

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

DOWNWIND, LLC and GOLDEN BRIDGE, LLC,)

Plaintiffs,)

v.)

Civil Action No. 3:16-cv-207-DPM

UNITED STATES DEPARTMENT OF ENERGY;)

ERNEST MONIZ, in his official capacity as)

Secretary of the United States Department of)

Energy; SOUTHWESTERN POWER)

ADMINISTRATION; SCOTT CARPENTER,)

in his official capacity as Administrator of the)

Southwestern Power Administration,)

Defendants,)

PLAINS AND EASTERN CLEAN LINE)

HOLDINGS LLC,)

Defendant-Intervenor.)

**PLAINS AND EASTERN CLEAN LINE HOLDINGS LLC'S
MOTION FOR SECOND HEARING DATE**

Plains and Eastern Clean Line Holdings LLC (“Clean Line”) respectfully requests that the Court set an earlier, second date to hear motions in the above-captioned case during the first two weeks of October 2017.¹ In support of this motion, Clean Line states:

1. On January 10, 2017, the Court issued an order setting a hearing on motions for summary judgment in this case for November 14, 2017. *See* Final Scheduling Order (Doc. No. 24). The schedule allows three months between the close of briefing (August 14, 2017) and a hearing on the motions (November 14, 2017). The current schedule has a buffer that helps

¹ Clean Line requests that this motion be excused from Local Rule 7.2(a)'s requirement that motions be accompanied by a brief in support. A brief would be duplicative and of no assistance to the Court in this limited instance. This motion is substantively akin to a request to extend time for which no brief is required per Local Rule 7.2(d)(1).

ensure that the hearing date does not have to be moved if a party requests additional time and the Court finds that such extension is warranted.

2. However, the completion of the Plains and Eastern transmission project (the “Project”) is time sensitive. Many different parties – wind developers, utilities, Clean Line, and manufacturing companies, to name a few – have expended considerable resources toward a Project in-service date in 2020. *See* Declaration of Mario Hurtado (Doc. No. 10, Exh. A, ¶¶9(d)-(g), 14, 15, 16). Utilities will have to contract for energy to deliver to their customers with specific dates in mind. *Id.* at ¶16. A delay in this matter has the potential to delay the entirety of the Project as financing institutions require a high degree of certainty – meaning a low risk of legal and regulatory obstacles – prior to committing the capital to make multi-billion dollar investments required to construct the Project and the wind generation that the Project will enable. *Id.* at ¶14. Because of the interconnected nature of all of the various Project participants, even small schedule delays can lead to cascading impacts. *Id.* at ¶15. And, any delay in the Project will delay the date on which the public benefits from new renewable energy generation. *Id.* at ¶16.

3. Clean Line therefore respectfully requests that the Court schedule a second, earlier date to hear the motions in this case in early October. This would allow the Court sufficient time to review the parties’ briefing even if the Court finds a short extension (e.g. a month or less) is warranted. If the early October date proves to be unfeasible for whatever reason, then the parties’ motions could still be heard on November 14, 2017.

4. Clean Line does not lightly request that the Court set aside a second date for a hearing in this matter. In a few months it should be apparent whether the hearing can be held in October or November, and the other date can be released for use in another case.

5. Clean Line has met and conferred with counsel for the Federal Defendants and counsel for Plaintiffs. Federal Defendants support the motion. Plaintiffs oppose the motion.

WHEREFORE, Plains and Eastern Clean Line Holdings LLC respectfully requests that this Court grant this motion and set a second, earlier hearing date in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on the 13th day of January 2017, I filed the foregoing with the Clerk of Court and shall serve this filing via email and first-class mail to all counsel of record:

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