STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Grain Belt Express Clean Line LLC	**:**	
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Application for an Order Granting Grain Belt Express Clean Line LLC 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 Transmission Public Utility 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.	**:**	**15-0277**

PROPOSED ORDER

Dated: October 15, 2015

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PROPOSED ORDER

I. PROCEDURAL HISTORY

On April 10, 2015, Grain Belt Express Clean Line LLC ("GBX" or "Applicant") filed an Application under Section 8-406.1 of the Illinois Public Utilities Act ("Act") 220 ILCS 5/5-101 et seq. with the Illinois Commerce Commission ("Commission"). (Unless otherwise stated, cited Sections are to the Act.) Applicant requests a certificate of convenience and necessity ("CPCN") to construct, a roughly 202-mile long +600-kilovolt electric transmission line, which will traverse Illinois from near Canton to a converter station in Clark County, and related facilities (collectively the "Project"). In addition to authority to construct, Applicant requests authority to conduct a transmission public utility business in connection with the transmission line. Applicant requests an order pursuant to Section 8-503 and Section 8-406.1(i) of the Act, authorizing it to construct the transmission line and related facilities. Applicant does not request eminent domain authority pursuant to Section 8-509 of the Act.

As required by Section 200.150(h) of 83 Ill. Adm. Code 200, “Rules of Practice,” (“Part 200”), GBX included with its Application a list containing the name and address of each owner of land over which the proposed transmission line would cross. The list is marked as Attachment 13 to the Application. The Commission's Chief Clerk sent notices of this proceeding to those listed in Attachment 13 and to other utilities, railroads, and municipalities within the vicinity of the project.

Pursuant to due notice, a prehearing conference was held in this matter before a duly authorized Administrative Law Judge (“ALJ”) of the Commission at its offices in Springfield on May 5, 2015. Status hearings were held on June 23, July 1, and August 12, 2015. Public forums concerning the proposed Project were held by the Commission in Pittsfield, Illinois on July 28, 2015 and in Pana and Marshall, Illinois on July 29, 2015.

The following entities filed petitions to intervene: Rex Encore Farms LLC and Rex Encore Properties LLC (collectively "Rex Encore"), Mary Ellen Zotos ("MEZ"), Illinois Agricultural Association ("Farm Bureau"), Ameren Illinois Company d/b/a Ameren Illinois ("AIC"), Landowners Alliance of Central Illinois, NFP ("LACI"), Concerned Citizens & Property Owners ("CCPO"), Rockies Express Pipeline LLC ("REX Pipeline"), Brown Branch LLC and JAR Branch LLC (collectively "Brown Branch"), Environmental Law & Policy Center ("ELPC"), Infinity Wind Power ("Infinity"), Building Owners and Managers Association of Chicago ("BOMA"), Wind on the Wires ("WOW"), International Brotherhood of Electrical Workers Locals 51 and 702, AFL-CIO ("IBEW"), BNSF Railway ("BNSF"), Illinois Central Railroad Company ("IC"), and Citizens Utility Board ("CUB"). All Petitions to Intervene were granted.

CCPO, Farm Bureau, LACI, and Rex Encore filed Motions to Dismiss. The Commission denied the Motions to Dismiss on June 16, 2015. CCPO, Farm Bureau, and LACI filed Motions to Reconsider, which were denied by the Commission on July 28, 2015. (The Motions to Dismiss and Motions to Reconsider will be referenced collectively as "Motions to Dismiss.") On June 8, 2015, pursuant to the procedural schedule, certain parties filed proposed revisions to the Proposed Route of the Project. On various dates thereafter, pursuant to the procedural schedule, Staff and various intervening parties filed direct and rebuttal testimonies. On August 7, 2015, GBX filed rebuttal testimony.

Evidentiary hearings were held on August 17 through 21, 2015. GBX presents the testimony of Michael Skelly, President and CEO of Clean Line Energy Partners LLC ("Clean Line"), President of GBX; Dr. Anthony Wayne Galli, Executive Vice President, Transmission and Technical Services at Clean Line; Robert Cleveland, Managing Director, Transmission Planning and Analysis at Leidos Engineering, LLC; Dr. Karl A. McDermott, Ameren Distinguished Professor of Business and Government and Director of the Center for Business and Regulation in the College of Business and Management, at the University of Illinois ("U of I"), Springfield, and Special Consultant, National Economic Research Associates; Dr. David G. Loomis, President of Strategic Economic Research, LLC , Professor of Economics, Illinois State University ("ISU"), Director of the Center for Renewable Energy and Executive Director of the Institute for Regulatory Policy Studies; Robert M. Zavadil, Co-Founder and Executive Vice President of EnerNex, LLC; Mark O. Lawlor, Director of Development for Clean Line; Timothy B. Gaul, Vice President, Power and Energy, Louis Berger Group, Inc.; Lee Jones, Director of Program Management at Quanta Services, Inc.; Stanley Blazewicz, Vice President, US Business Development at National Grid USA ("National Grid"), Member of the Board of Directors of Clean Line; David A. Berry, Executive Vice President, Strategy and Finance of Clean Line; and Richard J. Roddewig, President of Clarion Associates.

Staff presents the testimony of Yassir Rashid, Electrical Engineer in the Energy Engineering Program of the Safety & Reliability Division; Janis Freetly, Senior Financial Analyst, in the Finance Department of the Financial Analysis Division; Richard J. Zuraski, Economist in the Policy Division; and Mark A. Hanson, Economic Analyst in the Federal Policy Program of the Policy Division.

Infinity presents the testimony of Matt Langley, Director, Business Development. CCPO presents the testimony of Joseph Gleespen, landowner and President of BG Farms, Inc.; Sheryl Slightom, landowner and farmer for 28 years; Ervil (Wayne) Fisher Jr., landowner and 5th generation farmer; Kendall Cole, landowner and farmer with a Bachelor of Science in Agriculture from the U of I, former Vice President of the Illinois Farm Bureau and Country Companies, and Past Interim Executive Director for the Illinois Pork Producers Association; Michael Buchanan, landowner and farmer; Natalie Locke, landowner; Don Hennings, landowner and farmer for more than 35 years. Brown Branch presents the testimony of, Tom Rogers, landowner, farmer and manager of Brown Branch. Rex Encore presents the testimony of Chad Walker Brigham, Vice President and General Counsel of Rex Encore. IBEW presents the testimony of James R. Bates, Business Manager for IBEW Local 51. REX Pipeline presents the testimony of David A. Schramm, Vice President, Corrosion Control and Integrity Field Services, Integrity EN Engineering LLC. LACI presents the testimony of Dennis Sagez, farm owner and operator and an engineer with a Bachelor of Science in Engineering; Kendra Kleinik Davis, 5th generation farmer, Bachelor of Science in Agribusiness Economics from Southern Illinois University, Carbondale; Michael Proctor formerly the Chief Economist at the Missouri Public Service Commission ("MPSC"). MEZ presents the testimony of Nafsica Zotos, landowner and farmer. MEZ, CPPO, LACI, and Brown Branch, collectively, present the testimony of Michael A. Severson, MASCO & Associates, Inc. WOW presents the testimony of Michael Goggin, Senior Director of Research for the American Wind Energy Association ("AWEA"). BOMA presents the testimony of Michael F. Cornicelli, Executive Vice President of BOMA. IC presents the testimony of Arthur L. Spiros, Senior Manager Business Development and Real Estate for IC.

A Stipulation between GBX and REX Pipeline was admitted into evidence, and several motions to take administrative notice of various documents and facts were granted by the ALJ. The record was marked Heard and Taken on October 15, 2015.

II. OVERVIEW OF THE PROJECT

GBX is a limited liability company organized under the laws of Indiana. It proposes a ±600 kilovolt (“kV”), 4,000 megawatt (“MW”) capacity, high voltage direct current (“HVDC”) transmission line that will run from an alternating current (“AC”)-to-direct current (“DC”) converter station in Ford County, Kansas, across Kansas, Missouri and Illinois, to a DC AC converter station near West Union in Clark County, Illinois. The line will then continue as a 345 kV double circuit AC line for approximately 5.2 miles from the converter station to an interconnection with the PJM Interconnection LLC (“PJM”) transmission network at the Sullivan/Breed substation of American Electric Power Company (“AEP”) in Sullivan County, Indiana, approximately 1.6 miles across the Illinois/Indiana border. The

Project will also have a DC-to-AC converter station and a delivery point into the Midcontinent Independent System Operator ("MISO") transmission network at an interconnection with the Ameren Missouri system in Ralls County in northeast Missouri.

From western Kansas, the transmission line will traverse northern Kansas and northern Missouri to an interconnection point with the 345 kV system of Ameren Missouri on the MISO grid in Ralls County, Missouri, where a DC-to-AC converter station will be located. The transmission line will then cross the Mississippi River at a location approximately 2.5 miles south of Saverton, Missouri, between Mississippi River miles 299 and 300; enter Illinois approximately 6.5 miles west of New Canton, Illinois, in Pike County. From the Mississippi River crossing, the Illinois portion of the proposed transmission line travels in a general southeasterly direction, through Pike, Scott, Greene, Macoupin, Montgomery, Christian, Shelby, Cumberland, and Clark Counties, for 202.7 miles to a DC-to-AC converter station to be located near West Union in Clark County, Illinois. The proposed transmission line extends an additional 3.6 miles from the converter station to the Indiana border; and continues approximately 1.6 miles in Indiana to the AEP Sullivan/Breed substation, where it will deliver electricity into PJM's 765 kV transmission network. The HVDC transmission line will terminate at the converter station in Clark County, Illinois; from the converter station, a double circuit 345 kV AC line will be constructed approximately 5.2 miles to the Sullivan/Breed substation. The total length of the transmission line from Ford County, Kansas, to the Sullivan/Breed substation will be 780 miles, with approximately 206.3 miles in Illinois based on the Proposed Route of the Project.

III. STATUTORY AUTHORITY

GBX's Application is filed pursuant to Section 8-406.1, which establishes expedited procedures for CPCNs for the construction of new high voltage transmission lines.

Sections 8.406.1(a), (d) and (e) of the Act set forth requirements for pre-filing notices and public meetings, information that must be included in the application (including, among other information, both a "primary right-of-way" and one or more "alternate rights-of-way" for the proposed Project), payment of a $100,000 filing fee to the Commission, and a post-filing public notice. Section 8-406.1(h) of the Act requires the applicant to pay a one-time construction fee to each county within which the Project line is located, within 30 days after completion of construction.

Section 8-406.1(f) of the Act sets forth the criteria that the Commission must find are met in order to grant a CPCN for a proposed new high voltage electric transmission line and related facilities. Section 8-406.1 provides:

> The Commission shall, after notice and hearing, grant a certificate of public convenience and necessity filed in accordance with the requirements of this Section if, based upon the application filed with the Commission and the evidentiary record, it finds the Project will promote the public convenience and necessity and that all of the following criteria are satisfied:

(1) That the Project is necessary to provide adequate, reliable, and efficient service to the public utility's customers and is the least-cost means of satisfying the service needs of the public utility's customers or that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives.

(2) That the public utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction.

(3) That the public utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

Section 8-406.1(i) provides as follows:

> Notwithstanding any other provisions of this Act, a decision granting a certificate under this Section shall include an order pursuant to Section 8-503 of this Act authorizing or directing the construction of the high voltage electric service line and related facilities as approved by the Commission, in the manner and within the time specified in said order.

Section 8-503 states, in part, as follows:

> Whenever the Commission, after a hearing, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility . . . are necessary and ought reasonably to be made or that a new structure or structures is or are necessary and should be erected, to promote the security or convenience of its employees or the public or promote the development of an effectively competitive electricity market, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order authorizing or directing that such additions, extensions, repairs, improvements or changes be made, or such structure or structures be erected at the location, in the manner and within the time specified in said order . . . .

Parties also rely upon Section 3-105, which states in relevant part:

> "Public utility" means and includes, except where otherwise expressly provided in this Section, every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State,

> directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in:
>
> (a) the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water, or light, except when used solely for communications purposes;
> (b) the disposal of sewerage; or
> (c) the conveyance of oil or gas by pipe line.
>
> * * * *

Renewable energy resources are defined at Section 1-10 of the Illinois Power Agency Act (20 ILCS 1-1 et seq.) ("IPAA") as:

> [E]nergy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative source of environmentally preferable energy.

Section 1-10 of the IPAA defines a renewable energy credit ("REC") as “[A] tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.” Section 1-75 of the IPAA provides the renewable portfolio standard ("RPS").

A public utility may be granted eminent domain authority under Section 8-509. Section 8-509 states in relevant part:

> When necessary for the construction of any alterations, additions, extensions or improvements ordered or authorized under Section 8-406.1, 8-503, or 12-218 of this Act, any public utility may enter upon, take or damage private property in the manner provided for by the law of eminent domain. If a public utility seeks relief under this Section in the same proceeding in which it seeks a certificate of public convenience and necessity under Section 8-406.1 of this Act, the Commission shall enter its order under this Section either as part of the Section 8-406.1 order or at the same time it enters the Section 8-406.1 order. If a public utility seeks relief under this Section after the Commission enters its order in the Section 8-406.1 proceeding, the Commission shall issue its order under this Section within 45 days after the utility files its petition under this Section.

The Eminent Domain Act (735 ILCS 30/1-1-1 et seq.) ("Eminent Domain Act") is also relied upon by the parties.

IV. OVERVIEW OF PARTIES' POSITIONS

A. GBX

GBX explains that the objective of the Project is to transport clean, low-cost electricity from wind generation plants to be built in western Kansas, which has excellent wind resources, to the electricity markets in Illinois and other PJM and MISO states. It states, the Project will be capable of delivering 500 MW of power into the MISO grid at a delivery point in northeast Missouri and 3,500 MW of power into the PJM grid at a delivery point in western Indiana. GBX asserts that due to the close proximity of the Missouri and Indiana delivery points to Illinois and the regional nature of the MISO and PJM grids and electricity markets, electricity delivered at the Missouri and Indiana delivery points will flow and be delivered into and be used to serve customers in Illinois. It says the Project will deliver approximately 2.6 million megawatt-hours ("MWh") of clean energy per year into the MISO market, and up to 18 million MWh of clean energy per year into the PJM market. According to GBX, the total annual deliveries of over 20 million MWh will be enough to serve the annual electricity needs of over 1.6 million homes. GBX maintains that the Project will make additional wind generation, located in an area with higher wind speeds and lower costs per MWh, accessible to the Illinois market to meet the demand for clean energy and for electricity generally.

GBX states that it is a wholly owned subsidiary of Grain Belt Express Holding LLC, a Delaware limited liability company, which in turn is a wholly owned subsidiary of Clean Line Energy Partners, LLC ("Clean Line"), a Delaware limited liability company. It says Clean Line's common equity owners are: (1) GridAmerica Holdings Inc., a subsidiary of National Grid; (2) Clean Line Investor, LLC, an investment vehicle for ZAM Ventures, L.P. ("ZAM Ventures"); (3) Michael Zilkha; and (4) Clean Line Investment LLC.

During the course of this proceeding, Clean Grid Holdings LLC ("Clean Grid"), a subsidiary of Bluescape Resources Company, LLC ("Bluescape"), based in Dallas, Texas, invested in Clean Line by purchasing preferred units, which are convertible into common equity units. Applicant states, Clean Grid is committed to invest $17 million in Clean Line and has the option to invest up to an additional $33 million in Clean Line. GBX claims that members of the management of Bluescape Resources have substantial experience in electric transmission.

According to GBX, Clean Line's business objective is to construct and operate high voltage transmission lines and associated facilities to connect the best renewable resources in the U.S. and to deliver their output to load and population centers, such as Illinois, that have an increasing demand for electricity produced from renewable resources, and thereby to facilitate the development of renewable energy resources in the most cost-effective way possible. It says that through its wholly owned direct and indirect subsidiaries, Clean Line has five transmission line projects under development in various regions of the U.S., including the GBX Project and the Rock Island Clean Line transmission project ("Rock Island"), which was granted a CPCN by the Commission in Docket 12-0560. GBX says that to date, project subsidiaries of Clean Line, including

GBX, have received regulatory approvals to operate as a public utility and/or to construct proposed transmission projects from the public utility commissions of Illinois, Indiana, Kansas, Oklahoma and Tennessee.

GBX states that the transmission capacity of the Project will be 4,000 MW, with a capability to deliver 500 MW of power to the interconnection point on the MISO grid in northeast Missouri and to deliver 3,500 MW to the interconnection point with the PJM grid in western Indiana. It asserts the Project will enable over 4,000 MW of wind farms in western Kansas to have access to deliver their electricity to MISO and PJM, including to customers in Illinois. According to Applicant, the Project will deliver approximately 2.6 million megawatt-hours ("MWh") of electricity per year into the MISO grid in Missouri and approximately 18 million MWh of electricity per year into the PJM grid in Indiana. It states there are numerous high voltage (138 kV to 765 kV) transmission interconnections between Missouri and Illinois and between Indiana and Illinois that will enable electricity delivered by the Project to the MISO grid in northeast Missouri and to the PJM grid in western Indiana to flow or be delivered into Illinois. GBX asserts that the electricity that will be delivered by the Project, over 20 million MWh per year, is enough to supply the average annual electricity requirements of more than 1,600,000 homes.

GBX asserts that the Project will enable over 4,000 MW of wind farms to be built in western Kansas and to transport their electricity to the MISO and PJM interconnection points for delivery to and use by consumers in MISO and PJM, including in Illinois. It asserts that due to the outstanding wind resources and high average annual wind speeds in western Kansas, where wind generation capacity factors now routinely exceed 50%, and the lower construction and siting costs in western Kansas, these wind farms will be able to generate electricity from renewable resources at lower costs than new wind plants in Illinois or Indiana. GBX asserts that the Project and the connected Kansas wind generation will reduce wholesale electricity prices in PJM and MISO (which, in Illinois' competitive electricity market, will result in lower retail electricity prices) and will reduce the cost to serve load in Illinois.

According to GBX, the construction of this significant amount of new, low cost wind generation in western Kansas, and the ability of these wind generators to deliver the clean, economical electricity they produce for consumption in Illinois, is dependent on the construction of the Project. It states that there is limited or nonexistent transmission infrastructure to move large quantities of wind power from the wind-rich area of western Kansas to Illinois and other PJM and MISO states. It states that, while theoretically possible to move power from western Kansas to MISO and PJM using existing 345 kV (AC) lines, it would result in additional costs and complexities which make it unrealistic and uneconomic from a practical standpoint for wind developers to move power from new wind generation facilities they could construct in western Kansas to MISO and PJM. GBX maintains that potential developers of wind generation projects in areas like western Kansas will not construct additional wind generation facilities, without assurances of adequate transmission infrastructure to deliver their output to load and population centers.

GBX states the Project will use HVDC technology, which is generally regarded as the superior (to AC transmission), lower-cost technology for moving large amounts of power (especially electricity produced by variable generation resources) over long distances. It says, HVDC technology gives the operators direct control of energy flows, making it particularly well suited for managing the injection of variable wind generation in to the grid; HVDC lines. GBX asserts that HVDC, unlike AC, lines, will not become overloaded by unrelated outages, because the amount of power delivered is strictly limited by the converters at either end of the line. It claims that HVDC lines utilize narrower rights-of-way, fewer conductors and smaller structures than comparable AC lines, thereby making more efficient use of transmission corridors and minimizing visual, land use and other siting impacts.

GBX asserts it will recover its costs of constructing and operating the Project from its charges to its specific transmission customers who contract for or purchase transmission service on the Project, rather than through RTO cost allocation or other socialized cost recovery mechanism that spreads the costs of the Project to, and recovers them from, all retail electric ratepayers. It states it will provide non-discriminatory, open access transmission service to all eligible customers. Applicant expects that its transmission customers will be primarily owners of generation resources that will contract for transmission capacity to deliver the output of their plants into the MISO or PJM transmission grid and wholesale electricity purchasers that would contract for transmission capacity and use it to deliver electricity that they purchase from generators in western Kansas to MISO or PJM. It claims that in either scenario, the electricity delivered by the Project to the MISO and PJM grid will ultimately be sold and delivered to thousands of individual retail electricity customers. Thus, it asserts, GBX will construct and operate the Project for public use for the transmission of electricity, and the Project will transmit millions of MWh of electricity for the use of the public – retail customers in the footprints of the PJM and MISO RTOs.

GBX asserts, based on a Request for Information to wind power developers and an initial open solicitation for transmission service requests, there is a strong demand to move wind power from western Kansas to the MISO and PJM markets.

GBX estimates the cost to construct the transmission line in Illinois (based on the Proposed Route), excluding the converter station in Clark County, is $399.1 million. It says, the cost for the Clark County converter station will be approximately an additional $300 million. GBX claims the Project in Illinois is estimated to create 1,481 jobs over a three-year construction period. It asserts it is working actively to identify local suppliers and contractors that can supply materials and services for the construction of the Project and to identify specific Illinois businesses from which it can procure materials and components.

GBX states, that in order to construct the Project as planned from Kansas to Indiana, it will need to obtain relevant regulatory approvals for the states of Kansas, Missouri, Illinois and Indiana. It says that it has already obtained the necessary approvals for the states of Kansas and Indiana. It acknowledges that the MPSC issued an order on

July 1, 2015, denying GBX's request for a certificate of convenience and necessity for the Project in Missouri, but points out that the order explicitly provides that GBX has the option to file a new application for a certificate at any point if it develops information it believes would make a better case. GBX states it is currently analyzing how to address the concerns about the Project that the MPSC identified in its order, for the purpose of determining whether to file a new application with the MPSC. It notes that it has the option to pursue federal authority to construct the Project in Missouri, pursuant to Section 1222 of the Federal Energy Policy Act of 2005, and is presently evaluating that option as well. GBX maintains that regardless of the option that is pursued, it is committed to securing the necessary approval in Missouri and constructing and operating the Project.

B. Staff

Staff states that GBX's Application satisfies the Section8-406.1 filing and notice requirements. Staff states that in determining whether the Project is "needful and useful" to a degree sufficient to justify the granting of a CPCN, among other things, its benefits should be compared to its costs. Staff states the Project would promote the public convenience and necessity. Staff opines that the Project is not necessary to provide adequate, reliable and efficient electric service to Illinois ratepayers. Mr. Zuraski testifies that by providing access to additional and larger markets for electricity, the Project would facilitate development of wind farms in western Kansas, an area rich in wind resources and, thus, would promote the public convenience and necessity by providing load serving entities in Illinois and other states access to lower cost electric supply, which could lead to retail price decreases. Staff opines that given the economic benefits associated with bringing Kansas wind power to market and the lack of any viable alternatives to the Project as the means to accomplish that task, particularly in a less expensive manner, the Project appears to be reasonable and consistent with the requirement that the Project must be the least cost means of satisfying the objective of promoting the development of an effectively competitive electricity market.

Staff states that GBX has not adequately demonstrated that it is capable of efficiently managing and supervising the construction of the Project. It states that, with the financing condition, Staff does not see any significant adverse financial consequences for the utility or its customers and that GBX is capable of financing the Project.

C. Farm Bureau

Farm Bureau recommends that the Application be denied. It notes that numerous parties have intervened in the instant docket. It states that it has over 80,000 members and states that its agricultural members will be disproportionately and negatively affected by the Project along the Proposed Route. It notes GBX is a start-up company that has never built a transmission line, let alone Illinois' first-ever high voltage HVDC transmission line, with inexperienced management, insufficient funding, no customers, no suppliers, and no property. Farm Bureau asserts that GBX does not have the ability to begin construction of the Project within two years after being issued a CPCN. Farm Bureau claims, that GBX indicated that construction may never occur; is contingent upon approval

of the portion of the Project located in Missouri; and is dependent upon a minimum of 50% of the electric load being contracted by to-be-determined customers. Farm Bureau argues that since the Project has been denied regulatory approval in Missouri, the Project should be seen as not viable; GBX's Application should be deemed moot; and the Application should be dismissed.

Farm Bureau emphasizes this Application, filed by a non-utility new entrant to market, seeking to build a merchant DC transmission line is the second of its kind proposed to the Commission. It states the primary difference between this Project and Docket No. 12-0560, the Rock Island Project, is GBX's regulatory denial in Missouri, the immediate western feeder state. Farm Bureau states the investors in GBX and its parent, Clean Line, certainly have the right to invest in any speculative business ventures as they wish. However, it asserts, Illinois families should not be forced to participate in such a risky scheme. It notes it has only opposed a transmission project once before, the Rock Island Project. As in the previous matter, the Farm Bureau is opposed to its members being burdened by the construction of a large-scale merchant transmission line with no apparent need by an unexperienced non-utility.

D. LACI

LACI is an Illinois non-profit entity formed to oppose the Application of GBX in this proceeding for a CPCN and an order under Section 8-503. It states that over 120 landowners or persons with real property interests located along or in the vicinity of the proposed project route are LACI members. LACI contends that the Commission lacks jurisdiction and authority to grant the relief requested in this proceeding. LACI also believes that, even assuming jurisdiction does lie with the Commission to consider the Application in the manner filed, the Commission should not grant a Certificate for the reasons discussed below.

E. CCPO

CCPO is a group of landowners and residents of the geographical area at and surrounding the Proposed Route and Alternate Route for the Project. CCPO opposes the grant of the authority sought by GBX in this proceeding. LACI notes that the MPSC denied GBX authority to build the proposed line and denied GBX's request for reconsideration. LACI argues that the matter, being litigated on an expedited basis before this Commission, will be decided before Applicant makes a decision as to what further steps, if any, it will take with regard to the State of Missouri. LACI argues that Applicant is asking for an order from this Commission with which it cannot comply. LACI reasons that without authority to build the line in Missouri, GBX will not be able to construct the Project. LACI says that this Commission is devoting its limited resources to an issue that has already been decided by the MPSC. Likewise, it states, the parties to this matter are being required to expend time and money on a case that cannot be resolved at this time. LACI requests that the matter be brought to a close without further wasted time and money.

CCPO objects to a private, non-utility, company, utilizing the provisions of Section 8-406.1, which, it states, are clearly reserved for applicants that are public utilities. It quotes: “a public utility may apply for a Certificate of Public Convenience and Necessity pursuant to this section [. . .].” LACI notes Applicant is not a public utility and states that Section 8-406.1 provides an expedited procedure for a CPCN to construct a new high voltage line by a public utility.

CCPO voices concern that Applicant, if granted a CPCN and related authority under Section 8-406.1, will have the ability to exercise eminent domain on an expedited basis as well, under Section 8-409. It notes the 45 day time line for proceedings following a Section 8-406.1 order.

CCPO also notes the expedited nature of this proceeding, with a deadline of November 21, 2015. CCPO asserts this schedule does not afford the parties to this case the opportunity to fully present their evidence, file briefs, submit proposed orders, briefs on exceptions, etc., all necessary for a full and fair hearing and a just resolution. It emphasizes that this is a massive case by which a private company is seeking to construct a privately owned electric line that traverses Illinois from the Illinois/Missouri border to the Illinois/Indiana border. It notes that intervenors have not had the ability to file sur-rebuttal testimony, which it states would occur in a normal, non-expedited case. It asserts that Applicant as a non-public utility, may file an application for a CPCN under Section 8-406 without the expedited deadline. CCPO argues that Applicant has had at least several years to prepare its case, hire experts, prepare testimony, and eventually file the case herein on April 10, 2015. It states that intervenors, on the other hand, were required to organize and review the evidence, petition to intervene, prepare testimony, and file testimony, conduct hearings and briefing all on an expedited basis. It concludes that the matter should never have proceeded pursuant to Section 8-406.1, noting the intervenors' earlier objections. It notes Staff and the ALJ agreed with the intervenors with regard to this issue.

F. MEZ

MEZ argues that the fatal flaw in GBX’s Application for a CPCN is its retention of the right to allocate to ratepayers the costs of the Project. MEZ states that GBX has created its own special definition of “merchant” transmission owner as one that, at least initially, derives its revenues from transmission service contracts with shippers. MEZ asserts that under GBX’s self-created definition of “merchant” transmission owner, it does not assume all of the risk of the Project.

MEZ argues that there is nothing unclear or ambiguous in Federal Energy Regulatory Commission's ("FERC") definition of “merchant” transmission owner as one that assumes all risk of the related transmission project. It claims that by retaining a right to allocate Project costs to ratepayers, GBX admits that it would assume some, but not all, of the market risk of the Project. MEZ argues that this destroys GBX’s claim to be a “merchant” transmission owner as that term is defined by FERC. MEZ argues that GBX’s

loss of its status as a FERC-defined "merchant" transmission owner has downstream effects on several integral parts of its Application for a CPCN.

First, MEZ states that because GBX is not a FERC-defined "merchant" transmission owner, FERC's earlier grant of negotiated ratemaking authority to GBX is no longer valid. MEZ cites GBX's representation to FERC that it is assuming all of the Project's risk. It states this was a key element of GBX's application to FERC, and FERC expressly relied on it in granting negotiated ratemaking authority to GBX. MEZ claims that the economic model for the Project that GBX has presented to the Commission: the negotiation of transmission rates and contracts with shippers, collapses because GBX has voided its own authority to negotiate those rates and terms.

MEZ argues that GBX bases its claim to be least cost on its standing as a "merchant" transmission owner because only such an owner is driven by the market to reduce its operating costs to the lowest possible level. However, it reasons, because GBX can seek to allocate costs of the Project to ratepayers, this incentive no longer exists, and the basis for GBX's claim to be least cost falls away.

MEZ discounts GBX's assertion that it is not required to submit the Project to any RTO planning process because it is a "merchant" transmission owner. MEZ's argument continues that because GBX is not a "merchant" transmission owner as that term is defined by FERC, it may not rely on an exemption available only to such entities. Accordingly, MEZ argues, FERC Order 1000 requires that the Project be submitted to an RTO and GBX's Application for a CPCN is premature.

MEZ states that in an effort to preserve its status as a "merchant" transmission owner, GBX offers to return to the Commission for approval before seeking to allocate the Project's costs to Illinois ratepayers. MEZ argues that GBX's proposal is illusory because the Commission has no jurisdiction to even accept such an undertaking, much less enforce it should GBX renege. MEZ asserts that any allocation of costs of the Project to ratepayers necessarily involves the question of how much those ratepayers will be asked to pay. Therefore, MEZ concludes, GBX's proposed Commission approval of cost allocation goes directly to the issue of rates for interstate transmission service, which lies within the exclusive and plenary jurisdiction of the FERC.

MEZ takes the position that GBX has failed to show that there exists any public need for the Project, and therefore it does not promote the public convenience and necessity as required by Section 8-406.1. It explains that GBX has not made any showing that the Project is needed to have adequate, reliable and efficient service in either PJM or MISO. MEZ notes that neither of those RTOs requested that the Project be built. According to MEZ, the closest thing to a "public" need that GBX has shown is that of developers of prospective wind farms in west Kansas or facilitating Illinois RPS compliance. But, MEZ asserts, those windfarm developers, as well as GBX, are effectively the promoters of the Project, not the public. MEZ emphasizes that with a price tag of $2.75 billion, the Project is far from being the least cost means of achieving

compliance with the Illinois RPS. MEZ concludes that the Project, therefore, fails to meet that requirement of Section 8-406.1.

MEZ adds that although GBX may argue that the Project will "promote" the competitiveness of the Illinois electricity market, Section 8-406.1 requires that the "promotion" in question cannot be evaluated without reference to that section's other criteria, namely, its effects on all Illinois consumers, including landowners whose properties will be adversely affected by the Project.

G. IBEW

The IBEW represents approximately 55,000 members in Illinois who work in a wide variety of fields, including utilities, construction, telecommunications, broadcasting, manufacturing, railroads and government. It states that it is among the largest unions in the AFL-CIO and has members in many skilled occupations. IBEW Local Unions 51 and 702 represent in the aggregate, approximately 7,300 IBEW members, support the Application.

The IBEW opines that the Project will provide reliable, efficient access for a significant amount of additional high quality, lower cost wind generation resources to serve the Illinois energy markets, which will help to meet the growing demand for clean electricity and can help to lower electricity prices for consumers. It states that the Project will also create good quality jobs and support economic development in Illinois. IBEW notes that the construction and installation of the Project's facilities in Illinois, including the construction and installation of the Illinois converter station in Clark County, will be a very substantial construction project in Illinois.

H. ELPC

ELPC supports GBX's Application and requests that the Commission grant GBX public utility status and direct it to construct the Project. ELPC notes that GBX's merchant generator status means it assumes the market risk of the Project and does not have a process to recover its costs from ratepayers. ELPC concludes that Illinois customers stand to gain significant benefits in the form of access to electricity from low-cost (including zero-fuel cost) renewable energy resources at no financial risk.

I. Infinity

Infinity supports the development of the Project. It asserts that once the Project is constructed, Infinity plans to utilize the line to export power from wind generation projects it plans to build in western Kansas to customers in other states.

Infinity asserts that it intends to construct four wind farms in western Kansas that would be designed, in conjunction with GBX, to export low-cost renewable power from wind rich areas to distant load centers in the eastern U.S., in either the MISO or PJM, which both serve Illinois consumers. According to Infinity, GBX's planned HVDC Project

is the ideal resource by which to move this power, as it will be subject to less power or line loss than typical AC transmission lines and bypass the “seams” issue that in many cases makes it uneconomical for power to be transmitted across RTOs.

J. WOW

WOW supports GBX's Application for a CPCN under Section 8-406.1 and authorization of GBX to construct and maintain a high voltage electric service transmission line and related facilities, the Project, and place it into service pursuant to Section 8-503. It asserts that the Project would make available new wind resources that are needed and useful for Illinois. It says the resources would be helpful to comply with Illinois’ ARES and utility RPS, to provide wind resources that are cost competitive with Illinois’ wind energy resources, to comply with the Clean Power Plan, (40 CFR Part 60), and to reduce wholesale market price volatility due to fluctuating fuel prices.

WOW asserts that a competitive electricity market includes, but is not limited to, wholesale electricity prices as well as prices for renewable electricity. It states the Project will allow for the development of new wind energy facilities that will provide additional low-cost electricity supply in the market, reducing the price of electricity in Illinois. WOW asserts that the Project will facilitate the development of more wind energy than would otherwise be built in the absence of the line. It says that energy will reduce the overall cost of renewable products available for Illinois utilities and ARES, thus promoting an efficient and effectively competitive renewable electricity market within Illinois.

K. BOMA

BOMA supports this Project and the development of open, competitive and transparent energy markets, and encourages new market entrants in Illinois to develop energy infrastructure projects that increase reliability and lower building operating expenses. It opines that a merchant transmission line that does not automatically increase costs through legislative or regulatory mandate, nor require consumers to shoulder the risks of project development while reaping no reward for so doing, should be encouraged by the Commission and by energy consumers. BOMA states that completion of the Project has the potential to lower buildings’ operational expenses by increasing reliability through adding more infrastructure to the grid, and through access to new, diverse generation resources. It asserts that with increased access to more generation, the entire marketplace can become more competitive and temper rising energy costs for consumers. BOMA says that if additional generation can be brought to the region through the Project, then it naturally follows that additional reliability can be brought to BOMA members, even if that increased generation only indirectly affects the central business district by serving other customers that would otherwise put increased pressure on the grid.

L. CUB

CUB addresses only the issue of whether or not an entity that is not a public utility at the time of application for a CPCN can utilize Section 8-406.1. CUB asserts that entities like GBX should be able to avail themselves of the expedited process. It states that merchant transmission projects, like the Project, must still demonstrate that they meet the statutory criteria before a CPCN can be granted. It says that since these projects do not seek to place financial risk onto Illinois consumers, expedited review should be available as an option for merchant transmission owners, not just Illinois utilities. It notes the expedited process requires the Commission make the same findings that the project is in the public interest as the traditional process, merchant transmission owners like GBX must still clear the same hurdles as public utilities. CUB asserts that new third parties should be allowed to utilize an expedited process just as their public utility counterparts can.

M. Rex Encore

Rex Encore supports a northward relocation of a specific 2.5-mile segment of the Primary Route. It takes no position on the precise alignment of the far western end of the modification – a subject on which GBX and Brown Branch offer slightly variant alternatives. Rex Encore advocates for the relocation of this segment in general and the alignment of that relocation for the vast majority of its length as the parties agree.

N. REX Pipeline

REX Pipeline indicates that it operates the Rockies Express Pipeline, an underground steel 42-inch diameter natural gas pipeline. It states that its primary concern is the safety and integrity of the Rockies Express Pipeline. REX Pipeline states that as the owner of an existing pipeline facility, it is also concerned that neither it nor its customers bear additional costs and risks resulting from other projects and land uses that would cross or operate near the Pipeline. REX Pipeline does not oppose certification of the proposed GBX Project, nor does it oppose the routes proposed by GBX, provided that pipeline safety and integrity are protected. REX Pipeline states it engaged in cooperative discussions and reached an understanding as to a process to coordinate their efforts in a manner that REX Pipeline is confident protects pipeline safety and integrity. REX Pipeline states it and GBX have jointly agreed to request that the Commission include stipulated language regarding the possible impact of the Project on the pipeline and their agreement as to associated issues in any final Order granting GBX a CPCN.

O. IC

IC voices concern about the safety and integrity of its rail operations and wishes to protect the railroad's ability to maintain and develop their freight business. IC requests that should GBX be given approval for the Project, such approval direct GBX to abide by railroad safety requirements when the project requires the use of railroad property. It

asserts that these safety requirements are necessary so the railroads can protect the safety and integrity of the rail operation, and maintain and grow their freight business.

P. Public Comments

Pursuant to Section 2-107, the Commission must accept Illinois residents' comments on matters before the Commission through its website and toll-free telephone number.

Nearly 450 public comments were filed on e-Docket. More than 120 letters were received by the Chief Clerk. The great majority of the comments and correspondence were from landowners and others in the affected communities, writing to oppose the Project and in particular to oppose the threat of eminent domain authority being granted to a private, non-public utility entity. There were also comments in favor of the Project, generally favoring increased competition in the electricity market and the economic benefits of the energy and the construction. Multiple petitions, with hundreds of signatures, were filed in opposition to the Project.

There were hundreds of attendees at the public forums held in Pana, Pittsfield, and Marshall. Well over a hundred people spoke at the forums. The majority of the comments were opposed to the project. There were also speakers in favor of the Project.

Concerns that were raised by the opponents were consistent with the concerns raised by the intervening landowners. Many individuals voiced concern about the effect of the transmission line on their property, their farming or other occupations, and their lifestyle. Some speakers complained about GBX's valuation for their involuntary loss of property rights. Different concerns were raised depending on the nature of the property. Farmers raised concerns about the effects of the Project on farming operations and crop productivity. Other landowners complained that the Project would damage the nature of their property, noting its scenic and wildlife habitat qualities.

Comments in support of the Project, applauded it for increasing the availability of clean energy. They noted the positive environmental effects caused by the decreased need for fossil fuels. Many comments addressed the local and statewide economic benefits they anticipate from the construction and increased energy supply.

Letters and comments were received by local public officials. Letters from the public officials noted the financial benefits the Project would bring to local governments. Many public officials indicated that opposition to the Project in spite of the financial benefits it would bring. Some local officials gave the Project their support based upon the anticipated financial benefits.

V. FILING AND NOTICE REQUIREMENTS

This Section discusses whether Applicant complied with the specific and extensive filing and notice requirements in Section 8-406.1.

A. Project Description and Engineering Data

GBX asserts that its Application and Attachments thereto provide a detailed description of the proposed high voltage transmission line, including location maps and plot plans to scale showing all major components as required by Section 8-406.1(a)(1)(A). GBX says Paragraph 7 of the Application provides a description of the entire Project route, from Ford County, Kansas to Sullivan County, Indiana, and the converter stations that will be used. It states Section VI of the Application provides a more detailed description of the route and design characteristics of the Project. GBX provides both a Proposed (primary) Route and a separate Alternate Route for the Project in Illinois, as required by Section 8-406.1(a)(1)(B)(viii). GBX states that Attachment 4 to the Application is the legal description of the Proposed Route and Alternate Route and that Attachments 5 and 6 are maps showing the Proposed Route and Alternate Route in Illinois. Additionally, GBX says Mr. Gaul sponsors a detailed description and the required maps of its Project.

GBX states that it provides detailed engineering data, including a detailed description of the project; a description of the conductor, structures and substations; the location of the site and right-of-way; assumptions, formulae and methods used to develop technical data; data regarding overhead line specifications; technical diagrams; and the primary and alternate right-of-way as required by Section 8-406.1(a)(1)(B), in Paragraphs 7, 63, and 71-75 of the Application. It says the legal descriptions of the Proposed Route and the Alternate Route are provided in Attachment 4 of the Application. GBX states that much of this information is sponsored by Dr. Wayne Galli in his direct testimony and exhibits. In addition, GBX states, Mr. Gaul provides information required by Section 8-406.1(a)(1)(B) in his direct testimony and exhibits.

B. Pre-Filing Public Meeting and Notification Requirements

GBX asserts it has complied with the Section 8-406.1(a)(3) requirement to hold at least three pre-filing public meetings concerning its project in each county where the project is to be located, beginning no more than six months prior to the filing of the application. It states notice of the public meetings was published in a newspaper of general circulation once a week for three consecutive weeks, beginning no earlier than one month prior to the first public meeting. GBX states that notice of the public meeting was provided to the clerk of each county and an invitation was sent to the Commission. GBX states that it demonstrates its compliance with these requirements in Paragraph 83 of its Application as well as in GBX Exhibits 7.2, 7.3, 7.4, 7.6 and 7.7, attached to Mr. Lawlor's testimony.

Mr. Lawlor testifies that the required Public Meetings for the Project were held within the six month period preceding the date that GBX filed its Application with the Commission. He states that the area from which the Proposed and Alternate Routes were developed in Illinois ("Potential Route Network") encompassed Christian, Clark, Cumberland, Greene, Macoupin, Montgomery, Pike, Scott and Shelby Counties. Mr.

Lawlor affirms that GBX held three Public Meetings in each of these nine counties within the six month period preceding the filing date of GBX's Application with the Commission.

Mr. Lawlor states that each Public Meeting was advertised in at least one newspaper of general circulation in each county, for three consecutive weeks prior to each Public Meeting, beginning no more than one month before the first Public Meeting. He testifies that invitations to each round of Public Meetings, required by Section 8-406.1, were sent to the Commission's Executive Director through United States ("U.S.") mail and email. He states that written notice of each Public Meeting was also sent by U.S. Mail and email to the Clerk of each applicable county, as specified in Section 8-406.1.

Mr. Lawlor asserts that in addition to providing notice in accordance with the notice requirements of Section 8-406.1, GBX sent invitations by U.S mail to all landowners along or near routes in the Potential Route Network in advance of each of the three rounds of Public Meetings. He explains that the landowners to whom the invitations were mailed were identified by obtaining parcel ownership information from the Recorder of Deeds in each county. According to Mr. Lawlor, invitations were mailed directly to more than 8,800 landowners in the vicinity of the Potential Route Network for the first round of Public Meetings. He states that more than 4,000 invitations were mailed directly to landowners for the second round and more than 4,000 invitations were mailed for the third round of the Public Meetings. He explains that the invitation list was updated and reduced from the first Public Meeting to the second Public Meeting as the Potential Route Network was refined and fewer potential route segments remained under consideration. Mr. Lawlor states that the Invitations for the first two rounds of Public Meetings included a high-level map of the Potential Route Network, and invitations for all three rounds of meetings included a list of the meeting times and locations, and a website address and a toll-free phone number where landowners could write to or call with questions and requests for more information.

Mr. Lawlor testifies that, as specified by Section 8-406.1(e), GBX created a website that contains information regarding the Project. He states the Project website has been maintained and actively updated since the beginning of the Project's development in 2010. He says that among other information, the website contains: (1) a video that describes the need for the Project and how GBX will bring significant economic benefit to Illinois and other states through transmission expansion to support new wind energy projects; (2) a construction simulation video describing each step of the pre-construction and construction processes; (3) a Frequently Asked Questions section for stakeholders to learn details about the Project; (4) a section on how local businesses can learn about opportunities to participate in the construction of the Project; and (5) sections for Illinois landowners to learn about upcoming public meetings, view maps, read studies relating to the Project, and locate third-party resources. Mr. Lawlor states that the website address was included in all public notices.

GBX asserts that, as required by Section 8-406.1(d), it published a notice of its application in the official State newspaper within 10 days after filing its Application. GBX states that it filed its Application on April 10, 2015, and that the notice was published in

the official state newspaper on April 15, 2015. It indicates that the Certificate of Publication and a copy of the official State newspaper page with the notice was filed with the Commission in this docket on April 29, 2015.

C. Filing and Construction Fees

The GBX Application states that, concurrent with its filing, GBX provided the Chief Clerk of the Commission the $100,000 application fee required by Section 8-406.1(a)(2). GBX commits that, if the CPCN is granted, it will pay each county, through which the transmission line crosses, a one- time construction fee, of $20,000 for each mile of high voltage transmission line in that county as required by Section 8-406.1(h).

In addition to the required one-time payments, GBX commits to offer to enter into a development agreement with each county in which the Project will be located. Mr. Lawlor states the proposed development agreements would insure that regardless of local tax precedents, GBX would pay a minimum of $7,000 per transmission mile per year for a period of 20 years. GBX explains that the development agreement is intended to address the fact that most Illinois counties do not tax transmission lines, unlike other states where the GBX transmission line will be located. GBX notes that the payments to those counties that enter into the development agreement are voluntary and are not typically paid by other utilities with transmission assets.

Mr. Lawlor testifies that GBX's contractors will work with local road officials to develop road use plans and to identify roads that may need to be upgraded or repaired at GBX's expense. He states that GBX will enter into road agreements with the relevant counties and townships, in which GBX will commit to restoring or paying to restore any damage to the roads caused by the construction of the Project. Mr. Lawlor states that the road agreements are in addition to the one-time fee and the $7,000 per transmission line offer.

D. Commission Conclusion

Based on the record, the Commission concludes that GBX met the statutory filing requirements of Section8-406.1. GBX provided the required detailed description of the high voltage transmission line, including location maps and plot plans to scale showing all major components. GBX also provided specific engineering data, including a detailed description of the project; a description of the conductor, structures and substations; the location of the site and right-of-way; assumptions, formulae and methods used to develop technical data; data regarding overhead line specifications; technical diagrams; and the primary and alternate right-of-way. GBX held the required pre-filing public meetings within the six month period preceding the date that it filed its Application, and published notice of each public meeting in at least one newspaper of general circulation in each county for three consecutive weeks prior to each meeting. GBX sent the required notice of each public meeting to the Clerk of each applicable county and to the Commission. It sent invitations by U.S. mail to all landowners along or near routes in the Potential Route Network in advance of each of the three rounds of Public Meetings. GBX also maintained

and actively updated its Project website since the beginning of the Project's development in 2010. GBX paid the application fee of $100,000, and upon filing its Application, GBX published notice of its Application in the official state newspaper within 10 days. GBX has established that it will pay, to each county in which the Project will be located, a one-time construction fee of $20,000 per mile of transmission line in that county upon completion of construction. The Commission notes that Staff concluded that GBX has complied with the filing requirements of Section 8-406.1 and that no other party has contended that GBX failed to comply with any of these requirements. The Commission finds that GBX has complied with the filing requirements set forth in Section 8-406.1.

VI. NECESSITY OF PUBLIC UTILITY STATUS

This Section presents the arguments on the issue of whether an entity must be a public utility in order to request a CPCN for a new high voltage electric service line under Section 8-406.1.

A. GBX

GBX states that the Commission has twice already rejected the argument that this case cannot proceed under Section 8-406.1 because GBX is not a public utility. It states the Commission rejected the argument on June 16, 2015, by denying various parties' ("Movants'") Motions to Dismiss GBX's Application and rejected the argument a second time on July 28, 2015, by denying Motions for Reconsideration of the denial of the Motions to Dismiss. GBX asserts that arguments that the shortened procedural schedule is difficult or prejudicial may be appropriate to present to the General Assembly in support of a request to repeal or amend Section 8-406.1, but they provide no support for the contention that an applicant that is not already a "public utility" cannot lawfully file for and receive a CPCN to construct a new high voltage electric service line pursuant to Section 8-406.1

GBX states it fully explained and defended, its right to utilize Section 8-406.1 for its Application in the four responses it filed in opposition to the Motion to Dismiss. Rather than reiterate its arguments, GBX states, it incorporates, by reference, all of the reasons it stated in its previous filings for why the Commission properly decided that GBX has the right to utilize Section 8-406.1, even if it is not yet a public utility. GBX states its Brief summarizes the principal reasons, set forth in greater detail in its previously-filed responses, which mandate the conclusion that this case is properly filed and conducted, and a CPCN issued, pursuant to Section 8-406.1.

GBX asserts the Application requests relief that the Commission has statutory authority to grant: a CPCN to construct a proposed high voltage electric transmission line and related facilities and to conduct an electric public utility business in connection with that line. It maintains that there is no jurisdictional issue with respect to proceeding under Section 8-406.1. GBX describes the Motion to Dismiss as an effort to create an issue about the means, i.e., under Section 8-406.1 or under Section 8-406, by which the Commission adjudicates GBX's Application, does not implicate the Commission's

jurisdiction. In support of its argument GBX cites Sheffler v. Commonwealth Edison Co., 399 Ill.App.3d 51, 68 (1st Dist. 2010); accord, Duricka v. Commonwealth Edison Co., 2015 IL App (1st) 140076, ¶36 "In determining whether an action falls within the jurisdiction of the Commission, courts have consistently focused on the *nature* of the relief sought rather than the *basis* for seeking relief." . .

GBX asserts that Section 8-406.1 must, under applicable rules of statutory construction, be read in concert with Section 8-406. It notes that the Commission has not limited the application process under Section 8-406 to entities that were already public utilities. It states the Commission has granted CPCNs to applicants that were not existing public utilities at the time of their filings and has found no legislative intent in Section 8-406 to preclude new entrants that did not satisfy the definition of "public utility" from requesting and being granted a CPCN to construct and operate a public utility facility and conduct a public utility business. GBX emphasizes that it is not representing itself as a public utility. It states it is not one until it has been granted a CPCN.

GBX argues that similarly, there is nothing to indicate a legislative intent to limit the availability of Section 8-406.1 to only existing public utilities. It notes that in describing who may request and be granted a CPCN under its provisions, both Section 8-406.1 and Section 8-406, use only the term "public utility" and that neither section uses a term such as "applicant" or "entity." It states that given that the General Assembly used the term "public utility" in both Section 8-406 and Section 8-406.1 to describe the applicant for a CPCN under the respective sections, there is no more basis to conclude that the General Assembly intended to preclude new entrants from requesting and obtaining a CPCN using Section 8-406.1 than there is to conclude that the General Assembly intended to preclude new entrants from requesting and obtaining a CPCN under Section 8-406.

According to GBX, a proper construction is that in enacting Section 8-406.1, the General Assembly's intention was solely to create an alternative, expedited procedure to Section 8-406 for considering and granting a request for a CPCN for a new high voltage electric service line, which is available on condition that the applicant also undertakes and complies with the extensive additional notice, process and cost obligations in Section 8-406.1. GBX asserts that there is no difference between Section 8-406 and Section 8-406.1 as to the substantive criteria GBX must satisfy to receive the requested CPCN. GBX concludes that there is nothing to preclude it from invoking Section 8-406.1 in its Application here even if it is not now, but will be upon issuance of a CPCN, a public utility.

GBX explains that it is the construction and operation of the proposed transmission line authorized by the CPCN that will make GBX a "public utility" as defined in Section 3-105 of the Act, i.e., a company that "owns or controls any franchise, license, permit or right to engage in: the…transmission….of…electricity." For this reason, GBX asserts, it did not (and will not) need to separately request a CPCN as a public utility pursuant to Section 8-406(a) in order to operate its transmission line as a public utility. GBX states that, in several previous orders issued under Section 8-406.1, the Commission has granted the applicant a CPCN for (1) the construction, operation and maintenance of the proposed new high voltage electric service line and related facilities, and (2) the

transaction of an electric public utility business in connection therewith, which it states, is the authority requested in the GBX Application.

GBX claims that the Farm Bureau is essentially repeating the same argument that it made in Rock Island Clean Line LLC, Docket No. 12-0560, Order (November 25, 2014) ("Docket No. 12-0560. GBX states that the Commission rejected that argument in Docket No. 12-0560 (Order in Docket 12-0560 at 5-8), and is now defending that conclusion in the Appellate Court in response to Farm Bureau's appeal. GBX states that the question of whether or not GBX is currently a public utility as defined in the Act begs the real question under Section 8-406.1, which is whether the General Assembly, in enacting Section 8-406.1 in 2010, intend to preclude an entity that is not currently a "public utility" from filing an application pursuant to Section 8-406.1 for a CPCN to construct a new high voltage electric service line and related facilities.

GBX responds to Farm Bureau's arguments that in the 1967 amendment to the Act, the General Assembly intended to limit the scope of the term "public utility." It states that the primary purpose of the amendment was to define the term "telephone cooperative" and to divest the Commission of authority to inquire into the financial affairs of telephone cooperatives. It says the amendment revised the definition of the term "public utility" to exclude telephone cooperatives and moved the enumeration of activities that public utilities engage in to the beginning of the definition. GBX asserts, the statute prior to amendment had placed the numerous exclusions at the beginning of the definition and the definition itself at the end, so the reorganization of the section provided better clarity. It argues amendment also removed some archaic language, providing several examples e.g. replacing "ten-per-centum" with "10%", "such" with "those", "said" with "that", "shall have the power to" and "shall have the authority to." GBX states that one of the outdated terms removed is "now or hereafter," stating that it is a textual relic of the original adoption of the Act in 1913. GBX maintains that there is nothing in the specific change to the definition that IAA points to in the 1967 amendment that evidences a legislative intent to change the meaning of "public utility" in the manner the Farm Bureau contends.

GBX states that over the 48 years since the 1967 amendment, the Commission has not construed the Act as Farm Bureau argues it should be, but rather has granted CPCNs (and certificates of telecommunications service authority under the comparable certificate provision of the Telecommunications article (Art. XIII)) to applicants that owned no utility or telecommunications property, plant and equipment in Illinois at the time they applied for and received a certificate. GBX cited a number of examples of such cases. GBX states that Farm Bureau has not cited any Commission order in which an application for a CPCN was denied because the applicant, at the time of the application (or time of the order), did not yet own, control, manage or operate any plant, equipment or property in Illinois used or to be used to provide the proposed utility service and therefore did not yet fall within the definition of "public utility." GBX claims that although the General Assembly has enacted many amendments to the Act since 1967, it has enacted none that indicate disagreement with or intent to change the Commission's construction and application of the sections of the Act relevant to this issue. It states that this legislative

inaction indicates legislative acquiescence in the Commission's interpretation and application of the statute. GBX cites the following cases in support of this proposition: People ex rel. Birkett v. City of Chicago, 202 Ill. 2d 36, 53 (2002); People ex rel. Spiegel v. Lyons, 1 Ill. 2d 409, 414 (1953); DuPage Cnty. Election Comm'n v. State Bd. of Elections, 345 Ill. App. 3d 200, 214-15 (2d Dist. 2003).

GBX disputes Farm Bureau's argument that under a similar statutory definition of public utility in another state, GBX's sister company was denied approval on the basis Farm Bureau advocates. It asserts the argument refers to a previous decision of the Arkansas Public Service Commission ("Arkansas PSC") denying, without prejudice, the request of another Clean Line subsidiary, Plains and Eastern Clean Line LLC ("P&E"), for a certificate as a public utility. GBX states that the Arkansas PSC decision is distinguishable and not applicable here for several reasons. It argues the applicable Arkansas and Illinois statutes are not identical. It characterizes the Arkansas PSC's construction as an absurd, unjust and unreasonable construction. It asserts that orders from other jurisdictions cannot be the basis for a finding by this Commission, as it has no authority to defer to the judgment of the commission of another state. GBX asserts that the facts in the Arkansas proceeding and in Docket 12-0560 (and in this case) are inapposite. GBX states, that P&E's application did not seek authorization to begin construction of a transmission line, but would seek that authority pursuant to a separate application. According to GBX, the Arkansas PSC found this fact to be outcome determinative, stating that it could not grant public utility status to P&E based on the information about its current business plan and present lack of plans to serve customers in Arkansas. GBX notes that the Arkansas PSC stated that its decision was without prejudice and that when P&E was able to provide more concrete plans satisfying the PSC's concerns, it would revisit the matter in a new docket. GBX argues that the Arkansas PSC's decision suggests that the Arkansas PSC, like this Commission, does not consider a present lack of ownership of utility facilities to be a bar to obtaining a CPCN.

GBX contends that Farm Bureau's citation of In re American Transmission Co., LLC, Docket No. 01-0142 (Jan. 23, 2003), does not support its construction of the Act or its assertion that the Commission has recognized that current ownership of public utility infrastructure in Illinois is an element necessary to meet the public utility definition. It asserts that the Commission did not rule in that case (nor did any party argue) that ownership of existing facilities was a statutory prerequisite to applying for and receiving a CPCN. GBX maintains that Farm Bureau has not cited any Commission order in which an application for a CPCN was denied because the applicant, at the time of the application (or time of the order), did not yet own, control, manage or operate any plant, equipment or property in Illinois used or to be used to provide the proposed utility service and therefore did not yet fall within the definition of "public utility."

GBX protests Farm Bureau's characterization of its quotation from a Rock Island filing in Docket No. 10-0579, as incomplete and out of context. GBX points out that, shortly after the sentence quoted by Farm Bureau, on the same page, Rock Island stated: "Certainly, the procedures of Section 8-406.1 should be equally available to a new transmission utility like Clean Line as they are to incumbent electric utilities."

GBX disagrees with LACI's contention that it no longer needs a "quick order" in this proceeding in light of the MPSC's denial of GBX's request for a certificate. It concedes that it will now take additional time to obtain necessary authority to construct the Project in Missouri. However, GBX asserts, obtaining a CPCN from this Commission is also a necessary step in securing all the authorizations needed to construct the Project. It adds that longer proceedings require more resources and more expense. GBX maintains that it has complied with the requirements of Section 8-406.1 and is entitled to have an order issued on its request for a CPCN within the time period specified in the statute.

GBX points out that in the briefing on both the motions to dismiss and the motions for reconsideration, it suggested that this case could be converted to a Section 8-406 case with direction that the case be scheduled so that it could be presented to the Commission for a decision by a reasonable deadline such as within eleven months from the date the Application was filed. It states this suggestion, if accepted, would have added approximately four months of time to the procedural schedule. It notes that while the suggestion was directed to the Commission, none of LACI, IAA, CCPO and MEZ voiced any support for this suggestion. It asserts none of these intervenors were willing to commit to a "more reasonable" procedural deadline and schedule for this case – they are only interested in this CPCN proceeding having no deadline.

GBX notes LACI's complaint that conducting this case under Section 8-406.1 is "prejudicial" to intervenors because a Section 8-406.1 order must include an order pursuant to Section 8-503 authorizing or directing the applicant to construct the proposed transmission line. GBX response that this alleged "prejudice" exists in any Section 8-406.1 case, regardless of whether the applicant is an established, incumbent public utility or a new entrant. It asserts this argument has no bearing on whether an applicant that is not an established public utility can file a request to construct a new high voltage electric service line, and have the request processed, considered and decided, pursuant to Section 8-406.1.

GBX reiterates that it has not requested eminent domain authority in this case; that it has not even started to negotiate with landowners in Illinois to acquire easements and will not initiate landowner negotiations until after the order is issued in this case granting a CPCN and approving a route in Illinois; and that it will need to engage in a considerable period of negotiations with landowners to acquire easements before it would be in a position to file a new application with the Commission pursuant to Section 8-509 seeking eminent domain authority for easements on those parcels it has not been able to acquire voluntarily, and be able to demonstrate in that proceeding that it has satisfied the Commission's established criteria for granting eminent domain authority.

GBX disputes LACI's argument in that Section 8-406.1 (in contrast to Section 8-406) does not give the applicant the right to conduct or transact business as a public utility. It notes, this argument was already briefed in connection with the motions to dismiss and motions to reconsider. GBX observes that the Commission has granted

CPCNs to applicants in previous Section 8-406.1 cases: to construct, operate and maintain the proposed new high voltage electric service line and related facilities, and to transact an electric public utility business in connection therewith. GBX asserts it would be an absurd construction to conclude that Section 8-406.1 CPCN only applies to the construction of a transmission line, not operation of the transmission line once constructed. GBX notes that the grant of a CPCN to construct the new high voltage electric transmission line and related facilities makes the certificate holder a public utility as defined in Section 3-105, because the CPCN is a franchise, license, permit or right to engage in the transmission of electricity, and it authorizes the certificate holder to own property, plant or equipment in this State to be used for the transmission of electricity. GBX adds that LACI has not identified any additional evidence that needs to be, but has not been, presented, to support a finding that GBX should be authorized to conduct a transmission public utility business using the Project.

B. Farm Bureau

Farm Bureau asserts that the Commission does not have jurisdiction to review GBX's request for a CPCN under Section 8-406.1. It asserts that the Section 8-406.1 expedited procedure applies only to public utilities that seek approval to construct new high voltage transmission line projects. Farm Bureau states GBX is not a public utility and describes it as a new non-utility merchant transmission-only private enterprise. Farm Bureau states the determination of whether a non-public utility may use the expedited review process is a matter of first impression before the Commission. It asserts that the GBX's suggestion that it, a non-public utility, may be use Section 8-406.1 to obtain approval of a CPCN for its proposed HVDC transmission line, has no basis in law. Farm Bureau states that the Commission must, as a matter of law, address the threshold question of whether an entity that is not currently, but desires to be a public utility may use the expedited review process under Section 8-406.1.

Farm Bureau relies upon the definition of "public utility" in Section 3-105 of the Act. Farm Bureau emphasizes the Section 3-105 language indicating the requirement that an entity must own, control, operate, or manage, plant, equipment or property, used or to be used or owns or controls any franchise, license, permit or right to engage in for public use, in Illinois, transmission. Farm Bureau asserts that that GBX is not a public utility and does not allege that it is. Farm Bureau notes the GBX statement in the Application (, ¶ 9), that it "will own… within the State of Illinois, for public use, facilities for the transmission of electricity and therefore will be a public utility." Farm Bureau emphasizes that GBX is a non-utility, merchant transmission-only, private enterprise, *without any transmission infrastructure* (i.e. plant, equipment or property) or history of service *in Illinois*, and concludes that GBX does not meet the threshold requirement to file an expedited application pursuant to the Act. The Farm Bureau argues that the Commission is confined by statute, and is not legally permitted to rewrite or expand upon explicit statutory prerequisites in order to accommodate GBX which is says is a private merchant project lacking transmission infrastructure in Illinois. It asserts that allowing a non-public utility to apply for a CPCN under Section 8-406.1 would be an improper expansion of the Commission's jurisdiction.

Farm Bureau voices concern that if GBX's application is granted, the Commission will then be required to issue an order authorizing or directing construction under Section 8-503 of the Act. Farm Bureau references Section 8-406.1(i), which provides that a decision granting a CPCN certificate under this Section shall include an order pursuant to Section 8-503 of this Act authorizing or directing the construction of the high voltage electric service line and related facilities. It notes that GBX requests relief under Section 8-503, and emphasizes the two references to "public utility" in that Section. Farm Bureau asserts an order authorizing or directing construction is only available to a public utility and is therefore inappropriate in this circumstance.

1. Public Utility Status

Farm Bureau asserts that the Application lacks any allegations that GBX is a public utility. It asserts the Application describes its public utility status in the prospective sense, stating that it "will be a public utility" and that it "will own… facilities for the transmission of electricity and therefore will be a public utility," but does not state that it is currently a public utility. Farm Bureau states the text of Section 3-105 is clear and unambiguous in defining a "public utility" as an entity that controls, operates or manages plant or property used or to be used for production, storage, transmission, sale, delivery or furnishing of electricity. It states the Application is absent any allegation supporting that GBX controls, operates or manages any plant, equipment or property used or to be used for production, storage, transmission, sale, delivery or furnishing of electricity, and the evidence provides that it does not.

Farm Bureau argues that in addition to GBX failing to plead that it is a public utility, GBX did not present evidence from which it could be concluded that it is a "public utility" as defined by Section 3-105 of the Act. It says GBX simply appeared before the Commission with a business plan, unnamed anchor tenants, and an assertion that its to-be-determined transmission project will likely benefit Illinois consumers. Farm Bureau states that Mr. Skelly conceded in cross-examination that from the date of filing the Application to the present, GBX has not and does not own, control, operate, or manage, directly or indirectly, for public use, any plant, equipment, or property used, or to be used for or in connection with, electric transmission service in Illinois.

Citing Ill.-Ind. Cable Television Ass'n v. Ill. Commerce Comm'n, 55 Ill. 2d. 205, 207 (1973), (cites omitted), Farm Bureau states that, as an administrative agency, the Commission has only that jurisdiction conferred upon it by the legislature. It states the legislature provided a clear and unambiguous definition of "public utility". It asserts that the Commission may not, by its own acts, expand its jurisdiction, citing Sheffler. Farm Bureau states that the Commission may only apply the plain language of Section 3-105 and conclude that because GBX owns neither electric transmission infrastructure nor property it is not a public utility. In support of this argument, Farm Bureau cites Board of Trustees of the Teachers' Retirement System of Illinois v. West, 395 Ill. App. 3d 1028, 1032, 1035 (2009): "[w]hen interpreting a statute, our duty is to ascertain and give effect to the intent of the legislature." "Courts must not construe words and phrases in isolation

and, instead, should construe them in light of other relevant portions of the statute so that—if possible—no term is rendered superfluous or meaningless." Farm Bureau asserts that intent is best derived from the statutory language, which, if unambiguous, must be enforced as written.

a. Statutory Construction

Farm Bureau states that since the language of Section 3-105(a) is clear and unambiguous, the Commission's inquiry could end here. However, it notes that in Kanerva v. Weems, 2014 IL 115811, 13 N.E. 3d 1228 (2014), the Illinois Supreme Court found that construction of constitutional provisions is governed by the same general principles that apply to statutes. Farm Bureau states that, in Kanerva, while the Court found the relevant constitutional provision clear and unambiguous, it nonetheless consulted the 1970 constitutional debates, as well as decisions on this same point in other states. Thus, Farm Bureau opines, even where the language of a statute is clear and unambiguous, legislative history may be helpful.

