

IN THE CIRCUIT COURT OF COLE COUNTY  
NINETEENTH JUDICIAL CIRCUIT  
STATE OF MISSOURI

GRAIN BELT EXPRESS LLC,

Petitioner,

v.

MISSOURI ATTORNEY GENERAL  
ANDREW BAILEY,

Respondent.

**PETITION TO QUASH AND SET ASIDE  
CIVIL INVESTIGATIVE DEMAND NO. 25-37**

Petitioner Grain Belt Express LLC (“Grain Belt”) brings this Petition to quash and set aside Civil Investigative Demand (“CID”) No. 25-37, which was issued by Respondent, the Attorney General of Missouri, purportedly pursuant to the Missouri Merchandising Practices Act, RSMo § 407.010 *et seq.* (“MMPA”). In support of this Petition, Grain Belt states as follows:

**I. PRELIMINARY STATEMENT**

1. The Attorney General has issued an unlawful CID to Grain Belt, seeking documents relating to a high-voltage, multistate electric transmission line known as the Grain Belt Express Project (“GBX Project”), which has already received final approval from the Missouri Public Service Commission (“PSC”), the state agency charged with exclusive authority to regulate public utilities in Missouri, as well as the Missouri courts reviewing prior appeals of the PSC decision.

2. The Attorney General purports to investigate violations of the MMPA—a statute designed to protect *consumers*—even though Grain Belt has never marketed or sold any product to any consumer in Missouri and ultimately would not provide retail electric service to end-user customers in Missouri in any event. The Attorney General’s authority is so transparently absent

that he has already sent letters to the PSC and the U.S. Department of Energy (“DOE”), requesting that they take actions to scuttle the project that he is plainly powerless to carry out himself.

3. The bottom line is that the Attorney General is not engaged in legitimate fact-finding and, instead, has issued the CID for purposes of harassing Grain Belt and interfering with its business in an effort to bring the project to a halt. Because the CID falls outside the scope of the Attorney General’s authority under the MMPA, and because the Attorney General has no authority to revisit the PSC’s final approval of the project, as affirmed by Missouri courts, the court should quash and set aside the CID.

## II. PARTIES

4. Petitioner Grain Belt Express LLC is a limited liability company organized under the laws of Indiana, with offices in Missouri, including in Rolla, Missouri.

5. Respondent Attorney General Andrew Bailey is the duly elected Attorney General of Missouri, with offices at various locations throughout the state.

## III. JURISDICTION AND VENUE

6. The court has subject matter jurisdiction pursuant to Mo. Const. Art. V, § 14.

7. The court has personal jurisdiction over the Attorney General as an elected official in the State of Missouri.

8. Grain Belt is authorized to bring this action pursuant to the MMPA, RSMo § 407.070, which allows a CID recipient to file “a petition to extend the return date for, or to modify or set aside” a CID, with good cause shown, “[a]t any time before the return date” or “within twenty days” after the CID is served.

9. Grain Belt was served with the CID on July 1, 2025. Additionally, the return date is July 21, 2025. Ex. A at 5. Accordingly, this Petition is timely filed in that it has been filed both

by the return date and within 20 days of service.

10. Venue is proper in this court because the MMPA, RSMo § 407.070, provides that a petition “may be filed in the circuit court of the county where the parties reside or in the circuit court of Cole County.”

#### IV. BACKGROUND

##### A. The PSC and Missouri Courts Grant Final Approval to the GBX Project.

11. Once completed, the GBX Project will constitute an 800-mile, high-voltage electric transmission line intended to carry energy from Kansas across the Midwest through delivery points in Missouri and Indiana, with the goal of modernizing America’s aging and fragmented electric grid and meeting the readily increasing demand for electricity.

12. Although preparations and planning are well underway, the GBX Project has not yet been constructed. Construction in earnest on the first phase of the project, which would connect Kansas and Missouri, is expected to begin in 2026, with construction on the second phase, connecting Missouri and Indiana, expected to begin 18 months later.

