

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Timothy Allegri,)	
)	
Complainant,)	File No. EC-2024-0015
)	
Evergy Missouri West, Inc.,)	
)	
Respondent.)	

**RESPONSE TO ANSWER OF EVERGY MISSOURI WEST
TO CONSOLIDATED COMPLAINTS and DISMISSAL WITH PREJUDICE**

COMES NOW Complainant Timothy Allegri, and in reply to Respondent’s (“Evergy”) *Answer to Consolidated Complaints and Dismissal With Prejudice*, states as follows:

1. Evergy was obviously rushing to meet their ordered timeline by filing their “*Answer*” which denied “*each and every allegation and statement*” in all of the Formal Complaints filed against them in this matter, once again proving their lack of *public interest* and unwillingness to *negotiate* in connection with their project. Complainants would like the issues of their Formal Complaints addressed in an attempt to understand and confirm how the CCN under which they claim use is applicable, and how Evergy is seeking to condemn such an excess amount of Complainants’ land without evidence of need.

2. The further denial by Evergy to work in the public interest is their refusal to attend a *Mediation* by the Public Service Commission (“PSC”) in the subject project (which I requested August 15, 2023), brazenly claiming, in effect, the Circuit Court proceedings would be sufficient to resolve the Complaints.

3. Also proving they are unwilling to negotiate is the fact that Evergy has never (to my knowledge) mentioned the *proposed written maintenance-only easement* that I and other landowners had already presented to Evergy *with no response* until I called to advise Zach Roeschlein that our offer had expired, to which he replied, “I appreciate you letting us know that the

offer had expired and if you would like to again discuss the offer **WE** (emphasis mine) presented, please let me know. Otherwise, Evergy will be continuing to move forward though [sic] any means of acquisition available.” Does this show a willingness to negotiate?

4. All Complainants in a condemnation land-taking deserve the right to negotiate the *terms* of any land easement related to their respective properties, including the right to receive any and all monies made off of their easements and/or if and when any changes are made to their land. It seems to have become Evergy’s modus operandi to take extra land through permanent easements and then use the excess for large payouts from MoDOT when “future” road work requires Evergy to move their poles. The easements obtained from landowners who have had their land **condemned** “for future use” are used by Evergy as a moneymaker and a blatant misuse of Missouri condemnation laws. Is the 5th Amendment of the U.S. Constitution in the taking of excess land in the *public interest*? Is it *negotiating in good faith*? Not a chance. The only “need” proven here is Evergy’s need for power and money through deception and greed at Missouri citizens’ expense.

5. Complainants were sued by Evergy in Circuit Courts and their “Verified” Petitions were found to be inaccurate; they subsequently dismissed one case (then refiled after amendments were made); or asked for *Leave to Amend their Petition* in another. These “**Verified**” Petitions are declarations under oath or upon penalty of perjury that a pleading is true, and any false information given is subject to penalties for perjury. From the very beginning, Evergy and/or its land agents have provided false information regarding their project and related “easements”. One of their Circuit Court condemnation cases was *continued* due to an inaccurate date on the Summons. A landowner assuming the Summons date was correct would have had their land taken by default. Quite a “mistake.” Some of the landowners involved in the project have not even been sued, further evidence of an incomplete plan and design, and necessary to prove a need. Evergy has stated that the project plan will not be available until April 2024, yet they wish to condemn land from Missouri citizens without the ability to prove the **total** project plan and need through condemnation lawsuits (and related surveys of our land which were *drawn as early as June 2022*).

6. Evergy has stated there are safety concerns involved in their project, thus requiring extra land, yet has not provided any accident data related to the project area. The one accident they have consistently referred to is over 14 miles from the closest point of the project area and involved a subcontractor whose employee jumped from a moving vehicle, per the OSHA report. The

subcontractor was fined by OSHA for the incident. The accident was tragic but could have occurred anywhere along a highway, or not, and was non-vehicular. As Complainants have consistently stated, we are committed to worker safety as much as we are to property rights. Our safety concerns are evidenced by our offer of a 15-foot maintenance-only easement, and the fact that we have never denied Evergy access to our land for work on their lines.

7. Evergy has consistently suggested through their arrogant actions and pleadings that the PSC has limited authority over them, when in fact the PSC **does** have authority over Evergy and their **project**, albeit a separate authority than the Circuit Courts. Without checks and balances from the PSC on utility projects, dual cases like this may occur but does not hinder the PSC from their responsibility of oversight of the utilities they are required and funded to govern.

8. Evergy falsely states in their *Answer* and request for *dismissal with prejudice* that the Complainants fail to state a claim upon which relief can be granted. Complainants **all** have requested the CCN under which Evergy is operating be proven accurate and in compliance of the specific CCN; all have also stated Evergy's proposed easements *exceed the need of excess land* they are attempting to condemn and have asked for *proof of need* with no concrete evidence (a plan does not prove **necessity**, it is simply a plan). Evergy personnel have stated they want the additional land "for future use". **Condemnation laws do not allow the taking of land "for future use" but only for current need**, with said need to be *proven* in the public interest. We demand proof of necessity, of which we have not been given, and cannot be proven without a completed plan.

9. In response to their request for dismissal with prejudice, Evergy again shows their lack of concern for Missouri citizens by asking for dismissal of complaints by concerned citizens without the ability to address the complaints and receive answers to any future concerns related to the project. In addition to the numerous errors and creative statements made by Evergy, including the deficient lawsuits filed against Complainants, the lack of care and concern shown to all neighboring landowners, and also the lack of respect shown by Evergy to their governing authority, Complainant wholeheartedly *objects* to Evergy's request for dismissal *with* (or without) prejudice. Complainant has no faith in Evergy changing their deceitful tactics and business practices in the future. Denying Missouri citizens the right to make future complaints against them, related to this project or any other, would be unfair and unjust.

WHEREFORE, Complainants pray the PSC grants the following relief:

1. Retract Evergy's use of the current CCN under which they are operating should the PSC investigation find it to be insufficient for the project;

2. Order Evergy to apply for a new CCN for the project, if necessary (along with completed plans, maps and design), but in any case, order the poles remaining *along* the highway *upon* the MoDOT right-of-way in this project or any related new project;

3. Order all future utility projects, *which involves condemnation*, to comply with the associated CCN by way of application to the Commission with proper project plans, completed engineering design and maps being approved by the PSC *prior to* work beginning or condemnation lawsuits brought as a result of *any* project;

4. Order all future CCNs requiring utility and land easements to show written proof of necessity for potential condemnation of landowner property as a result of said utility project, and require *maintenance-only easements* instead of permanent easements, with terms *negotiated* (not *dictated*) in a *required* **Mediation** by all parties;

5. Order all future CCNs for utilities to require any and all monies made as a result of *condemnation easements* be paid directly to the landowner with no monies paid to the utility; and

6. Order all future CCNs for utilities to require **any** use of utility easements **obtained via condemnation**, including movement of utility poles or equipment (and subsequent monies made), be documented and filed with the appropriate county records department, a copy of all said documentation mailed to landowner(s) at their current address of record or if not available, mailed to the property address of the land associated with the easement.

7. Lastly, that Evergy's request for dismissal *with* prejudice in this or current and future related cases be **denied**.

Respectfully submitted, October 16, 2023 on EFIS

/s/ Timothy P Allegri

Timothy P. Allegri, Complainant