were or where  
10    that process is.

11          Q.     Do you have any job responsibilities  
12    for any of the other projects other than the  
13    Grain Belt project?

14          A.     Not directly, no.

15          Q.     Thank you very much.  No further  
16    questions at this time.

17                   JUDGE VON QUALEN:  Concerned Citizens  
18    and Property Owners.

19                   MR. MCNAMARA:  Yes, Judge.  I have  
20    some questions.

21                   JUDGE VON QUALEN:  We refer to them  
22    as CCPO sometimes.

23                   COURT REPORTER:  Thank you.

24                   JUDGE VON QUALEN:  Go ahead,

1 Mr. McNamara.

2 CROSS-EXAMINATION

3 QUESTIONS BY MR. MCNAMARA:

4 Q. Mr. Lawlor, you're an attorney?

5 A. I do have a law degree. I'm not  
6 practicing as an attorney in my current position.

7 Q. Are you admitted in any states?

8 A. I'm sorry?

9 Q. Are you admitted to practice in any  
10 states?

11 A. Yes, sir.

12 Q. Which states?

13 A. Missouri and Kansas.

14 Q. And are you generally familiar with  
15 the exhibits that you're sponsoring?

16 A. Yes, sir.

17 Q. Did you prepare these exhibits?

18 A. They were prepared at my supervision,  
19 if not directly.

20 Q. Likewise, I notice throughout your  
21 testimony from time to time you commit the  
22 company to do certain things. Are you authorized  
23 to enter into those types of commitments?

24 A. I'm usually presenting those

1 commitments on behalf of the company. So yes.

2 Q. So you're the com -- you are one of  
3 the company representatives that can commit to  
4 certain actions?

5 A. Yes, to certain actions.

6 Q. Do you have in front of you -- I  
7 wonder if you would grab Grain Belt Express  
8 Exhibit 7.17.

9 A. Got it.

10 Q. Okay. Is this a document that you're  
11 familiar with?

12 A. Yes, sir.

13 Q. Were you part of the team that  
14 prepared this document?

15 A. I wouldn't say that I prepared -- was  
16 part of preparing it, but I'm familiar with it.

17 Q. Familiar with the terms and contents?

18 A. Yes.

19 Q. With regard -- and this is a  
20 Transmission Line Easement Agreement, is it not?

21 A. It is.

22 Q. Is this the agreement that you would  
23 intend to use in negotiating a possible easement  
24 with a landowner?

1           A.     Yes.  This is a form of easement.  I  
2     don't know that it's been finalized to exactly  
3     match all the Illinois state requirements, but in  
4     general, the contents here are representative of  
5     the easement we would present to landowners.

6           Q.     Well, let me ask you this then:  Have  
7     you had this Transmission Line Easement Agreement  
8     vetted by any other lawyers?  Any Illinois  
9     lawyers?

10          A.     I don't recall.

11          Q.     Am I correct, then, that this is, in  
12     general, an easement that you might or might not  
13     use if you get authority here in the state of  
14     Illinois?  Would that summarize your testimony?

15          A.     Can you repeat the first part of  
16     that?

17          Q.     Is this an agreement -- this  
18     transmission agreement, 7.17 -- an agreement that  
19     you might or might not use if you obtain  
20     authority from this Commission?

21          A.     Yes.  And it's consistent with the  
22     easements we've used in other states in content.

23          Q.     Will there be a time that you will  
24     furnish this Commission an exhibit, even a

1 late-filed exhibit, that will set forth the terms  
2 of a proposed easement with landowners?

3 A. You mean an easement different than  
4 this one?

5 Q. I mean an easement that you commit to  
6 use in negotiating with landowners.

7 A. Yeah. So let me be clear. This is  
8 what we do commit to submit to landowners. As  
9 you know, there are some blank spots and  
10 sometimes there's headers and footers that are  
11 required to meet legal standards in Illinois;  
12 but, again, the content is what we intend to use.

13 Q. Will there be any other types of  
14 agreements that you might use to modify 7.17?

15 A. They -- they're -- they typically  
16 include exhibits. This one has an Exhibit A and  
17 typically describe the parcel. It also will make  
18 reference to the AIMA. So outside of that, I'm  
19 not aware of any documents that we would be  
20 using.

21 Q. So your agreement to acquire an  
22 interest in property from the landowner will be  
23 incorporated in this transmission line agreement;  
24 is that correct?

1           A.     Yes.

2           Q.     And it will be a public agreement  
3 that will be filed in the necessary county?

4           A.     The agreement itself typically is not  
5 filed. I'm not a hundred percent sure on the  
6 county-by-county requirements; but, typically, we  
7 file a Memorandum of Agreement, but there is a  
8 record made of the easement in the public  
9 records.

10          Q.     And it will be a public record open  
11 to perusal by all landowners?

12          A.     Which record are you referring to?

13          Q.     The transmission line agreement.

14          A.     Yeah. It will be a form of easement,  
15 which will be the same for what we present to  
16 every landowner. And it's been, again, publicly  
17 distributed in this form.

18          Q.     As you sit here today, are you  
19 willing to commit the company to refrain from  
20 entering into confidential settlement agreements  
21 with various particular landowners?

22          A.     I can't say that I have the authority  
23 to make that commitment at this time.

24          Q.     I believe, when counsel questioned

1       you, you said that you intended that there would  
2       be no special treatment for various landowners;  
3       is that correct?

4             A.       That's correct.

5             Q.       And consistent with that, would you  
6       agree that your company will not enter into  
7       special agreements with various landowners?

8             A.       I guess I don't know -- not sure what  
9       you mean by "special agreements."

10            Q.       Any type of confidential settlement  
11       agreement that might, for instance, modify the  
12       terms of 7.17.

13            A.       Again, sometimes these are -- the  
14       confidentiality of the agreements are requested  
15       by landowners. It's a two-way or sometimes  
16       multiparty agreement. So I can't really speak to  
17       what other parties of the contract would request.

18            Q.       Let's assume that the other parties  
19       do not request confidentiality. Are you  
20       agreeable that your deal from landowner to  
21       landowner will be essentially the same but for  
22       compensation?

23            A.       Well, I generally, in principle,  
24       agree to that. However, there are times where

1 individual circumstances of a landowner may  
2 require revisions to the easement. They might  
3 have a special-use activity going on.

4 But the fundamental compensation is  
5 the same, you know, regardless. The crop damage  
6 calculation, the easement, the pole payments --  
7 all these are uniform. But these are  
8 hypotheticals that it's hard for me to, you know,  
9 commit to in the future.

10 Q. Let me simplify it a little bit. If  
11 a landowner has a particular reason to require  
12 some modification of 7.17, will you put those  
13 modifications in the easement itself?

14 A. Yes. They will need to be -- yes.

15 Q. And you'll commit the company to  
16 doing that?

17 A. If a landowner requests a  
18 modification of easement, will we put it in the  
19 easement?

20 Q. Yes, sir.

21 A. Yes.

22 Q. Next, I'm going to refer your  
23 attention to the first page, subparagraph (b).  
24 Do you have that in front of you, sir?

1           A.     I do.

2           Q.     Are we in agreement that this  
3           subparagraph would allow you not only to  
4           construct this particular transmission line but  
5           other transmission lines could be constructed  
6           within the easement?

7           A.     We are not.

8           Q.     We're not in agreement?

9           A.     We are not in agreement, no.

10          Q.     Can you please point out to me where  
11          this easement is limited to one transmission line  
12          and this transmission line in particular.

13          A.     Just confirming that identified the  
14          appropriate language.

15                    So in paragraph 2, for beginners, it  
16          explains that landowner hereby grants and convey  
17          unto Grain Belt, perpetual, exclusive easement to  
18          construct and operate and maintain an overhead  
19          transmission line as further described below. So  
20          it makes reference to a single transmission line.

21                    And, then, throughout the document,  
22          including in paragraph (b), it again refers to an  
23          overhead transmission line, singular.

24                    It describes facilities. Facilities

1 are described and explained in the exhibit. So  
2 in Exhibit B it will describe the easements and  
3 the structures.

4 So there is specific language in here  
5 that specifies this is for the Grain Belt Express  
6 project exclusively. It would have to have  
7 additional reference to other facilities if one  
8 were to acquire those rights.

9 Q. So based upon your interpretation,  
10 you're willing to commit to this Commission that  
11 this easement is to be used for the construction  
12 of this project and no other project?

13 A. Yes. We -- I would definitely  
14 commit, and we've always had that commitment, and  
15 I'll reaffirm that commitment.

16 Q. Next, I want to refer your attention  
17 to page 2, subparagraph (d). 2(d).

18 A. Got it.

19 Q. With regard to the easements in  
20 question, they will vary in width somewhat; is  
21 that correct?

22 A. Yes.

23 Q. And what will be the width -- the  
24 largest to the smallest width?

1           A.     So the width will be determined by  
2     the structure type in conjunction with the  
3     topography of the land.  The typical width will  
4     be somewhere between 150 and 200 feet.  That's  
5     for the typical structures.

6                     If it's a monopole structure, it will  
7     be on the low end of that.  If it's a lattice  
8     structure, it will be on the high, towards the  
9     200-foot width.  And if there are special, again,  
10    engineering requirements that require a wider  
11    easement, then -- then we would need that, but  
12    we've specified those locations.  I believe it's  
13    in our application as to where we would need  
14    potentially wider easements -- again, around  
15    river crossings and certain topography.

16           Q.     Am I correct that, notwithstanding  
17    the width of the easement, you retain the right  
18    and would obtain the right to go to and from the  
19    easement over the remaining property of the  
20    landowner in question?

21           A.     Yes.  Where access is not possible  
22    through the easement itself, we would have the  
23    right to get access to the facilities; but in  
24    most instances, it is accessible within the

1       easement itself.

2               Q.     But regarding paragraph 2(d), you  
3       would have the right, would you not, to go to and  
4       from the easement over the remaining property of  
5       the landowner?

6               A.     Yes.  2(d) grants the right to get  
7       access if you cannot gain access to the property  
8       through the easement itself.  We, of course, will  
9       include an access plan with the landowner.  
10      Typically, those are outlined in writing with  
11      that landowner to ensure minimal impact.  Of  
12      course, we're still liable for any impact that  
13      is -- does take place through that access.  In  
14      the rare circumstance where you can't access the  
15      property or facilities through the easement, this  
16      would allow you to do so.

17              Q.     And, in that regard, would you agree  
18      to make your access plan part of this agreement  
19      with the landowner, part of your easement?

20              A.     Yeah.  Typically, those are included  
21      in -- perhaps as an exhibit to the agreement with  
22      the landowners if it is, in fact, known at the  
23      time of signing the easement.  Sometimes it's  
24      determined later on through engineering, but in

1       either event, we will, you know, work with the  
2       landowner to discuss access. We don't have any  
3       interest in having any more access than is  
4       absolutely necessary because that creates  
5       potential impact and cost. So we try to keep  
6       that to a minimum.

7               Q.       Back to paragraph 2(d), will you  
8       negotiate with the landowner on a landowner-by-  
9       landowner basis and limit your access to the  
10      easement either to the easement or to a specific  
11      access point set forth in the easement?

12             A.       Yeah. And I think I was -- I was  
13      trying to allude to or explain before is that,  
14      yes, we will negotiate with the landowner where  
15      the access will be if it's not within the  
16      easement.

17             Q.       And you'll make it either part of the  
18      easement itself or a document attached to and  
19      incorporated in the easement?

20             A.       Yeah. Typically, it's a landowner-  
21      driven discussion. They have input, and there's  
22      a -- often a transportation plan and access plan  
23      that's put into place. Sometimes those are  
24      known, like I said, at the time of the easement;

1 sometimes they're added. But, typically, it's  
2 something that's worked out through the  
3 contractor and the landowner.

4 Q. Can we agree, then, that you will  
5 limit your access to the easement except as may  
6 be specifically set forth in your transmission  
7 line agreement?

8 A. Yeah. I'm thinking that's what  
9 I've -- what I just answered.

10 Q. Thank you.

11 Referring your attention to paragraph  
12 3 of the easement, you retain certain rights, do  
13 you not, to limit the activities of the landowner  
14 outside of the easement itself?

15 A. Can you reask the question?

16 Q. With regard to paragraph 3, on page 2  
17 of the easement, you not only control use within  
18 the easement but you also control in certain  
19 respects the use of the landowner's land outside  
20 of the easement itself.

21 A. Paragraph 3 makes reference to  
22 activities outside of the easement that may  
23 encroach upon or create a safety issue within the  
24 safe operation of the line and within the

1        easement, particularly with, you know, overgrowth  
2        of trees. So while there is, it's really only  
3        impacting that land to the extent it encroaches  
4        within the easement.

5            Q.        You lost me there at the end. Am I  
6        correct that, pursuant to paragraph 3, you have  
7        the right -- the company has the right in its  
8        discretion to limit the use of the land outside  
9        the easement?

10            A.        I believe the only use at reference  
11        here is that of tree trimming.

12            Q.        And that would be in the discretion  
13        of your company?

14            A.        It would be in line with safety  
15        standards that are typically set by National  
16        Electric -- by the NERC, rather, or state  
17        standards. We are tasked with enforcing those  
18        standards. So there would be interpretation of  
19        that as they pertain to safety requirements.

20            Q.        Your acronym NERC -- that's N-E-R-C?

21            A.        Yeah. National Electric Reliability  
22        Corporation.

23            Q.        Are you willing to commit the company  
24        to modify this agreement that you will only limit

1 the activities of the landowner outside the  
2 easement as per NERC requirements?

3 A. It would require a modification to  
4 the language here. I'm not in a position to do  
5 that, you know, as we sit here today.

6 Q. So you're not at this time willing to  
7 commit the company to that type of a  
8 modification?

9 A. Well, it's not that I'm not willing  
10 to. What I'm saying is that would require a  
11 modification of this language in the easement  
12 which is here because of NERC requirements. So  
13 the intended concern is driven by -- by the  
14 safety and the requirements. So I can't change  
15 the language here as we sit.

16 Q. Are you, in general, willing to  
17 commit the company to utilize paragraph 3 only as  
18 may be necessary to comply with NERC?

19 MS. CISNEROS: Objection. You know,  
20 he's explained that -- why that portion -- why  
21 that phrase is in there as it relates to NERC and  
22 what he is able to do at this point with the  
23 agreement. I believe he's explained his answer  
24 as it relates to NERC.

1                   MR. MCNAMARA: Well, it's my  
2 understanding that this is going to be the  
3 agreement with the landowner. I think we ought  
4 to have some specificity.

5                   Q.       (By Mr. McNamara) Would you be  
6 willing to consider such a modification and let  
7 us know before the end of these hearings?

8                   A.       Yeah, I'm willing to consider it. I  
9 don't know to the extent --

10                  Q.       Will you make yourself available at  
11 some point in time throughout these hearings to  
12 get back with us and either let us know one way  
13 or another?

14                  A.       I guess I would just need to know  
15 what the specific ask is.

16                  Q.       Pardon?

17                  A.       I just know need to know what the  
18 specific request is.

19                  Q.       Here's my request: With regard to  
20 paragraph 3, the company has the right to limit  
21 the landowner as to certain activities outside  
22 the easement. The company has the right to cut  
23 trees outside the easement. It's my  
24 understanding from your testimony that you're

1 telling us that we're only going to use this in  
2 order to comply with NERC.

3 If that's your testimony, what I  
4 would like is some specificity in the proposed  
5 agreement with the landowner so that we have no  
6 misunderstandings 5, 10, 15, 20 years from now.  
7 Are you willing to entertain such a suggestion  
8 and get back with us with your answer before the  
9 end of these proceedings?

10 A. Yeah. I will just restate that this  
11 is the intent of the language that you see in the  
12 easement, that it's not just NERC. It could be  
13 other safety requirements that are either known  
14 or unknown or by state or federal or other  
15 entities. So the intent is reflected.

16 We are willing to work with any  
17 landowner to modify and, you know, add to and  
18 include language such as that. These are, again,  
19 agreements between Grain Belt and landowners that  
20 are often modified; but, again, we don't have any  
21 objection to that request in principle because  
22 that's why this language is in here. So it's --  
23 it's -- and, again, we don't have objection to  
24 that -- that concept.

1                   But I'm not sure how I would go about  
2 this request. I don't know if this is, like, a  
3 formal pleading, changing amend -- I'm just not  
4 sure what to do with the request.

5           Q.     My question is will you modify the  
6 agreement to set forth those exceptions which you  
7 want to use paragraph 3 for? It could be very  
8 simple. If you could send -- if you're not going  
9 to be here for all the proceedings, send me an  
10 e-mail, and we'll make it part of the record.  
11 Give you a day or two to think about it.

12                   But I think, if we're going to have  
13 an agreement -- proposed agreement with the  
14 landowner, it ought to be clear as to what you  
15 really mean. Can we agree that you will send me  
16 an e-mail, and you'll say either we won't do it  
17 or we will do it and here's what we propose?

18           A.     Yes.

19           Q.     Fair enough?

20           A.     I can agree to that.

21           Q.     Thank you, sir.

22                   I'm going to refer your attention to  
23 page 3 of the 7.17, paragraph 6.

24           A.     Okay.

1           Q.     It's my understanding that Grain  
2 Belt, pursuant to this agreement, can terminate  
3 the agreement within 120 days -- 180 days'  
4 notice; is that correct?

5           A.     Yes

6           Q.     And that would allow Grain Belt to  
7 avoid any commitment it has pursuant to this  
8 easement agreement.

9           A.     I'm not sure I understand the  
10 question.

11          Q.     Well, if I'm a landowner and I  
12 execute this easement and your company changes  
13 its mind, all it has to do is send me a 180-day  
14 notice.

15          A.     Correct, I mean, but it also depends  
16 on where you are on the process of -- are you  
17 in development? Are you in operation? The  
18 notice -- your statement is correct but -- yeah.

19          Q.     Were you part of the team that was  
20 responsible for placing the notice in the  
21 official state newspaper within ten days after  
22 the filing of this application?

23          A.     Yeah. It was part of my team's  
24 responsibility to publish that notice.

1 Q. And you're familiar with the notice?

2 A. Yeah. Just to refresh my memory, can  
3 you --

4 Q. Sure. Take your time.

5 A. The exhibit number was?

6 Q. I see a notice of filing April 29.

7 MS. CISNEROS: Do you have an exhibit  
8 number for him?

9 MR. MCNAMARA: I do not believe it's  
10 been made an exhibit. I don't -- maybe it has.  
11 I'm not aware of it. I got it from the records.  
12 I could stand corrected if you've got that -- an  
13 exhibit.

14 MS. CISNEROS: No. We -- it was  
15 filed on e-Docket.

16 MR. MCNAMARA: Okay. That's where I  
17 got mine.

18 A. Yeah. Exhibit 7.12 is a copy of the  
19 notice.

20 Q. (By Mr. McNamara) And it  
21 specifically refers to a map of the primary and  
22 alternate route; is that correct?

23 Excuse me, Mr. Lawlor. Do you have  
24 it in front of you?

1           A.     I'm not sure if we're looking at the  
2     same thing; so if you could --

3           Q.     And I'm not either.  Counsel just  
4     pointed out to me that it appears that 7.12 is  
5     different than the filing that you made with the  
6     Commission on April 29.  Specifically, it doesn't  
7     have a map.  Did you double-check these things?

8           A.     Again, I don't know what you're  
9     looking at.  So I can't really say for sure.

10           MR. MCNAMARA:  Okay.  May I approach  
11     the witness?

12           JUDGE VON QUALEN:  You may.

13           Q.     (By Mr. McNamara)  Hand you what's  
14     been referred to as a notice of filing.  It  
15     appears to be dated April 29, 2015.  Are you  
16     familiar with that document?

17           A.     I believe that what I have here is a  
18     notice with attached filing that was published in  
19     the Breeze Courier.  So yes.