13. Upon completion, the GBX Project would provide open access delivery for all energy sources based on competitive contracts, and Grain Belt’s customers would primarily consist of “energy producers and wholesale buyers of electricity, such as utilities, municipalities, and commercial and industrial customers.” *In re Grain Belt Express LLC*, 703 S.W.3d 584, 588 (Mo. Ct. App. W.D. 2024). The GBX Project “would not provide retail electric service to end-use customers in Missouri.” *Id.*

14. Beginning in 2014, Grain Belt began applying to the PSC for a certificate of convenience and necessity (“CCN”) for the Missouri portion of the GBX Project, as is required. *See* RSMo § 393.170. The PSC is the state agency with exclusive authority to regulate public

utilities in the State of Missouri. *State ex rel. McKittrick v. Missouri Pub. Serv. Comm'n*, 175 S.W.2d 857, 862 (Mo. banc 1943); *see* RSMo § 386.010 *et seq.*

15. In 2019, the PSC granted Grain Belt a CCN and approved Grain Belt's application to build the Missouri portion of the interstate transmission line and associated facilities. The Missouri Court of Appeals affirmed the PSC's decision after certain interest groups appealed the PSC's order. *Missouri Landowners Alliance v. Pub. Serv. Comm'n*, 593 S.W.3d 632, 636 (Mo. Ct. App. E.D. 2019). These organizations included the Missouri Farm Bureau, which subsequently endorsed the Attorney General during his 2024 campaign, based on his "willingness to fight for property rights."<sup>1</sup>

16. In 2022, Grain Belt filed an application with the PSC to amend its CCN, proposing an expansion of the project including, among other things, the relocation of a converter station and an increase in the station's electrical capacity. In support of its application, Grain Belt submitted reports and testimony from expert witnesses, including regarding the value of the GBX Project to Missourians in terms of lower energy prices, as well as the benefits to the state in terms of jobs, earnings, and fiscal impacts.

17. The PSC also conducted three public hearings and held an evidentiary hearing in June 2023. In October 2023, the PSC granted Grain Belt's application and issued a CCN inclusive of the modifications requested by Grain Belt, effective November 11, 2023.

18. On December 7, 2023, the PSC denied an application for rehearing filed by agricultural associations including the Farm Bureau. *In re Grain Belt Express LLC*, No. EA-2023-0017, 2023 WL 8644856, at \*1 (Pub. Serv. Comm'n Dec. 7, 2023).

---

<sup>1</sup> <https://mofb.org/bailey2024/>.

19. After the Farm Bureau and others appealed the PSC's order, the Missouri Court of Appeals affirmed. *In re Grain Belt Express LLC*, 703 S.W.3d at 587.

20. In doing so, the Court of Appeals addressed the Farm Bureau's argument that Grain Belt's valuation depended on the flawed assumption that a future "carbon tax" would be enacted and thus overstated the benefit to Missourians in terms of comparatively lower energy prices. The Court of Appeals examined the PSC's record and concluded that the Farm Bureau's argument "ignore[d] the numerous times that [Grain Belt's] Valuation Expert testified that he did not assume a legislatively or otherwise legally imposed carbon tax, could not predict what future regulations might be implemented, and was not relying on a single legislative outcome at the federal or state level." *Id.* at 602 (internal quotation marks omitted).

21. The Missouri Supreme Court denied review on January 28, 2025. The PSC's order became non-appealable once the 90-day deadline to seek a writ of certiorari from the United States Supreme Court lapsed on April 28, 2025. U.S. S. Ct. R. 13.

**B. The Attorney General Issues the CID with the Goal of "Killing This Project" and Appeasing His Core Political Constituencies.**

22. The Attorney General never sought to intervene in the administrative or court proceedings discussed above.

23. Nevertheless, after the PSC approved the GBX Project over the repeated objections of the Farm Bureau, the Attorney General issued the CID on June 27, 2025. Ex. A.

24. The CID invokes the MMPA and requests various documents for the period between 2016 and the present, including organizational, corporate structure, and ownership documents; promotional and marketing materials; documents and communications related to "cost savings" for Missouri energy customers and "economic benefit[s]" for local job markets; and



documents related to state and federal “emissions mandates and carbon laws or policies.” *Id.* at 3-5.

25. Although the GBX Project would provide open access delivery for *all* energy sources, as noted above, the Attorney General has mischaracterized the GBX Project as a “government-sponsored land grab disguised as environmentalism,” readily acknowledging that his intention in issuing the CID is “ultimately killing this project,”<sup>2</sup> in the interest of “protect[ing] landowners,” rather than energy consumers.<sup>3</sup>

26. On July 1, 2025, the Attorney General sent a letter to the PSC, requesting that it reopen the CCN and demand that Grain Belt “provide additional long-term planning calculations that exclude all carbon-related costs.” Ex. B at 3. The Attorney General reiterated the Farm Bureau’s false assertion that Grain Belt’s “calculations relied significantly on the imposition of a carbon tax,” *id.* at 2, even though the PSC and the Court of Appeals had already rejected that argument, as discussed above.