Farm Bureau reasons that while there are no debates to consult, the legislative history of the "public utility" definition nonetheless supports the reading it espouses. Farm Bureau recounts that in 1967, the definition of "public utility" in the Act was amended. It emphasizes that prior to 1967, "public utility" was defined as an entity "that *now or hereafter*: (a) may own, control or manage, within the State … any plant, equipment or property used or to be used for or in connection with the … transmission … of … electricity…" Farm Bureau compares the current definition of "public utility" i.e., entity that owns, controls, operates, with the former definition, i.e., entity that *now or hereafter* may own etc. Farm Bureau asserts that the Commission's interpretation of "public utility" in Docket No. 12-0560 is consistent with the definition prior to the 1967 amendment, not the current definition.

Farm Bureau states, citing Kanerva, that the legislature is presumed to act with knowledge of its previous acts. It asserts that with an amendment of previously unambiguous statutory provision, as here, the legislature is presumed to have acted intentionally, to change the law, referencing People v. Bailey, 375 Ill. App. 3d 1055, 1063-64, 874 N.E.2d 940, 948-949 (2007). Farm Bureau states that in 1967, the Illinois General Assembly amended the definition of "public utility" to a form substantially similar to what it is today. Farm Bureau states that, the 1967, amended version of the statute used restricted the language as it does almost identically in today's version of the definition of "public utility". Farm Bureau concludes that the current definition requires that an entity must first own transmission infrastructure prior to being deemed a public utility.

Farm Bureau argues that the Commission improperly ignored the clear language of Section 3-105(a) of the Act, in Docket No. 12-0560, in holding that the Act does not require present ownership of transmission facilities or property in order for an entity to meet the clear statutory definition of "public utility". Farm Bureau opines the Commission improperly read a "latent ambiguity" into the definition of "public utility". It says, the court in Dusthimer spoke to the core of this issue, quoting:

> A latent ambiguity arises if the words of the legislation are clear in themselves but, because of external circumstances ….the literal application of those words would create an absurdity that the legislative body could not possibly have intended. To maintain the separation of the legislative and judicial branches and avoid compromising our fidelity to the text, we should be extremely reluctant to second-guess the clear language of legislation in the name of preventing a latent ambiguity. Whenever a court disregards the clear language of legislation in the name of 'avoiding absurdity,' it runs the risk of implementing its own notions of optimal public policy and effectively becoming a legislature. Interpreting legislation to mean something other than what it clearly says is a measure of last resort, to avoid "great injustice" or an outcome that could be characterized, without exaggeration, as an absurdity and an utter frustration of the apparent purpose of the legislation. Dusthimer, 368 Ill. App. 3d at 168-169 (citations omitted).

Farm Bureau asserts that no latent ambiguity exists in this circumstance. It maintains that the language of Section 3-105 clearly and unambiguously requires the present ownership of transmission infrastructure in Illinois to be deemed a public utility.

Farm Bureau states that in Docket No. 12-0560, the Commission interpreted the Act as it read pre-1967, ignoring the important change the legislature made in deleting the words "now or hereafter". It quotes the Supreme Court: "Where a statute is clear and unambiguous, we cannot restrict or enlarge its meaning. Rather, we must interpret and apply it in the manner in which it was written. We cannot rewrite a statute to make it consistent with the court's idea of orderliness and public policy." In re Estate of Schlenker, 209 Ill. 2d 456, 466, 808 N.E.2d 995, 1001 (2004) (citations omitted.)

b. Jurisdiction

Farm Bureau argues that the Commission's interpretation of "public utility" in ICC Docket No. 12-0560 constituted an ultra vires act, i.e., not contemplated by the legislature in its revision of the definition. Farm Bureau asserts the Commission went beyond its jurisdiction by expanding the definition of "public utility" to include an entity with no current property or vested business interest in Illinois. It opines the Commission's interpretation was contrary to the clear intention of the General Assembly.

Farm Bureau states that Illinois courts have long held administrative agencies to the principle that they only have that jurisdiction conferred upon it by the legislature, and may not expand such jurisdiction, including by improperly expanding the plain meaning of a statute. It relies upon Dusthimer v. Bd. of Trustees of Univ. of Illinois ("Dusthimer"), 368 Ill. App. 3d 159 (4th Dist. 2006). Farm Bureau asserts that Dusthimer concerned a student and his parents who challenged the University of Illinois' decision that the student, whose parent worked at an Illinois community college, was not considered a resident for tuition purposes. In that case, Farm Bureau explains, in interpreting the definition of

"state-supported institution of higher education" in the U of I's own regulation on residency, the University's Board of Trustees denied that Black Hawk College, as a community college, fell under the definition of a "state-supported institution of higher education." Farm Bureau states that when confronted with the University's assertion that its interpretation of the regulation should be given deference, the Dusthimer Court stated:

> "When we defer to an agency's interpretation, our justification for doing so is the agency's experience and expertise, but all the experience and expertise in the world cannot change what a regulation plainly says. If the regulation is unambiguous, "that is the end of the matter and deference goes out the window. Only as the interpreter of a doubtful law'" does an agency deserve deference." Dusthimer, 368 Ill. App. 3d at 164-165 (citations omitted).

Farm Bureau states that upon review, the Dusthimer court concluded that the definition of "state-supported institution of higher education" was clear and unambiguous, and therefore should be afforded its plain and ordinary meaning, and the University's expansive reading was reversed.

Farm Bureau asserts that here, the law is not in doubt. It says Section 3-105 was crafted by the legislature intentionally to require present ownership or control of the defined infrastructure; that is axiomatic given the deletion of the pre-1967 phrase "now or hereafter." Farm Bureau asserts that if the legislature wished for the text to have the interpretation proffered by the Commission, the General Assembly would have drafted the text to so reflect, and could have stated: "that will own…", "that may own…", "that could own…", "that intends to own…", etc. Farm Bureau concludes that GBX is not public utility pursuant to statute.

c. Prior Commission Analysis

Farm Bureau asserts that the Commission faced the question of whether a transmission company was properly considered a public utility under the Act in Docket No. 01-0142, In re American Transmission Co. LLC, Order, p. 2 (Jan. 23, 2003). It opines that in that Order, the Commission provided the proper analysis and ruling with respect to American Transmission Co. LLC ("ATC"). Farm Bureau states that in Docket No. 01-0142, the Commission recognized that ATC was "formed to plan, construct, operate, maintain, and expand transmission facilities to provide an adequate and reliable transmission system that meets the needs of all the system's users, supports effective competition in energy markets without favoring any market participant, and to engage in other incidental and appropriate activities." Farm Bureau notes that, that docket, ATC was seeking its first certificates under Sections 8-406(a) and 8-503. Farm Bureau says the Commission recognized that ATC had previously purchased the transmission assets and substation facilities providing a transmission function in Illinois from South Beloit Water, Gas and Electric Company. Farm Bureau asserts that the Commission properly found that ATC owned and controlled transmission facilities in Illinois for public use and

therefore fell within the definition of a "public utility," as is set forth in Section 3-105 of the Act.

Farm Bureau opines that, in Docket No. 12-0560, the Commission confused the explicit requirement set forth by the statute, when it accepted the Petitioner's synthesized characterization of the statutory requirements to create a "chicken-egg" dilemma. It asserts that this wrongly casts the Farm Bureau's argument as creating a circular loop, such that it must purchase infrastructure to become a public utility, but it must be a public utility to purchase infrastructure. It argues that argument is in error because the Act simply regulates utilities upon their creation, but it does not provide a process for the formation of utilities. Farm Bureau asserts that an entity can only become a utility when property is offered to the public, citing Central Trust Co. v. Calumet Co., 260 Ill. App. 410, 416 (1st Dist. 1931), (other citations omitted). According to the Farm Bureau, the Act will only regulate a public utility while the owner of the public infrastructure maintains the use thereof in the public interest, and not after public use has ceased. It asserts that because infrastructure used for the public good, not an order from the Commission, is necessary for a company to become a public utility, there is no "chicken-egg" dilemma. It concludes that GBX is not a public utility.

Farm Bureau states, GBX has not established present ownership of transmission facilities or property in Illinois for public use or to be used for the transmission, delivery, or furnishing of electricity. Farm Bureau asserts that GBX is not a public utility, and asserts that the Commission cannot make it so by ignoring the legislature's clear definition of "public utility." Farm Bureau states the Commission erred in Rock Island Clean Line LLC, Docket No. 12-0560, Order (November 25, 2014) (Appeal pending, Illinois Appellate Court, Third Judicial District, Case Nos. 3-15-0099, 3-15-0103 & 3-15-0104) ("Docket No. 12-0560") by considering Rock Island Clean Line LLC ("Rock Island") a public utility in order to grant it a CPCN. Farm Bureau concludes that unless and until GBX invests in some property or equipment in Illinois that it intends to utilize to provide transmission to Illinois customers, it is not a public utility. Farm Bureau asserts that if a more expansive definition is required for the purposes of public policy, which is a question for the legislature, not the Commission.

Farm Bureau concludes that the intent of the General Assembly is clearly and unambiguously established in Section 3-105. It states that characterizing GBX as a public utility would be an erroneous interpretation of the statute.

d. Authority from Other Jurisdictions

Farm Bureau states that GBX's proposed Project is not isolated to Illinois. It says the proposed transmission system will cross America's heartland and requires approvals from three other states. Farm Bureau asserts that the issue presented here it is not without parallel in other states that have had to consider related projects for GBX's sister companies. Farm Bureau states that Mr. Skelly testified that GBX's sister company, Plains and Eastern Clean Line, LLC, was denied public utility status in Arkansas. Farm Bureau notes that Arkansas' definition of "public utility" is similar to the current Illinois

definition. Conversely, it states, Oklahoma's definition of "public utility" is similar to Illinois' 1965 definition of "public utility" in that it provides for potential ownership of transmission equipment and capacity. It explains, Oklahoma's statutory definition of "public utility" includes entities that "now or hereafter may own" transmission infrastructure, citing Okla. Stat. tit. 17, Section 151. Farm Bureau reasons that is the reason that GBX's sister company was able to attain public utility status in Oklahoma.

Farm Bureau states that the experience of GBX's sister company in Oklahoma, where public utilities include entities that "now or hereafter may own" transmission infrastructure, illustrates that statutory language is drafted as it is for a reason. Farm Bureau asserts that the Commission's interpretation of the statutory definition of "public utility" in Docket No. 12-0560 failed to respect the clear and unambiguous text provided by the General Assembly.

2. Public Utility Requirement

Farm Bureau asserts that GBX's Application for expedited review, under Section 8-406.1, is unprecedented and violates the requirement that an applicant be a public utility to use the expedited review process. Farm Bureau recites that Section 8-406.1 was enacted in 2010, to allow public utilities to apply for a CPCN under an expedited procedure. It states that only public utilities may apply for a CPCN under Section 8-406.1 for the construction of new high voltage electric service line and related facilities.

Farm Bureau finds it inappropriate for GBX, a non-public utility, to propose a project which has not been vetted by a Regional Transmission Organization ("RTO"), and request that the Commission allow it to use a new alternative process limited to public utilities. Farm Bureau complains that the expedited process forces the Commission and the participants to review and defend, what is says is arguably the most complex transmission line case ever proposed to the Commission, in 225 days. Farm Bureau finds it ironic that in the same application, GBX requests that this Commission grant it two and a half years to exercise its requested CPCN.

Farm Bureau complains that the expedited review process under the PUA forces an aggressive schedule upon the participants. It notes the Commission has in the past questioned the proprietaries of public utilities using the expedited review process for large and complex transmission line projects, citing Docket No. 12-0598. Farm Bureau states that issues are raised by the size of GBX's Project. It states, the fact that GBX is not a public utility and is a new non-utility merchant transmission-only private enterprise adds complexity to the issues which must be addressed. Farm Bureau maintains that Section 406.1 was not enacted by the legislature for non-public utilities to seek approval of new high voltage transmission line projects. Farm Bureau notes that GBX's sister company argued as much, citing Rock Island's Response to ICC Staff's Motion to Dismiss, p. 12 Docket No. 10-0579. It quotes the company as describing Section 8-406.1's reference to public utility: "[r]ead literally, this sentence requires an entity to be a public utility in order "to apply" for a certificate to construct a transmission line under Section 8-406.1." Farm Bureau agrees that, as a threshold matter, Section 8-406.1 requires an applicant to

be a public utility to use its expedited review alternative. It explains that in contrast to the language under Section 8-406(a) and (b), which states that "no public utility shall," the legislature affirmatively stated that "a public utility may apply" for a certificate under Section 8-406.1. Farm Bureau asserts that there is no ambiguity or "Catch 22" argument to manufacture under an analysis of Section 8-406.1.

Farm Bureau states that GBX admits that it is not a public utility and that it does not currently, in Illinois, own, control, operate, or manage, directly or indirectly, for public use, any plant, equipment, or property used or to be used for or in connection with electric transmission service. It says, GBX has a business plan, unnamed anchor tenants, and an assertion that its to-be-determined transmission project will likely benefit Illinois consumers. Farm Bureau asserts the Commission is confined by statute, and is not legally permitted to rewrite or expand upon explicit statutory prerequisites in order to accommodate this private merchant project lacking transmission infrastructure in Illinois.

3. Staff Recommendations

Farm Bureau notes the basis for the Motions to Dismiss GBX's application for a certificate under Section 8-406.1, filed by CCPO, LACI, and Rex Encore, is that GBX is not a public utility and, as a result, Section 8-406.1 of the PUA is not legally available to it. It states Staff Commission filed a response agreeing that GBX is ineligible to submit an Section 8-406.1 application and recommending that GBX's application be dismissed without prejudice. It states that Staff opined that GBX may file an application under Section 8-406, pursuant to which applicants traditionally seek approval to construct new utility facilities, including electric transmission lines. It states that the ALJ issued a Memorandum also recommending that the Motions to Dismiss be granted and GBX be granted leave to file an amended application under Section 8-406. Farm Bureau notes the Commission denied the Motions to Dismiss. Farm Bureau states that the Commission should reconsider its position on the requirement that a Section 8-406.1 applicant must be a public utility and afford serious weight to the positions of the Staff on this issue.

C. LACI

LACI asserts that GBX had no right to file its Application under Section 8-406.1. It opines that the Commission erred in permitting and processing the Application, which it says is mis-filed. LACI claims that the Commission allowed GBX to proceed sustained over the strenuous objections of LACI, other intervenors, and the recommendations of Staff and the ALJ assigned to this proceeding. LACI finds the ruling confounding ruling and complains that the Commission offered no reasoning or support for permitting what LACI says is a wrongful procedural maneuver by GBX. LACI says the Commission simply voted, 3-2, to deny the several Motions to Dismiss or to strike GBX's Application. LACI reiterates that it remains frustrated over the absence of any explanation or reasoning supporting the decision. It says the void of stated reasoning leads it to the conclusion that the decision was arbitrary.

LACI asserts that the issue of whether a non-public utility such as GBX may file a CPCN application under the recently-enacted alternative of Section 8-406.1, rather than under Section 8-406, is not a harmless, academic issue. LACI states the issue's outcome has real, practical significance, not only in this proceeding but in the future when other non-traditional project sponsor providers that are not public utilities, seek approval for energy projects that require a CPCN, and utilize Section 8-406.1 based on the precedent set in this case.

LACI states that Intervenors, and Staff, were prejudiced in at least two significant ways. It says Section 8-406.1 provided GBX a decided procedural advantage in the form of an expedited schedule. It asserts that GBX had many months, if not years, to prepare for, and to prepare and then file, its Application and direct testimony, on a date entirely of its own choosing. It complains that Staff and other interested parties were put under significant pressure to read, analyze, organize and determine a course of action, under an expedited procedural schedule, unique to Section 8-406.1. LACI asserts that even with the 75 day extension, the 225 day maximum schedule dictated by Section 8-406.1 to litigate and have an order entered in such a large and significant electric transmission line case, proposed by a non-traditional (a non-public utility) project sponsor. It states the expedited schedule has shortened the time for discovery, cut short the full rounds of prepared written testimony that are customary in major transmission line cases, and shortened the briefing schedule. LACI asserts that for those and other reasons use of Section 8-406.1 has severely prejudiced many of the parties in the case.

LACI states this misuse of Section 8-406.1 is prejudicial to Staff and intervenors and favorable to GBX, because a Section 8-503 order must accompany any CPCN awarded under Section 8-406.1. It states that under Section 8-406.1, the Commission has no power to grant a CPCN, but withhold outright, or even delay, the grant of a Section 8-503 order. It asserts this factor takes on added significance in light of the Commission's previous grant of a CPCN under Section 8-406 to GBX's sister company, Rock Island, in Docket No. 12-0560, while denying Rock Island's request for an order under Section 8-503. LACI describes Section 8-406 as the more traditional statutory alternative for requesting a CPCN. LACI states that CPCNs granted under Section 8-406 do not carry the automatic grant of Section 8-503 authority. LACI explains that a Section 8-503 order is critical, perquisite to eminent domain authorization under Section 8-509. LACI states there can be no eminent domain without a Section 8-509 order, and there can be no Section 8-509 order without a Section 8-503 order. LACI says that due to the likelihood of one or more landowners along the approved route, refusing to grant an easement or other right of way to the applicant, the power to condemn such right of way becomes necessary to the applicant's ability to site and construct the transmission line along its entire planned length. LACI states that GBX's claimed need for a quick order in this proceeding rings hollow in light of the MPSC's denial of regulatory approval for the Missouri portion of the Project.

LACI asserts that regardless of the comparative benefits and detriments to GBX and the other parties, however, the statute simply and clearly does not allow a non-"public utility" to utilize it. LACI quotes the first phrase of Section 8-406.1: "A *public utility* may

apply for …" (emphasis added). LACI notes that no party disputes that GBX is not a public utility. Thus, it reasons, there is no credible or legally cognizable basis upon which to conclude that GBX may nevertheless file its Application and have the Commission process it under the Section 8-406.1 alternative.

LACI opines that another significant issue is presented by GBX's Section 8-406.1 Application. LACI explains that Section 8-406.1 does not have a provision through which the applicant would gain the right to conduct or transact business in this State as a public utility. It contrasts Section 8-406, which, it states, does have such a provision. LACI emphasizes that Section 8-406.1 authorizes the grant of a CPCN to construct a transmission line, but nothing more. Consequently, it opines, even if GBX is granted a CPCN to construct its proposed Project, it will be left without legal authority to operate it or otherwise to transact business. LACI says this argument was presented thoroughly by several parties in the Motions to Dismiss or to strike and other related filings in this proceeding

LACI states that it joined with several other intervenors in filing with the Illinois Supreme Court a Motion for Leave to file a Complaint for an Order of Prohibition, in which the movants are seeking to have the Court prohibit the Commission from processing GBX's Application under Section 8-406.1. It states the matter is pending before the Court. Rather than repeating its entire argument on the Section 8-406.1 issue in its Initial Brief, LACI it incorporates by reference the arguments contained in its various pleadings in regards to the Motions to Dismiss and corresponding motions. LACI further incorporates by reference in this Initial Brief the arguments contained in the pleadings it filed jointly with other intervenors before the Illinois Supreme Court. LACI provides as an appendix to its Initial Brief a copy of the documents it incorporates, as well other related documents.

LACI disputes GBX's argument that the authority of the Commission to permit GBX to pursue its Certificate under Section 8-406.1 is not jurisdictional. It states that the cases cited by GBX to support the argument support of its argument that the focus of the jurisdictional inquiry should be on the nature of the relief sought rather than the basis for the relief are inapplicable and not controlling here. LACI says that both Sheffler and Duricka presented the issue of whether claimants were seeking reparations or whether they were seeking damages. It states, the Commission, as both courts held, has jurisdiction to hear and decide claims for reparations, as they are in the nature of rates. However, it states, claims for damages are beyond the Commission's jurisdiction and must be presented to and decided by the circuit court. LACI argues that GBX launches its argument from these cases to contend that the Commission's jurisdiction is never subject to challenge when the dispute is over whether a party may or may not utilize a certain section of the Act in making an application to the Commission. LACI characterizes GBX's argument as: the ends justify the means. It says the nature of Sheffler and Duricka is taken out of context in GBX's argument; and the reach of these two cases does not extend as far as GBX would suggest. It asserts that contrary to GBX's argument, the issue is correctly framed as whether the Commission has extended its jurisdiction beyond what the Act, in Section 8-406.1, allows.

LACI contests that GBX's arguments that, because Section 8-406 includes "public utility," and because the Commission found that Rock Island, also not a public utility at the time of its Application, was authorized to apply for its CPCN under that section, then the same outcome should occur here. LACI asserts that it is significant that neither subsection (a) or (b) of Section 8-406 states that only a "public utility" may apply for a CPCN. It notes that both subsections state only that no public utility may begin construction or may transact business without a CPCN. It contrasts Section 8-406.1, which states, at its beginning, that, "A 'public utility' may apply for a certificate…." LACI asserts that the language used in these two sections is different, and the difference is significant. It concludes that the finding by the Commission in Rock Island does not dictate a similar result here. LACI finds that the legislature could not have been clearer in enacting Section 8-406.1 that it, and its expedited procedure and automatic Section 8-503 order features, are available only to entities that are "public utilities" at the time of the application.

LACI states the GBX argument that once it receives a CPCN under Section 8-406.1, it will become a "public utility" under Section 3-105, with the right to operate as a public utility, including to operate the transmission line, is illogical. LACI complains that GBX ignores the lack of parallel provisions between Sections 8-406.1 and 8-406. LACI notes that whereas Section 8-406 has separate sections that addressing CPCNs to transact public utility business (subsection (a)) and to construct … (subsection (b)). It contrasts Section 8-406.1 because it only provides for a CPCN "for the construction of any new high voltage electric service line…."

D. CCPO

CCPO states that it strongly objects to a private company, not a public utility, utilizing Section 8-406.1, which, it argues, is clearly reserved for applicants that are public utilities. It notes that Section 8-406.1 provides that "a public utility" may apply…" for a CPCN. CCPO states the applicant is clearly not a public utility. It says Section 8-406.1 is a law that lends itself to resolve the construction of a new high voltage line by a public utility on an expedited basis.

CCPO explains that it is concerned that GBX, if granted authority under Section 8-406.1, will have the ability to exercise eminent domain on an expedited basis as well. CCPO notes the provision for an order within 45 days if a public utility requests eminent domain authority under Section 8-509 after the Commission has entered an order granting a CPCN in a Section 8-406.1 proceeding.

CCPO states that in this proceeding, the Commission must enter an order no later than November 21, 2015. CCPO asserts this simply does not afford the parties to this case the opportunity to fully present their evidence, file briefs, submit proposed orders, briefs on exceptions, etc., all of which, it states are necessary for a full and fair hearing and a just resolution. CCPO states this is an absolutely massive case by which a private company is seeking to construct a privately owned electric line that traverses Illinois from the Illinois/Missouri border to the Illinois/Indiana border. CCPO complains that

intervenors have not had the ability to file sur-rebuttal testimony as would occur in a normal non-expedited case. CCPO emphasizes that GBX, as a non-public utility, would have the opportunity to file an application to acquire a CPCN pursuant to a non-expedited procedure under Section 5/8-406. It asserts GBX has had at least several years to prepare its case, hire experts, prepare testimony, and eventually file the case on April 10, 2015. On the other hand, it says, the intervenors have been required to organize and review the evidence, petition to intervene, prepare testimony, and file testimony by July 14, 2015. CCPO states the inability of intervenors to file testimony after GBX filed its rebuttal testimony aggravates the situation. It says that hearings and briefs were expedited, as well, briefs being due within three weeks of the conclusion of the hearings.

CCPO asserts that all of the foregoing sets forth but a few reasons why this matter should never have proceeded pursuant to Section 8-406.1. The intervenors objected to the matter going forward under Section 8-406.1. It states GBX is not a public utility and asserts that the express terms of Section 8-406.1 require that the applicant be a public utility. CCPO says the Staff agreed with the intervenors with regard to this issue, and the ALJ recommended that it was not an appropriate case to proceed under Section 8-406.1. CCPO states that it as well as intervenors, Farm Bureau, LACI, and MEZ, made a filing with the Illinois Supreme Court seeking relief as to this issue and have preserved this issue for appeal. CCPO emphasizes that it and other intervenors are at an extreme disadvantage by virtue of the fact that this matter is proceeding under Section 8-406.1. Intervenors have preserved this issue for appeal and as noted are also seeking relief from the Illinois Supreme Court. CCPO complains that Applicant has had at least several years to prepare its case, whereas the intervenors have had but a short period of time to attempt to present their case herein.

CCPO argues that CUB fails to provide any support for its position. It notes CUB intervened very late in the proceeding and says it repeats GBX's arguments without presenting argument or legal authority to support its position.

E. IBEW

IBEW concurs in the Commission’s denial of the Motions to Dismiss. It states that it concurs in the argument and reasoning set forth in GBX’s responses to the Motions to Dismiss. Looking at Sections 8-406 and 8-406.1 together, IBEW sees no basis to conclude that the General Assembly intended to limit the use of Section 8-406.1 only to applicants to construct transmission lines that are already certificated public utilities in Illinois. Rather, IBEW sees the General Assembly as establishing a process for applying for and obtaining a CPCN for a new high voltage electric transmission line within the defined time period, so long as the applicant, among other things: (1) engages in specified, and significant, pre-filing notice and outreach activities in order to inform the public about the proposed project, (2) includes with its application a substantial amount of technical data and information about the proposed transmission line, thereby shortcutting the usual discovery process for such information, (3) provides with its application a complete primary route and a distinct alternate route for the transmission line, and (4) agrees to pay a substantial filing fee and to pay substantial construction

impact fees to the counties in which the proposed transmission line will be located. It states the Commission has authority to consider and act on requests for CPCNs to construct new electric transmission lines. It says the same standards for issuance of a Certificate are found in both Section 8-406(b) and Section 8-406.1(f) of the Act.

IBEW states that it appreciates that the General Assembly has established, and the Commission is implementing, a process whereby a CPCN for an important transmission line project like the GBX Project can be obtained in a reasonably expeditious manner and within a defined time period. It states that IBEW Local Union No. 51 and other IBEW local unions participated in the Rock Island transmission project CPCN proceeding, Docket No. 12-0560, and consider it unreasonable and unacceptable that issuance of a final order in that proceeding took some 26 months from the date Rock Island's application was filed.

F. CUB

CUB asserts that the Act lays out three findings the Commission must make to approve any transmission project, including that of GBX, before a CPCN is granted. It states that how the Commission makes these findings depends upon what section of the Act an application is made. It notes that Section 8-406 does not mandate a specific timeframe whereas Section 8-406.1 provides for an expedited process.

CUB notes that under Section 8-406.1, specific information, including not only a detailed project description but detailed siting and engineering criteria, must be provided along with the application to facilitate expedited review. However, under either section, the Commission must make the same findings before granting a CPCN.

In CUB's view, entities like GBX should be able to avail themselves of the expedited process. It notes GBX's statement that its customers will consist principally of wind energy producers located in western Kansas and buyers of electricity, particularly buyers seeking to purchase electricity generated from renewable resources, located in MISO and PJM. It states the purchasing customers are expected to be principally wholesale buyers (utilities, alternative retail electric suppliers ("ARES"), other competitive retail suppliers, and brokers and marketers), and the ultimate customers and users will be retail consumers of electricity in Illinois and other parts of PJM and MISO who purchase and consume electricity from renewable resources that the Project delivers to the MISO and PJM delivery points.

CUB notes BOMA testimony that unlike traditional large-scale utility projects, as a merchant transmission project, this project is privately funded. CUB focuses on BOMA testimony that GBX is not asking any Illinois consumers to "burden the risk of investment" through a legislative mandate or a regulatory decision increasing electric rates to cover investment risk. It notes the GBX assertion that all of the costs associated with the development, construction and operation of the Project will be recovered through charges to GBX's transmission capacity customers, i.e., from the shippers of electricity on the project and the wholesale purchasers of electricity taking delivery from the project.

CUB reasons that since these projects do not seek to place financial risk onto Illinois consumers, expedited review should be available as an option for merchant transmission owners, not just Illinois utilities. It states merchant transmission owners like GBX must clear the same hurdles as public utilities, noting that the expedited process requires the same finding that the project is in the public interest as the traditional process. CUB states that the only difference is that new third parties could utilize an expedited process just as their public utility counterparts could.

G. Commission Conclusion

The question of whether an entity which is not yet a public utility may file for a CPCN for a new high voltage electric transmission line under Section 8-406.1 has been extensively addressed, in the motions to dismiss and in this Order. The Commission notes that the process is available only for CPCNs for the purpose of constructing a new high voltage electric service line and related facilities. It notes the numerous additional requirements for applicants under Section 8-406.1. These requirements include significant pre-filing activities, public notice provisions, substantial, specifically identified engineering data, and fees, which are not required under Section 8-406. The Commission finds that these considerable prerequisites are consistent with the expedited schedule under Section 8-406.1.

Given the differences between Sections 8-406 and 8-406.1, the Commission finds no reason to conclude that the General Assembly intended to preclude applicants, that are not already “public utilities” in Illinois, from using Section 8-406.1 to request a CPCN to construct and operate a new high voltage transmission line. Having considered the arguments on this issue, the Commission finds that an entity, not a public utility, may apply for a CPCN to become a public utility pursuant to the alternative, Section 8-406.1, process. The Commission affirms its decision of June 16, 2015 denying the motions to dismiss. The Commission finds that that GBX properly filed its Application requesting a CPCN to construct and operate a new high voltage electric transmission line, under Section 8-406.1.

VII. PUBLIC CONVENIENCE AND NECESSITY

A. Public Convenience

This Section discusses the whether the Project will promote the public convenience and necessity as required by Section 8-406.1(f).

1. GBX

Section 8-406.1(f) states that the Commission shall grant a CPCN, if the Commission finds, based on the application and the evidentiary record, that the proposed Project will promote the public convenience and necessity and the specific criteria enumerated in Section 8-406.1(f)(1), (2) and (3) are met. GBX opines the requirement

that a project will promote the public convenience and necessity is a separate requirement from the three specific criteria. GBX says this indicates that public convenience and necessity evaluation need not be based solely on whether the specific criteria enumerated in Section 8-406.1(f)(1), (2) and (3) are met, but other evidence bearing on the public convenience and necessity can be considered in reaching an overall finding that the Project will promote the public convenience and necessity. GBX asserts that the record in this case demonstrates, overwhelmingly, that the Project will promote the public convenience and necessity.

GBX asserts the Project will promote the public convenience and necessity because it is necessary to provide adequate, reliable and efficient service to customers and will promote the development of an effectively competitive electricity market. It states the Project will provide the necessary transmission infrastructure and service to enable 4,000 MW of new, high-capacity factor wind generation plants in western Kansas to access the Illinois electricity markets and to provide additional supplies of low cost electricity from renewable resources. Applicant states the introduction of the new, low-cost supply will increase competition in the Illinois wholesale electricity markets, will reduce locational marginal pricing ("LMP"), and the cost to serve load, resulting in lower prices for retail electricity customers. It asserts that the new renewable generation accessing the market will increase the supply of RECs in the regional marketplace, will exert downward pressure on the price of RECs, and will help to ensure that RPS requirements in Illinois and other PJM states can be met in a cost-effective manner, without exceeding RPS rate caps. It asserts that the competitive supply and pricing benefits that the Project will bring to Illinois electricity markets are not limited to the markets for electricity from renewable resources, but extend to the markets for electricity generally. GBX says the Project will deliver low-cost electricity into the Illinois markets that will be competitive with, and less expensive than, projected market prices for electricity and with alternative potential sources of new generation supply that could be built in Illinois.

GBX asserts the Project will inject new wind energy supplies and improve the reliability of the Illinois bulk electric system. It states the Project will (1) result in a substantial reduction in loss of load expectation (“LOLE”) in Illinois; and (2) provide incremental annual effective load carrying capability ("ELCC"). It asserts that the Project’s injection of wind generation into the PJM grid will have approximately the same reliability benefit for Illinois as the addition of a large conventional thermal power plant. It states that the reliability benefit for Illinois provided by the Project would offset the retirement of a large conventional thermal power plant. GBX asserts that overall, wind energy injections from the Project into the PJM grid will positively impact resource adequacy and electric reliability in Illinois.

GBX asserts that the Project will provide significant environmental benefits. It explains that the connected western Kansas wind generation will significantly reduce emissions of carbon dioxide, nitrogen oxide, sulfur dioxide and mercury, and will substantially reduce the quantities of water that would have been required by fossil-fueled generation. As an example, Applicant says, in its first year of operation, the Project is

projected (depending on the economic and load growth scenario analyzed) to reduce nitrogen oxide emissions by 6,549 to 12,807 tons, to reduce sulfur dioxide emissions by 10,237 to 28,021 tons, to reduce carbon dioxide emissions by 10.4 million to 16.8 million tons, and to reduce mercury emissions by 105 to 234 pounds, in the eastern U.S. It asserts the new wind generation will displace fossil-fueled generation in the PJM and MISO footprints. Applicant states the environmental benefits of reduced emissions are regional due to the public nature of clean air and the ability of emissions from fossil-fueled generation sources in one area to migrate to another area.

GBX states the Project will connect wind farms located in western Kansas directly to PJM, increasing the geographic diversity of wind farms in the PJM dispatch. It says the increased geographic diversity can make wind integration into the total generation supply mix more reliable and less costly. It explains that most of the existing wind farms in PJM are located in Illinois and Indiana. GBX asserts that because the wind does not blow heavily at the same time in all places, a geographically diversified group of wind plants generates electricity in a more consistent manner than a geographically concentrated group. It explains that the combined energy output of geographically diverse wind farms is less variable, and has fewer wind integration costs, than the output of geographically concentrated wind farms. GBX asserts that the times when the wind is blowing in western Kansas are, to a high degree, statistically independent from the times when the wind blows in the best wind resource locations in Illinois and Indiana, i.e., the wind often blows heavily in western Kansas when it is not blowing heavily in Illinois and Indiana, and vice versa. It states that adding wind farms in Kansas to the existing portfolio of wind farms in Illinois and Indiana will create a more geographically diverse portfolio that is likely to result in steadier production, and smaller ramps by conventional power plants on the grid, than a portfolio of wind farms all located in the same geographic location. It says fewer and smaller ramps reduces the cost for the grid to integrate wind energy, and allows wind energy to make a more consistent and reliable contribution to meeting electric demand.

GBX asserts that by allowing a significant amount of new wind generation capacity to access the Illinois electricity markets, the Project will help to protect customers against the volatility of the prices of fuels used to generate electricity. It says new transmission alleviates the negative impacts of fuel price fluctuations on consumers by making it possible to buy power from other regions and move it efficiently on the grid. According to GBX, the new wind generation the Project will connect to the Illinois electricity markets, will provide significant hedging benefits against fuel price fluctuations. It notes that wind generation plants have zero fuel costs, whereas the prices of fossil fuels used for generation, particularly natural gas, are likely to continue to fluctuate in the future. It notes the Infinity and WOW testimony that because wind plants have no fuel costs and most of their costs are the up-front capital costs, wind generators can enter into long-term supply contracts with customers, at fixed prices, which is attractive to buyers.

GBX notes that the Project will be a significant construction project in the State of Illinois. It estimates that the construction cost for the transmission line in Illinois, based on the Proposed Route, will be $399.1 million, not including the converter station in Clark

County, Illinois. It states the converter station will be an additional $300 million investment. GBX projects that construction of the Project in Illinois will create approximately 1,481 jobs over the three-year construction period, will increase labor income by $104.6 million, and will increase overall output in Illinois by $271.2 million. Applicant anticipates that additional employment and economic activity will be created in Illinois by the construction of the new wind farms in Kansas. It explains that Illinois has a number of manufacturing and other firms that are involved in the supply chain for components of wind generation facilities. GBX says there will also be fiscal benefits from the construction and operation of the Project, i.e., increased income tax and property tax payments to the State and to local governments in the Project area.

GBX commits to taking all feasible steps to maximize the job creation and local income benefits within the Project area and within Illinois. It states that it is working to identify Illinois contractors and suppliers with the ability to participate in the development, construction and maintenance of the Project. It says this includes working to ensure that potential contractors and suppliers receive notification when phases of the Project are put out for bid. GBX states it has held local business opportunity meetings to inform Illinois businesses about the Project. Applicant recounts that these meetings have been attended by almost 100 Illinois businesses including companies involved in surveying, aggregate and concrete, trucking and fueling, and other activities. It says that approximately 145 Illinois businesses have expressed interest in performing work on the Project and have provided information on their capabilities. GBX asserts that it is continuing to meet with Illinois businesses and expects to designate Illinois businesses as preferred suppliers for various materials and components.

GBX continues that these benefits will not be realized without the construction of the Project. It says the new, high capacity factor wind plants in western Kansas will not be built without an efficient, direct transmission connection to deliver their output to load and population centers in PJM and MISO. It asserts that the existing AC transmission grid is inadequate, and its use is too costly, for this purpose. It maintains that the Project is the only viable alternative to obtain adequate, reliable and efficient transmission service to move the output from wind plants in Kansas to markets in Illinois and neighboring states. It states that the new wind generating plants in western Kansas cannot sell RECs, unless they generate and deliver MWhs of electricity to buyers somewhere. It states that the benefits of providing access by new wind generation in western Kansas to the Illinois electricity markets includes the delivery of significant new supplies of low-cost, competitively priced electricity (regardless of its source or renewable attributes).

GBX asserts that its analyses, demonstrating the electricity pricing, competition, reliability and environmental benefits the Project will provide, assume the existence and operation of other transmission projects recently approved by the Commission and/or by RTOs, including the MISO Multi-Value Projects ("MVP") approved for AIC in Docket No. 12-0598, Ameren Illinois Transmission Company and MidAmerican Company in Docket Nos. 14-0514 and 14-0494, respectively; the Commonwealth Edison ("ComEd") Grand Prairie Gateway Project approved in Docket No. 13-0657; the Rock Island Project approved in Docket No. 12-0560, and the generation these approved projects will

accommodate. It asserts that the Project does not duplicate any of these other projects, and that the economic and reliability benefits it provides are incremental to the benefits provided by these other recently-approved or proposed projects. It explains, these other transmission projects were approved to serve different purposes or address different problems, they serve different resource areas, they are intended to help meet the renewable energy needs of different markets, and/or they will be funded in different ways (i.e., merchant "shipper pays" cost recovery versus RTO cost allocation) than the Project. It maintains that although some of the other projects are intended, as is the GBX Project, to help meet RPS needs and the demand for renewable energy, the demand for renewable energy in PJM and MISO is so great that all of these projects are needed. It concludes that its Project is needed and beneficial notwithstanding the approval of these other projects by RTOs and/or the Commission.

GBX notes that parties raised two issues as to how operation of the Project might adversely impact the public convenience and necessity: (1) that further development of new wind generation facilities in Illinois may be limited; and (2) that one or more nuclear power plants owned by Exelon in Illinois could cease operation due to the new wind generation introduced by the Project. GBX asserts that the record shows that the likelihood of either event is low and in any event they would not be attributable to the Project. Applicant maintains that these possibilities do not detract from the substantial benefits the Project will provide and do not warrant a conclusion that the Project will not promote the public convenience and necessity.

With respect to the impact of the Project on the construction of additional wind generation in Illinois, GBX asserts that the demand for low-cost electricity from renewable resources in Illinois and other PJM and MISO states is so large (and continuing to increase) that construction of the Project and the connection of 4,000 MW of new wind generation capacity in western Kansas to the electricity markets in Illinois and other PJM and MISO states will not diminish the need to continue developing new wind generation in Illinois. It claims the total RPS demand for renewable energy and RECs in the 18 PJM and MISO states is projected to be 166,141,000 MWh in 2020 and 210,998,000 MWh in 2025. GBX opines that Illinois is already well-developed with wind generation, and as wind project developers ("developers") seek to develop new projects in Illinois, they will face increasing difficulty in finding windy sites with low-cost access to the existing transmission grid. It concludes that as more wind generation is built in Illinois, subsequent projects will necessarily be built at less windy sites. GBX opines that the costs to interconnect new wind generation projects in Illinois to the transmission system will increase over time. GBX states that as developers seek to develop new projects in Illinois, they potentially face the issue of needing to use sites that are less remote, located closer to more heavily populated areas, which, it says, may involve greater siting constraints.

GBX asserts that the possible closing of one or more Exelon Corporation ("Exelon") nuclear plants has already been a topic of public discussion for some time, dating to well before it sought authority to build the Project. It notes articles cited in Mr. Zuraski's testimony. GBX advises that recently, Exelon's CEO has been reported as

stating that Exelon may close its Quad Cities plant later this year. Whereas, GBX states, it is at least four to five years before the Project is expected to come on-line and would begin to impact regional wholesale electricity market prices. GBX opines that it is unlikely that the proposal to construct the Project, with a projected in-service date four to five years in the future, would impact nuclear plant retirement decisions being made today.

Mr. Berry testifies that he examined the impact of the Project going into service in 2020, and the resulting reductions in wholesale electricity prices, on the revenues that the Exelon nuclear plants would receive in that year with the Project and its connected wind generation in service, and on the margins between operating revenues and operating costs for the nuclear plants. He asserts his analysis showed that the wholesale electricity price from the Project would reduce the revenues received by Exelon nuclear plants by 1 to 2 percent. He asserts that using either Exelon's publicly reported fleet-wide operating costs, or the average U.S. nuclear plant operating costs published by the Energy Information Administration ("EIA") (which are 31% higher than Exelon's publicly-reported costs), the nuclear plants were still able to make a profit. According to Mr. Berry, the analyses also showed that the differences among the four future economic and energy market scenarios studied had a much greater impact on the operating revenues received by the nuclear plants than did the presence or absence of the Project and its connected wind generation. He says that compared to other factors, such as load growth, prices of generation fuels, and presence or absence of emissions controls and carbon prices, the Project should have a very limited, if any, impact on any plant retirement decisions. GBX concludes that the risk of nuclear plant retirements being caused by the Project is small.

GBX disputes CCPO's assertions that it has not demonstrated that the Project will promote the public convenience and necessity. It states that CCPO solely discusses the testimony of Messrs. Langley and Goggin and not the testimony of any GBX witnesses. GBX asserts that their testimonies show that new transmission is necessary to deliver wind power east from Kansas, that developers will not construct new wind farms in the wind-rich Kansas area unless adequate transmission infrastructure is developed to deliver the output, and that there are wind farm developers actively engaged in developing new projects in western Kansas, and actively interested in taking transmission service from GBX to deliver the output to PJM and MISO.

GBX criticizes CCPO's reliance on Mr. Severson's testimony. It asserts that Mr. Severson's analysis ignored several important factors. It argues that Mr. Severson's assertion that Illinois RPS requirements can be met by buying RECs, ignores that RECs require actual generation of energy. It emphasizes the increased number of RECs which will be required in Illinois to meet the RPS requirements in 2025. GBX asserts that the aggregate RPS requirements of the PJM and MISO states in 2020 and 2025 far exceeds the existing, available installed renewable generation whose energy and/or RECs are eligible to meet these requirements. GBX maintains that although Mr. Severson assumes that Illinois load serving entities could buy RECs from new wind generation in Kansas, new wind generating plants will not be built in the absence of new transmission. GBX states Mr. Severson also ignores the growing demand for energy from renewable sources

as well as evidence that wind power from Kansas delivered by the Project would be a low-cost source of wind power.

In response to the MEZ complaint that GBX has not submitted the Project to any RTO planning processes for approval, GBX asserts the RTOs have no process for evaluating the need for a merchant transmission project such as the Project it proposes. It states that the arguments that the Project should be submitted to the PJM and MISO regional planning processes for a determination of need are abstract. It notes that no party has identified the specific process or procedure at either PJM or MISO through which the Project would be submitted for, and obtain, a determination of need. GBX asserts that there is a need for a merchant transmission line like the Project regardless of the RTOs not having a process for approval of it. It maintains that the Commission, along with the state commissions of the other states in which the Project is to be located, will determine whether the Project should be built

2. Staff

Staff asserts that what constitutes public convenience and necessity is within the Commission's discretion to determine in each case, thereby permitting consideration of a broad range of factors as applicable to the particular case, citing Commonwealth Edison Co. v. ICC, 295 Ill. App. 3d 311, 317, (2d Dist. 1998) (citations omitted). In considering "necessity" under Section 8-406, Staff believes that the Commission should consider whether the public utility has demonstrated that: (1) the benefits of the Project are 'needful and useful to the public;' (2) the benefits outweigh the costs; and (3) the Project will not prevent the attainment of a greater net benefit through an alternative project or some combination of alternative projects.

According to Staff, necessity as used in the Act does not necessarily mean indispensably requisite, but rather that the service proposed to be provided should be needful and useful to the public, citing Eagle Bus Lines, Inc. v. ICC, 3 Ill. 2d 66, 78, (1954) (citations omitted). It asserts that the relevant convenience and necessity is that of the public and not of any individual or number of individuals, citing for example Illinois Hwy. Transp. Co. v. ICC, 404 Ill. 610, 619, (1950) (other citations omitted).

Staff states the necessity standard was further explained by the Supreme Court in Wabash, Chester & Western R.R. Co. v. ICC:

> When the statute requires a certificate of public convenience and necessity as a prerequisite to the construction or extension of any public utility, the word "necessity" is not used in its lexicographical sense of "indispensably required." If it were, no certificate of public convenience and necessity could ever be granted . . . [A]ny improvement which is highly important to the public convenience and desirable for the public welfare may be regarded as necessary. If it is of sufficient importance to warrant the expense of making it, it is a public necessity . . . . A strong or urgent reason why a thing should be done creates a necessity for doing it. * * * The word connotes different

> degrees of necessity. It sometimes means indispensable; at others, needful, requisite or conducive. It is relative rather than absolute. No definition can be given that would fit all statutes . . . , The Commerce Commission has a right to, and should, look to the future as well as to the present situation. Public utilities are expected to provide for the public necessities not only today but to anticipate for all future developments reasonably to be foreseen. The necessity to be provided for is not only the existing urgent need but the need to be expected in the future, so far as it may be anticipated from the development of the community, the growth of industry, the increase in wealth and population and all the elements to be expected in the progress of a community. Wabash, Chester & Western R.R. Co. v. ICC, 309 Ill. 412, 418-19, (1923).

Staff states that there has been no demonstration that the Project is indispensably requisite. It notes that GBX acknowledged that there is no actual need for it at this time. Staff recommends that one of the considerations in determining whether the Project is needful and useful to a degree sufficient to justify the granting of a CPCN should be a comparison of the Project's benefits to its costs.

Mr. Zuraski testifies that he expects that the Project will promote the public convenience and necessity. He explains that the Project would facilitate development of wind farms in western Kansas by providing access to additional and larger markets for electricity. He states western Kansas is particularly rich in the underlying wind resource. He says that wind farms located there can generate electricity at a significantly lower average cost than wind farms located in and around Illinois. He concludes that the Project would promote the public convenience and necessity by providing load serving entities in Illinois and other states access to lower cost electric supply, which could lead to retail price decreases. He states that purchases of electricity and/or RECs from new wind farms located in western Kansas could lower the cost of complying with RPS and may help states like Illinois lower the cost of complying with new federal regulations pertaining to carbon dioxide emissions. Mr. Zuraski relies, in part, upon cost estimates and electricity market price projections supplied by GBX.

Staff states Mr. Berry constructed a financial model comparing the cost of producing electricity with Kansas wind farms and transporting it with the GBX Project to the cost of producing electricity with more local wind farms or combined cycle natural gas-fired generators without the GBX Project. Staff asserts that, under a wide variety of scenarios, Mr. Berry showed that the Kansas-wind/GBX option was the least expensive of the three options. Staff indicates that Mr. Berry's analysis showed that, under the same wide variety of scenarios, the combined costs of the Kansas-wind/GBX option would be less than the revenues available from the electric energy market.

Staff notes Dr. Proctor's concerns with the GBX cost estimates, including concerns with the financial model used to make those estimates as well as some of the inputs to that model. Staff indicates that, in response to those concerns, Mr. Zuraski reconstructed the financial model and made some changes to model inputs. Mr. Zuraski testified that

this analysis confirmed his previous conclusions, and those of Mr. Berry, about the cost-effectiveness of the Project. Mr. Zuraski states that he did not accept certain input changes proposed by Dr. Proctor because he found Dr. Proctor's arguments supporting those changes to be unpersuasive. Staff notes that Mr. Berry provided a more detailed review and refutation of Dr. Proctor's input changes. According to Staff, Mr. Berry also showed that, after making a correction to a simple coding error, Dr. Proctor's own model and own assumptions also show that the GBX Project is cost effective.

Mr. Zuraski opines that it is not critically important that the Kansas wind farm projects are able to produce energy at a lower cost than combined cycle generating units in order for the Project to promote the public convenience and necessity. He explains that non-dispatchable no-fuel technologies like wind generators and dispatchable fuel-fired technologies like combined cycle generators play somewhat different roles, satisfy different requirements, and entail different risks, so comparing their levelized costs of energy ("LCOE") side-by-side is not dispositive of how interested utilities and merchant generators will be in building one versus the other. Mr. Zuraski expects that there will be continued interest in building both types of generating facilities. He concedes that it is reasonable to expect that the relative strength of interest in one technology versus the other, all else being equal, will be related to their relative LCOE. He concludes that while not a necessary condition, the expectation that wind generated electricity can be produced at a low LCOE relative to other alternatives, like combined cycle generators, is a good sign for the ultimate success of the Project as well as the welfare of consumers.

Mr. Zuraski testifies that, even if the expected cost of Kansas wind farms (including the cost of the Project) exceeded the expected cost of Illinois wind farms, there would be value in the increased geographical diversity introduced by integrating the Kansas wind into the rest of the grid. He says the additional geographic diversity decreases the degree to which total wind-generated electricity varies over time, rendering the collective wind resource less like a non-dispatchable resource and more like a base load resource. He opines that, even if building new wind farms in the wind-rich areas of Kansas are not presently the best alternative, to the extent that, over time, fewer prime locations within Illinois remain available for wind farm development, Kansas wind farms may become the next best alternative.

Mr. Zuraski testifies that for purposes of determining whether the Project is likely to promote the public convenience and necessity, it is reasonable to consider the relative costs of Kansas versus Illinois wind projects. According to Mr. Zuraski, the LCOE analysis he presented shows that the Kansas wind option is less expensive than the Illinois wind option in the base case, on average, and in 73% of those cases. He states this is without taking into account the value of geographic diversity and the eventual depletion of prime locations within Illinois. Mr. Zuraski says this is a reasonably good sign that the Project is likely to be successful and to promote the public convenience and necessity.

Staff notes Mr. Goggin's testimony that bringing low-cost Kansas wind power to market is needed to help retail electric suppliers lower the cost of meeting various states' renewable portfolio standards and the U.S. Environmental Protection Agency's ("EPA")

regulations on carbon dioxide emissions ("Clean Power Plan") under Section 111(d) of the Clean Air Act (42 U.S.C. . §7401 *et seq*.) ("Clean Air Act"). Staff finds this to be additional support for a finding that the Project will promote the public convenience and necessity. Staff references Mr. Goggin's testimony that transmission is essential, both for allowing wind resources to be developed and enabling already developed wind resources to not have their wind energy output curtailed. According to Staff, Mr. Goggin said that in areas where transmission constraints prevent wind energy from being delivered to customers, there is no cost-effective substitute for increasing transmission capacity to alleviate those constraints. Staff says he finds the mismatch between the relatively brief period required to develop a wind project versus the longer period required to develop a transmission project, to be a major difficulty in coordinating wind and transmission development. Staff states that Mr. Goggin concludes that transmission development that pro-actively plans transmission to interconnect areas with high wind resource areas before wind projects have been built is an essential aspect of bringing wind power to market.

3. Farm Bureau

Farm Bureau asserts that GBX has not demonstrated that it meets the Section 8-406.1(f) criteria for issuance of a CPCN.

4. LACI

LACI asserts that the public convenience and necessity standard under Section 8-406.1(f) overlaps the necessity for reliability, promotion of competition, and least cost considerations. LACI states that “necessity” in the context of an application for a CPCN was interpreted in King v. ICC, 39 Ill. App. 3d 648, 653 (4th Dist. 1976), where the court stated that necessity requires that the service be “needful and useful to the public.” LACI notes that the determination of necessity is within the Commission’s discretion, and permits consideration of a broad range of factors, citing ComEd v. IC, 295 Ill. App. 3d 311, 317 (2nd Dist. 1998). Necessity is to be determined from a “consideration of all the circumstances,” citing Wabash.

LACI argues that the Commission should not apply the same standard here as it does in other cases in which a CPCN is being requested by an experienced public utility with a proven track record of successful completion of projects, successful operation of utility facilities and a utility business, and successful service to customers. It notes Staff's assertion that what constitutes public convenience and necessity is within the Commission’s discretion, and permits a broad range of factors. According to LACI, such “broad range of factors” should include the experience and status of the applicant. It insists a higher standard should apply here given GBX’s status, and whether the Project “will promote the public convenience and necessity” should be judged with that status in mind. It explains that if new electric generation to which the Project would interconnect existed, but could benefit from additional interconnection capability, for example, then one might be better able to conclude that it promotes the public convenience and necessity. Or, it offers, if the applicant had other utility assets and a substantial balance sheet

showing financial strength, one might be better able to conclude that the Project promotes the public convenience and necessity. Or, it continues, if MISO or PJM had made a determination of need for the Project, one might be better able to conclude that it promotes the public convenience and necessity. LACI asserts that none of those factors exist here. It opines that as a consequence, whether the Project can be found to promote the public convenience and necessity should be judged by a higher standard.

LACI argues that GBX is replete with promises of what it will do or what will happen. It complains GBX does not describe anything it has done by way of constructing or operating any utility facilities, serving any customers, or transacting any public utility business, anywhere in Illinois or elsewhere. It notes that GBX's parent, Clean Line, has embarked on a plan to develop five separate, major high voltage electric transmission line projects, four of which are non-traditional HVDC technology. LACI emphasizes the projects are in multiple states, consisting of over 3,000 miles of new transmission lines, and costing $10 billion, all on a near-simultaneous basis. LACI criticizes that Clean Line's small management team is responsible for successful completion of all five projects. It states the lack of experience in developing, constructing and operating such facilities undermines GBX's credibility to do and make happen what it promises it will do and make happen.

LACI cautions that the Commission should not simply look to and apply the Order in Docket No. 12-0560 here, stating Clean Line has suffered setbacks in its quest to obtain approvals and continue to pursue its projects. It notes the uncertainty as to the timing of and whether the Rock Island project will proceed at all due to the regulatory challenge in its approval by the Iowa Utilities Board ("IUB"). It says MPSC's denial of a certificate, and subsequent denial of rehearing, for the GBX Project in that state is another setback. In the Matter of Grain Belt Express Clean Line LLC, File No. EA-2014-0207 (MPSC July 1, 2015), reh'g denied, In the Matter of Grain Belt Express Clean Line LLC, File No. EA-2014-0207 (MPSC Aug. 12, 2015). LACI argues that the Project cannot be built without the Missouri portion, and the Missouri portion cannot be built without regulatory approval to do so.

It argues Clean Line continues to be thinly capitalized, routinely having to go back to its initial investors, and to new outside investors, for more development capital. LACI claims that since the date of Order in Docket No. 12-0560, granting Rock Island a CPCN, Clean Line's condition and the likelihood of it achieving its objections have, if anything, become more precarious. It adds that most of the landowners in this proceeding remain steadfastly opposed to the Project.

5. CCPO

CCPO asserts that the applicant has not met its burden of proof in that it has not shown that the grant of the application herein will promote public convenience and necessity. It states GBX is a transportation company that proposes to transport electric energy from Western Kansas to a point in Missouri to a point in Indiana. CCPO asserts

there has been no showing as to a need for this service. It reiterates that there was no proof that the existing service is inadequate.

CCPO states that witness Matt Langley works for Infinity, which develops, does not operate wind farms. CCPO notes Mr. Langley's testimony that operating wind farms is not part of Infinity's business model. CCPO states Mr. Langley's business is the development of wind farms to various stages of development but not the operation of the same. CCPO says that in essence, Mr. Langley testified that if this application is granted, his company will be able to obtain financing to develop wind farms. Thus, it says, Infinity would be in a position to bring certain proposed wind farms in Western Kansas to some stage of development and sell the same to investors. CCPO notes Mr. Langley's testimony that for tax reasons, Infinity would not operate the wind farms in Western Kansas. CCPO states that Infinity had a long-term transmission service agreement in Kansas to move power from Kansas to PJM and terminated that contract two years ago. CCPO states that if the GBX Application is granted, and GBX proceeds and builds the Project, Infinity might enter into an agreement with the GBX for the transportation of electric energy from Western Kansas to a point in Missouri and a point in Indiana. It states this contract might aid Infinity in obtaining financing by which it might develop wind farms in Western Kansas. CCPO asserts that there has been no showing that Infinity could not utilize existing transmission services. CCPO emphasizes that Infinity cancelled an agreement for such transmission services. It states there was no indication of any service failures. According to CCPO, the one thing that is clear is that Infinity will not utilize the Project for the transportation of electric energy. CCPO asserts that any contract between Infinity and GBX will be used by Infinity to secure financing.

CCPO distinguishes the instant proceeding from the facts in Wabash. CCPO asserts that there is a dramatic difference between Wabash and this case. It quotes the discussion of the shipper witness testimony:

> "The promoters of the construction of the railroad are the owners of the Illinois Coal and Coke Corporation, which controls nearly thirteen thousand acres of coal land in Jefferson County southwest of Mt. Vernon, which is the county seat and the northern terminus of the proposed railroad. It is the intention of this corporation to develop a mine in section 15 about eleven miles from Mt. Vernon, with a daily capacity of from 6000 to 7500 tons, and it is prepared to begin immediately the sinking of a shaft, with the expectation of reaching this production within two years. It is estimated that it will require seventy-five years to exhaust the coal now under the control of the coal corporation." Wabash, 309 Ill. at 414-415.

CCPO contrasts Mr. Severson's testimony relating to the need for the project. CCPO says Mr. Severson testified that Illinois would not be at risk of not meeting its RPS requirements if the Project is not built. CCPO notes his testimony that building the Project will do nothing to enhance Illinois' ability to meet its RPS requirement because the Illinois Procurement Authority ("IPA") could buy RECs from adjoining and other states as well as

Kansas. CCPO notes Mr. Severson's opinion that there is no need for the Project in Illinois.

CCPO states that Mr. Severson disputes Mr. Goggin's contention that the primary benefit of the project is that it will provide Illinois and other states in PJM greater access to high quality wind energy resources in Kansas. CCPO asserts that Mr. Severson testified that witnesses on behalf of GBS, have the primary benefit equation backwards. It quotes Mr. Severson as saying that the real primary beneficiaries of the Project are wind farm investors in western Kansas, not Illinois ratepayers. Mr. Severson testifies that the Kansas wind farms will not be built without the Project. He asserts that Illinois just happens to be standing in the way between those wind farm investors and electricity sales in higher priced markets in the eastern U.S. Mr. Severson denies that there is an unmet RPS demand in Illinois. He states that for the last few years, the IPA has not made new purchases of RECS, explaining one of the reasons is the unintended consequences of municipal aggregation. Mr. Severson asserts that a claim that the RPS in Illinois has not been met indicates a lack of knowledge about the Illinois RPS.

6. MEZ

a. Need for the Project

MEZ asserts that GBX has failed to show that there exists any public need for the Project in Illinois. It also finds Wabash to be instructive on the legal standards applicable in this case. MEZ states facts in Wabash bear comparison to GBX's Application. It says that, like GBX, private profit was the principal objective of the proposed new railroad in Wabash. It notes that just as GBX's Project depends on the development of wind farms in western Kansas, the Wabash petitioner's short line railroad would not be constructed but for the existence of a coal field (owned by one of the promoters), the mining of which would be made possible by the new railway. MEZ explains that other railroads protested issuance of a CPCN for construction of the new railroad, but the Commission ultimately issued one. On appeal, the Wabash Court reasoned that the word 'necessity' as used in the term "certificate of public convenience and necessity" is not used in a strict lexicographical sense of 'indispensably requisite' because that would be too restrictive. MEZ explains the Court found "Necessity" is a relative, rather than an absolute term, and the Wabash Court stated that no definition could be given that would fit all cases. However, MEZ states, the Wabash Court emphasized that the facilities in question must be highly important to the public convenience and desirable for the public welfare, and must be of sufficient importance to warrant their expense. It says there must be an "urgent need" for the utility service proposed, and its importance and desirability to the public must warrant it.

MEZ states that while at first glance Wabash appears to weigh in favor of GBX's Application, a more thorough consideration of the case leads to the opposite conclusion. Though in Wabash the Illinois Supreme Court upheld the grant of the CPCN to the petitioning railroad builder, it based its decision chiefly on an express finding that "no constitutional right of the [objecting party] or others was invaded." MEZ says that with

that fact settled, the Court reasoned that the Commission had sufficient evidence before it to reach its decision. MEZ asserts that Wabash must be read in the context of the effects of a requested CPCN on constitutional rights.

MEZ asserts that unlike the railroad in Wabash, GBX's Project does invade constitutional rights, namely those of MEZ, the other landowner-intervenors in this Docket, and still others whose properties may yet be affected by the Project. GBX wants to cross more than 200 miles of other peoples' real property in central Illinois, and issuance of the requested CPCN will empower it to achieve that end through either the actual or threatened use of eminent domain. MEZ states, the Commission may issue a CPCN to GBX only if it finds that the proposed service is necessary for the public's convenience and necessity, and not just for the convenience of the promoters, citing New Landing Utility, Inc. v. ICC, 58 Ill.App.3d 868, 374 N.E.2d 6, opin. supplemented, rehearing den., 58 Ill.App.3d 868, 375 N.E.2d 578 (2nd Dist. 1977) (other citations omitted.). MEZ asserts that Illinois law requires this Commission to specifically find that public convenience and necessity require the proposed service, Eagle Bus Lines v. ICC, 119 N.E.2d 915, 922, 3 Ill.2d 66, 77 (1954). MEZ states that GBX needs if not the full and immediate power of eminent domain then at minimum an unobstructed path to it. It asserts that without that, any discussions with landowners regarding easement rights are pointless. MEZ maintains that the concept of "public" in the term "public need" serves to protect and restrict the exercise of the power of eminent domain by ensuring freedom from unnecessary intrusions on, and condemnation of, private property, citing Lakehead Pipeline Co. v. ICC, 696 N . E.2d 345, 352, 360, 296 Ill .App.3d 942, 952 (3rd Dist.,1998).

MEZ notes that, although GBX started planning the Project as early as 2010, GBX did not submit its proposed Project to any RTO planning process to determine whether any need for it exists. MEZ says that GBX witnesses attempt to divert attention from this. It notes that they claim that there is no supra- or interregional transmission organization that can address a proposal like the Project, which extends through more than one RTO. MEZ notes GBX provides testimony that as a "merchant" transmission owner they are not required to do so. MEZ finds these attempts to avert attention from the question of need to be, at best disingenuous, and at worst, strikingly misleading.

MEZ notes that GBX proposes to deliver 3500MW into PJM and 500MW into MISO. It asserts that upon completion of the Project GBX will turn operation of the transmission line over to an RTO, most likely PJM. MEZ suggests that GBX could have submitted the Project for review to each of PJM and MISO, separately. It offers that it is possible that was not done because GBX did not want to run the risk of having either or both RTO determine that the Project was not needed. MEZ also asserts that GBX is not a "merchant" transmission owner, and thus has no exemption from the requirement of the FERC Order 1000 to submit the Project to a RTO process. MEZ concludes that GBX presents no evidence that the Project is needed to provide adequate, reliable or efficient service.

MEZ asserts that, to remedy this deficit, GBX structures the rest of its testimony as a well-written bluffer's guide to portraying public need where none exists. It offers Mr.

Skelly's testimony, saying he goes on at great length about how the Project will supposedly help Illinois meet its RPS goals, comply with the U.S. EPA's Clean Power Plan, enhance grid reliability, and benefit wholesale market competition, among a host of other ostensible benefits. MEZ says he also emphasizes the Project's capacity to spark the development of windfarms in West Kansas that, he says, would otherwise remain on the drawing board.

But, MEZ maintains, GBX's long list of putative benefits falls well short of a showing of public need for the Project. MEZ stresses that a project – any project – holds potential for future benefits. It asserts that alone does not prove that that the Project is needed by the public. MEZ asks the Commission to take a few steps back from the Application. It asserts that perspective reveals that the Application and the bulk of GBX's testimony amount to nothing more than question-begging on a grand scale. MEZ asserts that GBX effectively argues that a needed project like the Project will have many, many benefits, and therefore the Project is needed. It maintains that this hides the key question of whether the Project is needed behind a cornucopia of anticipated renewable, environmental, and economic benefits that will flow from it. MEZ accedes that we can all agree that benefits are good; they are, after all, benefits. But, it persists, GBX never shows that the Project itself is needed. MEZ asserts that GBX simply assumes as evidence the conclusion it wants to reach. MEZ concludes, the Commission may issue a CPCN only if it finds that the service is for the public convenience and necessity, citing New Landing Utility. It asserts that nothing of the kind has been shown in this case.

b. Compliance with the Illinois RPS

MEZ asserts that the Project is not needed for compliance with Illinois RPS. It notes Mr. Severson's testimony that the Project is not needed to comply with the Illinois RPS. MEZ states that GBX does not rebut this. It notes that Mr. Berry states simply that a REC has to be generated somewhere. It says that at the hearing, Mr. Berry agreed that the Illinois RPS can be satisfied by means of RECs or alternative compliance payments, and that there is no need to physically deliver the related renewable energy into either PJM or Illinois. MEZ maintains that Mr. Severson's unrebutted testimony is that even if demand in the Illinois REC market were to increase consistently year after year, the Illinois RPS requirement could still be met with RECs purchased either in Illinois and states adjacent to Illinois, or in other states if those states' renewable generation resources prove insufficient. It explains that the term "other states" means the other 49 states, including Kansas. Thus, it asserts, the Illinois RPS may be satisfied by buying RECs generated in GBX's targeted west Kansas resource area. It emphasizes that Illinois can buy RECs from Kansas without a $2,750,000,000 transmission line running from here to there. It concludes that the unrebutted testimony in this docket is that the GBX Line is neither necessary nor relevant to meeting the Illinois RPS requirements.