20           Q.     On April 15 of this year; is that  
21     correct?

22           A.     It appears so, yes.

23           Q.     Then you've likewise, I believe,  
24     referred to Exhibit 7.12 for the exhibits in the

1 case?

2 A. Yes.

3 Q. How does it vary? How does Exhibit  
4 7 -- excuse me.

5 Can anyone -- are you able to get  
6 what I'm saying on the microphones?

7 JUDGE VON QUALEN: Can you hear us in  
8 Chicago? Can you hear Mr. McNamara?

9 CHICAGO: (Inaudible.)

10 JUDGE VON QUALEN: That was a "Yes."

11 MR. MCNAMARA: Okay. Maybe this will  
12 help.

13 Q. (By Mr. McNamara) How does your  
14 exhibit which you've referred us to -- I believe  
15 it's 7.12 -- vary what actually appeared in the  
16 newspaper?

17 A. Yeah. It appears as what appeared in  
18 the official state newspaper included a map. And  
19 now that I look at it, Exhibit 7.12 does not  
20 include the map. It's either -- you know, maybe  
21 a page was missing or else this was a -- perhaps  
22 a draft notice. So it would appear that my  
23 Exhibit 7.12 would need to be updated to reflect  
24 what was published in the paper.

1           Q.     With regard to the preparation of the  
2 notice, did you have a form that you used and  
3 filled in the form for the notice?

4           A.     The notice -- what was included in  
5 the notice was intended to follow the state  
6 either statute or regulation of what was required  
7 to officially notice the project. So we're just  
8 following what the -- what the statute said.

9           Q.     Well, maybe I wasn't clear. Was  
10 there a form notice that you were furnished by  
11 the Commission to fill in, or did you use your  
12 own judgment to prepare the notice in general to  
13 conform with either a statute or a reg?

14          A.     To be honest, I don't recall the  
15 formulation of that.

16          Q.     Other than the wording of the notice  
17 and not having a map, does it appear that the  
18 notice is the same, your 7.12, and the  
19 certificate of publication?

20          A.     Yeah. That's why I think what we  
21 included in 7.12 must have been an earlier draft  
22 version because it has brackets where the website  
23 would go and the docket number is not filled in.  
24 So I think we mistakenly included an early draft

1 in my exhibits. So we can -- we can amend that  
2 and update it.

3 Q. The official notice in the newspaper  
4 appears to refer to certain specific routes; is  
5 that correct?

6 A. I believe so, yes.

7 Q. Does it also advise the public that,  
8 in addition to the certain specified routes, this  
9 Commission could very well determine different or  
10 other routes than are set forth in the  
11 publication?

12 A. Just to make sure I answer, if I can  
13 see your version again.

14 Q. Sure.

15 A. And then do you mind restating the  
16 question?

17 Q. With regard to the notice in the  
18 official state newspaper, does it advise the  
19 public that this Commission in this docket could  
20 very well approve other routes other than the two  
21 that you specifically refer to in the notice?

22 A. It doesn't specifically make note of  
23 that. It mentions proposed alternatives,  
24 references the docket number, and then how to

1 participate in the case.

2 Q. Counsel for the Farm Bureau referred  
3 your attention to the negotiation process. It's  
4 my understanding that you're going to use  
5 Contract Land Staff, at least initially, to  
6 negotiate with the landowners?

7 A. We haven't started direct  
8 negotiations with landowners. We have used  
9 Contract Land Staff in the past; but, you know,  
10 that ultimate decision for Illinois activity has  
11 not been finalized.

12 Q. So, as you sit here, it might or  
13 might not be Contract Land Staff?

14 A. Might or might not be, right.

15 Q. Counsel for the Farm Bureau attempted  
16 to determine some of your standards as to when  
17 you would proceed and attempt to get  
18 authorization from this Commission to commence  
19 eminent domain proceedings. Do you have any  
20 standards established at this time as either to  
21 the length of negotiation or the contacts with  
22 the landowners or any other standards --  
23 objective standards by which a landowner might  
24 determine whether or not you're negotiating in

1 good faith?

2 A. Well, my answer wouldn't really vary  
3 from what I previously gave around the way we  
4 approach easement acquisition.

5 But it is also important to note  
6 that, in order to come to the Commission at a  
7 later date to get eminent domain authority, one  
8 must also demonstrate that they use good-faith  
9 efforts to negotiate with landowners.

10 So in addition to the activities I  
11 describe in our approach, there's also a legal  
12 standard that we must prove that we carried out  
13 in front of this Commission.

14 Q. Have you established any protocol in  
15 other states as to how many contacts you have  
16 with the landowner before you attempt to proceed  
17 to eminent domain?

18 A. Again, it -- it just varies quite a  
19 bit by landowner, and in other states where we've  
20 negotiated, we've had dozens upon dozens of  
21 contacts with an individual. And we're willing  
22 to make -- take as much time as, you know, is  
23 reasonable to get there. Again, because that's  
24 not a driving factor to the project schedule, we

1 have the ability to allow enough time to work  
2 through these negotiations in good faith.

3 Q. It's likewise my understanding, in  
4 negotiating with landowners, you will agree to  
5 either a one-time payment per pole or, in the  
6 alternative, a yearly payment per pole with a 2%  
7 increase.

8 A. That's correct.

9 Q. This will be in addition to the  
10 amount that you pay for the easement itself.

11 A. Correct.

12 Q. How much per pole?

13 A. On an annual basis or on --

14 Q. Well, on a one -- first off, let's  
15 hit the one time. How much are you willing to  
16 pay per pole on a one-time basis?

17 A. So on the -- as I include in Exhibit  
18 7.9, for the monopole we would pay a one-time  
19 payment of \$6,000 per structure and \$18,000 for  
20 the lattice structure for the one-time payment.

21 Q. Let's assume, instead of a one-time  
22 payment, the landowner determines a yearly  
23 payment. How will you determine that?

24 A. For a monopole, it would be \$500 per

1 year with a 2% adder, and then \$15,000 a year for  
2 the lattice structure with 2% adder.

3 COURT REPORTER: With a 2% what?

4 A. Adder. An escalator would be a  
5 better word.

6 Q. (By Mr. McNamara) You retain the  
7 right to transfer the easement agreements to  
8 other parties; is that correct?

9 A. Yeah. As outlined in the easement  
10 agreement, there is a right to transfer the  
11 easement.

12 Q. What guarantee does a landowner have,  
13 either if you maintain control of the easement or  
14 you transfer it to another company, that, if the  
15 service is abandoned, those poles will be  
16 removed? The poles, the lines, the foundation,  
17 everything that affects the landowner's property.  
18 What guarantee do they have that in the future  
19 this line won't be aband -- will be abandoned and  
20 they'll just be stuck with it?

21 A. Well, first part of that answer is  
22 I'm not aware of any transmission line that's  
23 ever been abandoned and not been of some use.  
24 But in the event that someone was concerned with

1 that, we've added language to the easement  
2 regarding decommissioning.

3 Q. An agreement is only as good as the  
4 parties that sign it. How does anyone know --  
5 how does a landowner know that 10, 15, 20 years  
6 from now there will be a financially viable party  
7 to comply with the agreement?

8 A. Well, in part, as described in our  
9 application and other folks' testimony, the way  
10 this project is set up is we will have long-term  
11 contracts in place that, you know, formulate the  
12 ability to build, construct, and operate the line  
13 on a long-term basis, and it will be secured with  
14 long-term contracts, as Dave Berry can provide  
15 more information on. And so you don't even begin  
16 with the project until you have certainty that it  
17 will be financially viable for, you know, several  
18 decades, at least.

19 Q. Well, in several decades --  
20 hopefully, some of my clients will still be here  
21 in several decades.

22 Is your company willing to commit  
23 itself by posting a bond or some other security  
24 that would ensure, whether it be 20 years or 40

1 years from now, that these poles will be removed,  
2 the foundations will be taken out, and their land  
3 will be restored to the condition in which it  
4 exists today?

5 MS. CISNEROS: Objection. This goes  
6 beyond the scope of his testimony here. He's  
7 testified that Dave Berry would be the proper  
8 witness to discuss the financing conditions that  
9 go on this -- for this project. Your questions  
10 would be better directed there.

11 MR. MCNAMARA: Thank you.

12 Q. (By Mr. McNamara) Am I correct that,  
13 in the event your company is not able to reach a  
14 voluntary agreement with the landowner, that the  
15 company can file for permission with this  
16 Commission seeking eminent domain authority and  
17 the Commission is bound by the statute to either  
18 grant or deny that authority within 45 days?

19 A. I'm not sure I know the answer to  
20 that.

21 Q. Well, either -- do you agree that  
22 that's the law, or you don't know?

23 A. I don't --

24 Q. Or you say that's not the law.

1           A.     I don't -- I don't have that statute  
2 or provision in front of me.

3           Q.     That's fair.  So you're telling me  
4 you don't know.  Thank you.

5           A.     Yes.

6           Q.     I have nothing further at this time.

7           JUDGE VON QUALEN:  I don't believe  
8 any other parties had cross-examination for  
9 Mr. Lawlor.

10           You do.

11           MR. SHAY:  Your Honor, we -- LACI did  
12 not reserve any time; but, if I may, I have just  
13 one point regarding a provision in the ease --  
14 form of easement at 7.17 I'd like to ask.

15           JUDGE VON QUALEN:  You may.

16           MR. SHAY:  Should only take a moment.  
17 Thank you.

18                           CROSS-EXAMINATION

19           QUESTIONS BY MR. SHAY:

20           Q.     Mr. Lawlor, my name Bill Shay  
21 representing LACI.

22                           I want to direct your attention to  
23 your Exhibit 7.17, paragraph 6, on page 3 --

24           A.     Yeah.

1           Q.     -- where it says that "Grain Belt may  
2 terminate the agreement at any time upon written  
3 notice to the landowner and removing the  
4 facilities within 180 days of such notice."

5                     In the event that the situation  
6 Mr. McNamara described, that the line is removed  
7 from commercial operation and no longer used, and  
8 assuming that Grain Belt does not provide this  
9 notice to terminate to the landowner under  
10 paragraph 6, is there any obligation that you  
11 know of in this -- elsewhere in this agreement or  
12 in the AIMA that obligates Grain Belt to remove  
13 facilities?

14           A.     Not -- without reviewing it again, I  
15 don't believe so. I believe this is the one  
16 reference.

17           Q.     Okay. That's all I have.

18                     JUDGE VON QUALEN: I do have a couple  
19 questions for the witness. I hadn't intended to,  
20 but a couple things came up.

21                                     EXAMINATION

22                     QUESTIONS BY JUDGE VON QUALEN:

23           Q.     You were asked several questions  
24 about negotiations and what the company would be

1 doing about negotiations.

2           Would the negotiations include  
3 accommodating landowner concerns about pole  
4 placement and line placement?

5           A.     Yes.  As described, I believe, in the  
6 AIMA and has been our practice in other states  
7 where we're negotiating with landowners -- in  
8 fact, we've done this in Illinois in some  
9 places -- where we've worked with the landowners  
10 on pole placement to further reduce the impact to  
11 their ongoing operations.  So that's a pretty  
12 common thing to do.

13           To the extent there's an alignment  
14 change, we also have worked with landowners here  
15 in this state as well as others to make those  
16 accommodations where they are consistent with the  
17 routing criteria and are reasonable.  So that's  
18 quite common.

19           I believe in Illinois it requires to  
20 make some amendment to, you know, our  
21 application, but we are willing to do that and  
22 have -- that's been a practice of ours in the  
23 other states.

24           Q.     Thank you.

1                   And, then, when you refer to AIMA,  
2                   you're referring to the Agriculture Impact  
3                   Mitigation Agreement?

4                   A.       Yes.

5                   Q.       AIMA?

6                   A.       Yes.

7                   Q.       That's all the questions I have.

8                   MR. DAVIS:  Judge, can I ask one  
9                   follow-up question?  It's related to your  
10                  questioning that he answered.

11                  JUDGE VON QUALEN:  Yes, one question.

12                                 RE CROSS EXAMINATION

13                   QUESTIONS BY MR. DAVIS:

14                  Q.       The only question I have is that you  
15                  testified earlier that you haven't begun any  
16                  easement negotiations or -- with any landowners,  
17                  and then you just testified to the Judge's  
18                  question that already in Illinois you've worked  
19                  with landowners on pole placement.  How does that  
20                  reconcile?

21                  A.       Well, they're two different things.  
22                  We've been working with landowners on alignment  
23                  and pole placement since we started our public  
24                  outreach.  They helped us in formulating the

1 proposed and alternate routes. These are not  
2 negotiations for compensation, but it's a way for  
3 us to know how to align the route and, in some  
4 cases, pole placement in order to reduce the  
5 potential impacts of the project.

6 So they're not -- they're not  
7 really -- they're not the same as easement  
8 negotiations, but it's not to say that those such  
9 conversations can't happen in the future either.

10 JUDGE VON QUALEN: Does the company  
11 have any redirect?

12 MS. CISNEROS: Nothing, Your Honor.

13 JUDGE VON QUALEN: Thank you,  
14 Mr. Lawlor. You're excused.

15 The next witness I have on the  
16 schedule is Mr. Skelly.

17 It's about 20 minutes to 12:00. We  
18 will be taking a lunch break. Would the parties  
19 prefer to begin and do some of the  
20 cross-examination of Mr. Skelly before the lunch  
21 break? Yes?

22 MS. CISNEROS: Yes, please.

23 JUDGE VON QUALEN: Please proceed.

24 Good morning, Mr. Skelly. You were

1 previously sworn in; correct?

2 MR. SKELLY: Yes.

3 JUDGE VON QUALEN: You may proceed.

4 MICHAEL SKELLY,

5 of lawful age, having been produced, sworn, and

6 examined on behalf of Grain Belt Express,

7 testified as follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. MACBRIDE:

10 Q. Please state your name and business  
11 address.

12 A. Michael Skelly, 1001 McKinney, Suite  
13 700, Houston 77002.

14 Q. Who is your employer, and what is  
15 your present position?

16 A. Clean Line Energy, and I'm president,  
17 CEO, and chairman of the board.

18 Q. Mr. Skelly have you prepared certain  
19 prepared testimony and exhibits that you wish to  
20 offer in this proceeding that was previously  
21 filed on the Commission e-Docket system?

22 A. Yes.

23 Q. You have before you a document that's  
24 entitled Direct Testimony of Michael Skelly on

1       Behalf of Grain Belt Express Clean Line, LLC,  
2       that has been identified as Grain Belt Express  
3       Exhibit 1.0?

4             A.       Yes.

5             Q.       Does Grain Belt Express Exhibit 1.0  
6       consist of a cover page, followed by a table of  
7       contents and 60 pages of written questions and  
8       answers?

9             A.       Yes.

10            Q.       Is Grain Belt Express Exhibit 1.0 the  
11       prepared direct testimony you wish offer in this  
12       proceeding?

13            A.       Yes.

14            Q.       Do you have any corrections or  
15       changes to make to Exhibit 1.0?

16            A.       No.

17            Q.       If I were to ask you at this hearing  
18       the questions shown on Grain Belt Express Exhibit  
19       1.0, would your answers be the same?

20            A.       Yes.

21            Q.       Do you also have before you documents  
22       that have been marked for identification as Grain  
23       Belt Express Exhibits 1.1 through 1.4?

24            A.       Yes.

1 Q. Are these the exhibits to your direct  
2 testimony?

3 A. Yes.

4 Q. Were these exhibits prepared under  
5 your supervision and direction?

6 A. Yes.

7 Q. Do you have any corrections or  
8 changes to make to any of Grain Belt Express  
9 Exhibits 1.1 through 1.4?

10 A. Just -- just a couple. In 1.2, Diana  
11 Rivera is no longer with the company. She moved  
12 to Europe for a different opportunity.

13 And in the org chart in Exhibit  
14 1.3 -- no. I'm sorry. Yeah. In Exhibit 1.3,  
15 the EVP transmission --

16 COURT REPORTER: I'm sorry. The  
17 what?

18 A. The Exhibit 1.3. The box with the  
19 person whose title is EVP transmission and  
20 technical services should have an asterisk  
21 because that position is occupied by Dr. Wayne  
22 Galli.

23 Q. (By Mr. MacBride) Thank you.

24 With those corrections, is the

1 content of Exhibits 1.1 through 1.4 true and  
2 correct -- true and accurate to the best of your  
3 knowledge and belief?

4 A. Yes.

5 Q. And are these exhibits further  
6 identified and described in your prepared direct  
7 testimony?

8 A. Yes.

9 Q. Finally, do you have before you a  
10 document that is titled Rebuttal Testimony of  
11 Michael Skelly on Behalf of Grain Belt Express  
12 Clean Line, LLC, that is identified as Grain Belt  
13 Express Exhibit 1.5?

14 A. Yes.

15 Q. Does that exhibit consist of a cover  
16 page, table of contents, and five pages of  
17 written questions and answers?

18 A. Yes.

19 Q. Is Grain Belt Exhibit Express --  
20 Grain Belt Express Exhibit 1.5 the rebuttal  
21 testimony you wish to offer in this proceeding?

22 A. Yes.

23 Q. Do you have any corrections or  
24 changes to make to that exhibit?

1           A.     No.

2           Q.     And if I were to ask you at this  
3 hearing the questions set forth on Grain Belt  
4 Express Exhibit 1.5, would your answers be the  
5 same?

6           A.     Yes.

7           MR. MACBRIDE: We offer the exhibits  
8 identified by Mr. Skelly into evidence and offer  
9 Mr. Skelly for cross-examination.

10          JUDGE VON QUALEN: I'll defer ruling.

11          Is there any cross-examination?

12          MR. NEILAN: Yes, Your Honor. Mary  
13 Ellen Zotos -- we've reserved some time for  
14 cross-examination.

15          JUDGE VON QUALEN: Would you get the  
16 mic turned on and maybe a little closer.

17          MR. NEILAN: Is that better?

18          COURT REPORTER: You just need to  
19 speak up.

20          MR. NEILAN: Okay. Can you hear me  
21 now?

22          JUDGE VON QUALEN: I can hear you.

23          Can you hear him in Chicago?

24          CHICAGO: (Inaudible.)

1 COURT REPORTER: Was that a "Yes"?

2 JUDGE VON QUALEN: You said, "Yes, we  
3 can?"

4 MR. NEILAN: They can.

5 MS. ERICSON: Yes, Your Honor.

6 CROSS-EXAMINATION

7 QUESTIONS BY MR. NEILAN:

8 Q. Good morning, Mr. Skelly. My name is  
9 Paul Neilan. I'm an attorney for Mary Ellen  
10 Zotos. She's one of the landowners whose  
11 property may be transversed by the GBX line if it  
12 is built. Just have a few questions for you.

13 One thing just to clarify. In terms  
14 of capacity, if I use the term "transmission  
15 capacity," that's what I'm referring to as  
16 opposed to capacity which you'd agree refers to  
17 something else in this industry; correct?

18 A. Yeah. There's lots of ways that term  
19 is used.

20 Q. Yeah. Capacity on the line. Your  
21 transmission capacity.

22 A. Yeah.

23 Q. Okay. If I understand correctly, you  
24 have an MBA from Harvard; is that correct?

1           A.     Yes.

2           Q.     And so your understanding of business  
3           and economic terms is a pretty high level?  
4           Higher than the average guy on the street, say?

5           A.     Perhaps.

6           Q.     Okay.  So if someone used the term  
7           "demand," as in supply and demand, you'd have a  
8           pretty solid notion of what they're referring to?

9           A.     Yes.

10          Q.     And would you agree that demand is --  
11          it's not just a quantity, but it's that  
12          relationship between supply and demand where you  
13          have a ready, willing, able seller of a good and  
14          a ready, willing, able buyer and question of  
15          price?