27. On July 8, 2025, the Attorney General sent a letter to the DOE, urging the agency to rescind its prior conditional approval of a \$4.9 billion loan guarantee. Ex. C. The Attorney General falsely asserted that the GBX Project had been “hastily approved” with “complete disregard to the private property rights of Missouri farmers and other landowners.” *Id.* at 1.

28. On July 16, 2025, the PSC confirmed at a public meeting that it does *not* have the legal authority to revoke the CCN for the GBX Project.<sup>4</sup>

---

<sup>2</sup> <https://www.nytimes.com/2025/07/02/climate/grain-belt-express-missouri-power-line.html>.

<sup>3</sup> <https://ago.mo.gov/missouri-attorney-general-bailey-investigates-grain-belt-express-over-history-of-lies-and-false-promises/>.

<sup>4</sup> See <https://www.youtube.com/watch?v=QqnoUmb-udg>, at Min. 1:08:00.

## V. THE MISSOURI MERCHANDISING PRACTICES ACT

29. The MMPA prohibits “[t]he act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact *in connection with the sale or advertisement of any merchandise.*” RSMo § 407.020(1) (emphasis added).

30. The MMPA further provides that “[w]hen it appears to the attorney general that a person has engaged in or is engaging in any method, act, use, practice or solicitation declared to be unlawful by this chapter or when he believes it to be in the public interest that an investigation should be made . . . he may execute in writing and cause to be served . . . a [CID] requiring [a] person to appear and testify, or to produce relevant documentary material or physical evidence or examination.” RSMo § 407.040(1).

31. The MMPA forbids CIDs from including “any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state.” RSMo § 407.040(3).

## VI. ARGUMENT

### A. The Court Should Set Aside the CID Because it Exceeds the Scope of the Attorney General’s Authority Under the MMPA.

32. As a threshold matter, the court should quash and set aside the CID because it does not and cannot identify any plausible harm to consumers and thus exceeds the scope of the Attorney General’s authority under the MMPA. *See Ports Petroleum Co., Inc. of Ohio v. Nixon*, 37 S.W.3d 237, 241 (Mo. banc 2001) (setting aside CID issued by Missouri Attorney General when the issue under investigation did not cause any plausible consumer harm).

33. As noted above, the MMPA prohibits “[t]he act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the

concealment, suppression, or omission of any material fact *in connection with the sale or advertisement of any merchandise.*” RSMo § 407.020(1) (emphasis added). The existence of a sale or advertisement is crucial, because “[t]he fundamental purpose of the MMPA is to protect customers and consumers.” *Heinz v. Driven Auto Sales, LLC*, 603 S.W.3d 890, 895 (Mo. Ct. App. E.D. 2020); *see also Conway v. CitiMortgage, Inc.*, 438 S.W.3d 410, 414 (Mo. banc 2014) (“The MMPA, as first adopted by the legislature in 1967, protects consumers by expanding the common law definition of fraud.”); *Ports Petroleum*, 37 S.W.3d at 241 (similarly explaining that the focus of the MMPA is “the protection of consumers who are the actual buyers in a sale”).

34. Here, the CID exceeds the scope of the Attorney General’s authority under the MMPA because Grain Belt has never marketed or sold any product to any consumer in Missouri. As noted above, the GBX Project has not even been fully constructed yet. Even if it had been, Grain Belt would not provide retail electric service to end-user customers in Missouri and, instead, would contract with other businesses, which conduct falls outside the MMPA. *See In re Grain Belt Express LLC*, 703 S.W.3d at 588 (observing that, upon completion of the GBX Project, Grain Belt’s customers would consist of “energy producers and wholesale buyers of electricity, such as utilities, municipalities, and commercial and industrial customers”); *Fabas Consulting Int’l Inc. v. Jet Midwest, Inc.*, 74 F. Supp. 3d 1026, 1031 (W.D. Mo. 2015) (explaining that business-to-business sales fall outside the scope of the MMPA).

35. The Attorney General all but concedes that there is no plausible consumer harm by focusing on *landowners*, rather than *consumers*, in the CID and his related public statements (they are his core political constituency after all), and by sending letters to the PSC and the DOE, urging them to take actions to shut down the project that he is otherwise powerless to carry out himself. Because the Attorney General cannot identify any plausible harm to consumers, the CID falls



outside the scope of his authority under the MMPA, and the court should set aside the CID.