7. IBEW

IBEW asserts that the Project will be a major construction project in Illinois. IBEW states the Project will promote the public convenience and necessity by, among other

things, creating high quality jobs for IBEW's Illinois members, who will be instrumental to the construction of the Project. IBEW notes that the Project promotes the public convenience and necessity by reducing emissions. It states that construction of the Project (and, to some extent, the construction of the new wind farms in Kansas that the transmission line will support), will be a major driver of employment and economic activity in Illinois. IBEW notes that these benefits are in addition to providing adequate, reliable, and efficient transmission service by providing a direct transmission link to move low cost electricity produced by western Kansas wind farms to Illinois, and promoting the development of an effectively competitive electricity market by allowing a significant amount of new, low cost generating capacity to have access to the Illinois electricity markets.

IBEW states that based upon the testimony and study presented by Dr. Loomis, it expects that the construction of the transmission line will create a demand for approximately 722 construction jobs, on average per year, for three years in Illinois. It states the construction and installation of the DC-to-AC converter station in Clark County, Illinois, is expected to create an average of 361 jobs per year during the three-year construction period. IBEW asserts that once the Project is completed and placed into operation, there will be jobs created for maintenance and outside line work which will create jobs with either GBX or its maintenance and service contractors. IBEW states that the estimates of numbers of jobs created by construction and operation of the Project from Dr. David Loomis' study are consistent with the IBEW's experience of construction activity and job creation, when large transmission line projects are built.

IBEW disagrees with any suggestion that the construction jobs created by the Project are less valuable simply because they are temporary in nature; i.e., that construction-related projects have a finite duration and are therefore of less value than permanent jobs. It states that it is not unusual for an IBEW member or other skilled construction tradesman or tradeswoman who works primarily in construction to work on a series of temporary projects throughout his or her career. IBEW asserts that it is the continuing flow of such projects and the jobs they provide that enable these highly skilled craftsmen and craftswomen to support their families (through good wages) and to provide support to government at all levels (through tax payments).

IBEW states that construction of the components of the Project will stimulate the Illinois economy because some of the components of the Project will be produced or fabricated in Illinois, including components of the wind generation facilities. It provides as an example, Mr. Lawlor's testimony that GBX has designated Southwire Company as the preferred supplier of the dedicated metallic conductor for the Project, from Southwire's Flora, Illinois production facility. IBEW understands that GBX is making significant efforts to identify local Illinois businesses that can supply services, materials and equipment for the construction of the Project.

Moreover, IBEW states, the Project will promote the public convenience and necessity by reducing emissions. It says that as residents of Illinois, IBEW members and their families have an inherent interest in residing in a cleaner environment. It asserts the

Project will provide significant environmental benefits, including reducing the release of nitrogen oxide emissions, sulfur dioxide emissions, carbon dioxide emissions, and mercury emissions from electric power generation into the environment. It states the Project will deliver millions of MWh of clean, low-cost electricity into the electricity markets of Illinois and other PJM and MISO states. IBEW concludes that as consumers of electricity in Illinois, IBEW members and their families have an interest in seeing that lower electricity prices are maintained in Illinois.

8. WOW

WOW asserts that Illinois courts have established that "necessity" in the context of the Act means that the service proposed to be provided should be "needful and useful to the public," citing King. It, also, relies upon the Illinois Supreme Court decision in Wabash, to define necessity. WOW says Illinois courts have held that what constitutes public convenience and necessity is within the Commission's discretion to determine in each case, and permits the consideration of a broad range of factors as applicable to the particular case. It states this question is to be determined by the Commission from a consideration of all the circumstances, citing Wabash. WOW asserts that it is clear from Illinois precedent that in making its Section 8-406.1 determination, the Commission must always consider the impact that the proposed project will have on the public generally and the ratepayers specifically.

WOW asserts the Project is needed and useful to the public because it will deliver significantly greater access to untapped high-quality wind energy resources that can be used to: (a) comply with Illinois' RPS; (b) provide wind energy resources that are cost competitive with Illinois' wind energy resources; (c) comply with the U.S. EPA's Clean Power Plan; and (d) reduce wholesale market price volatility due to fluctuating fuel prices.

a. RPS Compliance

WOW states that in Illinois the RPSs are slightly different between utilities and ARES. It states that both RPSs require that a minimum percentage of the electric provider's total electricity supply come from renewable energy resources. Mr. Goggin testifies that AWEA has analyzed the Illinois market and found that at least 6,250 MW of wind capacity will be needed to satisfy the requirements of the Illinois RPS through the year 2025, or approximately 3,600 MW of incremental wind capacity beyond what is installed as of the end of 2014. He asserts that the Project will interconnect to the transmission grid 4,000 MW of low-cost wind energy that can be provided to utilities and ARES in Illinois and other states in the footprints of Illinois' two regional transmission organizations, PJM and MISO.

WOW asserts that Illinois utilities and ARES comply with their respective RPS's by retiring RECs. It explains that Illinois utilities and ARES can purchase RECs either as a standalone product or bundled with renewable energy. WOW says Illinois would benefit from the Project delivering 3,500 MW more renewable energy and their RECs to Illinois utilities and ARES, than the alternative of the Project not being built. WOW says the

Project would enable the renewable resources in Kansas to go to the states in MISO and PJM that have RPS requirements. It explains that many PJM states allow wind resources delivered to PJM to count towards their RPS requirements. WOW says that because many of these states are vying with Illinois for access to the same renewable resources for RPS compliance, introducing additional supply via the Project will tend to reduce the price of RECs available to Illinois load-serving entities. AWEA estimates that PJM and MISO states have a demand, not including Illinois' demand, for approximately 4,111 MW of wind resources that are needed by states to comply with their RPS's. Thus, it calculates that there is total demand for more than 7,700 MW of wind resources in these states. It asserts that level of demand exceeds the renewable resource capacity of the line, and is an indication of the need for the Project to serve Illinois and the PJM and MISO states.

WOW asserts that MEZ's rationale is flawed because it only addresses need but not usefulness. WOW maintains the Project delivers RECs that are needed and are useful because it will foster the development of additional wind generation and associated REC supply that can reduce the price of RECs in the Illinois market. WOW notes that MEZ does not cite a source for the amount of RECs that will come from other states. WOW argues even if one accepts that assumption, the Project is still beneficial. It asserts that regardless of how Illinois' ARES and utilities ultimately decide to achieve RPS compliance, the additional supply of RECs from wind generators made possible by the Project will provide additional competition in REC markets that can only reduce the price of RECs in Illinois.

WOW adds that the Project is useful in keeping the ARES' alternative compliance payments ("ACP") low. It explains ARES' ACP rate is equal to the dollars per megawatt-hour the utility spends on renewable energy resources, up to the Commission-approved maximum ACP rate. According to WOW, if the utilities' spend rate increases, or decreases, the ARES' ACP rate does the same. WOW asserts that increasing the utilities' access to low-cost RECs -- as the Project would do – would keep the utilities' spend rate low, ARES' ACP rate low, and consequently ARES' RPS compliance costs low. It concludes, the low cost renewable energy and RECs that the Project would provide to Illinois would improve the cost-effectiveness of the competitive renewable electricity market in Illinois for utilities and ARES, and the savings should be passed directly to ARES' Illinois consumers.

b. Lower Cost

WOW says that wind resources in the portion of Kansas to be served by the Project have some the highest capacity factors of any land-based wind resources in the U.S. It states that higher capacity factors translate directly to lower electricity costs, as a larger amount of electricity production from a wind project allows the wind project's fixed costs to be spread over a larger quantity of MWh. It states as a result, high-quality wind resources are able to offer lower-cost wind Power Purchase Agreements ("PPA") relative to lower capacity factor wind resources. WOW asserts that in markets such as PJM and

parts of MISO, access to these high-quality wind resources has the potential to lower consumer costs.

WOW asserts that capacity factor significantly affects the economics of wind generation. According to WOW, the Lawrence Berkeley National Laboratory's ("LBNL") report for 2013 found wind PPAs for a thirteen state area, including Kansas, with similar wind characteristics, averaged around $27 per megawatt-hour from 2011 to 2013. It says, based on a smaller subset of wind project PPAs signed in 2013, the thirteen state region had an average PPA price of $22/MWh. In comparison, WOW states, the LBNL report's price for the region covering Illinois was $53/MWh. Likewise, it states, the price for the Northeast region, which includes part of eastern PJM, had an average PPA price of $57/MWh. WOW concludes that the low cost wind energy delivered by the Project will be useful in cost effectively meeting future renewable energy demand in Illinois, PJM and some eastern MISO states.

c. Clean Power Plan

WOW states the goal of the Clean Power Plan is to reduce the carbon dioxide emissions from existing fossil fuel generation plants to target levels set by the U.S. EPA. It states the Clean Power Plan rule specifically allows for the use of renewable energy as a way to comply with the required carbon emission reduction targets. It reasons that the Project is needed and useful because it provides access to lower cost wind generation that Illinois could use to comply with the Clean Power Plan.

WOW states that the final Clean Power Plan still emphasizes the use of renewable resources as a pathway to compliance and even increased the level of demand for renewables. Mr. Goggin testified that the Clean Power Plan significantly strengthened the 2030 emission reductions that are required in Illinois and neighboring states. He states he believes that the amount of renewable energy demand to meet the Clean Power Plan would likely be increased as a result of these more stringent emission reduction targets. WOW relates that the U.S. Department of Energy's ("DOE") analysis of the draft Clean Power Plan found that large amounts of wind resources would be economically desirable under all Clean Power Plan futures Illinois may experience. It says that the EIA examined the most economic compliance with the draft Clean Power Plan under around a dozen different scenarios and the large demand for wind energy held up across all scenarios.

WOW asserts that the emissions reductions required for compliance with the final Clean Power Plan in Illinois and adjacent states will be significantly greater than what would have been required by the draft Clean Power Plan. Thus, the amount of renewable and wind resources needed for economic compliance with the final Clean Power Plan will likely be equal to or larger than what the EIA forecasted for the draft Clean Power Plan. It asserts that Illinois is forecasted to need approximately 12,100 MW to 15,700 MW of wind resources prior to 2030. WOW asserts that level of demand demonstrates that the Project is needed and useful in delivering wind resources to Illinois that can be used for compliance with the Clean Power Plan and state RPS requirements.

d. Electric Price Volatility and Risk

WOW asserts that wind energy and new transmission can reduce electricity price volatility arising from fuel price fluctuations. It says wind energy is attractive to utilities and their ratepayers because it is not subject to fuel price volatility, thereby protecting consumers from fluctuations in the price of other fuels. WOW states that transmission itself can also alleviate the negative impact of fuel price fluctuations on consumers' rates by making it possible to buy power from other regions and move it efficiently on the grid. It explains that the increased flexibility helps to modulate swings in fuel price, as it makes demand for fuels more responsive to price as utilities are able to respond to price signals by decreasing use of an expensive fuel and instead importing cheaper power made from other sources. WOW asserts that both wind generation transmission provide hedging value against fossil fuel price fluctuations, and that value increases when it connects new wind generation, such as what the Project will do. It states a LBNL report concluded that even in today's low gas price environment, and with future gas price expectations down, wind power can still provide long-term protection against many higher-priced natural gas scenarios.

WOW asserts that the Project contributes to a robust transmission grid and can provide valuable protection against a variety of uncertainties in the electricity market. It projects that fluctuations in the price of fossil fuels will continue, particularly if the electric sector becomes more reliant on natural gas. It states that further price risk associated with the potential enactment of environmental policies place a further premium on the flexibility and choice provided by a robust transmission grid. WOW concludes that the Project will be useful as a valuable hedge against uncertainty and future price fluctuations for consumers in the MISO and PJM footprints.

e. Response to Arguments

WOW responds to LACI's public convenience and necessity argument that a demonstration of need requires a comparison of the project to alternatives, and that only Dr. Proctor considered other wind alternatives within MISO. It asserts that LACI misapplies the concept of evaluating alternatives. WOW explains that GBX analyzed the Project against the scenario of the Project not being built. WOW opines that to be an appropriate comparison, the alternative should be another project that would accomplish the same result i.e., allow high-capacity factor wind generation plants in western Kansas to access the Illinois electricity markets, and is capable of being implemented, either by Applicant or by another entity. It notes LACI did not propose an alternative transmission line, but only presented data about the levelized cost of MISO wind from states within a region with wind capacity factors similar to those of Kansas, such as Iowa. WOW concludes that the cost of LACI's MISO wind 'alternative' is not even comparable to the Project and there is no discussion about who would build the alternative line or the likelihood that it would be built if the Project is not approved.

WOW agrees with LACI that RECs produced in an adjoining state do qualify as products that can be used for compliance with Illinois' RPS for both utilities and ARES. But, it states that does not disprove that there is still a need for renewable energy resources to comply with the utilities and ARES RPS's as Mr. Goggin testified. WOW reaffirms that the MVP report clearly states its intent -- that the lines were designed to enable delivery of sufficient wind generation to meet the total demand of MISO state RPSs. WOW asserts that the purpose for creating the MVP portfolio of transmission projects was not to improve reliability but to enable the development and transfer of sufficient amounts of wind energy to meet the renewable portfolio standards of states served by MISO.

B. Adequate, Reliable, and Efficient Service

This Section discusses the first of the alternative criteria in Section 8-406.1(f)(1), "that the Project is necessary to provide adequate, reliable, and efficient service to the public utility's customers."

1. GBX

GBX states that Illinois courts have long held that "necessity" or "necessary" as used in the Act (in the context of public convenience and necessity) does not mean "indispensably requisite," but rather "needful and useful to the public;" and that what constitutes public convenience and necessity is within the Commission's discretion to determine in each case, thereby permitting consideration of a broad range of factors as applicable to the particular case. It says the Commission has recently reiterated and relied upon these principles in a Section 8-406.1 electric transmission line CPCN case.

GBX asserts that arguments, tying 'necessary to provide adequate, reliable and efficient service' to being needed to cure a specific reliability deficiency in the Illinois electric grid, are far too narrowly focused. It states such arguments are premised on an unduly limited concept of "necessary," rather than the broader concept of "necessary" and "necessity" embodied in court decisions. It explains court decisions give the Commission broad discretion to determine what is "necessary" based on the facts and circumstances of each case. It argues that such arguments are unduly and narrowly focused on just the electric power system within the geographic boundaries of the State of Illinois. GBX says those arguments ignore the inter-regional nature of the North American bulk electric system. GBX asserts that it is the lack of adequate, reliable and efficient inter-regional transmission facilities that the Project is intended to address. Applicant adds that such arguments ignore the "customers" to whom the Project will provide adequate, reliable and efficient service. It explains that the customers of GBX will be wind generators in western Kansas, who need adequate, reliable and efficient transmission service to transport their output to electricity markets in Illinois and other PJM and MISO states, and wholesale and retail buyers of electricity in those destination markets, who seek to purchase the low-cost electricity from renewable resources that can be generated in the wind-rich western Kansas region.

GBX asserts that the record demonstrates that construction of the Project is necessary to provide adequate, reliable and efficient transmission service to its customers. It says customers of the Project, i.e., wind generators in western Kansas and entities seeking to purchase the electricity they generate, have no other viable alternative to the Project to obtain "adequate, reliable and efficient" transmission service to move the low-cost wind power that the new wind generators will produce from western Kansas to Illinois and neighboring states in the MISO and PJM footprints. It adds that the Project will be "needful and useful to the public" in those PJM and MISO states, like Illinois, which are experiencing an increasing demand for electricity from renewable resources.

a. Transmission Service

GBX states there is not adequate transmission infrastructure to move large quantities of wind power from western Kansas to Illinois and other PJM and MISO states. It provides a map of the high voltage transmission grid in the United States with an overlay of the map of the United States high voltage transmission grid with the map of average wind speeds. GBX asserts that the overlay shows that the transmission capacity needed to bring electricity produced by wind generation facilities in the areas of the United States with the best wind resources, including western Kansas, is limited or non-existent. According to GBX, no transmission lines above 345 kV, and no DC lines of any voltage, currently connect western Kansas to Illinois, MISO and PJM. It concedes that it might be theoretically possible to move some amount of power from western Kansas to MISO and PJM, using existing 345 kV AC lines, but it claims this would not be feasible or efficient. GBX states that using existing lines would entail substantially higher electric losses compared to an HVDC solution such as the Project. It says use of existing lines would expose the shipper to congestion costs on the AC system that result from transmission constraints and require the shipper to pay wheeling and congestion charges to Southwest Power Pool ("SPP"), MISO and PJM. GBX concludes that the additional costs and complexities make it unrealistic and uneconomic from a practical standpoint for developers to move power from new wind facilities in western Kansas to MISO and PJM.

GBX asserts that its generator customers – the developers of and investors in wind generation facilities in western Kansas - will not commit capital and resources to construct new wind generation facilities unless they are confident that there will be sufficient transmission in place to move the output of their generators to load and population centers. Mr. Skelly testifies, as a former developer of wind projects, that he is confident that developers will not invest capital in the construction of additional wind generation facilities, in areas such as the western Kansas Area, without reasonable assurances of adequate transmission capacity and infrastructure to deliver the output to load and population centers.

GBX concludes that from the perspective of developers in western Kansas, and prospective wholesale and retail buyers of that electricity in market areas such as Illinois – both of whom would be eligible customers for transmission service on the GBX transmission line – the Project is absolutely necessary for them to have adequate, reliable and efficient transmission service – in fact, for all practical purposes, to have any service.

b. Demand for the Service

GBX states that the record shows strong customer interest in subscribing for the transmission service the Project will provide. It relates that in January 2014, GBX completed a Request for Information for wind generators that could deliver energy to the Project's converter station in western Kansas. It says the response to the Request for Information included 14 developers developing 26 wind farms, totaling more than 13,500 MW, in the region surrounding the planned location of the Project's western converter station in Ford County, Kansas. It notes that this is approximately three times the amount of generation needed to fully use the Project's capacity. It notes that wind generation companies have over 700,200 acres of land under lease or option in western Kansas on which they could install wind turbines to supply power to the Project.

GBX states that in February, 2015, shortly before filing its Application, it launched an open solicitation process for subscribers wishing to contract for transmission capacity and service on the Project. GBX indicates that 14 wind generators submitted transmission service requests for over 17,301 MW of transmission service. It reports there was a high level of demand for transmission service to the delivery points in both MISO and PJM. It states that ten shippers made requests for more than six times the available capacity to the Project's delivery point in Missouri. It describes the demand for service to the Project's Illinois converter station was even higher. GBX asserts that the results of the Request for Information and the open solicitation demonstrate that there is a substantial demand by prospective customers, in particular developers in western Kansas, for the transmission service that the Project will provide.

GBX argues that the record shows a strong and increasing demand in Illinois, as well as in other PJM and MISO states, for low-cost energy from high capacity factor wind generation, which the Project will deliver from western Kansas into the MISO and PJM grids. It repeats the demand comes from the need to meet the increasing RPS requirements; the increasing demand for clean electricity from renewable sources; the need to replace generation from existing plants that have been, or will be retired, due to age and/or the costs of complying with emissions limitations and other environmental requirements; and the demand for low-cost electricity generally. It asserts that electricity from new wind generation is now cost-competitive with other new generation sources, and electricity from new wind plants located in western Kansas is particularly competitive. Additionally, to the extent that there is a demand for RECs separate from the demand for the electricity itself produced from renewable resources, the wind generators that the Project will connect to electricity markets in PJM and MISO can be a source of low-cost RECs, and their output will put downward pressure on the prices of RECs in the PJM and MISO regions.

GBX opines that as a result of the strong and increasing demand for electricity from renewable resources and the competitiveness of wind generation, development and construction of new wind plants in western Kansas to access electricity markets in Illinois and other PJM and MISO states is an attractive economic and commercial prospect for

developers. It states, the economic and commercial attractiveness of developing new wind generation in western Kansas, depends on there being adequate, reliable and efficient transmission service to transport the output of western Kansas wind plants to electricity markets in those states. Applicant claims that the necessary adequate, reliable and efficient transmission service does not exist today. GBX concludes that there is a strong demand for the service the Project will provide and that the Project is necessary to provide adequate, reliable and efficient transmission service to those customers.

In response to CCPO's argument that GBX does not have customers under contract for transmission service, GBX emphasizes that it has target customers, i.e., owners of wind generators existing or to be built in western Kansas and wholesale and retail purchasers of electricity in Illinois and other PJM and MISO states who seek to purchase electricity generated by the Kansas wind farms and have it delivered to them by the Project. It reiterates that there was significant customer interest in contracting for transmission service on the Project in its early 2015 open solicitation, stating the requests for transmission service received far exceeded the capacity of the line. It states that contrary to CCPO's assertion, the record shows that adequate, reliable and efficient transmission service to move wind power from western Kansas to PJM is currently not available.

GBX maintains that neither it nor its customers can be expected to enter into definitive transmission service contracts until GBX receives necessary regulatory approvals for the Project, including approval of the Project route. It states that the approvals will provide assurances that it is authorized to build the transmission line, and to establish costs and construction schedule with sufficient certainty to establish when service on the line will be available and the pricing for the service.

Similarly, in response to Farm Bureau's assertion regarding it waiting to hire employees, GBX asserts it is filling positions in its construction management organization for which there is work to be performed in the current, pre-construction phase, and is prudently waiting to fill other positions until there is work to be performed by those positions. It notes the Commission found this to be a reasonable approach in the Rock Island CPCN proceeding. As to Farm Bureau's statement that it is waiting to secure financing until it determines there is a need for the Project, GBX states that under the project finance approach, construction financing will be secured after transmission service contracts are signed, which cannot happen until regulatory approvals for the Project are obtained. It notes Mr. Berry's testimony that this sequencing is typical in the capital markets for financing projects using the project finance approach.

c. Efficiency of the Service

GBX asserts the Project will employ the most efficient transmission technology for transporting large amounts of power, particularly power from variable generation resources, over long distances. It states it is well-established that HVDC is a more efficient technology than AC solutions for the long-haul transmission of large amounts of electric power. According to Applicant, the record shows that HVDC lines: (1) transfer

more power with lower line losses over long distances than do AC lines; (2) give the operators direct control of energy flows; (3) will not become overloaded by unrelated outages, thereby reducing the likelihood of outages propagating from one region to another; and (4) utilize narrower rights-of-way and fewer conductors, thereby making more efficient use of transmission corridors and minimizing visual and land use impacts. GBX asserts that Mr. Galli presents a comparison of an HVDC transmission facility such as the Project, and a variety of AC alternatives of similar distance and transmission capacity, which shows that the HVDC alternative has much lower construction costs and lower annual cost of losses than any of the AC alternatives.

d. Reliability Benefits

GBX asserts that the Project will provide specific reliability benefits for the electric system in Illinois. Mr. Zavadil testifies that he conducted a LOLE analysis to measure the potential reliability impact of the Project in Illinois. He states that the LOLE analysis calculates the probability that a set of generating units or other supply options is insufficient to meet an expected level of electric demand. He explains that a higher LOLE indicates a higher probability of loss of load, whereas a lower LOLE value indicates a lower probability of loss of load and improved reliability of the bulk electric system. He testifies that he also measured the ELCC of the Project. Mr. Zavadil explains that ELCC measures the increase in load that can be served by the addition of a new supply resource to the portfolio. He says ELCC allows for the ready comparison of the reliability contribution of wind generation compared to that of other generation technologies.

According to Mr. Zavadil, LOLE studies are routinely performed as part of long-term electric power system planning. He says they are a standard industry technique to assess the resource adequacy of the bulk electric system and are routinely employed by the National Electrical Safety Code ("NERC") Regional Entities and regional reliability coordinators in planning studies. He states his analysis was limited to Illinois and testifies in depth as to the methodology he employed. Mr. Zavadil asserts that his LOLE analysis conforms to the accepted industry approach for measuring the probability of a supply resource shortfall. He states he limited the analysis to Illinois as the purpose of the LOLE study was to evaluate the contribution of the Project to Illinois supply resources. Mr. Zavadil testified he also calculated the ELCC of the wind energy injection of the Grain Project.

By comparing the LOLE without the Project to the LOLE with the Project, Mr. Zavadil states, he was able to measure the LOLE improvement provided by the Project. Similarly, by adding load to the “with Project” case until the LOLE returned to the base case value, he measured the ELCC contribution of the Project’s injection of electricity from wind generation to the PJM grid. Mr. Zavadil concludes that the average LOLE reduction in the nine cases or scenarios he studied was 0.079 days per year, representing a substantial reduction in LOLE in Illinois. He explains that this improvement may be compared to the industry accepted measure of 0.1 days per year as representing adequate reliability. He states the annual ELCC that indicates that the Project’s injection of wind generation into the PJM grid has approximately the same reliability benefit for

Illinois as a large new conventional thermal power plant. Mr. Zavadil concludes that wind energy injection from the Project into the PJM grid will positively impact resource adequacy and electric reliability in Illinois, based on reduced LOLE metrics from the addition of the Project and the calculated ELCC.

GBX argues that MEZ's, Staff's, and Farm Bureau's arguments that there has been no showing that the Project is needed for the reliability of the PJM grid, to relieve congestion in PJM or MISO, or to provide adequate reliable and efficient service to Illinois ratepayers unduly limit the scope of the "necessary to provide adequate, reliable, and efficient service" criterion. It challenges Farm Bureau's argument that the Project's effect on the reliability of the electric system is unknown, noting Mr. Zavadil's LOLE and ELCC findings.

GBX concludes that the evidence shows that the Project is necessary to provide adequate, reliable and efficient transmission service to its customers. It asserts the Project is the least cost means of meeting the service needs of GBX's customers. GBX asserts that, based on the record, the Commission should find that the Project is necessary to provide adequate, reliable, and efficient service to the customers that will be served by the Project and is the least-cost means of satisfying the service needs of those customers.

2. Staff

Staff asserts that the Project is not necessary to provide adequate, reliable and efficient electric service to Illinois ratepayers. Staff states that, in its Application, GBX lists several benefits that it claims the Project will provide. Staff notes that GBX does not argue, however, that the Project is needed or necessary to maintain the reliability of the electric system in Illinois. Staff asserts that Mr. Zavadil presented an analysis of LOLE as it pertains to PJM. Staff says that based on this LOLE analysis, Mr. Zavadil concludes that the Project would "positively impact resource adequacy and electric reliability" in Illinois. However, Staff finds the LOLE analysis inadequate because it does not discuss whether the resource adequacy the Project brings to PJM justifies its $2.75 billion price tag. Staff notes that GBX's main argument for the Project is that it will promote the development of competitive electricity markets, which will reduce the cost of electricity in Illinois; and that it is needed to help meet certain RPS policies.

3. Farm Bureau

Farm Bureau concurs with Mr. Rashid that GBX has not provided evidence the Project is needed to maintain the reliability of the electric systems in Illinois. Farm Bureau cites Citizens United for Responsible Energy Development, Inc. v. ICC, 285 Ill. App. 3d 82, 90 (5th Dist. 1996) that a CPCN "is issued to prevent unnecessary duplication of facilities and to protect the public from inadequate service and higher rates resulting from such duplication, while simultaneously protecting a utility against indiscriminate or ruinous competition."

Farm Bureau notes Dr. McDermott's testimony that GBX does not assert that the Illinois electricity market is inadequate, unreliable, inefficient, or uncompetitive. It notes that GBX does not assert that the Project is required, or necessary, to make the Illinois electricity market adequate, reliable, efficient, or competitive. Farm Bureau asserts that the effect of the Project on the reliability of the electric system is unknown at this time. Farm Bureau maintains that GBX has presented no evidence demonstrating that reliability will be adversely affected without the Project.

Farm Bureau describes the Project as speculative investment and opines that for that reason, GBX is choosing to wait to hire the necessary employees until just before the commencement of construction. It argues that GBX is waiting to see if there is a need for the transmission line before it seeks financing, then it will hire employees to construct and manage the Project. Farm Bureau surmises that the capital markets are taking the same approach and waiting until a need is established for the Project and construction is planned prior to committing to financing. Farm Bureau argues that GBX and the capital markets are waiting for a definitive need to materialize prior to making further commitments. It argues that GBX expects the standard to be different for the Commission. Farm Bureau recommends that the Commission take the same approach, i.e., wait for a definitive need to materialize prior to making further commitments. It asserts the Commission should hold GBX to the same standard, insisting that it do what it has not done, and definitely establish a need for the Project prior to issuance of a CPCN.

Farm Bureau asserts that this Project is almost identical to the Rock Island Project. It states that the evidence presented by GBX to support need for the Project to provide adequate, reliable, efficient service is not any more than the evidence presented on the same issue for the Rock Island Project in Docket No. 12-0560. Farm Bureau notes that in Docket No. 12-0560, the Commission found that Rock Island had not demonstrated that the Project is necessary to provide adequate, reliable, and efficient service to customers within the meaning of Section 8-406(b)(1). Farm Bureau asserts that the Commission should follow the same rationale and find that GBX has not demonstrated there is a need for the Project to provide adequate, reliable, efficient service.

Farm Bureau responds to GBX's assertion that the Project meets the "necessary to provide adequate, reliable, and efficient service to its customers" criteria due to “the lack of adequate, reliable and efficient *inter-regional* transmission facilities …” (emphasis by Farm Bureau). Farm Bureau declares that the Commission does not and should not grant CPCNs on the basis of the needs of other states. It questions the benefit and is concerned the Project will have a negative impact on the citizens of Illinois. It notes GBX's arguments of benefits for wind generators in western Kansas and other PJM and MISO states. Farm Bureau asserts that Section 8-406.1 does not stand for the premise that a project is entitled to a CPCN when necessary for customers in other states. It notes Staff's observation that GBX does not argue that the Project is needed or necessary to maintain the reliability of the electric system in Illinois.

Farm Bureau challenges GBX's argument that Staff's position in evaluating the necessity of the Project is too narrow. Farm Bureau states that GBX attempts to narrow

the focus of the necessity analysis to only the service of Kansas wind energy. However, it states, the Act clearly encompasses the electricity market as a whole, and a project must be "necessary to provide adequate, reliable, and efficient service" of electricity, period. Farm Bureau asserts that it is GBX that is attempting to narrow the analysis for its benefit. It states, GBX spends ample time explaining the theoretical demand for Kansas wind energy, but hypothetical demand is simply not an element of necessity relevant to meeting its burden on this point.

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It concurs with Mr. Severson's description that the lack of evidence of the necessity of the project, stating that like GBX's witnesses, Mr. Langley makes a record-setting long jump from these premises to the conclusion that PJM generally, and Illinois in particular, needs the wind energy that only west Kansas can generate." Farm Bureau states that Mr. Langley just assumes what he is trying to prove, explaining that nothing in his testimony shows why reliability in Illinois, Illinois RPS compliance or any other important feature of the electricity market in PJM or Illinois would be at risk if the Project is not built. Farm Bureau concludes that the need for the Project lies not in Illinois, but in western Kansas and that the Project has nothing to do with electricity supply needs or reliability in PJM or Illinois, and everything to do with making western Kansas safe for wind farm investors.

4. CCPO

CCPO notes the question raised by this requirement is not simply whether the Project is necessary to provide adequate, reliable, efficient service. It notes the statute requires a finding that the Project is necessary to provide adequate, reliable, and efficient service to the public utility's customers. CCPO asserts that GBX is not a public utility and does not have customers. CCPO argues that the language is clear; Section 8-406.1 is an expedited procedure for existing public utilities. It insists that this language cannot be disregarded.

CCPO maintains that GBX has not shown that the transmission line is necessary to provide adequate, reliable, and efficient service. It states there is no showing, at this time, that such service is not available. CCPO observes that Mr. Langley, the only shipper witness, wants to enter into an agreement with GBX in order to secure financing, not to transport electric energy. CCPO notes that Mr. Langley's company terminated a long-term service agreement to move power from Kansas to PJM.

CCPO observes that neither the RTOs with responsibility for the Illinois transmission grid, nor Staff, found that the Project is needed in Illinois for reliability. It notes that the Project, by itself, provides no reliability benefits. It says that GBX's argument that the Project is necessary to reliably transport to-be-built wind generation in Kansas and is therefore necessary for reliability under the Illinois statute is novel, but should be rejected.

5. MEZ

MEZ argues that if PJM or MISO, or both, had determined that the Project were necessary to relieve congestion on the grid or ensure reliability or adequacy of service, then the marginal improvements to the wholesale electricity market on which GBX's case largely rests might be relevant, though not determinative, of whether the Commission should issue it a CPCN. But, MEZ states, GBX never submitted its project to PJM or MISO to determine whether it was needed. MEZ asserts that GBX has made no showing that the Project is needed for reliability of the PJM grid. It states there has been neither a showing that the Project will relieve congestion anywhere in PJM or MISO, nor a showing that without the Project the adequacy of service in PJM either is, or will be placed, at risk.

MEZ asserts that the needs of west Kansas wind developers and the needs of GBX's promoters do not equate to a public need of Illinois ratepayers. It states there is no public need for the Project. It concludes that a CPCN may not be issued to GBX. It states it cannot be authorized to use the power of eminent domain against multiple landowners in Illinois, on the strength of GBX's argument that the Line may marginally improve competitiveness in the PJM market. MEZ asserts that there is no evidence to demonstrate that the Project is necessary to provide adequate, reliable, efficient service.

MEZ finds that GBX's Initial Brief confirms that to the extent there is any public need for the Project, that need exists not in Illinois but in western Kansas. It states GBX portrays the Project and its ordinary use in transmitting electricity 780 miles as an end in itself, without reference to any public need in Illinois. MEZ notes GBX's argument that over long distances AC transmission systems will experience higher losses than DC systems such as the Project. MEZ asserts that whether DC transmission is better than AC over 780 miles is an easy question, and one to which the answer is well-known: yes. But, it maintains, this neatly packaged response that might be excerpted from an electrical engineering textbook leaves unanswered the question of why the Illinois public needs the Project. MEZ emphasizes that fact alone does not serve as grounds sufficient for this Commission to grant the power of eminent domain to a private company like GBX.

MEZ says that GBX argues that the Project is needed because it will reduce LOLE in Illinois. MEZ protests that nothing in the record shows, nor does GBX argue, that the LOLE in Illinois is not acceptable today, without the Project, under any applicable reliability standard. It argues again that GBX uses alleged future benefits to supply the place of the present public need it must prove under Section 8-406.1.

6. IBEW

IBEW asserts that GBX has demonstrated that the Project is necessary to provide adequate, reliable and efficient service to its customers. It states, the Project is necessary to address a lack of adequate, reliable, and efficient transmission service to move electricity from the excellent wind resource area of western Kansas to Illinois and other

PJM and MISO states. IBEW says the customers of the Project will be wind generators in western Kansas, and entities seeking to purchase the electricity generated by the wind generators that the Project delivers into the MISO and PJM networks, including Illinois. It says that currently, there is not adequate transmission infrastructure to move large quantities of low cost wind power from western Kansas to Illinois and other PJM and MISO states. It explains that while it might be theoretically possible to move power from western Kansas to MISO and PJM using existing 345 kV AC lines, the additional costs and complexities in doing so make it unrealistic and uneconomic from a practical standpoint for wind developers to move power from new wind facilities in western Kansas to MISO and PJM. IBEW states Mr. Skelly, an experienced wind plant developer, stated, these generator developers will not commit capital and resources to construct new wind generation facilities in that area unless and until they are confident that there will be sufficient transmission in place to move the output of their generators to load and population centers.

IBEW opines the Project will be needful and useful to the public because there is a strong demand from wind generators for the services that the Project will provide; and for low-cost energy from high-capacity-factor wind generation, such as the Project will deliver from western Kansas into the MISO and PJM grids. It states the ultimate consumers of the energy that the Project will deliver into the electricity markets in PJM and MISO, including into Illinois, will be thousands of retail electricity customers. IBEW asserts that the estimated annual deliveries of electricity by the Project are approximately 20,000,000 MWh, which, it says, is enough electricity to serve the average annual electricity needs of more than 1,600,000 homes.

IBEW notes that GBX has chosen to employ HVDC technology. It asserts that HVDC is the most efficient transmission technology for transmitting large amounts of power over long distances, in particular large amounts of power from variable generation resources such as wind turbines. IBEW adds that the Project will provide specific reliability benefits for the electric system in Illinois, as set forth in the testimony and analysis presented by GBX witness Robert M. Zavadil.

7. Infinity

Infinity asserts that over the past decade, it has become increasingly clear that the electrical infrastructure in the United States is in need of modernization if it is to continue providing reliable and efficient service to customers. It opines that upon completion, the Project would provide a critical link in those modernization efforts.

Infinity says that the Project would be one of only a few transmission lines in the United States to utilize HVDC rather than AC technology, which in turn will lead to more efficient service for those customers that are served by the line. It notes Mr. Galli's testimony that a DC line provides several key advantages over an AC line for the long-haul transmission of large amounts of electric power. It says the testimony indicates that DC lines can transfer more power with less line loss, lower costs and narrower rights-of-way than comparable AC lines. It says this allows customers served by the Project to

receive more of the power that is produced by the generator than customers served by a traditional AC transmission line. IBEW asserts that this conclusion is supported by the studies that have been performed by Mr. Zavadil. It states those studies found that the Project will positively impact resource adequacy and electric reliability, resulting in a substantial reduction in LOLE for Illinois.

Mr. Langley testifies that if constructed, the Project will provide a direct link for clean, low-cost wind energy from western Kansas to be delivered across several RTO "seams." He asserts that, currently, it is difficult to transport power across the boundaries or "seams" between RTOs for various regulatory and financial reasons. He explains that because each RTO studies transmission needs based on the needs of its respective territory, each RTO inherently creates a somewhat isolated system with its own market structures and rules. Mr. Langley states that this compartmentalization makes navigation across these RTO seams on traditional AC transmission lines a technically and financially daunting process. Mr. Langley testifies that Infinity has tried to transport power from Kansas to PJM in the past through existing paths, ultimately without success. He opines that by providing a direct path from SPP's territory in western Kansas to population centers in the MISO and PJM footprints, the Project would open up new markets for this low-cost renewable generation, which in turn will help to increase general connectivity across the grid and reduce overall congestion. He asserts these new generation resources can then be utilized by RTOs and utilities to create more diverse, lower-cost alternatives to satisfy customer demand, thereby driving down costs in both wholesale and retail power markets, resulting in more reliable and efficient service for all customers.

Infinity asserts that by bolstering the transmission grid and providing access to low-cost wind power from Kansas, the Project will provide a valuable hedge against volatility in the wholesale power markets based upon variable fuel prices. It says that when utilities add wind generation to their overall generation portfolio, they are able to lock in a portion of their power supply at a known price for twenty years or more. Infinity opines that this price certainty can be extremely valuable for utilities, especially in light of the significant volatility in coal and natural gas prices caused by a number of factors, including market fluctuations, variable transportation costs, and uncertainty relating to future regulatory changes. It explains that by blending inexpensive, fixed-cost wind power from Kansas into their generation portfolios, utilities in the MISO and PJM footprints can decrease their exposure to price fluctuations in coal and natural gas, as well as future regulatory changes at the state or federal levels. It concludes that this decreased exposure to fuel price volatility and regulatory changes should result in avoided costs or direct savings for utilities, which in turn should translate into lower rates for customers.

C. Development of a Competitive Electricity Market

This Section discusses the second of the alternative criteria in Section 8-406.1(f)(1), "that the Project "will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers …"

1. GBX

a. Delivery of Low Cost Renewable Generation

GBX states that the objective of the Project is to connect the wind resources of western Kansas to Illinois by delivering the output of the wind farms into the PJM and MISO transmission grids. It claims the Project will enable over 4,000 MW of wind farms to be constructed in western Kansas. It says the wind farms would not otherwise be built due to the limitations of the existing transmission grid. It states that the Project will enable these wind farms to deliver, approximately 18,000,000 MWh per year to PJM and approximately 2,600,000 MWh per year to MISO, low-cost, clean, renewable energy. GBX asserts that with higher capacity factors due to the outstanding wind resources and high average wind speeds of western Kansas, and lower development and construction costs, wind generators in western Kansas can produce electricity at a very competitive price.

GBX asserts that the electricity that the Project will deliver into the electricity markets in Illinois and nearby states will be low-cost, not just as compared to renewable energy, but as compared to electricity from all sources. It explains wind generation has no fuel cost and zero marginal cost that most of the costs of producing electricity from wind are incurred up front in the capital costs of developing and constructing the generating facility. According to GBX, the competitiveness of wind generation on a total cost per MWh basis is largely a function of (1) the capital cost of the wind plants and (2) their capacity factor, i.e., the number of MWh that can be generated in a year, over which recovery of the capital costs can be spread. It asserts that western Kansas has a strong competitive advantage due to both (i) high average wind speeds relative to other locations, resulting in high capacity factors, and (ii) lower costs of development and construction. It states that these advantages allow western Kansas wind farms to generate electricity at a lower cost than wind farms located farther east in Missouri, Illinois, Indiana and other areas that will be served by the Project.

GBX reiterates that western Kansas has some of the highest average wind speeds in the country. GBX asserts that due to the outstanding wind resources of western Kansas, wind generation capacity factors in the area routinely exceed 50%. It states that ongoing improvements in wind turbine technologies are yielding higher capacity factors as new wind farms are constructed using the newer technologies. GBX estimates that new wind plants in the vicinity of its converter station will achieve capacity factors of 55%. It expects additional improvements in turbine technology, and consequently in capacity factors, by the time the Projected and the connected wind generators go into service in 2019 or 2020.

GBX states that wind farms in the interior region of the U.S., including Kansas, have lower average installed costs per unit of capacity than the national average. It says that recently, LBNL reported that the capital costs of wind farms in the interior region, including Kansas, averaged $1,755 per kW of capacity, while the capital costs of wind farms in the Great Lakes region, including Illinois, averaged $2,033 per kW of capacity.

It says that lower development and construction costs in Kansas are a product of several factors, including lower labor costs, lesser siting constraints, better soil conditions, reducing foundation costs, and better access roads reducing access and road construction costs.

GBX asserts the current market pricing for power purchase agreements in western Kansas is 2.0 cents to 2.5 cents per kWh. It says that anticipated pricing for electricity from new wind farm developments in western Kansas is in the area of 2.0 cents per kWh. GBX estimates that, including the cost of transmission service, the delivered cost of electricity from wind generators in western Kansas to the Project's MISO and PJM delivery points can be 4.0 cents to 4.5 cents per kWh. GBX asserts that based on prices in the destination markets, the forecasted revenues from selling, in PJM, the electricity produced by western Kansas wind farms and delivered by the Project to the PJM grid, are sufficient to cover the capital and other costs of generating the electricity in western Kansas and delivering it to PJM. It states that it shows that this is true over a wide range of scenarios and differing assumptions as to variables. It concludes that the Project offers prospective wind generation operators in western Kansas, and prospective purchasers of their electricity in Illinois and other PJM states, a compelling economic and commercially attractive proposition.

b. Demand for Low Cost Renewable Generation

GBX asserts there is a strong demand and need for the low-cost electricity from western Kansas wind generators that the Project will deliver to electricity markets in Illinois and other PJM and MISO states. It says the demand is driven by several factors, including the requirements of RPS; the increasing demand in general for electricity from renewable resources; the demand for low-cost electricity in general; and the demand to replace the electricity produced by coal-fueled generating plants that are retiring due to age, increasingly stringent environmental regulations, and the costs of complying with those regulations.

GBX presents calculations of the total RPS requirement (MWh) in Illinois and 17 other states in the PJM or MISO footprint, each year from 2015 through 2025, which could be fulfilled by energy from western Kansas wind farms delivered by the Project. Its analysis showed that there is estimated to be 106,830,000 MWh of RPS renewable energy or REC requirements in 2020, and 136,448,000 of RPS renewable energy or REC requirements in 2025, in the 18 states that can be fulfilled by purchases of energy delivered by the Project into MISO or PJM. It contrasts the total renewable energy generation of about 85,600,000 MWh in the PJM and MISO states in 2014. It says wind generation in several western MISO states accounted for 43% of this total. It notes that in several PJM states that wind generation is ineligible to meet RPS requirements in several PJM states that require physical delivery or an interconnection into PJM. It affirms that renewable energy delivered by the Project, would be eligible to be used to meet the RPS requirements as it would be delivered into the PJM grid.

GBX explains Illinois utilities must meet their RPS obligations for the load of eligible retail customers by purchasing energy or RECs from renewable resources located in Illinois or adjoining states, unless sufficient cost-effective renewable resources are not available in those locations, in which event the RPS can be met through purchases from renewable resources in other locations (such as Kansas). It says renewable resources are not "cost effective" if they cause the RPS price caps to be exceeded or if they exceed benchmark prices approved by the Commission. GBX concludes that even though the wind generators that will connect to the Project are not located in Illinois or an adjacent state, they may in fact be eligible resources for the utilities' RPS obligations, particularly in light of their lower cost than alternatives.

GBX explains that ARES (who now serve the great majority of load in Illinois subject to RPS requirements) can meet their RPS obligations by purchasing renewable energy or RECs from generation in any state so long as the renewable energy or RECs are certified by the MISO or PJM renewable energy tracking systems. It asserts that because the Project will deliver renewable energy directly into MISO and PJM, this energy will be registered in the MISO and PJM tracking systems, and therefore will be eligible to meet the RPS obligations of Illinois ARES.

GBX concludes that, even taking into account the preferences, carve-outs and exclusions in the individual states' RPS laws, there will be a significant demand, in excess of the current renewable generation supply, for renewable energy and RECs produced by western Kansas wind farms, which the energy delivered by the Project will be eligible to meet.

GBX states that the demand for energy from renewable resources and RECs to meet state RPS requirements in PJM and MISO is only part of the overall demand for low-cost renewable energy. It explains that Illinois law allows municipalities, through referenda, to establish aggregation programs where the municipality contracts with an ARES to supply electricity to all residential and small business retail customers in the municipality, other than customers who opt out of the program or are already served by an ARES. It states a number of these municipalities have required the ARES to obtain a significant additional portion of their electricity supply, beyond the RPS minimum requirements, from renewable resources, or to offer the retail customers an option to specify that a stated percentage, above the RPS minimum, of the electricity supplied will come from renewable resources. GBX notes that these requirements increase the amount of renewable energy or RECs that must be purchased to serve load, beyond the statutory RPS minimum amount. It cites a recent report that more than 90 Illinois municipalities, representing 1,700,000 people, have surpassed the RPS requirements by electing to purchase 100% renewable energy.

GBX notes that electric cooperatives and municipal electric utility systems, which are not subject to state statutory RPS requirements, have also been purchasing energy from renewable resources to meet a portion of the load they serve. It states large retail users of electricity have been procuring a portion of the electric supply for their facilities from renewable resources. It notes that an increasing number of companies are

purchasing renewable power directly from developers, because these buyers see the value in purchasing energy at a very low fixed price for a long period of time.

GBX states, in addition to RPS requirements, driving the demand for renewable energy (and for new, lower-cost sources of electricity in general) is the ongoing retirements of (or reduced generation from) fossil-fueled plants in the existing U.S. generation fleet, due to age and environmental requirements. It explains the Clean Power Plan calls for Illinois to reduce its total power plant carbon emissions by 30% by 2030 (from the 2012 level). It concedes that the final plan rule will be subject to court challenges, it is just one of the many environmental regulations that are making it more expensive to operate and generate electricity from fossil-fueled plants.

GBX notes over the past six years, generation from coal-fueled plants in the U.S. has decreased by 21%. It states that, according to the EIA, utilities report over the next four years, they intend to retire coal-fueled plants comprising over 26,000 MW of capacity. GBX indicates that in 2014, the EIA forecasted that almost 50,000 MW of coal-fueled generating capacity will be retired by 2020. It says MISO reports that within its footprint, 8,000 MW to 10,000 MW of coal-fueled generating capacity is likely to be retired by 2016. GBX asserts that over the next 20 years, the total number of retirements of coal-fueled generating capacity is likely to be much higher due to limitations imposed by, and costs of compliance with, environmental regulations, and the favorable economics of other generation sources.

GBX states that the construction of any significant amount of new, coal-fueled generating capacity, to replace part of the retiring capacity, is of course extremely unlikely, due to high capital costs and the impacts of environmental regulations. It states that the difficulty in constructing new coal plants will require load-serving entities to turn to other generation sources, including wind generation, to meet load growth, replace retired capacity, and achieve emissions levels required by laws and regulation. GBX argues that as more coal plants retire (or reduce their generation), they will need to be replaced by other, cleaner sources of generation, including low-cost wind energy such as the Project will deliver to PJM and MISO, in order to keep electric rates from increasing and to maintain a secure electric supply.

GBX opines that another set of drivers of the increasing demand for electricity from wind generation, is that energy from wind generation is not subject to fuel price volatility (and therefore can provide a natural hedge against volatile electricity prices). It does not have fuel supply concerns due to railroad or natural gas pipeline delivery constraints, and improves air quality.

GBX notes Mr. Severson's contention it is not necessary to build the Project to transport the output of new wind generation plants in western Kansas to MISO and PJM delivery points, because RPS requirements can be satisfied by the purchase of RECs without purchasing the physical electricity. GBX responds that this assertion ignores the physical reality that in order to create RECs, a renewable generating resource must actually produce and deliver, to some physical buyer, MWhs of electricity. GBX claims

that the potential high capacity factor wind generation in western Kansas is not getting developed now, because there is not sufficient load in the area to purchase the electricity the new plants would generate, and the transmission infrastructure is not adequate to transport the output of the new plants to more distant load and population centers. GBX states the major load centers in the SPP (encompassing western Kansas) to which new wind generators in western Kansas could sell their output are hundreds of miles away, and reaching them would require substantial and expensive new transmission. GBX claims that currently there is not sufficient interconnection capacity in the SPP grid, and adding the necessary interconnection capacity to accommodate a significant amount of new wind generation in western Kansas would require a large capital investment.

GBX states that Mr. Severson's assertion also manifests an unduly narrow view of the demand for clean, low-cost electricity. It indicates that RPS compliance in some states may be achieved through purchases of RECs only, but as shown above, there is an increasing demand for electricity from renewable resources over and above the demand to meet statutory RPS requirements, as well as a demand for low cost electricity generally, regardless of whether it comes from renewable resources. GBX asserts that the electricity that the Project will deliver into the PJM and MISO grids will lower market electricity prices and will be cost-competitive with electricity from other resource options.

c. Electricity and REC Prices

Mr. Cleveland presents analyses to measure the impacts of the operation of the Project, and the wind generated electricity that the Project will to deliver PJM and MISO, on electricity prices in Illinois. He states he used a standard electric system modeling program, PROMOD, to estimate wholesale electricity prices (LMPs) in Illinois, demand cost to serve Illinois load, and variable production costs to serve load in the eastern U.S., in the years 2020 and 2024. He states he conducted his analyses, both with and without the Project and its connected wind generation in operation. He indicates he analyzed four different future economic and energy market scenarios, business as usual, slow growth, robust economy, and green economy. Mr. Cleveland provides the details of his assumptions for each of the four scenarios.

Mr. Cleveland states that geographically, the analyses encompassed the RTO energy markets and transmission grids in the eastern U.S. as well as most other utility systems in the eastern U.S. are not currently participating in RTOs. He says that by comparing a scenario without the Project to a scenario with the Project and keeping all other model assumptions the same, he was able to determine the Project's impact on LMPs, demand costs, variable production costs and emissions levels for each of the four future economic and energy market scenarios. Mr. Cleveland provides the results of the analyses which he says show that, in both study years and under each of the four scenarios, the Project: (1) reduces total demand costs in Illinois in both PJM and MISO; (2) lowers LMPs in Illinois in both PJM and MISO; and (3) reduces total variable production costs in the eastern U.S.

Dr. McDermott relies upon Mr. Cleveland's results and other information to evaluate whether construction and operation of the Project will promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers. He states the purpose of his analysis is to determine what change to the market would be promoted by the Project. He indicates the analysis was performed in two parts. Dr. McDermott explains that the purpose of Part 1 of the analysis was to determine the net benefit in terms of lower cost to serve load, i.e., market prices, in Illinois as a result of building and operating the Project. He indicates that in Part 2 he analyzed the impact of that amount of generation capacity competing to serve the Illinois wholesale market. He states that he studied the market for electrical energy and for RECs, but that he is aware of no reason why his findings would not be broadly transferable to markets for capacity and ancillary services.

Dr. McDermott testifies he used common economic analyses when reviewing the competitiveness of a market. He explains that they do not just provide insight into whether a market is competitive, but evaluate the effect of new competition or access to the market. He opines that assuring the market remains competitive, and in fact improves its competitiveness, is critically dependent on a strong transmission network to bring generation, often from long distances, to the market of interest. Dr. McDermott opines that if a transmission project is promoting competition in the relevant electricity market, there should be downward pressure on prices, manifested as lower average wholesale electricity prices.

Dr. McDermott testifies that, using Mr. Cleveland's results, his first analysis calculated the net present value ("NPV") of the reduction in demand costs in Illinois resulting from construction and operation of the Project and the associated Kansas wind generation over the 2020-2024 period under each of the four scenarios. He states that based on the structure of the Illinois electricity market, he assumed that all the reductions in costs resulting from the Project would be passed through to retail customers and reflected in the cost to serve load. Dr. McDermott explains that, under commonly-used financial analysis practices, if the NPV of costs is lower in the scenario with a proposed project than in the scenario without the project, the project is beneficial. He indicates that, with the Project in operation, expressed on a percentage basis, the reduction in total cost to serve load in Illinois ranges from 1.5% (Slow Growth scenario) to 2.4% (Robust Economy scenario). He notes that there are NPV cost reductions in both the PJM and MISO regions of Illinois under all four scenarios.

Dr. McDermott also estimates the benefits of the Project across the entire Eastern Interconnection by estimating the overall production cost savings in this region. He calculates that the NPV benefits of the Project in the Eastern Interconnection in the 2020-2024 period range from $2.081 billion in the Slow Growth scenario to $3.766 billion in the Green Economy scenario.

Dr. McDermott concludes that to the extent that RECs produced by the wind generation connected to the Project enter the Illinois energy portfolio, there will be competitive pressures on REC prices that will benefit Illinois consumers. He indicates

that the REC market is not limited to Illinois, but is more regional in nature, potentially covering the entire Eastern Interconnection, due to the ability to use RECs produced by generators in one state to meet compliance obligations in another state. Dr. McDermott states that the REC market in the Eastern Interconnection is larger than in Illinois, and by providing access to both standalone RECs and bundled (i.e. with the associated energy) RECs, the Project should have a positive, beneficial effect on the entire regional REC market. He indicates the high value renewable resources that the Project will enable to access the Illinois market should exert competitive pressure on prices in the markets for both renewable energy and RECs.

Dr. McDermott testifies that in Part 2 of his analysis, he analyzed the impact of the Project on the amount of generation capacity competing to serve the Illinois wholesale electricity market. He explains he performed this analysis by determining the increase in "economic capacity" that can compete to supply the Illinois market with the Project. He states that, based on the year and the future scenario considered, the quantity of capacity competing to serve load in Illinois will increase as a result of the Project by up to 6.1% of total economic capacity, depending on the year, future scenario and load conditions evaluated. He explains that "total economic capacity" in this analysis is defined as the generation supply that can be delivered into a destination market at a delivered cost less than 105% of the price in the destination market, and can therefore compete to supply load in the destination market, and whose ability to do so contributes to competition in the destination market. Dr. McDermott indicates that this construct and definition are used in the Delivered Price Test in the FERC's Merger Policy Statement, which is a recognized standard for measuring the relevant size of the electricity markets for competitive analysis. Dr. McDermott finds that, overall, the Project is highly likely to increase the economic capacity that is able to supply the Illinois market.

Dr. McDermott concludes that the Project will allow the entry of more and lower cost generation into the Illinois electricity market than would enter without the Project. He states that will create competitive downward pressure on prices in the wholesale electricity market. He finds that the projected downward pressure on electricity prices is a strong indication of a market that is operating efficiently and is expected to benefit customers directly through lower prices for electricity. He states that while Illinois is currently part of an effectively competitive electricity market, the additional transmission capacity provided by the Project will promote additional efficiencies by increasing the size of the supply side of the market competing to serve load in Illinois and by opening the Illinois market to lower cost generation resources.

Dr. McDermott maintains that the Project can promote the development of an effectively competitive electricity market even though Illinois is already part of one. He explains that the Project will promote change that results in additional efficiencies to the market by increasing the size of the supply side of the market competing to serve load in Illinois and opening the Illinois market to lower cost generation resources. Dr. McDermott emphasizes this increased supply will promote increased competitiveness in the market and lower electricity prices. He states that whether the market is effectively competitive does not answer the question of whether further efficiencies can be gained. He asserts

that the very nature of “promoting” is to further the development or growth of the market, which his analysis attempts to ascertain. He states that this perspective is consistent with the Commission’s analysis of this issue in its order granting a CPCN for the ComEd Grand Prairie Gateway transmission project in Docket No. 13-0657.

Dr. McDermott emphasizes a competitive market is on-going, dynamic, and continues to evolve. He explains its infrastructure must evolve and adapt for the market to remain competitive. He states whether or not a competitive market currently exists, actions taken to increase supply to that market will tend to promote the market either remaining competitive or becoming more competitive.

Based on his analysis of the electricity and REC markets, Dr. McDermott concludes that the Project is beneficial to Illinois consumers in terms of lowering the cost to serve electric load in Illinois, and that the Project is capable of exerting downward pressure on REC prices. Based on all of his analyses, Dr. McDermott concludes that the Project satisfies the criterion set forth in Section 8-406(b) that it “will promote the development of an effectively competitive electricity market that operates efficiently [and] is equitable to all customers” and satisfies the provision of Section 8-503 that the Project will “promote the development of an effectively competitive electricity market.”

d. Comparative Cost

Mr. Berry presents a LCOE and present value revenue requirements analyses (''PVRR'') to compare the cost of energy from western Kansas wind farms delivered by the Project to the cost of energy from other potential alternatives. GBX asserts that the LCOE shows that the Project and the associated wind generation accessible to the PJM and MISO electricity markets will lower electricity prices in Illinois. According to GBX, a LCOE analysis allows the comparison of different alternatives using a single analytical method, by condensing all the costs of each alternative into a single cost per unit of energy produced. Mr. Berry testifies that LCOE takes into account all costs of generating electricity, including capital costs, operating costs, taxes, cost of capital, and transmission service costs, in arriving at a single cost per unit of energy figure. He indicates that sensitivities can be run using different values of the input variables to determine the impact of different assumptions on the LCOE of the alternative. Mr. Berry states the levelized cost per energy unit determined by the LCOE analysis is a proxy for cost under a power purchase agreement or the cost for a utility to own and operate a generation asset.

Mr. Berry calculates and compares the LCOE for (1) western Kansas wind generators plus the Project, (2) new wind generation constructed in Illinois, and (3) new combined cycle gas-fueled generation. He states that his analysis showed that, both with and without continuation of the production tax credit (“PTC”) for wind generation, the LCOE of the cost of the output of new Kansas wind generation delivered to Illinois by the Project is lower than the LCOE of new wind farms in Illinois, and is fully cost-competitive with the LCOE of a new gas-fueled generating plants that could be built in Illinois. Mr. Berry asserts that he analyzed a number of different scenarios using different values of

input variables for the costs of the alternatives. He provides the base case assumptions that he used in his analyses, as well as the range of values, as well as his overall results for the LCOE and PVRR analyses.

Mr. Berry also calculates and compares (1) western Kansas wind generators plus the Project, (2) new wind generation constructed in Illinois, and (3) new combined cycle gas-fueled generation using a PVRR analysis. He states the PVRR is similar to LCOE analysis in that both use a financial model to compare the combined capital, financing and operating costs of different alternatives. According to Mr. Berry, his PVRR analysis used the same methodology employed by Staff economist, Richard Zuraski, in the Rock Island CPCN case, Docket No. 12-0560. Mr. Berry states that in the Rock Island case, the Commission placed principal reliance on Mr. Zuraski's analysis in reaching its conclusion that the project will promote the development of an effectively competitive electricity market. He explains the model recognizes that Illinois has a market-based system for procuring electric generation through the PJM and MISO markets, by taking into account the expected market revenues from each alternative. He claims that the PVRR of each alternative is the difference between the revenues needed to cover all the costs of the alternative (including return on equity), and the projected market revenues for the alternative.

Mr. Berry states that as with the LCOE analysis, the PVRR analysis took into account uncertainties about future costs and other variables by performing numerous sensitivities using different values for input variables. He indicates that the sensitivities involved differing values for, among other inputs, the capital and operational costs of wind farms; the capital cost of the Project; the capital and operational costs and heat rate of new combined cycle gas generation; natural gas prices; wholesale electricity prices; and the rate of return on investment, as well as the presence or absence of the PTC, for a total of 13,122 different scenarios.

Mr. Berry explains that the PVRR analysis showed that new western Kansas wind generation is the least cost alternative compared to new Illinois wind generation, to new gas-fueled generation in Illinois, and to simply buying power from the PJM market at projected market prices. Mr. Berry asserts that the PVRR analysis shows, across a wide range of scenarios, that the forecasted revenues from selling energy in PJM are sufficient to cover the costs of generating electricity at wind farms in western Kansas and transporting the electricity on the Project to PJM (i.e., to cover the capital, operating and financing costs of the Project and the Kansas wind generators), without increasing costs to ratepayers. He states that the PVRR analysis also shows that over a broad range of future outcomes, Kansas wind generation plus the Project is expected to be the lowest cost way to provide electricity to the Illinois market and to meet the demand for electricity from renewable resources and the demand for electricity generally. Mr. Berry concludes, based on the PVRR analysis, that the Project offers shippers (both prospective wind generator operators in western Kansas and purchasers of electricity in Illinois and other PJM states) an economically compelling, and commercially attractive, proposition. Mr. Berry states that, per Mr. Zuraski's suggestion, he revised his LCOE and PVRR analyses to take into account a change relating to the property tax treatment of new Kansas wind

farms. He asserts that the change results in a small increase in the LCOE of the Project plus Kansas wind generation option, and that it continues to have a lower LCOE and PVRR than new wind generation in Illinois or new natural gas-fueled generation, in the large majority of scenarios studied.

Mr. Berry agrees with Mr. Zuraski's conclusion that the Project will promote the development of an effectively competitive electricity market because it is lower cost than alternatives. Mr. Berry notes that Mr. Zuraski performed his own analysis and concluded that Kansas wind plus the Project can compete with both new Illinois wind generation and new Illinois gas-fueled generation even if the Kansas wind plus the Project alternative has a slightly higher LCOE than the other two alternatives. Mr. Berry states, however, that his analyses (as well as Mr. Zuraski's) continued to show that the Kansas wind generation plus the Project alternative has a lower LCOE than either new Illinois wind generation or new combined cycle gas generation.

Mr. Berry identifies the benefits of the Project and the additional costs of the other alternatives, which are not captured in the LCOE and PVRR analyses, but were noted in Mr. Zuraski's testimony. He states the geographic diversification of wind power to PJM which he states will reduce its variability. He says as more wind generation is built in Illinois, good sites for additional wind generation will become scarce. Similarly, Mr. Berry states the cost to interconnect new wind power will increase as sites with good access to the transmission grid are exhausted. The LCOE and PVRR analyses assigned no capacity value to the Kansas wind generation (or Illinois wind generation) alternatives, even though new wind generation will surely provide some capacity value. He also concurs with Mr. Zuraski's observation that the LCOE and PVRR analyses assigned no capacity value to the Kansas wind generation (or Illinois wind generation) alternatives, even though new wind generation will surely provide some capacity value. He notes that Mr. Zavadil's LOLE analysis found that the Project adds dependable capacity equal to 28% of its nameplate capacity and that would, if considered, improve the LCOE and PVRR of the wind generation alternative relative to the combined cycle gas alternative.

Mr. Berry does not agree with Dr. Proctor's assumption changes. GBX notes that other than the incorporation of the amended Kansas property tax law, Mr. Zuraski also did not agree with the suggested changes. Mr. Berry disagrees with Dr. Proctor's assignment of an additional cost to wind energy plants based on the assumption that a simple cycle gas generating plant of equal capacity needs to be built for every new wind generator. He asserts that this assumption is at odds with the realities of how wind generation is integrated into overall grid operations. Mr. Berry finds this to be an unjustified cost adder to increase the LCOE of the wind generation options relative to the combined cycle gas generation option.

Mr. Berry contends that Dr. Proctor used unreasonably low inflation assumptions, which were inconsistent with consensus economic data and forecasts. Mr. Berry criticizes Dr. Proctor's use of the same capital costs per MW of capacity for new wind farms in both Illinois and Kansas. Mr. Berry asserts that all data and information in the record shows that costs for new wind farms are lower in Kansas than in Illinois. Mr. Berry asserts that

this assumption, which increased the cost of the Kansas wind alternative relative to Illinois wind, was based on a misreading of data in the U.S. DOE's 2013 Wind Technologies Market Report ("Market Report").

Mr. Berry notes that Dr. Proctor assumed that wind plant capital costs will increase over the study period at the full rate of inflation. Mr. Berry states that in fact, wind plant capital costs have been declining in nominal dollars in recent years due to more efficient manufacturing and economies of scale in both generator size and number of turbines produced. He asserts that this assumption is inconsistent with Dr. Proctor's own testimony.

Mr. Berry complains that, with no citation of supporting data, Dr. Proctor reduced the capacity factor for new Kansas wind generators. He asserts that his own analysis was based on actual wind speed data from meteorological stations in the vicinity of the Project's Kansas converter station, applied to the power curves supplied by the manufacturer of two current generation wind turbine models. Mr. Berry contends that Dr. Proctor's reduction in the capacity factor for new wind plants ignores current turbine technology.

