

No. 131026

**IN THE
SUPREME COURT OF ILLINOIS**

CONCERNED CITIZENS & PROPERTY OWNERS; ILLINOIS AGRICULTURAL ASSOCIATION, a/k/a Illinois Farm Bureau; CONCERNED PEOPLE ALLIANCE; NAFSICA ZOTOS; and YORK TOWNSHIP IRRIGATORS,

Respondents,

v.

ILLINOIS COMMERCE COMMISSION; GRAIN BELT EXPRESS LLC; CLEAN GRID ALLIANCE; HANSON AGGREGATES MIDWEST, INC.; GREYROCK, LLC; CITIZENS UTILITY BOARD; LEONARD BRAD DAUGHERTY, as Trustee of the Leonard Daughtery Trust Dated July 9, 2010; REX ENCORE FARMS LLC; and ILLINOIS MANUFACTURERS ASSOCIATION,

Petitioners.

On Petition for Leave to Appeal from the Appellate Court of Illinois, Fifth Judicial District, Appeal No. 5-23-0271,

There Heard On Appeal from the Illinois Commerce Commission, ICC Docket No. 22-0499

BRIEF OF *AMICI CURIAE* ILLINOIS MANUFACTURERS' ASSOCIATION AND ELECTRICITY CONSUMERS RESOURCE COUNCIL IN SUPPORT OF PETITIONER GRAIN BELT EXPRESS LLC

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INTERESTS OF THE AMICI CURIAE

The Illinois Manufacturers' Association ("IMA") and the Electricity Consumers Resource Council ("ELCON") have significant interests in the issues raised in this appeal because of their members' interest in access to safe, reliable, clean, and low-cost energy in the State of Illinois. Founded in 1893, IMA is the oldest—and one of the largest—manufacturing associations in the United States. As a non-profit association, IMA represents nearly 4,000 companies and facilities that employ more than 600,000 workers. These companies and their employees make up the largest share of Illinois's economy and consume a significant portion of the energy generated within its borders.

ELCON is the national trade association for large industrial consumers of electricity. ELCON's mission is to promote by all lawful means the development and adoption of coordinated, rational and consistent federal, state and local policies and regulations regarding generation, transmission and distribution of power that will ensure an adequate and reliable supply of electricity for its members and other users at rates that are just and reasonable and not unduly discriminatory or preferential. In support of this purpose, ELCON advocates for (a) efficient and competitive electricity markets and pricing, (b) resource neutrality, (c) reliable and sustainable service at least cost (d) cost allocation based on the principle of beneficiary pays, and (e) elimination of barriers to self-supply and sale of any surplus on fair terms.

The Fifth District’s decision in this case will directly affect IMA and ELCON members’ access to significant quantities of renewable energy to power Illinois’s economy. The transmission lines Grain Belt Express, LLC (“GBX”) proposed to build would provide the members of IMA and ELCON with greater access to low-cost renewable energy, enhanced reliability and resiliency in the electrical grid, and lower costs by creating downward pressure on capacity prices. More broadly, the Fifth District’s interpretation of section 8-406.1(f)(3) of the Public Utilities Act (the “Act”), 220 ILCS 5/8-406.1(f)(3), will impose stringent financial requirements on companies proposing to build new high voltage electric service lines that would limit their ability to meet the energy needs of Illinois manufacturers.

In short, IMA and ELCON have significant interests in this appeal and can provide this Court with insights on the effects of this case on parties other than the named parties.

ARGUMENT

This Court should reverse the Fifth District’s opinion because it jeopardizes IMA and ELCON members’ access to clean, safe, reliable, and low-cost renewable energy.

This Court should reverse the Fifth District’s decision because its interpretation of the Act jeopardizes high voltage transmission line projects throughout the State. Such projects are crucial to supplying clean, low-cost, and reliable energy to the membership of IMA and ELCON, which accounts for the most significant portion of Illinois’s economic activity. For several reasons, the Fifth District’s incorrect decision reversing the Illinois Commerce Commission’s issuance of a certificate of public convenience and necessity to GBX will have negative effects on IMA’s members and Illinois’s manufacturing sector.