16          A.     Sorry.  Can you just repeat the  
17          question?

18          Q.     Sure.  Your understanding of  
19          demand -- that it's not just, say, some quantity,  
20          but it's more of a relation as to where supply  
21          and demand meet, and demand would be what a  
22          ready, willing, able buyer would be interested in  
23          buying?

24          A.     So --

1 MR. MACBRIDE: Excuse me.

2 Judge, I object to the question as  
3 compound and convoluted.

4 MR. NEILAN: I'll break it up.

5 Q. (By Mr. Neilan) Would you agree that  
6 demand represents something that a ready,  
7 willing, and able buyer wants to buy at a  
8 particular time -- a good?

9 A. Demand is typically expressed in  
10 economics in a curve which is a function of  
11 price. So --

12 Q. Right.

13 A. -- as price goes up, demand typically  
14 drops. There are certain goods that --

15 Q. Well, that's -- that was the compound  
16 question to which counsel objected. Let me  
17 rephrase it.

18 By "demand," you have -- would you  
19 agree that, if you have demand in an economic  
20 sense, you've got a buyer who is ready, willing,  
21 and able to buy subject to some agreement on  
22 price, whatever that price may be?

23 A. I think demand would represent a pool  
24 of willing buyers, yes.

1 Q. Who are ready and able to buy?

2 A. Yeah.

3 Q. Yes?

4 A. Yes.

5 Q. The answer's "Yes"? Okay.

6 And, likewise, the supply would be  
7 sellers, who have whatever those buyers are  
8 looking for, ready, willing, and able to sell at  
9 some price?

10 A. Yes.

11 Q. Would you agree that because the GBX  
12 line is not built yet and there are no wind farms  
13 operating in the resource area, as you've defined  
14 it in your testimony, that there is no demand in  
15 an economic sense for the GBX line, as you sit  
16 here today?

17 A. No.

18 Q. Okay. You don't agree with that?

19 A. That there's no supply?

20 Q. No. That there's no demand for the  
21 GBX line in the sense that you've defined it a  
22 few moments ago.

23 A. Well, I would say there's demand on  
24 both ends of the line. There is demand in terms

1 of the capacity. So what GBX sells is -- the  
2 product that we sell, if you will, is the service  
3 of moving electricity from one point -- from A to  
4 B to C. So from A in Kansas to B to Missouri and  
5 then on to C at our converter station in  
6 Illinois. And that's the service that we  
7 provide.

8                   And there's demand for that service  
9 from two parties: One is people who wish to  
10 produce electricity but cannot because they don't  
11 have access to a market, and those folks are in  
12 western Kansas; and, as we've testified, there  
13 are many of them. In fact, many more of them  
14 than we can supply service for.

15                   The other source of demand for our  
16 service is something that we would call  
17 load-serving entities or power marketers or other  
18 people who want access to the energy that those  
19 producers in Kansas can create if they have  
20 access to the line.

21                   So there are two sources of demand  
22 for what we're doing.

23                   Q. Okay. So that's a different kind of  
24 demand than we talked about a moment ago because

1 we had talked about ready, willing, and able  
2 buyers; is that correct?

3 In other words, you're talking about  
4 demand in the future.

5 A. I'm talking about demand today. If  
6 this line were here today --

7 Q. "If."

8 A. Yeah. Well, it's -- clearly it's  
9 not. That's why we're here.

10 -- then there would be parties on  
11 both ends who would like to use the service.

12 Q. You do use the term "demand" in your  
13 testimony quite a lot. Is it your position that  
14 you're using it, in this latter sense, of some  
15 sort of future demand or contingent demand if the  
16 line is built, or do you have different senses of  
17 demand that you're using?

18 MR. MACBRIDE: Object to the question  
19 unless Mr. Skelly is directed to specific uses of  
20 demand in his testimony.

21 Q. (By Mr. Neilan) If you could refer  
22 to line 150 in your direct testimony -- I think  
23 that's line 150. And that sentence -- could you  
24 read that sentence that begins on line -- I guess

1 it's 149 to 153.

2 A. Sure. "For new, low-cost wind  
3 generation to be constructed in the western  
4 Kansas to meet the demand for renewable resources  
5 in Illinois and other states, additional  
6 long-distance transmission capacity between those  
7 areas must be built. The project will provide  
8 this needed long-distance transmission capacity."

9 Q. Okay. So demand, as you've used it  
10 there, refers to demand in Illinois and other  
11 states?

12 A. Correct.

13 Q. And that's people who are ready,  
14 willing, and able to buy renewable energy or  
15 certificates relating to it?

16 A. That would be correct, yeah.

17 Q. So that's a different sense of demand  
18 than the demand that you characterize as existing  
19 for the GBX line itself.

20 A. So that demand relates to the demand  
21 that I pointed out in the first parenthetical  
22 which is low-cost wind generated in western  
23 Kansas.

24 Q. Would you look also at line 158. You

1 refer to "...electricity generated by renewable  
2 resources to areas" -- "... movement of  
3 electricity generated by renewable resources to  
4 areas of market demand."

5 So, again, you're talking about an  
6 area that already has some demand, that demand  
7 exists; is that correct?

8 A. I'm not -- could you just restate  
9 the --

10 Q. In other words, when you refer to  
11 market demand on line 158, you're referring to  
12 some area where there are purchasers ready,  
13 willing, and able to buy?

14 A. Well, I mean, if you read the whole  
15 sentence, it talks about how government and other  
16 energy sources have recognized a need, et cetera,  
17 et cetera, to support the movement of electricity  
18 generated by renewable energy to areas of market  
19 demand. So I'm not sure what the question is.

20 Q. Well, I'm focusing in on that  
21 term "demand." So by market demand in this  
22 question -- or this sentence, rather, on 158, as  
23 you use it there, you're referring to an existing  
24 body of some ready, willing, and able buyers who

1 want to buy renewable energy; is that correct?

2 A. Well, I mean, I think the whole  
3 sentence is a reference to the fact that many  
4 people recognize this. It's not -- I'm not  
5 talking in the sentence about a specific group of  
6 buyers.

7 Q. The question was not specific, just a  
8 general -- some ready, willing, and able --  
9 there's someone out there. You're referring to  
10 market demand.

11 A. Yeah. I mean, there are many buyers  
12 of renewable electricity. Does that answer your  
13 question?

14 Q. And they're ready, willing, and able  
15 to buy it?

16 A. Yes.

17 Q. Okay. But in the resource area,  
18 there are no generators ready, willing, and able  
19 to sell it. They're not there yet.

20 A. There are some today, but the  
21 majority -- that have built that would like  
22 alternative transmission arrangements to get to  
23 market. So that would be hundreds of megawatts.  
24 And there are thousands of others who have land

1 options and permits and wind data and experience  
2 building wind projects that would like to  
3 purchase service on our line in order to access  
4 markets.

5 Q. Okay. So just to finalize this line  
6 of question, there's at least two senses of  
7 demand that you're using in your testimony; is  
8 that correct? One sense being something that you  
9 believe will exist in the future, but then you're  
10 identifying areas right now that have demand for  
11 what GBX would provide.

12 A. If you could point me to the lines  
13 that you're referring to --

14 Q. Well, okay.

15 A. -- just to make sure I get it right.

16 Q. We looked at line 150. Line 117.  
17 Line 158 refers to market demand.

18 A. So I think we talked about all of  
19 them except for 117. Should we talk about that?

20 Q. Line 117 -- we talked about that.  
21 Let's take a look at -- let's take a look at 175  
22 to 176. You're talking about the 3,500 megawatts  
23 of power that will be delivered by GBX, and on  
24 line 175, you say, "This power will help meet the

1 demand for electricity from renewable resources  
2 in Illinois and other states."

3 So that demand exists; right? You're  
4 referring to a demand that exists?

5 A. I'm referring to demand today and  
6 demand that will exist in the future.

7 Q. Okay. So the question is you're  
8 referring to -- are you referring to demand that  
9 exists today? Is the answer "Yes"?

10 A. The demand exists today, and we are  
11 confident that people will want to use  
12 electricity in the future and there will be  
13 demand in the future.

14 Q. Okay. And then demand -- when you're  
15 referring to demand by developers who are in west  
16 Kansas, that demand doesn't exist yet.

17 A. It does exist.

18 Q. There's no one ready, willing, and  
19 able to -- okay. So it does exist, but you're  
20 using demand in a different sense then.

21 A. Yes. As I explained, there are two  
22 sources demands for our services: one from  
23 suppliers, and the other from buyers. From  
24 buyers of -- from users of electricity. Think of

1 it as on each end of the line.

2 Q. Right. What I'm getting to is an  
3 element of time here because you're using demand  
4 in -- I want to just nail down -- you're using  
5 demand in two different ways: One is referring  
6 to, yeah, there's demand in Illinois and other  
7 states; and then we've got demand from these  
8 developers out in west Kansas, but they don't  
9 have any wind farms yet.

10 MR. MACBRIDE: Objection. Asked and  
11 answered. I think this ground has been covered  
12 about three times already.

13 MR. NEILAN: Well, I haven't gotten  
14 the -- if the defendant -- if the witness' answer  
15 is, yes, that there are two different senses of  
16 demand as used in his testimony, I think I'm --  
17 that's what I'm driving at.

18 JUDGE VON QUALEN: I'll let him  
19 answer that one question.

20 A. There are two sources of demand for  
21 our transmission service.

22 Q. That's not the question. I asked if  
23 there are two different meanings of demand as  
24 used in your testimony, not two sources. I'm not

1 talking about one end of the line and the other.  
2 I'm talking about two different senses of the  
3 term "demand" as used in your testimony.

4 A. There are two source -- I mean, there  
5 are two sources of demand. I don't know how to  
6 state that any differently. I don't think  
7 there's two meanings of the word. One source is  
8 producers, and the other is people who have a  
9 need for electricity. I'm trying to think if I  
10 can draw an analogy that would help us make more  
11 sense.

12 Q. The question is even simpler than  
13 that. You use the term "demand" in about two  
14 dozen -- you know, not counting questions --  
15 about two dozen places or so in your testimony,  
16 but it's used in different senses.

17 In one place you're referring to  
18 demand that exists today by somebody ready,  
19 willing, and able to buy renewable electricity or  
20 RECs generated by renewable electricity.

21 And then you're referring to demand  
22 by west Kansas resource operators -- renewable  
23 resource operators who don't exist yet.

24 So you're referring to demand --

1 remember, we started with this ready, willing,  
2 and able to buy. So there are two different  
3 senses of demand in your testimony, and that's  
4 what I'm driving at.

5 JUDGE VON QUALEN: Is the question  
6 whether there are two different senses --

7 MR. NEILAN: Yes.

8 JUDGE VON QUALEN: -- of demand in  
9 his testimony.

10 MR. NEILAN: Yes. But the answer I'm  
11 getting is there are two different sources.

12 JUDGE VON QUALEN: Let him answer.  
13 Are there two senses of demand?

14 A. No. There's two sources but not two  
15 senses.

16 Q. (By Mr. Neilan) All right.

17 A. As defined -- I mean, just to go back  
18 to your original question, which was what is  
19 demand in economic terms. So demand is a curve  
20 at which people are willing to buy something at  
21 different price points.

22 And, in this case, we have suppliers  
23 who would buy transmission service at different  
24 price points, and we would have consumers or

1 load-serving entities who would buy service at  
2 different price points. So demand is the same  
3 thing, but there are two sources of demand.

4 Q. So using that same economic  
5 definition, you would agree that, if there is no  
6 person out there ready, willing, and able to buy,  
7 there's no demand? Is that "Yes" or "No"?

8 A. If there's no person -- let me just  
9 make sure.

10 Q. There's no one there who is ready,  
11 willing, and able to buy. Does that mean that  
12 there is no demand for that good whatever it is?  
13 Regardless of price. Forget price.

14 A. Yeah. I think that makes sense. I  
15 need to think about it a little bit more.

16 Q. Is that a "Yes" or a "No"?

17 A. That's a -- I mean, it's a  
18 theoretical question. I'm sort of rooting  
19 through my economics undergraduate training and  
20 trying to make sure that that's academically  
21 correct.

22 Q. I'm just trying to nail down the  
23 definition of a term that's used in your  
24 testimony. So we'll move on.

1                   Would you be so kind as to refer to  
2 lines 663 to 674 in your direct testimony. Have  
3 you read it?

4                   A.     663, yes.

5                   Q.     Okay. So here you describe GBX's  
6 solicitation of interest for the line, and you  
7 state that you had expressions of interest for  
8 about 4.5 times the line's transmission capacity.  
9 But you agree that none of these parties are  
10 committed yet to buy any transmission capacity on  
11 the line.

12                  A.     Yeah. They cannot commit to buy  
13 because at this point we cannot commit to sell.

14                  Q.     Is that a legal conclusion or -- I  
15 mean --

16                  A.     It would be a difficult contract to  
17 draw, yes, if that's the question.

18                  Q.     Okay. All right. But right now they  
19 don't have a commitment to buy?

20                  A.     They do not have a commitment to buy,  
21 no.

22                  Q.     Thank you.

23                             If you could refer to lines 170 to  
24 172 of your direct testimony. Here you state

1       that the project is the least-cost means of  
2       satisfying the objectives of developing an  
3       effectively competitive electricity market that  
4       operates efficiently and is equitable to all  
5       customers; is that correct? You state that?

6             A.     Yeah. I mean, do you want me to read  
7       it back or --

8             Q.     You may, if you wish. Sure.

9             A.     Okay.

10            Q.     Feel comfortable doing that.

11            A.     "The project will promote the  
12       development of an effectively competitive  
13       electricity market that operates efficiently, is  
14       equitable to all customers, and is the least-cost  
15       means of satisfying these objectives."

16            Q.     Okay. Would you agree with me that  
17       the term "least" implies some sort of comparison  
18       between two things or at least two things?

19            A.     Well, so, in this case, least-cost  
20       means is --

21            Q.     I'm just saying "least." Just the  
22       word "least."

23            A.     As opposed to a centrally planned  
24       model that -- the parenthetical referred to the

1 electricity market. So, yes, I believe that  
2 competitive markets are the best answer to  
3 achieving these objectives, yes.

4 Q. Does that mean that least implies  
5 some comparison between two things? I'm not sure  
6 I got an answer out of that.

7 A. Yes.

8 Q. Does that mean --

9 A. Yes, it does. Yeah.

10 Q. "Yes" --

11 A. Yeah.

12 Q. -- is the answer? Okay.

13 You're familiar with something called  
14 cost-benefit analysis in your -- given your  
15 background and education and your current  
16 occupation. Cost benefit --

17 A. Yeah.

18 Q. -- is something I assume you deal  
19 with on a daily basis?

20 A. Yeah.

21 Q. That's a process -- would you agree  
22 it's a process by which you might make a business  
23 decision?

24 A. Right.

1           Q.     Would you agree that there's a  
2           difference between determining whether  
3           something's least cost and whether there's a --  
4           whether it's cost beneficial? That something  
5           could be one but not the other?

6           A.     So, if you don't mind, just restate  
7           the question. So the --

8           Q.     Sure. Sure. Say, for example,  
9           you're looking at, okay, a particular project,  
10          whether it's least cost or whether it's cost  
11          beneficial. You might look at a couple of  
12          alternatives to achieve a certain objective, and  
13          those alternatives may have different price tags.  
14          If one's higher than the other, than you would  
15          say that's not the least-cost means; the other  
16          one would be. That's fair to say?

17          A.     Yeah. So -- okay.

18          Q.     But that's different from saying that  
19          it's cost beneficial. In other words, there  
20          could be -- that particular solution that's the  
21          least cost --

22          A.     Something --

23          Q.     -- might throw off less benefits even  
24          though --

1 A. Something --

2 Q. -- it's --

3 A. Yeah. Something could be least cost  
4 without it's cost-benefit ratio being greater  
5 than one.

6 Q. Okay.

7 COURT REPORTER: I need you two to  
8 speak one at a time, please.

9 MR. NEILAN: Okay. Sure.

10 COURT REPORTER: You're cutting each  
11 other off.

12 Q. (By Mr. Neilan) Would you refer to  
13 lines 676 to 678 in your direct testimony. Here  
14 you say that GBX has a merchant model, and  
15 elsewhere in your testimony, in particular at  
16 lines 336 to 343, you've said that GBX does not  
17 plan to request cost allocation from RTOs such as  
18 PJM or MISO; is that correct?

19 A. So the second assertion is correct,  
20 yeah.

21 Q. They're essentially the same. It's a  
22 merchant model, and do you mean the merchant  
23 model to say that you're not -- you're not going  
24 to collect costs through a cost allocation

1 mechanism --

2 A. Yeah.

3 Q. -- at an RTO such as PJM or MISO?

4 A. So what we have said is that -- in  
5 our testimony, that, if we wanted this project to  
6 qualify for cost allocation, that we would need  
7 to go back to the Commission for that.

8 Q. Okay. The question is somewhat  
9 different. By merchant model -- well, actually,  
10 why don't you tell me what merchant -- what do  
11 you understand when you use the terms "merchant  
12 model" and this idea of not going back to the  
13 RTOs for cost allocation?

14 A. Yeah. So a merchant model is one  
15 basically where either of those two sources of  
16 demand would pay for the transmission service,  
17 either the shippers who want to get to market or  
18 the purchasers of energy who want access to the  
19 resource. And that's what -- basically what  
20 merchant model means as opposed to a  
21 cost-allocated model where the costs of a project  
22 are spread across a wide area within an RTO or  
23 across several RTOs.

24 Q. So under that definition, as you've

1 just given it, a merchant model transmission  
2 project such as the proposed GBX line is  
3 merchant -- it's a merchant model because of the  
4 way you're trying to recover costs. It's not a  
5 merchant model because of the way the risks of  
6 the business are allocated; is that correct?

7 A. Yeah. The -- the risks are allocated  
8 amongst -- in a merchant model, the developer  
9 would bear some of the risk. Sometimes there are  
10 mechanisms whereby the shippers or purchasers of  
11 energy bear the risk. That's not terribly  
12 uncommon in gas pipelines. That in a  
13 cost-allocated project, typically the ratepayers  
14 would bear the risk.

15 So if a project went over budget,  
16 then all the ratepayers in Illinois would pay for  
17 that as opposed to, in our model, in which case  
18 if it went over budget, our investors would  
19 suffer from that, not the ratepayers.

20 Q. So the issue -- okay. Let me  
21 rephrase that.

22 Are you saying that this risk  
23 allocation to merchant -- this merchant model  
24 risk allocation to investors only applies to this

1 development and construction phase when you  
2 energize that line and then it ends?

3 A. No. No. So we would -- so, in other  
4 words, you're asking does the risk allocation  
5 change after the project is built?

6 Q. Well, you said that, if the costs ran  
7 over, then your investors would bear that burden,  
8 whatever it is.

9 A. Right.

10 Q. Maybe they lose their investment or  
11 some chunk of it?

12 A. Yeah.

13 Q. Okay. If that happens, that's just  
14 at the development stage, just up to the point  
15 where you've energized that line; is that  
16 correct?

17 A. Well, the investors would bear the  
18 operational risk going forward. So if insurance  
19 rates went up, then the investors would bear  
20 those additional costs. If insurance rates came  
21 down, then the investors would benefit from that,  
22 and so on with respect to the various operating  
23 costs.

24 Q. So assume that your line now is

1 completed. It's energized. It's operating. You  
2 would agree with me that you would not go back to  
3 PJM or MISO -- that's M-I-S-O -- for cost  
4 allocation if certain of those circumstances you  
5 describe -- for example, the line is profitable  
6 in accordance with your expectations. It's  
7 meeting the investors' expected returns, whatever  
8 those might be. It's not -- you would not be  
9 going back for cost allocation in that  
10 circumstance; is that correct?