He disagrees with Dr. Proctor's 20% adder to the projected capital cost of the Project. Mr. Berry finds the adder to be unsupported and asserts that the capital cost estimate for the Project already includes adders for contingency in specific components of the estimate to account for potential capital cost increases. He asserts that because the Project's route is defined, the volumes of commodities, number of structures, and the amount of labor needed to install them, are unlikely to increase materially. Mr. Berry complains that Dr. Proctor applied the 20% capital cost increase only to the Project and not to the capital costs of any of the other alternatives.

Mr. Berry asserts that he demonstrated that with Dr. Proctor's arbitrary and unreasonable assumptions removed, or modified to supportable values, Dr. Proctor's LCOE model calculates that Kansas wind generation plus the Project has a significantly lower LCOE than either the new Illinois wind generation option or the combined cycle gas generation option:

Grain Belt Express (Kansas wind):	$ 86.73
Combined cycle gas generation:	$ 97.90
Illinois wind generation:	$106.85

GBX asserts that when Dr. Proctor corrected calculation errors in his analysis, but continued to use the input values he contended were appropriate, his own analysis showed that the Kansas wind plus the Project alternative has a lower LCOE than either new Illinois generation or advanced combined cycle gas generation.

Mr. Berry testifies that Dr. Proctor introduced a new alternative, the installation of 4,000 MW of new wind generation in the MISO region (e.g., in northwest Iowa, Minnesota or the Dakotas), claiming it had a lower LCOE than Kansas wind generation delivered by

the Project. Mr. Berry claims that Dr. Proctor did not show that this alternative was feasible based on the existing transmission grid, did not provide for the cost to construct new transmission to accommodate this alternative, and did not provide any estimate of transmission costs for this alternative. Mr. Berry complains that Dr. Proctor did not present any transmission analyses to determine if new wind generation in these areas could actually be interconnected to the grid in these locations and then moved to load and population centers. Mr. Berry contends that there is not enough existing transmission to support this amount of new wind generation within MISO. He asserts that already-approved MISO MVP projects will not be sufficient to provide for delivery of the hypothetical new MISO wind plants, without the construction of additional transmission. GBX contends that Dr. Proctor ignored the additional congestion and losses costs that would result from the installation of this significant new amount of wind generation capacity in MISO. GBX argues it is not surprising that, without quantifying transmission costs, Dr. Proctor could "show" that new wind plants in northwest Iowa, Minnesota and the Dakotas, with no transmission costs provided for, would have a lower LCOE than new Kansas wind generation plus the Project (including the network upgrades required to connect the Project with the PJM grid).

GBX concludes that with a reasonable estimate of transmission costs and congestion costs included for the "MISO wind" alternative (assuming it were feasible in any event), the "MISO wind" alternative was shown to be not competitive with Kansas wind generation delivered by the Project. It asserts that the MISO wind alternative has a higher LCOE than Kansas wind generation plus the Project.

e. GBX on Staff's Analysis

GBX emphasizes Mr. Zuraski's testimony finding that the Project will promote the public convenience and necessity and will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least-cost means of satisfying those objectives. GBX notes Mr. Zuraski requested that GBX update its analysis to take into account the recent change in Kansas law relating to property tax exemptions for wind farms.

GBX notes Mr. Zuraski's observation that even if, for some reason, the Project fails to provide the full projected benefits, most of the risk of these outcomes rests on GBX's investors, rather than on the public, due to it being a merchant transmission company. GBX underlines Mr. Zuraski's comment that GBX plans to recover its costs through charges to the transmission customers of the Project, and offers the same requirement imposed on Rock Island in Docket 12-0560, that prior to recovering any costs from Illinois retail ratepayers through PJM or MISO regional cost allocation, GBX will initiate a new proceeding and obtain the permission of the Commission.

GBX stresses that Mr. Zuraski agrees with Dr. McDermott that the Project, if built, will promote increased competitive pressure on prices in the wholesale electricity market, the REC markets and renewable energy markets. GBX acknowledges Mr. Zuraski's observation that a portion of the energy price decreases resulting from the Project could

be temporary, if there were additional retirements of generating plants (specifically, some of Exelon's nuclear plants) or postponement or cancellation of other new projects, that were not accounted for in GBX's analysis.

GBX notes Mr. Zuraski's testimony that he saw nothing about the wholesale and retail electricity markets, or about the Project, that he found to be inequitable. It notes Mr. Zuraski testimony that the wholesale electricity market is the most directly relevant competitive electricity market in the context of the Project. GBX recognizes Mr. Zuraski's testimony that the customers pay the marginal cost of production in the wholesale market. It notes that Mr. Zuraski stated that in Illinois, the utilities generally pass wholesale prices along, dollar-for-dollar, to their retail bundled service customers, albeit with averaging. GBX also notes that he stated that economic theory indicates that ARES do something similar.

GBX notes that Dr. Proctor's testimony did not cause Mr. Zuraski to change his opinion of the Project. It asserts that with respect to the changed inputs and assumptions which Dr. Proctor made to GBX's LCOE studies, Mr. Zuraski stated that the change to reflect the amended Kansas property tax law was the only one he found to be persuasive. It notes Mr. Zuraski's observation that Dr. Proctor's proposal to add 20% to the capital cost of the Project was one of the sensitivity cases already included in both Mr. Berry's analysis and his own analysis.

GBX observes that Mr. Zuraski reported that he had undertaken his own LCOE analysis of the Project compared to other alternatives, using his own model. GBX states that Mr. Zuraski's analyses showed that building wind farms in Kansas and using the GBX transmission line would be less costly, on a net per unit of energy basis, than either building Illinois wind farms or combined cycle generating facilities. It notes that his analyses also showed that the Kansas wind-and-the Project option remains less costly than both new Illinois wind projects and new combined cycle gas projects, even if the capital costs for the Project are increased by 20%. It notes that Mr. Zuraski's analyses, like Mr. Berry's analysis, considered the effects of varying a number of input values, including the capital costs of the Project, the PTC, and carbon emission costs.

GBX notes Mr. Zuraski's testimony that, for purposes of determining whether the Project will promote the public convenience and necessity, it is "not critically important" to show that Kansas wind generators can produce electricity at lower cost than combined cycle generators. It states that he explained that both non-dispatchable no-fuel technologies, like wind generators, and dispatchable fuel-fired technologies, like combined cycle generators, play somewhat different roles, satisfy different requirements, and entail different risks, so comparing their LCOEs is not dispositive of how interested utilities and merchant generators will be in building one versus the other. It notes his observation that while not a necessary condition, it is a good sign for the ultimate success of the Project, as well as for the welfare of consumers, if we can reasonably expect that wind generated electricity can be produced at a low LCOE relative to other alternatives.

GBX observes that, similarly, Mr. Zuraski opines that for purposes of determining whether the Project will promote the public convenience and necessity, it is not absolutely necessary that Kansas wind farms be expected to produce energy at lower cost than Illinois wind farms. It notes his observation that there would be value in the increased geographical diversity introduced by integrating the Kansas wind generators into the rest of the grid. GBX states Mr. Zuraski explains that the additional geographic diversity decreases the degree to which total wind-generated electricity varies over time, thereby rendering the collective wind resource less like a non-dispatchable resource and more like a base load resource. It says that he opines that to the extent that, over time, fewer and fewer prime locations in Illinois remain available for wind farm development, building new wind farms in the more wind-rich areas of Kansas may become the next best alternative, even if they were not presently the best alternative.

GBX notes Mr. Zuraski's observation that it is reasonable to consider the relative costs of Kansas and Illinois wind projects, using a LCOE analysis in determining whether the Project is likely to promote the public convenience and necessity. It stresses his finding that none of the LCOE analyses presented in this case take into account the value of geographic diversity and the eventual depletion of prime locations within Illinois.

f. Response to Parties

GBX emphasizes the fact that an effectively competitive electricity market already exists in Illinois, does not preclude a new Project from meeting the statutory criterion of promoting the development of an effectively competitive electricity market, by introducing new efficiencies that are needful and useful to the public. It notes Dr. McDermott's and Mr. Zuraski's testimonies to this effect and that the Commission has recognized it as well. It asserts that the Project will promote the development of an effectively competitive electricity market that is equitable to all customers. GBX protests CCPO's inference that the introduction of the Project into what is already an effectively competitive electricity market could decrease the efficiency of the market and create a situation that is not equitable to all customers, stating Dr. McDermott and Mr. Zuraski each analyzed the impact of the introduction of the Project and the connected low-cost Kansas wind generation into the existing, effectively competitive electricity market in Illinois, and both experts concluded that the Project will promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers.

GBX finds MEZ's argument that Section 8-406.1(f)(1) must be construed based on Sections 16-101A(d) and 20-102(d) to be pointless. It states the provisions are unrelated. It says there is no dispute that part of the second alternative criterion in Section 8-406.1(f)(1) is “equitable to all customers” and that witnesses for GBX, Staff, and WOW have testified that the Project will promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers. GBX challenges MEZ's characterization of the benefits that the Project will bring to the Illinois electricity market and to Illinois electricity consumers as “*de minimis*.” It notes the magnitude of the NPV projected in the analysis presented by Mr. Cleveland and Dr. McDermott in the Project's first five years of operation.

GBX responds to MEZ's arguments in regards to the possibility it may choose to pursue cost allocation. It reiterates, that it has no plans or intentions to pursue cost recovery through an RTO regional cost allocation mechanism, and in fact there currently is no such process available to a merchant, interregional transmission facility like the Project. Further, it notes, the proposed cost allocation condition precludes GBX from recovering any costs of the Project from Illinois retail ratepayers through PJM or MISO regional cost allocation without first obtaining the permission of the Commission in a separate proceeding initiated by GBX. GBX indicates that in such a (hypothetical) Commission proceeding, it expects that the Commission would base its determination on whether the benefits (whether economic benefits or reliability benefits) of the Project for the Illinois public exceed the costs that GBX would be proposing to recover from Illinois retail ratepayers. GBX asserts that in order for GBX (with this Commission's approval) to recover some or all of its costs through an RTO cost allocation mechanism, the RTO would be expected to determine that the benefits (again, whether reliability benefits or economic benefits) of the Project for ratepayers subject to the RTO transmission tariff exceed the costs that GBX would be proposing to recover through the RTO tariff. It concludes that GBX would not allowed to recover its costs from Illinois ratepayers through an RTO tariff mechanism, without a determination having been made that the Project is needed for reliability or economic purposes or that its benefits to ratepayers exceed the costs.

GBX asserts the Farm Bureau misreads the statute when it argues that the applicant must show that the proposed high voltage electric service line is necessary to promote the development of an effectively competitive electricity market. It notes that the words "necessary to" do not appear, although "necessary" is included in the first alternative criterion of Section 8-406.1(f)(1). It reiterates that the courts and this Commission have recognized that the words "necessary" and "necessity" in the certificate sections of the Act are not to be construed as meaning "indispensably requisite," but rather as "needful and useful to the public." It argues the record here shows that the benefits the Project will provide will be needful and useful to the public in Illinois.

GBX challenges Dr. Proctor's contention that promoting the development of an effectively competitive market is not important in the context of the current wholesale electricity market. It states at a minimum this is an interpretation that injects qualifiers that do not appear in the statute. GBX asserts that Dr. McDermott rebutted Dr. Proctor's criticism that that wholesale energy market prices do not include fixed costs and that the Commission needs to consider the ultimate costs to retail customers. It notes Dr. McDermott's testimony that Dr. Proctor's clams that fixed costs are more important than marginal costs, stating that markets operate on the basis of marginal cost. GBX states Dr. Proctor's assertion that in a "wind-on-wind" analysis, Illinois wind generation is least cost relies upon erroneous and unsupportable assumptions in his LCOE analysis.

GBX disagrees with Farm Bureau's argument that Mr. Zuraski testified that GBX only focused on the benefits of the Project and did not address the costs. It notes the

cited testimony referenced by Dr. Loomis' study. GBX notes Staff's Brief indicates that it adequately addressed Mr. Zuraski's concerns.

2. Staff

Staff states that there are many factors to consider in determining whether there has been a showing that the Project "will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives," the Commission may consider many factors. It asserts that of particular importance are whether there is a showing that: (a) the Project contributes to increasing the degree of competition for electric energy, capacity availability, renewable energy credits, or other electricity market goods and service; (b) the benefits of the increased competition outweigh the costs of the Project; and (c) the Project will not prevent an even greater degree of competition being attained through an alternative project or some combination of alternative projects.

Staff witness Zuraski testifies that he expects the Project "… will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least-cost means of satisfying those objectives." Mr. Zuraski agrees with Dr. McDermott, who predicts that the Project would promote increased competition and create downward pressure on prices in the wholesale electricity market. Mr. Zuraski agrees that, by providing access to new and currently untapped potential renewable resources, the Project should have the effect of providing competitive pressure on prices in renewable energy credit markets as well as competitive pressure on prices in markets for renewable energy.

Staff notes the testimony of Mr. Goggin. In particular, Staff notes Mr. Goggin's testimony that the Project can promote the development of an effectively competitive electricity market by delivering electricity at a lower cost, through long-term power purchase agreement prices, which serve as a hedge against volatile fuel prices, and by reducing the potential for generators to exercise market power.

Although he agrees with the assessment that the Project has potential to contribute to the development of effectively competitive electricity and renewable energy markets, Mr. Zuraski raises a concern that such increased competition could lead to electric plant retirements that are not already accounted for in the projection of energy market prices prepared by Mr. Cleveland. Mr. Zuraski cites reports that the electricity market is not providing Exelon enough revenue to profitably operate three of its six Illinois nuclear power stations and that they may be retired to stem losses. Mr. Zuraski states, in that circumstance, Mr. Cleveland's energy market price projections would overstate the net impact of the Project on reducing energy prices.

In its Brief, Staff states GBX rebuttal testimony responded to Mr. Zuraski's concern. Staff notes Mr. Berry's testimony explaining his analysis of the impact of Project-induced wholesale price decreases on the revenues and profitability of Exelon's Illinois nuclear plants and, his conclusion that it is "highly unlikely the Project would be a determinative

factor in any retirement decisions." Staff says Dr. McDermott explained that changes in the behavior of other generators may reduce the number of years of wholesale power price savings, but the benefit would remain significant. Staff indicates that Mr. Berry explained that fewer years of wholesale power pricing savings would not affect his LCOE or his PVRR analyses. Staff points out, in particular, Mr. Berry's testimony that if wholesale power price savings were assumed to last only one year, rather than five years, the Project would still cost less than projected market power prices in 63% of the scenarios included in his sensitivity analysis, rather than in 80% of the scenarios with five years of LMP savings.

Similarly, Mr. Zuraski raises concerns about the effect that the increased competition from western Kansas wind farms leading to the postponement or cancelation of other new electric generating projects on Dr. Loomis' analysis. Mr. Zuraski finds it is reasonable to assume that some portion of the energy price decreases due to the Project may be only temporary. Mr. Zuraski notes, that Dr. Loomis did not account for the possibility and extent to which the Project could lead to delays or cancelations in other new generation projects or to the retirement of other existing generating plants in Illinois. Mr. Zuraski cautions that such delays, cancelations, and retirements of other projects and plants would involve the loss of jobs, labor income, output, and tax revenue.

Staff notes Dr. Loomis' response that it would be problematic to attempt to measure the economic impact of the closure of the Exelon plants (even assuming such closures were "caused" by the Project). Staff states Dr. Loomis explained that scenario would be just one of many tertiary economic impacts from the Project that were not considered by his analysis.

In regards to the "operates efficiently" criteria, Mr. Zuraski testifies that competitive markets generally operate efficiently. He warns that, like non-competitive markets, competitive markets can yield inefficient levels of production and consumption of goods and services if there are uncorrected market imperfections. He explains, for example, that some forms of electricity production also produce pollutants, which impose costs on people other than the producer and the producer's customers. He calls such costs "externalities." Mr. Zuraski states that federal and state governments already use several policy tools ostensibly aimed at correcting that type of market imperfection. He explains that in the production of electricity, these policy tools have increased the cost of fossil fuel resources relative to certain renewable energy resources (like wind farms). He states the increase in the relative cost of generating electricity with fossil fuels effectively "internalizes" external costs from fossil-fuel related pollution. He asserts that the fact that the wind farms utilizing the GBX Project are expected to be profitable is due, at least in part, to such policies. He states that granting a CPCN to GBX can be seen as complimentary to those policy tools that have favored wind energy as an efficiency-enhancing means of addressing externalities.

Mr. Zuraski addresses the "equitable to all customers" criteria. He opines that, while the Act does not specify to which electricity market the provision refers, wholesale or retail, the wholesale electricity market is the most directly relevant "competitive

electricity market" in the context of the GBX project. He explains that generally, the wholesale electricity market is one where wholesale customers pay the marginal cost of production, and these costs are passed along to retail customers after a degree of averaging. Mr. Zuraski states that that there was nothing about these wholesale and retail markets, or the Project itself, that strikes him as particularly inequitable.

Staff considers Mr. Berry's and Dr. Loomis' responses to adequately address the caveats raised by Mr. Zuraski. Staff concludes that the Project "will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives." Staff states that, contrary to Farm Bureau's contention, Mr. Zuraski did not testify that GBX's evidence focused on benefits only. Mr. Zuraski testified that was no his opinion.

Staff opines that most of Dr. Proctor's alternative assumptions are not well supported. It notes that even if Dr. Proctor's input assumptions are all accepted, his own model shows that the Kansas wind option is likely to be the least expensive of the alternatives that he considered. Staff disagrees with LACI's assertion that there is strong evidence that the Project will not be economically feasible." It notes the considerable and growing demand in the MISO and PJM markets, not just for energy, but for renewable energy and that the Kansas wind resource is both of a higher quality and relatively more abundant than the wind resource within Illinois. According to Staff, because it is remote from population centers and existing transmission infrastructure, the Kansas wind resource is largely inaccessible without the Project.

Staff responds to LACI's assertion that RECs produced in Iowa would easily qualify to help satisfy Illinois' RPS, whether or not the Iowa wind energy was actually delivered into Illinois. Staff agrees with the premise, but states it is not an "either-or" proposition: Kansas or Iowa. Staff argues that the General Assembly intends for the Commission to rely on competitive forces to locate electricity supply and renewable energy resources. It states that it is not up to the Commission to pick the winners and losers, but to help remove barriers that impinge on the competitiveness of that contest. Staff finds that the Project removes a barrier (a transmission constraint) that currently prevents Kansas wind developers from entering the contest (and therefore prevents the effective utilization of the Kansas wind resource). It asserts that by removing that barrier, the Project would, "promote the public convenience and necessity" and "promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives," as required by Section 8-406.1.

Staff disagrees with MEZ's suggestion that the Project represents nothing more than a *de minimis* improvement in the development of an effectively competitive electricity market. Staff responds to MEZ's assertion that the Project is not equitable and beneficial to all Illinois energy consumers. It opines that a reasonable interpretation of equitable and beneficial to all customers in the transmission siting context would be whether the project at issue is equitable to all customers of the Project, i.e. those customers of the line that would transport their energy over it. Staff opines that it would also be reasonable for

the Commission to assess whether the costs of the Project would be equitably distributed to those customers or fall disproportionately on some class of customer within Illinois. It finds there is no support, however, for the notion that all end-use retail electricity customers, much less every landowner in the state, will be equally impacted.

Staff contests CCPO's suggestion that, since an effectively competitive electricity market already exists, the Commission should not concern itself with promoting such a market. Staff states that public utility regulation is a process that must evolve with markets and technologies. It asserts that competitive markets may require nurturing to remain competitive; and where competition is less than perfect, policy makers may be able to enhance it. Staff asserts that the competitiveness of electricity markets depends almost entirely on access to transmission and distribution systems and the elimination of transmission constraints. Staff does not propose that every conceivable transmission project should be built, but opines that each project should bring about some material improvement in, or preservation of, competition (and/or other benefits) – significant enough to justify the costs and disruption caused by each project. Staff opines that the record supports such a finding in this case

3. Farm Bureau

Farm Bureau says that an applicant for a CPCN must only satisfy one of two conditions specified in Section 8-406.1(f)(1) in order to demonstrate need for a proposed project. It explains, an applicant can demonstrate “that the proposed construction is necessary to provide adequate, reliable, and efficient service to the public utility’s customers and is the least-cost mean of satisfying the service needs of the public utility’s customers” (“First Prong”). Or, it says, an applicant can demonstrate “that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives” (“Second Prong"). Farm Bureau asserts that the Second Prong provides a pathway to a CPCN, but stresses that necessity must also be established. It claims that “necessity” in the context of the Act means that the service proposed to be provided should be “needful and useful to the public.”

Farm Bureau claims the evidence presented by GBX demonstrates that it does not know whether customers will subscribe to the Project or whether the Project is necessary to promote the development of an effectively competitive marketplace. Farm Bureau concurs with Staff witness Zuraski in concluding that a competitive electricity market already exists in Illinois, and that the Project is not necessary to make it so. Farm Bureau states that LACI witness, Dr. Proctor, concluded that if there were evidence of the lack of effective competition in the wholesale power markets, then promoting competition would be a primary concern. It states that Dr. Proctor and Mr. Zuraski state there is evidence of wholesale market prices in PJM being too low to support existing base-load generation. Farm Bureau notes Dr. Proctor's statement that this is a strong indication that there is not currently a lack of effective competition, or a need to add competition solely to provide even more downward pressure on PJM wholesale prices. Farm Bureau opines that promoting competition in wholesale power markets is not the primary issue. It relies upon

Dr. Proctor's testimony concerning the ultimate cost to the consumer: that wholesale energy market prices are only a portion of these costs that do not include the cost of capacity and annual fixed expenses. It states these fixed-cost components have a much more significant impact on the development of effectively competitive markets than wholesale market prices.

Farm Bureau asserts that GBX failed to claim or show a necessity for the Project for reliability, operating efficiency, or for market efficiency in the regional planning process. It opines that, as a result, GBX cannot be awarded a CPCN. Farm Bureau states that GBX presented theoretical arguments that the Project would enhance competition and that the benefits would outweigh the costs. Farm Bureau claims that GBX essentially analyzed a world with the Project and a world without the project. Farm Bureau agrees with Mr. Zuraski that GBX's evidence related to need in the competitive market context only focused on the benefits of the Project (gross economic impacts), and does not address any of its costs (net economic impacts). Farm Bureau contends that this is insufficient for GBX to meet its burden.

Farm Bureau emphasizes Dr. Proctor's conclusion that GBX's analysis is lacking with respect to other competiveness factors. It notes his testimony that Dr. McDermott addressed the issue of increasing competition without considering alternative forms of generation that would also increase competition in Illinois. It notes Dr. Proctor's statement that Dr. McDermott should have included a comparable analysis for Illinois wind since a wind-on-wind comparison of the two alternatives shows that Illinois wind is the least-cost. Farm Bureau concludes that GBX has not established that the Project is necessary to promote the development of an effectively competitive electricity market and therefore it should be denied a CPCN.

Farm Bureau argues that GBX's analysis is speculative; that the evidence simply does not exist to demonstrate the certainty of the construction of wind farms. It asserts the wind farm infrastructure is universally acknowledged to be an exorbitantly expensive loss leader that is not viable without massive government subsidies, stating the subsidies have not been renewed by Congress.

Farm Bureau states that GBX's analysis ignores the substantial cost to Illinois citizens from increased competition that could cause closures of Illinois plants. It states, putting aside the electricity market, the minor construction benefits of this Project to Illinois are dwarfed by the potential long-term loss of "jobs, labor income, output, and tax revenue" from harm to Illinois businesses. It raises concern that the term 'merchant' as used in the energy business in Illinois means that profits will be privatized to shareholders, but losses will be recovered from ratepayers, noting Exelon Generation and HB3293.

4. LACI

LACI combines its discussion of the public convenience and necessity standard under Section 8-406.1(f) with discussion of necessity of the Project for reliability or to promote competition along with the requirement that the Project be least cost, all as

required under Section 8-406.1(f)(1). It states the factors relevant to such standards and requirements are similar and overlap, and thus lend themselves to a combined discussion and argument.

a. Dr. Proctor's Analysis

LACI relies upon the testimony of Dr. Proctor who, it says, has consulted for RTOs on matters of transmission planning, cost allocation and markets. It states he testified for a group of landowners in the regulatory proceeding in which GBX requested approval for the Missouri portion of the Project. LACI states that, in Missouri, Dr. Proctor focused on the extent to which Kansas wind generation transported through the GBX proposed line to an AC convertor station in Missouri was needed and economically feasible, presenting a LCOE as an alternative to the analysis presented by GBX. It states Dr. Proctor's analysis showed that Kansas wind was not the lowest cost alternative for meeting either the capacity and energy needs, or renewable energy requirements, for Ameren Missouri. LACI states Dr. Proctor LCOE analysis featured comparisons of Kansas wind, Illinois wind and advanced natural gas combined cycle generation. LACI adds that Dr. Proctor reviewed and commented on the impact of the Project on wholesale electricity markets as presented by Mr. Cleveland and Dr. McDermott.

LACI notes that Dr. Proctor made several adjustments to assumptions used in GBX's LCOE. It explains that he used inflation rates from the EIA for natural gas prices from 2012-2040. LACI notes these rates were lower than the 2.5% rate used by GBX. Dr. Proctor testifies he utilized a $1,750/kW installed cost for new wind generation for both Kansas and Illinois, based on the DOE's Market Report, noting the significant effect of larger turbine sizes on lowering costs, and determining that recent lower actual costs in the interior region were likely due to larger turbine sizes. Dr. Proctor states that he corrected GBX's inflation rates applied to wind vs. combined cycle generation. He explains that GBX escalated combined cycle capacity costs at 2.5% but escalated wind at only a 1% rate, whereas Dr. Proctor utilized a 1.31% rate for both based on the EIA information. Dr. Proctor takes issue with GBX's use of a 55% assumed capacity factor for Kansas wind. He explains that the higher the capacity factor, the more energy output per installed unit of capacity, and the lower the cost per unit of energy. Dr. Proctor states that based on wind speed date for Kansas and other factors in GBX's own analysis, he used a 52% capacity factor for Kansas wind. Dr. Proctor indicates that he used the same 40% capacity factor for Illinois wind that GBX used. Dr. Proctor notes that GBX increased its assumed Kansas wind capacity factor based on impending improvements in turbine design, technology and size; but, that, if applicable to Kansas wind, those same improvements should apply to Illinois wind. Based in part on the SPP finding that actual transmission project costs were 20% to 50% higher than preliminary cost estimates, Dr. Proctor added 20% to GBX's estimated DC transmission construction cost. He states he used the lower end of the range, to GBX's benefit. Dr. Proctor corrects GBX's treatment of property taxes applicable to Kansas wind, based on a recent change in law which ends the Kansas property tax exemption after year 10 for wind projects. He notes that adding property taxes for years beyond the 10th increased the effective cost of Kansas wind.

LACI asserts that Dr. Proctor performed a revenue requirements form of LCOE cost analysis. Dr. Proctor lists the major components of his analysis, stating that the sum of these components results in the annual revenue requirements over the life of the asset, which is then transformed into a net present value. For the Kansas wind alternative, he applies a similar cost analysis to the estimated Project cost. LACI notes Dr. Proctor's LCOE analysis first compares Kansas wind (with the Project), Illinois wind, and natural gas combined cycle.

LACI emphasizes that combine cycle gas generation is only very slightly higher cost (0.65%) than Kansas wind, which in turn is slightly lower cost (2.1%) than Illinois wind. LACI asserts that Kansas wind, in a head-to-head comparison, is higher cost (4.8%) than Illinois wind. Dr. Proctor notes that the capacity adder was higher cost for Illinois wind, because of the lower capacity factor for Illinois wind. He states that when the capacity adder is removed from both alternatives, then, the reduction on cost for Illinois wind is greater than for Kansas wind, thereby resulting in a lower cost for Illinois wind compared to Kansas wind. Dr. Proctor explains that when all three alternatives are compared, a capacity adder is appropriate for the wind alternatives in order to make them reasonably comparable to the gas combined cycle alternative, which is dispatchable and thus provides capacity to the market. He states that, being an intermittent, non-dispatchable resource, wind generation provides no capacity to the market, and thereby receives no related consideration. Consequently, he says, additional investment to provide the capacity that the wind generation does not provide is required. LACI contends the wind-on-wind comparison is relevant when considering the lesser cost alternative for Illinois market participants purchasing RECs to meet RPS requirements.

Dr. Proctor responds to Mr. Cleveland's wholesale market analysis. He asserts that it is not enough to just measure the wholesale market impact of adding the Project plus interconnected Kansas wind. According to Dr. Proctor, what is important is to determine the relative impacts of adding the Project/Kansas wind and alternative wind resources. Dr. Proctor opines that Mr. Cleveland should have produced comparable wholesale market impact results, first for the GBX Project, and then also for Illinois wind and natural gas combined cycle generation. He adds that Mr. Cleveland could and should have, included in his analysis other higher capacity wind generation within the MISO footprint, even if the latter alternative may be relatively more difficult to study. Similarly, he criticizes Dr. McDermott's analysis of the increase in competition from the Project, saying that it should have included consideration of alternative generation, including Illinois wind. According to Dr. Proctor, the wind-to-wind comparison would have shown that Illinois wind increases competition more than does Kansas wind when considering relative costs and prices.

Dr. Proctor responds to the direct testimonies of Mr. Zuraski, Mr. Goggin, and Mr. Langley. He notes that due to the compressed schedule in this proceeding, he was unable to fully review the analyses performed by Mr. Zuraski provided to LACI in response to data requests submitted to Staff. Dr. Proctor notes that Mr. Zuraski, Mr. Goggin and Mr. Langley focused on wholesale markets driven by short-run costs. He asserts, however that effective competition is driven by long-run costs, which include capacity and

fixed costs. Dr. Proctor criticizes the analyses and testimonies of Mr. Zuraski and Mr. Langley because they did not independently review, but instead accepted on their face, the assumptions, inputs and analysis of GBX witnesses, to determine least cost. He asserts that as a result, neither witness considered various viable alternatives to meet Illinois RPS needs or needs for low-cost capacity and electricity. He states the foregoing are appropriate factors in determining whether the Project promotes the public convenience and necessity.

Dr. Proctor takes issue with what these three witnesses had to say about the development of effectively competitive markets part of the standard under Section 8-406.1(f)(1). He asserts that while impact on wholesale electricity prices is part of the analysis, fixed-cost components have a more significant impact on the development of effectively competitive wholesale market prices. He explains the real reason to show lower wholesale market prices is to provide an estimate of REC costs. Dr. Proctor testifies to the impact of capacity costs and fixed expenses on power markets. He asserts that economics treats competition by considering and including long-run costs, where all inputs into the production process are measured. He states that short-run costs alone are insufficient determinants of whether a power market if effectively competitive. Dr. Proctor summarizes this portion of his analysis stating, “effective competition should be measured in terms of competition that will be sustained over the long-run rather than just in the short-run.”

b. Other Evidence and Argument

LACI asserts that another shortcoming of GBX’s case was demonstrated by an examination of Dr. Loomis’ economic benefits study. It claims his study ignored the impact the Project may have on the possible resulting shutdown of one or more existing Illinois electric generating plants. LACI states that his study similarly ignored the adverse impacts of foregone economic benefits from other Illinois wind projects that would not be built if the Project and Kansas wind are developed and constructed.

LACI contends sufficient evidence is lacking on which to base justification for the Project on improvements to Illinois electric system reliability. It says Mr. Rashid concluded that GBX had not provided evidence that the Project is necessary to maintain the reliability of the electrical system in this State; that no adverse effects would result from the Project not being built. LACI states that just as in Rock Island Docket No. 12-0560, no transmission system operator studied the Project for reliability needs; and GBX provided no load flow studies. It states, while Mr. Zavadil presented an analysis that he claimed was significantly different than the reliability-related analysis presented in the Rock island proceeding, he did not portray his study as a load flow study. LACI concludes that without any review by either MISO or PJM on this point, it may not be found that the Project is necessary for reliability purposes.

c. Response to Other Arguments

LACI responds to GBX's criticisms of Dr. Proctor's LCOE. LACI disagrees with the GBX description of Dr. Proctor's capacity adder to the wind generation alternatives as an "unjustified cost adder to increase the LCOE of the wind generation options relative [to] the combined cycle gas generation option." LACI notes Dr. Proctor's testimony that, with the capacity adder, the non-dispatchable wind generation alternatives are competitive with the dispatchable combined cycle alternative, and the capacity adder for wind is necessary to make the alternatives appropriately comparable. LACI denies that Dr. Proctor's inflation assumptions are "unreasonably low." It states Dr. Proctor used the same rates used by the EIA in its forecasts. In response to GBX's criticism of Dr. Proctor's comparison of capital costs for Illinois wind to Kansas wind, LACI states that the referenced data from the DOE's Market Report is for the Interior and the Great Lakes Regions. It asserts the Market Report does not compare Illinois to Kansas. According to LACI, given the various factors that affect the installed capital cost for wind projects, Dr. Proctor's costs are reasonable. In regards to Dr. Proctor's assumption of increasing capital costs, at the rate of inflation, over the study period, LACI asserts that whether or not nominal costs of construction for wind projects will increase over the next several years is relatively unimportant when performing a wind-on-wind comparison. It asserts that once the fossil fuel generation alternative is eliminated, Dr. Proctor's LCOE analysis of a wind-on-wind comparison of Project/Kansas wind to Illinois wind is legitimate, reasonable and reliable. LACI notes that GBX's criticism of Dr. Proctor's challenge to GBX's assumed 55% capacity factor for Kansas wind, claiming he reduced the capacity factor for new Kansas wind generators with no citation to supporting data. LACI asserts that it is axiomatic that capacity factors must match wind technology and average wind speeds for the specified region. LACI points out that as Mr. Berry admitted, his 55% capacity factor is based on improved turbine technology, which, it states does not match the turbine technologies for his estimated wind generation construction costs ($1,760/kW) for the Interior region. LACI agrees with Mr. Berry that Dr. Proctor's utilization of a 52% capacity factor for Kansas wind was based on requests for information from existing wind generation companies from two years ago, matching the same time period for which Dr. Proctor obtained his construction, or installed capacity, costs for wind generation. LACI contends that it is unreasonably aggressive to assume a significantly higher capacity factor without any examples of such factors having been actually achieved; and instead basing it solely on emerging technologies which the manufacturers expect will achieve such results.

LACI defended Dr. Proctor's 20% increase in projected capital costs for the Project, asserting that it is eminently reasonable, however, to build in and assume a greater capital cost than what GBX presented as its base case projection. It explains that SPP studies show substantial transmission project actual cost increases compared to projections. It adds that this is an HVDC Project, which is rare in the United States, thereby justifying such an increase. LACI explains that as neither GBX nor any of its sister project companies has ever developed and constructed a major transmission line, or even a more conventional AC line and the same Clean Line personnel are charged with the responsibility to develop and construct five major transmission projects over the

same, or nearly same, time frame, adding 20% to the base case cost estimate, rather than including it only as a sensitivity, is reasonable and should be accepted. LACI notes that when Mr. Berry recalculated the relative LCOE values of Project/Kansas wind, Illinois wind, and gas combined cycle alternatives, after having "corrected" Dr. Proctor's LCOE analysis, he retained Dr. Proctor's capacity adder for the two wind alternatives, although he had criticized it earlier.

LACI dismisses GBX's criticism of Dr. Proctor's introduction of a MISO wind alternative. LACI states GBX's criticism was based on the lack of specific detailed transmission data, and the additional transmission capacity, that would be necessary for this alternative. LACI asserts this criticism seems to ignore, Dr. Proctor's explanation in rebuttal testimony. It states that in addition, as Dr. Proctor explained, the MISO MVPs require additional high voltage backbone transmission to deliver the proposed MISO wind to market, which is recognized and is a matter of timing.

LACI states the inclusion of MISO wind as an alternative to the GBX Project is an alternative. It reiterates that a public convenience and necessity determination requires comparison of alternatives. LACI states it is consistent with Staff's third factor under the "promote competition" standard: "The Project will not prevent an even greater degree of competition being attained through an alternative project or some combination of alternative projects."

5. CCPO

CCPO questions whether the Project will promote an effectively competitive market that operates efficiently. It also questions whether the Project will promote the development of an effectively competitive electricity market that is equitable to all customers. CCPO states that these questions were not answered. It asserts that the introduction of the Project into an already effectively competitive electricity market could decrease the efficiency of the market and could create a situation that is not equitable to all customers. CCPO concludes the record does not contain facts supporting a grant of a CPCN.

6. MEZ

MEZ asserts that its witness, Mr. Severson, provided unrebutted testimony showing that the PJM electricity market is already competitive and efficient. MEZ notes that Mr. Zuraski testified that an effectively competitive electricity market already exists in Illinois. MEZ observes that PJM's own Independent Market Monitoring Unit has certified that the PJM electricity supply market is already effectively competitive. MEZ notes that Dr. McDermott agreed with that assessment. MEZ says neither Mr. Severson nor Mr. Zuraski claim that the market is perfect.

MEZ asserts that in determining whether the Project "promotes the development of an effectively competitive electricity market," the test of Section 8-406.1(f)(1) is not satisfied simply because the Project may marginally improve the PJM or MISO electricity

market. MEZ complains that GBX's analysis considers the development of an effectively competitive market as if it took place in a vacuum. MEZ maintains there must be a public need before GBX can be issued a CPCN, which could enable it to condemn the property of Illinois landowners under the power of eminent domain.

MEZ states that the wholesale electricity market is already effectively competitive but GBX's witnesses place great emphasis on whether the Line will "promote" such a market. MEZ criticizes this approach. MEZ states one could imagine a wide variety of measures that would improve the electricity market. MEZ argues that as long as measures have some positive impact, even a *de minimis* impact, they can be said to "promote" the development of an effectively competitive electricity market. MEZ recognizes that the term "promote the development of an effectively competitive electricity market that operates efficiently" is not defined in the Act. It states the Commission must determine what that term means and how it is to be implemented in the real world.

MEZ states that in addition to its use in Section 8-406.1, the term "promote the development of an effectively competitive electricity market that operates efficiently" appears four additional times in the Act. It lists Section 20-102(d); Section 16-101A; Section 8-406; and Section 8-503. MEZ claims that other than in Section 8-503, every instance where this term is used in the PUA is accompanied by another term that modifies "electricity market." It explains that these additional terms are: "and benefits all Illinois consumers," Section 20-102(d)); "and is equitable to all consumers," (Section 16-101A(d); "is equitable to all customers," Sections 8-406.1(f)(1) and 8-406(b).

MEZ asserts that it is axiomatic that when interpreting statutes courts must ascertain and give effect to the intent of the legislature. It notes that the best indicator of legislative intent is typically the plain and ordinary meaning of the language of the statute, citing re Marriage of Takata, 304 Ill .App.3d at 94, 709 N .E.2d 715 (1999). It relies on Takata, for the premise that every part of the statute must be considered together and every word or phrase should be given some reasonable meaning within the context of the statute.

MEZ states the references to effects on all Illinois consumers in the statutory sections listed above show that the "promotion" of an effectively competitive electricity market must be evaluated in light of its effects on those consumers. It concedes that GBX's economists are free to label every *de minimis* improvement to a market as a thing that, by definition, "promotes" the development of an effectively competitive market. In contrast, it states, the Commission, must interpret the term according to Illinois law, in the context of the entire statutory scheme of Article XVI of the Act. MEZ explains it must be interpreted in a way that gives a reasonable meaning to every term in the statute. MEZ concludes that an action that is proposed to "promote" development of an effectively competitive market must be considered in light of its effects on all Illinois consumers. It asserts that the Commission has to weigh one against the other in determining whether the proposed "promotion" of the electricity market benefits and is equitable to all Illinois consumers.

MEZ notes the size of the Project ($2,750,000,000) that GBX presents. It argues the Project has several shortcomings to be considered by the Commission. It notes that neither PJM nor MISO determined there is a public need as part of the RTO planning processes. It asserts the Project is not needed to remedy any existing reliability or service adequacy problems in either PJM or MISO. It notes that GBX is not, and does not claim to be, a public utility. It argues the GBX claims to be, but is not, a "merchant" transmission owner. MEZ states the ameliorative effects of the Project on wholesale electricity markets, which admittedly are already effectively competitive, will be *de minimis* at worst and marginal at best. It complains the Project involves a taking of private property under the exercise, or threatened exercise, of the power eminent domain to benefit a private company, GBX, engaged entirely in the pursuit of private profits. Finally, MEZ notes that the Project's costs may be imposed on Illinois ratepayers if GBX chooses to pursue cost allocation.

MEZ asserts that even if the Project does "promote the development of an effectively competitive electricity market," it is inescapable that the Project is not equitable and beneficial to all Illinois consumers, and therefore fails to satisfy the requirements of Section 8-406.1(f)(1).

7. IBEW

IBEW asserts that the Project will promote the development of an effectively competitive electricity market in Illinois by allowing 4,000 MW of low-cost renewable generation capacity to access the Illinois electricity markets, increasing the supply of electricity into Illinois, and lowering electricity prices for consumers. IBEW states it will assist utilities and other power suppliers in meeting the demand for electricity from renewable resources and the demand for low-cost electricity generally. IBEW notes that, in addition to the evidence presented by GBX, Staff expects, based on Mr. Zuraski's evaluation, that the Project will promote the public convenience and necessity and will promote the development of an effectively competitive electricity market.

IBEW states the Project will increase the electricity supply available to Illinois customers. It notes GBX testimony regarding the number of wind farms to be constructed in western Kansas. IBEW repeats GBX's assertions that the wind farms would otherwise not be built due to the limitations of the existing transmission grid. IBEW notes Dr. McDermott provided analytical detail as to how the Project expands the set of generators that are able to compete to serve load in Illinois. It says he concluded that such increased economic import capability allows a greater level of lower cost generation resources to compete in the Illinois market, thereby resulting in greater competitive, downward pressure on prices. Similarly, it says he concluded that the Project lowers the cost to serve energy in Illinois by lowering wholesale electricity prices that will in turn flow to all retail customers in an equitable fashion.

IBEW asserts by increasing the supply of electricity from renewable resources, the Project will assist utilities and power suppliers in meeting the RPS requirement in Illinois. IBEW states that, for example, in Illinois, the statutory RPS requirement for ComEd and

Ameren to supply the electricity demands of "eligible retail customers" from renewable resources increases year by year to its maximum of 25% by June 1, 2025. It notes the RPS percentages also apply to the competitive retail power suppliers, i.e., ARES in Illinois, in supplying the load of their retail customers in Illinois. IBEW asserts that, additionally, the Project will increase the supply of RECs in the regional market, and put downward pressure on the price of RECs in the region.

IBEW contends that the Project will not only promote the development of a competitive electricity market in Illinois, but it will also promote the Illinois economy on a larger scale by creating hundreds of construction jobs related to the Project. It concludes the Commission should consider these benefits as an additional basis to conclude that the construction of the Project will promote the public convenience and necessity in Illinois.

8. ELPC

ELPC contends that the Project promotes the development of an effectively competitive electricity market in at least three ways. It asserts the Project will increase the supply of RECs; lower the costs of those RECs; and lower wholesale energy prices by increase the increasing generator competition and putting downward pressure on wholesale prices.

a. Supply of RECs

ELPC asserts that the Project will increase the supply of renewable energy credits necessary to comply with the Illinois renewable portfolio standard. It states one way that the Project will promote the development of an effectively competitive electricity market pursuant to Section 8-406.1(f)(1) is by increasing the supply of renewable energy credits available for purchase by Illinois utilities. It stresses that utilities must comply with the Illinois RPS pursuant to Section 1-75(c) of the IPAA. ELPC asserts the RPS requires Illinois utilities to ensure that a certain percentage of the total energy supplied to their customers comes from renewable energy resources. ELPC states that the IPAA specifically requires that at least 10% of a utility's total supply come from renewable resources by June 1, 2015. It emphasizes that each year after 2015, utilities must increase the total percentage of supply coming from renewable resources by at least 1.5%; by 2025, utilizes must receive 25% of their total supply from renewables.

ELPC states that Illinois is not the only state within the MISO and PJM regions with RPS requirements. ELPC notes Mr. Berry's estimate that the demand for renewable energy from states in the MISO and PJM regions will require renewable resources reaching "106.6 million MWh in 2015, 166.1 million MWh in 2020, and 210.9 million MWh in 2025." ELPC notes that the Application indicates that the Project will be capable of delivering as much as 20 million MWh of electricity from wind generation into the MISO and PJM markets, including the entire state of Illinois, from high capacity-factor, low-cost wind resources. It asserts this would meet a significant percentage of all of PJM and MISO state RPS demand through 2025. It notes Mr. Berry's observation that total

renewable generation in MISO and PJM states during 2014 was well short of the requirements for 2015, let alone the requirements through 2025. ELPC agrees that the shortfall underscores the need for transmission infrastructure like the Project to enable low-cost wind energy to be constructed and its output to be delivered to markets in the MISO and PJM states. ELPC indicates that the Project's impact will be substantial: a nearly 25% increase of 2014 renewable generation levels in the combined PJM and MISO footprints. ELPC opines that this substantial wind resource will serve to drive down REC prices, making compliance cheaper for Illinois ratepayers. ELPC asserts that since GBX is not seeking to recover costs from Illinois ratepayers, this reduction in REC prices will come at no additional cost to the ratepayers.

ELPC claims though the Illinois RPS is the single most significant driver of renewable energy in Illinois at the moment, the rise of ARES in the state could drive additional demand for supply from renewable resources. It notes Mr. Berry's testimony that a number of municipalities have required their ARES provider to obtain additional electricity supply, beyond the RPS minimum requirements, from renewable resources, or to offer the retail customers an option to specify that a stated percentage of the electricity supplied will come from renewable resources above and beyond the RPS minimum requirements. ELPC opines, based on these facts, that in addition to the need for low-cost RECs to meet the RPS, Illinois ratepayers who choose an ARES with an additional renewable procurement requirement will further benefit from increased access to low-cost RECs.

b. REC prices

EPLC contends that the Project will lower REC prices. It states the Project not only makes more RECs available to Illinois utilities, it also lowers the prices of all RECs in the region, making compliance with the Illinois RPS and other renewable requirements cheaper. ELPC concurs with Dr. McDermott when he projected the Project would provide access to new and currently untapped potential renewable resources, resulting in competitive pressure on prices in REC markets and markets for renewable energy.

ELPC points out that many states in the PJM and MISO footprints have either renewable energy standards or goals. ELPC states that RECs associated with generation in one state can be used to satisfy RPSs in multiple states. It states that markets for renewable energy and RECs are linked across states, similar to the markets for wholesale electricity, within a RTO footprint. It notes Mr. Berry's conclusion that, shortfalls of renewable resources in other states will tend to increase REC prices throughout the region, and therefore increase the cost of meeting the Illinois RPS.

ELPC notes that Dr. McDermott conducted a study of the REC market as defined by REC facilities located in PJM and MISO to quantify the Project's effect on the REC market. ELPC states Dr. McDermott contends this market is relevant because Section 1-75(c) of the IPAA requires non-ARES utilities to give preference to RECs from Illinois and adjoining states. ELPC states Dr. McDermott also investigated the broader REC market defined as the REC facilities located within the entire Eastern Interconnection, which

consists of the entire AC transmission system east of the Rocky Mountains, including parts of Canada and Texas. It states he found that the supply of RECs in both REC markets would increase as a result of the Project. ELPC indicates that Dr. McDermott found that the Project would increase the supply of REC capacity in PJM and MISO by as much 9% and the supply of REC energy by as much as 13% in 2020. According to ELPC, he found even assuming significant growth in competing REC supply, the project increases the supply of REC capacity by 6% across the entire PJM and MISO markets. EPLC states Dr. McDermott also found an increase in the REC supply to the Eastern Interconnection. It states that while the magnitude of the Project's effects on this larger market are more modest, Dr. McDermott found an increase in the Eastern Interconnection supply of REC capacity of as much as 5% and the supply of REC energy of as much as 7% in 2020.

ELPC asserts that the Project will not only drive down REC prices by increasing the overall supply of RECs in the market, it will also reduce REC prices because of the lower energy cost of the wind generation that will use the Project. It cites to Mr. Berry's testimony that wind speeds in western Kansas are substantially higher than in Missouri, Illinois, Indiana and other states to the east of Kansas that will be served by the Project. ELPC indicates that these higher wind speeds lead to higher capacity factor and, according to Mr. Berry, a higher capacity factor substantially reduces the cost of wind energy. As more energy is produced by a wind turbine, the unit cost of energy decreases, because the upfront capital cost can be recovered over a large number of MWh." ELPC emphasizes these lower prices are passed on to Illinois ratepayers in the form of cheaper RECs.

c. Generator Competition

ELPC asserts that the Project will increase generator competition and will exert downward pressure on wholesale energy prices, which will in turn result in lower retail electricity prices. It emphasizes that the Commission can grant a CPCN if the proposed Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost. ELPC claims the Project will increase the supply of low cost RECs, thereby driving down the price Illinois customers have to pay to comply with the RPS, and the Project will also increase the supply of lower-cost generation, thereby driving down the price customers have to pay for electricity. ELPC notes Dr. McDermott's testimony that the additional transmission capacity of the Project will promote additional efficiencies by increasing the size of the supply side of the market competing to serve in Illinois and opening the Illinois market to lower cost generation resources.

ELPC notes Mr. Cleveland's testimony that he used PROMOD production cost modeling software package to perform simulations of future energy markets for 2020 and 2024, to assess the economic impact of the Project on system operations in Illinois. It notes that under four different futures scenarios: (1) Business as Usual; (2) Slow Growth; (3) Robust Economy; and (4) Green Economy, Mr. Cleveland's analysis shows that the Project will lower the total demand costs, LMP, and variable production costs, all of which

result in lower retail prices for Illinois ratepayers. ELPC notes demand costs represent the total cost to purchase energy to supply total Illinois annual demand. It says Mr. Cleveland found that the Project would reduce demand costs in Illinois by between $108 million and $231 million in the 2020 futures scenarios, and by $95 million to $360 million in the 2024 futures scenarios.

LMP represents the incremental cost of energy averaged across all operating hours and electrical buses; therefore, ELPC asserts that if lower-cost generation such as wind-powered generation is available, it will serve to lower LMP. It notes Mr. Cleveland's findings that the Project would reduce LMP by in both the 2020 and 2024 futures scenarios for PJM and MISO in Illinois.

ELPC says production costs represent the total variable cost of generation to supply energy to meet all annual demand, including fuel costs, emission costs, variable operation and maintenance costs, and unit startup costs. It notes that Mr. Cleveland found that the Project would reduce production costs across the Eastern U.S. by between $855 million and $1.369 billion in the 2020 futures scenarios, and between $798 million and 1.660 billion in the 2024 futures scenarios.

ELPC notes Dr. McDermott's explanation of why these reduced wholesale costs demonstrate that the Project meets the Section 8-406.1(f)(1) requirement. ELPC notes that, calculating the net present value of these reduced wholesale prices, Dr. McDermott found that the benefits to Illinois consumers under all four futures scenarios through 2024 would be in the range of $256 million to $726 million.

ELPC also relies upon Dr. McDermott's quantification of the benefit to competition using the Delivered Price Test (“DPT”). It notes Dr. McDermott's explanation that the DPT, is relevant to the analysis of the Project because it includes a recognized standard for measuring the relevant size of electricity markets for competitive analysis. Dr. McDermott calculated the Economic Capacity, i.e., the supply that can be delivered into the destination market at a delivered cost less than 105 percent of the destination market price, available to supply the Illinois market. ELPC notes that Dr. McDermott calculates that the Project will increase the Economic Capacity available to supply the Illinois market under both the 2020 and 2024 futures scenarios. Dr. McDermott states this increased economic import capability allows a greater level of lower cost generation resources to compete in the Illinois market. He conclude that this creates competitive pressure on prices and is sufficient to show that the Project is promoting competition in the Illinois wholesale electric market.

ELPC notes that while Mr. Cleveland and Dr. McDermott did not use a futures scenario with flat or very limited load growth, the record does not include any evidence suggesting that the Project would not promote competition under those conditions. It asserts that even if load were flat through 2020, the Project would still bring lower cost generation into Illinois, which would drive down wholesale prices and therefore drive down costs to Illinois ratepayers.

ELPC asserts that the evidence in this case points to the Project as being an effective tool for increasing competition in the Illinois electricity market. It claims the Project will increase the availability of low-cost RECs needed to meet Illinois RPS and other renewable requirements, and will reduce the cost of electricity to Illinois consumers by increasing the amount of low-cost, clean electricity available in the Illinois market. ELPC concludes that the Project meets the requirement of Sections 8-406.1(f)(1) that transmission projects "promote the development of an effectively competitive electricity market."

9. Infinity

Infinity asserts that the Project will help promote an effective, competitive electricity market in several ways. Infinity states the Project provides a direct connection across the SPP, MISO and PJM seams, which allows for more direct interaction and competition between the resources being generated in each RTO's respective footprints.

Infinity emphasizes that the Project would provide a vital link between low-cost wind energy generated in Kansas and customers located in Illinois and markets beyond. It explains that over the last few years, wind energy from western Kansas has become one of the lowest-cost sources of new generation in the country. Infinity stresses that providing a direct path to this lower-cost renewable generation for markets in the MISO and PJM footprints will necessarily create more competition in the wholesale power marketplaces that serve Illinois and its neighboring states. It opines that an influx of lower-cost wind energy from Kansas will necessarily drive down wholesale power prices in the MISO and PJM markets, which in turn will result in lower retail electric prices for Illinois consumers.

Infinity contends it will be more difficult and expensive for Kansas wind generation to reach these marketplaces without the Project. It states that currently, one of the biggest obstacles for proposed wind projects in western Kansas is a lack of readily-accessible transmission that can move the power generated to population centers. Infinity explains that it has coordinated with GBX on the development of four projects in western Kansas that are in the land acquisition and permitting phases, each of which depends upon access to adequate transmission, which is a problem that GBX could solve. Infinity concludes that without the Project, it would have to overcome numerous technical and financial obstacles to transport the clean, low-cost power generated by these projects to markets in Illinois and beyond.

Infinity clarifies that it is not affiliated with GBX. Infinity disagrees with CCPO's characterization that because it develops but does not typically operate wind farms, it "will not utilize the services of applicant for the transportation of electric energy." Infinity stresses this is a fundamental misunderstanding of the relationship between developers of power projects and transmission providers. Infinity states it is involved in this proceeding precisely because the acquisition of reliable transmission service to deliver power to market is a vital part of the development of any wind project. It reiterates that if the GBX project is built, it is Infinity's plan to utilize the project to transport power from

four Kansas wind projects to the MISO and PJM markets. Infinity asserts that in order for these projects to be financeable, it is imperative that a transmission path be secured. Infinity states that it has explored other alternatives to transmit power from Kansas to MISO and PJM markets in the past, and in fact has gone so far as to execute a long-term transmission service agreement, but ultimately has determined that path to be undesirable for a number of reasons. Infinity concludes that if the Project is not built, it will be much more difficult and more expensive for Kansas wind generation to reach Illinois markets.

10. WOW

a. Wholesale Electric Costs

WOW asserts that GBX and wind energy promote an effective competitive electricity market in Illinois by lowering wholesale electric cost. Mr. Goggin testifies that the Project will allow greater amounts of low-cost wind energy resources to reach Illinois customers. He asserts that will promote the development of an effectively competitive electricity market that operates efficiently by lowering the cost for meeting Illinois consumers' needs for electricity and reducing the price of RECs. He opines that the benefits of the project will be allocated equitably to all consumers. He states that the increased use of renewable energy reduces carbon dioxide emissions and therefore can be used for compliance with proposed U.S. EPA standards for emissions from existing power plants under the Clean Power Plan.

WOW notes that in his direct testimony Mr. Cleveland provides data regarding the impacts the Project will have on the wholesale electricity market. It emphasizes he found that the Project improves key wholesale market metrics by: (1) reducing total demand costs in PJM Illinois and MISO Illinois, (2) lowering LMP in PJM Illinois and MISO Illinois, and (3) reducing total annual variable production costs in the eastern United States. Mr. Goggin testifies that these findings are generally consistent with savings predicted in studies that have analyzed the impact of adding wind and transmission to transmission systems. He notes in particular an Illinois Power Agency report from 2012 and a European literature review, which identified a number of studies that found wind energy tends to drive electricity market prices downward.

Mr. Goggin cites a recent report by the American Wind Energy Association that he says summarizes 15 studies by state governments, grid operators, and academics that have documented wind energy's role in reducing electricity prices. Mr. Goggin also relies on a May 2012 report by Synapse Energy Economics, which found that adding 20 to 40 GW of wind energy and the accompanying transmission in the MISO region would reduce the cost of the wholesale electricity needed to serve a typical home by between $63 and $200 per year. WOW states that this report found that electricity market prices decrease drastically as more wind capacity is added to the MISO system.

Mr. Goggin testifies Illinois has slightly different RPS for utilities and ARES. He states that both RPS's require that a minimum percentage of the electric provider's total

electricity supply come from renewable energy resources. He notes the requirement of the Illinois RPS, that capacity must be installed in Illinois or adjoining states, unless resources from those areas do not meet the cost-effectiveness tests. He states that there are seven states within the MISO footprint that have renewable energy standards that allow for the use of renewable energy from wind energy projects that will interconnect to the Project. He notes most states have their own qualifications for renewable resources. Mr. Goggin asserts that it is appropriate to look at the much larger aggregate RPS demand of all PJM states that allow PJM footprint delivery.

Mr. Goggin states the amount of wind capacity needed to meet the RPS standard in Illinois and other states is affected by variables including changes in future load growth, the capacity factors of future wind deployments, as well as what percentage of the RPS will be met by wind and other renewable resources. He states the Project provides access to lower cost wind generation that Illinois could use to comply with the Clean Power Plan. Mr. Goggin states that the degree of need Illinois will have for wind resources will be dictated by the state implementation plan that is developed. He states that Illinois has the flexibility to decide which combination of solutions it will use to comply. However, he says, the Project will make low-cost wind energy readily available for compliance with the Clean Power Plan.

Mr. Goggin asserts that transmission is essential, both for allowing wind resources to be developed and enabling already developed wind resources to not have their wind energy output curtailed. He states that in areas where transmission constraints prevent wind energy from being delivered to customers, there is no cost-effective substitute for increasing transmission capacity to alleviate those constraints. Mr. Goggin says it is common for transmission development to precede wind development. He opines that transmission development that pro-actively plans transmission to interconnect areas with high wind resource areas before wind projects have been built is an essential aspect of bringing wind to market.

Mr. Goggin notes that wind resources in the portion of Kansas to be served by the Project have some the highest capacity factors of any land-based wind resources in the United States. He states higher capacity factors translate directly to lower electricity costs, as a larger amount of electricity production from a wind project allows the wind project's fixed costs to be spread over a larger quantity of MWh. He opines that in markets such as PJM and parts of MISO, access to these high-quality wind resources have the potential to lower consumer costs.

WOW emphasizes that utilities have publicly commented on the consumer benefits of wind energy. It notes that American Electric Power subsidiary Southwestern Electric Power Co. ("SWEPCO") signed long-term power purchase agreements for a total of 358.65 MW from wind projects in Texas, Oklahoma and Kansas. WOW states that Alabama Power, a subsidiary of Southern Company, made several recent wind power agreements explaining that the agreements are good for customers because they save customers money.

b. Competitive Renewable Electricity Market

WOW asserts that the Project and wind energy promote a competitive renewable electricity market. It states that Illinois has a statutorily driven demand for renewable energy that requires a certain percentage of electricity supplied to customers to come from renewable energy resources and wind generation. WOW claims the Project will make it easier for electric suppliers -- utilities and ARES -- to meet their statutory requirements by delivering wind energy from an area with very high capacity factors and energy potential. WOW asserts the additional supply provided by GBX will tend to lower the price of renewable energy or RECs that vie for contracts to serve customers within Illinois. WOW stresses that this competition benefits Illinois ratepayers.

WOW cites the Illinois RPS statutes as the primary drivers for the need for renewable energy in Illinois. It opines that in its efforts to provide a more diverse and cleaner energy portfolio, the Illinois General Assembly enacted laws that require utilities and ARES to procure an amount of renewable energy or RECs equal to a certain percentage of their overall delivered energy. WOW emphasizes that utilities are to procure cost effective renewable energy or RECs from Illinois or adjacent states. It explains if utilities cannot meet their target percentage from resources within that area then the utilities may procure it from anywhere within the United States. WOW states the ARES do not have the two tier geographic preference that is applied to the utilities' procurement. WOW emphasizes that ARES are allowed to procure RECs from anywhere within PJM or MISO or use RECs that have been bundled with renewable energy.

WOW contends that while Illinois law allows for the use of RECs or RECs bundled with renewable energy from any state, a MISO analysis found that using wind from a mix of high and low capacity factor regions, relative to building predominantly in a lower capacity region (i.e., Kansas has a higher average capacity factor than Illinois) that is closer to demand, achieves the same level of wind energy output at an 11% lower nameplate capacity. Thus, WOW emphasizes that less wind resources need to be built to reach the same REC output, which means lower prices for RECs and that savings can be passed along to Illinois ratepayers. WOW stresses that the additional renewable energy resources built because of the Project will increase the supply of renewable energy and RECs bidding into the Illinois renewable energy and REC markets. WOW concludes that increasing the supply of renewable energy and RECs will make the market for RECs more competitive, put downward pressure on prices and provide a lower cost of compliance.

c. Reply to Arguments

WOW disputes the Farm Bureau and MEZ argument that Illinois already has a competitive electricity market and that the GBX Project is not necessary to make it competitive, saying it is an oversimplification and misapplication of the statutory requirement in section 8-406.1(f)(1). WOW emphasizes that in the Clean Line proceeding the Commission found that the project promoted a competitive electricity market in Illinois because HVDC is cheaper than the AC alternatives, that the additional wind resources

benefit PJMs markets and helps Illinois comply with its RPS, that the project's benefits exceeded its costs. WOW asserts that in another recent transmission line case, Docket No. 13-0657, the Commission interpreted section 8-406.1(f)(1) of the statute to require "changes that results in additional efficiencies to the market", which the Commission identified as reductions in the cost to serve load, that thereby lowered the cost to Illinois ratepayers. WOW states that Applicant needs to demonstrate improved efficiency of the market which typically is reflected in cost savings to ratepayers, or to the RTOs within which Illinois operates. WOW argues that the Project promotes an effectively competitive electricity market in Illinois by lowering wholesale electricity costs and by lowering the cost of complying with the Illinois RPS.

11. BOMA

BOMA states it supports the Project to help continue the development of open, competitive and transparent energy markets and to encourage new market entrants in Illinois to develop energy infrastructure projects that increase reliability and lower building operating expenses. It contends that a merchant transmission line that does not automatically increase costs through legislative or regulatory mandate, nor require consumers to shoulder the risks of project development while reaping no reward for so doing, should be encouraged by the Commission and by energy consumers.

BOMA indicates that completion of the Project has the potential to lower buildings' operational expenses by increasing reliability through adding more infrastructure to the grid, and through access to new, diverse generation resources. It opines that with increased access to more generation, the entire marketplace can become more competitive and temper rising energy costs for consumers. BOMA concludes that if additional generation can be brought to the region through the Project, then it naturally follows that additional reliability can be brought to BOMA members, even if that increased generation only indirectly affects the central business district by serving other customers that would otherwise put increased pressure on the grid.

D. Least Cost

This Section discusses the whether the Project is the least cost means of satisfying either, the objective of providing adequate, reliable, and efficient service to the public utility's customers, or of promoting the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers.

1. GBX

GBX asserts the record shows that the Project satisfies the "least cost" provisos of the two alternative criteria of Section 8-406.1(f)(1). GBX states that the objective of the Project is to provide a direct transmission connection by which the output of wind generators in western Kansas, the customers of the transmission line, can be delivered into the PJM and MISO markets. It claims that a transmission link is necessary to provide adequate, reliable, and efficient service, or any service, to these customers to deliver their

output into PJM and MISO grids. GBX claims it is also necessary to enable entities in PJM and MISO seeking to purchase the low cost, clean electricity produced in western Kansas – who can also be customers of the Project – to have that electricity delivered to them. GBX asserts the Project is the least cost means of providing adequate, reliable, and efficient service to these customers. GBX claims that, specifically, the HVDC technology that it will use is least cost compared to the other available transmission technology, i.e., AC technology. It asserts that for moving large amounts of electricity – particularly, electricity from variable generation resources – over long distances, an HVDC line can transfer significantly more power with lower line losses than can comparable AC lines. GBX contends that HVDC lines utilize narrow rights-of-way, fewer conductors, and smaller structures than comparable AC lines, thereby making more efficient use of transmission corridors and minimizing visual and land use impacts.

a. Cost Analysis

GBX asserts that the Project is least cost when compared to other alternatives for new generating capacity to access the electricity markets in Illinois and other PJM and MISO states. It states this comparison may be considered relevant in determining least cost in the context of the alternative Section 8-406.1(f)(1) criterion that the proposed transmission line will promote the development of an effectively competitive electricity market. GBX explains that the Project will allow 4,000 MW of new, low cost generation to access the Illinois electricity markets, thereby lowering electricity prices and promoting the development of an effectively competitive electricity market that operates efficiently and is equitable to customers. GBX asserts that the output of new Kansas wind generation delivered by the Project has a lower LCOE than either a comparable amount of new wind generation in Illinois or a comparable amount of new combined cycle gas generation in Illinois. It states that Kansas wind generation plus the Project has a lower PVRR than the other alternatives.

Dr. Galli presents a comparison of the costs of a ±600 kV, 4,000 MW capacity, 780-mile HVDC line (i.e. the voltage, capacity and length of the Project's HVDC line) to five different potential AC alternatives that could move the same amount of power the same distance. He states the analysis compared the capital costs and the annual losses costs of the alternatives, including the costs for structures, conductors, insulators and hardware for the transmission lines. He explains that for the HVDC line, capital costs included three HVDC converters (as planned for the Project), including all equipment needed at each converter station. Dr. Galli states that for the AC alternatives, capital costs included four substations (because AC lines typically require substations every 200 to 300 miles), including transformers, capacitors, shunt reactors and other substation equipment. He explains that he also considered annual losses costs, i.e., the revenue lost per year due to the estimated power losses on the AC or HVDC line.