**B. The Court Should Set Aside the CID as Unreasonable and Improper Under the MMPA.**

36. The court should also set aside the CID as unreasonable, improper, and thus unenforceable under the MMPA. *See* RSMo § 407.040(3) (“No civil investigative demand shall . . . [c]ontain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state.”). As discussed above, the CID purports to seek documents for an almost ten-year period *dating back to January 1, 2016*, including organizational, corporate structure, ownership, and operational expense documents that have no apparent relevance whatsoever to the GBX Project, as well as “all” documents and communications relating to “cost savings,” “economic benefit[s],” and various other issues. Ex. A at 4-5.

37. These demands are untailored and burdensome and would thus be unenforceable if contained within a subpoena duces tecum issued by a Missouri court. *See State ex. rel. Pooker v. Kramer*, 216 S.W.3d 670, 671-72 (Mo. banc 2007) (holding that requests for “all” documents related to various issues for a five year period were oppressive and failed to explain why the information “could not be ascertained through less intrusive measures”); *Jackson v. Mills*, 142 S.W.3d 237, 240-41 (Mo. App. Ct. W.D. 2004) (quashing an administrative subpoena based on failure to articulate reasonable relevance of the materials sought, particularly given the early stage of the investigation).

38. Additionally, and although the Attorney General purports to limit many of his requests to Grain Belt’s activities in Missouri, the requests necessarily implicate the transmission and sale of electric energy in interstate commerce and, to that extent, are preempted by federal law. *See* 16 U.S.C. § 824(b)(1) (Federal Power Act); *F.E.R.C. v. Elec. Power Supply Ass’n*, 577 U.S. 260, 266 (2016) (Federal Energy Regulatory Commission regulates “the transmission . . . and . . .

sale of electric energy at wholesale in interstate commerce”) (quotation marks and citations omitted); *Miss. Power & Light Co. v. Miss. ex rel. Moore*, 487 U.S. 354, 356-57 (1988) (FERC proceedings preempted inquiry by state commission); *Perras v. H&R Block*, 789 F.3d 914, 918 (8th Cir. 2015) (the MMPA “must involve trade or commerce in or from the state of Missouri”) (quotation marks and citations omitted).

39. The unreasonable and improper nature of the CID provides an additional basis for setting it aside.

**C. The Court Should Set Aside the CID Because the Attorney General Has No Authority to Interfere with the PSC’s Final Order.**

40. Lastly, the court should set aside the CID because the Attorney General has no authority to interfere with the PSC’s final order, as approved by the Missouri courts.

41. The Missouri Supreme Court has long made clear that the PSC’s authority is “exclusive in its field,” and “the Attorney General *has no power to represent, control or impede the [PSC] in its functioning.*” *McKittrick*, 175 S.W.2d at 862 (emphasis added); *see also In re Amend. of Comm’n’s R. Regarding Applications for Certificates of Convenience & Necessity v. Mo. Pub. Serv. Comm’n*, 618 S.W.3d 520, 525 (Mo. banc 2021) (explaining that the General Assembly provided a “broad grant of authority to the PSC consistent with that agency’s mission”). This is true even when the Attorney General attempts to “indirectly” control or impede the PSC’s functions. *McKittrick*, 175 S.W.2d at 862.

42. In *McKittrick*, the Missouri Supreme Court held that the Attorney General had no authority to prosecute an appeal of a final PSC order involving utility providers, reasoning that the Missouri General Assembly had (a) vested all regulatory authority over public utilities in the PSC alone, and (b) established a general counsel position with the primary responsibility of representing and appearing for the PSC. *Id.*; *see* RSMo. § 386.071.

43. Here, the PSC acted within its exclusive authority and approved the GBX Project, which decision has been definitively affirmed by the Missouri courts. Although the Attorney General may disagree with that final decision, he has no authority to undermine and impede that decision, whether directly or indirectly through an improper CID. Because that is exactly what he seeks to do here, the court should set aside the CID.