11 A. Not without coming to the Commission.

12 Q. Okay. That's not the question,  
13 whether you would go to the Commission or not.  
14 The question is, if a line financially,  
15 economically, profitability-wise is meeting all  
16 of GBX's expectations, its investors are smiling,  
17 under that circumstance, you're not -- you're not  
18 likely to seek cost allocation through an RTO; is  
19 that correct?

20 A. Cost allocation for this project is  
21 not likely today. As I sit here, we don't have a  
22 process to cost allocate lines that cross three  
23 RTOs. So it's not likely, but I can't foresee  
24 every single circumstance for the next hundred

1 years.

2 Q. Okay. That's not -- that's not the  
3 question. The way the question was phrased is  
4 that your line is up and running. It's  
5 energized, and you're making profits. Whatever  
6 your projections are, you're meeting or exceeding  
7 them. And you would agree that in that  
8 circumstance you're not likely to go back -- this  
9 is a yes-or-no answer -- in that circumstance you  
10 are not likely to go back to seek to whomever  
11 cost allocation through an RTO. Do you agree?

12 A. Today I would say that's unlikely. a  
13 hundred years is a long time, and these assets  
14 will last a hundred years.

15 Q. Just in terms of when you're  
16 profitable, there's no need for you to go back.  
17 There wouldn't be a need for you to go back if  
18 you're profitable. Is that fair?

19 A. There might not be a need for us to  
20 go back because we're profitable, but it could be  
21 that the RTOs say, "Look, we've identified  
22 certain liability benefits. We'd like you to  
23 improve the operating characteristics of the  
24 converter stations. We'd like you to make this

1 investment, and we, the RTOs, because it's  
2 valuable to our ratepayers, we're going to  
3 allocate the costs of that."

4 And, then, if that were the case, we  
5 would go to the Commission and say, "Listen,  
6 we've heard from the RTOs that they want this  
7 improvement made, and is it okay if" -- and  
8 that's just one example.

9 MR. NEILAN: Your Honor, I move to  
10 strike that as not responsive to the question,  
11 but I'll move on to the next question.

12 JUDGE VON QUALEN: Your motion's  
13 denied.

14 Q. (By Mr. Neilan) Would you agree that  
15 it's more likely that you'll go back for cost  
16 allocation if the GBX project is losing money? I  
17 think that's essentially what you just said. Is  
18 that fair?

19 A. I don't think that's what I just  
20 said, no.

21 Q. Okay. When -- what kind of  
22 circumstance do you envision would be one in  
23 which you would go back to an RTO for cost  
24 allocation?

1           A.     The circumstance under which you  
2     would go back would be the RTOs indicating,  
3     either through their planning processes or some  
4     other process, that they felt like this project  
5     was beneficial to their stakeholders, whoever  
6     those might be. That's the circumstance. Or one  
7     of the circumstances. I mean, there might be  
8     more.

9           Q.     So with that statement and view,  
10    would GBX then commit that it's not going to go  
11    back for a cost allocation unless the RTO comes  
12    to it affirmatively and asks?

13          A.     No. I think we've been very clear  
14    that, if we go for cost allocation, we would go  
15    to the Commission --

16          Q.     That's not the question.

17                 MR. MACBRIDE: Could the witness be  
18    permitted to finish his answer?

19                 JUDGE VON QUALEN: Yes. You may  
20    finish your answer.

21          A.     Okay. Now I need the question again.  
22    Sorry.

23          Q.     (By Mr. Neilan) Okay. What I was  
24    asking was would you commit, then, based on what

1       you said, that the circumstance would be the RTOs  
2       indicate that the GBX is beneficial and they  
3       somehow want to incorporate it more or do  
4       something with it -- improve it, enhance it,  
5       whatever that might be -- but the RTOs are coming  
6       to you in your example.

7                 So my question was are you willing to  
8       commit to say you're not -- GBX will not go back  
9       to an RTO for cost allocation; rather, the RTO  
10      would have to come to GBX?

11                A.     No.  And the reason why is we might  
12      identify some improvement that we could make that  
13      would be good for the various participants in the  
14      RTO and the RTO might not identify that.  And if  
15      we identified it, then I think we would have a  
16      duty to make it known, and then they could  
17      decide.  So we would not be willing to make that  
18      commitment.

19                Q.     So in the answer you just gave, you  
20      had identified some improvement to the GBX line  
21      that you could make.  Are you saying, then, that  
22      you won't go back for cost allocation to the RTO  
23      unless there are specific improvements that you  
24      intend to make?

1           A.     That was a hypothetical, okay, and I  
2     can't address all the hypotheticals over the next  
3     50 to a hundred years that this line will be in  
4     operation.  So the answer -- I think the answer  
5     is "No."

6           Q.     The answer is "No" to that question?

7           A.     (Nodded head up and down.)

8           Q.     Okay.  So GBX is not committing to do  
9     that, and they're not committing to let the RTO  
10    come to them first.

11                    So you would agree that the  
12    circumstance -- another circumstance in which it  
13    would be likely that GBX would go back to the  
14    RTO -- and just put the Commission aside for the  
15    moment.  Let's rephrase that.

16                    Another circumstance in which GBX  
17    might seek cost allocation would be if the GBX  
18    project is losing money; is that correct?

19           A.     So is -- would you like me to address  
20    all the hypotheticals --

21           Q.     No.

22           A.     -- under which we would go -- is that  
23    what we're trying to get at here?

24           Q.     No.  We had talked about the

1 circumstances under which GBX is going to go back  
2 to the RTO for cost allocation to ratepayers  
3 because what's going on is you guys are going to  
4 build a line, and what you and other witnesses  
5 are testifying is that the users of the line will  
6 pay for this.

7 A. Right.

8 Q. Okay. So what I'm trying to nail  
9 down is when will the ratepayers start to pay for  
10 this?

11 A. After the Commission tells them they  
12 have to.

13 Q. Okay. And the circumstance under  
14 which -- okay. Let's rephrase the question this  
15 way since the Commission -- you're putting  
16 Commission in there.

17 Under what circumstances -- or  
18 rather -- strike that.

19 Would one of the circumstances under  
20 which you go back to the Commission for  
21 permission to get cost allocation is that GBX is  
22 losing money?

23 A. So, in other words, the line's in  
24 operation, and you're saying the only condition

1 that we would agree to would be, if we're losing  
2 money, then we can go to the Commission for cost  
3 allocation?

4 Q. No. No. Before we had talked about  
5 other circumstances. You said that the RTO might  
6 come to you and want to do an enhancement or  
7 somehow take some other action, and that's one  
8 circumstance that you mentioned for cost  
9 allocation.

10 You said another circumstance for  
11 cost allocation was you identified some kind of  
12 improvement. So that's one circumstance. I'm  
13 not asking you to identify all of the  
14 circumstances.

15 I'm talking about one, and that one  
16 circumstance is the line is up and running, it's  
17 energized, and GBX is losing money. Under that  
18 circumstance, will you go back to the Commission  
19 to seek their permission to get cost allocation  
20 through an RTO?

21 A. I don't know. There's a lot of  
22 factors that would go into losing money, and one  
23 of them -- one of the cures for losing money  
24 might be the hypothetical improvement that I just

1 pointed out.

2 Q. So you would not commit -- GBX would  
3 not commit to say that they will not go back to  
4 the Commission or the RTO for cost allocation  
5 because they're losing money. You still want to  
6 hold that out as a possibility -- possible  
7 grounds to go back?

8 A. Well, I think we're very clear that,  
9 if we want cost allocation, we got to go to the  
10 Commission and ask for it. And that's --

11 Q. Understood.

12 A. -- that encompasses all the scenarios  
13 that you're talking about.

14 Q. All of the -- if it encompasses all  
15 of those circumstances -- one of which might be  
16 that you're losing money, that GBX is losing  
17 money -- that would be included under one of  
18 those circumstances; is that correct?

19 A. Just rephrase that again if you don't  
20 mind.

21 Q. Okay. You had talked about different  
22 circumstances that you're going to go back to the  
23 Commission to get permission. My question is  
24 isn't it true that one of those circumstances

1       could be that GBX, the line, is losing money?

2             A.       Could be.  Yeah.  Sure.

3             Q.       So the answer is "Yes"?

4             A.       It -- it is one of a host of reasons  
5 why we might come back.  It's not our plan to  
6 come back.  It's not our plan.  We're not asking  
7 for it today.  And if we ask for it, it's at the  
8 Commission's discretion.

9                     MR. NEILAN:  Your Honor, I think I'm  
10 entitled to a yes-or-no answer to the question.

11                    JUDGE VON QUALEN:  I think he has  
12 answered your question.

13             Q.       (By Mr. Neilan)  So is that a "Yes"?  
14 I'll take that as a "Yes"; is that correct?

15             A.       I'm sorry.  You've got to take me  
16 back through it one more time.

17             Q.       Okay.  That one of the circumstances  
18 in which you would go back to the Commission and  
19 ask for cost allocation through an RTO is that  
20 GBX is losing money.  That's just a yes-or-no  
21 answer.  Nothing beyond that.

22             A.       So I just want to make sure I  
23 understand the question.  So you're saying we're  
24 going -- we want permission to go to the

1 Commission with the sole rationale being "We're  
2 losing money. Please make up for this."

3 Q. Yes.

4 A. I think that's not a good rationale.  
5 If we built the merchant project and our  
6 investors are bearing the risk, I do not think  
7 that going back to the Commission and pleading  
8 poverty is a good rationale.

9 Q. So, as a follow-up to that, if you  
10 say that you don't think that's a good rationale,  
11 is GBX willing to commit that it will not go back  
12 for permission if that's the only circumstance  
13 that attends its request for cost allocation?

14 A. The one and only circumstance.

15 Q. You would commit to that?

16 A. Okay. So I just want make sure I  
17 understand the question.

18 Q. Okay.

19 A. So we would go to the Commission --  
20 okay. Here's what I'll commit to: We will not  
21 go to the Commission and say, "We want cost  
22 allocation because and only because we're losing  
23 money." We will not go to the Commission with  
24 that argument, yes.

1                   There might be -- we might be losing  
2 money for ten other reasons, and we would explain  
3 those and explain why these are good for this  
4 line and why it is a good idea for this line to  
5 be cost allocated. But if the question is our  
6 one and only reason is we're losing money, yes,  
7 we will commit that we will not come back and  
8 say, "The only reason we want cost allocation is  
9 because we're losing money."

10               Q.     Okay. So combined with other  
11 reasons, you would come back. That's the way I  
12 understand the question.

13               A.     Yeah. There's a lot of  
14 hypotheticals.

15               Q.     Okay. It's correct GBX did not go  
16 through any RTO process for determination of the  
17 need for the line -- for the GBX line; is that  
18 correct?

19               A.     Yeah. So Dave Berry can take you  
20 through the RTO planning processes in greater  
21 detail, but there is no planning process that  
22 encompasses SPP, MISO, and PJM.

23                       However, there have been a number of  
24 studies done about what it would take to get a

1 cleaner energy mix in this country, and just  
2 about every one of those studies concludes that  
3 the best solution is a series of HVDC lines.

4 Q. If you would refer -- well, actually,  
5 this is several places in your testimony.  
6 Probably the most lengthy is from lines 117 to  
7 223. This relates to benefits of the project.  
8 And there's a very long sequence of statements by  
9 you from 117 to 223 or 2 -- just a minute -- 223  
10 on benefits of the project.

11 Then a little later, on 215 to 229,  
12 you're talking about ancillary economic benefits.

13 At lines 432 to 438, you're talking  
14 about benefits of, say, a new facility in the  
15 grid, a new element or line in the grid, as a  
16 benefit.

17 You also talk about benefits to  
18 Kansas at lines 560 to 564 and lower electric  
19 prices at lines 566 to 576.

20 So you state in your testimony that,  
21 if you were to go back to the Commission for  
22 their consent to seek RTO cost allocation, that  
23 you would have to prove to the Commission that  
24 the benefits of GBX outweigh its costs; is that

1 correct?

2 A. Could you just point me to the  
3 testimony?

4 Q. Sure. Let me just find it. Yes.  
5 yes. If you could look at lines 359 through 361  
6 of your direct testimony, and you say that you  
7 would have to return -- before Grain Belt Express  
8 would decide to seek cost recovery through MISO  
9 or PJM, GBX would have to return to the  
10 Commission and prove that the project's benefits  
11 outweigh the costs.

12 So my question is this: Given all of  
13 the benefits that you've already described in  
14 your testimony in those earlier places, what  
15 other benefits would you add to that list?

16 Say you're in a proceeding before the  
17 Commission right now seeking cost allocation, and  
18 you're trying to make this case that the benefits  
19 outweigh the costs. What additional benefits  
20 would you state?

21 A. So, in other words, what would a  
22 request to the Commission look like?

23 Q. Not exactly. It would look like -- I  
24 imagine you'd have a listing of benefits, but

1       what I'm really going after is what benefit or  
2       benefits would you describe to the Commission not  
3       already in your testimony?

4             A.       Well, it would depend on that -- on  
5       the moment in time; right?  But if it were  
6       happening today, it would look similar to what we  
7       filed.

8             Q.       So it would be essentially the same  
9       set of benefits; is that correct?

10            A.       Yeah.  I mean, if we were --  
11       obviously, because we're in the state that's the  
12       delivery point, it would focus more on the  
13       benefits in this area; but, again, there is no  
14       process to apply for such a cost allocation;  
15       so --

16            Q.       Okay.  Let's assume you go back to  
17       the ICC for permission to go to the RTO for cost  
18       allocation and the ICC says "No," what type of --  
19       what -- what do you say to your investors then?  
20       What kind of plan would you adopt?

21            A.       So at this point, under this  
22       hypothetical, the merchant -- we've decided not  
23       to proceed as a -- as a -- is this after it's  
24       built or before it's built?

1           Q.     It's after it's built. The line is  
2 up and running, and for one reason or another,  
3 you go back to the Commission to ask for  
4 permission to get an RTO cost allocation. You go  
5 through the proceeding, and the answer is "No."

6           A.     Well -- so the line is built; right?

7           Q.     Yes.

8           A.     And presumably we're going back  
9 because we have an argument that says that this  
10 is -- whatever we're doing is a worthy endeavor  
11 and something that is in the interests of  
12 ratepayers in Illinois; right? That's the  
13 argument that we're making at that point in time?

14          Q.     All of the arguments that are in your  
15 testimony now.

16          A.     Well, not all of them because some of  
17 them would be related to things in the past.

18          Q.     Okay. But --

19                   COURT REPORTER: I'm sorry. I'm  
20 sorry. I didn't understand you. "Not all of  
21 them because some of them would be"...

22          A.     Would relate to things that happened  
23 in the past because the line was already built.

24                   So we have a subset of these

1 arguments, and we would be saying to the  
2 Commission that we now want to be cost allocated  
3 because -- I mean, I think that -- I'm guessing  
4 we'd have to formulate an argument that said  
5 that, if this is cost allocated, these good  
6 things will happen in the future as opposed to  
7 give us credit for these things that we have  
8 already done. I'm just guessing, though.

9 Q. So in that circumstance -- and you  
10 presented these arguments -- the ICC comes back  
11 and says the answer is "No." Does GBX have a  
12 Plan B?

13 A. So -- okay. Let me --

14 MR. MACBRIDE: Judge, I object. I  
15 mean, this is -- the question is -- I don't see  
16 the relevance of this question: Does GBX have a  
17 hypothetical plan if it fails in a hypothetical  
18 request to the Commission?

19 I mean, this is -- now that we're  
20 approximately 50 minutes into Mr. Zotos' -- or  
21 Mr. Neilan's 25 minutes of cross, you know, I'm  
22 not seeing the point of much of what's been going  
23 on for the last 20 minutes.

24 MR. NEILAN: Well, Your Honor, in

1 terms of looking at hypotheticals, here we have  
2 testimony given by GBX that is largely  
3 hypothetical. We have statements of what prices  
4 in the electricity market will be in 20 -- in  
5 20 -- 2024. We have statements about what  
6 Grain -- what GBX' potential customers will do  
7 years from now when the line is finally up.

8                   And I think this is relevant because  
9 what GBX has been pushing through its testimony,  
10 including Mr. Skelly's testimony, is this  
11 merchant model, and there is an emphasis that  
12 somehow the Commission should approve this  
13 because only the investors are at risk.

14                   And what I'm trying to prove is, no,  
15 that's not true because they'll come back for  
16 cost allocation whether it's losing money by  
17 itself or losing money plus something else; but  
18 regardless of the circumstance, the investors are  
19 not the only ones at risk. And that, I think, is  
20 key. It's -- it's -- it's grossly relevant to  
21 this entire case.

22                   JUDGE VON QUALEN: The objection is  
23 overruled.

24                   You may answer the question.

1           A.     Okay.  So let me make sure I've got  
2     the hypothetical.  Okay?

3                     So the hypothetical is the project is  
4     built under a merchant model, and we proceeded  
5     with construction because we had enough contracts  
6     in place and the -- you know, our investors felt  
7     comfortable proceeding and banks lent us money  
8     and so on and so forth; right?

9                     So the project is up and running.  
10    For whatever reason, the project is -- the wind  
11    stops blowing in Kansas, okay, and our shippers  
12    can't meet their obligations.

13                    So at that point in time, we -- your  
14    question is would we go -- what's the question  
15    then?

16            Q.     No.  Most of the stuff that you  
17    mentioned is already given.  The line's up and  
18    running and for whatever period of time.  You go  
19    back to the Commission for its permission to get  
20    cost allocation from an RTO, and whatever the  
21    case is that you present, the ICC comes back and  
22    says "No."  What does GBX do then?

23            A.     So I think at that point in time --  
24    so it's important to remember that operate -- and

1 Dave Berry can talk about this in greater detail.  
2 But just the financial characteristics of a  
3 transmission line are such that the up-front  
4 investment is very, very large and the operating  
5 costs are very, very low. So the level of  
6 revenues needed to keep the line in operation  
7 is -- is very, very low.

8 So I think what would happen in that  
9 circumstance is there would be a fin -- some sort  
10 of financial reorganization of the project, but  
11 the line would be ready to transmit electricity.  
12 It would do so, and under -- unless barring some  
13 very strange circumstance where people stop  
14 needing electricity or the wind stops blowing,  
15 then there's no reason that the line would not  
16 continue in operation.

17 Q. Okay.

18 I have no further questions, Your  
19 Honor.

20 JUDGE VON QUALEN: It seems like this  
21 would probably be a good time to break for lunch.

22 But before we do that, I omitted to  
23 ask if there were any objections to Mr. Lawlor's  
24 testimony?

1 (No response.)

2 JUDGE VON QUALEN: Hearing none,  
3 Mr. Lawlor's testimony, Exhibits 7.0 through  
4 7.21, 7.22, are admitted into evidence.

5 With that, we'll go on our lunch  
6 break, and we'll be back here at -- how much time  
7 do the parties want? 45 minutes or an hour? An  
8 hour is probably better.

9 MR. MACBRIDE: Quarter to 2:00.

10 JUDGE VON QUALEN: We'll come back at  
11 a quarter to 2:00.

12 (Lunch break.)

13 JUDGE VON QUALEN: Back on the  
14 record.

15 We had additional cross for  
16 Mr. Skelly?

17 MR. SHAY: Your Honor, I have some,  
18 and I'm happy to go next.

19 JUDGE VON QUALEN: You may proceed.

20 MR. SHAY: Okay.

21 CROSS-EXAMINATION

22 QUESTIONS BY MR. SHAY:

23 Q. Good afternoon, Mr. Skelly.

24 A. Good afternoon.

1 Q. When did you become part of Clean  
2 Line?

3 A. In, I believe, April of 2009.

4 Q. Okay. Do you remember when you  
5 signed your employment agreement?

6 A. Probably at the end of that year.

7 Q. November, maybe?

8 A. Yeah. Sounds right.

9 Q. Okay. Prior to that, what was your  
10 last job?

11 A. Well, if you can call it a job, I ran  
12 for Congress in 2008. I guess that is a job, but  
13 it's -- not a paid job.