Dr. Galli states there were much lower annual losses costs for the HVDC alternative. He testifies that this is consistent with the generally recognized engineering fact, that HVDC lines can transmit power over long distances with lower losses than can AC lines. He states that, overall, the analysis shows that the HVDC project is the lowest

cost alternative, as compared to potential AC alternatives, for delivering 4,000 MW of power over 780 miles.

Dr. Galli states that the four lower-voltage AC alternatives he considered, require between two and six circuits, and therefore would require more right-of-way than the HVDC alternative. He asserts because HVDC technology utilizes narrower rights-of-way, fewer conductors and smaller structures than AC alternatives, the HVDC project will have lesser impact, from a routing perspective, on the natural and built (human) environments than would the AC alternatives for moving this amount of power over this distance. He opines that, due to its smaller overall footprint, the HVDC alternative is superior to the AC alternatives when evaluated for factors such as, environmental impacts, impacts on historical resources, land use impacts, numbers of affected landowners and other stakeholders, proximity to homes and other structures and to existing and planned development, community acceptance, and visual impacts, as well as with respect to cost of construction. GBX notes these are factors the Commission has previously employed for determining least cost in the context of selecting the preferred route for a new transmission line.

b. Proposed Route

GBX contends that in terms of the route of the Project, the Proposed Route is shorter and has a lower cost of construction than does the Alternate Route. It notes the length of the Proposed Route in Illinois is 206.3 miles while the length of the Alternate Route in Illinois is 207.5 miles, stating the Commission has considered the length of the transmission line in previous proceedings. GBX explains construction cost estimates for the transmission line for the Proposed Route and Alternate Route in Illinois, prepared by Quanta Services, Inc., are $399,123,605 for the Proposed Route and $408,123,689 for the Alternate Route. It notes that, as described in detail in GBX's Route Study, the Proposed Route was determined through a detailed and comprehensive process that considered numerous Routing Criteria, including length, costs, proximity to residences, schools and other structures and to developed areas generally, impacts to existing land uses (residential, agricultural, mining, recreational and other), impacts to environmentally sensitive areas, habitats, and historical and cultural resources, visual impacts, and ability to use existing or parallel existing corridors and infrastructure. GBX contends that it is therefore the optimum route for the Project in Illinois.

c. Response to Parties

GBX concurs that, in Sections 8-406 and 8-406.1 transmission CPCN cases, the Commission has historically determined whether the "least cost" provision is satisfied by examining whether the proposed route of the transmission line, compared to alternative routes, is least cost, using the twelve criteria listed by CCPO. It notes that the Commission has not necessarily selected the route that results in the lowest construction cost for the transmission line, but rather the optimum route considering both construction costs and the other relevant routing criteria. GBX states the Commission has also considered PVRR analyses. It notes that in Docket No. 12-0560, the Commission

compared the PVRR of the Rock Island transmission line plus the Iowa wind generation that would connect to it, to the PVRR of new wind generation in Illinois sufficient to produce the same amount of electricity as the Iowa wind generation.

GBX asserts it developed its Proposed Route in Illinois from numerous conceptual and potential routes that were evaluated, using a comprehensive set of Routing Criteria that encompassed the twelve criteria the Commission has used. It asserts among other advantages, the Proposed Route is shorter and has a lower construction cost than the Alternate Route.

Additionally, GBX presents a comparison of the capital costs and losses costs for a 780-mile, ±600 kV, 4,000 MW capacity HVDC transmission line (i.e., an HVDC transmission line like the Project) to the capital costs and losses costs of five different AC line configurations that could move the same amount of power over the same distance (780 miles). It asserts the analysis showed that the HVDC alternative has both considerably lower capital costs and considerably lower losses costs than any of the five AC transmission alternatives. It states Mr. Rashid reviewed the HVDC versus AC cost comparison presented by GBX and concluded that if the proposed project is to be solely dedicated to deliver wind energy from western Kansas to MISO and PJM (which it is), the analysis is valid and the proposed project meets the least cost standard.

GBX notes CCPO, LACI, and Farm Bureau's argument that the Project is not least cost because, relying on Dr. Proctor's analysis and conclusion that certain other alternatives, including new Illinois wind generation and new combined cycle natural gas-fueled generation, have a lower LCOE than new Kansas wind generation plus the Project.

GBX notes Dr. McDermott's testimony that there is no requirement to evaluate every possible combination of power plants that might be able to access the Illinois market and observation that the Project is least cost using traditional LCOE and PVRR analyses. GBX contends that Dr. Proctor's alternatives are hypothetical scenarios that no entity is proposing to implement and that the Commission would have no authority to compel. It notes Dr. McDermott's assertion that effectively competitive markets require many market participants, and potential market participants, with entry and exit opportunities. It notes that Mr. Zuraski, after considering Dr. Proctor's analysis, testified in rebuttal that "it is not critically important" to show that Kansas wind farms are able to produce energy at a lower cost than combined cycles.

GBX repeats its claims that Dr. Proctor's original analyses contained a calculation error and was premised on a number of flawed and unsupported assumptions. It claims CCPO and IAA provide no explanation or defense of his underlying assumptions. GBX dismisses LACI's explanations of Dr. Proctor's assumptions, complaining that while using EIA's forecast for the price of natural gas in the study may be appropriate, as applied to other costs, the imputed natural gas inflation rates are too low and are well below historical inflation rates and consensus economic forecasts.

GBX criticizes Dr. Proctor's use of the same installed cost for new wind generation for Kansas and Illinois, stating he misread the Market Report. It states that Mr. Berry explained in detail the factors that result in lower capacity costs per kW of capacity for new wind farms in Kansas than in Illinois. It disputes LACI's assertion that GBX's 55% capacity factor assumption on impending improvements in turbine design, technology and size. It asserts that Mr. Berry developed the 55% capacity factor for new Kansas wind farms by applying actual wind speed data taken from meteorological towers located in the vicinity of the Project's converter station site in western Kansas, to the power curves for currently available wind turbines of two leading manufacturers. It notes that it does anticipate further improvements in turbine technology will occur, increasing capacity factors of new wind plants, between now and the Project's expected in-service date of 2019 or 2020. GBX complains that Dr. Proctor's sources for his 20% adder to the Project's capital costs as irrelevant or misleading. It repeats that its capital cost already includes adders for contingencies. It states that when Dr. Proctor made a correction to a calculation error, his LCOE model showed that Kansas wind generation plus the Project has a significantly lower LCOE than either the new Illinois wind generation option or the combined cycle gas generation option.

GBX disputes MEZ's merchant transmission developer, participation in RTO, and Commission jurisdiction arguments. It states MEZ's argument is premised entirely on the contention that GBX has a "right" to obtain recovery of its costs through a RTO regional cost allocation process. GBX maintains that it has no such "right" and reiterates Mr. Skelly's testimony that there is no RTO process by which a merchant, interstate transmission project like the Project can recover its costs from the general body of retail ratepayers through an RTO transmission tariff (this is what is commonly referred to as "regional cost allocation"). Moreover, GBX emphasizes, even for projects that are eligible for cost allocation, there is no "right" to cost recovery; rather, the RTO has to determine that recovery of the cost of such a project through the RTO transmission tariff is appropriate.

GBX asserts that through the testimony of Mr. Skelly, its President, it has clearly and categorically stated that it and its parent company, Clean Line, do not intend or plan to request cost recovery for the Project through RTO or any other regional cost allocation processes. Noting, in addition, his commitment that the companies will not go to the Commission for cost allocation because, and only because, they are losing money. Mr. Skelly also testifies that the investors would bear both the risk of the costs of the Project going over budget and the operational risks of the Project. GBX responds to MEZ's contention that GBX is not a merchant transmission developer as defined by FERC and is not entitled to negotiated rate authority, stating that it has been recognized by FERC as a merchant transmission developer and has been granted negotiated rate authority by FERC.

GBX reiterates that it has agreed that the CPCN be conditioned on a requirement that GBX must obtain this Commission's permission, in a separate proceeding initiated by GBX, before recovering any Project costs from Illinois retail ratepayers through PJM

or MISO regional cost allocation. It notes this is the same cost allocation condition imposed upon the CPCN for its sister company, Rock Island, in Docket No. 12-0560.

GBX asserts that MEZ's argument that the Commission lacks jurisdiction to accept the cost allocation condition is erroneous. It distinguishes the cases MEZ cites in support of this argument, stating they all involved the failure or refusal of a state regulatory body to include, in a utility's retail rates, costs that were based on rates established by FERC for services that the utility purchased. GBX contrasts the cost allocation condition, stating it would be seeking this Commission's permission to recover some or all of its costs through an RTO cost allocation process. It asserts that the cost allocation condition will be a requirement or condition of GBX's CPCN, authorizing it to construct the Project in Illinois. GBX notes that the FERC's jurisdiction over interstate transmission does not extend to permission to build, site and operate transmission lines in a state; that authority remains with the states, citing the FERC Order No. 1000.

GBX asserts the Commission, if necessary, can enforce GBX's compliance (or penalize its non-compliance) with the cost allocation condition by initiating proceedings pursuant to Section 10-113 of the Act to rescind the CPCN, or by imposing other sanctions or penalties, as permitted by the Act, for violation of a Commission order.

GBX asserts that the scenario that concerns MEZ cannot happen. It explains that in a proceeding seeking Commission permission to recover costs from Illinois retail ratepayers through RTO regional cost allocation, the Commission would determine if the benefits the Project provides for Illinois customers outweigh the costs GBX seeks to recover from the customers. It notes Mr. Skelly's testimony to that effect. In addition, it states, before the RTO approved including costs of the Project through the RTO transmission tariff, it would make a determination that the transmission line is needed for reliability or economic purposes and that the benefits of the transmission line exceed its costs to customers. GBX asserts, that is what the RTOs do in their regional planning processes. GBX emphasizes that there would need to be two separate determinations by two separate authorities that the benefits of the Project exceed the costs that are to be recovered from Illinois ratepayers through the RTO transmission tariff, before GBX would be allowed to recovery any costs through RTO regional cost allocation.

2. Staff

Staff examined the least cost requirement of Section 8-406.1(f)(1) from both an economic and engineering perspective. It presents the testimony of Mr. Zuraski and Mr. Rashid. Mr. Zuraski observes from an economic perspective that GBX had examined several alternatives and alternative designs to its proposed project, finding them all generally to be more costly. Mr. Rashid offered a more guarded assessment from an engineering perspective.

Mr. Rashid acknowledges that HVDC transmission has many benefits over HVAC transmission when it comes to delivering high volumes of electricity over long distances. However, he cautions that any additional interconnections between the Project and AC

circuits would require installing additional converter stations, at a significant cost. Mr. Rashid opines that if the purpose of the Project is to be solely dedicated to deliver wind energy from western Kansas to MISO and PJM, the analysis presented by Dr. Galli is valid and the proposed project meets the least-cost standard. Mr. Rashid notes that in this case the Project will not be able to serve Illinois producers. Mr. Rashid opines that Dr. Galli's analysis and conclusion would likely be different if one or more converter stations will be needed in the future to allow energy producers in central Illinois to use the GBX transmission line.

Staff relies on Mr. Skelly's testimony to conclude that the purpose of the Project is primarily to deliver wind energy from western Kansas to MISO and PJM. It states the record supports the proposition that there are considerable economic benefits associated with fulfilling that purpose, noting the discussions regarding convenience and necessity and promoting the development of an effectively efficient market. Staff emphasizes that in the absence of the Project there are considerable barriers to utilizing the natural wind resources of Kansas. Staff notes Mr. Skelly's testimony that prospects for construction of new wind generation facilities in western Kansas are limited because of the lack of adequate long-distance, inter-regional transmission infrastructure to bring the electricity generated from future facilities in western Kansas to load and population centers such as Illinois. Mr. Skelly indicates that for new, low-cost wind generation to be constructed in western Kansas to meet the demand for renewable resources in Illinois and other states, additional long-distance transmission capacity between these areas must be built. Staff notes that in Mr. Skelly's view, developers are unlikely to construct new wind generation facilities in western Kansas without reasonable assurances and expectations that transmission infrastructure will be in place on a timely basis to bring the output of the wind generation facilities to markets like Illinois and PJM.

Staff states that Mr. Skelly's view of the Project's primary purpose was echoed by Mr. Langley, who testified that the Project would satisfy a missing link in modernizing the nation's electric power infrastructure. It notes his prognosis that the Project "will allow Infinity and companies like it to deliver inexpensive power from some of the most productive sites in the country to the load centers where it is needed most." Staff states that according to Mr. Langley, the Project is the solution a delivery problem. Mr. Langley testifies that there are no other economically feasible ways to export wind energy from Kansas into the more populous load centers within MISO and PJM. He explains that, to export power today, a generator in Kansas must work with multiple utilities and transmission operators to acquire the rights to export. He claims many of those agreements are short in term, and very expensive. Mr. Langley explains this makes it very difficult to obtain the financing needed to construct a wind farm and the Project is the best solution to this problem. Staff notes that according to Mr. Langley, when assessing the need for the Project, it is appropriate to analyze the alternatives to the Project. He asserts that, looking at the alternatives, it is clear that there is no existing project or combination of projects that can yield similar results. Mr. Langley states that the obvious alternative to building the Project is to attempt to use the existing infrastructure to accomplish the same goal, but the problem is that the current system is not designed to deliver a large quantity of power over long distances. He indicates there are constraints

associated with moving energy from one RTO into the next and notes GBX addresses both of these concerns.

Staff concludes that given the economic benefits associated with bringing Kansas wind power to market and the lack of any viable alternatives to the Project as the means to accomplish that task, particularly in a less expensive manner, the Project appears to be reasonable and consistent with the requirement that the Project must be the least cost means of satisfying the objective of promoting the development of an effectively competitive electricity market.

Staff disagrees with MEZ's argument that GBX and Staff oversimplify the least cost issue by assuming that the Project is an end in itself, i.e. its purpose is nothing more than that of bringing wind power from Kansas to PJM and MISO. Staff does not consider this to be a circular logic trap. It asserts that the potential for benefits should be the starting point for considering any project. It states that the purpose of any project is to achieve something beneficial, and a project should be pursued as long as the costs of the project are less than the benefits, and other requirements are met. It stresses that the benefits to the public should be substantial enough to justify not only the project's costs but also substantial enough to justify the exercise of eminent domain, if such exercise becomes necessary. It notes that a Section 8-406.1 project cannot be needlessly redundant or threaten other utilities with ruinous competition. Staff believes that this standard is met by the Project.

Staff finds the MEZ argument that the Project does not meet the least cost requirement because it is not the least-cost means of satisfying Illinois' RPS to be irrelevant. Even assuming relevance, it states, it is unclear how any project could be shown to be the least cost means of satisfying Illinois' RPS. Staff asserts that the Project can be expected to materially contribute toward achieving the RPS and other goals specified in the statute, at a lower expense to ratepayers.

3. Farm Bureau

a. Cost Recovery Condition

Farm Bureau asserts that GBX's proposed cost recovery condition is a backstop for a bad business model. It notes that with regard to cost, GBX states the costs of development, construction and operations of the Project will be recovered through charges to its transportation capacity customers, the shippers and purchasers of electricity. Farm Bureau notes that GBX proposed a condition requiring that prior to recovering any Project costs from Illinois retail ratepayers through PJM or MISO regional cost allocation, GBX will obtain the permission of the Commission in a new proceeding initiated by GBX.

Farm Bureau asserts that GBX has not established that the Project is the least cost option. It finds the proposed condition to be a back-up plan for its field of dreams approach to recovering costs. Farm Bureau says that GBX does not have any suppliers

or customers, but if the Project is approved, GBX contends, then they will appear. Farm Bureau emphasizes the uncertainty of cost recovery. It states that if the Project is approved, and if wind developers build massive wind farms in Kansas, and if customers sign up to purchase the electricity, then GBX can cover its costs, stressing the 'ifs.' Farm Bureau claims that if this does not happen, then GBX would come back to the Commission to comply with the condition proposed above. It asserts that GBX does not know if customers or suppliers will materialize, or if recovering the costs therefrom will be realistic, and contends that GBX is asking the Commission to give it a CPCN when it does not know what will happen next.

b. Least Cost Alternative

Farm Bureau asserts the Project is not the least cost alternative. It contends that GBX has failed to meet its burden with the evidence it presented. It criticizes the analyses of Mr. Zuraski and Mr. Langley. Dr. Proctor notes that neither claims to have performed an independent study of the assumptions, inputs and analysis of costs of the various alternatives considered by GBX. He criticizes that neither Mr. Zuraski nor Mr. Langley performed an independent study of the cost of wind from other locations in MISO or PJM. According to Dr. Proctor, without an independent analysis their support is meaningless. Farm Bureau states the necessary considerations for determining least cost are: (1) whether the Project is the least cost alternative to provide needed low-cost energy, and (2) whether the Project is the least cost alternative to assist Illinois in meeting its RPS. Farm Bureau asserts the Commission should afford great weight to Dr. Proctor's testimony on the least cost issue. It emphasizes that Dr. Proctor presents a LCOE comparison of advanced combined cycle generation to determine whether the Project is the least cost alternative to provide needed low-cost energy. Farm Bureau states Dr. Proctor compared Kansas wind and Illinois wind to determine whether the Project is the least cost alternative to assist Illinois in meeting its RPS.

Farm Bureau asserts that Dr. Proctor's analysis establishes that delivering wind energy from Kansas to Illinois over a HVDC line as described in this docket is not Illinois' least cost option for meeting its RPS or for obtaining low-cost electricity. Farm Bureau concludes that GBX has not met its burden on the least cost issue and therefore it should be denied a CPCN.

Farm Bureau argues that the least cost portion of this analysis relates to the project being demonstrably the least cost option for the electricity customers and market in Illinois. It opines that Staff's conclusion the Project is least cost is based upon the benefits of bringing Kansas wind power to market and the lack of any viable alternatives to the Project to accomplish that task misinterprets the scope of the least cost requirement. Farm Bureau asserts that GBX has the burden to establish that the project is least cost option for the electricity customers and market in Illinois, not the least cost option for delivering Kansas wind to Illinois.

4. LACI

LACI asserts that the "least cost" standard was misinterpreted by GBX. It notes that Dr. McDermott confirmed his prepared testimony on this point, stating that he considered only two factors – the route and the technology (HVDC) in concluding that the Project was least cost. LACI claims that an evaluation of the Project, including whether it is least cost, demands a more expansive analysis and set of comparisons. It cites Illinois Power Co. v. ICC, 111 Ill. 2d 505, 490 N.E. 2d 1255 (1986), as being relevant and instructive. LACI explains in that case Illinois Power Company ("IP") had entered into an agreement with Mt. Carmel Public Utility ("Mt. Carmel"), whereby IP would acquire Mt. Carmel. LACI states both were investor-owned Illinois public utilities. It says a neighboring utility, Central Illinois Public Service ("CIPS"), intervened and opposed the transaction's approval on the basis that a merger of Mt. Carmel with CIPS would be a better alternative than a merger with IP. LACI points out the Commission agreed with CIPS and held that the proposed transaction did not meet the "public convenience" standard. The circuit court to which the case was appealed affirmed the Commission's order. LACI explains that following a reversal by the appellate court, the Illinois Supreme Court reversed the appellate court's decision and reinstated and affirmed the judgment of the circuit court. LACI states that the Court favorably quoted the Commission's conclusion that, "[t]he question whether a merger is in the public interest can be meaningfully answered only within the context of possible alternative actions." LACI contends that adapting the Commission's conclusion to this proceeding, the question whether the Project promotes the public convenience and necessity, is necessary to promote competition, and is least cost can be meaningfully answered only within the context of possible alternatives. LACI asserts that no one other than Dr. Proctor attempted to develop and offer such comparisons (e.g., other MISO wind), or at least a sufficient number of them.

LACI states that Dr. Proctor addressing the three GBX witness' testimonies on "least cost," stated two key factors were missing. First, he emphasizes none of the witnesses performed an independent study of the assumptions, inputs and analysis of the costs of the GBX-developed alternatives. Second, he indicates they did not study the cost of wind from other locations in MISO or PJM. He contends that as a result, their endorsement of the Project combined with Kansas wind as least cost is meaningless.

Dr. Proctor critiques the testimonies of the three witnesses addressing whether the Project promotes the public convenience and necessity. He took issue with Mr. Zuraski's points that go to the economic feasibility of the Project. He reasons that because gas combined cycle generation is nearly an equal cost alternative to Kansas wind with the Project for providing Illinois with capacity and energy, and Illinois wind is lower cost for meeting Illinois' RPS requirements, there is strong evidence that the Project will not be economically feasible. Dr. Proctor acknowledges that scenarios may exist in which combined cycle generation would not be a nearly equal cost alternative (to the Project/Kansas wind) for meeting the need for both capacity and energy; for example, if the CO2 price increase is greater or the capacity adder cost is lower. He states that in

that event, the wind-on-wind comparison would still make Illinois wind the lower cost option for meeting Illinois' electric energy needs ($67.63 (Ill.) vs. $70.89 (Kan.) per MWh). Dr. Proctor indicates, in that situation, since other alternatives for capacity would be required in connection with either wind alternative, the capacity costs for either wind alternative would be the same, and the choice of the lowest cost capacity is independent of the choice for energy.

LACI asserts this analysis demonstrates that GBX's reduction of the price for transmission service is not a feasible alternative to sustain economic feasibility. It claims that to do so without reducing costs commensurately would, at the very least, provide substandard returns to investors, thereby making it more difficult to attract additional capital for the Project, if needed.

Dr. Proctor disagrees with Mr. Langley and Mr. Goggin that Kansas wind delivered by the Project is the only alternative for meeting Illinois' needs for low-cost renewable energy. He contends that neither witness considered other wind alternatives within MISO or PJM. LACI asserts that Dr. Proctor demonstrates that MISO wind is lower cost, compared to Kansas wind with the Project; and even cheaper taking out the 20% increase in the installed cost of the Project. LACI asserts this comparison holds even assuming some level of transmission congestion, and resultant higher costs, for the MISO wind alternative.

Dr. Proctor explains, in terms of transmission, how market delivery differs from physical delivery of electricity. He indicates that market delivery reflects the ability to integrate electricity from a generation source into the wholesale market without violating power grid reliability standards. He explains that actual physical, point-to-point ("PTP") delivery has decreased as RTO wholesale markets have grown and evolved; thus, market delivery has become dominant. LACI asserts both Mr. Langley and Mr. Goggin provided incomplete descriptions and impacts of the delivery of electricity from wind.

In regards to Illinois' RPS requirements, Dr. Proctor explains that under the RECs thrown off by MISO wind produced in Iowa, an adjoining state to Illinois, would easily qualify to help satisfy Illinois' RPS. He indicates this would be the case whether or not the Iowa wind energy was actually delivered into Illinois. Dr. Proctor provides examples of such transactions to demonstrate how it would actually work. Dr. Proctor states Mr. Goggin mischaracterizes the MISO transmission projects called Multi-Valued Projects ("MVPs"). He contends that contrary to Mr. Goggin's testimony, the MVPs were not designed to enable delivery of enough wind generation to "meet the total demand of MISO RPSs." He emphasizes that MISO recognized that, under any scenario within MISO's planning, additional backbone transmission would be required. LACI notes that the Project could impact MISO's determination of the need for such additional backbone facilities.

5. CCPO

CCPO emphasizes Dr. Proctor's conclusion, based on wind on wind comparisons, even with a lower capacity factor and added property taxes, Illinois wind was cheaper than Kansas wind. CCPO contends that GBX has the burden of proving that the Project presents the least-cost alternative. It states that Illinois has a long established, 12- criteria test for least-cost. It states the criteria are: length of the line, difficulty and cost of construction, difficulty and cost of operation and maintenance, environmental impacts, impact on historical resources, social and land use impacts, number of affected landowners and other stakeholders, proximity to homes and other structures, proximity to existing and planned development, community acceptance, visual impact, and presence of existing corridors. CCPO asserts that although there were a number of witnesses who testified that this was the least-cost means of satisfying the statutory criteria, these witnesses did not base their opinion as to least-cost on the twelve criteria for least cost.

6. MEZ

a. General Least Cost Requirements

MEZ contends the Project does not meet the least cost requirement. It notes that the Project will cost $2,750,000,000. It states that the issue of least cost must be examined in the context of the Project's purpose because determining whether something is the least cost means to an end requires at least a rudimentary knowledge of what that end is. MEZ states that GBX and Staff oversimplify this question by assuming that the Project is an end in itself; where its purpose is nothing more than that of bringing wind power from Kansas to PJM and MISO. MEZ notes Mr. Rashid's testimony that if the purpose of the Project is to transmit wind-generated electricity 780 miles, then the Project is the least cost means of transmitting that electricity for 780 miles. MEZ emphasizes that definition of the purpose of the Project, is the Project itself, without any further inquiry as to why it was being built in the first place.

MEZ asserts that as to public need, it is important to avoid falling into GBX's logic trap, where all questions of purpose are answered by reference back to putative benefits. It states that by using this strategy, GBX obscures the question of why it wants to bring wind power from west Kansas to points east, and instead diverts the Commission's attention to the question of whether DC provides a less expensive means of transmitting electricity across four states than AC.

MEZ contends that GBX's conclusion that HVDC moves power more cheaply than AC over a distance of 780 miles, even though quite correct as a matter of electrical engineering, and even perhaps as one of pure physics, is not a sufficient ground for this Commission to grant the very public power of eminent domain to a very private company pursuing intensely private profits.

MEZ explains that when the Commission steps outside of GBX's least cost claim and asks why GBX wants to bring Kansas wind power to PJM and MISO; why the Commission should allow GBX to involuntarily deprive Illinois residents of their property rights, GBX can adduce no reason that even remotely approaches a legitimate public need. MEZ emphasizes that GBX never submitted the Project to either PJM or MISO and the Project is not needed to alleviate congestion, solve a reliability problem, or remedy any inadequacy of existing service in either PJM or MISO.

b. Meeting the Illinois RPS

MEZ asserts the Project does not meet the least cost requirement for meeting the Illinois RPS. It states that subject to a cost-effectiveness requirement found in Section 1-75(c)(2)(E) of the IPAA, Illinois RPS can be satisfied through the purchase of RECs from Illinois or adjacent states, or from other states if renewable generation resources in the first two categories prove inadequate. It notes that Mr. Berry agrees that there is no requirement for physical delivery of electricity to Illinois in the state's RPS. MEZ emphasizes that even if the volume of RECs required to be purchased increased markedly, spending $2,750,000,000 to build a 780-mile HV DC transmission line is not the least cost means of satisfying the Illinois RPS requirements. MEZ contends that Staff's testimony that the Project meets the least cost requirement is irrelevant to this point because its witness completely disavowed making any determination as to least cost based on any need to meet the requirements of the Illinois RPS.

c. "Merchant" Transmission Company

MEZ asserts that GBX is not a "merchant" transmission company, therefore the Project does not meet the least cost requirement of Section 8-406.1. It states that GBX's principal argument that it meets the least cost standard is misguided. MEZ claims GBX effects this subterfuge by using two different meanings of the term "merchant transmission owner," one of which is derived from FERC's requirements for granting negotiated rate authority to certain transmission utilities, while the other is entirely of GBX's own manufacture. MEZ states that for purposes of meeting the least cost requirement of Section 8-406.1, GBX characterizes itself as a FERC-type of "merchant" transmission owner, that is, one that cannot impose any costs on ratepayers. MEZ argues that FERC's definition of "merchant" transmission owner would become inconvenient if the Project loses money, so GBX turns into a "merchant" transmission owner that reserves the right to allocate the Project's costs to ratepayers. MEZ claims that, like a three-card monte impresario, GBX makes sure that the Commission does not know which "merchant" card is in play.

i. "Merchant" Transmission Owner

MEZ contends that the business model GBX presents does not meet FERC's definition of a "merchant" transmission owner. It states that FERC's definition of "merchant" transmission project is set forth clearly and unambiguously in its Final Policy Statement on Allocation of Capacity on New Merchant Transmission Projects and New

Cost-Based, Participant-Funded Transmission Projects, 142 FERC 61,038 (January 17, 2013) (the "FERC Merchant Transmission Policy Statement"). It quotes the FERC:

> [FERC] first granted negotiated rate authority to a merchant transmission project developer over a decade ago, finding that merchant transmission can play a useful role in expanding competitive generation alternatives for customers. [Citation omitted.] Unlike traditional utilities recovering their costs-of-service from captive and wholesale customers, investors in merchant transmission projects assume the full market risk of development.
>
> FERC Merchant Transmission Policy Statement, pg. 2, par. 2.

MEZ asserts that GBX labels itself a "merchant" transmission company by claiming that it is assuming all of the market risk of the Project, and that Illinois ratepayers will pay nothing for it. MEZ contends that GBX uses this label to clothe the Project with FERC's definition of "merchant" transmission owner. MEZ argues that the claim that it is assuming all of the risk for the Project, is the chief support for its assertion that the Project meets the least cost requirement. MEZ notes Dr. McDermott testified that because GBX is a "merchant" transmission company, it is a private entity pursuing private profits, and therefore the Project will unquestionably meet the least cost requirement because GBX will seek to maximize its own private profit from the Project. MEZ claims that in effect, Dr. McDermott's position is that a "merchant" transmission company is by definition least cost. MEZ states this argument equates motive with result, and as a result every profit-seeking firm becomes by definition least cost.

Putting that objection aside, MEZ states that Dr. McDermott overlooks GBX's reservation of the right to allocate costs to ratepayers, which, MEZ says, eviscerates GBX's claim to be a "merchant" transmission owner. MEZ contends that despite claiming Illinois ratepayers will never pay a dime for the Project because it is a "merchant" transmission project, GBX saws the floor out from under itself by holding on to the ability to allocate costs to ratepayers, notwithstanding its promise not to do so without first obtaining the Commission's approval. MEZ asserts that GBX then switches gears to its own definition of a "merchant" transmission project. It says GBX now claims to be a "merchant" transmission owner only by virtue of earning its revenues through discrete transmission services contracts with shippers, and not because it has assumed the full market risk of the Project. MEZ notes that Mr. Skelly testified that under GBX's business model, the company as developer of the line would bear only some, not all, of the risk, and that one of the circumstances under which GBX would seek cost allocation to ratepayers is if the Project were losing money.

MEZ finds the GBX's proposed condition to be a disavowal of the assumption of all of the market risks of the Project and, instead, a reservation of its right to allocate its costs to ratepayers. MEZ asserts this is the antithesis of the "merchant" transmission business model contemplated by FERC. MEZ states that far from assuming all market risk of the Project, GBX retains the benefit if the Project makes money, but reserves the right to allocate costs to ratepayers if it loses money.

ii. Ratemaking Authority

MEZ asserts that GBX's reservation of rights to allocate costs to ratepayers, calls into question its negotiated ratemaking authority. MEZ explains that GBX is reserving the right to allocate costs of the Project to ratepayers. Thus, MEZ argues, GBX is not assuming all market risks of the Project. MEZ concludes that GBX's position calls into question the continued validity of the negotiated ratemaking authority granted to it by FERC, citing In re Grain Belt Express Clean Line LLC, Order Conditionally Authorizing Proposal and Granting Waivers, 147 FERC Par. 61,098 (May 8, 2014) (the "FERC GBX Order"). As FERC stated in the order:

> To approve negotiated rates for a transmission project, [FERC] must find that the rates are just and reasonable. To do so, [FERC] must determine that the merchant transmission owner has assumed the full market risk for the cost of constructing its proposed transmission project.
>
> (FERC GBX Order, 147 FERC at par. 12).

MEZ notes that GBX represented to FERC that it met the four-factor test outlined by FERC in Chinook, 126 FERC 61,134 (2009). (FERC GBX Order, 147 FERC at par. 6). See also, Grain Belt Express Clean Line LLC, Application for Authorization to Sell Transmission Service Rights at Negotiated Rates, Request for Approval of Capacity Allocation Process, and Request for Waivers, November 15, 2013, FERC Docket No. ER14-409 (the "GBX FERC Application"). MEZ emphasizes that one of those four factors includes just and reasonable rates, and in determining whether a merchant transmission owner's negotiated rates are just and reasonable, FERC looks first to whether that owner has assumed the full market risk of the project. Chinook, 126 FERC 61,134, at par. 38. MEZ states that in applying for negotiated rate authority, GBX represented to FERC that it "is assuming all market risk associated with the development and construction of the Project...." (GBX FERC Application, pg. 12, Sec. A.1). MEZ claims the FERC GBX Order shows that FERC relied on GBX's representation that it assumed all market risk of the Project in determining whether to grant it negotiated ratemaking authority. MEZ states the entire record in this docket shows that GBX's 2013 representation to FERC is flatly untrue now, and calls into question the continued validity of GBX's negotiated ratemaking authority under the FERC GBX Order. MEZ asserts that without authority to negotiate transmission rates with its shippers, not only is GBX no longer a least cost project under its own witnesses' theories, but the business model upon which its Application is premised collapses.

iii. Jurisdiction

MEZ claims the Commission lacks jurisdiction to accept GBX's undertaking to return it for approval before seeking allocation of costs of the Project to ratepayers. It asserts GBX tries to salvage its merchant transmission status by promising that it will

return to the Commission for approval before seeking to allocate any costs of the Project to Illinois ratepayers.

MEZ states this proposed condition is illusory and meaningless because the Commission lacks jurisdiction to accept or enforce such a promise should GBX renege. It claims that starting in Kansas and terminating in Indiana, the Project is indisputably a medium of interstate commerce, and it would be an integral part of the wholesale power markets it serves.

MEZ asserts that the question of whether costs of the Project should be allocated to Illinois ratepayers goes directly the issue of the rates, terms, conditions and costs of interstate transmission service that would be offered by the Project. It emphasizes that interstate transmission is exclusively a matter of federal jurisdiction, pursuant to 16 U.S.C.A. Section 824(a) and (b) (2015). MEZ notes FERC's jurisdiction over interstate transmission is exclusive and plenary, according to Federal Power Commission v. Southern Cal. Edison Co., 376 U.S. 205, 215-216 (1964). It states the federal government's preemption of the field of regulating both wholesale electricity markets and interstate transmission is not simply a matter of administrative law, but is based on the Supremacy Clause of the U.S. Constitution, citing Naragansett Electric Co. v. Burke, 119 R.I. 559, 564 (1977). MEZ contends the federal government has displaced any state jurisdiction and preempted the entire field of interstate transmission and wholesale electricity markets, citing Nanantahala Power & Light Co. v. Thornburg, 476 U.S. 953 (1986).

MEZ contends that if the Commission accepts GBX's undertaking on this question, much less open an investigation of such cost allocation at some point in the future, even at GBX's request, it would necessarily entangle itself in an investigation of the rates, terms and conditions of service for interstate transmission of electricity, all matters that lie within FERC's exclusive and plenary jurisdiction. MEZ also asserts that this Commission has no jurisdiction to accept GBX's undertaking, much less investigate and approve or disapprove any GBX proposal to allocate costs of an interstate transmission line to ratepayers at some point in the future. MEZ concludes that GBX's representation, implicit in its offer of the promise to the Commission, is false.

iv. FERC Requirements

MEZ asserts that for the reasons discussed above, GBX is not a "merchant" transmission project. As a result, it states, FERC Order 1000 requires it to participate in the regional transmission planning process. MEZ asserts that FERC Order 1000, requires each transmission provider (other than merchant transmission owners) to participate in the relevant regional transmission planning process that complies with FERC Order 890. Order No. 1000, FERC 31,323 at pars. 146, 151 and n. 151. MEZ claims that by its own admission on the record, GBX has not done this. MEZ concludes this Commission should not consider GBX's Application until the regional transmission planning process for the Line has been completed.

7. Infinity

Infinity contends that while the Commission must consider a number of factors in determining whether a proposed transmission line constitutes the “least cost” alternative, the Project provides unique economic efficiencies and benefits that the Commission should consider. It asserts that not only does the Project tap into one of the lowest-cost markets for renewable energy in the country, but it uses technology that can transport substantial quantities of power more cheaply and more efficiently than a traditional AC transmission line. Infinity emphasizes that by avoiding the added costs necessitated by transporting across an AC line, wind projects are able to attract lower cost financing, thereby increasing the viability of the projects and ultimately resulting in a larger amount of wind generation being provided. Infinity indicates this low-cost power will help keep wholesale prices for renewable generation in Illinois and the MISO and PJM markets low, and will provide utilities in those areas with a valuable tool for hedging against future volatility in coal and natural gas prices and regulatory uncertainty. Infinity concludes this project provides a significant economic benefit to ratepayers in Illinois and the entire region, both through direct savings and avoided costs.

8. WOW

WOW challenges MEZ's argument that the Illinois RPS can be satisfied through the purchase of RECs from Illinois or adjacent states, repeating its assertion that the price of RECs available to the Illinois market will be lower with the GBX Project in place, especially if Illinois were to have to purchase RECs from other states -- like Kansas. It states the Project would be pumping more RECs into the PJM and MISO markets, helping to meet the demand for MISO or PJM RECs and leaving a larger pool of renewable RECs available to bid into Illinois. It states that having more RECs available in the market lowers the average price for the RECs.

In response to MEZ's assertion that even if REC prices increased markedly spending $2,750,000,000 to build a transmission line is not the least-cost means of satisfying the Illinois RPS requirements, WOW notes that the benefits to Illinois RPS market is only one benefit. It states, the Commission also needs to consider the need to comply with the Clean Power Plan and the ability for the Project to reduce the overall wholesale market costs which translates into savings for Illinois, MISO and PJM ratepayers.

E. Commission Conclusion

As we have noted in past Section 8-406 and 8-406.1 proceedings, and as discussed by the parties, Illinois courts have established that “necessity” in the context of the Act means that the service proposed to be provided should be “needful and useful to the public.” See e.g. King v. ICC, 39 Ill. App. 3d 648, 653 (4th Dist. 1976). Illinois courts have held that what constitutes public convenience and necessity is within the Commission’s discretion to determine in each case, and permits the consideration of a broad range of factors as applicable to the particular case. Commonwealth Edison Co. v.

ICC, 295 Ill. App. 3d 311, 317 (2nd Dist. 1998). This is a question to be determined by the Commission from a "consideration of all the circumstances." Wabash, at 418.

Although, the parties are in basic agreement as to the requirements, there is substantial disagreement as to the how they apply to the facts before us in this matter. The proponents of the Project emphasize Commission discretion and its authority to consider a broad range of factors. They assert that the Project would provide broad benefits to Illinois and to MISO and PJM. The proponents stress the environmental, competitive, economic benefits, and downward pressure on the price of electricity and RECs in the region. The parties opposed to the Project argue in favor of a narrower definition of necessity, focusing on the Illinois costs and the benefits that would accrue to the Illinois electricity market. They assert that the Illinois electricity market is already competitive and the Project will impose considerable costs. They focus on the uncertainty of the Project, possible negative impacts on Illinois wind and nuclear power producers, and the burdens it will impose on landowners.

The Commission finds that in determining whether there has been a demonstration of "necessity" in this context, as Staff suggests, consideration should be given as to whether the benefits of the Project are 'needful and useful to the public;' whether the benefits outweigh the costs; and whether the Project would prevent the attainment of a greater net benefit through an alternative project or some combination of alternative projects. The evidentiary record reflects that the Project will allow the transmission of large amounts of wind generated energy from western Kansas to access the Illinois electricity markets and to compete to serve customer load. The wind farms are not yet developed but the Commission notes that the testimony supports a finding that the Project will facilitate development of the wind farms in where the resources are such that electricity can be generated at a significantly lower cost than wind power can be generated in Illinois. There is substantial testimony that the wind farms will not be developed in the absence of sufficient transmission capacity. There is convincing evidence that the Project will enable low-cost wind energy to access the Illinois electricity markets, reduce wholesale and retail electricity prices. The evidence indicates the low-cost wind energy will also increase the supply of RECs in the regional markets, putting downward pressure on the prices of RECs, and helping Illinois and other PJM and MISO states to meet the RPS. The Commission notes that no alternative or combination of alternatives have been suggested, that would produce these benefits. The Commission finds that the Project will promote the convenience and necessity.

GBX asserts that it has demonstrated that the Project is necessary to provide adequate, reliable, and efficient service to its customers and it the least cost means of satisfying the service needs of its customers. Applicant insists that this criteria cannot be limited to being needed to cure a specific reliability deficiency in the Illinois electric grid. It offers the broad interpretation that the test is whether the Project is needed to provide adequate, reliable, and efficient transmission services to its customers. IBEW opines that the Project is needed to bring Kansas wind power to Illinois and other PJM and MISO states. Infinity asserts the Project would provide a valuable hedge against fluctuating energy prices.

Staff, Farm Bureau, LACI, CCPO, and MEZ assert that the Project does not satisfy this requirement. Staff states that the Project is not necessary to provide adequate, safe, reliable, and efficient electric service to Illinois customers. Staff notes that GBX made no claims that the Project is needed or necessary to maintain reliability. Farm Bureau asserts there the Project is speculative and that no need for it has been demonstrated. CCPO reemphasizes that the requirement is directed at the needs of the public utility's customers. MEZ argues that the only need shown to be met by the Project are the needs of its Kansas wind developers and its promoters. MEZ notes that there has been no finding on need by an RTO.

The Commission finds that GBX has not demonstrated that the Project is needed to provide adequate, reliable, and efficient service to customers within the meaning of Section 8-406.1.

GBX notes the purpose of the Project: to deliver, over 18,000,000MWh per year to PJM and approximately 2,600,000MWh per year to MISO, of low-cost clean renewable energy. It asserts that the higher capacity factors due to the wind resources and high average wind speeds of western Kansas, with the lower development and construction, the western Kansas wind generators will be able to produce energy at a very competitive price. GBX states there is a strong demand and need for the low-cost electricity the Project would bring from Kansas. It notes increasing demand for electricity in general, increasing RPS, and the demand to replace electricity produced by retiring coal-fired generating plants.

Staff opines that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers and is the least-cost means of satisfying those objectives. Staff notes that there is an effectively competitive electricity market in Illinois, it should be considered whether the Project contributes to increasing the degree of competition for electric energy, capacity availability, RECs, or other electricity market goods and services. Staff indicates that by providing access to new and currently untapped potential renewable resources, the Project should have the effect of providing competitive pressure on REC market and in markets for renewable energy. Staff initially raised a concern regarding the effect of the Project on electric plant retirements, but GBX satisfactorily responded to those concerns. ELPC, Infinity, and WOW contend that the Project promotes the development of an effectively competitive electricity market by increasing the supply of RECs, lowering the costs of RECs and wholesale energy prices. They opine that the increase in generator competition will put downward pressure on wholesale prices.

Farm Bureau maintains that the effect the Project would have on the competitive market is unknown. It asserts that GBX does not know whether customers will subscribe. It calls the arguments that the Project would enhance competition theoretical arguments. It states that GBX's analysis is speculative; the evidence does not yet exist to demonstrate with certainty that the wind farms will be built.

LACI and CCPO rely upon Dr. Proctor's analysis. They state that he demonstrates that the Project is not the least cost alternative. CCPO argues that there is no evidence of a lack of competition in the wholesale power markets, concluding, therefore there is no need to promote it. MEZ also argues that an effectively competitive electricity market already exists in Illinois. MEZ asserts that the Project must do more than marginally improve the PJM or MISO market to satisfy the Section 8-406.1 requirement.

Based on its review of the evidentiary record and considering the arguments, the Commission finds that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives. The Commission believes this project has a high probability of overcoming the uncertainties identified by the parties and represents the potential for substantial benefits for Illinois ratepayers. It appears to the Commission that the project has the potential to unlock wind resources that will be competitive and place downward pressure on the price of RECs and wholesale energy process. The Commission rejects arguments that because the Illinois and regional electricity markets are already competitive, it is not possible for the Project to promote the development of an effectively competitive electricity market.

GBX asserts the record shows that the Project satisfies the “least cost” requirement. It states that the objective of the Project is to provide a direct transmission connection by which the output of wind generators in western Kansas, the customers of the transmission line, can be delivered into the PJM and MISO markets. GBX claims that the HVDC technology that it will use is least cost compared to the other available transmission technology. GBX states an HDVC line can transfer significantly more power with lower line losses, and can utilize narrow rights-of-way, fewer conductors, and smaller structures than comparable AC lines, thereby making more efficient use of transmission corridors and minimizing visual and land use impacts.

The purpose of the Project that Staff adopted for its analysis, is primarily to deliver wind energy from western Kansas to MISO and PJM. Staff provides analyses from economic and from engineering perspectives. Staff concludes that given the economic benefits associated with bringing Kansas wind power to market and the lack of any viable alternatives to the Project as the means to accomplish that task, particularly in a less expensive manner, the Project appears to be reasonable and consistent with the requirement that the Project must be the least cost means of satisfying the objective of promoting the development of an effectively competitive electricity.

From an engineering perspective, Staff acknowledges that HVDC transmission has many benefits over HVAC transmission when it comes to delivering high volumes of electricity over long distances. Staff concludes that if the purpose of the Project is to be solely dedicated to deliver wind energy from western Kansas to MISO and PJM, the Project meets the least cost standard. Staff cautions that any additional interconnections between the Project and AC circuits would require installing additional converter stations, at a significant cost.

Farm Bureau, LACI, and CCPO emphasize Dr. Proctor's findings that the Project is not the least cost alternative of meeting Illinois' RPS requirements. Farm Bureau and MEZ question the intent of the cost allocation condition. Farm Bureau states it is a back-up plan in case there are no subscribers. MEZ notes GBX's reliance on its status as a merchant transmission company to argue that Illinois ratepayers will not be liable for the cost of the Project. MEZ asserts that the cost allocation condition belies GBX's claim of merchant status. MEZ argues that the Commission lacks jurisdiction to enforce GBX's commitment in regards to cost allocation.

The Commission finds that the purpose of the Project is to deliver wind energy from western Kansas to MISO and PJM. The record supports the conclusion that there are considerable economic benefits associated with bringing Kansas wind power to market and that there are no viable alternatives to the Project as the means to accomplish that task in a less expensive manner. The Commission notes GBX's assertion that it bears all the risk that the Project will succeed or fail based on whether a market exists for its services and will not pass on any costs to captive ratepayers.

The Commission finds that prior to recovering any Project costs from Illinois retail ratepayers through PJM or MISO regional cost allocation, GBX shall seek and obtain the permission of this Commission in a proceeding initiated by GBX. MEZ asserts the Commission would be unable to enforce this condition because it lacks jurisdiction over interstate transmission service cost allocation. The Commission disagrees. As conceded by GBX, the Commission has continuing jurisdiction over any CPCN that it grants and within the authority granted to it may rescind a CPCN if a change in facts or circumstances warrants rescission. The Commission notes, in any event, that GBX does not have a right to recover its costs through RTO regional cost allocation. GBX would have to both obtain permission from this Commission to utilize cost allocation to recover costs from Illinois retail electricity ratepayers, and to demonstrate to the applicable RTO or RTOs that the benefits of the Project were such that costs should be allocated to all customers through the RTO’s transmission tariff.

The Commission finds that absent Commission approval in a separate docketed proceeding, GBX shall not be entitled or permitted to recover any such costs from Illinois retail ratepayers through PJM or MISO regional cost allocation.

In conclusion, upon consideration of the record and the determinations contained above, and subject to the requirements set forth above and elsewhere in this Order, the Commission finds that the Project will be needful and useful to the public as it will provide an opportunity for the delivery of more renewable energy into Illinois, and will promote the development of an effectively competitive electricity market that operates efficiently, including with respect to renewable energy; is equitable to all customers; and is the least cost means of satisfying those objectives, within the meaning of Section 8-406.1(f)(1).

VIII. CAPABILITY TO MANAGE AND FINANCE CONSTRUCTION

A. Management and Supervision of Construction

This Section discusses whether GBX has demonstrated that it is capable of efficiently managing and supervising the construction process for the Project and has taken sufficient action to ensure adequate and efficient construction and supervision thereof as required by Section 8-406.1.

1. GBX

a. Construction Management Organization

GBX states that it and Clean Line have designed an effective Construction Management Organization for the Project. It explains that the Construction Management Organization has three positions at the top of the organization chart – Executive Vice President of Transmission and Technical Services ("EVP of Transmission"), EVP and General Counsel ("General Counsel"), and Director of Development that will have primary responsibility for the development, design, right-of-way acquisition and construction of the Project. Mr. Skelly testifies to their responsibilities. He states the EVP Transmission will be responsible for overseeing and supervising the Engineering-Procurement Construction ("EPC") contractors and the Owner's Engineer ("OE"), reviewing overall design parameters and engineering, monitoring and enforcing on-site safety, managing the Project costs and schedule, coordinating and managing the various construction-related contracts, providing document control, and ensuring compliance with all applicable environmental laws and regulations during construction. Mr. Skelly testifies that the General Counsel is responsible for overseeing all legal and regulatory activities relating to the Project. He states that the Director of Development will oversee all development efforts on the Project, including managing relationships and communications with stakeholders such as landowners and local officials, working GBX's routing consultant to finalize all routing work and permitting. The EVP of Transmission, General Counsel and Director of Development will report to the President and Chief Executive Officer. Mr. Skelly asserts that there is a well-defined support staff for the Construction Management Organization. It asserts that it has defined the responsibilities and the required qualifications for each position in the Construction Management Organization and provides a detailed description of them.

GBX states that an important component of the Construction Management Organization is the OE. GBX explains that an OE is a third-party entity, experienced in the engineering and construction of large-scale infrastructure projects, which the owner retains to assist the owner in project management activities and overseeing the activities of the other project contractors, including the EPC contractors, thereby supplementing the experience and expertise of the owner's internal team. It states that POWER Engineers, Inc. ("POWER") has been selected as the OE for the Project. GBX indicates that during the development phase of the Project, POWER is assisting GBX in performing

engineering and design work for the Project. GBX states that to date, POWER has developed preliminary design criteria and structure designs and has provided engineering support for the route development process.

GBX asserts that it has filled 15 of the 35 positions in the Construction Management Organization. GBX states that it has not yet filled all of the positions in its Construction Management Organization because the Project has not reached appropriate milestones to warrant filling those positions at this time. However, GBX claims, it has a plan to fill all of the positions and is confident that it will do so. Mr. Skelly testifies that he is confident that the remaining positions will be filled with qualified individuals in a timely manner. He explains that the Clean Line management team has a very extensive network in the electric power industry and has strong relationships with industry professionals and search agencies that can assist with finding qualified personnel to fill these positions. He states that National Grid has and will continue to make its resources available to assist Clean Line in identifying additional candidates to fill positions in the Construction Management Organization. He explains National Grid is an experienced developer, construction manager, owner and operator of transmission lines, including HVDC facilities, and has extensive contacts in the utility construction industry. In addition, he states, Clean Line regularly receives resumes from persons with strong construction backgrounds. GBX states that it plans to have the majority of the positions in the Construction Management Organization filled by no later than three months prior to the date of commencement of major construction activities.

b. Contractors

GBX asserts that it has engaged and will continue to engage experienced contractors for the development and construction of the Project. GBX claims that it will retain two EPC contractors for the Project, one for the construction of the transmission line and the other for the construction and installation of the three converter stations. For the development phase of the Project, GBX states that it engaged Quanta Services Inc. ("Quanta"), a leading EPC contractor, to provide construction management services relating to the transmission line portion of the Project. GBX states that it selected Quanta after conducting an extensive interview and selection process.

Mr. Jones testifies extensively regarding Quanta's experience, including its experience in constructing lengthy linear infrastructure projects. He asserts that Quanta is the largest specializing contractor in North America serving the electric, gas, and pipeline sector and that in 2014, Quanta had total revenues of more than $7.8 billion. He says that Quanta's work force includes approximately 25,000 employees working from more than 250 offices throughout North America, as well as in Europe, Australia and South Africa. Mr. Jones explains that Quanta's transmission projects have included some of the largest and most significant high voltage and extra-high voltage ("EHV") (345-765 kV) transmission lines ever built in North America. He states that Quanta has completed more than 6,360 miles of EHV transmission projects in the last ten years, with more than 2,500 miles completed since 2013. Mr. Jones also claims that Quanta has significant

experience with constructing electric transmission lines across agricultural lands, wooded lands, and other rural properties.

Mr. Skelly testifies that the EPC contractor for the HVDC converter stations will be one of three global leaders in HVDC equipment manufacturing, each of which has decades of experience successfully designing, manufacturing, and commissioning large-scale HVDC projects. He says that the EPC contractor for the converter stations will partner with a construction management firm to create a partnership or consortium to perform site preparation, building erection, and equipment installation for the converter stations. Mr. Skelly states that the experience required of this contractor will include significant, successful experience installing high voltage substation equipment in North America, with all requisite knowledge of installing equipment in accordance with the requirements of the NERC, and good utility practice.

c. Project Controls and Oversight Mechanisms

GBX claims that it will require that its EPC contracts with Quanta and the converter station EPC contractor include provisions that provide GBX with effective project controls to ensure that the Project is completed on time and on budget. Mr. Skelly testifies that GBX's agreement with Quanta for the development phase specifies, among other terms, a lump-sum contract price, a guaranteed completion date, or liquidated damages, a commitment to keep key personnel assigned to the Project, and credit support for its obligations under the contract.

Mr. Skelly testifies that GBX will require similar provisions in the converter station EPC contract. He asserts that both of the EPC contractors will be required to provide regular reports to GBX detailing progress of work, any safety violations, schedule and cost impacts, and other information needed to effectively monitor their performance.

d. Construction Management Organization

Mr. Skelly testifies that members of Clean Line's management team, as well as National Grid, a principal investor in Clean Line, have considerable experience with organizing construction management teams and overseeing the successful development and construction of large electric industry projects. He notes, for example, he and Jayshree Desai, Clean Line's Chief Operating Officer ("COO") were responsible for the development and construction of over 2,000 MW of wind farms, and over 180 miles of transmission lines, at Horizon Wind Energy. He states that they built Horizon Wind Energy (now EDP Renewables North America LLC) into the third largest wind power company in the U.S., and in doing so, they were responsible for hiring personnel to build the company's construction, procurement, operations and asset management departments. Mr. Skelly asserts that this experience is directly relevant to the development of GBX into an organization that will successfully manage the construction of the Project. He notes that at the height of Horizon Wind Energy's construction activities, he and Ms. Desai managed capital expenditures of over $3 million per day and

managed over $2 billion worth of contracts with suppliers, manufacturers and balance of plant contractors.

Mr. Skelly testifies that Dr. Galli, EVP of Transmission, while Director of Transmission Development at NextEra Energy Resources, was responsible for routing, siting and engineering for approximately 330 miles of new transmission lines, was responsible for vetting and awarding contracts to contractors, and participated in planning and project management for a 229-mile transmission line. He provides a list of the electric transmission and generation projects that members of Clean Line's management team have been involved in, and their relevant experience.

GBX asserts that National Grid has committed to making its engineering, procurement, licensing, construction and project management skills and resources available to Clean Line and GBX. GBX claims that National Grid is one of the largest investor-owned utility companies and largest owners and operators of electric transmission facilities in the world. GBX states that its capability to effectively manage and supervise the construction of the Project and to successfully execute the planning, construction and operation of the Project is further supported by its ability to draw on National Grid's expertise. GBX also claims that members of the management of Clean Line's most recent new investor, Bluescape Resources, have experience in building transmission lines.

GBX responds to Mr. Rashid's, testimony that he is "skeptical" of GBX's ability to efficiently manage and supervise the construction of the Project because neither GBX, as an entity, or its parent company Clean Line, have ever managed or supervised a transmission line project. GBX contends that its capability to efficiently manage and supervise the construction process is demonstrated by its effective Construction Management Organization, experienced contractors, project controls, oversight mechanisms, and the experience of its management team. GBX asserts that an entity's previous construction of a transmission line should not be a precondition for the Commission's determination as to whether an applicant possesses the capability to manage the construction of a proposed transmission line. It states that if previous experience is a precondition, it would be impossible for new entrants to be certified to construct new transmission lines in Illinois. GBX notes that Mr. Rashid raised the same concern in the Rock Island CPCN proceeding, Docket 12-0560, and the Commission nonetheless found that Rock Island was capable of efficiently managing and supervising the construction process and had taken sufficient action to ensure adequate and efficient construction and supervision of the construction.

e. Other Findings of Competence

GBX asserts that the Commission, as well as several other state commissions and organizations, have found that Clean Line project companies have the necessary managerial and technical competence to construct transmission line projects. GBX contends that the evidence that it has presented in this proceeding to demonstrate that it is capable of efficiently managing and supervising the construction of the Project is

essentially the same evidence that its sister company Rock Island presented on this topic in Docket No. 12-0560. GBX says, in that case the Commission specifically found that Rock Island "made the required showing" on this criterion, and found that Rock Island was capable of efficiently managing and supervising the construction process. GBX notes that the Order cites Rock Island's development of a construction management organization, the experience of members of its management team in overseeing the construction of large electric industry projects, its retention of contractors with relevant experience and expertise, and the experience of National Grid and its ability to provide support to Rock Island.

GBX states that the Oklahoma Corporation Commission, the Kansas Corporation Commission, and the Indiana Utility Regulatory Commission have found that GBX or its sister project companies have the necessary managerial and technical competence to construct transmission line projects.

GBX further asserts that PJM has concluded that Clean Line and its subsidiary operating companies, including GBX, satisfy the pre-qualification requirements for Designated Entity status under the PJM Amended and Restated Operating Agreement. GBX states that PJM evaluates companies for prequalification based on their ability to engineer, develop, construct, operate and maintain a generic transmission facility within PJM. GBX identifies numerous other companies that PJM has reviewed and prequalified for Designated Entity status.

In response to Staff's and others concerns regarding its ability to manage the construction, GBX asserts that there are other factors bearing on construction management capability than the sole fact that neither GBX nor Clean Line has ever constructed a transmission line. It states the Commission should consider the construction management organization that has been designed, the qualifications of the contractors to be used, the contract terms, and the prior relevant experience of members of GBX's and Clean Line's management teams. It states that the Staff and intervenor argument ignores that members of Clean Line's management team and National Grid (a principal investor in Clean Line) have considerable experience with organizing construction management teams and overseeing the construction of large electric industry projects, including transmission lines. GBX notes that in addition to its own construction management employees, POWER Engineers, Inc. has been selected as the OE for the Project in Illinois.

In response to concerns that its management team may not be sufficient to manage the construction of the Project and other transmission line projects around the country it clarifies that the construction management organization it presents is to manage construction of the Project, not to manage construction of the projects of Clean Line's other subsidiaries. GBX notes the proposed financing condition and commits that it will have adequate financial resources in place to have a fully staffed construction management organization that is exclusively dedicated and assigned to the Project.

GBX indicates that concerns about construction because of HVDC technology being uncommon or rare are unwarranted. It notes the testimony of as Mr. Jones of Quanta Services, a leading construction contractor in the energy industry, that the structural design and construction processes and practices applicable to HVDC and high voltage AC transmission lines ("HVAC") are similar. It adds that the overall length of the Project does not in and of itself establish that the Project will be materially more challenging to manage and supervise than a shorter transmission line project. It notes that this Commission and several others have found that Clean Line project companies have the necessary managerial and technical competence to construct transmission lines.

GBX contends that for all of these reasons, the Commission can and should find that GBX is capable of efficiently managing and supervising the construction process for the Project and that GBX has taken sufficient action to ensure adequate and efficient construction and supervision thereof.

2. Staff

Staff asserts that GBX has not made an adequate showing that it is capable of efficiently managing and supervising the construction of the project under Section 8-406.1(f)(2). Staff notes that GBX witness Mr. Skelly indicated that GBX has assembled a team of different individuals with experience in developing, constructing, and operating similar facilities effectively and listed the qualifications of these individuals. However, Staff contends that GBX has not provided any evidence that it or its parent company have ever managed or supervised a single transmission line project; let alone a transmission line project of this magnitude and complexity. Staff claims that according to the information available, GBX has never built a transmission line project of any kind or of any size. Staff also states that the proposed project is of a large scale and uses HVDC technology that, while not new, is rather uncommon. Staff asserts that in the entire U.S., there are only a few HVDC lines. Staff does not believe that a startup company like GBX will effectively and efficiently manage and supervise the construction of a $2.75 billion project. Thus, Staff concludes that GBX has not met the requirement of Section 8-406.1(f)(2).

3. Farm Bureau

Farm Bureau asserts that GBX and Clean Line lack sufficient experience to be able to efficiently manage and supervise the construction of the Project. It claims that it is important to look at GBX's parent and sister companies to determine whether GBX is capable of managing and supervising the Project. Farm Bureau states that GBX is a startup company that has never built a transmission line and that GBX's parent and sister companies have never built transmission lines either. Farm Bureau notes that GBX is a wholly-owned subsidiary of Clean Line, and all employees, budgets, plans, etc. are allocated within the discretion of Clean Line. It says that Clean Line seeks to build 5 projects around the country, almost simultaneously, at a total cost of roughly $10 billion.

Farm Bureau notes that the new transmission lines will span roughly 3,080 miles, and the Project will span roughly 780 miles, at a cost of $2.75 billion.

Farm Bureau states that the transmission experience of all Clean Line employees consists of prior employment by companies that have collectively built less in mileage and scope than the GBX line alone, at a total of 742.6 miles versus the entire GBX transmission line, which will be 780 miles. Farm Bureau observes that most of the relevant employment experience cited by GBX took place ten or more years ago. It emphasizes that GBX seeks to build HVDC transmission lines that stretch 3,080 miles, which is longer than the widest width of the continental U.S. Farm Bureau is concerned because Clean Line and its subsidiaries could be constructing multiple transmission line projects on similar timelines across the country at the same time. Farm Bureau is concerned about employees with concurrent work obligations and an inadequate number of employees managing up to $10 billion in projects.

Farm Bureau contends that GBX has presented no evidence that it is capable of efficiently managing and supervising the construction of the Project. Farm Bureau notes that Staff witness Yassir Rashid has a similar opinion. Farm Bureau asserts that HVDC transmission lines are rare and that there are only a few similar lines in the country. It believes that the subsidiaries of Clean Line are stretched thin with employees operating in a new field of expertise.

Farm Bureau notes the original Board of Directors of Clean Line consisted of Mr. Skelly, Neil Wallack, and Brian Begley, from 2009 to 2012. Farm Bureau asserts that during that time, Mr. Skelly was the only individual with any experience related to transmission lines. Farm Bureau claims all of Clean Line's projects, except for the Western Spirit project, were conceptualized, planned, and proposed by this Board of Directors. It explains that after the Rock Island Project and other subsidiary projects of Clean Line were established, National Grid became an owner of Clean Line and assumed two seats on the Clean Line Board of Directors. Farm Bureau states that thereafter, Bluescape became an owner of Clean Line, in the first half of 2015, and it was given one seat on the Board of Directors. Farm Bureau says that board members have no right to control or participate in day-to-day management of Clean Line or its subsidiaries.

Farm Bureau emphasizes that GBX is a start-up company that has never built a transmission line. It contends Illinois residents should not be forced to be a part of the Project. It argues that if the Commission chooses to grant a CPCN to GBX for the $2.75 billion Project, then it will be managed by a small group of people with little relevant experience who could theoretically be managing up to $10 billion of similar work throughout the country. Farm Bureau asserts that GBX should establish that it is a viable business since it is seeking easement agreements from landowners. It opines that GBX has not proven to be a viable business and that its financial strategy should remove it from eligibility for a CPCN. Farm Bureau concludes that GBX will not be able to efficiently manage and supervise the construction of the Project, and its Application should be denied.

4. LACI

LACI asserts that GBX has failed to show it is capable of supervising and managing the construction of the Project. It states that the Project is but one of five major electric transmission projects Clean Line entities are trying to develop. LACI notes that senior management of Clean Line, including Mr. Skelly, Dr. Galli, and Mr. Berry are responsible for all five projects. It states that four of the five projects in development use HVDC technology, which it states is a little-used type of transmission line in this country. LACI notes that Mr. Rashid's testimony that he does not believe GBX has the ability to manage the Project. LACI states the evidence supports Mr. Rashid's conclusion.

5. CCPO

CCPO notes that Applicant is not a public utility. It asserts that unlike all other applicants that have utilized this expedited process, the Commission has no track record to rely upon as to GBX's ability. It emphasizes that this is a new company that has never constructed any type of transmission line, much less a 780 mile direct current line traversing four states. CCPO notes the testimony of Staff electrical engineer, Mr. Rashid, that he compared GBX to the utilities for which he viewed applications in the past and found GBX is the least experienced entity to petition the Commission for a transmission line certificate. CCPO notes Mr. Rashid's testimony that he has never seen an applicant for a CPCN that has never built or managed a transmission line.

CCPO states the testimony of Mr. Rashid highlights the reason why Sec. 8-406.1 is restricted to applicants that are a "public utility," companies with a track record that can be scrutinized by Staff in making a determination as to whether the entity in question is capable of efficiently managing and supervising the construction process. CCPO voices concern about the possibility that GBX may proceed with the Project at the same time as it proceeds with the four additional projects in its portfolio.

6. IBEW

IBEW asserts that the Commission should find that GBX is capable of efficiently managing and supervising the construction of the Project. It contends that GBX has taken action to ensure efficient construction and supervision. IBEW notes Mr. Skelly's testimony and emphasizes that GBX is taking the appropriate steps to ensure effective management and supervision of the Project. IBEW opines that GBX has developed a comprehensive Construction Management Organization for the Project. IBEW states that GBX intends to hire experienced, highly qualified contractors for engineering, procurement, and construction and supply key technology components. IBEW notes that these contractors and vendors include Quanta, the largest specializing contractor in North America servicing the electric, gas and pipeline sectors. It states that POWER will serve as the OE for the Project.

IBEW opines that an important component of GBX's capability to efficiently manage and supervise the construction process is GBX's intention to use union labor.

Mr. Bates explains that the use of IBEW workers is instrumental to construction because IBEW promotes a highly skilled workforce by providing extensive training and education to its members. IBEW contends that this expertise results in projects being completed safely, efficiently, and in a manner that minimizes disruption in the area where the Project will be constructed.

