MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE MATTER OF THE JOINT APPLICATION OF INVENERGY TRANSMISSION LLC, INVENERGY INVESTMENT COMPANY LLC, GRAIN BELT EXPRESS CLEAN LINE, LLC AND GRAIN BELT EXPRESS HOLDING LLC FOR AN ORDER APPROVING THE ACQUISITION BY INVENERGY TRANSMISSION LLC OF GRAIN BELT EXPRESS CLEAN LINE LLC,

Respondents,

EASTERN MISSOURI LANDOWNERS ALLIANCE DBA SHOW ME CONCERNED LANDOWNERS; AND JOSEPH AND ROSE KRONER,

Appellants,

v.

PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI,

Respondent

DOCKET NUMBER WD83236

DATE: July 7, 2020

Appeal From:

Public Service Commission of the State of Missouri

Appellate Judges:

Division Three
Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, W. Douglas Thomson, Judge

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Attorneys:

Peggy Ann Whipple, Attorney for Respondent- Invenergy, Jefferson City, MO;
Curtis Ryan Stokes, Attorney for Respondent- Public Service Commission, Jefferson City, MO;
Paul A. Agathan, Attorney for Appellants, Washington, MO

MISSOURI APPELLATE COURT OPINION SUMMARY

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IN THE MATTER OF THE JOINT APPLICATION OF INVENERGY TRANSMISSION LLC, INVENERGY INVESTMENT COMPANY LLC, GRAIN BELT EXPRESS CLEAN LINE, LLC AND GRAIN BELT EXPRESS HOLDING LLC FOR AN ORDER APPROVING THE ACQUISITION BY INVENERGY TRANSMISSION LLC OF GRAIN BELT EXPRESS CLEAN LINE LLC, Respondents,

EASTERN MISSOURI LANDOWNERS ALLIANCE DBA SHOW ME CONCERNED LANDOWNERS; AND JOSEPH AND ROSE KRONER, Appellants,

v.

PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI, Respondent.

WD83236 **Public Service Commission of the State of Missouri**

Before Division Three Judges: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, W. Douglas Thomson, Judge

Eastern Missouri Landowners Alliance d/b/a Show Me Concerned Landowners ("Show Me") and Joseph and Rose Kroner ("the Kroners") ("Appellants" collectively) appeal the September 11, 2019, amended report and order issued by the Public Service Commission of the State of Missouri ("Commission") approving the sale of Grain Belt Express Clean Line LLC ("Grain Belt") to Invenergy Transmission LLC ("Invenergy"). On appeal, Appellants contend the Commission lacked statutory authority under Section 393.190, RSMo 2016, to approve the sale of Grain Belt to Invenergy because, 1) Grain belt is not an "electrical corporation" and, 2) even if Grain Belt is an electrical corporation, the sale does not transfer any assets of Grain Belt which are "necessary or useful in the performance of its duties to the public," a prerequisite for Commission approval of the sale under Section 393.190.1.

AFFIRMED.

Division Three Holds:

1) Appellants were a party to and/or had a full and fair opportunity in the case of *Missouri Landowners Alliance v. Public Service Commission*, 593 S.W.3d 632 (Mo. App. 2019), to litigate the issue of whether Grain Belt is an "electrical corporation," making relitigation of this issue barred by collateral estoppel.

2) The Commission had the statutory authority under Section 393.190.1 to approve the sale of Grain Belt to Invenergy because the sale included Grain Belt's electric plant and, as

such, involved the sale of franchise, works or systems, necessary or useful in the performance of Grain Belt's duties to the public.

Opinion by: Anthony Rex Gabbert, Judge Date: July 7, 2020

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.