14 Q. Okay. And --

15 A. But prior to that, I worked at  
16 Horizon Wind Energy until the end of 2007.

17 Q. Okay. When you joined Clean Line,  
18 did that become your full-time occupation?

19 A. Well, I started and incorporated a  
20 company, and I was working at it pretty hard  
21 until I thought it was a good idea, and then we  
22 started the company. So yes.

23 Q. Okay. And when did you leave  
24 Horizon?

1           A.     At the end of 2007.

2           Q.     It appears you've spent much of your  
3 time with Clean Line working on matters  
4 pertaining to gaining various regulatory  
5 approvals for Clean Line's five projects. Is  
6 that fair to say?

7           A.     Among other things, yes.

8           Q.     Do you have any idea what percentage  
9 of your time has been taken up by regulatory  
10 approval activities?

11          A.     Maybe a quarter.

12          Q.     Have you also spent time in raising  
13 capital for development and other activities?

14          A.     Yep. About a quarter.

15          Q.     What's been your involvement in  
16 making presentations to potential investors and  
17 negotiating terms for those investors and  
18 investments?

19          A.     I've been quite involved.

20          Q.     Okay. And Clean Line has five  
21 separate project entities at this time; is that  
22 correct?

23          A.     Yes.

24          Q.     Has Clean Line entity yet signed a

1 definitive agreement for capacity on the line for  
2 that particular entity?

3 A. No.

4 Q. How about for project financing? Any  
5 definitive agreements for project financing?

6 A. All of our financing has been  
7 corporate financing.

8 Q. Okay. And no construction agreements  
9 have been signed?

10 A. No.

11 Q. One of your exhibits talks about your  
12 experience with wind energy projects and lists  
13 them, I believe. 1.4. Exhibit 1.4?

14 A. Yes.

15 Q. Is that correct?

16 A. Yep.

17 Q. Okay. Now, this says "Clean Line  
18 Energy Partners Electric Projects Experience."

19 That's not -- that doesn't mean that these are  
20 Clean Line Energy projects; correct?

21 A. Correct. If you look at the second  
22 column, it says "Company." That is a reference  
23 to the affiliation of the party mentioned in the  
24 first column at the time that they were involved

1 in that project.

2 Q. Okay. It looks like at least one of  
3 your projects was in Kansas.

4 A. That's correct.

5 Q. The Meridian Way?

6 A. Yes.

7 Q. Pretty decent-size project for that  
8 period -- 2001 megawatts -- would you say?

9 A. 200.

10 Q. Is that the only project in Kansas  
11 that you were involved in developing?

12 A. I was involved in other projects, one  
13 of which is now under construction or just --  
14 maybe just finished construction, with EDP, the  
15 owner of Horizon Wind, and a couple other  
16 projects that have not been built yet.

17 Q. But in Kansas?

18 A. Yes.

19 Q. Okay. Of all of those projects that  
20 we've just -- that you described in Kansas, do  
21 you know how the power output of those projects  
22 is sold? For example, is it through PPAs, power  
23 purchase agreements?

24 A. Yes.

1 Q. Okay. Do you know who those  
2 agreements are with? Not specifically the names,  
3 but the types of purchasers or counterparties  
4 there are in those agreements?

5 A. I think so. I think I recall the  
6 details.

7 Q. Okay. Can you share that with us?

8 A. I'm not sure --

9 Q. To the extent it's not confidential.

10 A. Yeah. I just don't know what's -- I  
11 can't remember what's confidential and what's  
12 not.

13 Q. Can you describe the type of category  
14 of entity or purchaser?

15 A. Basically, utilities.

16 Q. Utilities? Okay.

17 Do you know how those projects are  
18 connected to the high voltage electric  
19 transmission grid?

20 A. Well, so the project that I'm most  
21 familiar with is called Meridian Way, and there's  
22 a gen tie, a short transmission line, that  
23 connects to the existing grid.

24 Q. Okay.

1 A. The details on the mileage are here.

2 Q. Right. That's a generation tie that  
3 the wind developer had to finance?

4 A. That we built, yes.

5 Q. Yeah. Okay. But a fairly short  
6 distance?

7 A. Yes.

8 Q. Do you happen to know the capacity  
9 factor of the Meridian project?

10 A. I do not.

11 Q. How about for any of the other  
12 projects you mentioned in Kansas?

13 A. I would guess that one of the  
14 projects that I worked on, which was called  
15 Western Trail -- I'm sure the capacity factor on  
16 that is in the 50s. And it's not built, but if  
17 you put --

18 COURT REPORTER: I'm sorry. I can't  
19 hear you. "But if you put"...

20 A. If you put today's modern turbines at  
21 this project called Western Trail, I'm sure the  
22 capacity factor would be in the 50s.

23 Q. (By Mr. Shay) Okay. But it's not  
24 yet --

1           A.     Not yet built.

2           Q.     -- in operation?

3           A.     Correct.

4           Q.     Do you know the total wind capacity  
5           installed in Kansas that's in commercial  
6           operation today?

7           A.     I do not.

8           Q.     Okay.  You've also, as you've stated,  
9           developed wind projects in Illinois; correct?

10          A.     Correct.

11          Q.     For those projects, did you as the --  
12          or the developer for whom you worked, provide  
13          financial security for use in connection with  
14          decommissioning of those winds projects?

15          A.     I don't recall.  I don't believe so.

16          Q.     No?

17          A.     I don't believe so, but I don't  
18          recall.

19          Q.     Okay.  Would this Mr. Berry know the  
20          answer to that if we waited and asked him that  
21          question?

22          A.     I don't know if he would or not.  It  
23          was a decade ago.

24          Q.     Do you know whether it has been

1 common practice in more recent years in this  
2 state for wind developers to provide financial  
3 security for decommissioning purposes for the  
4 projects?

5 A. It's -- I think it's fairly common  
6 practice to post security ten years into  
7 operations on wind farms. On a -- on  
8 transmission lines, I've never heard of that.

9 Q. Right. I'm just asking about wind  
10 farms at the moment.

11 When financial security is provided,  
12 whether it's effective immediately or ten years  
13 after operation begins or whenever, is one of the  
14 purposes of that for protection of landowners on  
15 whose land turbines and other wind facilities are  
16 located?

17 A. I think so, yes.

18 Q. Okay. This project that you're  
19 proposing before this Commission is housed in a  
20 single purpose limited liability company; is that  
21 correct?

22 A. Yes.

23 Q. Were you -- you were here, I think,  
24 during the testimony of Mr. Lawlor this

1 morning --

2 A. I was.

3 Q. -- correct?

4 Do you recall questions and answers  
5 concerning the form of easement agreement that is  
6 related by Exhibit 7.17?

7 A. Generally, yes.

8 Q. Okay. Do you remember any questions  
9 of Mr. Lawlor about paragraph 6 and the -- which  
10 gives Grain Belt the right to give notice to  
11 terminate to landowners and remove facilities?

12 A. Yeah. I'd need to look at it.

13 Q. Okay. Does that sound right?

14 A. I'd really need to look at it.

15 Q. Okay. But Grain Belt's not offering  
16 any financial security to support any obligation  
17 it might have to remove facilities; correct?

18 A. Correct.

19 Q. In fact, Grain Belt's not offering  
20 financial security to support the removal of any  
21 of its towers, conductors, and other equipment,  
22 if the project's taken out of commercial  
23 operation and no longer used or maintained,  
24 whether or not it gives notice to the landowner;

1 is that correct?

2 A. Yeah. We're following common utility  
3 practice.

4 Q. Common utility practice by common  
5 utilities that normally put these projects and  
6 are rate based?

7 A. Common utilities -- most transmission  
8 lines don't post security because transmission  
9 lines don't get taken out of service.

10 Q. Okay. What's the status of Grain  
11 Belt's request for regulatory approval from the  
12 Missouri Commission?

13 A. The Commission denied our request,  
14 and we filed for a rehearing, and they denied  
15 that last week.

16 Q. Okay. And would you agree with Mr.  
17 Lawlor's statements here this morning, that Grain  
18 Belt can't build the project without government  
19 approval for the Missouri segment of it?

20 A. Yes.

21 Q. What's the status of Rock Island's  
22 regulatory approval in Iowa for that project?

23 A. So Iowa has a process that  
24 effectively calls for developers to acquire a

1 very large percentage of the right-of-way before  
2 the Commission -- or, in this case, the IUB --  
3 determines a need for the project.

4           So, in this case, for example, we  
5 would have had to acquire a very large percentage  
6 of right-of-way before filing, and that creates a  
7 lot of risk for the developer and uncertainty for  
8 the landowner. So the landowners don't know if  
9 the project is going to get built before they --  
10 if the governmental entity charged with  
11 determining need has determined whether or not  
12 the project is needed. And so that's information  
13 that we believe would be helpful to the landowner  
14 as they went into such discussions.

15           And for us to buy a very large  
16 percentage of the right-of-way before filing what  
17 is effectively a need-based application, that is  
18 a difficult risk to take on, and therefore we're  
19 evaluating our options going forward.

20           Q.     Did you know about this process that  
21 you just described in Iowa before you embarked on  
22 that project?

23           A.     When we embarked on the project, we  
24 came to believe that the Commission would make a

1 ruling -- a favor -- a ruling that we thought  
2 would be helpful to all concerned parties with  
3 respect to determining need prior to embarking on  
4 the project.

5 As it turns out, the Commission has  
6 ruled -- or the IUB has ruled that, in order for  
7 them to evaluate the merits of the project, they  
8 want to see a large percentage of the  
9 right-of-way acquired. So we did not know that  
10 prior to embarking on the project.

11 Q. Okay. When you said that Clean Line  
12 now is considering its options, can you give us  
13 any more detail as to those options?

14 A. Not at this time.

15 Q. You can't tell us if one of those  
16 options would be to abandon the project?

17 A. Well, that's always an option; right?  
18 On any project, if you hit an obstacle, then  
19 that's always an option.

20 Q. Okay.

21 A. But we think that demand for the  
22 service that we're going to provide is strong  
23 enough that it will merit proceeding with the  
24 project even though the process in Iowa is more

1       cumbersome than in other jurisdictions that we've  
2       encountered.

3               Q.     Okay.  So is it correct to say, then,  
4       that one of the factors that is influencing Clean  
5       Line's decision about that project the cost of  
6       obtaining land rights prior to knowing whether  
7       the project would be approved by the regulatory  
8       body there?

9               A.     So with any project that we or any  
10       other business undertake, you know, one evaluates  
11       the risks associated with the project.  So we  
12       look at that on that project, as well as other  
13       risks, just as we do with everything else that we  
14       do.

15              Q.     So would that answer be, "Yes," with  
16       further explanation?

17              A.     Yeah.  With some explanation, yeah.  
18       It's one of many factors.

19              Q.     Okay.  Thank you.

20                     Now, Grain Belt Express the entity is  
21       owned, is it not, by an entity called Grain Belt  
22       Express Holding, LLC?  It's in your testimony  
23       near the front.

24              A.     Yeah.  If you could point me to that.

1 Q. Okay. It's shown on Exhibit 1.1 as  
2 well as described in your testimony.

3 A. Okay.

4 Q. That's correct?

5 A. Yes.

6 Q. Okay. And is it also correct that  
7 Clean Line Energy Partners, LLC, owns Grain Belt  
8 Express Holding, LLC?

9 A. Yes.

10 Q. Who manages Grain Belt Express?

11 A. Clean Line Energy does.

12 Q. Okay. I mean what individuals?

13 A. Well, the management team. We get  
14 together periodically and -- with the folks who  
15 are leading on the project and make decisions.

16 Q. Is there a service agreement between  
17 Grain Belt Energy -- Grain Belt Express and Clean  
18 Line to cover those services?

19 A. Well, because the -- everything is  
20 owned a hundred percent by the investors and  
21 there's no third-party involvement, we haven't  
22 found that necessary. Service agreements like  
23 that are typical when you have multiple parties  
24 that aren't owned by a common entity --

1 Q. Okay.

2 A. -- not in this situation.

3 Q. Does Grain Belt Express have a board  
4 of directors?

5 A. No. It has -- it has -- it has  
6 managing members, and Dave Berry can walk you  
7 through the ins and outs and who is involved in  
8 each entity at a sort of legal-technical level.

9 Q. Okay. I'll defer any further  
10 questions about that for Mr. Berry then.

11 Grain Belt Express is still not a  
12 public utility in this state; is that correct?

13 A. That's correct.

14 Q. Going back to talking about wind  
15 energy projects, in your experience in developing  
16 them and your knowledge of that industry, aren't  
17 they usually built such that they're connected to  
18 the transmission grid?

19 A. Yes.

20 Q. Is it normal or common for a  
21 connection to be -- I think you described it as a  
22 generation tie for the one project in Kansas. Is  
23 that a common way for that connection to occur --  
24 where there's a relatively short high voltage

1 transmission line connecting the wind project  
2 substation to utility grid substation?

3 A. That's common, yes.

4 Q. Okay. Have you, in your wind energy  
5 career, ever developed a wind energy project  
6 where a significant backbone transmission line  
7 had to be developed and constructed in order for  
8 the wind project to become connected?

9 A. At Horizon we worked on a number of  
10 projects that anticipated the transmission  
11 buildout that took place in Texas over the last  
12 few years. So yes.

13 Q. Would that be the CREZ project?

14 A. Yes.

15 Q. C-R-E-Z?

16 A. Yes.

17 Q. Okay. Prior to the beginning of  
18 construction of this project, if you get all  
19 approvals needed, about how much capacity do you  
20 expect that you'll need to have under contract?

21 A. I would say, you know, north of 2000.

22 Q. Little over half of its total  
23 capacity?

24 A. Yeah.

1           Q.     And those would be under long-term  
2     contracts?

3           A.     Correct.

4           Q.     Would you expect those contracts to  
5     fully fund the fixed costs of the project?

6           A.     You mean the investment costs?

7           Q.     Yes.

8           A.     Yes.

9           Q.     In terms of your customers that you  
10    expect to have for this project, do you know  
11    about what portion in terms of capacity you  
12    expect will be wind energy producers in the  
13    resource area?

14          A.     Oh, I expect it to be close to a  
15    hundred percent.

16          Q.     Because you had mentioned, in  
17    response to questions from Mr. Neilan earlier,  
18    that other customers could be load-serving  
19    entities or power marketers on the other end?

20          A.     Oh, yeah. I'm sorry. I thought --  
21    so it could be half wind producers and half  
22    load-serving entities that want access to the  
23    resource. I think we -- it's too soon to  
24    speculate how that will -- mix will come out.

1           Q.     Okay. All right. Not to beat a dead  
2 horse but going back to this cost recovery  
3 subject -- and I don't have much on it; so --

4                     You do state in your testimony that,  
5 before being able to recover any project costs  
6 through rate recovery from Illinois retail  
7 ratepayers, you would obtain Illinois Commerce  
8 Commission permission; correct?

9           A.     Correct.

10          Q.     Let's talk about, in the absence of  
11 such treatment -- rate treatment and regulating  
12 cost recovery, Grain Belt will recover its costs  
13 through its charges to its transmission capacity  
14 customers; correct?

15          A.     Correct.

16          Q.     Which is what you just stated.

17                     And, in turn, isn't it true that  
18 those customers will recover and pass along such  
19 capacity costs to their customers?

20          A.     So they will -- so if you're a wind  
21 producer and you want to get to market, then the  
22 price you would charge would be your production  
23 costs plus your delivery costs. So yes.

24          Q.     So even without cost recovery rate

1 treatment, isn't it true that the cost of the  
2 project ultimately would be paid by end-use  
3 electricity users?

4 A. If they -- if -- for those users who  
5 wish to purchase energy, yes; but for those users  
6 who do not, no.

7 Q. Okay. Could some of those end-use  
8 customers who would ultimately pay the cost of  
9 this project be located in Illinois?

10 A. Illinois customers will have access  
11 to the energy from this line, yes.

12 MR. SHAY: Okay. Your Honor, I have  
13 a few more questions, but I'm afraid they get  
14 into confidential matters, and so --

15 I talked to Mr. MacBride before lunch  
16 break about this, and the suggestion was that, if  
17 any -- to the extent any attorneys have any  
18 confidential cross of Mr. Skelly, that we just  
19 reserve that till later and then have everybody  
20 ask their non-confidential cross now.

21 JUDGE VON QUALEN: That sounds like a  
22 very good approach.

23 MR. SHAY: Okay. So I have no other  
24 open cross at this time.

1 Thank you, Mr. Skelly.

2 JUDGE VON QUALEN: All right.

3 MR. SKELLY: You're welcome.

4 JUDGE VON QUALEN: Mr. MacBride had  
5 mentioned that Ms. Freetly is only available  
6 prior to 3:00 P.M. today. Has Staff -- is Staff  
7 considering possibly having her called another  
8 day, or is Staff wishing to break up Mr. Skelly's  
9 testimony?

10 MR. SAGONE: Your Honor, Ms. Freetly  
11 would be available a little bit later today. I  
12 think the preference would be, obviously, the  
13 sooner the better, but she is available past 3:00  
14 o'clock today till 5:30.

15 JUDGE VON QUALEN: We're only  
16 available till 5:00. So she beats us.

17 Okay. We'll continue with Mr.  
18 Skelly's testimony then. Who else has questions.

19 MR. DAVIS: I do, Your Honor.

20 JUDGE VON QUALEN: Proceed.

21 CROSS-EXAMINATION

22 QUESTIONS BY MR. DAVIS:

23 Q. Mr. Skelly, my name is Chuck Davis.  
24 I represent the Illinois Farm Bureau. Saw you

1 here a few years ago. And I have Laura Harmon  
2 here -- inside counsel -- also.

3 If I ask any questions that you don't  
4 hear or you don't understand, just let me know.  
5 I'd be happy to rephrase it. Okay?

6 A. Yep. Yes.

7 Q. Thank you.

8 Is it correct that on the date of  
9 filing the petition in this matter that GBX did  
10 not own, control, operate, or manage any plants,  
11 equipment, or property used for or in connection  
12 with the transmission, delivery, or furnishing of  
13 electricity in Illinois?

14 A. No.

15 Q. That's not correct?

16 A. Not correct.

17 Q. Okay. Explain yourself.

18 A. So we have interconnect processes  
19 underway. We have option -- we have a land  
20 option for the converter station. We have a  
21 whole series of studies and other work that we've  
22 put into the project.

23 Q. Tell me about the option contract  
24 that you're referring to.

1           A.     So we have an option to purchase a  
2 parcel of land on which to site the converter  
3 station.

4           Q.     You do not own the property outright  
5 and free?

6           A.     No.

7           Q.     I don't know the exact wording you  
8 used, but before you talked about this option,  
9 you talked about other things that you have here  
10 in the state. What tangible things actually do  
11 you have here in the state that are owned by GBX?

12          A.     In terms of real property?

13          Q.     Personal property, real property.

14          A.     That's -- that's the extent of it:  
15 Studies. It's the option on the land. It's all  
16 the regulatory work, all the siting work. That's  
17 all property of Grain Belt Express.

18          Q.     Okay. So if I go back to -- I was  
19 obviously referring to the language in the  
20 statute. So I'll just go word by word.

21                     In Illinois does GBX own any plants?

22          A.     Any power plants?

23          Q.     Yes.

24          A.     No.

1           Q.     In Illinois does GBX own any  
2 equipment?

3           A.     No.

4           Q.     Now, these series of questions,  
5 without restating them all -- these were all true  
6 on the date that you filed the petition and  
7 today; is that correct?