7. Commission Conclusion

The Commission has reviewed the argument of the parties. Staff and several parties raise concerns about the ability of GBX to efficiently manage and supervise the construction process in light of the fact that neither it, nor its parent, Clean Line have ever managed or supervised a transmission line project. They emphasize the size and complexity of the instant Project. GBX maintains that the Commission should consider, in addition to the experience of the GBX and Clean Line management, its construction management organization, and the qualifications of the contractors to be used. GBX notes that members of Clean Line's management team and National Grid, a principal investor in Clean Line, have considerable experience with organizing construction management teams and overseeing the construction of large electric industry projects, including transmission lines.

The Commission believes that under the circumstances, GBX has made the required showing, subject to the conditions set out below. While the Staff witness raised several pertinent concerns, the Commission believes GBX's comprehensive construction management organization and the experience of its management team satisfy the requirement that it is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof.

B. Financing of Construction

This Section discusses whether GBX has demonstrated that is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers as required by Section 8-406.1(f)(3).

1. GBX

GBX asserts that it has demonstrated that it is capable of financing the construction of the Project without significant adverse financial consequences. It contends that it has a feasible plan for raising the capital needed to construct the Project using a project financing approach, which, it says, is frequently used to finance large capital projects in the energy industry and other infrastructure sectors. GBX contends that the project finance approach, coupled with the financing condition to the CPCN that it proposes (matching the financing condition included in the CPCN order for the Rock Island project) and that Staff endorses, will prevent adverse financial consequences to GBX's transmission customers and investors as well as to landowners and Illinois retail ratepayers. GBX claims that, based on the record, the Commission should find that it is

capable of financing the construction of the Project without significant adverse financial consequences.

a. Project Financing Plan

Mr. Berry testifies that the key distinction between general corporate finance and project finance is the nature of the revenues and assets used to recover and secure the investment and return. He explains that when corporate debt or equity are used to fund new construction, the securities are secured by all the assets and revenues of the issuer and not just the assets and revenues of the particular project, being financed. He states that key characteristics of the project financing method are that the project is owned by a special purpose legal entity which has no businesses, assets or liabilities other than those of the project and its business operations; and that the capital to construct the project is raised based on the anticipated revenues from and assets of the project. According to GBX project finance lenders and rating agencies prefer the borrower to be organized as a special purpose entity, with no outside commitments or agreements unrelated to the project to be financed that could be a source of additional liabilities or claims. GBX maintains that the absence of other liabilities or claims from other sources improves the risk profile of the entity and allows lenders to focus on the quality of the project's underlying revenue.

GBX states that it is a special purpose entity to construct, own and operate the Project. GBX explains that it will own all of the Project's assets, hold all of the Project's contracts, and be party to the easement agreements on all property on which it owns structures. GBX indicates that the revenues that will provide security for the financings are the transmission service contracts that it will enter into with its transmission customers. It states the assets that will provide security for the financings are the transmission line facilities, converter stations and easement rights.

GBX explains that project financing is widely used to raise capital for projects in the energy industry, including transmission projects. It notes the capital markets have a substantial history of supporting transmission projects, including merchant transmission projects, through debt and equity financings, and experience shows that significant amounts of liquidity exist in the capital markets for transmission projects that have reached an appropriate stage of development. GBX states that numerous electric transmission projects, including merchant or "shipper pays" projects like the Project, have been successfully financed using the project finance approach. It provides a list of representative project financing equity and debt transactions for U.S. transmission projects for which a total of approximately $7,272,400 of capital was raised. It states that some of these financings were over-subscribed, meaning that more lenders wanted to participate than was possible based on the size of the loan or debt offerings. GBX indicates significant institutional investors have made major investments in transmission line projects. GBX contends that in addition to electric transmission projects, project financing has long been used to finance the construction of new independent power generation projects, by the U.S. wind power industry and natural gas pipelines.

GBX states that it and Clean Line are currently engaged in the development stage of the Project, which includes route development, interconnection studies, obtaining major regulatory approvals including CPCNs or comparable authorities from this and other state commissions, and obtaining other permits. It states that funding for the development stage activities is provided by the equity investments of Clean Line's four owners, including ZAM Ventures and National Grid (through its subsidiary Grid America Holdings Inc.). GBX asserts that National Grid is a financially strong company with substantial assets and revenues and its subsidiaries are major participants in the electric and natural gas transmission and distribution sectors in the U.S. GBX says National Grid's participation as an equity investor in Clean Line provides additional credibility in the capital markets for Clean Line's projects, financing plans, and financial capabilities. GBX states that ZAM Ventures and the Zilkha family, another of Clean Line's equity investors, have previously made significant investments in companies in the energy industry, including companies developing renewable resources projects, and are familiar with the development and financing model being used by Clean Line. GBX explains these equity investors have the commitment and experience to support GBX's development and financing plan. GBX states that during the course of this case, an additional investor, Bluescape Resources (through its subsidiary Clean Grid Holdings LLC) committed to invest $17,000,000, with an option to invest an additional $33,000,000. GBX claims that as Clean Line's projects, including the GBX Project, achieve additional development milestones, it will be become progressively easier to attract additional capital.

GBX states that when it has completed the necessary permitting and licensing processes, including obtaining the major regulatory approvals, to enable it to have certainty on the route and construction schedule for the Project, it will enter into long-term contracts with customers for transmission capacity on the Project. GBX indicates that it will then issue project-specific debt secured by the revenue stream from the transmission capacity contracts, to raise the capital needed to complete remaining development activities, construct the Project, and place it into operation. GBX explains that it is typical in project finance markets that project-based lenders and equity investors will require the project to have obtained the necessary permits and regulatory and other approvals (which are necessary in order to have a high degree of certainty as to budget and timeline) before funding their financing commitments.

GBX states that the exact percentage of the Project's transmission capacity that will need to be under contract in order to obtain financing commitments for the full construction cost of the Project will depend on the prices, length, and counterparty creditworthiness of the transmission contracts. It explains that lenders typically base project financing borrowing on the project's debt service coverage ratios, where the numerator is contracted cash flow available to service debt and the denominator is principal and interest owed. GBX indicates that typical debt service coverage ratios of project financings are 1.25 to 1.50. It explains that these coverage ratios allow projects, such as the one in this case, to raise substantial amounts of debt financing to fund construction costs while maintaining a margin of safety on debt repayment in the event of unforeseen operational or commercial problems.

GBX claims in addition to the capital raised through debt issuances secured by the long-term transmission contracts, additional equity capital may also be raised to help finance construction of the Project, or the existing investors may make equity investments. GBX states that many successful transmission projects have followed the above-described model, in which the initial equity investors fund development activities and then the project is refinanced at the project company level to fund construction.

GBX asserts the capability to finance the Project is high because it is a very economically viable and commercially attractive prospect. GBX explains the low construction cost, capacity factor, coupled with the GBX's HVDC transmission to MISO and PJM markets, will result in the Kansas wind power being delivered at prices competitive with or lower than the output of other new generation alternatives such as natural gas combined cycle generation or new wind plants in Illinois. GBX notes that there are no fuel costs and therefore (unlike thermal generation) no risk of future variability for that expense. GBX concludes that the wind generators can enter into long-term supply contracts at attractive prices, and correspondingly can enter into long-term contracts for transmission capacity on the Project. GBX asserts the commercial attractiveness of the Project will enable it to contract a significant portion of the Project's transmission capacity with long-term contracts, which in turn will make investing in or lending to the Project attractive to investors and lenders interested in predictable long-term returns.

GBX asserts that Clean Line's management team has the expertise and experience to successfully execute the financing plan for the Project. It emphasizes the experience of Mr. Skelly and Mr. Berry, who were previously employed at Horizon Wind Energy, one of the leading developers of wind generation facilities in the U.S., where they brought a number of significant wind energy projects into operation using project financing. GBX indicates that members of the Clean Line management team are familiar with and have worked on prior transactions with many of the lenders and equity investors that have made previous investments in transmission projects or that have expressed interest in investing in Clean Line's projects.

b. Proposed Financing Condition

GBX proposes that the Commission adopt the same financing condition for the Project as the Commission adopted for the Rock Island project in its CPCN order in Docket No. 12-0560. GBX states that the condition requires it to make a filing with the Commission documenting (in the manner prescribed in the condition) that GBX has secured debt and equity capital and/or financing commitments in a total amount equal to or greater than the total remaining Project cost, before it can begin to install transmission facilities on easement properties. GBX explains that the financing condition will protect customers, investors, and other interested stakeholders from experiencing significant adverse financial consequences from the financing of the Project. GBX asserts that its lenders and investors, as a matter of standard practice in the capital markets, impose the same requirement on GBX. It states this condition obviates the risk of an incomplete project with limited collateral value due to an inability to secure sufficient financing for completion.

GBX explains that, with respect to landowners from whom GBX will obtain easements for the Project, the financing condition will prevent any possibility that GBX would begin construction of the Project, install structures on easements, and then abandon them because of insufficient funds. With respect to its transmission customers, GBX states the financing condition allows them to make their own financial commitments to build wind generation projects to connect to the Project, with confidence that GBX will be able to complete construction of the Project as planned.

GBX dismisses CCPO's arguments regarding Clean Line's cash on hand. It notes a term sheet with Bluescape Resources and its investment of $12 million of new capital in Clean Line. GBX says the argument does not it take into account how much cash on hand is needed on a daily basis to meet the obligations of the business. GBX asserts that the fact that Clean Line does not have any bank loans or lines of credit is good. It states Clean Line has been able to fund the development activities for its subsidiaries' projects entirely through equity investments from its owners, without having to incur debt

In response to Farm Bureau's characterization of Clean Line's financial management approach as "raise money, spend money, run out of money, raise more money," GBX notes that Farm Bureau's argument demonstrates that Clean Line has been successful, over a period of years, in continuing to raise new equity capital, from both existing and new investors, as the needs of its projects required. It states there is no reason for Clean Line to obtain additional investment capital significantly in advance of when it is needed, and there is certainly no need to secure the amounts of capital needed to construct a project years in advance of the start of construction.

GBX concludes that based on the record, the Commission should find GBX has demonstrated that it is capable of financing construction of the Project without significant adverse financial consequences for GBX or its customers.

2. Staff

Staff notes GBX's willingness to accept the condition that it will not install transmission facilities for the Project on easement property until such time as it has obtained commitments for funds in a total amount equal to or greater than the total project cost. Staff states this is the same requirement as the requirement the Commission adopted in its certificate order for Rock Island in Docket No. 12-0560. To ensure that GBX does not begin construction of the project without sufficient funding in place to complete it, Staff recommended that the Commission impose these conditions requiring that the financing for the total project cost be secured before construction can begin in Illinois.

Staff notes that in Docket No. 12-0560, the Commission found that this condition "offers the flexibility necessary for a merchant transmission project to be feasible, while operating within the parameters of our current regulatory structure." Docket No. 12-0560, p. 151. Staff believes that the same protections should apply here. It asserts this

condition will result in GBX being prohibited from beginning construction if it does not raise all of the capital needed to construct the entire project. Staff concludes, with that condition, GBX and its customers will not suffer significant adverse financial consequences. It asserts that the condition establishes proper protections for landowners because GBX will not be able to install transmission facilities on landowners' property unless such commitments have been obtained. Staff states, with the imposition of these protective conditions, it does not see any significant adverse financial consequences for the utility or its customers.

Staff disagrees with Farm Bureau's argument regarding the statutory criteria for an applicant's financial capability. It asserts the purpose of imposing the financial condition restricting GBX from starting construction until all of the financing has been secured is to ensure that it is capable of financing the Project. Staff agrees with GBX that project financing is commonly used to finance large capital projects in the energy industry, including transmission projects. It notes GBX's assertion that project-based lenders and equity investors require that a project obtain the necessary permits and regulatory approvals before committing to financing. Staff concludes the financing condition proposed by GBX will provide protection against adverse consequences if GBX Company is unable to raise sufficient funds for the construction of the Project.

3. Farm Bureau

a. GBX's Business Model

Farm Bureau states that according to Mr. Berry's testimony, Clean Line's sole strategy for raising funds for its numerous projects around the country has been via private equity. Farm Bureau describes Clean Line as having a $10 billion national business venture, for which it cyclically raises money, runs out of money, and raises money again. Farm Bureau says that Clean Line characterizes the strategy as "project financing" because it does not raise new tranches of funds or commitments until it hits certain project milestones and needs cash. Farm Bureau describes the original investment at the inception of the company and states that Clean Line needed, requested, and received additional funding commitments of four additional occasions. Farm Bureau asserts that with this strategy, at no time has Clean Line or any of its subsidiaries had capital commitments for all of Clean Line's projected project costs, collectively or singularly.

b. Adverse Financial Consequences

Farm Bureau asserts that sufficient funds to finance the Project are neither available nor safely attainable without the strong potential for adverse financial consequences to occur. It notes Mr. Skelly's testimony that the Project is proposed to have a total cost of $2.75B. Farm Bureau states that he testified that the proposed cost for Clean Line's other subsidiary transmission projects totals roughly $10 billion. Farm Bureau concedes that GBX has produced financial records, but asserts that it is clear that GBX does not have sufficient cash-on-hand to self-finance. It notes that other than $5

million by Bluescape, none of the owners of Clean Line have committed to investing any additional capital in the Project. Farm Bureau concludes that Clean Line may or may not commit financing to a particular project, including GBX, and does not have sufficient cash to fund any of its transmission projects across the country.

Farm Bureau asserts that if the Project is approved by the Commission, GBX will depend upon funding from the capital markets. It notes Mr. Berry's estimate that GBX would need 50% of its load would need to be contracted with customers to obtain commitments for construction financing. Farm Bureau asserts that GBX has no idea whether sufficient demand, i.e. need, exists for its load to justify the construction of the Project and attract financing.

Farm Bureau asserts that looking at Clean Line's immediate future, it is apparent that many contingencies are up in the air for it to obtain capital funding. It states the company is due to run out of money and will need additional capital invested in late 2015/early 2016. Farm Bureau notes the amount of capital that has been injected into Clean Line and the amount of cash currently on hand. It argues that for a $10 billion business plan, Clean Line was recklessly down to its last dollars in May 2015.

Farm Bureau notes that Bluescape has only funded $12 million of its $17 million commitment, and requires Oklahoma Corporation Commission approval before committing another $5 million. Farm Bureau asserts that the additional $5 million investment may or may not occur, and that Bluescape is not contractually obligated to invest its remaining $33 million option to invest.

Farm Bureau emphasizes the uncertainty of the financing, saying that Clean Line may or may not have enough money to proceed forward with its projects around the country and may have to go start looking for more. It asserts that in any event, Clean Line does not have enough cash on hand or committed to complete the Project, or any of Clean Line's other projects. Farm Bureau asserts that Clean Line's practices for managing money should be seen as unacceptable to the Commission.

c. Statutory Requirement

Farm Bureau asserts that the GBX and Staff positions on the nature of the statutory requirement for an applicant's capability to finance the Project is flawed and irresponsible. It again accentuates the gulf between Clean Line's funded capital and $10 billion nationwide plan. Farm Bureau emphasizes that Clean Line has zero commitments for future capital funding, and little cash on hand as of May 31, 2015. Despite this, Farm Bureau says, GBX asserts that it has the capability to finance the Project without significant adverse financial consequences, and alternatively requests that the Commission adopt the same requirement pertaining to financing of the Project that it imposed on the Rock Island Project. Farm Bureau says the alternative is approval of a condition that prohibits GBX from installing transmission facilities for the Project on easement property until such time as GBX has obtained commitments for funds in a total amount equal to or greater than the total project cost. Farm Bureau describes the

alternative as essentially, to make Applicant come back to the Commission and establish that it has sufficient financing before starting construction. Farm Bureau proclaims that, contrary to statute, this condition provides for a post-Final Order showing instead of a pre-Final Order showing.

Farm Bureau complains that the Staff witness only deemed it necessary to submit a 2-page, 5-paragraph, affidavit recommending that the above condition be imposed and not offering any analysis of GBX's financial capability. Farm Bureau states that after reviewing the Application and, apparently, supporting financial information found in exhibits and the discovery of other Staff witnesses, Ms. Freetly described her familiarity with Clean Line's financial condition as "[g]enerally and vaguely." Farm Bureau states she testified that she has not assessed the risk of GBX running out of funds prior to the project finance stage. Farm Bureau argues that Staff's lack of analysis should not provide comfort to the Commission that the financial capability of Applicant has been fully vetted. Farm Bureau underscores that the statutory criteria for an applicant's financial capability is a prerequisite to being granted a CPCN. Farm Bureau asserts the statute does not provide for a post-hearing showing that occurs far after the litigation. Farm Bureau finds that GBX's and Staff's position on a post-hearing showing for financial capability begs the question. It states that under this reading any applicant could be approved as financially capable without any showing whatsoever. Farm Bureau concludes that GBX has not met its burden and it should be denied a CPCN.

4. LACI

LACI asserts that GBX has failed to show it is capable of financing the Project. LACI says the record shows Clean Line, upon whom GBX is completely dependent for funding, is extremely thinly capitalized. It asserts that there is evidence Clean Line has slowed its companion project in Illinois and Iowa due at least in part to a shortage of development funding, based on the prolonged inactivity in Iowa by that project's entity, Rock Island Clean Line LLC. LACI criticizes the use of the project finance strategy, stating that GBX has not described one other project similar to its Project which has successfully financed its construction based on a project finance strategy. It explains: no example was given in which a merchant developer was able to achieve a majority of its financing through project financing from outside sources, where the transmission line was connecting to an undeveloped area, without generation in place to utilize the line. LACI asserts that the CREZ projects GBX cited as similar (included in the list of precedent capital market transactions) were different in at least one critical aspect. It explains the CREZ projects were rate-regulated, not merchant. LACI states that it is GBX's burden to demonstrate financial capability. LACI asserts that without a demonstration of sufficiently similar precedent transactions presented, it may not be concluded that GBX has shown it is capable of financing the proposed construction. LACI concludes, GBX has fallen short of this portion of the required statutory showing.

LACI complains that the Staff finance witness performed no analysis whatsoever. It states she simply filed an affidavit in which she essentially stated that, to her, the financing condition satisfied GBX's statutory burden. LACI asserts that the lack of any

review or analysis by Staff of the financial condition of GBX or Clean Line, or the viability of the Project financing plan and strategy, falls far short of what is required. LACI concludes that Staff's input is of no use and should not be relied upon to any extent to support a finding of financing capability.

5. CCPO

CCPO also emphasizes Clean Line's cash at hand relative to the size of the Project. It notes that Clean Line does not have any bank loans or other lines of credit that could be used to help fund the operations of the business. It notes the indefinite nature of the Bluescape investment, i.e., Bluescape could request that 50% of any capital raised would be utilized to pay back Bluescape if certain conditions are not met. It calculates that assuming Applicant raises additional capital of $24 million, Bluescape could demand a return of its entire investment to date.

CCPO argues that the capability to finance issue emphasizes the reason why Section 8-406.1 is restricted to a "public utility." It asserts the Commission would have some knowledge of the financial books and records and the history of a public utility company. It states in the instance of a public utility, the Commission would be able to look at the books and records of an operating entity, whose balance sheet and profit/loss statement might have some relevance. It says in this case, there is simply no way that this Commission can make a proper finding as to Applicant's capability to finance construction of the project without significant adverse financial consequences. It asserts that, as of May 2015, Applicant did not have financing in place to go forward with the Project, nor for that matter any of its other four projects. It questions what would happen if all projects proceed at the same time. CCPO repeats that Applicant has not provided letters of credit nor any other documentation that would support a finding as to its financial capability.

CCPO asserts that there was absolutely no showing, nor even an attempt by GBX to prove, that it has the current financial ability to finance the proposed construction without significant adverse financial consequences. It says Ms. Freetly's testimony relies upon the case GBX presented, i.e., a condition being imposed that would preclude GBX from commencing construction without a showing of financial ability. CCPO construes GBX's proposal to be GBX saying, "Trust us. We will be able to get the money." CCPO emphasizes that Section 8-406.1(f)(3) states: "[t]hat the public utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers." CCPO concludes that Section 8-406.1 is intended for utilization by a public utility–a public utility that has customers.

6. IBEW

The IBEW does not address the technical arguments associated with the financing issue, but urges the Commission to find that the record shows GBX to be capable of financing the proposed construction, taking into account the proposed "financing condition," which matches the financing condition included in Rock Island's CPCN, in

Docket No. 12-0560. The IBEW recognizes that GBX' financing plan is dependent on entering into contracts with transmission customers in order to support the issuance of debt and equity to raise the capital for the Project, and that GBX has not entered into such customer contracts at this time. However, the IBEW believes the record is clear that receipt of a CPCN is a necessary prerequisite to it being able to sign both transmission contracts with customers and obtain binding financing commitments from investors. IBEW asserts that GBX has shown that there is strong customer interest by wind project developers in taking transmission service on the Project.

IBEW opines that the record shows that GBX's proposed financing approach is an established, frequently-used approach for raising capital for energy industry projects and other infrastructure-type projects. It finds the financing condition proposed by GBX to provide protection against adverse consequences should GBX ultimately be unable to raise sufficient funds for the construction of the Project.

The IBEW voices concern that if the Commission were to require GBX, and future, similar "merchant" project developers, to demonstrate that it has signed transmission customer contracts and/or has obtained sufficient binding commitments for permanent financing, before being granted a CPCN for a transmission project, this will at a minimum seriously delay the Project, and discourage or eliminate future projects of this type. It states that such an outcome could have an adverse effect on employment and economic development in Illinois.

7. Commission Conclusion

Based on its review of the Application, the evidentiary record, and the parties' arguments on this issue, the Commission concludes that GBX has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers. The Commission notes that GBX plans to use a project financing approach and has established a single purpose legal entity that will own the facility to be financed and has no other assets, liabilities or businesses. The Commission relies on the testimony of GBX and Staff that the project financing approach is commonly used in the energy and infrastructure industries. GBX testifies that this approach has been successfully used to raise billions of dollars for projects in the energy industry, including transmission lines, generating plants, and pipelines. There is ample evidence of the need for the Project and the interest of wind developers to support the conclusion that GBX will be able to enter into sufficient transmission contracts to support the project financing.

The Commission believes that the financing condition is a key component of finding that this statutory criterion has been satisfied. As the Commission discussed in the Rock Island CPCN Order, the criterion of Section 8-406.1(f)(3) must be considered in its entirety: that the applicant "is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers." The criterion requires that the applicant be capable of raising the necessary capital without adverse financial consequences. The financing condition prevents adverse financial

consequences, specifically, that GBX would commence construction but be unable to complete it due to insufficient funding, thereby leaving a partially completed Project or the possible need for financial assistance from ratepayers to complete the Project. In the event that GBX were unable to satisfy the financing condition and therefore to construct the Project, the only parties experiencing adverse financial consequences would be GBX's investors, whose investment of development capital expended on the Project may be lost. The Commission notes GBX's commitment that if the Project is terminated, all easements that have been acquired will be released.

The Commission notes that the evidence on which it is basing this finding is comparable to the evidence on this issue in Docket 12-0560, where the Commission found that GBX's sister company, Rock Island, is capable of financing the construction of its transmission project.

IX. PROPOSED CONDITIONS

This Section discusses proposed conditions to be attached to the CPCN, if a CPCN is granted.

A. GBX

1. Cost Allocation Condition

GBX asserts that, as a merchant transmission project, it will recover the costs of constructing and operating the Project directly through its charges to the transmission service customers that purchase transmission capacity and service on the Project. It indicates that it does not plan to attempt to recover the costs of constructing and operating the Project through RTO cost allocation processes or through other mechanisms that would spread and recover the costs from the general body of retail ratepayers in an RTO footprint or the service areas of one or more utilities e.g., by recovering the costs from all ratepayers through an RTO transmission tariff. GBX offers to formally agree not to allocate the costs of the Project to Illinois ratepayers without first seeking additional approval from the Commission to do so. It includes within this commitment both the costs to construct the Project and the costs of system upgrades allocated to GBX under the RTO interconnection processes. GBX asserts that this commitment is the same requirement regarding regional cost allocation that the Commission adopted in its CPCN order for the Rock Island project in Docket No. 12-0560. GBX agrees to have this commitment embodied as a requirement for its CPCN for the Project.

GBX offers specific proposed language for this requirement, which it states is taken from the Rock Island order, but modified to be applicable to GBX. GPX proposes the following condition:

> Prior to recovering any Project costs from Illinois retail ratepayers through PJM or MISO regional cost allocation, Grain Belt Express will obtain the permission of the Illinois Commerce Commission in a new proceeding

> initiated by Grain Belt Express. For the purpose of the prior sentence, any system upgrades set forth in an interconnection agreement with PJM or MISO or SPP and the costs of which are allocated to Grain Belt Express will be considered "Project costs."

GBX asserts that conditioning the CPCN for the Project in this manner addresses any potential concerns about future cost allocation without Commission review. Mr. Berry testifies that GBX would have to persuade the Commission, at a later date and in a separate proceeding, that the Project's benefits to ratepayers outweigh its costs to ratepayers, in order to justify resorting to cost allocation.

2. Financing Condition

GBX offers to commit that it will not begin construction of transmission facilities on easement properties until GBX obtains financing commitments sufficient to cover the entire cost of the Project. Specifically, Mr. Berry testifies that GBX is willing to accept the same requirement in its CPCN order that the Commission adopted in its CPCN order for Rock Island in Docket No. 12-0560. He provides the text of this requirement (revised from the Docket No. 12-0560 order so as to be applicable to GBX as follows:

> Grain Belt Express will not install transmission facilities for the Grain Belt Express Clean Line Project on easement property until such time as Grain Belt Express has obtained commitments for funds in a total amount equal to or greater than the total project cost. For the purposes of this condition:
>
> (i) "install transmission facilities" shall mean to affix permanently to the ground transmission towers or other transmission equipment, including installation of bases and footings for transmission towers, but shall not include (A) preparatory work such as surveys, soil borings, engineering and design, obtaining permits and other approvals from governmental bodies, acquisition of options and easements for right-of-way, and ordering of equipment and materials, and (B) site preparation work and procurement and installation of equipment and facilities on property owned in fee by Grain Belt Express including the converter station sites;
>
> (ii) "easement property" shall mean property on which Grain Belt Express has acquired an easement to install transmission facilities;
>
> (iii) "has obtained commitments for funds" shall mean (A) for loans and other debt commitments, that Grain Belt Express has entered into a loan agreement(s) with a lender(s) and has received the loan funds or has the right to draw down the loan funds on a schedule that is consistent with the need for funds to complete the Project, and (B) for equity, that Grain Belt Express or its parent company has received the funds from the equity investors or that the equity investors have entered into a commitment to

provide funds on a schedule that is consistent with the need for funds to complete the Project; and

(iv) "total project cost" shall mean the total estimated remaining cost, at the time that Grain Belt Express is prepared to begin to install transmission facilities, for the following Project activities: engineering, manufacturing and installation of converter stations; transmission line engineering; transmission towers; conductor; construction labor necessary to complete the Project; right of way acquisition costs; and other costs necessary to complete the Project. For reference, the total estimated project cost as of March 31, 2015 is $2.75 billion including estimated costs for network upgrades.

To allow the Commission to verify its compliance with this condition, Grain Belt Express shall submit the following documents to the Director of the Financial Analysis Division and the Director of the Public Safety & Reliability Division at such time as Grain Belt Express is prepared to begin to install transmission facilities:

a) On a confidential basis, equity and loan or other debt financing agreements and commitments entered into or obtained by Grain Belt Express or its parent company for the purpose of funding the Grain Belt Express Clean Line Project that, in the aggregate, provide commitments for funds for the total project cost;

b) An attestation certified by an officer of Grain Belt Express that Grain Belt Express has not, prior to the date of the attestation, installed transmission facilities on easement property; or a notification that such installation is scheduled to begin on a specified date;

c) A statement of the total project cost, broken out by the components listed in the definition of "total project cost," above, and certified by an officer of Grain Belt Express, along with a reconciliation of the total project cost in the statement to the total project cost as of March 31, 2015 of $2.75 billion (including estimated costs for network upgrades); and

d) A reconciliation statement, certified by an officer of Grain Belt Express, showing that the agreements and commitments for funds provided in (a) are equal to or greater than the total project cost provided in (c).

GBX affirms that it will demonstrate compliance with this condition, before starting construction of the Project on easement properties in Illinois, by filing, in this docket, the documentation described in the last portion of the requirement (quoted above), showing

the financing requirement has been satisfied, and will serve copies of the filing on all parties to this proceeding.

Mr. Berry testifies that the proposed financing requirement will prevent any possibility that GBX would begin construction of the Project and install structures on landowner easements, but then be required to abandon them because of insufficient funds to complete the Project. He asserts the financing requirement protects GBX's lenders, investors, and potential transmission service customers, as well as Illinois retail ratepayers, from "significant adverse financial consequences" as required by Section 8-406.1(f)(3)). Specifically with respect to retail electric ratepayers, he states the financing requirement ensures that GBX will not find itself in a situation in which it begins construction of the Project, finds it does not have sufficient committed financing to complete construction, and therefore must ask the Commission (pursuant to the cost allocation condition) for approval to recover costs of the Project through a mechanism that recovers the costs from the general body of Illinois ratepayers.

GBX states that adoption of the financing requirement for GBX was supported by Staff witness Freetly, Staff Senior Financial Analyst. GBX notes her testimony that the financing requirement is consistent with the project financing approach that GBX will use to finance the construction of the Project. GBX asserts that no witness for any party testified that the financing requirement should not be adopted, or proposed any changes to the above-quoted text of the financing requirement.

3. Interconnection Agreement Requirement

GBX states that the western Kansas converter station of the Project will be interconnected with the transmission grid of SPP, and the Project will have interconnection and delivery points with the MISO transmission grid in northeast Missouri and with the PJM transmission grid in western Indiana. The purpose of these interconnection processes is to ensure that the Project's interconnections with the existing transmission grids comply with all local, regional and federal reliability standards and requirements. Mr. Berry testifies that federal law and its investors require that GBX must enter into definitive interconnection agreements with SPP, MISO and PJM before it energizes the Project. GBX proposes to have the following requirement included in its CPCN order:

> Prior to energizing the Project, Grain Belt Express will fully comply with the applicable interconnection requirements of, and sign all necessary interconnection agreements with, SPP, MISO and PJM.

GBX asserts this is the same requirement that the Commission adopted in its CPCN order for the Rock Island project (with the text revised to be applicable to GBX and to include SPP). GBX states that no witness for any other party proposed that this requirement should not be adopted, or proposed that the text of the requirement should be revised.

4. Protection and Restoration of Landowner Properties

GBX reiterates that it has entered into an AIMA, which, by its terms, will be incorporated into each easement agreement for the Project in Illinois. GBX also proposes a set of requirements to avoid, mitigate and remediate adverse impacts on agricultural properties from the impacts of construction be specified in the CPCN order for the Project. It notes these requirements were included in the Rock Island CPCN order. GBX proposes that this same be specified in the CPCN order for the Project. These requirements, which are set forth on GBX Exhibit 7.16, address prevention, mitigation and remediation of soil compaction; identifying, avoiding impacts with, and repairing or replacing drainage tiles; and avoiding use of guy wires for structures.

5. Response to Parties

a. CCPO

In response to CCPO's argument that, under Section 8-503, the financing condition would result in GBX being ordered to construct the Project before it has demonstrated that it can finance the project, GBX asserts that it has not requested that it be ordered to construct the project. It states it has requested authority to construct the Project. GBX states it understands that the conditions and requirements to be imposed on its CPCN would also be applicable to the Section 8-503 authority.

GBX objects to CCPO's proposal that it be required to prove it has secured financing for the proposed construction before attempting to acquire easements. It states such a requirement would materially alter the financing condition and notes it was not presented in testimony. Regardless, GBX asserts, the proposed requirement is not needed to protect landowners. It notes that Mr. Skelly, committed in testimony that if GBX were to acquire easements but then not go forward to construct the Project, GBX will release the easements. GBX commits that if the Project is terminated, all easements that have been acquired will be released.

In response to CCPO’s proposed requirement that the easement should be restricted to GBX, Applicant notes that GBX's form of Easement Agreement limits the use of the easement to an electric transmission line. It states, the easement cannot be sold or subleased to other entities for the installation of other types of facilities or other uses. GBX rejects the suggestion that the easement be restricted to GBX. It explains that scenarios can be envisioned, over the long life of the transmission line, in which it could be sold to a new owner. GBX concludes that as long as the Easement Agreement precludes any uses of the easement other than the electric transmission line, the easement grantor is adequately protected.

GBX objects to CCPO’s proposed requirement that it be required to post a bond or other financial security to provide financing for costs of the removal of the line when its operational life is concluded, and that it should be required to increase the amount of the bond or security annually. GBX explains that transmission lines remain operational not

based on who owns them, but because they remain valuable, useful assets. It states that over time, individual components of the line may be replaced, but the transmission line remains a useful, functioning asset to transport and deliver power from generators to receiving points. It adds that if it were to encounter financial difficulties at some point in the operating life of the Project, and have to undergo a bankruptcy or financial restructuring, the transmission line would remain a valuable and useful asset, which could be sold to a new owner who would continue to operate it; or it could continue to be operated by GBX, on a profitable basis, after financial restructuring is completed. GBX notes Ms. Freetly's testimony that she was not familiar with any decommissioning of a transmission line, and therefore did not think it a likely scenario that would need to be guarded against or financed for. GBX says a similar suggestion was made and rejected in Docket No. 12-0560. It notes, in that proceeding there was testimony that scrap metal and parts would yield revenues that could be used to cover the cost of dismantlement and restoration.

b. Farm Bureau

GBX states Farm Bureau appears to argue that it should be required to establish compliance with the conditions GBX has proposed before proceeding with the Project. It responds, that is already an express requirement of the financing requirement, i.e., that GBX cannot begin to install transmission facilities on easement properties until it has satisfied the financing requirement, including documenting compliance through the required compliance filing with the Commission. It states this is also essentially a requirement of the interconnection agreement requirement, i.e., GBX cannot energize the Project until it complies with the interconnection requirements of, and signs all necessary interconnection agreements with, SPP, MISO and PJM. It notes that the cost allocation condition is intended to be in effect and applicable throughout the development, construction and operation of the Project, so requiring GBX could not establish compliance with it before beginning to construct the Project. It states the condition relating to protection and restoration of landowner properties from potential impacts of construction establishes processes and procedures that GBX and its contractors are to follow during construction of the Project (and after, to the extent any remediation actions are required).

c. LACI

GBX responds to LACI's argument that the financing condition may not legally substitute for the statutorily required showing that it is capable of financing the proposed construction. It states that GBX has shown it is capable of financing construction of the Project, based on its financing plan, the experience and expertise of its management team, the commercial attractiveness of the Project, the history of transmission projects and other energy industry infrastructure projects being successfully financed using the project finance approach, the interest among investors in transmission projects, and other factors. It adds that the financing condition will protect transmission customers, investors, landowners and retail ratepayers from significant adverse financial consequences.

B. Staff

Staff recommends the Commission impose the financing condition proposed by GBX i.e., that GBX may not begin construction of the Project without sufficient funding in place to complete the entire Project. Staff asserts that this condition requires that the financing for the cost of the total Project be secured before construction can begin in Illinois. Ms. Freetly testifies that this requirement will prohibit GBX from commencing the Project until it has all of the capital needed to construct the entire project. She notes that GBX will not be able to install transmission facilities on landowners' property unless commitments obtained commitments for funds in a total amount equal to or greater than the total project cost are obtained, thereby establishing proper protections for landowners.

Citing Black Hawk Motor Transit Co. v. Illinois Commerce Comm'n, 76 N.E. 2d 478, 486 (1947), Staff asserts the Commission has jurisdiction over its rules, regulations, orders and decisions and while acting within the scope of such power may, if the facts warrant, rescind a previously issued CPCN. Staff asserts that the Commission has authority to condition the CPCN on a requirement that prior to recovering Project costs from Illinois ratepayers through RTO cost allocation, it will obtain the Commission's permission to do so in a new proceeding before the Commission. It states the arguments to the contrary are flawed and should be rejected.

Staff states these arguments fail to recognize that the Commission has continuing jurisdiction over any CPCN that it grants as discussed in the Black Hawk Motor Transit Co. Illinois Supreme Court decision. Staff asserts that where the Commission finds, in accordance with due process, that errors of law or fact or a change in facts or circumstances so warrant, it has the authority to rescind a CPCN and its underlying order.

Staff opines that GBX has proposed a reasonable condition consistent with the Commission's prior order in Docket No. 12-0560. It notes GBX has iterated its commitment to comply with this condition. Staff finds the condition to be material to the Commission's findings in an order granting a CPCN to GBX. It explains that, the worst case scenarios envisioned by the interveners – e.g., GBX chooses not to honor its commitment to seek Commission approval, or ignores a contrary Commission decision -- would represent a significant change in the facts and circumstances that formed the basis for the Commission's decision to grant a CPCN to GBX. Staff concludes that, as such, the Commission would be well within its authority to act as appropriate by such a change in facts and circumstances. Staff asserts that the interveners' arguments in this regard should be rejected.

C. Farm Bureau

Farm Bureau emphasizes the uncertainties associated with the Project. It notes the number of times the word "uncertain" or "uncertainty" appeared in the Rock Island Order. It notes that the Commission's Conclusion, where the Commission indicated that a proper statutory assessment is difficult given the uncertainties presented by that project. Farm Bureau finds this Project to be similar to the Rock Island Project. It asserts that

"uncertain" is an accurate response as to whether GBX will build the Project, have adequate employee resources, expand its capacity if required, obtain adequate financing, ever request eminent domain powers, or meet the multiple contingencies provided for the Project.

The Farm Bureau compares imposing the conditions requested by GBX to swearing in a first year law student to practice law and issuing him an Attorney Registration Disciplinary Committee ("ARDC") card, but not allowing the law student to exercise his lawyer status until he takes professionalism classes and passes a bar exam three years later. Farm Bureau asserts the proposed conditions should be considered to be preconditions, i.e., items which must be established by GBX as present and satisfactory in order to meet the statutory burden for Section 8-406.1 relief. It asserts to characterize the conditions otherwise would force the Commission to invent its own process not detailed in the controlling statute, a step outside of its bounds. Farm Bureau notes the well-established principle that administrative bodies only have that jurisdiction conferred by the legislature, and may not expand such jurisdiction. Farm Bureau asserts that the conditions are an attempt by GBX to delay meeting the statutory requirements for issuance of a CPCN until after a final Commission decision. Farm Bureau opines that the conditions should not be accepted.

D. LACI

1. Financing Condition

LACI asserts that the financing condition may not legally substitute for the statutory requirement that GBX show it "is capable" of financing the proposed construction. It maintains that potential future capability, especially based on the unique, speculative, nature of this Project and GBX's weak financial condition, is insufficient.

2. Cost Allocation/Rate Recovery Condition

LACI notes that GBX has offered as a condition, or requirement, to be imposed as part of the Commission's Order that prior to recovering any Project costs from Illinois retail ratepayers through RTO regional cost allocation, GBX will obtain the Commission's permission in a new proceeding. LACI asserts that this requirement suffers from a legal infirmity. It states that under the Constitution's Supremacy Clause, and implementing federal legislation, wholesale electric rates are under the exclusive jurisdiction of the federal government, in this case the FERC. It states that in Narragansett Electric Co. v. Burke, 119 R.I. 559, 381 A.2d 1358 (1977), the Rhode Island Supreme Court reversed a decision by the Rhode Island Public Utilities Commission refusing to pass through to retail ratepayers wholesale power costs the utility had incurred. The Court held that federal preemption required that such costs, as reasonable operating expenses, be allowed to be passed through. LACI states that later, in Nantahala Power & Light Co. v. Thornburg, 106 S. Ct. 2349 (1986), the U.S. Supreme Court rules that state regulatory commissions lack the authority to even question the reasonableness of FPC [now FERC]-imposed wholesale rates for purposes of setting retail rates.

LACI concludes that based on such case precedent, it appears that, despite GBX's assurances, it, and this Commission, may have no control over the imposition of Project costs to Illinois retail ratepayers once MISO and/or PJM agree to a cost allocation model in place of the merchant model.

LACI concurs with Farm Bureau's and CCPO's proposed conditions. It asserts that if the Commission grants GBX the relief it seeks, these conditions, along with GBX's financing condition, should be imposed. It adds that intervenors and landowners should have the opportunity to review GBX's submissions relating to the conditions. Intervenors should receive notice, be allowed to appear/intervene, and to participate in proceedings concerning the sufficiency of the submissions. LACI argues that anything short of this notice and opportunity to participate would be a denial of due process rights

E. CCPO

CCPO notes that in the Rock Island Clean Line case, this Commission imposed certain conditions prior to Rock Island commencing construction of the project in question. It asserts that because this application was filed pursuant to Section 8-406.1, it presents a further complicating factor, noting the requirement that Section 8-503 authority be included in a CPCN under Section 8-406.1. It is troubled by the requirement that the order shall include language authorizing or directing the construction of the high voltage electric service line and related facilities as approved by the Commission. CCPO states that any order entered herein would necessarily require that the Commission order construction of the Project in question. CCPO concludes that if the Application is granted on or prior to November 21, 2015, GBX will then be ordered to build the Project without a showing of the ability to finance the proposed construction. If finds imposition of the condition relied upon by Ms. Freetly to be problematic.

CCPO concedes that there are certainly conditions that should be imposed. It notes that Section 8-509 provides for an expedited procedure for the acquisition of private property if the order is entered as part of a Sec. 8-406.1 proceeding. CCPO warns that Applicant might acquire some or all of the required easements but not have sufficient funds to complete the project. It concludes that first, GBX should be required to prove it has secured financing for the proposed construction before attempting to acquire easements.

Next, CCPO proposes that the Commission order requiring that Applicant void the easements in question if the project is not completed in a timely manner. It relies on Mr. Skelly's testimony that GBX would release or terminate the easements if the Project did not go forward.

CCPO asserts that for the commitment to release the easements, if the Project does not go forward, to have any meaning, the easements in question should not be transferrable to other entities. It states that if GBX does not go forward with the project, the easements should be restricted such that GBX must release the easements in

question. CCPO asserts there should be imposed a time limit as to how long GBX can hold the easements. It explains that the easements represent valuable property rights, and create a cloud on the title of the landowners in question. CCPO asserts that if GBX does not commence construction within the ordered time period, or if it does not complete construction, GBX should be required to cancel the easements. CCPO maintains that GBX should not be allowed to utilize the Act to create a valuable asset, the easements, and then transfer or sell these assets to a third party. It concludes that if GBX does not utilize the easements within a reasonable amount of time, they should not continue to be a lien cloud on the property of Illinois landowners.

F. MEZ

MEZ finds the proposed Cost Allocation/Rate Recovery Condition to be illusory and meaningless. It asserts this Commission lacks jurisdiction to even accept such a promise, much less enforce it should GBX renege. MEZ asserts that the transmission line, which starts in Kansas and terminates in Indiana, is indisputably a medium of interstate commerce. MEZ asserts the transmission line would be an integral part of the wholesale power markets it serves.

MEZ asserts that the question of whether costs of the Line should be allocated to Illinois ratepayers goes directly the issue of the rates, terms, conditions and costs of interstate transmission service that would be offered by the Line. It states that interstate transmission is exclusively a matter of federal jurisdiction, citing 16 U.S.C.A. Section 824(a) and (b) (2015). MEZ asserts that FERC's jurisdiction over interstate transmission is exclusive and plenary, citing Federal Power Commission v. Southern Cal. Edison Co., 376 U.S. 205, 215-216 (1964). MEZ maintains that the federal government's preemption of the field of regulating both wholesale electricity markets and interstate transmission is not simply a matter of administrative law, but is rather based on the Supremacy Clause of the U.S. Constitution, citing Naragansett Electric Co. v. Burke, 119 R.I. 559, 564 (1977). MEZ concludes that the federal government has displaced any state jurisdiction and preempted the entire field of interstate transmission and wholesale electricity markets, citing to Nanantahala Power & Light Co. v. Thornburg, 476 U.S. 953 (1986).

MEZ states that if the Commission were to even accept GBX's undertaking on this question, much less open an investigation of such cost allocation at some point in the future, even at GBX's request, it would necessarily entangle itself in an investigation of the rates, terms and conditions of service for interstate transmission of electricity. MEZ asserts that all these matters lie within FERC's exclusive and plenary jurisdiction. Accordingly, MEZ concludes, this Commission has no jurisdiction to even accept GBX's undertaking, much less investigate and approve or disapprove any GBX proposal to allocate costs of an interstate transmission line to ratepayers at some point in the future. MEZ states that GBX's representation to the contrary, implicit in its offer of this so-called promise to the Commission, could not be more empty or more false.

G. IBEW

IBEW finds the financing condition proposed by GBX would provide protection against adverse consequences should GBX ultimately be unable to raise sufficient funds for the construction of the Project. It notes that it is the same condition that the Commission adopted in Docket No. 12-0560, when it granted a CPCN to Rock Island and that it is supported by Staff.

The IBEW voices concern that if the Commission were to require GBX (and, in the future, similar "merchant" project developers) to demonstrate that it has signed transmission customer contracts and/or has obtained sufficient binding commitments for permanent financing, before being granted a CPCN, it would seriously delay the Project and discourage or eliminate future projects of this type. IBEW states that outcome could have an adverse effect on employment and economic development in Illinois. The IBEW supports the adoption of the financing condition.

H. Commission Conclusion

The Commission finds that the conditions proposed by GBX are in the public interest and should be adopted. The cost allocation condition confirms GBX's commitment that the costs of constructing and operating the Project will not be imposed upon Illinois ratepayers, but will be recovered directly through its charges to the transmission service customers that purchase transmission service and capacity on the Project.

The financing commitment will prevent any possibility that GBX would begin construction of the Project and install structures on landowner easements, but then be required to abandon them because of insufficient funds to complete the Project. The Commission adopts the financing commitment and directs that GBX shall demonstrate its compliance with the financing condition through a compliance filing in this docket, to be served on all parties of record. The Commission notes that the record reflects that GBX and Staff are in agreement as to the form the compliance filing shall take. In addition to the financing condition, the Commission notes GBX's commitment to return easements to landowners in the event the Project is not constructed. The interconnection commitment will ensure that the Project's interconnections with the existing transmission grids comply with all local, regional and federal reliability standards and requirements. In addition, the Commission finds that the CPCN shall be conditioned on GBX fulfilling its commitments in the AIMA, and the additional requirements which are set forth in GBX Ex. 7.16. These requirements provide additional assurance that it will avoid, mitigate and remediate adverse impacts on agricultural properties from the impacts of construction.

Based on its consideration of the evidentiary record and the arguments of the parties, the Commission concludes that it is not necessary to adopt or impose the additional conditions proposed by CCPO. The Commission notes that GBX, through its President, has already committed that if the Project were to be terminated, GBX will

release all easements that it has obtained. GBX avers that its easement agreement provides that the easement is solely for the construction and operation of GBX's electric transmission line. The Commission does not find it necessary to require GBX to post a bond or other financial security for the decommissioning and dismantlement of the transmission facilities. The record shows that transmission facilities are long lived and not likely to cease operations and be abandoned in place, although they can be sold to a new owner. It notes that transfer of the Project would have to be approved by the Commission, and the new owner would need to obtain a CPCN from this Commission to operate the line

X. OTHER

This Section discusses miscellaneous arguments related to the Section 8-406.1 requirements.

A. Farm Bureau

Farm Bureau asserts that a case of this nature is extremely complicated because of its expedited nature, novel issues, large scope, and growing public opposition. It says the case is also unique because GBX is a start-up company that has never before done what it is proposing to do in Illinois. Farm Bureau maintains that, as it has laid out in exhaustive detail in this docket, Docket No. 12-0560, involving Rock Island, and numerous reviewing courts, GBX, its sister companies, and its parent companies are not Illinois public utilities and are not eligible for a CPCN. Farm Bureau opines that the Commission's job would be easier if they were public utilities, because then a track record could be established and scrutinized. It states, in the traditional sense, this does not exist here.

Farm Bureau observes that although GBX does not have a track record to examine, the Commission does have experience with Rock Island and Clean Line. It notes that with the Rock Island Project, Rock Island chose to come to Illinois for regulatory approval before requesting approval by the IUB. Farm Bureau states that Rock Island, after apparently examining the process in Iowa, and understanding that its CPCN must be exercised within two years in Illinois, moved on to obtain approval by the IUB. According to Farm Bureau, it then became clear that Rock Island had a different understanding of the regulatory process than did the IUB, and now has to start over in some respects by obtaining a high percentage of voluntary easements before proceeding to a "needs" approval in Iowa. Farm Bureau states that GBX and Clean Line now think the fastest that Rock Island can obtain approval in Iowa is in 2-3 years. It says that instead of waiting to obtain Iowa's approval before coming to Illinois, it did the opposite. Farm Bureau says it now appears that the Commission may have issued a CPCN to Rock Island for nothing. Farm Bureau argues that given that GBX was just denied regulatory approval in Missouri, it appears that GBX is asking the Commission to make the same mistake twice. Farm Bureau asserts that GBX can wait. It states there are not compelling reasons to persuade the Commission to take this risk.

In addition, Farm Bureau maintains, the evidence elicited in this docket regarding Rock Island should give the Commission pause. It says that by the accounts of Messrs. Skelly and Berry, Clean Line is full steam ahead with the Rock Island Project and is obtaining voluntary easements to work towards approval in Iowa, and they hope to accomplish this goal in 2-3 years. Farm Bureau notes the testimony of Mr. Berry that he wants the Iowa line built as quickly as they can and that he is familiar with the Rock Island Project from an overall management and budgeting perspective. Farm Bureau argues that Clean Line's financial activity, both retroactively and prospectively, is not consistent with its representations that a lot of work lies ahead in Iowa.

Farm Bureau asserts that Rock Island's budget does not make sense in the face of its stated goals. It maintains that GBX's and Clean Line's record in Illinois is not great. Farm Bureau explains Clean Line has a history of requesting CPCNs it cannot use, has dwindling funds, and its statements do not line up with the facts. Farm Bureau concludes that the Commission should not go down this road again with Clean Line; it should deny the request for a CPCN.

B. LACI

LACI is concerned that the relief requested in the GBX Application would, if granted, create a clear path to eminent domain authority. It asserts that there are many unique aspects of GBX and this proceeding, and describes the Project as substantially uncertain. LACI finds the nature of the Project demands a close examination to determine whether eminent domain is an appropriate tool to make available to GBX. LACI believes the Commission should strongly consider this factor in determining whether it is appropriate to grant GBX a CPCN to construct the Project with the automatic, accompanying Section 8-503 order.

LACI asserts that if GBX is granted a CPCN, private property owners along a 200-mile corridor in Illinois will be subject immediately to a cloud over their property rights. It emphasizes that this would be without due process and without compensation. It argues this will be the case for an unknown period of time, for a speculative Project that may never be built. LACI maintains that if GBX is granted a CPCN, that action will in effect take and deprive one private party, the property owners, of property rights in favor of another private party, GBX.

LACI's position is premised on GBX's status of not being a public utility. It argues a CPCN would vest GBX, a private entity with a right to invoke expedited eminent domain proceedings. It asserts there is a rebuttable presumption by law in GBX's favor under the Eminent Domain Act. LACI states that because a Section 8-406.1 CPCN includes the right to invoke eminent domain proceedings, the issuance of an order in favor of GBX raises a number of concerns. It argues that possible and speculative future benefits do not constitute the tangible, definable and plausible "public use," required by the U.S. and Illinois Constitutions, to take or injure a person's property rights. It reasons that action by the Commission in granting GBX a CPCN, with Section 8-503 authority would be an unlawful action.

LACI asserts that a plain reading of the applicable law is that it applies only to public utilities. LACI states GBX does not fall within that definition. Therefore, it concludes that any action by the Commission adopting the GBX position that it is a public utility would be an "arbitrary" exercise of power contrary to the substantive due process rights of the landowners and citizens of the Illinois. LACI notes that historically, the Commission has carefully considered the circumstances under which it will grant a public utility the ability to encumber private property for utility purposes and has limited its action to cases where the public interest is concrete, definite, and plausible. It asserts that the Commission should exercise no less consideration to the GBX Application for a CPCN position for its Project. LACI states that GBX offers no more with no than a "transmission line of dreams."

LACI states, both the U.S. Constitution and the Illinois Constitution protect the rights of individuals to be free from certain actions that deprive them of private property. It notes the Fifth Amendment "Takings Clause" of the U.S. Constitution prohibits action that takes private property "for public use, without just compensation." It states the Illinois Constitution, Article I, Section 15, prohibits action in which private property is "taken or damaged for public use without just compensation as provided by law." It notes the due process clause of the Fourteenth Amendment to the U.S. Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." LACI notes that the takings provisions of the U.S. and Illinois constitutions include a concept of compensation while the due process clause of the U.S. Constitution does not.

LACI states that as originally written, the Takings Clause of the Fifth Amendment applied only to the federal government, (citations omitted), and early challenges to takings and other actions by state entities were challenged under substantive due process concepts of the Fourteenth Amendment (citations omitted). LACI says that for many years, Supreme Court jurisprudence intertwined substantive due process and takings doctrines (citations omitted). According to LACI, it was not until the 2005 decision in Lingle v. Chevron USA Inc., 125 S. Ct. 2074 (2005), that Justice O'Connor untangled the concepts by explaining that if "government action fails to meet the 'public use' requirement or is so 'arbitrary' as to violate due process, that is the end of the inquiry. No amount of compensation can authorize such action." LACI argues that the grant of a CPCN and related relief to GBX position would fail on the two grounds articulated by Justice O'Connor. It asserts that such action would fail to meet the "public use" requirement of the takings clauses in the state and federal constitution. LACI also asserts that such action would be so "arbitrary" as to violate due process clause of the federal Constitution.

LACI asserts that the record of this proceeding reveals no definite and plausible public use that will come to the citizens of Illinois upon the granting of a CPCN. It states that GBX, a private party with no utility operations in Illinois, would be the only party to benefit from the issuance of a CPCN. LACI argues that while GBX has gone into great detail as to their plans of what it hopes to achieve one day and the benefits it hopes it can provide, those plans are highly speculative and depend on a great many factors. LACI concludes that GBX has put forth nothing more than a speculative plan based on a hope

that if they are treated like a public utility and given a CPCN, investors will spring forth giving them the millions they need in funding and wind customers will line at their doors ready to sign up. But, LACI claims, those are only hopes. LACI concedes that it is possible to see that GBX will accrue some immediate benefits. However it maintains that any benefit to the citizens of Illinois would have to come much, much later, if at all. LACI concludes that because there is no present "public use" associated with the Project, action by the Commission, resulting in the immediate injury, damage and cloud to the property owners, would be contrary to the protections granted to the citizens of Illinois, including the landowners.

LACI informs that the Illinois Supreme Court had occasion to examine the "public use" requirement in Southwestern Ill. Dev. Auth. v. National City Envtl., L.L.C., 768 N.E.2d 1 (2002). It states that at issue in the case was whether the Southwestern Illinois Development Authority ("SWIDA"), which was established by the Illinois legislature, could take property from one private party and transfer it to another private party pursuant to its legislatively granted power of condemnation. LACI states that the Illinois Court found that the essence of the case related "not to the ultimate transfer of property to a private party", but rather, stated "the controlling issue is whether SWIDA exceeded the boundaries of constitutional principles and authority by transferring the property to a private party for a profit when the property is not put to a public use." LACI focuses on the Court's reliance on constitutional principles. It says the Court held that SWIDA exceeded its constitutional authority. According to LACI, the Court rejected the contention of SWIDA that the "wisdom" of the legislation and the "means of executing the project" are beyond scrutiny once a public purpose has been established. It quotes the Court:

> The Constitution and the essential liberties we are sworn to protect control. In its wisdom, the legislature has given SWIDA the authority to use eminent domain to encourage private enterprise and become involved in commercial projects that may benefit a specific region of the state. While we do not question the legislature's discretion in allowing for the exercise of eminent domain power, the government does not have unlimited power to redefine property rights…." Southwestern, 768 N.E.2d at 11.

LACI asserts that in this instant case, upon the grant of a CPCN and related relief, the only immediate benefit will accrue to GBX. It maintains that there is nothing in the record to show that it is currently plausible that the public will ever receive a benefit. It contrasts, that the landowners along the route will suffer an immediate injury by virtue of the cloud that will exist over their property. LACI concludes that if the Commission were to grant GBX a CPCN and related relief, it would be exceeding the boundaries of constitutional authority.

LACI states that in Kelo v. City of New London, 545 U.S. 469 (2005), the Supreme Court explored whether a city redevelopment plan served a "public purpose" and therefore constituted a "public use". LACI describes that in Kelo, the city approved a redevelopment plan and authorized an agent to purchase property for the development and to exercise eminent domain. It says the agent purchased most of the property, but

some owners refused to sell. The question before the Court was whether the city's proposed disposition of the property qualified as a "public use" within the meaning of the Takings Clause. The Court held the disposition qualified as a "public use." While the Petitioners argued that, without a bright-line rule holding that economic development did not qualify as a public use, nothing would keep a city from transferring citizen A's property to citizen B for the sole reason that citizen B would put the property to a more productive use, the court stated it could not address such a "one to one transfer outside the confines of an integrated development plan" as it was not presented in the instant case before them. In Kelo, the Court upheld the city action, but noted that their opinion did not preclude any States "from placing further restrictions on its exercise of the takings power." LACI notes that Justice Kennedy in his concurring opinion noted that while it "is not the occasion for conjecture as to what sort of cases might justify a more demanding standard", he did underscore the persuasive elements for him were the comprehensive nature of the plan prepared by the city and economic benefits that were more than *de minimis*. He further noted: "In sum while there may be a category of cases in which the transfers are so suspicious, or the procedures employed so prone to abuse, or the purported benefits are so trivial or implausible, that courts presume an impermissible private purpose, no such circumstances are present in this case." LACI asserts that because the plan presented by GBX is not pursuant to a specific state statute authorizing the use of eminent domain for the development as was present in the Kelo case; is not a comprehensive plan developed by a government agency or body created by the legislature; and describes purported benefits that are implausible given GBX's current lack of funding, customers, and regulatory approvals, GBX's position does not pass the constitutional muster as articulated in Kelo. It asserts the Project is a private plan on which the legislature and Illinois citizens have not been allowed a full opportunity to consider and comment. It says the Project is not an integrated plan developed by the Commission, but rather a private plan by GBX put forth by GBX to increase its private profits and presents the type of case mentioned by the court in Kelo. It states the Project involves a one to one transfer of valuable property rights outside of an integrated plan created by a governmental agency.

LACI finds it important to note the level of importance the Illinois public, acting through their elected officials in the State legislature, has given to the rights of private citizens to be protected from transfers of their property rights to another private party. LACI asserts that as a response to Kelo, the Illinois legislature, like a number of other states, introduced more stringent requirements into the Eminent Domain Act. It explains that in May 2006, the Eminent Domain Act was amended to require a higher standard of proof by a condemning authority if a taking is for private ownership and control. Citing Section 5-5-5(c) of the Eminent Domain Act, LACI states that in the case of a taking for private ownership and control, the condemning authority would have to show by "clear and convincing" evidence that a proposed taking is primarily for the benefit, use and enjoyment of the public and necessary for a public purpose. LACI maintains that the legislature has clearly spoken that a high standard should be required of "public use" before personal property rights can be damaged.

LACI opines that GBX offers speculative, future benefits that may never come to fruition, and states those benefits are not clear and convincing. It states the evidence does not show the Project to be primarily for the benefit, use, and enjoyment of the public nor necessary for the public. LACI concludes that in this case, given the current stage of development, the only definable benefits accrue to GBX in the ability to attract additional investors, to continue its viability, to entice customers, etc. LACI proclaims that as GBX has made no “clear and convincing” showing of plausible benefits to the Illinois public, the Commission should not trample on the valuable rights of its citizens in favor of a private party, who at this time can really offer no more than a "transmission line of dreams."

LACI adds that any Commission action based on or that includes GBX is a public utility would have to necessarily be considered so arbitrary as to violate the substantive due process rights of the property owners. It declares that nothing in the Act allows the Commission the discretion to deem an entity that does not fit within the definition of a “public utility” under the Act, to be a “public utility.” LACI asserts that holding GBX to be a public utility would necessarily require a tortured reading of the current Act and would be contrary to a plain reading of the definition. LACI argues, the Commission is not the legislature, has not been elected by the citizens of Illinois, and does not have the authority to revise the clear definition set forth in the Act. Accordingly, it concludes, any such exercise of authority by the Commission to designate GBX a public utility and thereby cloud, impair and damage the rights of property owners would have to construed as arbitrary and capricious and violate the substantive due process rights of the landowners.

LACI notes that historically, the Commission has carefully considered the circumstances under which it will grant an entity, such as Ameren, that is an operating public utility replete with the funding, the ability to encumber private property for utility purposes, citing the Order in Docket No. 13-0516 (Oct. 23, 2013). LACI maintains that the Commission has limited its action to cases where the public interest is concrete, definite and plausible. LACI asserts that the Commission should exercise no less consideration the instant proceeding and deny GBX’s application for a CPCN for the Project. Further, it states, the Court and the Illinois legislature have carefully scrutinized the circumstances under which action of one party can encumber the private property of another party. It concludes that GBX has presented no public interest plausible and sufficient enough to justify the immediate cloud and deprivation of the property rights the landowners along this 200-mile route would experience for an unknown period of time.

LACI protests ELPC's arguments that the Project creates environmental benefits. It finds ELPC's statement that the Commission considers environmental impacts when considering various routing options is without purpose. LACI explains that here, excepting a few local modifications by intervenors, there is no discussion as to routing. It adds that having raised the issue, ELPC failed to acknowledge the environmental impact of constructing the Project. LACI asserts constructing it will result in the destruction of forested areas and impact protected wildlife such as bald eagles. It asserts, the Commission must weight these environmental impacts against the purported benefits of a transmission line that is not restricted to wind-energy alone.

C. CCPO

CCPO reiterates that the clear language of Sec. 8-406.1 refers to the applicant being a public utility. The description of the applicant as being a public utility continues throughout all of Sec. 8-406.1. Subsection (f) of Sec. 8-406.1, describing the criteria to be satisfied, lends itself to no other conclusion. The criteria are to be satisfied by a public utility. It repeats that a well-run public utility could reasonably satisfy the criteria set forth in Sec. 8-406.1(f). It says that this Commission, in evaluating whether or not the applicant has met the criteria set forth in Sec. 8-406.1(f), could make the proper findings if the applicant were a public utility. LACI asserts that a non-public utility is simply not in a position to satisfy these criteria.

It argues that Staff is hard pressed to dig out the facts and determine whether or not an entity, not a public utility, has satisfied the criteria. It says the testimony of Janis Freetly is the perfect illustration of the problem. According to LACI, were Ms. Freetly analyzing an application filed by a public utility, she would have had something to work with–presumably, at a minimum, a balance sheet, profit/loss statement, some track record over at least several years. It argues that without such documents, Ms. Freetly was left to attempt to rely upon a condition that must be met before the project goes forward. LACI asserts there was simply no way for Ms. Freetly to perform a proper analysis and make a reasoned decision as to whether or not the entity in question "is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers."

LACI asserts that the Staff Engineer had the same problem as Ms. Freetly with regard to rendering an opinion as to whether the entity "is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof." It notes Mr. Rashid's testimony that he was skeptical of GBX's ability to construct the Project.

D. ELPC

ELPC emphasizes that Section 8-406.1 does not require the Commission to grant a CPCN because GBX demonstrated either that the project is necessary to provide adequate, reliable, and efficient service to its customers or demonstrate that the proposed construction will promote the development of an effectively competitive electricity market. It calls those minimum requirements. ELPC states that Illinois courts have held, "The Commission has broad discretion to decide whether a petition should be approved under the public convenience standard." Commonwealth Edison Co. v. ICC, 295 Ill. App. 3d 311, 317 (Ill. App. Ct. 2d Dist. 1998). ELPC asserts that the Commission can look outside of the enumerated requirements when determining whether or not to grant utilities a CPCN. It opines that, to the extent that the Project has environmental and other policy benefits beyond the minimum 8-406.1(f) requirements, the Commission should take those benefits into account when determining whether or not to grant a CPCN.

1. Environmental Benefits

ELPC notes that while the 8-406.1(f) does not specifically list environmental issues as part of the CPCN requirements, the Commission traditionally considers environmental impacts when evaluating a CPCN application. It states, for example, in Docket No. 06-0706, the ICC held, “The Commission wishes to limit the environmental impacts of any transmission line it approves.” Final Order, Docket No. 06-0706 at page 55 (Mar. 11, 2009). ELPC says in that case, the Commission used "environmental impacts” as one of eleven factors to determine a transmission line route. ELPC asserts that, after a detailed review of the environmental impacts of the competing alternatives, the Commission approved the “Green Route” in part because it had fewer adverse environmental impacts than the alternative routes.

ELPC asserts that the Project will not only limit environmental impacts, but will also provide significant environmental benefits, which it finds to be a clear boost to the public convenience. ELPC explains that by displacing polluting, fossil fuel generation in favor of clean, wind-generated electricity, the Project will lead to significant reductions in emissions of nitrogen oxide, sulfur dioxide, carbon dioxide, and mercury. It adds that the Project will also reduce water usage in Illinois and throughout the eastern U.S. ELPC notes that in each of his PROMOD futures scenario Mr. Cleveland found that the construction and operation of the Project resulted in lower emissions and less water consumption. ELPC asserts that these environmental benefits from the Project will help promote the public convenience and necessity.

2. Federal Carbon Pollution Standards

ELPC also supports the Project because of its value to Illinois in meeting the recently finalized Clean Power Plan. ELPC explains that the U.S. EPA developed the Clean Power Plan under the authority of Section 111(d) of the Clean Air Act, which authorizes the agency to set standards of performance for existing sources of air pollution. It says that states implement and enforce the Clean Air Act's source-specific standards through state implementation plans (“SIPs”), which are submitted it to U.S. EPA for approval. ELPC states the final version of the Clean Power Plan was issued on August 3, 2015 and states are to submit their SIPs by September 6, 2016, unless extended.

ELPC states that, regardless of Illinois’ choice of how to comply with the Clean Power Plan, zero-carbon emitting sources of energy such as wind power will be a significant part of Illinois’ compliance strategy. It concludes that the Project would provide Illinois with a substantial new source of renewable energy to factor into its SIP.