44. The Attorney General's efforts to kill the project by issuing the CID are particularly unlawful given that the PSC itself has *no authority* to revoke Grain Belt's CCN, as the PSC most recently acknowledged at a public meeting on July 16, 2025. *See Missouri Landowners Alliance v. Grain Belt Express LLC*, No. EC-2021-0059, at 15 (Pub. Serv. Comm'n Aug. 4, 2021)<sup>5</sup> (“[T]he [PSC] does not have the authority to revoke a CCN.”) (citing *State ex rel. v. Sikeston v. Pub. Serv. Comm'n*, 82 S.W.2d 105 (Mo. 1935)); RSMo § 386.550 (“In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive.”).

45. As noted above, judicial review of the CCN has been exhausted, and the appellate mandate, law of the case, and *res judicata* therefore prohibit the PSC from revisiting its final order. *See In re Marriage of Bullard*, 18 S.W.3d 134, 138 (Mo. Ct. App. E.D. 2000) (no adjudicative body has the “power to modify, alter, amend or otherwise depart from the appellate mandate,” and “proceedings contrary to the directions of the mandate are null and void”); *Walton v. City of Berkeley*, 223 S.W.3d 126, 128-29 (Mo. banc 2007) (“The doctrine of law of the case . . . precludes relitigation . . . .”); *State ex rel. Missouri Cable Telecomm. Ass'n v. Missouri Pub. Serv. Comm'n*, 929 S.W.2d 768, 772 (Mo. Ct. App. W.D. 1996) (finding that the PSC cannot act in a manner inconsistent with the decision of the court); *Healthcare Servs. of the Ozarks, Inc. v. Copeland*, 198 S.W.3d 604, 612 (Mo. banc 2006) (“Res judicata prevents a party from relitigating facts or

---

<sup>5</sup> Available at <https://efis.psc.mo.gov/Document/Display/47212>.

questions that have been settled by judgment on the merits in a previous action.”).

46. Any enforcement action by the Attorney General in an effort to interfere with the PSC’s final order would similarly be barred by *res judicata*, further demonstrating the lack of any legitimate investigational predicate for the CID at issue here. *See, e.g., Biermann v. United States*, 67 F. Supp. 2d 1057, 1060 (E.D. Mo. 1999) (applying *res judicata* because the Postmaster General and the United States were in privity with one another where both represented the interests of the United States government). At a minimum, the Attorney General’s efforts to relitigate Grain Belt’s reliance on industry standard carbon pricing assumptions would be barred by collateral estoppel (*i.e.*, issue preclusion), given the PSC’s and Court of Appeals’ rejection of that identical argument when raised previously, as noted above. *See Dodson v. City of Wentzville*, 133 S.W.3d 528, 538 (Mo. Ct. App. E.D. 2004) (“Collateral estoppel prevents parties, and those in privity with them, from relitigating issues that have been previously litigated.”).

47. That the Attorney General has investigational and prosecutorial power under the MMPA does not save him. When it comes to PSC-related matters, the General Assembly has authorized the Attorney General to bring suit only “under section 386.752 to 386.764 . . . .” RSMo § 386.600. The MMPA appears nowhere in these sections, meaning the Attorney General cannot rely on it as a basis for investigating matters within the PSC’s exclusive authority. *State v. Shepherd*, 643 S.W.3d 346, 355 n.2 (Mo. banc 2022) (Breckenridge, J., concurring in part) (“Under the familiar maxim *expressio unius est exclusio alterius*, when a statute designates the persons or things to which it refers, courts should infer that all omissions are intentional exclusions.”) (citing *Greenbriar Hills Country Club v. Dir. of Revenue*, 47 S.W.3d 346, 352 (Mo. banc 2001)). Indeed, if the Attorney General had the power he asserts, PSC proceedings would always be subject to collateral attack by the Attorney General, which is simply not the case.

48. Because the Attorney General has no authority to interfere with the PSC's final order, the CID should be quashed and set aside for this reason as well.

## VII. PRAYER FOR RELIEF

WHEREFORE, the court should quash and set aside the CID and grant such other and further relief as the court deems just and proper. In the event the Petition is denied, the court should extend the time by which Grain Belt must respond to the CID and object to particular requests.

Respectfully submitted,

**HUSCH BLACKWELL LLP**

By: s/ Catherine L. Hanaway

CATHERINE L. HANAWAY, 41208 (MO)

ABRAHAM J. SOUZA, 77238 (MO)

8001 Forsyth Boulevard, Suite 1500

St. Louis, Missouri 63105

Phone: (314) 480-1500

Fax: (314) 480-1505

catherine.hanaway@huschblackwell.com

abraham.souza@huschblackwell.com

***Attorneys for Petitioner Grain Belt***

***Express LLC***