8           A.     I believe so.

9           Q.     Isn't it true that, on the date of  
10 filing the application and up to including today,  
11 that GBX does not have any customers in the state  
12 of Illinois?

13          A.     That's correct.

14          Q.     Isn't it true that, on the date of  
15 filing of the application and up to including  
16 today, that GBX does not have any assets in  
17 Illinois that could be used to sell, transmit, or  
18 deliver electricity?

19          A.     Some of the assets that we control  
20 would be necessary, but the totality of the  
21 assets is not sufficient.

22          Q.     So the answer is "No"?

23          A.     You'll have to restate the question.

24          Q.     Isn't it true that, on the date of

1 filing of the application and up to including  
2 today, that Rock Island does not have any  
3 assets in Illinois -- not Rock Island. I'm  
4 sorry. GBX -- in Illinois that could be used to  
5 sell, transmit, or deliver electricity?

6 A. That is not true.

7 Q. Okay. What do you have in Illinois  
8 at this moment that could deliver electricity to  
9 a person that could use that electricity?

10 A. So some of the things that we have  
11 done in Illinois -- some of the studies and so on  
12 that I mentioned -- are necessary, okay, but  
13 they're not sufficient to transmit electricity.

14 So the answer is that we don't --  
15 it's not that we have none of them. The answer  
16 is we don't have all of them.

17 Q. The basics of this proposed project  
18 is that some of the energy will be supplied by  
19 wind farms on the western part of the project.  
20 I'm a little unclear from your testimony before.  
21 Do these wind farms exist to supply as of today  
22 or not?

23 A. For the most part, no. There's a  
24 couple hundred megawatts that might wish to

1 transmit their electricity to the PJM market  
2 instead of the local market, but that's a  
3 fraction of what we will need to supply the line.

4 Q. What fraction would that be?

5 A. Oh, you know, less than 10 percent.

6 Q. Is it your understanding that, if and  
7 when these wind farms are built on the western  
8 side of the project, that they will be paid  
9 billions of dollars in production tax credits by  
10 the taxpayers?

11 A. No.

12 Q. These wind farms will not obtain or  
13 seek production tax credits?

14 A. They may or may not. I don't know.

15 Q. From the looks of your testimony, you  
16 had a lot of experience in producing wind farms.  
17 If you were one of these people putting up a wind  
18 farm, would you seek the production tax credits?

19 A. If it were available, then I would  
20 need to because I would be competing with other  
21 developers who had access to it. So in order to  
22 be competitive, I'd seek to avail myself of that.  
23 But if there is no production tax credit, the  
24 wind technology is so good now that these

1 projects could be built without it.

2 Q. So if you were one of these wind --  
3 potential wind farms, the existence or  
4 non-existence of the production tax credit  
5 doesn't bother you because they're so  
6 technologically advanced now. Is that what  
7 you're saying?

8 A. Well, what I'm saying is there are  
9 many, many developers active in the resource area  
10 developing projects. They can't build because  
11 they don't have access to transmission. They  
12 understand, as we do, that it will take a number  
13 of years for our project to come on line and  
14 provide them with transmission service. Neither  
15 they nor we know if there will be a production  
16 tax credit when their projects -- when we're  
17 available for service and their projects come on  
18 line. That is unknown at this time.

19 Q. Let's assume a scenario where this  
20 project is approved and the production tax  
21 credits do not exist. In your experience, would  
22 you have built -- would you then, in that  
23 scenario, build a wind farm to supply to this  
24 line?

1           A.     Yes.  Absolutely.

2           Q.     Isn't it true that Grain Belt -- GBX  
3     has never delivered electricity to anyone in  
4     Illinois or otherwise?

5           A.     That is true.

6           Q.     Exhibit 1.1 to your testimony is an  
7     organizational chart of many different entities.  
8     Isn't it true that none of the entities listed in  
9     the chart have ever delivered electricity to  
10    anyone?

11          A.     Yes, that's true.

12          Q.     Isn't it true that none of the  
13    companies in that organizational chart have ever  
14    built a transmission line?

15          A.     I'm not sure about GridAmerica  
16    Holdings, but you can ask the witness from  
17    National Grid if they have subsidiaries within  
18    GridAmerica that have built transmission lines.

19          Q.     On the organizational chart, on every  
20    entity from Clean Line Energy Partners going  
21    down, have any of those entities ever built a  
22    transmission line before?

23          A.     No.

24          Q.     I also have some questions that will

1 be reserved later for the confidential testimony,  
2 but I do think the questions I'm going to ask now  
3 are -- fall outside of that. And feel free to  
4 let me know if you think otherwise, but I did  
5 talk to your attorney before this and gave him  
6 the heads up.

7 Looking at the organizational chart,  
8 Clean Line Energy Partners, am I correct that the  
9 owners of that company are National Grid through  
10 a subentity -- I believe it's all the ones listed  
11 on the top of that chart; is that correct?

12 A. Yes.

13 Q. Do you know roughly what percentage  
14 National Grid owns of Clean Line Energy Partners?

15 A. Dave Berry can you give the exact  
16 figures.

17 Q. Do you know roughly what percentage  
18 any of the owners on the top of the  
19 organizational chart -- what they own in the  
20 company?

21 A. Yeah. I'd rather defer that to Dave  
22 Berry because he can give you the exact number.

23 Q. Aren't you the CEO of the company?

24 A. I am.

1           Q.     You don't know how much the owners  
2 own in your company that you run?

3           A.     Yes.  But I don't want to lead you  
4 astray.  I want to give you an exact answer.

5           Q.     Who is on the board of Clean Line  
6 Energy Partners?

7           A.     I am.  Michael Zilkha is an observer.  
8 Do you want me to walk you through all of them?

9           Q.     Yes, please.

10          A.     Neil Wallack and Bryan Begley.  Stan  
11 Blazewicz and John Flynn.  John Wilder and Bryan  
12 Fisher.

13          Q.     I know I'm going to ask you to repeat  
14 yourself here a little bit, but I know that some  
15 of those individuals are with National Grid, some  
16 are with other organizations.  Would you mind  
17 repeating the list but saying what -- where they  
18 come from and who they work for?

19          A.     Okay.  Bryan Begley and Neil Wallack  
20 are with Clean Line Investor which is part of  
21 ZAM.

22                     John Flynn and Stan Blazewicz are  
23 with National Grid, and that's part of  
24 GridAmerica -- or GridAmerica, part of National

1 Grid, I should say.

2 I'm with Clean Line.

3 John Wilder and Bryan Fisher are with  
4 Bluescape, and they are in a preferred equity  
5 instrument in the company.

6 Q. When did Bluescape come into the  
7 picture?

8 A. Early July.

9 Q. So before they came in, take everyone  
10 else on the list and those were the owners of  
11 Clean Line Energy Partners before; is that  
12 correct? There were not --

13 A. Right.

14 Q. -- any other subtractions or  
15 additions between that time?

16 A. That's correct, yeah.

17 Q. Am I correct that National Grid or  
18 their subentities or whatever are involved with  
19 you -- that they're not involved in the  
20 day-to-day operations of Clean Line Energy  
21 Partners or any of the subsidiaries?

22 A. The day-to-day? That's correct, yes.

23 Q. Is it correct that National Grid has  
24 some sort of preferred option or any option

1        whatsoever to own any of the Clean Line projects  
2        that are listed on that organizational chart?

3            A.        Dave Berry can you walk you through  
4        the mechanics of that, but like other investors,  
5        they have the right to invest in the projects.

6            Q.        Am I correct that National Grid's a  
7        little different than the other investors in that  
8        they actually operate transmission lines in parts  
9        of the world; is that correct?

10          A.        They do.

11          Q.        So by virtue of that, do they have  
12        the ability to take over the day-to-day  
13        operations and ownership of any of the lines that  
14        are proposed that's distinct just from the other  
15        investors?

16          A.        They do not.

17          Q.        Now I'm going to quickly run through  
18        some of the basic -- what I believe are the facts  
19        with some of these projects that fall under Clean  
20        Line Energy Partners, and I'm curious if the  
21        numbers are correct or if you have anything to  
22        clarify.

23                    The Rock Island Clean Line project --  
24        am I correct that the total project cost is

1 around 1.8 billion?

2 A. Approximately.

3 Q. Am I correct that the Plains and  
4 Eastern proposed project is around 2 billion?

5 A. Correct.

6 Q. Am I correct that the Centennial West  
7 project is around 2.5 billion?

8 A. Correct.

9 Q. Am I correct that the Western Spirit  
10 is around 400 million?

11 A. Correct.

12 Q. And am I correct that this project  
13 that's proposed, the GBX project, is around 2.75  
14 billion?

15 A. Correct.

16 Q. And that totals roughly \$10 billion?

17 A. Correct.

18 Q. As far as the lines proposed, Rock  
19 Island proposes a line that traverses Iowa and  
20 Illinois and is about 500 miles; is that correct?

21 A. Correct.

22 Q. Plains and Eastern traverses  
23 Oklahoma, Kansas, Texas, Tennessee, Arkansas and  
24 traverses about 700 miles; is that correct?

1           A.     Yeah.  Except for it doesn't go into  
2     Texas.

3           Q.     Okay.  Centennial West -- am I  
4     correct that it traverses New Mexico, Arizona,  
5     California and goes about 900 miles?

6           A.     Correct.

7           Q.     And Western Spirit is just in New  
8     Mexico and is about 200 miles?

9           A.     Correct.

10          Q.     And the current application for GBX  
11     is Kansas, Missouri, Illinois, Indiana and is  
12     about 780 miles; is that correct?

13          A.     Correct.

14          Q.     So when all of these miles are added  
15     together, that's about 3,080 miles of  
16     transmission line you're looking to build?

17          A.     That sounds about right.

18          Q.     You may or may not know this:  Do you  
19     know that the widest width of the North America  
20     continent of the United States is 2,680 miles?

21          A.     I didn't know that exactly, but thank  
22     you.

23                     The North America continent, you say?

24          Q.     The widest tips of, you know, the

1 continental U.S.

2 A. Okay.

3 Q. It was news to me too.

4 If you look at Exhibit 1.4, this  
5 talks about -- it's titled Clean Line Energy  
6 Partners Electric Projects Experience, and there  
7 is a column that states length of transmission  
8 line in miles. Do you see that column?

9 A. I do, yes.

10 Q. Now, those would be transmission  
11 lines associated with those particular wind  
12 projects; is that correct?

13 A. Correct.

14 Q. And is that correct -- that this  
15 exhibit represents all of the transmission  
16 experience of employees and owners within Clean  
17 Line Energy Partners? Is that right?

18 A. Yeah. Within the employees, yes.

19 Q. And that includes you?

20 A. Correct.

21 Q. When you add up that column, it  
22 totals 743 miles; is that correct? Subject to  
23 check.

24 A. Yes.

1           Q.     And that's actually shorter than the  
2     one line that you're proposing in this case;  
3     isn't that correct?

4           A.     I think so, yes.

5           Q.     Now, a short discussion related to  
6     the regulatory approvals associated with these  
7     different projects.

8                     The Rock Island project -- you just  
9     testified a little bit as to the regulatory  
10    process in Iowa. Is it not -- is it the status  
11    that Rock Island Clean Line asked that the  
12    petition with the state be put on hold, or is it  
13    correct that your application was denied, or do  
14    you know?

15          A.     What state?

16          Q.     In Iowa.

17          A.     Oh. Well, we asked for a bifurcation  
18    of their decision-making process. So we have not  
19    yet asked for the line certification similar to  
20    this because, again, they -- Iowa's process, as  
21    we have discovered, requests that one have most  
22    of the right-of-way in hand before going through  
23    a process like this.

24          Q.     To be clear, what were the two things

1 that you asked to be bifurcated?

2 A. Essentially the -- and this gets into  
3 the legalities, but it's essentially the need for  
4 the -- which is, again, what we're talking about  
5 here, and the process to acquire right-of-way.

6 Q. So there are some next steps that it  
7 sounds like you need -- your company needs to  
8 take -- Rock Island Clean Line, at least -- in  
9 order to try to obtain approval in Iowa; correct?

10 A. Yes.

11 Q. And you ultimately want to build a  
12 line in Iowa; correct?

13 A. We do.

14 Q. When do you think reasonably you'll  
15 be able to obtain approval in Iowa?

16 A. In the next several years.

17 Q. People have different definitions.  
18 By "several," do you mean two? Three? Four?  
19 Five? What do you mean?

20 A. Yeah. Say three.

21 Q. Do you think there's any chance it  
22 could be done shorter than three years, or do you  
23 have any idea?

24 A. It's possible.

1           Q.     What do you think is the quickest  
2 amount of time it would take?

3           A.     Two.

4           Q.     Why do you think that?

5           A.     Again, with any of these projects,  
6 you're -- one is constantly evaluating the risks  
7 and the merits of the project as one deploys  
8 resources. And if we, for whatever reason,  
9 became very confident of the process or if the  
10 utility board came up with a determination in  
11 some area that we said, "Well, it looks like this  
12 may be a more ripe time to ask that question,"  
13 then they would revisit it. But there's --  
14 because this is in the future, there's too many  
15 variables to really speculate on it. So I don't  
16 know at this time.

17          Q.     So you don't have any other reasons  
18 regarding two years is the fastest? Like, the  
19 time period it takes statutorily to apply for  
20 these things in Iowa? Any -- do you have any  
21 other reason for why two years is the quickest?

22          A.     Any other reasons would be  
23 speculative at this point.

24          Q.     Well, you're the CEO. What do you --

1       when you're with the board and you -- if you tell  
2       them it's the fastest two years, what's the  
3       reason you would give your board?

4           A.     I would -- if -- if we were going in  
5       a particular direction, I would lay out the  
6       rationale for that direction and the risks  
7       associated with that and the possible benefits,  
8       and then they would make a determination. We  
9       collectively would make a determination.

10          Q.     When Bluescape invested, did they  
11       have any particular concern about the Rock Island  
12       project being approved in Iowa?

13          A.     I think it's fair to say that any  
14       investor who looks at the business of  
15       transmission development, you know, takes a  
16       clear-eye view at the risks associated with --  
17       with the sorts of projects that we undertake.  
18       There's no guaranteed regulatory approvals. You  
19       have to go through the process, and they're aware  
20       of that. The principals at Bluescape are  
21       seasoned electric power professionals; so they --  
22       they would certainly have thought about things  
23       like that.

24          Q.     Did you personally have any

1 conversations with any individuals from Bluescape  
2 about the speed at which you would obtain  
3 approval in Iowa?

4 A. Not that I recall.

5 Q. Did you have any specific  
6 conversations that you can recall regarding the  
7 likelihood of approval in Iowa?

8 A. Not that I recall.

9 Q. So you never had any discussions with  
10 Bluescape regarding the Iowa part of the Rock  
11 Island Clean Line project at all before they  
12 invested in Clean Line Energy Partners?

13 A. Not that I recall.

14 Q. The Plains and Eastern project, am I  
15 correct that you've obtained regulatory approvals  
16 in Oklahoma and Tennessee?

17 A. That's correct.

18 Q. But you did not obtain approval in  
19 Arkansas; is that correct?

20 A. That's correct.

21 Q. And what about Kansas?

22 A. What about Kansas?

23 Q. Kansas is the Plains and Eastern  
24 project; is that correct?

1 A. No.

2 Q. Okay. Centennial West project, have  
3 you obtained any regulatory approvals or denials  
4 yet?

5 A. No.

6 Q. Have you applied to any states yet?

7 A. That would be a federal process for  
8 Centennial West, and we have some preliminary  
9 agreements with the BLM and Western Area Power  
10 Administration but no approvals.

11 Q. Western Spirit -- have you obtained  
12 any state approvals related to that project yet?

13 A. So we have an MOU with the Renewable  
14 Energy Transmission Authority of New Mexico, and  
15 it's not a route-specific approval, but it's a  
16 general -- think of it as kind of a utility  
17 franchise type approval.

18 Q. In your testimony -- now, this was  
19 before -- this is about the Grain Belt project in  
20 Missouri, and this is before the rehearing order  
21 came down, granted.

22 But you said the options were --  
23 related to the denial order of Missouri were  
24 seeking rehearing is one; two, appealing; three,

1 filing a new application; or, four, seeking  
2 federal siting authority.

3 Has Grain Belt made a determination  
4 at this time as to what route it's going to  
5 pursue with those four options?

6 A. Not yet.

7 Q. Tell me what would occur with federal  
8 siting authority.

9 A. So under the Energy Policy Act of  
10 2005, Congress passed and the Bush administration  
11 signed into law a measure that basically permits  
12 federal power marketing administrations to work  
13 in collaboration with private entities in order  
14 to site transmission lines.

15 That authority only extends to those  
16 states in which there are federal power marketing  
17 administrations active. So in the case of Grain  
18 Belt, that would apply to Kansas, Missouri, and  
19 so that would be the authority to which one would  
20 go if one wished to site Grain Belt given the  
21 circumstances.

22 Q. Similar question for Missouri like I  
23 had for Iowa before with Rock Island Clean Line.  
24 What's your best guess on when you believe you

1 can obtain approval to start building a line in  
2 Missouri?

3 A. It depends on which alternative we  
4 pursue.

5 Q. Okay. If it's appealing, what do you  
6 think?

7 A. That would be speculative. I don't  
8 know what a court would -- I don't know the  
9 timelines courts use in Missouri.

10 Q. If it was filing a new application,  
11 how long do you think it would be?

12 A. You know, 18 months, maybe two years.

13 Q. And if it was federal siting  
14 authority, how long do you think it would be?

15 A. Probably two-and-a-half to three  
16 years.

17 Q. Do you believe that the Missouri  
18 denial of your application for the Grain Belt --  
19 for the GBX project will hinder your efforts at  
20 raising money to fund the project?

21 A. No.

22 Q. The organizational chart -- there are  
23 subentities underneath the Clean Line Energy  
24 Partners. Obviously, each one of these

1 subentities is going to have its own expenses.  
2 Are all of those expenses confined within each  
3 entity, or are they ever charged to other  
4 entities on that bottom of the chart?

5 A. I'm not sure I understand the  
6 question.

7 Q. If you have an expense, let's say,  
8 that is in the Rock Island Clean Line matter, is  
9 there any chance that that could be paid out of  
10 the funds of the Grain Belt matter, or are all  
11 funds and expenses kept separate between  
12 entities?

13 A. They're kept separate.

14 Q. Going back quickly through the  
15 different entities, Rock Island Clean Line, best  
16 case scenario, what was your time period where  
17 you believe construction would start and end? Do  
18 you recall that information?

19 A. Didn't we just talk about that?

20 Q. When you would start construction.

21 A. Oh, when we start construction. I  
22 would say in two or three years.

23 Q. For the Plains and Eastern project,  
24 same question.

1           A.     Two years.  Less -- little bit less  
2     than two years.

3           Q.     And how long will that construction  
4     project take?

5           A.     30 to 36 months.

6           Q.     Centennial West, the same two  
7     questions:  When you look to have construction  
8     start, and how long will it take?

9           A.     I would say not for another five  
10    years, and it would take, again, 30 to 36 months.

11          Q.     Western Spirit, same two questions.

12          A.     As early as 18 months, and it should  
13    take about 18 months to build.

14          Q.     And then I know it's in the pleadings  
15    here, but for the sake of being thorough, for the  
16    Grain Belt, same questions -- two questions.

17          A.     So the earliest start of  
18    construction?

19          Q.     Yes.

20          A.     So it would take 30 to 36 months to  
21    build, and the earliest starting construction  
22    would be after the approvals are in place; so two  
23    to two-and-a-half years.

24          Q.     So from looking at these timelines,

1 is to fair to say that, if Clean Line Energy  
2 Partners is successful in its bids outright to  
3 build these lines, that they'll at least at some  
4 point all be under construction at the same time?

5 A. Hypothetically, that's possible.  
6 It's unlikely, I think, that everything aligns up  
7 all at once for all projects.