ELPC finds the timing of the Commission’s approval to be important. It states that swift approval would allow Illinois, and other states in the region, to plan for and factor the project into their SIPs. It says it would also allow entities subject to the Clean Power Plan to plan for the use of renewable energy resources that the Project will deliver into PJM in Illinois, or allow that wind to fill gaps left by entities that are forced to generate less. ELPC concludes that granting GBX's Application now will promote the public convenience and

necessity by facilitating Illinois' and regional compliance with the new carbon pollution standards.

E. GBX Response to Parties

1. Response to CCPO

GBX asserts that CCPO's arguments set forth under this heading of the outline repeat arguments made in regards to its necessity of public utility and relating to GBX's compliance with the Section 8-406.1 criteria. GBX disagrees with CCPO's contention that an applicant that is not a public utility cannot satisfy the requirements of Section 8-406.1(f)(1). GBX asserts that the applicant's ability to satisfy this and the other Section 8-406.1(f) criteria should be based on the facts presented, such as the experience of its management team and contractors, its financing plan, customer interest in its proposed project, whether the project will promote the development of an effectively competitive electricity market and the other benefits it will provide to the public, and so forth – not simply on whether or not the applicant is an existing public utility

2. Response to Farm Bureau

GBX disputes Farm Bureau's assertions regarding the status of the Rock Island project approved in 12-0560. It concedes that Rock Island's request for bifurcation was denied by the IUB. GBX asserts that Rock Island is now working to understand the IUB's specific requirements for the amount of land rights that must be acquired and to determine the appropriate schedule to move the project and the proceeding forward in Iowa. GBX maintains that Rock Island is committed to proceeding with the Rock Island project.

3. Response to LACI

GBX responds to LACI's eminent domain arguments by stressing that this is not an eminent domain proceeding. It asserts that the granting of a CPCN to construct the Project does not deprive landowners of any property rights. It explains that a Section 8-406.1 proceeding neither confers property rights on the applicant nor deprives landowners of their protected property interests. It notes that it will be seeking to acquire easements not fee simple. GBX states that it has not yet started to contact landowners in Illinois to negotiate the acquisition of easements, thus, landowners whose property would be crossed by an approved route are not in any imminent danger of an eminent domain proceeding. It notes the Commission's requirements in regards to negotiations. GBX adds that it has time and money incentives not to file condemnation actions. GBX dismisses LACI's Constitutional arguments, stating that it has demonstrated public use. It notes that the grant of a CPCN for the Project will make GBX a public utility. It adds in granting a CPCN, the Commission will necessarily have found that construction of the Project will promote the public convenience and necessity. Finally, GBX emphasizes, the U.S. and Illinois Constitutions do not prohibit the taking of private property through eminent domain; rather, they prohibit the taking of private property through eminent domain without due process and just compensation

F. Commission Conclusion

The concerns raised by the parties in this section are addressed elsewhere and need not be repeated.

XI. PROPOSED ROUTE AND LAND ACQUISITION

A. Description and Development of the Proposed Route

This Section discusses routing issues and landowner concerns.

1. GBX

a. Description of the Proposed Route

GBX states that the Project will consist of two different transmission line sections: (1) the HVDC section (the “DC Section”) from the Mississippi River crossing in Pike County to the eastern converter station located near West Union in Clark County, Illinois, and (2) the Alternating Current section (the “AC Section”) from the eastern converter station into Indiana to terminate at AEP’s Sullivan/Breed substation in Sullivan County, Indiana. GBX states the DC Section of the Project will span approximately 202 miles in Illinois, entering Illinois at the Mississippi River crossing in Pike County traversing Illinois and ending at the eastern converter station near West Union in Clark County. GBX states the AC Section of the Project will consist of one double circuit 345 kV AC transmission line that will span approximately 3.6 miles in Illinois before crossing the Illinois-Indiana border. It says the line will then run another 1.6 miles in Indiana before terminating at the Sullivan/Breed substation.

b. Routing Criteria

GBX explains that the Proposed Route (and Alternate Route) Project were developed through a detailed and comprehensive process conducted by an interdisciplinary team comprised of representatives from GBX, the Louis Berger Group, Inc., and POWER ("Routing Team"). It states the Routing Team members have experience in transmission route planning and selection; natural resource impact assessment; land use assessment and planning; cultural resource identification and assessment; impact mitigation; and transmission line engineering, design and construction.

Mr. Gaul testifies that the Routing Team developed the GBX Illinois Route Selection Study ("Route Study") to identify the Proposed Route that best minimizes the overall effect of the transmission line on the natural and human environment, avoids unreasonably circuitous routes and unreasonable costs, and minimizes special design requirements. He sponsors the Route Study as an attachment to his testimony. He states the Routing Team developed two sets of guidelines, General Routing Guidelines and

Technical Guidelines, that set forth principles to guide the development of alignments considered in the Route Study. GBX indicates that the General Routing Guidelines establish a set of principles and guide the development of alignments with respect to area land uses, sensitive features, and considerations of economic reasonableness. It states the General Routing Guidelines include maximizing distance and impacts on residences, schools, hospitals and other community facilities; avoiding the need for removing structures; minimizing agricultural, environmental, cultural and visual impacts; and minimizing route length, circuity, cost and special design requirements. GBX indicates that the Technical Guidelines provide technical limitations related to the physical limitations, design, right-of-way ("ROW") requirements, or reliability concerns of the Project infrastructure. It explains the Technical Guidelines include minimizing the crossing of other transmission lines; maintaining a safe distance of separation when paralleling transmission lines; minimizing turning angles and placing structures on sloping soils; and maintaining a safe operational distance from existing wind turbines.

The Routing Team identified areas that should be avoided to the extent feasible ("Routing Constraints") and locations where the proposed transmission line might be located with less disruption to surrounding land uses and the natural and cultural environment ("Routing Opportunities"). The Routing Constraints include large-area constraints such as urban areas; federal and state lands; conservation lands; areas near airports and airstrips; large recreational sites; and large lakes, reservoirs and wetlands, and point-specific constraints, such as residences; commercial buildings; quarries; irrigation facilities; specific historic buildings and sites; specific sites of threatened, endangered or rare species; and small wetlands or waterbodies. Routing Opportunities include linear infrastructure and utility corridors, such as existing electric and gas transmission networks, rail lines, roads, and possibly reclaimed lands or unused portions of industrial or commercial areas. GBX notes that a Routing Opportunity can be restricted by a Routing Constraint.

c. Route Development Process

Mr. Gaul states the Routing Team developed the Proposed Route through iterative phases, starting with broad geographical areas and then narrowing the geographic focus down to specific study areas, until the final Proposed Route was identified. He explains that each iterative phase involved developing routes and route segments; reviewing routes and route segments with respect to information gathered from state and federal regulatory agencies, environmental organizations, community leaders, or the general public; and revising the routes with more specific alignments based on the information obtained. He states the route development involved successively narrowing the choices under consideration from the earliest conceptual routes, to potential routes, to alternative routes, and ultimately, to the selection of the Proposed and Alternate Routes.

GBX states the Routing Study began with the geographic area encompassing the two end-point converter stations in Ford County, Kansas, and Clark County, Illinois. Initial route development efforts started with the identification of large-area constraints and Routing Opportunities across the entire project Study Area. Mr. Lawlor testifies that

during this phase, the Routing Team held 14 Roundtable meetings in Illinois with local officials, economic development representatives, and community leaders to obtain information. He states the Routing Team and attendees exchanged information about the Project and the affected communities. Mr. Lawlor asserts that these meetings provided the Routing Team with valuable insight for the route development process.

Mr. Gaul states that using this information, along with information resulting from coordinating with regulatory agencies and other government officials, the Routing Team developed broad routing concepts ("Conceptual Routes") that typically avoid large area constraints or incorporate notable Routing Opportunities. He explains that the Conceptual Routes in the southern and central portions of the Study Area were removed from further consideration due to challenges associated with a range of routing constraints, including: large areas of Federal land ownership, reservoirs, recreational lakes, and a lack of suitable locations to cross the Mississippi River. He says the remaining Conceptual Routes extended northeast from Ford County, Kansas, crossed the Missouri River south of St. Joseph, Missouri, crossed the Mississippi River north of St. Louis, and continued across Illinois on paths south of Springfield, to the eastern converter station in Clark County, and then on to the interconnection point with the PJM grid at the Sullivan/Breed Substation. The Routing Team continued to revise and refine the remaining Conceptual Routes in the northern portion of the Study Area, resulting in a network of Potential Routes.

Mr. Gaul states that due to the multi-state nature of the Project, Proposed Routes first were identified in Kansas and Missouri, including determination of the Mississippi River crossing point from Missouri into Illinois. The Routing Team considered five potential Mississippi River crossings. According to the Routing Study, initial siting efforts focused on locations along the river with existing infrastructure crossings, finding those sites encumbered, crossing locations where no existing infrastructure currently crosses the river were considered. After giving consideration to factors such as impacts on sensitive public land resources, existing irrigation infrastructure, sensitive species habitats, historic resources, and the technical design requirements of the crossing itself, the Routing Team selected the South Saverton crossing between Mississippi River miles 299 and 300, approximately 6.5 miles west of New Canton, Illinois in Pike County. GBX explains that this crossing location was preferred by U.S. Army Corp of Engineers, St. Louis District, and had the fewest conflicts associated with current land use out of all the crossings considered. It states that from an engineering perspective, the South Saverton crossing offers flexibility in alignment of the structures and transmission line and will allow for reduced span length and structure height.

GBX indicates that after identifying the Mississippi River crossing location, the Routing Team reviewed information received from the Roundtable meetings, conducted additional route reconnaissance, gathered input from regulatory agencies, and conducted comparative reviews of route segments with similar starting points and endpoints. It states the Routing Team identified 74 interconnected route segments ("Potential Routes"), extending from the Mississippi River to the Indiana border.

GBX states that the Potential Routes were revised and refined through coordination with state and federal regulatory agencies, input collected from the general public at Public Meetings, and through iterative reviews and analysis by the Routing Team. It asserts that the Potential Routes were reviewed by state and local planners and elected officials, conservation-focused non-governmental organizations, and other stakeholders in the northern portion of the Study Area. GBX asserts that it held dozens of meetings with federal and state regulatory agencies in Illinois. Mr. Gaul testifies that input from public and government agencies as well as engineering and natural resource considerations were factored into revision of the Potential Routes and removal of some Potential Routes from consideration.

Mr. Gaul states that the Potential Routes in Illinois were presented to public officials and members of the general public in the first two rounds of the Public Meetings held in each county in Illinois crossed by a Potential Route(s). He states the main goal of the Public Meetings was to inform potentially affected landowners and the general public about the Project and to seek their consideration and comment. He explains that attendees signed in and were given a guided presentation about the Project. Mr. Gaul states that attendees were assisted in locating their property or other features of concern on aerial photography maps displaying the array of Potential Routes. According to Mr. Gaul, attendees were encouraged to submit written comments about their observations, recommendations or concerns. Mr. Gaul testifies that following the first and second rounds of Public Meetings, the Routing Team assembled and reviewed the input gathered and made revisions to the Potential Routes.

Mr. Gaul states the Routing Team compiled the revised Potential Routes and Alternative Routes. He says that to facilitate the evaluation and comparison of the Alternative Routes, the Routing Team divided the Study Area across Illinois into four distinct Segments that had similar beginning and end points. He states the Routing Team then assessed and compared the Alternative Routes in each Segment with respect to their potential impacts on natural resources (water resources, wildlife and habitats, special status species, and geology and soils), the built environment (agricultural use, residences, schools, hospitals, houses of worship, other buildings, populated areas and community facilities, aesthetic resources, and cultural resources), and with respect to any noted engineering or construction challenges or opportunities (slopes and elevation, transportation, existing utility corridors, other existing infrastructure).

d. Response to Parties

GBX responds to LACI's arguments that the Route Study is flawed and failed to adequately consider landowner impacts. It notes that Mr. Lawlor and Mr. Gaul were part of an interdisciplinary, 33-person routing team that worked in conjunction to develop the Proposed Route. It states that Mr. Lawlor was involved in siting the Project in all four states, and in this process consulted with numerous organizations, including representatives of agricultural, environmental and conservation organizations. GBX asserts that Mr. Gaul has experience in siting and permitting transmission projects, including in other agricultural states such as Kansas and Missouri. GBX says that

together, the routing team members have experience in transmission route planning and selection; natural resource impact assessment; land use assessment and planning; cultural resource identification and assessment; impact mitigation; and transmission line engineering, design and construction.

GBX agrees that the Project route through Kansas and Missouri was determined before the Proposed Route in Illinois, but it asserts, the selection of the Mississippi River crossing was not determined solely by the Missouri route. It states that it considered Illinois routing criteria as well. GBX explains that the South Saverton river crossing was ultimately selected after the routing team considered engineering requirements, environmental concerns, and existing infrastructure, among other factors, for both Missouri and Illinois.

GBX states that one of the goals of the Route Study was to develop a Proposed Route that minimized the overall effect of the transmission line on the natural and human environment, which includes minimizing impacts on agricultural land. It states the routing process also focused on Routing Opportunities such as paralleling parcel boundaries and the grid-based section lines of the public land survey system as a way to place the route along logical divisions of land ownership and use, particularly in farming areas, and Routing Constraints, such as irrigation facilities. Applicant repeats that it entered into the AIMA and asserts that it considered agricultural impacts throughout the entire planning and development process for the Project and Proposed Route.

GBX rejects LACI's arguments that it failed to consider stakeholder input. It asserts that it gathered, considered, and incorporated stakeholder input (including comments regarding agricultural concerns) during each phase of the route selection process. Applicant explains that it developed the Proposed Route by collecting input from landowners during the Public Meetings, attended by over 3,100 persons. It states that during the Public Meetings, the landowners located their properties on large maps and submitted written comments about their observations, recommendations or concerns. GBX asserts that it considered and incorporated these comments when determining the Proposed Route. It states that overall, it held over 300 stakeholder meetings and 27 Public Meetings, sent 17,073 direct mail invitations for Public Meetings, and received more than 900 comment cards from the Public Meetings. GBX maintains that it broadly solicited, and received, input on the various routing options from persons in the area, including owners and operators of agricultural properties.

Applicant asserts that LACI is incorrect that it “shunned” its goal of using linear opportunities when developing the Proposed Route. It explains that in addition to utilizing linear opportunities along parcel lines, other paralleling opportunities exist, such as along existing linear infrastructure and utility corridors. It states the Proposed Route parallels existing infrastructure, such as transmission lines, pipelines, roads, and rail lines, where possible. GBX notes that in such an instance, the Proposed Route may run diagonally through a parcel in order to follow existing infrastructure.

2. Staff

Staff notes that, in its Application and testimony, GBX provided a detailed description of the Proposed and Alternate Routes, as well as the Route Study, which describes the methodology that GBX used to select these routes.

3. LACI

LACI cautions about the extent that GBX's routing choices affect landowners. It explains that by selecting one route over another, GBX impacts different landowners in different manners. LACI advises that the Commission should analyze GBX's routing efforts closely. LACI asserts that upon doing so, the Commission can only conclude that GBX gave Illinois landowners short shrift when routing the project.

LACI asserts that the MPSC acknowledged that it needed to weigh impacts to its state's residents against the alleged benefits of the GBX project, citing In the Matter of Grain Belt Express Clean Line LLC, File No. EA-2014-0207, Report & Order, p. 26 (MPSC, July 1, 2015) ("MPSC Order"), ("in this case the evidence shows that any actual benefits to the general public from the Project are outweighed by the burdens on affected landowners."). LACI asserts that when it considers the Project, the Commission can only draw one conclusion: that the CPCN should be denied. LACI states that GBX failed to adequately consider landowner impacts when routing and failure tips the scales against awarding a GBX a CPCN and a Section 8-503 Order.

LACI notes that Messrs. Lawlor and Gaul describe the route selection process in Illinois. LACI complains that Mr. Lawlor has never constructed a transmission line. LACI acknowledges that Mr. Gaul has experience in siting transmission lines, but points out that most of his work has been for utility companies. LACI says that he is biased. LACI says that both lack any education or experience in agriculture. Thus, LACI argues, it is no surprise that GBX's routing seems to have went out of its way to excessively affect landowners.

LACI notes Mr. Gaul's description of the routing process and states that the proposed routing in Missouri dictated routing in Illinois. It explains that GBX first developed proposed routing in Missouri, which determined the location for the crossing of the Mississippi River. Thus, LACI observes, the rejected Missouri project dictates the impact to Illinois landowners. The routing study is further flawed.

LACI notes that the Routing Study acknowledges that parcel and section lines are linear opportunities in its routing study. It says the Routing Study also recognizes that farming operations extend to the end of these boundaries. LACI asserts that other than this brief mention, GBX seems to have little consideration of its routing's impact to farming operations. LACI complains that GBX fails to make use of this limited insight.

LACI states it is unsurprising that GBX, never having constructed a transmission line, falls short of behavior this Commission should expect. It argues that Ameren

Transmission Company recently recognized that meeting participants for the Spoon River project considered agricultural impact of utmost importance. LACI claims that GBX fails to include any similar stakeholder input in its routing study. According to LACI, the sheer magnitude of intervenor testimony makes it clear that GBX should have considered agricultural uses of utmost importance to landowners but that it did not.

LACI claims that although GBX noted line placement along property and section lines as preferential to avoid agricultural impacts, it shunned this goal. According to LACI, even a cursory review of GBX's routes show incredible amounts of cross-country, non-paralleling line siting. LACI concedes that cutting across a field may be necessary at limited times. But, LACI asserts GBX has gone too far. LACI asserts the Routing Study inexplicably resulted in a proposed route that cuts diagonally through parcel after parcel. LACI argues that GBX seeks permission to cause excessive impacts to landowners that otherwise might have been avoided had it maintained its goal of using linear opportunities.

B. Selection of Proposed Route vs. Alternate Route

1. GBX

Mr. Gaul testifies that through this analysis and comparison, the Routing Team identified the best and second best routes in each of the four Segments, which when combined across the four Segments resulted in, respectively, the Proposed Route and an Alternate Route in Illinois for the Project. He testifies at length about the criteria considered and the rationale for each chosen segment. Mr. Gaul asserts that the chosen segments best minimized the impacts on the natural and human environment and historic and cultural resources along the route, while best utilizing existing linear rights-of-way and avoiding non-standard design requirements.

Mr. Gaul asserts that the Proposed Route for the Project is a reasonable and sound route that was derived from a robust route selection process that integrated input from government agencies, local officials, and the general public into the route development, analysis, and selection process. He maintains that the Proposed Route best minimizes the overall effect of the GBX transmission line on the natural and human environments and historic and cultural resources, while avoiding unreasonably circuitous routes, unreasonable costs, and special design requirements.

GBX notes the testimony of Staff witness Rashid, stating after he reviewed the testimony and related exhibits of GBX's Route Study, that he would have no objection to GBX's Proposed Route. GBX asserts that only Tom Rodgers, a witness for Branch Properties, expressed any preference for the Alternate Route. GBX speculates that Mr. Rodgers' stated preference for the Alternate Route was due solely to his concerns about a modification to the Proposed Route proposed by another landowner which would modify the Proposed Route on Mr. Rodgers' property. GBX states it has proposed an adjustment to this modification, which Mr. Rodgers stated is an improvement. GBX says that Mr. Rodgers did not have any objections to the Proposed Route outside of the vicinity of his property.

GBX concludes that based on the record of the development of the Proposed Route, the Commission should approve the Proposed Route, with the modification described below.

C. Proposed Revisions to the Proposed Route

1. Rex Encore

Rex Encore proposes a modification that shifts a 2.5-mile long segment of the Primary Route in east-central Pike County northward (the "Rex Encore Modification"). Rex Encore asserts that it worked with GBX to develop and present the modification. Rex Encore asserts that, under the factors traditionally considered by the Commission in evaluating route proposals, the Rex Encore Modification is a superior route. Rex Encore claims that it is significantly closer to local roads; avoids crossing through a dedicated game management area; reduces the line's proximity to existing homes; and minimizes the line's impact on existing and planned development. Rex Encore asserts that its proposed modification would reduce the transmission line's environmental impact by avoiding managed wildlife habitat and wetland areas that the Primary Route would traverse. Rex Encore contends that unlike the Primary Route, which threatens current and future use of Rex Encore's property, the Rex Encore Modification does not interfere with preexisting uses. Rex Encore claims that its proposal would reduce the impact of the transmission line on the properties owned by the Branch Parties.

Rex Encore claims that the benefits of the Rex Encore Modification are not limited to landowners. It states that the Rex Encore Modification will reduce the difficulty and cost of constructing GBX's transmission line by avoiding litigation to acquire Rex Encore's properties. Rex Encore opines that its modification would reduce the difficulty and cost of operating the transmission line by improving the ability of maintenance crews to access GBX's facilities. Rex Encore states that the Rex Encore Modification reduces the aggregate visual impact of the line compared to the Primary Route.

Rex Encore asserts that the superiority of the Rex Encore Modification is not in dispute. It states that Staff has reviewed the Rex Encore Modification and has no objection to it. Rex Encore states that GBX and the Branch Parties agree that the Rex Encore Modification is preferable to the Primary Route. Rex Encore relies on GBX testimony that the Rex Encore Modification is reasonably consistent with the routing approach and rationale used in GBX's routing study; is only slightly longer than the Primary Route; avoids breaking up areas of large contiguous land ownership; generally follows parcel boundaries; avoids passing in close proximity to residences; and does not impact any known environmentally or culturally sensitive areas. Rex Encore acknowledges that the Branch Parties prefer a particular western alignment. It notes that the Branch Parties concede that the Rex Encore Modification, regardless of the alignment chosen, is superior to the unmodified Primary Route.

Rex Encore states the Rex Encore Modification represents a cooperative and good faith effort by landowners working with GBX to arrive at a better route for the proposed line. It asserts that its modification is through an area that is one of the most difficult on the entire proposed route. In Rex Encore's view, such efforts by landowners and GBX should be supported, as a matter of policy, to encourage project developers' collaboration with affected stakeholders. It argues that negotiated resolutions to complex routing issues like this one stand to reduce the delay and cost of litigation, which would ultimately be borne by customers.

Rex Encore asserts that its proposed modification improves the Primary Route not only under the factors traditionally considered by the Commission, but also by reducing land acquisition costs and burdens. It states there is no evidence opposing the Rex Encore Modification and concludes that, if the Commission approves GBX's Application, it should adopt the Rex Encore Modification.

In reply to other parties, Rex Encore concludes that the evidence is unanimous that any variation of the Rex Encore Modification is superior to the original Primary Route. It states that the Rex Encore Modification with whichever westernmost alignment the Commission deems is best should be adopted.

2. Brown Branch

Brown Branch states that it seeks to preserve the nature and function of its land. Brown Branch objects that the Proposed Route unnecessarily interferes with its farming operations and bisects usable hunting ground. In testimony, Brown Branch proposes two alternative revisions, a northern and a southern variation. GBX opposed the southern variation in rebuttal testimony. In briefs, Brown Branch only advocates for the northern variation ("Branch Revision") to the Rex Encore Modification.

Brown Branch explains that the west section of their land is used for farmland and the east section is used as hunting grounds and pastureland. Brown Branch says that this land has been in its principal interest for over 130 years and has been undisturbed, absent the recent erection of a transmission line owned by AIC and a radio tower owned by Illinois Rural Electric. Brown Branch states that the Proposed Route will cut through the center of the farming and hunting operations and bisect an otherwise contiguous section of land. It complains that this is the third time in recent history the property will be disrupted.

Brown Branch contends that the Proposed Route will interfere with the highest quality soil on its farmland and with its hunting land. It states that the construction of the Project will interfere with drainage structures built and maintained at Brown Branch's expense. Brown Branch opines that it is possible that the resulting disruption of drainage in this area could be catastrophic in terms of flooding and crop production. It also claims that the use of aerial spraying on the crops will be nearly impossible with two lines crisscrossing the farm.

Brown Branch states that this line will have an impact on land primarily used for hunting. Brown Branch states that the Proposed Route will require the removal of large sections of undisturbed natural forests that provide wind and water erosion protection, as well as the habitat for local animal populations. It claims that these habitats allow for the expansion of species, as well as a recreational area for sport hunting for personal use, for paid and unpaid guests.

Brown Branch notes that the Rex Encore Modification shifts the route north to avoid bisecting contiguous tracts owned by Rex Encore and Brown Branch. Brown Branch states that the northern realignment of the Rex Encore Modification crosses Brown Branch's land diagonally, which would disrupt the farming operations. It says the Brown Branch Revision consists of a slight modification of the western edge that can lessen the burden on Brown Branch and leave Rex Encore unaffected.

Brown Branch prefers the Branch Revision because it causes the least disruption to its land and operations. It states that the Branch Revision moves the route north to a further western point to minimize the degradation of Brown Branch's farming practices. Brown Branch also notes that the route is further away from the neighbor and tenant farmer north of the Proposed Route on Route 96. Brown Branch contends that the Branch Revision moves the route to areas where its interference can be better managed and the damage better absorbed. It claims that this northern deviation starting further west will be further away from the existing AIC line and avoid steep grades for GBX's construction, thereby lowering the Rex Encore Modification's additional costs, if any. Brown Branch claims that unlike the Rex Encore Modification and the Proposed Route, the Branch Revision impacts no additional landowners.

Brown Branch notes that GBX proposed a modification of the Rex Encore Modification ("GBX Modification") in rebuttal testimony. Brown Branch states that the GBX Modification takes a shallower angle and is a middle path between the Rex Encore Modification and the Branch Revision. Brown Branch says that the GBX Modification will still interfere with its farming operations and the residence on 96th Avenue, though GBX states that it avoids residences on 236th Avenue. Brown Branch prefers the GBX Modification over the Rex Modification. However, Brown Branch believes that the Branch Modification will best balance the needs of the Brown Branch to continue to have functional use of the land while still allowing the line a reasonable route. Brown Branch supports the Branch Revision as the best compromise of the needs of GBX and Brown Branch's property. If the Branch Revision is not adopted, Brown Branch prefers the GBX Revision or the Rex Encore Modification.

3. GBX

GBX responds to the Rex Encore Modification and the Branch Revision. It notes that the properties of Rex Encore and Branch Properties are located near to one another, just east of Highway 96 in Pike County, Illinois. GBX states the Rex Encore Modification initially diverts from the Proposed Route approximately 2,000 feet west of Illinois State Highway 96. It says it then angles to the northeast for nearly 1.7 miles, climbing into the

Mississippi River bluffs, and crosses 236th Avenue at a point that would require the removal of an existing barn. GBX states the Rex Encore Modification then angles due east, continuing for another 2 miles, before turning back to the southeast and rejoining the Proposed Route west of 290th Street.

GBX proposes two adjustments to the Rex Encore Modification ("GBX Adjustment"), which it says would reduce its overall impacts. It explains that a light angle just south of 236th Avenue would avoid the need to remove the barn. It says that beginning at the northeasterly trajectory of the Rex Encore Modification 900 feet farther to the west allows for crossing an existing 115 kV transmission line with a tangent (non-angle) structure. GBX explains that using a tangent crossing structure at this location would allow the line to span the entire farm field east of the existing 115 kV transmission line, because the next structure would be placed in the Mississippi River bluffs. GBX adds that adjustment shifts the line slightly to the north, farther from an existing home along State Highway 96. Applicant asserts that the GBX Adjustment to the Rex Encore Modification reasonably meets the guidelines and criteria set forth in the Route Study. It explains that although it is 0.5 miles longer and would require additional heavy angle structures, the GBX Adjustment generally avoids impacts to residences, does not require the removal of an existing structure, avoids bisecting large contiguous land ownership, and does not impact known environmentally or culturally sensitive features.

GBX notes that Brown Branch proposed a northern and southern variation to the Proposed Route, a Northern Realignment and a Southern Realignment. GBX opposes the southern variation, saying it is not consistent with the guiding principles considered in the Route Study. It explains the southern variation adds nearly one mile to the length, would require six heavy angle structures within one half mile, would come within 500 feet of one residence, and would require removal of another residence. GBX notes that Rex Encore also objects to the southern variation. GBX asserts the southern variation should not be considered.

GBX notes the northern variation ("Branch Revision") is the same as the Rex Encore Modification, except for the western portion of the route. It states the Branch Revision deviates from the Proposed Route approximately 3,000 feet west of State Highway 96, adjacent to a drainage canal. GBX says it then angles to the northeast, crosses State Highway 96 and enters the Mississippi River bluffs 1100 feet south of the intersection of State Highway 96 and Township Road 1610 E. GBX states the Branch Revision then passes just south of two residences along Township Road 1610 E before angling east to join the Rex Encore Modification to continue east for another 2 miles. It states the Branch Revision continues to follow the Rex Encore Modification as it turns to the southeast and rejoins the Proposed Route west of 290th Street.

GBX asserts that the Branch Revision is not consistent with the routing principles of the Route Study. Mr. Gaul testifies that the Branch Revision would impact additional landowners along Township Road 1610 E and would come within 500 feet of two residences (one of which is less than 250 feet from the Northern Realignment) along Township Road 1610 E. He asserts that the Branch Revision would need to be modified

to account for terrain along its northeastern alignment. Most notably, he states, the angle just north of 236th Avenue falls within a small stream valley and would likely need to be moved 200 to 400 feet farther to the west to meet reasonable design standards, which would typically seek to place the structure on the high ground to the west of the current angle structure location. According to Mr. Gaul, placing a steep angle structure in a topographic depression or low on a steep valley side slope would likely require a very tall structure to ensure appropriate mid-span ground clearance, and may also require shorter span lengths both upstream and downstream of the angle. He says this necessary shift would move the Northern Realignment closer to the two residences along Township Road 1610 E and would require several angles so that structures could be placed along ridgelines south of Township Road 1610 E, instead of along steep side slopes. Mr. Gaul concludes that the Branch Revision to the Proposed Route should not be considered.

GBX notes that Rex Encore does not object to the GBX Adjustment. It also asserts that Brown Branch indicates that it would support the Commission's adoption of the Proposed Route with the Rex Encore Modification and that Brown Branch considers the GBX Adjustment an improvement on the Rex Encore Modification.

Applicant concludes that the GBX Adjustment to the Rex Encore Modification best meets the principles of the Route Study because it generally avoids impacts to residences, avoids the need to remove an existing structure, avoids bisecting large contiguous land ownership, and does not impact known environmentally or culturally sensitive features. It notes that Rex Encore does not object to the GBX Adjustment and that Brown Branch finds it to be an improvement to the Rex Encore Modification. GBX concludes that the Commission should adopt the Proposed Route with the GBX Adjustment to the Rex Encore Modification. GBX notes that the legal description of the Proposed Route, including the GBX Adjustment to the Rex Encore Modification, is provided in GBX Exhibit 8.10.

D. Proposed Design Aspects of the Project

GBX describes the entire Grain Belt Express Project as an approximately 780-mile, ±600 kV, multi-terminal overhead HVDC transmission line (the last approximately 5.2 miles of the transmission line will be AC facilities). Dr. Galli explains the transmission line will be rated at ±630 kV, which includes a 5% overvoltage margin. He specifies that the operating voltage will be ±600 kV, explaining that as measured between the poles, the voltage would be 1,200 kV. Dr. Galli testifies that the Project will be capable of delivering up to 500 MW of power to the MISO market and up to 3500MW of power to the PJM market. He says the western terminus of the Project will interconnect to the ITC Great Plains (a transmission only utility) 345 kV system in SPP. Two delivery stations of the Project will be interconnected to, respectively, the Ameren Missouri 345 kV system in MISO and the American Electric Power ("AEP") 345 kV system in PJM.

Dr. Galli testifies that the use of HVDC technology is a particularly appropriate solution for the Project, i.e., for moving large amounts of power from variable generation sources (such as wind farms) over long distances, primarily or exclusively in one direction.

He states that the use of DC lines results in a lower cost of transmission than would AC lines. Dr. Galli asserts that the use of HVDC technology has a number of distinct benefits. He states HVDC lines can transfer significantly more power with lower line losses over longer distances than comparable AC lines; HVDC lines complement AC networks without contribution to short circuit current power or additional reactive power requirements; HVDC lines can dampen power oscillations in an AC grid and thus improve system stability; HVDC technology gives the operators direct control of energy flows, which is well-suited to managing the injection of variable wind generation; HVDC lines, unlike AC lines, will not become overloaded by unrelated outages, thereby reducing the likelihood that outages will propagate from one region to another; and HVDC lines utilize narrower rights-of-way and fewer conductors than comparable AC lines, thereby making more efficient use of transmission corridors and minimizing visual and land use impacts.

According to Dr. Galli, HVDC technology has been used and proven for several decades. He states that in North America, there are over 30 HVDC installations, dating back as far as 1968. He says HVDC applications are commonplace worldwide and are continuing to increase in applications similar to what GBX plans to use for the Project (and Clean Line plans to use for its three other DC transmission projects).

1. Easement Widths

a. GBX

GBX states it will require easement widths between 145 feet and 200 feet wide around the centerline for both the DC and AC Sections of the Project. Dr. Galli testifies that the width will vary depending on Project requirements at particular locations. He explains that to accommodate the possible need for the maximum width at specific locations, GBX is requesting authority for a 200 foot right-of-way. He states that for the double circuit 345 kV AC transmission line on the final four miles of the Project in Illinois, GBX is seeking a 200 foot right-of-way.

Dr. Galli asserts that the right-of-way width is based on the need to maintain electrical safety clearances and to provide access for construction and maintenance of the line. He states, of these two factors, maintaining electrical safety clearances is typically the controlling factor for transmission lines of this type, because wind blowing on transmission line wires will cause them to move away from the center of, and towards the side of, the right-of-way. He says this movement is commonly referred to as “blowout” and can occur in either direction towards the edges of the right-of-way. Dr. Galli explains that enough right-of-way width must be established to allow the predicted wire “blowout” movement on both sides of the right-of-way, while maintaining required electrical clearances from vegetation, structures, and other infrastructure.

Dr. Galli testifies that as the span length of the transmission wire between the supporting structures increases, the amount of predicted transmission wire sway increases. He states that if a location on the Project requires an atypical span (to accommodate terrain features, land use considerations, and other local factors), then it

is possible that a right-of-way wider than 200 feet would be required at that location. Dr. Galli indicates there are four sections along the Proposed Route where GBX expects it may require a right-of-way between 275-300 feet in width:

- In Pike County, in section 21 of Township 5 South, Range 7 West, of the 4th Principal Meridian, the Project will require a long span in order to cross the Mississippi River as the Project exits Missouri and enters Illinois. The longer span is required due to the width of the Mississippi River, thus requiring taller structures and therefore requiring a wider right-of-way. For this span, GBX requests a 300-foot right-of-way. The 300-foot right-of-way will be required for the first 950 feet from the Mississippi River shoreline.

- Also in Pike County, in section 36 of Township 5 South, Range 6 West and sections 30 and 31 of Township 5 South, Range 5 West of the 4th Principal Meridian, there is a portion of the Proposed Route among the bluffs above the Mississippi River for which longer spans should be installed in order to avoid sub-optimal span lengths within the valley below these bluffs as well as to avoid impacts to the riparian corridor within the valley. For this span, GBX requests a 275-foot right-of-way. The 275-foot right-of-way will be needed from a point approximately 385 feet west and 70 feet south of the northeast corner of Section 36 to a point approximately 1,785 feet east of the southwest corner of section 30.

- From Pike Count into Scott County: in section 12 of Township 6 South, Range 2 West of the 4th Principal Meridian and section 29 of Township 13 North, Range 13 West of the 3rd Principal Meridian, as the Proposed Route crosses from Pike County into Scott County across the Illinois River, a longer span will be required for the river crossing. For this span, GBX requests a 275-foot right-of-way. The 275-foot right-of-way would be required from a point approximately 100 feet from the western shore of the Illinois River to a point approximately 915 feet beyond the eastern shore of the Illinois River.

- In Scott County, in sections 33 and 34 of Township 13 North, Range 12 West of the 3rd Principal Meridian, the portion of the Proposed Route that crosses the Little Sandy Creek drainage basin may require longer spans to minimize impacts to the riparian corridor in the Little Sandy Creek valley as well as to ensure access to the line for future maintenance activity. For this span, GBX requests a 275-foot right-of-way. The 275 foot right-of-way would be required from a point approximately 1,300 feet south and 400 feet east of the northwest corner of section 33 to a point approximately 1,315 feet south and 220 feet east of the northwest corner of section 34.

Dr. Galli testifies that, although the proposed permanent ROW width of up to 200 feet, should be generally sufficient to accommodate construction, in certain situations GBX will require additional temporary construction easements. GBX requests authority for temporary construction easements of an additional 50 feet in those areas. In addition, GBX requests a temporary easement of up to 450 feet beyond the permanent 100-foot

right-of-way on one side of a turning structure, explaining that it will be needed to accommodate the stringing of the conductor at locations along the route where a major turning structure (15 to 90 degree angle) is required. Dr. Galli estimates that the Proposed Route will have up to 80 locations for such turning structures. Dr. Galli estimates that less than a third of the locations will require the full 450 feet of temporary work space beyond the permanent ROW. He estimates that 54 of the 80 major turning structures will require temporary work spaces extending 300 feet or less outside the permanent right-of-way. He states that any temporary construction easement would revert to the landowner when the Project has been constructed and placed into operation.

GBX states that no witness for Staff or intervenors objected to the proposed permanent or temporary easement widths.

GBX notes LACI's criticisms of the requested easement widths in its Brief. It disagrees with LACI's assertion that the 200 foot wide easement GBX seeks for the Project will impose a greater burden on landowners than the 110 to 120 foot wide easement requested by ComEd in Docket No. 13-0657. GBX argues that the ComEd project imposes a larger burden on the landowners. It notes that the ComEd line will have shorter span lengths (700 feet and 925 span lengths for the ComEd project as compared to 1,200 foot span lengths for the GBX Project), and therefore the ComEd project will have more transmission structures occupying the landowner's property as compared to the Project. GBX disagrees with LACI's characterization of the ComEd line and its capabilities. It asserts that Dr. Galli analyzed and compared the AC alternatives for moving 4,000 MW of power over a 780-mile distance, and concluded that all but one of the AC alternatives required multiple lines to carry 4,000 MW over a distance of 780 miles. GBX notes Dr. Galli's testimony that the HVDC line (capable of transmitting 4,000 MW of power over a distance of 780 miles) will have a narrower right-of-way than the AC alternatives he examined.

GBX reiterates that except for four specific locations, identified above, 200 feet is the maximum requested easement width it seeks. GBX anticipates that the actual right-of-way for the Project will vary between 145 feet and 200 feet wide around the centerline, depending on Project requirements at particular locations. It explains that upon approval of the Proposed Route, GBX will engage in more detailed pole spotting activities that will allow it to identify specific locations where narrower right-of-ways may be feasible.

GBX disputes LACI's assertion that in selecting HVDC technology for the Project, it only compared costs to its bottom line. It notes that it intends to pay landowners 100% of the fair market value of the easement area, and therefore the price it pays for easements is a function of the size of the easement area. GBX reasons that it is in its financial interest to seek to obtain the narrowest easement possible, consistent with safety and reliability requirements, so as to avoid purchasing easement land it does not actually need to construct and maintain the Project.

It responds to LACI's contention that it does not know how much land GBX intends to burden because GBX wishes to control activities outside the easement area

permanently. GBX clarifies that what the proposed easement agreement for the Project provides, is that GBX may "cut down and trim any tree located outside the Easement that in the opinion of Grain Belt may interfere with the safety, proper operation and/or maintenance of the Facilities." GBX notes Mr. Lawlor clarified the easement provision relied on for LACI's assertion. When he was asked whether, pursuant to paragraph 3 of the proposed easement, GBX "has the right in its discretion to limit the use of the land outside the easement," Mr. Lawlor testified "I believe the only use at reference here is that of tree trimming." GBX maintains that a FERC-approved mandatory NERC reliability standard requires that transmission owners maintain adequate clearance between transmission lines and vegetation and that it must comply with this NERC requirement.

b. LACI

LACI argues that the 200-foot wide easement requested by GBX is wider than other recent transmission projects in Illinois. It cites as example, Docket No. 13-0657, where it states ComEd only sought 120 feet wide easement for poles that could be used to support two 345 kV circuits and a 138 kV circuit. LACI asserts that, in fact, ComEd was able to route two 345 kV circuits and one 138 kV circuit with room for a future set of two more 345 kV and one more 138 kV circuit – all within 135 feet of a roadway. LACI claims that GBX has provided no insight into how different methods of transmission would affect easement widths.

According to LACI, the ability of an experienced transmission company to fit an incredible number of circuits into 135 feet calls GBX's need for a 200-foot wide easement into question. It questions whether there might have been less burdensome methods for landowners. LACI states that GBX did not compare burdens to landowners in its decision to choose HVDC. It says that it only compared costs to its bottom line. LACI asserts that, as a result, GBX has denied the Commission the opportunity to compare the full cost (cost of construction plus impacts to landowners) of a 600kV HVDC line to the full cost of other methods of transmitting electricity.

Moreover, LACI states, it is not known how much land GBX actually intends to burden. It asserts, for example, that GBX wishes to control activities outside the easement area permanently. LACI complains that GBX refused to commit to limiting control of activities outside the easement area to those needed to meet NERC safety requirements. LACI concludes that the true extent of easement rights GBX seeks is unknown. LACI asserts that the lack of certainty provided for a relatively basic element, i.e. easements, is troubling.

2. Structure Types and Other Design Parameters

a. GBX

Mr. Lawlor testifies that GBX has entered into an Agricultural Impact Mitigation Agreement ("AIMA") with the Illinois Department of Agriculture ("IL DOA"). He presents

the AIMA as an attachment to his testimony. In the AIMA among other commitments, GBX commits that on agricultural lands:

> Tangent structures (straight-line, non-turning structures) will utilize only single, drilled pier type concrete foundations or direct embed type foundations that are typical of single pole type structures. Clean Line will not utilize multi-foundation lattice type structures for tangent structures, though such structures may be used for turns, long spans such as river crossings, and similar situations where specific engineering and environmental challenges are present. (GBX Ex. 7.15 at 4.)

Additionally, in the AIMA, GBX commits to avoid using guy-wire-supported structures, to the extent feasible, in Illinois.

Dr. Galli testifies that GBX's designs for lattice mast structures and tubular steel monopoles to be used for the Project anticipate typical, optimum span lengths of 1,200 feet, and heights in the range of 100 feet and 175 feet, depending on terrain topography. He anticipates that given conditions that allow for such spans, there would typically be five tubular steel monopoles or lattice mast structures per mile. Dr. Galli explains that River crossings and certain other situations may require taller towers and longer spans. Dr. Galli provides diagrams for the typical, single foundation structures and the lattice tower structures, as well as the loading tables and clearances of these structures under the various National Electrical Safety Code ("NESC") design cases. Dr. Galli provides detailed specifications for the design and construction of the Project. He also provides the clearance calculations used to design the structures for the Project.

GBX objects to Farm Bureau's proposal that it be required to commit to using tangent structures for 90% of the Project. It states that in the AIMA, it has committed to use single foundation/pier structures for tangent structures (i.e., non-turning structures), except where specific engineering and environmental challenges are presented. GBX asserts the engineering of the Project is not sufficiently advanced at this time, and will not be sufficiently advanced until after the Proposed Route is approved by this Commission, for it to be able to commit to a minimum threshold percentage for the monopole structures.

GBX denies LACI's assertions that GBX “is free to use multi-footed lattice structures at its heart’s desire,” that GBX prefers multi-footed lattice structures even when monopoles are appropriate, and that the AIMA does not protect landowners from GBX's indiscriminate use of multi-footed lattice structures. GBX prefers multi-footed lattice structures even when monopoles are appropriate.” It claims that the cited portion of Dr. Galli’s testimony shows that Dr. Galli simply preferred not to “commit” GBX to a requirement that, if requested by a landowner, GBX will use a “more robust monopole” instead of a dead-end or heavy angle structure. It notes Dr. Galli's testimony that every situation is very specific and that he expects roughly 90% of the structures to be single-foundation.

In response to LACI's assertions that it has every reason to use the cheapest transmission structures and that it prefers multi-footed lattice structures, GBX states that it has a strong incentive to use the most economical and efficient structure types; i.e., smaller sized structures for the Project where possible, to minimize costs. GBX states that the premise that a much larger, "robust," single-footed monopole structure is always less burdensome to the landowner than a multi-footed structure is faulty. It notes Dr. Galli's testimony that such robust structures may actually cause more damage to landowner property because the "robust" single-footed structure will require, *inter alia*, larger foundations, many more trucks of concrete, and heavier cranes to construct such structures.

GBX responds to the conditions proposed by Farm Bureau. It states that the proposal that the Commission's Order require that pending easement offers to landowners would still be honored after GBX is granted eminent domain authority is premature. However, it notes that Mr. Mr. Lawlor testifies that GBX will continue to hold open pending easement compensation offers to landowners after it is granted eminent domain authority by the Commission (assuming such authority is requested and received).

b. Staff

Staff says that GBX indicated that it would use monopole structures for the transmission line except when there is a necessity to use lattice structures in places where a longer span is required. It notes Dr. Galli's statement that the optimum span length between tubular steel monopoles and lattice mast structures typically would be 1,200 feet. According to Staff, Dr. Galli indicated that pole heights would be between 100 feet and 175 feet (typically 110 to 140 feet) depending on different factors, including the location of each pole.

c. Farm Bureau

Farm Bureau notes Dr. Galli's testimony that monopole structures will be used for tangent structures for roughly 90% of the Project. If the CPCN is granted, Farm Bureau requests that this threshold should be required in a final order.

d. LACI

LACI asserts that GBX has acted curiously regarding its intended structures. LACI states that GBX presented itself as a responsible utility-to-be, dedicated to using monopoles or lattice mast structures absent extreme circumstances. However, according to LACI, during cross examination, it became clear that its promise was subject to incredible discretion. LACI asserts that the exception is so great that it completely swallows the rule. LACI argues that in reality, GBX is more, or less, free to use multi-footed lattice structures when it wishes.

LACI asserts that Dr. Galli testifies that he prefers multi-footed lattice structures even when monopoles are appropriate. LACI compares GBX's prepared testimony, stating GBX claimed it would use multi-foot lattice structures only for extreme circumstances such as “heavy angle turn[s],” “dead ends,” and river crossings. LACI says that it also touted the AIMA, but that the AIMA hardly provides protection. LACI asserts that the AIMA carves out an exception for “specific engineering and environmental challenges,” providing GBX wide latitude to do as it pleases.

LACI says that the exception does not prove the rule; it destroys the rule. LACI asserts that Dr. Galli's testimony on cross-examination demonstrates that GBX believes that angles as narrow as 15 degrees can entitle it to use the larger multi-footed lattice structures. LACI concludes that given the proposed route of the project, large scale use of GBX’s preferred multi-footed lattice structures is possible. It notes that GBX refuses to commit to utilization of more robust monopoles for feasible angles at landowner’s request, citing Dr. Galli's testimony on cross-examination. LACI asserts that the Commission cannot rely on the AIMA and GBX’s promises to conclude that GBX will primarily use monopoles or lattice mast structures.

LACI states that GBX’s intentions are unclear to landowners. It notes GBX's refusal to commit to use of single-foundation structures and its incredibly expansive interpretation of the AIMA. It concludes that landowners have every reason to be concerned. LACI reminds that GBX is a profit driven company that makes its money by earning a margin, not a guaranteed rate of return, noting testimony that GBX will pursue the least-costly method to maximize profits. LACI asserts that GBX has every reason to use the cheapest transmission structures for the job and that it prefers multi-footed lattice structures. LACI argues that once GBX has a CPCN and Section 8-503 authority, it can force these structures on landowners under threat of a swift eminent domain proceeding. LACI adds that the Commission cannot look to past conduct of GBX because it does not exist. LACI reiterates that neither GBX, nor its sister companies, has ever built a transmission line.

LACI argues that Staff's confidence that GBX will use monopole structures except for when it is necessary to use lattice structures, is misplaced. It states that GBX has suggested commitment to monopoles or more unsightly lattice-mast type structures. Further, LACI asserts that GBX’s promises, and the terms of the AIMA, do not protect landowners from use of four-footed lattice structures. LACI warns that GBX’s selective use of words in its testimony and in the AIMA should raise concerns as to GBX’s true intentions. LACI asserts that if GBX truly meant avoid use of four-footed lattice structures, it could have been considerably more specific or explained itself at the hearing.

E. Land and Easement Acquisition

1. Negotiations

a. GBX

GBX commits to conducting transmission line easement negotiations in a manner that reflects respect for the private property rights of landowners. Mr. Lawlor testifies that there are five key elements to a respectful land acquisition approach: (1) communicating the overall need for the Project; (2) seeking feedback from landowners on the routing options; (3) providing clear information on the routing criteria; (4) demonstrating respect for private property rights and existing land uses; and (5) offering a fair and comprehensive compensation package for transmission line easements. He says the goal of these policies is to facilitate the respectful and equitable treatment of landowners and to support voluntary transmission line easement acquisition.

Mr. Lawlor states that GBX has established and adopted a Code of Conduct for its employees, land agents, and other representatives who will be in contact with landowners. He states GBX believes the Code of Conduct will help establish a tone of respectful dialogue and encourage the voluntary acquisition of transmission line easements. Mr. Lawlor describes that, among other things, the Code of Conduct requires that all communications with landowners and other persons made by employees, right-of-way agents and subcontractor employees representing GBX must be factually correct, made in good faith, respectful and reflective of fair dealing, and respectful of the privacy rights of property owners.

Mr. Lawlor testifies that GBX will carefully adhere to the Commission's Guidelines for Right of Way Acquisitions. He states GBX will attempt to acquire all of the rights-of-way through voluntary transactions negotiated in good faith, and is not seeking condemnation authority at this time. Mr. Lawlor avers that GBX will not seek condemnation authority on a parcel unless and until it has exhausted reasonable efforts to acquire a transmission line easement through a voluntarily negotiated agreement.

GBX notes Farm Bureau's request that the Order require that the easement agreements would only be used for the Project. It states Mr. Lawlor testified that the easement agreement only allows the easement to be used for "a single transmission line" and that the form of easement agreement also states that the easement will be used for the transmission of electrical energy. Thus, it asserts the GBX form of Easement Agreement provides GBX only with the authority to use the easement for the construction, operation, and maintenance of the Project.

GBX responds to landowners concerns regarding the effect of the transmission line on properties. It notes Mr. Roddewig's testimony that adverse impacts on property values as a result of transmission lines are temporary. GBX notes his assertion that values may initially drop but then will return to the initial price. In response to LACI's

criticisms of Mr. Roddewig's testimony GBX notes that he is a certified Real Estate Appraiser and a licensed real estate broker in Illinois. GBX states that Mr. Roddewig has testified previously in transmission line cases before the Commission.

b. Farm Bureau

The Farm Bureau emphasizes that a necessary component of the construction phase is first negotiating and obtaining landowner easements. Farm Bureau is concerned with GBX's ability to obtain and negotiate such easements moving forward in anticipation of construction. It notes that GBX seeks an order from the Commission pursuant to Section 8-503 authorizing and directing construction of the Project, and that it is not seeking eminent domain authority. Farm Bureau finds GBX's hope that all easements are amicably negotiated and obtained unique among transmission projects.

Farm Bureau warns that, given that GBX and Clean Line have never built a transmission project before, the Commission should be dubious. It notes Mr. Lawlor's testimony that pending easement offers to landowners would still be honored in the event GBX is granted eminent domain authority. Farm Bureau requests that promise be required in the Final Order.

Farm Bureau seeks greater security for the affected landowners should the Project not come to fruition. It notes Mr. Skelly's testimony, on behalf of GBX, that all Illinois easement agreements for the Project would only be used for this Project. Farm Bureau requests this promise be made a condition to the CPCN should it be granted.

c. LACI

LACI asserts that if GBX receives a CPCN and Section 8-503 order, GBX will have too much power in negotiations; landowners will not have the benefit of arm's length negotiations with GBX. LACI maintains that approval of this project alone will cloud the title of all affected landowners. Moreover, LACI asserts, eminent domain authority is all but guaranteed within 45 days of GBX's request.

LACI asserts that the Project will cause property values to suffer. Ms. Davis testifies to wind turbines causing a loss of property value in Vermillion County. LACI argues extensively regarding the experience, supporting authorities, land comparisons, and opinions about property valuation. LACI asserts, in the end, farmers know what they will pay for land. It criticizes that Mr. Roddewig's limited study lacks any discussion of the damage that an inexperienced transmission company can do. LACI adds that even with its flaws, Mr. Roddewig's most relevant study shows an average of 5.93% loss in value. LACI concludes that GBX has failed to refute landowners concerns about property values.

LACI complains that GBX has a hard time putting a fair deal on the table. It notes Mr. Skelly's testimony that GBX's sister company, Rock Island, was only able to secure 15% of the easements it needed in Iowa without regulatory leverage. LACI finds it curious that once the Iowa Utilities Board required Rock Island to secure easements before

getting a franchise (by denying its motion to bifurcate the proceedings), it gave up. LACI states that Rock Island stopped obtaining easements after the denial of the motion to bifurcate. LACI says that it stands to reason that GBX will also fail to present landowners with acceptable terms in Illinois.

2. Compensation Package

a. GBX

GBX states that there are three primary components to its compensation package: an easement payment, structure payments, and crop loss or damages payments. Mr. Lawlor testifies that GBX will make a one-time easement payment equal to 100% of the fair market fee value of the easement area. He describes that the easement area is determined by multiplying the width of the easement right-of-way by the length of the transmission line route on the landowner's property for a total acreage of the easement area. He says the acreage of the easement area is multiplied by the per-acre fair market fee value of the landowner's property to produce the total easement payment. According to Mr. Lawlor, the fair market fee value will be determined through a market study of recent sales in the county, as performed by a certified independent appraiser.

He states that structure payments will be calculated based on the type and number of structures to be installed on each specific property. Mr. Lawlor explains that GBX will offer landowners, at their option, either a one-time payment or a recurring annual payment for each structure placed on their property. He says that if a landowner elects to receive annual payments, they will be made as long as the structure is on the easement. He adds that commencing on the first anniversary of the initial structure payment, the annual payments will increase by two percent (2%) each year.

Mr. Lawlor testifies that additional payments will be made to compensate landowners for crop damage, crop loss, field repair, drainage tile damage, temporary or permanent impacts to center pivot irrigators, or other similar impacts, should they occur. He says that alternatively, for impacts such as damage to drainage tiles, GBX will, at the landowner's option, either hire contractors or pay qualified contractors of the landowner's choosing to repair or remediate the damage. Mr. Lawlor asserts that after construction of the transmission facilities, the landowner will retain the ability to continue agricultural production on the entirety of the easement area, except for the relatively small footprint of the structures. He states the per-structure compensation described above is intended, in part, to compensate landowners for this impact.

Mr. Lawlor asserts that in the vast majority of instances, the use of the land will not change due to the presence of the transmission line. He states the landowner will still own the fee title to the land and will be able to continue to use the land for farming, grazing, recreational uses, and many other uses that do not interfere with the operation of the transmission line. Mr. Lawlor testifies that only a very small limited number of uses will be prohibited. He provides, for example, the construction of a structure or growing of timber directly within the easement right of way, will be prohibited. He stresses that GBX

is offering a compensation package that compensates landowners for 100% of the fair market value of the fee interest in the land within the easement area based on the current use of the land crossed by the easement (even though the landowner typically will be able to continue to use more than 99% of the easement area), and is also offering payments for the placement of structures on the landowner's property.

GBX notes the concern raised by one landowner witness, that landowners may be liable to GBX for any damage to the Project or easement. Mr. Lawlor testifies that landowners will not be liable for damages to the Project and easement area. He says that GBX worked with the Kansas Farm Bureau to develop the indemnification language included in the easement form. Mr. Lawlor asserts that the indemnification provision protects landowners from claims for injuries to persons or damage to property as a result of the exercise of GBX's rights under the easement. He says the Easement Agreement also waives claims by GBX against the landowner in the event the landowner causes damage to the Project, unless caused by a landowner's breach of the agreement, gross negligence or intentional misconduct.

GBX notes another landowner raises concerns that GBX's ability to mortgage its rights under the Easement Agreement would possibly make it infeasible for the landowner to sell his or her land. Mr. Lawlor testifies that while GBX has the rights to sell, assign, mortgage or lease its rights under the easement, this does not inhibit or limit the landowner's right to sell the property. He states that the rights of GBX are limited to easement rights and do not create any opportunity for a valid mechanic lien on the landowner's property rights or ability to sell their property. He says that in instances where landowners prefer greater clarification in this issue, GBX has allowed landowners in other states to include express language in the Easement Agreement prohibiting any such liens on the landowner's property and requiring GBX to cure any such attempted liens on the landowner's property.

GBX states that one landowner raises the concern that GBX would resell access to the easement to pipelines or other projects. Mr. Skelly testifies that the Easement Agreement only grants GBX the right to construct, operate and maintain a single overhead transmission line within the easement. He commits that the easement is exclusively for the use of this Project and no other.

b. LACI

LACI argues that the indemnification language in its Easement Agreement is only as good as the purse backing it. It asserts that GBX is in a precarious financial situation and states that it is unknown if any insurance policy would provide funds for such indemnification. LACI asserts that GBX failed to demonstrate its indemnification protects landowners.

LACI discounts GBX's assertions its activities cannot lead to a mechanic's lien on landowner's property. It notes that GBX relies upon the testimony of Mr. Lawlor to support its assertion, but that Mr. Lawlor is not licensed to practice law in Illinois. According to

LACI, GBX fails to cite to any Illinois authority to provide any authority backing Mr. Lawlor's assertion, despite retaining Illinois counsel for these proceedings. LACI maintains that although GBX seeks an easement on a portion of a tract or lot, the Mechanics Lien Act (770 ILCS 60/1 et seq.) does not reference such limitations. LACI asserts the lien would apply to the whole lots or tracts.

LACI denies that the inclusion of express language prohibiting liens on the landowner's property and requiring it to cure attempted liens is sufficient. LACI repeats that this kind of promise is only as good as the purse that backs it. LACI argues that GBX is a thinly capitalized single-purpose entity and for a promise to have meaning, it would have to offer security to back up its promise.

c. MEZ

MEZ argues that GBX's proposed solution to mechanics lien issues in Illinois is not only completely wrong but void as a matter of law. It notes that construction of the Project will involve excavating land and pouring concrete for foundations that will support the lattice mast or monopole structures used in the Line. MEX concludes that the Project and related facilities would therefore be "improvements" within the meaning of Section 1(b) of the Mechanics Lien Act. It notes through the easement agreement, the landowner would authorize or knowingly permit GBX to construct the Line on his or her land. MEZ states that Quanta will have a contract with GBX to be the EPC for the Project, and will therefore a "contractor" within the meaning of Section 1(a) of the Mechanics Lien Act.

MEZ claims that if GBX fails to pay Quanta, or if Quanta in turn fails to pay any of its subcontractors or materialmen, then Quanta and/or those subcontractors and materialmen will have a lien on real property far beyond GBX's easement parcel, noting that the Mechanics Lien Act provides that the contractor's lien is upon the whole of such lot or tract of land and upon adjoining or adjacent lots or tracts of land. MEZ asserts that a contractor's lien extends to every interest that the landowner may have in the lot or tract on which the Project is built. It asserts that GBX's claim that a mechanics lien could attach only to GBX's easement parcel is nonsense.

MEZ argues that GBX's offer to include a prohibition of mechanics liens in its easement agreements is just as empty and meaningless as its cost allocation condition. It cites Section 1(d) of the Mechanics Lien Act which provides that an agreement to waive any right to enforce or claim any lien is against public policy and unenforceable. MEZ argues that the issue of mechanics liens takes on even greater significance in light of GBX's questionable capability to finance the Project. MEZ notes the gulf between the total cost for the Project and Clean Line's net current assets on hand. MEZ emphasizes that any undertaking by GBX to indemnify landowners against mechanics liens is only as good as its creditworthiness at some future point, and that indemnity is likely to be most needed when it's least available. MEZ asserts that Illinois landowners' concerns over mechanics liens thus have ample justification. MEZ concludes that GBX's argument that no contractor or materialman will be able to obtain a valid mechanics lien on a landowner's property is patently false and contrary to Illinois law, and its proposed clause in contractor

agreements prohibiting such liens is against public policy and unenforceable under Illinois law.

F. Landowner Concerns

1. Staff

Staff takes no position, simply noting the AIMA agreement which has a limiting provision in regards to the use of lattice tower structures. Staff also notes that the AIMA limits the use of guy wires.

2. Farm Bureau

The Farm Bureau takes no position, but notes that if GBX is granted a CPCN, the proposed transmission line will cause soil compaction, impact drainage tiles, aerial application, irrigation systems, Global Positioning System ("GPS") and precision data systems in farm equipment and hinder the ability to farm efficiently. Farm Bureau requests that GBX be directed to conduct its business in a fashion that produces minimal impact on farm operations, does not negatively impact the land, and does not interfere with planting or harvest. It notes that GBX entered into an AIMA and asserts that GBX should be held to the terms of the AIMA.

3. LACI

LACI argues that the Project will place substantial burdens on landowners. It finds the GBX to be inexperienced and the Project to be speculative. LACI concedes that all transmission projects cause some impact and that some of the impact is mitigated by AIMA terms. However, LACI finds GBX's lack of experience, failures, and excesses to date more than concerning.

a. Agricultural Concerns

LACI asserts that its members are concerned about damages from construction and ongoing maintenance activities, compaction, damage to drainage tile, impacts to aerial application, impacts to GPS equipped devices, interference with the use of large farming equipment, and damages to forested areas and wetlands. It says that Mr. Sagez testified to the general concerns of LACI members. LACI states these concerns mirror those raised by the MPSC. It notes the MPSC expressed concern over many of the same impacts when it denied GBX's application naming "soil compaction, interference with irrigation equipment, aerial applications to crops and pastures, and problems maneuvering large equipment around towers."

LACI repeats its opinion that GBX's proposed route engages in an inordinate amount of cross-country, non-paralleling, crossing of parcels. It opines that this would likely cause pole placements in the middle of fields. It states that this will undoubtedly lead to compacted strips of land in the middle, rather than at the edge, of fields and

severely hamper the use of aerial application. Noting Ms. Davis' testimony, LACI asserts the line's planned placement will cause farmers to spend more time planting and harvesting. It concludes that this will result in higher fuel costs, and less profits to farmers.

LACI asserts that construction will impact the soil, disturbing the soil levels and that heavy equipment will cause compaction. It says that it can be expected that construction will raise the soil pH level, noting Ms. Davis' testimony. Mr. Davis testifies that these impacts, and others, will drastically lower the productivity of fields, depriving farming operations of income.

b. Impacts to forested areas and wildlife

LACI asserts that impacts will not be limited to agricultural operation; forested areas and wildlife will be also be severely impacted. LACI cites Mr. Lawlor's testimony that GBX will cut down any trees within or encroaching the easement area. LACI notes Ms. Locke's testimony that her timberland provides not only recreational value but is intended to generate income through carbon credits and sawmill operations and is a habitat for wildlife. LACI states that Ms. Locke will see a loss of five acres of timber.

LACI notes Ms. Davis' testimony that she and her mother enjoy photographing wildlife. It notes her farm is lucky enough to have Bald Eagles on the property. It suggests that Ms. Davis and her mother may see a loss of Bald Eagles and other wild life to photograph.

c. Health impacts

LACI states that many landowners expressed concern about perceived impacts of EMF on their crops and themselves. It concedes that these individuals are not scientists, but states that they raised good points, supported with references to scientific articles. LACI maintains that GBX provided no competent evidence to refute their concerns. It asserts that Dr. Galli lacks the qualifications to discuss any impacts to the human body or plant life from any source. LACI makes the analogy of trusting an electrical engineer with heart surgery simply because he has a Ph.D. LACI asserts that the concern is real and GBX failed to make any reasonable effort to assuage that concern. LACI complains that Dr. Galli relied upon studies older than those cited by the equally-qualified landowners. It compares studies offered by Dr. Galli, which it asserts range from thirteen to six years old to the study offered by Ms. Locke, which, it states, is three years old.

LACI asserts that the project will cause indirect health effects as well. It notes Ms. Davis' testimony that she may lose the ability to alleviate her multiple sclerosis symptoms through horseback riding if the line is constructed. LACI concludes that health effects are numerous, unrefuted, and not included in GBX's costs.

d. Decommissioning

LACI argues that if the project is built there is always the chance that it may be decommissioned. LACI finds the Project to be a speculative venture and reasons that makes the risk higher. It notes that GBX is a single purpose entity with no assets. LACI asserts that the risk that GBX could build the Project and, for one reason or another, need to decommission it is real. LACI asserts that if it did so, landowners would be stuck with giant metal structures on their land with no means to remove them and restore their land. LACI states there is a common problem for wind farms and notes that Mr. Skelly testified that wind farms commonly post security.

LACI asserts that despite being aware of these concerns, GBX refuses to provide security for decommissioning. Accordingly, LACI concludes, if GBX burdens land, builds the line, but then fails to make sufficient profit to justify operating the line, there is no guaranty that there will be money to remove it and restore the land.

4. MEZ

MEZ notes that much of the land that would be traversed by the proposed Project is prime farmland. As MEZ notes Ms. Zotos' testimony that only a very limited amount of land in the world is recognized by the U.S. Department of Agriculture ("USDA") as prime farmland. She states the designation means that the land not only has the best combination of physical and chemical characteristics for producing food and other crops, but is also available for these uses. Ms. Zotos states that the USDA encourages responsible levels of government to facilitate the wise use of this scarce resource. MEZ asserts that consideration that should be included in the Commission's evaluation of GBX's Application.

MEZ complains that although the AIMA defines "prime farmland," by its terms, the AIMA treats such land no differently than it would a brownfield site, noting the definition within the AIMA. MEZ states that in order to install the Project, GBX would take a 175-foot wide swath of prime farmland out of production. Ms. Zotos testifies that the construction process will cause compaction to the land, compressing the soil and adversely affecting the composition of dirt, nutrients and gases in the soil. She asserts that the soil itself will become less able to allow water to pass through it. Ms. Zotos explains that this decreased permeability to water can lead to waterlogging of the soil. She adds that any damage to drain tiles caused by construction vehicles across the land only exacerbates that problem.