First, the Fifth District’s decision will limit access to high voltage transmission lines at a time when many of IMA’s members have made commitments to derive more of their energy from renewable sources. As a result of these pledges and renewable energy targets by federal, state, and local governments, large corporate energy consumers, including many of the members of IMA and ELCON, represent an increasing amount of renewable energy procurement, accounting for 37% of all zero-carbon energy added to the grid since 2014. *See Emma Penrod, Utility Dive, Corporate Clean Energy Procurement on Track for Another Record Year After Adding 11 GW in 2021, <https://bit.ly/3ZD1Xbi> (May 18, 2022).* To transmit renewable energy from

solar and wind rich areas to load centers in Illinois, high voltage transmission lines such as those proposed by GBX are essential. Thus, projects like GBX's are essential for the members of IMA and ELCON to meet those goals and obtain the energy necessary to power their operations, which in turn power Illinois' economy.

Second, GBX's proposed project, and others like it, will reduce costs for Illinois manufacturers, allowing them to invest more into making their businesses—and the State—more competitive. The cost of new wind and solar generation is now lower than the cost of new coal or nuclear generation, and competitive with new natural gas-fueled generation. *See* Lazard, LCOE Levelized Cost of Energy, at 9 (June 2024), *available at* <https://bit.ly/3BheqXS>. Integrating wind and solar generation resources from southwestern Kansas with Illinois wind and solar generating facilities—as GBX's project proposes to do—will reduce the variability of renewable electricity generation in Illinois and further reduce costs of such generation. In turn, these lower energy costs will allow IMA's and ELCON's membership to make further investments into Illinois' manufacturing base and workforce.

Third, transmission lines are essential to improve reliable access to renewable energy. This is only exacerbated by the frequency of extreme weather events that strain the nation's power grid. In this case, installing new transmission capacity to bring electricity from western Kansas to Illinois would create greater diversity of renewable energy supply in Illinois' market.

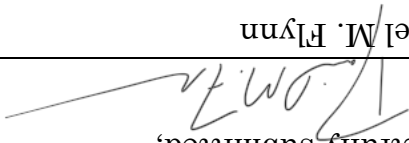
Such diversity allows for power output to be changed based on availability and demand, providing a more stable supply of power during more hours of the day. The members of IMA and ELCON will benefit from being able to count on the steady flow of electricity bolstered by the creation of new high-voltage transmission lines like those at issue in this case.

The Fifth District's decision jeopardizes all of these benefits to IMA's and ELCON's members. As explained in GBX's opening brief, the Fifth District's decision casts doubt on the State's ability to meet the clean-energy goals of the Illinois Climate and Equitable Jobs Act ("CEJA"), which was designed to foster infrastructure projects like GBX's transmission lines so that Illinois residents and business could continue to enjoy plentiful, low-cost energy as the State moves to net zero carbon emissions. In fact, the Fifth District's incorrect reading of section 8-406.1(f)(3) of the Act, 220 ILCS 5/8-406.1(f)(3), calls into question *any* public utility's capability of meeting the financing requirements of that statute. IMA and ELCON thus request that this Court reverse the Fifth District's decision and uphold the Illinois Commerce Commission's decision.

CONCLUSION

For these reasons, IMA and ELCON request that this Court reverse the Fifth District's decision and affirm the decision of the Illinois Commerce Commission.

Respectfully submitted,


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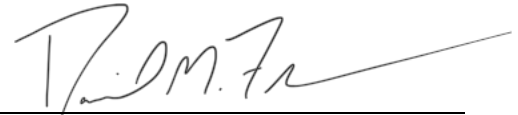
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April 16, 2025

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 6 pages.

A handwritten signature in black ink, appearing to read "D.M. Flynn", written over a horizontal line.

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CERTIFICATE OF FILING AND SERVICE

I, Daniel M. Flynn, attorney for the Illinois Manufacturers' Association, certify that I electronically filed via Odyssey EFile IL the foregoing *amici curiae* brief with the Clerk of the Supreme Court on April 16, 2025.

The undersigned further certifies that on April 16, 2025, an electronic copy of the foregoing brief is being served on counsel of record at the e-mail addresses below.

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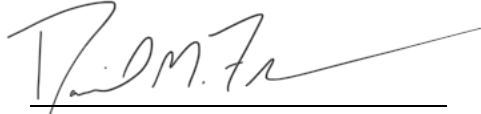
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Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.



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