8 Q. But that's your plan?

9 A. The dates that I was giving you were  
10 sort of early-case scenarios; and, as we know,  
11 transmission is a long-term endeavor which takes  
12 a number of years. I don't anticipate that  
13 they'll all get approvals in that time frame, but  
14 if they did, then -- then we would have the  
15 situation of building a couple lines at once.

16 Q. Or potentially all of them.

17 A. I suppose there's some possibility  
18 that we could build all of them at once, to which  
19 case I think we would have decisions to make  
20 around which ones to prioritize and which ones to  
21 build -- the sequence.

22 Q. The numbers you gave me are best-case  
23 scenario with, you know, getting things  
24 constructed; right? So, I mean, that's -- that's

1        what you're going to the Commissions in the  
2        different states telling people you want to do  
3        and you're capable of doing; right? You're  
4        capable of building all these at one time.

5            A.        Yeah. Between us and our partners,  
6        yeah, we are.

7            Q.        So how would you prioritize it then?  
8        You just said that, if they all got approved at  
9        once, you'd have to prioritize and build one  
10       first before the others.

11          A.        No. I --

12          Q.        Which would you pick?

13          A.        It's not sequential, that you do one  
14        after the other, but you probably wouldn't want  
15        to start construction on the same day on all the  
16        projects. You'd want to stagger them by 6 or 12  
17        months.

18          Q.        So if they all got approved at the  
19        same time, who would be winner? Who'd get  
20        constructed first?

21          A.        That's too -- that's speculative. I  
22        don't know.

23          Q.        If you were in front of your board  
24        and they asked you the same question, what would

1 you tell them?

2 A. I would say here's the risks and  
3 rewards of the different projects which -- and  
4 talk to them about the advantages of waiting to  
5 get another 200 megawatts signed up on a  
6 particular project versus the 2,300 that we have  
7 in place, and then we'd make decisions from  
8 there.

9 Q. Do you think that creates an  
10 unnecessary -- unnecessary amount of  
11 unpredictability for landowners?

12 A. You mean the 6- to 12-month delay  
13 that I'm talking about?

14 Q. With all of these different projects  
15 that could be staggered at different times.

16 A. So just repeat the question if you  
17 don't mind.

18 Q. You're unable to tell me right now --  
19 if you get everything you want with all these  
20 projects and they're all slated to start  
21 construction around the same time, you testified  
22 that you're not sure which you would pick to go  
23 first and that they'd have to be staggered over  
24 six months or different periods of time. Do you

1 think that's unnecessary unpredictability for  
2 landowners that are involved?

3 A. No. It actually might be  
4 advantageous because you could -- you could start  
5 your construction times -- one of the variables  
6 that you would weigh is the best time to  
7 construct in which particular areas. So, for  
8 example, it's not advantageous to construct in  
9 Illinois in the springtime. So if you could  
10 start construction in the fall, that would be  
11 advantageous to everybody involved.

12 Q. So --

13 A. Flexibility on our end is probably  
14 helpful.

15 Q. This is kind of a generic term, but  
16 would you use consistent construction crews for  
17 all the different projects? So it's possible  
18 there could be one crew for one purpose that goes  
19 first to the Rock Island line and then they go to  
20 the Grain Belt line and -- is that how that would  
21 work? Or how do you envision that?

22 A. We would -- as we've testified,  
23 there's different contractors involved in  
24 different projects. So the crews wouldn't switch

1 back and forth.

2 Q. Are there any that work on -- will  
3 work on more than one project?

4 A. I mean, we don't control individual  
5 laborers or subs to our prime contractors. So I  
6 suppose there could be people that go between  
7 projects, and we wouldn't control that.

8 But one of the determinations that  
9 we'll make during our contracting approach is the  
10 contractors' abilities to manage multiple  
11 projects because any contractor that we use will  
12 be doing other projects besides ours at that  
13 moment in time.

14 Q. Your Exhibit 1.2 is the management  
15 qualifications of your -- I believe it's mostly  
16 your executive team. Who on the list is  
17 dedicated exclusively on the GBX project?

18 A. Mark Lawlor is the only person in  
19 this list -- there are other people who are  
20 dedicated exclusively to Grain Belt, but  
21 everybody except Mark Lawlor works on multiple  
22 projects.

23 Q. So everyone else on that list works  
24 on all the projects, multiple projects, depends

1 on the person. Is that how that works?

2 A. Correct.

3 Q. So to clarify, the other people on  
4 the list work on more than one project?

5 A. Correct.

6 Q. Exhibit 1.3 is titled the Internal  
7 Construction Management Organization Structure.  
8 Is this specific to Grain Belt, to GBX, or is  
9 this at the level of Clean Line Energy Partners  
10 and services all the different subentities?

11 A. So this is the construction  
12 management team that we would put in place for  
13 Grain Belt. Obviously, this structure is not in  
14 place now because we're not building the project  
15 right now.

16 Q. Would any of the positions in this  
17 organizational chart have responsibilities with  
18 any of the other subentities of Clean Line Energy  
19 Partners?

20 A. No. These people would be dedicated  
21 exclusively to Grain Belt. I'm sorry. With the  
22 exception of the EVP transmission and technical  
23 services.

24 Q. If one of the projects -- so we're

1 talking about the projects on the bottom of the  
2 organizational chart, the different lines. If  
3 one fails, one -- let's just say you can't get  
4 Iowa approval. Rock Island Clean Line doesn't  
5 happen. How does it affect financially the other  
6 subentities, the other projects?

7 A. Financially, how does it affect? It  
8 doesn't affect them.

9 Q. So if, for instance, the Rock Island  
10 Clean Line -- you ended up abandoning the project  
11 because you can't get approval, the plan is to  
12 march forward with all the other projects; is  
13 that correct?

14 A. Yes.

15 Q. You mentioned earlier in your  
16 testimony studies being performed by the RTOs.  
17 Are any of those complete?

18 A. A number of studies are complete.  
19 Dr. Galli can walk you through the specifics of  
20 each of those studies and where we are in the  
21 different RTO interconnection process.

22 Q. But where you -- as you sit today,  
23 you don't know for sure which studies are  
24 complete and which are not?

1           A.     So there are feasibility studies with  
2 PJM that are complete, and that leads you to  
3 another process. But Dr. Galli manages those  
4 processes, and he can give you a full answer.

5           Q.     Am I correct that GBX is not  
6 participating in the RTO planning process?

7           A.     Which planning process?

8           Q.     On the basis of need.

9           A.     Which planning process are you  
10 referring to?

11          Q.     The MISO process.

12          A.     So as I believe I mentioned a little  
13 while ago, there is no planning process that  
14 covers three different RTOs. So, no, we're not  
15 participating in a nonexistent planning process.

16                   MR. DAVIS: I think at this time I'm  
17 going to reserve the rest of my questions for the  
18 confidential portion of the testimony.

19                   JUDGE VON QUALEN: Very well.

20                   Mr. McNamara.

21                                   CROSS-EXAMINATION

22                   QUESTIONS BY MR. MCNAMARA:

23           Q.     Mr. Skelly, my name is Ed McNamara.  
24 I represent Concerned Citizens and Property

1 Owners.

2 Several times here this afternoon  
3 you've deferred questioning. Last time was to  
4 Mr. Galli and throughout to Mr. Berry. Mr.  
5 Berry's scheduled to testify last, the last day;  
6 Mr. Galli next to last day. Are you going to be  
7 around here for the duration?

8 A. No.

9 Q. When are you leaving?

10 A. Tomorrow night.

11 Q. So if we go back to Mr. Berry come  
12 Thursday and he's not able to answer the  
13 questions that you've deferred to, you're gone;  
14 is that correct?

15 A. I will not be here in Springfield,  
16 Illinois, if that's you what mean by "gone."

17 Q. Yeah.

18 Next, I'm a little unclear about the  
19 Iowa situation. You mentioned that it's a  
20 problem because you have to acquire -- is it  
21 options for easements before you can proceed?

22 A. It's -- I don't know that they're  
23 specific with respect to options for easements or  
24 easements themselves. As you know, an option for

1 an easement -- a solid option for an easement is,  
2 you know, tantamount to being an easement because  
3 you just exercise it.

4 Q. You say you're a little uncertain. I  
5 mean, what is it? Do you have to acquire an  
6 easement, an option for an easement, or one or  
7 the other?

8 A. I don't know.

9 Q. Well, am I correct -- well, next  
10 question. With regard to Iowa, what are you  
11 doing to solve the problem over there?

12 A. So we asked for a bifurcation -- in  
13 other words, a segregation -- of the process, and  
14 we were denied in that request. And we are  
15 making it clear to the various stakeholders that  
16 we believe have an interest in the line  
17 proceeding because of the benefits it will bring  
18 to Iowa the difficulties that the Iowa process  
19 presents. And if we feel confident of a positive  
20 outcome, then we'll proceed accordingly.

21 Q. Well, am I correct, then, that you've  
22 got to change the process in Iowa before you'll  
23 have any success there?

24 A. No. Not necessarily. We may

1 determine that -- that the existing process is  
2 something that merits moving forward, and there  
3 are risks and benefits with that approach. So  
4 we're looking at that.

5 Q. Do you have the power of eminent  
6 domain in Iowa at this time?

7 A. No.

8 Q. And you're not sure as to whether you  
9 need an option or an easement?

10 A. Could you just restate that question?

11 Q. Well, with regard to Iowa, before you  
12 can proceed, you mentioned earlier that there  
13 was either an option for an easement that you  
14 needed or an easement itself. Are you still  
15 uncertain -- you're uncertain about that?

16 A. I believe that an option for an  
17 easement would be sufficient to satisfy whatever  
18 criteria the regulator would set forth with  
19 respect to the threshold before they were willing  
20 to look at the second question that they raise in  
21 a process like ours which is around need.

22 Q. So under the current system, it's a  
23 two-step process: First, you get the option or  
24 the easement, and then have a hearing on need?

1 A. Generally speaking, yes.

2 Q. Well, generally. What else do you  
3 need to do in Iowa?

4 A. That -- you outlined it.

5 Q. Okay. And you filed the case for  
6 RICL here in Illinois when?

7 A. I don't recall the exact date.

8 Q. But more than a year or two ago;  
9 right?

10 A. Yeah.

11 Q. Numerous days of hearing?

12 A. Yes.

13 Q. When did you first determine you had  
14 a problem in Iowa?

15 A. I would say the first time that the  
16 Commission ruled -- the IUB ruled against us on  
17 bifurcation.

18 Q. And that would have been when?

19 A. I don't recall the date.

20 Q. So am I clear, then, if you don't get  
21 permission in Iowa or authority in Iowa, RICL's  
22 dead in the water?

23 A. If we don't get permission in Iowa,  
24 it would be difficult to -- to proceed with that

1 project.

2 Q. Difficult. I mean, how are you going  
3 to complete the project without Iowa?

4 A. It would be very difficult.

5 Q. Can I get an answer? Can you  
6 complete RICL without permission to put in a line  
7 in Iowa?

8 A. So the Rock Island project, as we  
9 like to call it, would not proceed without Iowa.

10 Q. Okay. Now, let's assume that you've  
11 been a farmer in northern Illinois and spent all  
12 your good hard-earned money litigating this  
13 matter through the Commission, through the  
14 appellate court. All of that money that these  
15 people have spent is wasted. Do you agree with  
16 me?

17 MR. MACBRIDE: Judge, objection.

18 Number one, that's argumentative.

19 Number two, this case is about Grain  
20 Belt, and while I understand it's reasonable to  
21 ask questions about the status of the other  
22 projects, to inquire into the overall plans of  
23 the company, the financial consequences, I think  
24 this is getting into very detailed questioning

1 about the process of Iowa which I don't think is  
2 relevant or material here.

3 MR. MCNAMARA: Judge, briefly, may I  
4 reply?

5 JUDGE VON QUALEN: Yes.

6 MR. MCNAMARA: Thank you.

7 Apparently this same group of  
8 companies proceeded in Iowa without doing their  
9 due diligence. Citizens of Illinois spent  
10 hundreds of thousands of dollars litigating it.  
11 They're still litigating it.

12 We're now confronted with a similar  
13 situation in this case where Missouri apparently  
14 has turned this company down.

15 We're here. I'd hate to look around  
16 the room and try to add up what it's costing us  
17 here this afternoon to go through this process.

18 I would think it's incumbent upon the  
19 company to do their due diligence and not come  
20 before the Commission, waste your time -- not  
21 wasting my time because I'm getting paid. But if  
22 you look around the room, certain people are  
23 going to be spending money, and if this thing  
24 doesn't go through, it's all for naught. Now,

1       that's the question.  That's why I'm trying to  
2       bring this out.

3                   JUDGE VON QUALEN:  Mr. McNamara, I  
4       believe that's the argument.

5                   MR. MCNAMARA:  You're correct.

6                   JUDGE VON QUALEN:  Let's stick to the  
7       facts.  Once you have facts, move on.

8                   MR. MCNAMARA:  Thank you.

9           Q.       (By Mr. McNamara)  Mr. Shay inquired  
10       as to whether you would furnish any financial  
11       security in the event the line is decommissioned.  
12       Am I correct that, as chief executive officer of  
13       the company, your answer is, no, your company nor  
14       any of the entities listed on Exhibit 1.1 will  
15       furnish financial security for the  
16       decommissioning of this line?

17           A.       That's correct.

18           Q.       And I believe I heard you testify  
19       earlier that this line will be in existence for  
20       50 to a hundred years; is that correct?

21           A.       We believe so based on similar assets  
22       around the country.

23           Q.       So at some point in time the line  
24       will be decommissioned?

1           A.     We're not aware of any line like this  
2     that has been decommissioned, but let's remember  
3     that electricity is only in common use for the  
4     last 120 years; so -- but in that time period,  
5     we're not aware of any high voltage lines that  
6     have been decommissioned.

7           Q.     With regard -- at the one end we're  
8     going to have the shipper; at the other end we're  
9     going to have the receiver, is that correct, with  
10    regard to the electricity in question?

11          A.     Yes.

12          Q.     The shippers being in Kansas?

13          A.     Correct.

14          Q.     Who else is going to be available to  
15    transport electricity from Kansas other than your  
16    company assuming you're successful?

17          A.     So what other -- well, the challenge  
18    that we're trying to address is that the existing  
19    grid, the AC grid, is maxed out. So it would be  
20    impossible to avail oneself of transmission  
21    service on reasonable terms between western  
22    Kansas and southern Illinois.

23          Q.     Are you saying you'd have no  
24    competition?

1           A.     There is some, but it's -- the  
2     advantages of DC transmission, we believe, far  
3     outweigh that of a competing alternative which is  
4     the AC system.

5           Q.     And who would be the competition  
6     assuming either technology?

7           A.     The competition -- you know, we don't  
8     really think of it as competition because we  
9     believe that, you know, the more transmission  
10    that one has between Kansas and the markets of  
11    Illinois and PJM, the better because the more  
12    transmission alternatives that we have, the  
13    cleaner our energy mix will become. And we think  
14    that's a good thing for the state and for the  
15    country.

16          Q.     Are you essentially advocating that  
17    new companies be allowed, subject only to  
18    financial fitness, to build lines from Kansas to  
19    wherever without a showing of need?

20          A.     Well, I think there should be a  
21    showing of need, and that's why we're here.

22          Q.     And that's why I'm asking who the  
23    competition is.

24          A.     So the competition today is the AC

1 system and -- but tomorrow it could be somebody  
2 who proposes a similar line or a line that goes  
3 further east.

4 Q. Mr. Davis questioned you with regard  
5 to meeting the definition of a public utility,  
6 and you mentioned several things in passing, and  
7 I need to try and understand this.

8 With regard to your being a public  
9 utility in Illinois, you mentioned something  
10 about an interconnect or an interconnect  
11 agreement?

12 A. Yes.

13 Q. What do you mean?

14 A. So as part of our process to tie  
15 into the grid, we would apply to the RTO in this  
16 case -- well, in this case it's PJM on one end  
17 and MISO in the middle and SPP in the west -- and  
18 those RTOs decide whether or not our project can  
19 reliably interconnect.

20 Q. Do you have any of those  
21 interconnection agreements in place as of today's  
22 date with regard to the State of Illinois?

23 A. No.

24 Q. You also said something about the

1 process is underway with regard to being a public  
2 utility in Illinois. What do you mean by that?

3 A. I think what I was referring to is we  
4 are here in the process.

5 Q. You also mentioned something about an  
6 option to purchase. Do you have any options to  
7 purchase affecting any Illinois public utility  
8 property?

9 A. Not any -- we have an option to  
10 purchase a private parcel of land.

11 Q. And you're aware of the particulars  
12 of that option?

13 A. Not really.

14 Q. So who is going to be testifying as  
15 to the option to purchase?

16 A. I think Mr. Lawlor could provide  
17 details on that option.

18 Q. And he'll make himself available?

19 A. I mean, I don't know how the  
20 procedure works in terms of calling other  
21 witnesses back or how all that works.

22 Q. With regard to Missouri, when will  
23 you determine your plans for Missouri?

24 A. Probably early next year.

1           Q.     You realize this matter's being  
2 handled under expedited procedure.

3           A.     I do.

4           Q.     And there's going to be an order --  
5 theoretically, at least -- entered in this matter  
6 in November of this year.

7           A.     I do.

8           Q.     So you'll have plans for Missouri  
9 well after the order is entered if we follow the  
10 expedited procedure?

11          A.     We believe that the outcome of this  
12 proceeding is relevant to how we should proceed  
13 in Missouri.

14          Q.     Would you be willing to hold this  
15 matter in abeyance until you've decided what  
16 you're going to do in Missouri?

17          A.     No.

18          Q.     As far as starting construction,  
19 you're going to need both Missouri and Illinois  
20 authority; is that not correct?

21          A.     Either -- no. Because there's  
22 federal authority that could work in Missouri.

23          Q.     Now, with regard to federal  
24 authority, is that a given?

1           A.     What do you mean "a given"?

2           Q.     Well, can the feds turn you down?

3           A.     In all cases the federal  
4 government -- in all cases that I'm aware of with  
5 respect to Section 1222 of EPCAct '05, the federal  
6 government has discretion with respect to an  
7 application that one might make.

8           Q.     So, once again, we might have a  
9 situation similar to Iowa where we'd rush through  
10 this proceeding on an expedited basis and the  
11 feds in their discretion do not give you  
12 permission?

13          A.     So we believe this project is good  
14 for Illinois, and we believe that our testimony  
15 points that out in terms of economic development,  
16 investment, lower energy costs; and therefore  
17 this process is appropriate, and I think that's  
18 been ruled on.

19          Q.     No authority in Missouri either by  
20 the federal people or the Missouri Public Utility  
21 Commission. Am I correct that this project won't  
22 go forward?

23          A.     If there's no approval from either of  
24 those parties and no other, you know,

1 facilitating legislation, then it -- it's hard to  
2 see how the project would move forward.

3 Q. Once again, we'll have a situation  
4 similar to RICL where a lot of time and a lot of  
5 money could be spent with no results for  
6 anything.

7 MR. MACBRIDE: Objection.  
8 Argumentative.

9 JUDGE VON QUALEN: Sustained.

10 MR. MCNAMARA: Withdraw.

11 I have no further questions at this  
12 time.

13 JUDGE VON QUALEN: Very well.

14 I believe all we have left is the  
15 confidential portion of the cross-examination of  
16 Mr. Skelly.

17 Let's take a ten-minute break while I  
18 see what we need to do to make the -- secure the  
19 room. Be back at 25 after.

20 (Pages 295 - 320 of the  
21 proceedings are contained in a  
22 separate closed transcript.)

23

24

1 CONTINUATION OF PROCEEDINGS

2 JUDGE VON QUALEN: All right. We're  
3 back in the public portion of the hearing, and  
4 Ms. Freetly has been called to the stand.