MEZ states that even accepting that once the Project is built, farming operations could be conducted under and around the transmission line and structures, GBX's proposal completely disregards the additional time, work and expense that would be necessary to farm the affected land. It points out that pylons (and any related guy-wires) would have to be avoided. MEZ asserts that farm-related machinery is very large and does not simply maneuver around obstructions such as pylons and guy-wires. Ms. Zotos

testifies that some areas may have to be cultivated manually, which involves a large amount of labor time and expense and is not consistent with how modern farming operations are conducted. MEZ asserts that GBX's proposed compensation scheme to landowners does not take this into account.

For these reasons, MEZ asserts that even in the event the Commission finds that the Project will "promote the development of an effectively competitive electricity market" (which MEZ argues it does not), the Project does not do so on a basis that is equitable and beneficial to all Illinois consumers, including affected landowners in particular.

5. GBX

a. Impacts of Construction

GBX notes that LACI, CCPO, and MEZ landowner witnesses raise concerns about impacts the Project may have on agricultural property or operations. It states landowner witnesses have raised the following concerns: (i) soil compaction; (ii) drainage tile damage; (iii) limitations to aerial application of fertilizer, insecticides and pesticides; (iv) limitations to use of land by either reducing available farm land or interference with farming equipment; (v) damage to wetlands, forests, historical sites and other conservation areas; (vi) interference with GPS guidance systems; and (vii) obstruction of scenic landscapes. GBX asserts that the testimonies of Messrs. Lawlor, Jones, and Gaul demonstrate that GBX will address and resolve these concerns in a fair and reasonable manner, will reasonably mitigate and remediate any damage, and will adequately compensate landowners for damages to their property.

Mr. Lawlor testifies that GBX has entered into an AIMA. He states the IL DOA has determined the AIMA meets its requirements to minimize and mitigate impacts to agricultural properties and protect agricultural landowners from potential impacts of the Project. Mr. Lawlor notes the requirements of the AIMA and attaches a copy to his testimony.

Mr. Lawlor testifies that the AIMA provides that its terms will be incorporated into GBX's Easement Agreements. Mr. Lawlor states that GBX is committed to working with landowners to negotiate additional reasonable measures for prevention and mitigation of potential impacts to the landowner's property. He states the prevention and mitigation measures specified in the AIMA are not "one-size fits all" measures that GBX and its EPC contractor will apply in all instances without regard for the landowner's preferences.
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In the AIMA, GBX agrees to employ an independent agricultural inspector (an "IAI") to verify compliance with the provisions of the AIMA. It states the IAI will be vested with authority to stop the contractors' construction activities that the IAI determines are not in compliance with the AIMA. GBX states the IAI will be independent from the internal supervisory chain of the construction contractor because it will report to GBX directly, rather than to the construction contractor. GBX states the IAI will be authorized to order the construction contractor to change its practices and to stop work in the event of a

divergence between the landowner agreements and practices in the field. GBX states landowners' interests will be protected both by the terms of their easement agreements and by the terms of the AIMA.

GBX states it will commit to the measures to address landowner concerns about potential impacts to agricultural properties that were set forth in the Rock Island CPCN order, Docket No 12-0560. It provides a list of the measures and states many of them are also specified in the AIMA.

b. Soil Compaction

GBX recognizes that a certain level of soil compaction can be expected to occur in the construction of the Project on agricultural property. Mr. Lawlor testifies that GBX and its contractors will take steps to avoid or minimize soil compaction. He states the actions taken will include using chiseling and other approved means to remediate any soil compaction. He states GBX will compensate landowners for damages they incur associated with any soil compaction caused by the construction or maintenance of the Project, including compensation for crop damage and loss. He avers that all of GBX's mitigating actions are subject to modification and negotiation with the affected landowners. In response to concerns about soil pH, Mr. Jones testifies that Quanta will arrange for soil to be removed from the property unless a landowner requests otherwise.

Messrs. Lawlor and Jones testify that GBX and the EPC contractor will employ several construction methods that are designed to avoid or limit soil compaction. First, they indicate Quanta will minimize the amount of acreage to be traversed by vehicles and equipment, by developing a construction access plan with relatively narrow access routes to the construction sites. Mr. Lawlor states that the parcel-specific access plan will be designed to confine construction traffic to small areas of the impacted parcels; generally, 10 to 20 feet wide between structures, expanding to squares of approximately 100 feet by 100 feet to be used for construction pads for the assembly and erection of support structures, as well as for conductor pulling or tensioning sites in certain locations.

Mr. Jones indicates that Quanta will keep heavier equipment in the right-of-way overnight to reduce the frequency of ingress and egress to structure locations. He states Quanta will use crew cab trucks and truck cranes to access the construction locations, using established access or construction pads. He says that to the extent possible, Quanta will use tracked construction equipment. He explains that tracked equipment significantly reduces the pressure transmitted to the ground by the equipment by distributing the weight of the construction equipment over a larger area.

They testify that during periods of wet soil conditions, GBX and Quanta will take appropriate steps as needed, such as the use of temporary construction matting, to reduce any resulting soil compaction. Mr. Jones states that it is Quanta's practice to observe and follow weather and weather forecasts for inclement weather that may affect construction activities and their impacts on landowner properties. He testifies that if inclement weather is experienced, Quanta evaluates the amount of precipitation that has

or is forecasted to occur, the nature of the terrain and its drainage capabilities, the amount of moisture in the soil, and the types of construction vehicles or equipment that will need to be on the property for the next operation, and makes a determination as to whether construction can proceed on the property or whether it should be delayed in light of potential damage to the property.

To remediate soil compaction, GBX has committed to decompact cropland where necessary to a depth of 18 inches, and pasture to a depth of 12 inches, as specified in the AIMA. Mr. Lawlor states that, if landowners wish, GBX will apply fertilizer to disturbed soils in order to help restore fertility and to promote establishment of vegetative cover. He states that if landowners wish to self-perform the restoration work, or specify other arrangements, GBX and Quanta will comply with the landowner's reasonable requests.

Mr. Lawlor avers that in the event that, despite the extensive measures taken by GBX and Quanta, soil compaction still occurs, any impacts in terms of crop damage and loss, including reduced crop yields, will be limited to the relatively small portion of the easement property where construction activities occurred, and not the entire easement area. He estimates that the sum of the areas on which work will be performed or of the land that will be traversed by construction traffic is only approximately 20% of the total easement area. He stresses that in contrast, GBX will be compensating landowners for easement rights to the entire area covered by the easement, at 100% of the fair market fee value of the easement area, plus a separate payment for each structure placed on the landowner's property, as well as payments for crop damage. He asserts that this compensation package will pay the landowner in excess of the full fee value of the easement area (assuming at least one structure on the landowner's property), yet the landowner is allowed to continue to farm within the easement, except for the limited footprint occupied by the structure foundations.

Mr. Lawlor testifies that GBX will compensate landowners for soil compaction damages to the extent such losses are caused by construction or maintenance activities for the Project. He states there is no maximum period of time for which GBX will compensate landowners for soil compaction damages. He states that per the terms of the AIMA, GBX is obligated to repair or pay for damages that either were not readily apparent at the time of construction or that occurred during GBX's maintenance work.

c. Damaged Drainage Tiles

GBX states that it has a plan to avoid damaging drainage tiles, and will repair any drainage tiles that become inadvertently damaged, or will compensate the landowner for the damaged drainage tile. Mr. Lawlor testifies that GBX, or its EPC contractor, will take proactive steps to address potential damage to farm drainage tile. He says that letters will be sent to landowners inquiring whether support structures would impact drainage tile systems. He says that when notified of potential impacts, GBX or Quanta, its EPC contractor, will (i) to the extent reasonably possible, work to relocate structure locations away from drainage tiles to avoid conflict, and (ii) relocate the drainage tile or install new drainage tile at a new location, where feasible. He states that GBX or its EPC contractor

will visit local soil and water conservation districts to obtain information on the location of drainage tile, will consult other available documents that describe the location of drainage tiles, will consult with contractors that installed drainage tiles, and will meet with landowners and walk their fields. He asserts that once drainage tiles are located, the possibility of damage can be reduced by using construction matting, for example, to minimize the possibility of impacting drainage tiles.

Mr. Lawlor says that in the event that drainage tiles are nonetheless damaged by construction or maintenance of the Project, GBX will repair or replace (with equal or better quality) damaged drainage tiles, or will compensate landowners to make repairs. He adds that if the landowner later detects damage to drainage tile as a result of construction or maintenance activities by GBX that was not readily apparent at the time of such construction or maintenance work, the terms of the Easement Agreement oblige GBX to repair or pay for such damage.

d. Aerial Application Activities

GBX indicates that it is aware that the presence of overhead transmission lines and other types of above-ground structures have the potential to impact aerial application; however, GBX states, it does not agree with the premise, as suggested by certain landowner witnesses, that transmission lines or other above-ground structures will materially interfere with or preclude the landowner from utilizing aerial application. GBX asserts that it has considered minimizing impacts to aerial applicators in its route-selection process.

GBX states that the Route Study, sponsored by Mr. Gaul, includes siting guidelines to minimize potential impacts to aerial spraying. Mr. Lawlor explains, for example, that GBX sought to have the route of the transmission line parallel existing divisions of land. He states that reduces the number of structures located in the middle of fields and allows for aerial application parallel and adjacent to the transmission line. GBX commits to using single foundation support structures on agriculture lands. It asserts these structures have a smaller footprint and a narrower right-of-way than multi-foundation lattice type structures. GBX also commits to avoiding the use of guy wires in agriculture fields with tangent structures, to further reduce the overall footprint.

Mr. Lawlor asserts that the exact impact, if any, that the Project may have on the use of aerial application of chemicals is dependent on the orientation of each parcel of property and the agricultural operations on it, the placement of the transmission line, and the applicator's expertise and experience. GBX commits to working with landowners to address their concerns as it relates to their specific parcel, and in accordance with the terms of the Easement Agreement, GBX will fully compensate landowners for any damages, including reduction in crop yields, which are attributed to the construction or operation of the Project.

e. Land Use Limitations

Responding to the landowners' concern that the Project will impact agricultural production by reducing the amount of land available to farm and by interfering with modern farming equipment, GBX maintains that the Project will have a very minimal impact on farmland and its productivity. Mr. Lawlor asserts that the only land directly impacted by the Project will be the footprint of the foundation for the support structures. He says landowners will still be able to carry on agriculture activities within the right-of-way. He notes, again GBX's commitment in the AIMA, to using single foundation structures in agriculture land on tangent structures. He adds that, per Section 3 of the AIMA, GBX has committed to discussing pole placement issues with landowners. He asserts that to the extent reasonably possible, support structures will be spaced in such a manner as to minimize their interference with cropland.

Mr. Lawlor states that a typical tangent monopole or steel lattice mast foundation has a 6 to 8 foot diameter; that is roughly 0.0009 acres for a typical tangent monopole or steel lattice mast structure. He says the structures will be spaced every 1,000 to 1,300 feet (or 4-6 per mile). Based on the estimated number of structures in Illinois, he calculates that a total of approximately 1.7 acres across the state will be taken out of production or other use by the support structures and associated foundations. He states that in accordance with Section 3(D) of the AIMA, GBX will provide GPS coordinates of all structures to landowners and tenants, more precise navigation around the structures. He emphasizes that GBX is offering compensation to landowners through easement payments of full fair market value for the entire area of the easement (even through the owner will be able to farm the easement area except for the area of the support structure foundation), as well as separate payments for each support structure on the property, and crop or other damage payments.

f. GPS Guidance Systems

GBX notes that several landowner witnesses raised concerns about transmission line interference with GPS. Dr. Galli explains that a GPS is a space-based navigation system that depends on a series of geosynchronous satellites to provide time and location signals to receivers on earth. He testifies that concerns about potential interference with GPS systems relate to “corona,” which in the context of transmission lines refers to radio noise that, if strong enough, can create interference with signal reception in a certain band of frequencies in the electromagnetic spectrum. He asserts that the frequencies at which GPS systems operate are far higher than frequency ranges of significant corona noise produced by transmission lines. He states that Real Time Kinematic (“RTK”) systems, i.e., ground-based controls used to make differential calculations and improve positional accuracy of GPS, transmit and receive terrestrial signals typically at Ultra High Frequencies. He concludes that since both GPS, and the terrestrial signals on which RTK systems rely, are at far higher frequencies than the upper range of frequencies of significant corona noise, it is highly unlikely that either the terrestrial signals for RTK

systems or the satellite signals for GPS would be affected by corona noise from the HVDC transmission line.

Dr. Galli testifies that physical obstruction from transmission lines or structures is very unlikely to affect GPS systems. He indicates that GPS guidance systems employ multiple (normally four or more) satellites to communicate with a moving piece of farm equipment. He explains that if there is a momentary interference with one satellite signal due to the location of the equipment and the transmission line (i.e., an obstruction of the signal from a satellite), other satellite signals will enable reliable operation of the GPS to continue. He states it is very unlikely that a transmission line or structure, which would only physically block satellite signals from one direction, could cause the loss of a GPS signal. However, he testifies, in the very unlikely event that any interference was shown to occur, GBX would discuss mitigation and other potential remedies with the individual landowner.

g. Impacts to Natural Areas and Historical Sites

GBX responds to concerns expressed about the Project damaging existing forests, wetlands, historical sites and other conservation areas. GBX asserts the concerns regarding damage to historical and conservation areas are unfounded. It reiterates that avoidance of impacts to the natural environment was an important factor in developing the Proposed Route in Illinois. It asserts that in developing the Proposed Route, it was able to avoid impacting wetlands, conservation areas and large contiguous forested areas. Mr. Lawlor testifies that GBX took extensive measures to identify and map sensitive habitat and listed species, in consultation with relevant state and federal agencies, and conservation organizations. He states that this information was taken into account in developing the Proposed Route so that crossing or proximity to such areas was avoided or minimized.

In response to Mr. Sagez's questions about why GBX did not conduct an Environmental Impact Study, Mr. Lawlor explains that the Project is not a major federal action under the National Environmental Policy Act, and therefore, preparation of an Environmental Impact Statement is not required. However, he asserts, GBX has very extensively studied the environmental impacts associated with the Project, and environmental impacts were considered when developing the Proposed Route. He testifies that GBX has consulted with federal agencies, including the U.S. Fish and Wildlife Service (“USFWS”) and the U.S. Army Corps of Engineers, and state agencies, including the Illinois Department of Natural Resources (“IDNR”) and Illinois Historic Preservation Agency, as well as with conservation organizations like the Illinois Nature Conservancy, and other entities regarding measures to avoid, minimize and mitigate environmental impacts from the Project.

GBX asserts that it will follow all state and federal regulations and requirements of agencies with jurisdiction over threatened and endangered species. Mr. Lawlor says that GBX will coordinate with state and federal agencies to ensure the Project complies with all laws pertaining to wetlands, forests and conservation areas. He notes that appropriate

state and federal agencies will have jurisdiction over issuing permits to GBX concerning potential impacts to environmental and cultural resources, which will enable the applicable statutory and regulatory requirements of those agencies to be enforced.

h. Visual Impacts

In response to landowner concerns that the Project would obstruct scenic landscapes, Mr. Lawlor reiterates that avoidance of impacts to the natural environment was an important factor in identifying the Proposed Route in Illinois. He says that one of the main goals in siting the Project was minimizing the overall effect of the transmission line on the natural and human environment. Mr. Lawlor explains that maximizing distance of the Proposed Route from residences is one way GBX reduced visual impacts. He adds that in some instances, following existing infrastructure allowed for a reduction in visual impacts. Mr. Lawlor asserts that GBX worked with landowners and the public throughout the routing process to consider feedback on ways to minimize impacts. He states this feedback led to a number of changes to the route alignments to minimize or avoid visual impacts.

i. Health Impacts

GBX responds to LACI's discussion of Dr. Galli's qualifications, stating that Dr. Galli did not analyze raw data and develop his own report on impacts of EMF on human health. It states that he did not testify as to whether EMF causes long-term health effects. GBX explains that Dr. Galli read and reviewed reports produced by governmental and other scientific and public health organizations that analyzed studies on long-term health effects of EMF, and reported those organizations' conclusions. GBX asserts that with a Ph.D. in electrical engineering Dr. Galli is qualified to read and report the results of reports that themselves analyze studies on long-term health effects of electric and magnetic fields.

GBX states that his education as an electrical engineer qualifies Dr. Galli to calculate and report the strength of electric and magnetic fields produced by a transmission line and compare these field strengths with the recommended maximum EMF exposure limits and with the levels of electric and magnetic fields to which people are exposed in everyday life. GBX asserts that his testimony competently supports the conclusion that the electric and magnetic fields that will be produced by the transmission line are far below the recommended exposure limits established by governmental and health organizations, and are comparable if not less than the field strengths encountered in normal daily activities.

j. Landowner-Specific Concerns

GBX commits to work with all landowners to understand parcel-specific concerns and to develop plans to address them. It notes that CCPO, LACI and MEZ each presented testimony from landowner witnesses expressing concerns about the impacts of the transmission line on their properties or operations. It notes that many of these

concerns mirror the general concerns discussed above. GBX responds to the property-specific concerns expressed by landowner witnesses.

i. Mr. Buchanan

GBX notes Mr. Buchanan's concern about the impact of the Project on a recently installed tile system on his property. GBX states that although it tried to route the transmission along parcel boundaries to minimize impacts to tile drainage systems generally, there will be site-specific surveys to identify the location of and the need to implement measures to avoid and mitigate impacts to drainage infrastructure in the placement of specific structure locations for the Project. GBX commits to mitigating impacts to drainage tile and to repairing drainage tile in the event of damage caused by construction or operation.

ii. Mr. Cole

GBX notes that Mr. Cole expresses concern that the Proposed Route could eliminate a prime building site for the recently consolidated North Mac School District. GBX asserts that during the public meetings, members of the Routing Team worked with Mr. Cole to modify the route to avoid impacts to portions of his property designated for commercial, residential, and industrial development. It states that at the time the Proposed Route was developed, it worked on the alignment in coordination with Mr. Cole to avoid a proposed development project between the rail lines south of Virden. It states that at that time, Mr. Cole did not provide any information concerning the potential for impacting a suitable site for the North Mac School District. GBX concludes that it appropriately and proactively adjusted the route in response to the information that Mr. Cole did bring it to its attention during the public outreach process.

iii. Ms. Kleinik Davis

GBX states that Ms. Kleinik Davis expressed concern that the Project will run along the edge of two fields and then will split another field when the transmission line makes a 90-degree turn. It explains that, in this area, the Proposed Route follows parcel and land ownership boundaries to the greatest extent possible to minimize impacts to landowners and farming operations, to maximize distances from residences, and to avoid crossing a quarry. It states that while the Proposed Route makes one 90-degree turn while on the Kleinik property, the turn is located on the boundary of four parcels owned by three distinct landowners. GBX reasons that locating the structure at the junction of four parcels reduces the footprint on any one landowner’s property and minimizes the impacts on the landowners by utilizing existing divisions of land and not splitting farm fields. It explains that the reason the transmission line takes a 90-degree turn in this location is to avoid coming in close proximity to several residences farther to the east along E 250 Road as well as other residences in the general area. According to GBX, by turning south at this location and then back to the east just south of the Kleinik Davis properties, the Proposed Route maintains alignment along existing divisions of land, avoids coming in close proximity to any residences in this area, and avoids a quarry further to the east.

GBX notes Ms. Kleinik Davis' concern that the Project will restrict hunting opportunities on her land. Mr. Lawlor states that GBX anticipates that hunting activities can continue during construction, operation, and maintenance, subject to safety considerations for hunters and construction personnel. He indicates that GBX will make efforts to avoid interference with hunting activities during construction, and anticipates that any restrictions on hunting would be determined based on site-specific conditions and/or in coordination with landowners. He says it is GBX's experience that the presence of the transmission line, once constructed, is not expected to impact hunting, and in some cases, the cleared right-of-way may provide an opening for food plots and deer stands on the outside edge.

In response to Ms. Kleinik Davis' statement that bald eagles have begun to show up on her property, GBX notes that bald eagles are protected by the federal Bald and Golden Eagle Act and the Migratory Bird Treaty Act. As a result, it states, it will coordinate with the USFWS and IDNR to evaluate potential risks to avian species and to develop specific protection measures to avoid and minimize potential impacts to eagles. GBX indicates that implementation of an Avian Protection Plan with such measures will enable it to construct the Project through areas potentially inhabited by eagles.

iv. Mr. Fisher Jr.

GBX notes Mr. Fisher's concern that the Project will impact graves around a Kaskaskia Native American village site. It notes that Mr. Fisher's property is not located along the Proposed Route, but rather is located along the Alternate Route, which follows along the southern boundary of his property for 0.25 miles. GBX notes that no party is advocating that the Alternate Route, rather than the Proposed Route, should be adopted in this area. In any event, GBX states, the site report, which it obtained from the IDNR Historic Preservation Office, indicated a small site that was pedestrian surveyed in 1967. GBX says the presence or absence of graves is not mentioned in the report. Mr. Gaul indicates that the Alternate Route crosses only a small, easily span-able portion of the boundaries of the site as mapped by the Historic Preservation Office. He says that field survey will be required to confirm the site boundaries and determine the specific location of sensitive underground resources that should be avoided for structure placement, and/or any other mitigation measures required. GBX repeats that in developing the Proposed Route and Alternate Route, the Routing Team coordinated with state and local agencies in order to avoid such resources to the extent possible and practical. Mr. Gaul indicates that GBX will continue to coordinate with the Illinois State Historic Preservation Office throughout the permitting and approval process. He asserts that the final design of the Project will provide for any potential impacts to archaeological resources to be avoided or if necessary mitigated through structure placement or other methods. He reiterates that the concern about the historical resource on Mr. Fisher's property appears to be moot due to the lack of any support that the Alternate Route be selected over the Proposed Route.

Mr. Fisher also expressed concern that residential building sites on his land will be "just feet" from the path of the transmission line. GBX states that the nearest existing house to the Alternate Route on property owned by Mr. Fisher is approximately 1,400 feet north of the route, on a parcel north of 925 N Road that is not crossed by the Alternate Route. It states the remaining site buildings are approximately 1,200 feet north of the Alternate Route.

In response to Mr. Fisher's concern that the tree line on his property where deer stands are located will be destroyed, GBX states, that if the Alternate Route were chosen, it estimates that 0.8 acres of woodlands would be cleared within the Project right-of-way. It says the exact amount of timber that would need to be cleared would be determined following land surveys.

v. Mr. Gleespen

Mr. Gleespen expresses concern that the Project would impact the drainage tile and terraces on his property and that the AIMA places the burden on the landowner to enforce the agreement. GBX repeats its commitment to mitigating impacts to drainage tile and to repair drainage tile in the event of damage caused by construction or operation. It notes the AIMA requirement for an IAI. Mr. Lawlor states the IAI requirement provides a mechanism to ensure compliance with the AIMA and any other agreements negotiated between GBX and landowners. He states the name and contact information of the IAI will be provided to landowners prior to the start of any construction on their property. Mr. Lawlor notes the authority of the IAI to halt construction (or any specific inappropriate activities) in the event activities occur that are in violation of the AIMA or other agreements. He states that the Easement Agreement will incorporate compliance with the AIMA as an obligation of GBX, so the landowner will have the remedies available under the easement agreement in the event of a default by GBX.

vi. Ms. Locke

GBX notes Ms. Locke's concern that she will lose CO2 sequestration credits and income from timber operations because the Project will require cutting down over five acres of trees on her property. It notes that like Mr. Fisher's property, Ms. Locke's property is located along the Alternate Route, which no party is advocating be adopted in this area. GBX states that in the area of Ms. Locke's property, the Alternate Route parallels the existing Neoga-Shelbyville 138 kV Ameren transmission line, passing diagonally through Ms. Locke's property for 0.23 miles. It states that under the Easement Agreement, GBX will compensate landowners for commercially marketable timber based on prevailing market value. It adds that part of the easement negotiations with landowners will involve negotiating individual damage payments specific to each landowner's property. GBX states that if marketable timber will be removed from the easement area, a timber appraisal will be prepared by an independent timber appraiser to compensate for the value of any such timber. It adds that landowners can request that any marketable timber removed from the right-of-way be set aside for the landowner to sell. It says that as a result, the landowner will have the opportunity to be compensated

for the timber by GBX and also sell the timber from the right-of-way. Mr. Lawlor notes that Ms. Locke does not presently have any contracts on her land for selling CO2 credits, but states, any appraisal conducted will take into consideration the value of any contracts for CO2 credits for the timber that would be removed.

Ms. Locke also expressed concern about having the transmission line (which, again, would be the Alternate Route not the Proposed Route) cross her property when there is already an Ameren transmission line on her property. GBX explains that paralleling existing infrastructure avoids additional fragmentation of the landscape in an otherwise unimpacted area. It explains that although, if the Alternate Route were adopted, Ms. Locke would have two lines cross her property, paralleling existing infrastructure is a very common practice in developing transmission line routes. It states it was one of the criteria applied by the Routing Team in conducting the Route Study. GBX states that here, the entire length of the Alternate Route, as it relates to Ms. Locke's property, parallels an existing transmission line, thus consolidating linear infrastructure across a landscape and avoiding fragmenting land uses in otherwise unimpacted areas.

vii. Ms. Zotos

Ms. Zotos expresses concern that the Project will damage her family's prime farmland. Mr. Gaul estimates, there are likely to be only 2 or 3 structures on the southern parcel boundary of the Zotos property. He indicates that the area of permanent cropland loss will be limited to the area of the footprint of the structure foundation, typically between 0.00016 acre and 0.0009 acre of permanent impact (average permanent impact acreage for each footing of a four-footed lattice steel structure and for a monopole structure, respectively). He notes that this alignment is proposed to be on the parcel boundary. As a result he says, only half of this cropland loss would be an impact to the Zotos property, as currently planned. GBX repeats that it will compensate landowners not only for the easement payment, but also per structure placed on their land.

k. Compliance Filings Addressing Routing

GBX asserts that in addition to addressing landowner concerns in testimony, it addressed comments it received throughout the routing process from landowners concerning the placement of the transmission line on their properties or specific impacts to their properties, structures or operations. It notes it made a compliance filing on August 12, 2015, detailing how it addressed concerns raised by landowners about the Proposed and Alternate Routes at the third round of Public Meetings, beginning on March 2, 2015. GBX explains that it had sought feedback from landowners on routing options, through an extensive public outreach process, prior to the third round of Public Meetings; however, the Proposed Route and Alternate Route were not developed and published, in close to final form, until just prior to the third round of Public Meetings. It states that in a supplemental compliance filing, GBX provided responses to requested routing changes, and to objections concerning the proposed placement of the transmission line on individual landowner properties, raised by speakers at the Public Forums held by the Commission on July 28 and 29, 2015.

G. Interactions with Pipelines and Railroads

1. Rockies Express Pipeline

REX Pipeline operates an underground natural gas pipeline facility that passes through southern Illinois from west to east, traversing Pike, Scott, Morgan, Sangamon, Christian, Macon, Moultrie, Douglas, and Edgar Counties. REX Pipeline's primary concern is the safety and integrity of its pipeline. REX Pipeline expresses concern that neither it nor its customers would bear additional costs and risks resulting from other projects and land uses that would cross or operate near the Pipeline.

REX Pipeline states that both the Proposed and Alternate Routes cross and, for limited distances, run parallel to the existing REX Pipeline right-of-way. REX Pipeline does not oppose certification of the proposed GBX Project, nor does it oppose the routes proposed by GBX, provided that pipeline safety and integrity are protected.

REX Pipeline says that it engaged in cooperative discussions with GBX, which resulted in an understanding as to a process to coordinate their efforts in a manner that REX Pipeline is confident protects pipeline safety and integrity. It states that the two entities believe that pipeline safety and integrity can be protected while allowing for the construction and operation of the Project as proposed. It states they confirmed their commitments in a Stipulation that was admitted into evidence.

REX Pipeline explains that the Stipulation confirms that the engineering experts and other representatives of REX Pipeline and GBX have discussed: (1) the possible impact of the design, construction, operation, and maintenance of the Project on the safety and integrity of the Pipeline; (2) the possible effect of an existing underground pipeline and the required mitigation on the design, construction, operation, and maintenance of the Project; and (3) issues of financial responsibility. It states that the process outlined in the Stipulation addresses how to mitigate potential risks to the safety and integrity of the Pipeline, including risks of stray current, presented by the design, construction, operation and maintenance of the Project.

REX Pipeline states that it and GBX jointly propose that any final Order granting GBX a CPCN should include an agreed-to statement presented in the Stipulation. It states the language provided makes clear that these important issues have been addressed and resolved in a manner that protects both the safety and integrity of its pipeline and GBX's ability to construct the Project. REX Pipeline asserts that the agreed recitals of fact in the Stipulation support this statement, and that its inclusion in the Order would confirm that the public interest in pipeline safety is protected.

2. Illinois Central Railroad and BNSF

IC and BNSF (the "Railroads") state that they are participating to assure that their safety and operation requirements are met. They seeks to have their concerns

considered, in the course of the continuing design, construction and operation of the Project, if it is approved and built. They note that the ultimate impact on the railroads is not known yet. BNSF notes Dr. Galli's testimony that the engineering/design will not begin until an approved route is at hand. IC states that Mr. Jones testified that final design and final construction issues would not be addressed until right before the actual construction phase of the Project. The Railroads state they will not know the impact of the Project on their ROWs and operations, until the engineering design is further developed.

Mr. Spiros testifies that safety requirements are necessary so the railroads can protect the safety and integrity of the rail operation, and maintain and grow their freight business. IC and BNSF note Dr. Galli's testimony acknowledging the safety and operational concerns of the BNSF, and stating that GBX will consider and address these issues in the design, construction and operation of the Project, if approved and built. BNSF states that Mr. Jones acknowledges that the railroad safety requirements during the construction phase are for the safety of the construction and railroad workers, and the general public as well. BNSF says that Mr. Jones stated the railroad safety requirements should be considered and addressed prior to construction.

IC requests that any approval of the Application require GBX to abide by railroad safety requirements. BNSF states that it is of critical importance that BNSF's safety and operational requirements be considered and addressed as the Project advances. BNSF requests that if the Project is approved, GBX be required to abide by the BNSF's safety requirements to the extent that GBX or its contractors are on or about the railroad right of way. It says GBX should be required to address the safety and operational issues to protect the safety and integrity of BNSF's rail operations.

IC and BNSF note that Section 10-5-10(g) of the Illinois Eminent Domain Act (735 ILCS 30/1-1-1 et seq.) requires those who seek general eminent domain authority over railroad property to obtain approval from the Illinois Commerce Commission. They request that GBX be required not only to seek general eminent domain authority as a utility provided in Section 8-509 (which requires a decision in a 45-day period on a filing done at GBX's discretion), but additionally pursuant to Section 10-5-10(g) of the Illinois Eminent Domain Act. The Railroads indicate a concern that the specifics of any proposed authority to take railroad property be adequately addressed.

3. GBX

GBX states that REX Pipeline, IC, and BNSF each raised safety and operational the construction and operation of the Project may have on their facilities because the Proposed and Alternate Routes cross and/or run parallel to the facilities. It states that Mr. Jones testified regarding the safety requirements that Quanta will employ when performing construction activities on or about railroad property. It asserts that either it or Quanta, its EPC for construction of the transmission line, will (1) acquire the applicable permits; (2) review all of the conditions in the permit; (3) complete any required forms for construction within the railroad ROW; (4) submit plans for and set up temporary guard structures for protection of the railroad; (5) perform due diligence to locate any

underground utilities; and (6) coordinate with the track master to have a railroad flagman be on-site during construction. Mr. Jones testifies that these measures are intended to protect the safety of the railroad workers, the general public, and to avoid accidents or derailments. GBX asserts that it has addressed the safety-related concerns raised by REX Pipeline, IC, and BNSF. It assures that it and Quanta will comply with all applicable and customary safety practices and procedures when performing construction related activities on or about railroad property, including but not limited those specified above.

GBX states that as is customary, it collaborated with REX Pipeline to address mitigation of risks, including the risk of stray current, presented by the design, construction, operation and maintenance of their respective facilities where the Proposed Route or Alternate Route of the Project may cross and/or run parallel to the REX Pipeline facilities. GBX asserts that engineering experts and other representatives of GBX and REX Pipeline discussed, on several occasions, their respective concerns about the possible impact that the design, construction, operation, and maintenance of the Project may pose to the safety and integrity of the REX Pipeline facilities and the possible impact that the study and implementation of mitigation systems may have upon the design, construction, operation, and maintenance of the Project. It states the discussions included issues of financial responsibility, in Illinois.

GBX states that as a result of their collaboration, it and REX Pipeline entered into a Stipulation which was accepted into evidence, and made a part of the record in this proceeding. GBX indicates that the Stipulation reflects an agreement reached by it and REX Pipeline that resolves any dispute about pipeline safety and integrity and how to harmonize those imperatives with the needs of the Project. It asserts that in the Stipulation, REX Pipeline and GBX both support meeting REX Pipeline's concerns about pipeline safety and integrity and Project coordination needs. GBX states that it and REX Pipeline jointly propose that any final Order granting GBX a CPCN should include an agreed-to statement presented in the Stipulation. GBX opines that the inclusion of this statement in the CPCN is supported by the statements in the Stipulation and is consistent with the Commission's interest in adjudicating these issues with respect to pipeline safety and coordination of the Project.

GBX states that it has every intention of reaching agreement with each railroad it will cross as to how it will cross the railroad and the safety requirements associated with GBX's construction and maintenance activities. GBX objects to IC's request that any order include a requirement for it to abide by railroad safety requirements. It protests that the Railroads have not provided any safety requirements for the record in this case nor presented any proposed safety requirements to it for review. GBX states that it cannot make a blanket agreement to comply with any and all safety requirements prescribed by IC. GBX asserts that the condition is unnecessary because the railroad property is privately owned. GBX says it will be unable to enter upon or perform any construction activities on the property without getting IC's permission. GBX states that in negotiating a crossing permit or easement rights with IC, it will need to reach agreement with IC regarding safety practices.

GBX notes that both IC and BSNF request that any order approving the Project require GBX to seek eminent domain authority under Section 8-509, if it is unable to reach an agreement with the Railroads, before it can occupy their property. GBX states that there is no need for the order to include the Railroads' proposed requirement because Section 30/10-5-10(g) of the Illinois Eminent Domain Act already establishes this requirement, stating that "no property… belonging to a railroad… may be taken or damaged, pursuant to the provisions of this Act, without the prior approval of the Illinois Commerce Commission." GBX explains that there is no reason for the Order to direct GBX to do what it is already required to do by law.

H. Commission Conclusion

GBX provides a detailed Route Study, prepared by a 33-person interdisciplinary routing team. GBX complied with the pre-filing public meeting and notification requirements. GBX asserts that it held three public meetings in each of the nine counties through which the Project may pass. It states that potential routes were revised and refined through iterative reviews by the Routing Team, in coordination with state and federal regulatory agencies and with consideration of input from the general public. According to GBX, the potential routes were presented at the public meetings, where attendees were given a guided presentation about the Project. Mr. Gaul testifies that attendees were assisted in locating their property or areas of concern and were encouraged to submit comments. GBX insists that it considered the input in revisions to the potential routes.

Having reviewed the record, the Commission finds that the Route Study is detailed and comprehensive. The routing guidelines presented in the Route Study appear to be consistent with the public policy goals of minimizing the Project's effect on natural and human environments. The routing process, as described by GBX reflects concern with the stated policy goals and an effort to minimize impacts to sensitivities, such as proximity to homes and disruptions to the environment. While, intervenors object to specific impacts the Project may have on their properties or operations, no party objects to adoption of the Proposed Route. The Commission finds that the Proposed Route developed by GBX is reasonable and should be approved.

The Commission notes that the only proposed revisions within the Proposed Route were three iterations of the route modification, initially suggested by Rex Encore. The Branch Revision and the GBX Adjustment to the Rex Encore Modification each contain slight changes to the Rex Encore Modification. Based on its review of the evidence, the Commission approves the GBX Adjustment to the Rex Encore Modification. The GBX Adjustment to the Rex Encore Modification affects the Proposed Route just east of Highway 96 in Pike County in the area of Branch Properties and Rex Encore properties. The Commission concludes that the GBX Adjustment to the Rex Encore Modification avoids impacts to residences, avoids the need to remove an existing structure, avoids bisecting large contiguous land ownership, and does not impact known environmentally or culturally sensitive features. The Commission notes that neither Brown Branch nor Rex Encore object to the GBX Adjustment to the Rex Encore Modification. With its finding

that the Grain Belt Express Adjustment to the Rex Encore Modification should be adopted, the Commission approves the modified Proposed Route set forth in the legal description in GBX Exhibit 8.10 and provided as Appendix A to this Order. The Commission notes that the Proposed Route is depicted in Attachment 6 to the Application, with the exception that the Grain Belt Express Adjustment to the Rex Encore Modification is depicted in GBX Ex. 8.9. Due to the size of the exhibit it is not attached as an appendix to this order.

GBX asserts that the width of the easements necessary for the Project's HVDC transmission line will be between 145 and 200 feet. It states that four locations, identified in the discussion of easement widths above, for which an easement of between 275 to 300 feet may be required. Thus GBX requests authority for 200 feet easements with the exception of the four identified locations. GBX asserts that it will obtain the narrowest easement possible, consistent with safety and reliability requirements. It states that upon approval of the route, it will engaged in detailed pole spotting activities to determine where narrower easements may be feasible. GBX requests an additional 50 feet of temporary construction easements in locations where necessary to accommodate construction. It requests authority for a temporary easement of up to 450 feet beyond the 100 foot permanent easement on one side of a turning structure to accommodate the stringing of the conductor at locations along the route where a major (15 to 90 degree angle) turning structure is required. It estimates that there will be up to 80 locations for such structures, and most of them will require 300 feet or less outside of the permanent easement.

The Commission notes the discussion of the needed width of easement relative to the span lengths of the transmission lines. The Commission finds that GBX's requests for permanent and temporary easements are reasonable and should be approved.

GBX presents testimony of Dr. Galli on the benefits of HVDC technology and the technical specifications for design and construction of the Project through Dr. Galli. GBX entered into an AIMA with the Ill. DOA. Among the commitments it makes, is to using single foundation/pier structures for tangent structures except where specific engineering or environmental challenges are presented. In addition to the AIMA, GBX agrees to the Agricultural Impact Mitigation requirements that were adopted in Rock Island, Docket No. 12-0560. In response to LACI's proposal that that the order require that 90% of tangent structures be single foundations, GBX states the engineering of the project is not sufficiently advanced to commit to the specific numbers and types of structures. Staff notes GBX's assertions that the optimum span length between steel monopoles and lattice mast structures would typically be 1,200 feet and that pole heights would be between 100 and 175 feet.

No party objected to the structure types and design parameters presented by GBX and the Commission finds them to be reasonable. The Commission notes the parties numerous concerns regarding the structure types and placement. Given Applicant's assertions that it cannot make pole placement, pole type and other design determinations until the route is determined and the Project engineering is further advanced, the Commission does not make any findings on those issues at this time.

The Commission finds that GBX has committed to cooperate with IC, BNSF, and REX Pipeline in regards to their safety and operational needs. GBX has collaborated and come to an agreement expressed in the Stipulation with REX Pipeline, which both are satisfied resolves any dispute about the safety and integrity of REX Pipeline and how to harmonize those imperatives with the needs of the Project. The Commission finds the agreements contained within the Stipulation to be reasonable and in the public interest. Therefore, it adopts the agreed to language which GBX and REX Pipeline propose be included in this Order.

GBX and REX Pipeline address the need to mitigate the potential impact of the GBX HVDC Project on the Rockies Express Pipeline. GBX and REX both support meeting pipeline safety and project coordination needs. The Commission agrees that the GBX HVDC Project cannot be designed, constructed, operated, or maintained in a manner that poses a risk to the safety or integrity of the Pipeline, and that GBX should be responsible for the costs of installing and operating monitoring and testing equipment, and other mitigation steps, that are reasonably necessary to assure the safety and integrity of the Pipeline. The Commission further agrees that GBX should pay for all direct damages to REX proximately caused by the construction and ongoing operation of the GBX HVDC Project, including from fault currents. At the same time GBX should be protected from shouldering costs that are excessive or that are unjustified under applicable regulations, accepted pipeline safety practices, or reasonable engineering judgment. The record shows the process GBX and REX support meets those criteria.

The Commission finds, based on the record, in particular Mr. Jones' testimony, that GBX is fully aware of and is prepared to address the safety-related concerns raised by IC and BNSF. The Commission finds that it is premature to order compliance with safety requirements that are neither in the record nor agreed to by GBX. The Commission directs GBX to collaborate with IC and BNSF to address their safety and operational needs and to mitigate risks presented by the design, construction, operation and maintenance of their respective facilities where they cross or run parallel. The Commission finds it unnecessary to address the Railroads' requests regarding eminent domain procedure. Eminent domain procedure is provided for in the Illinois Eminent Domain Act.

The Commission appreciates the many comments provided in the public forums, by letter, and on the e-Docket system. The Commission is cognizant of the time and effort expended by all of the individuals who participated in the forums or provided comments. It is clear that although the Project promotes the convenience and necessity of the public at large, the landowners and communities who will be most immediately affected by its presence fear that the Project will impose a disproportionate burden upon them. The Commission notes the numerous concerns raised by landowners, local governmental entities, and others regarding the effect of the Project on the property and natural environment. The Farm Bureau, LACI, CCPO, and MEZ have also capably articulated their concerns about the effect of the Project on the environmental, aesthetics, and landowners' health, operations, and life style.

The Commission does not take these concerns lightly. GBX has not requested eminent domain. Thus, eminent domain and the specific concerns raised by the intervenors and landowners are not at issue here. However, the Commission notes the many commitments GBX has made in regards to property acquisition and construction of the Project. GBX has adopted a code of conduct as to its negotiations with landowners; it commits to truthful and respectful interactions and communications with landowners. GBX has repeatedly insisted that although it cannot make commitments as to certain actions at this time, it is committed to working with landowners to negotiate additional reasonable measures for prevention and mitigation of potential impacts to the landowner's property. The record in this proceeding indicates that GBX has considered landowner concerns and made minor revisions to its route or use of structures to address concerns. GBX indicates that it is not limited by the AIMA, its easement form, or its other commitments. The Commission anticipates that GBX will continue to take reasonable measures to address landowner concerns in connection with negotiating easements. If the Commission is asked to grant GBX eminent domain authority, the Commission will consider GBX's negotiations, as to monetary compensation, but it will also scrutinize the efforts GBX has made to address other, less tangible, costs and burdens to landowners and communities.

XII. SECTION 8-503

A. GBX

GBX requests that the Commission's Order in this proceeding, in addition to granting a CPCN for the Project, also authorize GBX, pursuant to Section 8-503 of the Act, to construct the Project. GBX notes that the grant of a CPCN for a new high voltage electric service line and related facilities under Section 8-406.1, compels the grant of authority pursuant to Section 8-503 to construct the Project. It states the record shows that it has independently met the requirements for an order under Section 8-503. It asserts that the evidence shows that the Project will promote the development of an effectively competitive electricity market, will promote the security and convenience of the public, and will help to secure adequate services and facilities. It notes that the Project would enable 4,000 MW of new renewable generating capacity to be available to Illinois electricity markets, and enabling electricity produced by wind generation resources in western Kansas to access and be delivered to electricity markets in Illinois and other PJM and MISO states. GBX states that this will be to the ultimate benefit of retail electricity consumers. Therefore, it concludes, the evidence supports a finding that GBX should be authorized, pursuant to Section 8-503, to construct the Project.

GBX notes the concern expressed by intervenors that the grant of authority pursuant to Section 8-503 to construct the Project will provide it a fast track to begin eminent domain proceedings against landowners. GBX asserts this concern is unfounded.

First, GBX notes, although it could have, it did not request eminent domain authority in this proceeding. GBX asserts it is committed to attempting to obtain the necessary rights-of-way through negotiations with landowners and voluntary transactions, to the maximum extent possible, and only would seek to use eminent domain if it has been unsuccessful in obtaining the necessary transmission line easement rights on a particular parcel after exhausting reasonable efforts to acquire the easement through negotiations and voluntary transactions. GBX states that in order to obtain eminent domain authority to acquire easements on properties that it has been unable to acquire through negotiations and voluntary agreements, it will need to file a separate, application with the Commission pursuant to Section 8-509 for such authority. It states it would then need to obtain an order granting such authority, based on a showing that the criteria the Commission has established for granting eminent domain authority pursuant to Section 8-509 are met.

GBX asserts that if the Section 8-509 petition were filed, it would need to demonstrate, among other thing, that it has engaged in significant, good faith negotiations with the landowners, but has been unable to acquire the necessary easements. It explains that this typically requires that the applicant demonstrate it has had a significant number of meetings and/or other contacts with the landowner and/or his or her counsel or other representatives and has made offers to the landowners.

GBX states that it has not yet initiated any efforts to acquire transmission line easements in Illinois, among other reasons because it does not have an approved route for the Project in Illinois and will not have an approved route until the instant proceeding is concluded. Therefore, it states, it will not begin negotiations with landowners in Illinois to acquire easements, at the very earliest, until after it receives a CPCN for the Project with an approved route in Illinois. GBX opines that whenever it does begin its efforts to acquire transmission line easements through negotiations with landowners, it will take a considerable period of time to have sufficient meetings and negotiations with landowners to support (assuming the negotiations are not successful in reaching an easement agreement) a request for eminent domain authority.

GBX says that Section 8-406.1(i) specifies that the order authorizing construction of the high voltage electric transmission line and related facilities shall authorize the construction “in the manner and within the time specified” by the Commission. With respect to “in the manner,” GBX understands that the specifications in the CPCN order for the Project, including the approved route, approved easement widths and approved structures, as well as any conditions or requirements imposed, are also applicable to the Section 8-503 authority. With respect to “within the time,” GBX recommends that the Commission’s Order should specify that GBX begin construction of the Project within two and one-half years following the date of the Order in this case. Although the July 2015 decision of the MPSC denying GBX’s request for a certificate of convenience and necessity for the Project in Missouri delays the Project in a manner not anticipated when the instant Application was filed, GBX states it believes two and one-half years will still provide sufficient time to obtain the necessary authority to begin constructing the Project in Missouri. It asserts that this period will also provide sufficient time to complete the

interconnection processes with PJM, MISO and SPP and to complete the environmental permitting processes that follow the receipt of an approved route.

B. Farm Bureau

Farm Bureau opposes GBX being granted relief under Section 8-503. It cautions that although GBX is not seeking Section 8-509 relief directly in this proceeding, it will have the opportunity to do so in the future if easement negotiations are not completed to its satisfaction. Farm Bureau repeats its argument that GBX is not eligible for Section 8-503 relief as a non-utility. Secondarily, Farm Bureau opines that granting GBX Section 8-503 relief is premature given all of the proposed contingencies which must be met prior to construction commencing. It provides the example of having adequate financial commitments. Farm Bureau notes that when GBX's sister company, Rock Island, sought Section 8-503 relief in Docket No. 12-0560, it was denied. Farm Bureau notes Staff's and ComEd's concerns that Rock Island's request for Section 8-503 relief was premature, because it would give Rock Island authority that could not be utilized given the contingencies, conditions and regulatory approvals still needed. Farm Bureau notes the Commission agreed with Staff and ComEd that under the circumstances, it would be premature to grant Section 8-503 relief to Rock Island in this proceeding.

Farm Bureau voices concern that GBX is requesting two and one-half years to commence construction without any showing of why the statutory time requirement should be relaxed. It argues that if GBX is not ready to construct the project yet, then it should not be before the Commission now. Farm Bureau asserts that GBX is not capable of complying with the Section 8-503 authorization it seeks for several reasons. It states GBX does not own, control, operate, or manage any plants, equipment, or property used for or in connection with the transmission, delivery, or furnishing of electricity in Illinois. Farm Bureau states GBX does not have the basic infrastructure, suppliers, customers, or sufficient funding to start doing anything.

Farm Bureau asserts that GBX has indicated that construction of the Project will not occur unless the Project is approved in Missouri, but it can give no assurance to the Commission that it will ever comply with the legal authorization it is requesting, especially within two to three. Farm Bureau argues it appears impossible for GBX to utilize an Illinois CPCN within two years as required. Farm Bureau raises concerns about what effect Section 8-503 authority will have on easement negotiations.

C. ELPC

ELPC asserts that the Project will promote the development of an effectively competitive electricity market and provide environmental benefits. Therefore, it opines, the Commission should authorize and direct construction of the Project so that GBX can take the next steps in the Project's development

D. Commission Conclusion

The Commission notes that relief under Section 8-406.1, necessarily includes an order granting Section 8-503 authority. As discussed above, eminent domain authority has not been requested in this proceeding.

XIII. ACCOUNTING-RELATED REQUESTS

A. GBX

1. Use of FERC Uniform System of Accounts

GBX states that as a multi-state provider of transmission services in interstate commerce that will be subject to the jurisdiction of FERC as well as of this Commission, it will maintain its books and records of account in accordance with FERC's Uniform System of Accounts ("USOA") Prescribed for Public Utilities and Licensees Subject to the Provision of the Federal Power Act, 18 C.F.R. Part 101 ("FERC USOA"). GBX provides a Chart of Accounts that it has adopted in accordance with FERC's USOA.

GBX states that based on the nature of its operations, it will be a "public utility," but not an "electric utility," as defined in the Act. GBX asserts that because it will not be an "electric utility," based on a literal application of the Commission's regulation at 83 Illinois Administrative Code Part 415, USOA for Electric Utilities ("Code Part 415"), it will not be subject to the Commission's regulations in Code Part 415. Nevertheless, GBX acknowledges that the USOA in Code Part 415 would be the Commission's system of accounts that is the most closely relevant to GBX's operations. In Code Part 415, the Commission has adopted the FERC USOA as the Commission's USOA for Electric Utilities, with certain deviations.

Therefore, GBX reasons that maintenance of its books and records of account in accordance with the FERC USOA, should provide appropriate, useful and sufficient accounting and financial information for the Commission's regulatory purposes. It finds this particularly so, given the great similarity and consistency between the FERC USOA and this Commission's USOA for Electric Utilities. It states that it would create undue and unwarranted burden and expense for GBX to be required to maintain its books and records in accordance with both FERC USOA and, for Illinois regulatory purposes, this Commission's USOA for Electric Utilities. GBX notes that the Commission granted Rock Island's request to maintain its books and records in accordance with the FERC USOA in Docket No. 12-0560.

GBX requests that, to the extent the Commission deems necessary, it waive the applicability of 83 Ill. Admin. Code Part 415 to GBX so long as it maintains its books and records in accordance with the FERC USOA.

2. Request to Maintain Books and Records Outside of Illinois

As a public utility, GBX will be subject to Section 5-106 and 83 Illinois Administrative Code Part 250, Public Utility Books and Accounts, which require public utilities to maintain books and records in the State, absent authorization from the Commission, which the Commission may give under special circumstances. GBX requests authority to maintain its books and records outside of the state and at its main office in Houston, Texas.

It states that the principal office of GBX and of its ultimate parent company, Clean Line, is located at 1001 McKinney Street, Suite 700, Houston, Texas 77002. GBX states that although it plans to maintain an office or offices within Illinois as it moves into construction and, ultimately, the operation, of the Project, it plans to continue to maintain its principal office at the headquarters office of its parent company. GBX states the accounting, financial and administrative staff of Clean Line will perform accounting, financial and administrative services for GBX, including maintenance of its accounting and financial books and records. GBX states that due to the nature of its business and operations, it will be operating in, and subject to the jurisdiction of regulators in, four states. For these reasons, GBX asserts, it would be inefficient, unduly expensive and overly burdensome for it to maintain its books and records in Illinois or at any location other than the principal office of GBX and its ultimate parent company, Clean Line, in Houston, Texas.

GBX commits that, as a condition to being authorized to maintain its books and records at its principal office in Houston, Texas, GBX shall promptly reimburse any travel costs and expenses of Commission Staff incurred in order to review those books and records. GBX notes the Commission granted Rock Island's request to maintain its books and records outside the State of Illinois in Docket No. 12-0560.

Accordingly, GBX requests that in its order in this proceeding, the Commission authorize it, pursuant to 83 Illinois Administrative Code 250.20 and 250.40, to maintain its books and records outside of the State of Illinois, at GBX's principal office at 1001 McKinney Street, Suite 700, Houston, Texas 77002.

3. Request for Proprietary Treatment of Certain Information

GBX asserts that the prepared testimony and exhibits which were filed contemporaneously with its Application contain financial and business information that Clean Line and GBX regard as proprietary and confidential. It states Clean Line and GBX consider the financial statement exhibit and certain other financial information presented by GBX witness David Berry to be proprietary and confidential. GBX states that they regard the information designated as propriety and confidential in the testimony and exhibits submitted in support of GBX's Application to be proprietary and confidential. It notes that GBX and its ultimate parent company, Clean Line, are not publicly held companies, but rather are privately-held companies that are owned at this time by a small number of investors. GBX explains that Clean Line may in the future become a publicly

held company as it raises additional capital to finance the development and construction of its transmission projects including the Project. However, it states, at this time, due to the privately held ownership structure of the company, the financial information of Clean Line and GBX should be accorded proprietary and confidential treatment. Further, it asserts that disclosure of Clean Line's and GBX's financial information at this time could be financially and competitively harmful to Clean Line and GBX in their negotiations with potential providers of products materials and services.

GBX notes that Section 4-404 specifies that "[t]he Commission shall provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation or other entity." Accordingly, GBX requests that in its order in this proceeding, the Commission specify that the information designated by GBX as proprietary and confidential in the testimony and exhibits submitted in this proceeding (including the *in camera* portions of the transcripts of the evidentiary hearing) shall be accorded proprietary and confidential treatment for a period of two years from the date of the Commission's final order in this docket.

B. Farm Bureau

Farm Bureau argues that the accounting related and proprietary relief are moot as GBX's Application should be denied.

C. Commission Conclusion

GBX seeks permission to maintain its books and records at its principal office and that of its ultimate parent company, Clean Line, in Houston, Texas. No party raised substantive objections to this request. GBX asserts that it will promptly reimburse any Staff travel costs and expenses incurred in order to review these books and records. The Commission finds that GBX's request should be granted, subject to the condition that it shall reimburse Staff travel costs and expenses incurred in order to review these books and records.

GBX requests that, to the extent the Commission deems necessary, it waive the applicability of 83 Ill. Admin. Code Part 415 to GBX so long as it maintains its books and records in accordance with the FERC USOA. No party raised substantive objections to GBX's request. The Commission notes that Staff did not object and it allowed this request of GBX's sister company, Rock Island, in Docket No. 12-056. The Commission finds that GBX's request -- that the applicability of 83 Ill. Adm. Code 415 be waived so long as GBX maintains its books and records in accordance with the FERC Uniform System of Accounts-- should be granted.

GBX also requests that all confidential information placed into the record of this proceeding be treated as proprietary and confidential for a period of two years from the date of this Order is granted. There were no substantive objections to this request. The Commission finds that all information treated as confidential in this proceeding pursuant

to rulings shall continue to be treated as proprietary and confidential for a period of two years from the date of this Order.

XIV. OTHER

A. GBX

In response to Farm Bureau's and LACI's assertions that this Application is moot, GBX asserts that it is not foreclosed from obtaining a certificate of necessity and convenience in Missouri. It notes the MPSC order denying its motion for rehearing expressly invited GBX to file a new application if it gathers new information that would make a better case for the Project, which does not support the contention that the Project is an impossibility. GBX states that MPSC approval for the Project is not a condition precedent to this Commission's responsibility to hear and decide its Application for a CPCN, any more than is the regulatory approval for the Project, already secured, in Indiana and Kansas. GBX argues that it is not required to secure certificates of convenience and necessity from the several states in any particular order, or demonstrate to the Commission that it has secured such certificates from any other state, or that the proceedings in any other state must be brought to a final conclusion, with prejudice, before GBX may apply for, and secure, a CPCN from the Commission to construct the Project in Illinois. GBX maintains that it is pursuing, and it remains a real possibility that GBX will obtain, authority to construct the Project in Missouri. GBX concludes that the Application is an actual controversy that the Commission must decide. Applicant dismisses the argument that the Application is a request for a declaratory ruling for the same reasons.

B. Staff - Multi-Driver Projects

Mr. Hanson testifies to a new component of PJM's transmission planning process, Multi-Driver Projects, for informational purposes. He states Multi-Driver Projects are projects that combine transmission projects intended to resolve specific drivers such as reliability, market efficiency, or public policy. He says the premise underlying Multi-Driver Projects is that combining projects may lead to a lower cost solution to solve the problems that individual projects were intended to resolve.

Mr. Hanson emphasizes that costs associated with the public policy component of a Multi-Driver Project will only be recovered from states willing to incur the costs. He indicates that costs associated with other drivers of the Multi-Driver Project will be recovered on the same basis as the stand-alone projects with one exception. He explains that if a Multi-Driver Project is boosted to a voltage over 345 kV double circuit by the addition of a public policy component, a special cost allocation is used where 20% of the project costs net of the public policy component is recovered on a load share ratio basis throughout PJM and the remainder of the non-public policy costs are recovered on the same basis that a standalone project would use.

C. Farm Bureau and LACI

Farm Bureau and LACI assert the Project is an impossibility. They argue that currently, GBX cannot construct it. Farm Bureau and LACI maintain that GBX is not waiting for other regulatory approvals; rather, it has been denied those approvals. They say GBX has applied for regulatory approval in Missouri, and it was denied. (MPSC Order, p. 26) They say GBX applied for rehearing and was, again, denied. Order Denying Applications for Reh'g, p. 26 In the Matter of Grain Belt Express Clean Line LLC, File No. EA-2014-0207 (Mo. Pub. Svc. Comm'n Aug. 12, 2015). As such, Farm Bureau and LACI assert, GBX cannot construct the project.

LACI notes Mr. Lawlor's testimony that routing approval in Missouri is necessary to construct the Project. It states that Mr. Skelly testified that GBX is not even considering its options until next year. It reasons that now Illinois landowners are spending thousands of dollars on an impossible Project that is on Clean Line's back burner.

Farm Bureau and LACI argue that as a matter of law, these proceedings began seeking an advisory opinion when the MPSC denied GBX's request for rehearing. They state that the First District case of Shifris v. Rosenthal, 192 Ill. App. 3d 256 (1st Dist. 1989) also involved an impossibility. According to LACI, there, a governmental body revoked a permit to build a home. It says the defendants obtained a permit to build a home on a flood plain, and the plaintiffs, opposing the project, filed a declaratory action seeking rescission of the permit. It states that, during the litigation, the permitting authority revoked the permit. Accordingly, the trial court dismissed the matter as moot. LACI states the Appellate Court agreed; it held that the controversy over the issuance of a permit ceased when the permit was revoked. LACI says the Court determined it had a "duty to decide actual controversies by rendering judgments which can be carried into effect, rather than rendering opinions upon moot questions and abstract propositions or deciding principles or rules of law which cannot affect the matter at issue in the case before it."

Farm Bureau and LACI assert that here, even if the Commission were to render a decision on GBX's Application, the effect of the decision could not be "carried into effect." Much like Shifris's revocation of the building permit, they opine that the MPSC denial renders the controversy moot. They state that unlike the judicial system, though, there is a mechanism to obtain advisory opinions at the Commission. It notes the Administrative Procedure Act (5 ILCS 100/1-1 et seq.) allows administrative bodies to create procedures for declaratory rulings. It states that Section 200.220 of the Rules of Practice provides such a procedure.

According to LACI, once the MPSC denied rehearing, GBX's Project became an abstract proposition; it asserts that the Project cannot be built at this point. It offers that a more appropriate route for GBX would be to seek a declaratory ruling. But even then, LACI suggests, the project remains too abstract. It states In re Consolidated Communications Enterprise Services, Inc., Docket 12-0413 ("Consolidated") (Apr. 8, 2013) informs us of just that.

LACI explains that Securus Technologies moved to dismiss a declaratory ruling petition filed under Section 200.220 of the Rules of Practice. LACI states the Commission never ruled on Securus' motion, but entered an order granting the petition. LACI states that Securus appealed, arguing that the Commission lacked jurisdiction to enter the order. Securus Techs., Inc. v. Ill. Commerce Comm'n, 2014 IL App (1st) 131716. The First District pointed out that the Administrative Procedure Act and the Rules of Practice failed to define declaratory ruling. LACI states the Court stated that declaratory actions "require[] a showing that the underlying facts and issues of the case are not moot or premature with the result that the court passes judgment upon mere abstract propositions of law, renders an advisory opinion, or gives legal advice concerning future events." LACI says the Court explained that Consolidated's petition sought a declaratory ruling on the application of a rule to an already completed bidding process. Accordingly, the Court determined that Consolidated's petition did not allege "any immediate or concrete set of facts regarding the future provision" of the services governed by the regulation and that it was unknown if Consolidated would ever win a bid to offer those services in the future. LACI states, the Court determined that the matter was abstract and conjectural. The court ruled the Commission lacked the jurisdiction to enter the order.

LACI argues that the Commission also lacks jurisdiction to enter an order in this case. It states that in Consolidated, a bid process and subsequent lawsuit was lost – leading to the impossibility of Consolidated providing the services it inquired of in the declaratory judgment. Similarly, in the matter at hand, LACI argues, the MPSC has denied GBX's application and its request for rehearing. Accordingly, it concludes, the Commission lacks any authority to provide GBX an Order of any type.

D. Commission Conclusion

The Commission concludes that GBX's Application is not moot. The MPSC did not deny GBX's application for a certificate with prejudice. GBX can refile an application with the MPSC. Mr. Skelly testifies that GBX may file a new application for a certificate with the MPSC that addresses its concerns; or, GBX may pursue federal citing authority. GBX maintains that regardless of the option that is pursued, it is committed to securing the necessary approval in Missouri and constructing and operating the Project.

XV. CONCLUSION

Having given due consideration to the entire record, the Commission is of the opinion and finds that:

(1) the Commission has jurisdiction over Grain Belt Express Clean Line LLC and the subject matter of this proceeding;

(2) the recitals of fact and legal argument identified as the parties' respective positions accurately reflect the record in this matter;

(3) the recitals of fact and conclusions of law reached by the Commission are hereby adopted as findings of fact and conclusions of law for purposes of this Order;

(3) pursuant to Section 8-406.1(f)(1) of the Act, subject to the determinations made in this Order, the Commission finds that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives;

(4) pursuant to Section 8-406.1(f)(2) of the Act, subject to the determinations made in this Order, the Commission finds that Grain Belt Express Clean Line LLC is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction;

(5) pursuant to Section 8-406.1(f)(3) of the Act, subject to the conditions in this Order, the Commission finds that Grain Belt Express Clean Line LLC is capable of financing the proposed construction without significant adverse financial consequences for Grain Belt Express Clean Line LLC or its customers;

(6) the route for the roughly 202-mile long transmission line, which will traverse Illinois from near Canton to a converter station in Clark County, should be approved along the routes identified in the prefatory portion of this Order and as legally described in the Appendix A attached hereto;

(7) the easement widths for the ±600 kV line as proposed by Grain Belt Express Clean Line LLC, including permanent easements and temporary construction easements, as set forth in the prefatory portion of this Order are reasonable and appropriate and should be approved;

(8) pursuant to Section 8-406.1(h), the Commission finds that Grain Belt Express Clean Line LLC shall pay a one-time construction fee to each county in which the project is constructed within 30 days after the completion of construction; the construction fee shall be $20,000 per mile of high voltage electric service line constructed in that county, or a proportionate fraction of that fee; the fee shall be in lieu of any permitting fees that otherwise would be imposed by a county;

(8) pursuant to Section 8-406.1(i) of the Act, Grain Belt Express Clean Line LLC is authorized, pursuant to Section 8-503 of the Act, to construct the high voltage electric service line, the new and expanded substations and related facilities as approved by the Commission in the prefatory portion of this Order; and

(9) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that a Certificate of Public Convenience and Necessity is hereby issued to Grain Belt Express Clean Line LLC pursuant to Section 8-406.1 of the Public Utilities Act, and that said certificate shall read as follows:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require (1) construction, operation, and maintenance by Grain Belt Express Clean Line LLC of segments of a +600-kilovolt electric transmission line and related facilities over the routes found appropriate at locations approved in Docket No. 15-0277, at locations as shown on the Appendix A attached hereto; and (2) the transaction of an electric public utility business in connection therewith, all as herein before set forth.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity is conditioned upon Grain Belt Express Clean Line LLC complying with the conditions discussed above and set forth in Appendix B to this Order.

IT IS FURTHER ORDERED that pursuant to Section 8-503 of the Act, Grain Belt Express Clean Line LLC is authorized to construct the high voltage electric service line, and related facilities as approved by the Commission in the prefatory portion of this Order.

IT IS FURTHER ORDERED that Grain Belt Express Clean Line LLC's request to maintain its books and records at its principal office and that of its ultimate parent company, Clean Line Energy Partners LLC, in Dallas, Texas, is approved, subject to the condition that that Grain Belt Express Clean Line LLC shall promptly reimburse any Staff travel costs and expenses incurred in order to review these books and records.

IT IS FURTHER ORDERED that Grain Belt Express Clean Line LLC's request that the applicability of 83 Ill. Adm. Code 415 be waived so long as Grain Belt Express Clean Line LLC maintains its books and records in accordance with the FERC Uniform System of Accounts, and that Grain Belt Express Clean Line LLC be allowed to submit annual financial information required by ICC Form 21, 83 Ill. Adm. Code 210, and Section 5-109 of the Act, by using the FERC Uniform System of Accounts to complete ICC Form 21, is granted.

IT IS FURTHER ORDERED that all information designated and filed as proprietary and confidential in this proceeding shall continue to be treated as proprietary and confidential for a period of two years from the date of this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED: October 15, 2015
Briefs on Exceptions must be received by October 22, 2015

Jan VonQualen
Administrative Law Judge