5 Ms. Freetly, were you previously  
6 sworn?

7 MS. FREETLY: I was, yes.

8 MR. SAGONE: Hi, Your Honor. This is  
9 John Sagone in Chicago. Can you hear me?

10 JUDGE VON QUALEN: Yes.

11 MR. SAGONE: Is it okay if I go ahead  
12 and proceed?

13 JUDGE VON QUALEN: Please do.

14 MR. SAGONE: Thank you.

15 JANIS FREETLY,  
16 of lawful age, having been produced, sworn, and  
17 examined on behalf of Staff, testified as  
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SAGONE:

21 Q. Good afternoon, Ms. Freetly.

22 A. Hello.

23 Q. Hi. Can you hear me okay?

24 A. Yes.

1 Q. Okay. This is John Sagone.

2 Can you please state your full name  
3 and spell your last name for the record.

4 A. My name is Janis Freetly,  
5 F-r-e-e-t-l-y.

6 Q. And who is your employer, and what is  
7 your business address?

8 A. I'm employed by the Illinois Commerce  
9 Commission at 527 East Capitol Avenue,  
10 Springfield, Illinois 62701.

11 Q. And what is your position at the  
12 Illinois Commerce Commission?

13 A. I'm a senior financial analyst in the  
14 finance department.

15 Q. Do you have before you a document  
16 which has been marked for identification as ICC  
17 Staff Exhibit 2.0, the Verified Statement of  
18 Janis Freetly, which was filed on e-Docket on  
19 July 14, 2015?

20 A. Yes.

21 Q. Did you prepare that document for  
22 presentation in this matter?

23 A. I did.

24 Q. Do you have any corrections to make

1 to ICC Staff Exhibit 2.0?

2 A. No.

3 Q. Is the information contained in ICC  
4 Staff Exhibit 2.0 true and correct to the best of  
5 your knowledge?

6 A. Yes.

7 Q. And if you were to testify today as  
8 to the matters set forth in ICC Staff Exhibit  
9 2.0, would your testimony be the same?

10 A. Yes, it would.

11 MR. SAGONE: Your Honor, I would move  
12 for admission into evidence ICC Staff Exhibit  
13 2.0.

14 JUDGE VON QUALEN: All right. I'll  
15 defer ruling on that until the parties have had  
16 cross.

17 Who has cross-examination? Mr. Shay?

18 MR. SHAY: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 QUESTIONS BY MR. SHAY:

21 Q. Ms. Freetly, good afternoon.

22 A. Hello.

23 Q. My name is Bill Shay representing  
24 Landowners Alliance of Central Illinois.

1                   You said your position is senior  
2 financial analyst; is that correct?

3           A.     Yes.

4           Q.     How long have you been that in that  
5 position?

6           A.     I believe I was promoted to senior  
7 analyst in 1999.  So --

8           Q.     Okay.  What --

9           A.     It's been about six -- I've been here  
10 at the Commission for 17 years.

11          Q.     Okay.  And how about before that?  Is  
12 that your first job out of school?

13          A.     Out of graduate school, yes.

14          Q.     Okay.  And what did you major in in  
15 college and graduate school?

16          A.     Well, I obtains a bachelor of  
17 business degree with a major in marketing, and  
18 then I obtained my master of business  
19 administration degree with a concentration in  
20 finance.

21          Q.     Okay.  So you've had a fair amount of  
22 experience, have you not, in financial statements  
23 and financing matters in your position with the  
24 Commission?

1 A. Yes.

2 Q. Okay. In your verified statement  
3 that you've supplied as Staff Exhibit 2.0, would  
4 you agree that the important portion of it is  
5 that you recommend that the Commission impose the  
6 financing conditions that you cite in paragraph  
7 4?

8 A. Yes.

9 Q. Okay. Now, are you aware generally  
10 of the requirements that an applicant must show  
11 under Section 8-406.1 of the Public Utilities  
12 Act?

13 A. Yes.

14 Q. And is one of those requirements that  
15 the applicant show and the Commission find that  
16 the, quote, "public utility is capable of  
17 financing the proposed construction without  
18 significant adverse financial consequences for  
19 the utility or its customers"?

20 A. Yes. That's correct.

21 Q. Okay. Were you here during the  
22 questions and answers of Mr. Skelly in the closed  
23 session?

24 A. I was.

1 Q. Okay. How familiar would you say you  
2 are with Clean Line's financial condition and  
3 resources?

4 A. Generally and pretty vaguely. As  
5 I -- as you already expressed, my testimony is  
6 really based on just recommending the Commission  
7 adopt the proposed condition that the company  
8 proposed, making the construction contingent upon  
9 the financing being secured.

10 Q. Okay. Have you assessed the risk of  
11 Grain Belt running out of funds prior to reaching  
12 project finance stage?

13 MR. SAGONE: Your Honor, objection.  
14 It's outside the scope of this witness'  
15 testimony.

16 MR. SHAY: Well, your Honor, I think  
17 it's within the scope of her duties as assigned,  
18 finance specialist and expert to this case, and  
19 is central to a required finding under the  
20 statute.

21 JUDGE VON QUALEN: The objection is  
22 overruled.

23 You may answer the question.

24 A. Could you repeat the question,

1 please?

2 Q. (By Mr. Shay) Have you assessed the  
3 risk of Grain Belt running out of funds prior to  
4 reaching the project finance stage?

5 A. No. I suppose there is a risk of  
6 that happening but -- as with any financing.

7 Q. I'm sorry. The last part?

8 A. With any financing, there is a -- you  
9 know, there's a risk that the funds would run  
10 out, but they, you know, have secured the funds  
11 needed for the development up to this point, and  
12 they have indicated they have every -- you know,  
13 it's a reasonable assumption they'll continue to  
14 have the funds through the development.

15 Q. Okay. How would you describe what  
16 kind of financial analysis you did on Grain Belt  
17 as part of, you know, your role assigned to this  
18 proceeding?

19 A. Well, I really looked at it in the  
20 context of this condition and would that  
21 condition be sufficient to make sure that the --  
22 you know, basically, the project is contingent  
23 upon them getting the financing secured. So if  
24 they're unable to get the financing, the project

1 can't proceed.

2 Q. Okay. Ms. Freetly, then, is it fair  
3 to say that you developed your affidavit just  
4 based on your review of the information and  
5 testimony and exhibits that Grain Belt provided  
6 in this proceeding?

7 A. Yes.

8 Q. And no -- no other independent  
9 analysis?

10 A. No. I did not assess the company's  
11 current ability to finance the project given that  
12 I proposed the contingency.

13 Q. Right.

14 A. And their -- you know, their plan to  
15 do project financing -- that can't occur until,  
16 you know, if the project is approved in this  
17 proceeding and they, you know, get the  
18 authorization to do so; so --

19 Q. Okay. That's fine.

20 I don't have any other questions.

21 Thank you.

22 JUDGE VON QUALEN: Mr. Davis?

23 MR. DAVIS: Yes, Your Honor, I do  
24 have a few questions.

1 CROSS-EXAMINATION

2 QUESTIONS BY MR. DAVIS:

3 Q. My name is Chuck Davis. I'm an  
4 attorney with Illinois Farm Bureau and here with  
5 Laura Harmon also. Just a -- some questions  
6 regarding your verified statement.

7 You testified that you reviewed the  
8 application in this case along with the  
9 associated exhibits; correct?

10 A. Yes.

11 Q. And have you reviewed the other  
12 pleadings that have been filed in this case also?

13 A. Some.

14 Q. And have you reviewed the -- any of  
15 the data requests, requests or responses that  
16 have gone around in this case?

17 A. Some. Certainly not all.

18 Q. Did you direct your counsel to issue  
19 any data requests regarding the finances of the  
20 applicant, of Grain Belt?

21 A. I don't believe I issued any data  
22 requests, no.

23 Q. Before, Mr. Shay asked you about your  
24 familiarity with a portion of 8-406.1 which reads

1 "That the public utility is capable of financing  
2 the proposed construction without significant  
3 adverse financial consequences for the utility or  
4 its customers."

5 Do you remember that?

6 A. Yes.

7 Q. And you've read this portion of the  
8 statute before?

9 A. Yes.

10 Q. Do you believe this portion of the  
11 statute to be a required showing of the applicant  
12 before a certificate is issued to them?

13 A. Well, it -- the Commission in the  
14 Rock Island Clean Line case took this approach,  
15 you know, because that's how a lot of these  
16 infrastructures -- it's very common financial  
17 practice to finance them this way. So that was  
18 approved by the Commission in showing that they  
19 did have the ability to finance it. So that's  
20 the same approach I took here.

21 Q. So, I guess, to my question, whether  
22 that provision of the statute is a required  
23 showing before an application is issued, do you  
24 believe that to be true, false, you do not know,

1 or --

2 A. Well, yes. It's a finding required  
3 to be granted a Certificate of Public Convenience  
4 and Necessity, and that's the point of the  
5 contingency that I recommended be put in place --  
6 to be sure that that criteria is met.

7 Q. So is it your belief that in the Rock  
8 Island case that a finding was made, first, that  
9 Rock Island was capable of financing it --  
10 financing the project, on the one hand; and,  
11 then, after the fact, before they could proceed  
12 with the project, they had to verify that fact.  
13 Is that your understanding?

14 A. Yes. Part of the condition requires  
15 that they verify to the Commission that they have  
16 secured the financing needed for the total cost  
17 of the construction.

18 Q. So when I look at your testimony, you  
19 speak to the second half of that issue but not  
20 the first half. So your testimony is absent an  
21 opinion of whether Grain Belt is capable of  
22 financing this project. Do you have an opinion  
23 as of today or --

24 A. Well, that's the purpose, again, of

1 the contingency -- to -- for them to verify that  
2 fact because, you know, project financing is  
3 different in that it's more based on the  
4 projected cash flows of the company versus the  
5 balance sheet. So it requires the regulatory  
6 process to be gone through before, you know, the  
7 financing will be available to the company; so --

8 Q. As you sit here today, do you have  
9 any concerns about GBX being able to raise  
10 sufficient capital to pay for this project?

11 A. No. There's a degree of uncertainty  
12 in the financial markets always, but based on the  
13 plan that the company has and, you know, similar  
14 project financing for other infrastructure  
15 projects, it seems the capital would be  
16 available.

17 Q. Do you have an opinion on the amount  
18 of cash on hand that an applicant should have at  
19 the time of an application such as this?

20 A. No.

21 Q. When you do your analysis in a case  
22 such as this where there are many different  
23 sister companies involved on other projects, do  
24 you -- do you analyze the effect of those on the

1 financial capability of the applicant?

2 A. Depending on the case, you look at  
3 the corporate structure.

4 Q. Did you in this case?

5 A. No. Again, I was -- because of the  
6 proposed condition on the financing that was -- I  
7 didn't look at the entire corporate structure and  
8 all the different projects going on. My  
9 testimony was very limited as my verified  
10 statement shows.

11 Q. So from being in the hearing room  
12 today and reading the pleadings, are you  
13 generally aware of the other projects that the  
14 parent company of GBX has in process right now  
15 around the country?

16 A. Yeah, vaguely, based on the  
17 discussion earlier with Mr. Skelly.

18 Q. And you're aware that the total  
19 projects altogether are around \$10 billion? Are  
20 you aware of that?

21 A. Yes. I heard him state that earlier.

22 Q. And so, then, you also heard at that  
23 time, without getting into confidential matters,  
24 the amount of cash on hand that they have at

1 Clean Line Energy Partners -- the percentage? Or  
2 do you recall that conversation?

3 A. I do.

4 Q. And do you recall the percentage  
5 without saying it out loud?

6 A. I believe so.

7 Q. Does that cause you any concern?

8 A. Not in the preliminary -- the  
9 preliminary nature of the project.

10 Q. So when would it cause concern?

11 A. Well, I guess I'd be concerned if  
12 they're not able to meet this requirement then.

13 Q. Now or after the application is  
14 issued? Or after the certificate's issued. I  
15 apologize.

16 A. Well, again, the issuance of the  
17 certificate still doesn't allow the construction  
18 to begin until they meet the condition and prove  
19 that they have secured financing.

20 Q. Under this assumption that you can  
21 simply come back later and make a showing, does  
22 that not -- does that mean this criteria under  
23 the statute -- that any company or any person  
24 could meet it because they just have to come back

1 and show later what their finances are?

2 A. No.

3 Q. How so?

4 A. Just given the company's proposal  
5 here to use project financing. That's -- that's  
6 the process that is involved: to get regulatory  
7 approval, to then be able to get -- sell the  
8 capacity, to then be able to secure financing  
9 based on projected cash flows.

10 Q. I have no further questions. Thank  
11 you.

12 A. Thank you.

13 JUDGE VON QUALEN: Mr. McNamara.

14 CROSS-EXAMINATION

15 QUESTIONS BY MR. MCNAMARA:

16 Q. Ms. Freetly, am I correct that your  
17 testimony is that, after the certificate is  
18 granted, then the applicant has to, before  
19 starting construction, at that time prove that it  
20 can secure the financing? Is that your  
21 testimony?

22 A. Yes.

23 Q. So you're saying that right now,  
24 before the certificate's granted, they don't have

1 to make a showing that they're capable of  
2 financing the project?

3 A. Given the structure of the financing  
4 of the project, that's just the reality of the  
5 timing of it. So that they would still have to  
6 prove that before they can begin construction.  
7 So even the issuance of the certificate is  
8 contingent upon them being able to show that.

9 Q. The issuance of the certificate is  
10 contingent upon a showing after the certificate's  
11 issued?

12 A. Well, I suppose, yes, they would show  
13 it at a later date once they're able to proceed  
14 with the project and obtain the financing.

15 Q. Is it your theory that there will be  
16 a conditional certificate granted, and then we'll  
17 come back and have another hearing and  
18 cross-examine as to financing?

19 A. No. But the condition is in place to  
20 limit their ability to start construction. To  
21 start putting anything on property, owner's land,  
22 they first have to meet this showing.

23 Q. Meet the showing how? Who are they  
24 going to show?

1           A.     Well, the condition --

2           MR. SAGONE:  Argumentative.

3           MR. MCNAMARA:  Excuse me.  We have an  
4  objection?

5           JUDGE VON QUALEN:  Yes.

6           MR. MCNAMARA:  I'm just trying to  
7  clarify it.

8           JUDGE VON QUALEN:  Okay.  Just do not  
9  be argumentative, sir.

10          MR. MCNAMARA:  Okay.

11          Q.     (By Mr. McNamara)  Let me ask you  
12  this, Ms. Freetly:  Am I clear that, in essence,  
13  what you're saying is you're accepting, without  
14  an independent analysis, the theory that, after  
15  the certificate is granted, the company will  
16  somehow come back and show financial fitness, the  
17  ability to get the financing?

18          A.     Yes.

19          Q.     This has been a rather expedited  
20  hearing.  Were there other questions that you had  
21  for the company that you were unable to pose  
22  simply because of the shortened time frame in  
23  this matter?

24          A.     No.

1           Q.     You've spoken about obtaining the  
2     financing to put the line in place. Do you  
3     likewise believe it would be prudent for the  
4     company to have to show some financial ability or  
5     post a bond so that sometime in the future, when  
6     the line is decommissioned, that whomever is  
7     operating the line will have the financing to  
8     take the line out? Would that be a prudent --

9           MR. SAGONE:   Objection.

10          Q.     (By Mr. McNamara)  -- requirement, in  
11     your opinion?

12          MR. SAGONE:   Objection.  Outside the  
13     scope of this witness' testimony.

14          MR. MCNAMARA:  I think this witness  
15     is the financial witness for the Staff.  I'm just  
16     asking her if she believes that that would be  
17     prudent.  I think she can give the answer.  I  
18     don't think it's surprising.

19          JUDGE VON QUALEN:  Objection  
20     overruled.

21          You may answer if you have a -- if  
22     you know.

23          A.     I'm not familiar with any  
24     decommissioning of a transmission line.  So I'm

1 not sure that that's a, you know, likely scenario  
2 that would need to be guarded against, I guess,  
3 or financed for.

4 MR. MCNAMARA: That's all I have.

5 JUDGE VON QUALEN: Is there any other  
6 cross for this witness?

7 (No response.)

8 JUDGE VON QUALEN: Is that a "No"?  
9 No more cross?

10 (No response.)

11 JUDGE VON QUALEN: I had a question.

12 EXAMINATION

13 QUESTIONS BY JUDGE VON QUALEN:

14 Q. Was there any consideration about  
15 whether there would be any significant adverse  
16 financial consequences? Is there an analysis of  
17 that included in your condition?

18 A. No. Well, the -- the risk is being  
19 borne by the company in trying to take this  
20 project to completion and secure the financing.  
21 So my condition would basically limit -- you  
22 know, the risk wouldn't be able to be passed on  
23 to anyone because, if the company itself cannot  
24 secure the financing, then there is no project.

1           Q.     And what -- what would be the status  
2     of, then, the easements if the company had  
3     secured easements? Does your condition address  
4     that?

5           A.     No. If -- if -- again, if the  
6     financing is not secured, then the project would  
7     not continue. So the easements would be moot, I  
8     guess.

9           Q.     If the company had already --

10          A.     They'd already negotiated that? I'm  
11     not -- I'm not sure.

12                   JUDGE VON QUALEN: I don't have any  
13     other questions.

14                   Is there any redirect?

15                   MR. SAGONE: Janis, you want to give  
16     us a call?

17                   MS. FREETLY: Okay.

18                   JUDGE VON QUALEN: We can take a  
19     brief break. We do have to be done by five to  
20     5:00.

21                                   (Short recess.)

22                   JUDGE VON QUALEN: Back on the  
23     record.

24                   Does Staff have any redirect?

1 MR. SAGONE: No redirect, Your Honor.

2 JUDGE VON QUALEN: All right, then.

3 Are there any objections to Staff  
4 Exhibit 2.0?

5 (No response.)

6 JUDGE VON QUALEN: Hearing none,  
7 Exhibit 2.0 is entered into evidence.

8 This is about all the time we have  
9 for today.

10 Now, we had on your witness list to  
11 go today Mr. Rashid from Staff. Is there an  
12 alternate time that he could go, Mr. Sagone?

13 MR. SAGONE: You're available from  
14 9:30; is that correct?

15 Mr. Rashid is available from 9:30 on.

16 JUDGE VON QUALEN: Any of the days?

17 MR. SAGONE: Any of the days.

18 JUDGE VON QUALEN: All right. Are  
19 there any other changes we need to make right now  
20 or discussion about schedule changes?

21 MR. MACBRIDE: Yes, Judge. I can't  
22 remember if I said this on the record before or  
23 not. Mr. -- or Dr. Loomis can't be here  
24 tomorrow, but he can appear on Wednesday, and

1 that's also the case for Grain Belt witness  
2 Mr. Roddewig so that they will -- they've both  
3 promised to come back on Wednesday.

4                   And I'll just note, as we indicated  
5 at the start of the hearing, there was -- on  
6 Wednesday there was a substantial amount of cross  
7 time reserved for Grain Belt witness Galli by REX  
8 Pipeline which will not occur. So that  
9 eliminates a chunk of the anticipated cross time  
10 on Wednesday that hopefully, then, these other  
11 witnesses -- that provide time for these other  
12 witnesses who have to return for Wednesday.

13                   JUDGE VON QUALEN: That's a good  
14 thing to show me.

15                   And so with that, then, we'll have  
16 Mr. Skelly for redirect first thing at 9:00  
17 o'clock tomorrow morning, and we will proceed  
18 according to the schedule after that.

19                   With that, this matter is continued  
20 to tomorrow, at 9:00 A.M.

21                   Thank you all.

22                                   (Matter continued to August 18,  
23                                   2015, at 9:00 A.M.)

24

