

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

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

**REPLY TO RESPONDENT’S REPLY TO RESPONSES**

COMES NOW Complainant Timothy Allegri (“Mr. Allegri”) and in reply to *Respondent’s* (“Evergy”) *Reply to Co-Complainants’ Responses* and *Motion to Dismiss*, states as follows:

1. Evergy’s *Reply to Co-Complainants’ Responses* Item #4 erroneously alleges that Complainants fail to make allegations that Evergy has violated any statute, tariff, or Commission regulation or order, as well as alleging Complainants failed to state a claim upon which relief can be granted. Complainants, in their *Reply to Respondent’s Motion to Dismiss*, Item #1, states: “... *alleges Evergy is improperly using a CCN and has not proven a public interest in connection with their project.*” Missouri citizens’ taxpayer dollars fund the Public Service Commission, whose duty is to govern utilities such as Evergy, and provide an efficient regulatory process that is responsive to *all* Missourians. As such, it is the responsibility of the PSC, not citizens, to determine the outcome of complaints should a violation by a utility under their authority be found. Citizens, through the Formal Complaint process, ask the Commission to determine if a statute, tariff, Commission regulation, order, or any relief is available.

2. On September 22, 2023, Complainant Allegri filed a *Response to Respondent’s Motion to Consolidate*, which states, “*The fact alone that more than 30 landowners have filed complaints on the same Evergy project gives reason for the PSC to take notice of a public concern; that just because a need is **stated** does not prove it is actually **needed**. An incomplete project causes great concern with necessity, public interest and adherence to the CCN and its guidelines.*” For clarification: The *many* Complainants in this case allege that there is a public concern with regard to

Evergy's project. Evergy's plan is not complete and they have stated it is not scheduled to be complete until April 2024. Without a complete project plan, it is impossible to prove the *necessity* for the project, whether or not it is in the *public interest*, and also whether or not it is in *compliance with the CCN* and its guidelines under the Public Service Commission.

3. Further, Complainants state in their *Response*, "A complete investigation by the PSC should help to determine if Evergy has fallen short of any PSC Certificate of Convenience and Necessity ("CCN") guidelines or has failed to complete all of the requirements, statutory or otherwise, *prior to* filing a condemnation lawsuit in Circuit Court." Evergy's *Reply Item #4* asserts that Complainants "misunderstand the role of circuit courts and the Commission." Evergy is foolish to make this claim. Complainants are fully aware of which entity has regulatory authority over Evergy, as well as judicial authority. It is a safe assumption that operating outside of CCN parameters and specifications would require adherence to '*Application Conditions and Considerations*,' otherwise why have CCN specs and application requirements at all? "Blanket CCNs" are not a utility's ticket to hide behind the "public use" umbrella for condemnation.

4. Complainants do not and have not questioned the service area CCN 9470 covers. This allegation is only introduced by Evergy. (Much of Evergy's October 30, 2023 *Reply* involves statements defending their service area in relation to the CCN, yet it has never been questioned. It seems to be a distraction and potential source of confusion, but kudos for such "detail.")

5. Complainants have brought the civil court cases with relation to Evergy's incomplete project to the attention of the PSC for reference and have no misunderstanding of the boundaries of the role of the Commission or the Courts, as Evergy also alleges in their *Reply Items #5-6-7*. Because Evergy's project involves an incomplete plan resulting in premature condemnation proceedings in circuit courts, both entities (PSC and Trial Courts) are involved. Complainants have no question as to who has authority over Evergy, nor what RSMo. Chapter 523 does or does not empower the circuit court to do. However, we will take this opportunity to point out that the Mo. Court of Appeals, Southern District, 588 S.W.2d 263, *Empire District Electric Co. vs. Cox*, found that:

"While orders of the Missouri Public Service Commission (PSC) are subject to judicial review, the court is confined upon review to a determination of whether, on the facts before it, such order is reasonable and lawful. If the reviewing court finds the order both reasonable and lawful, its duty is to affirm it. If the order be found to be either unreasonable or

unlawful, it should be set aside. The trial court has no authority to interfere with reasonable orders of the PSC when supported by facts found on competent evidence, nor may it weigh evidence or substitute its judgment for that of the PSC.”

Further, Complainants have previously stated that **the PSC investigation is directly related to the Circuit Court proceedings** involving a public utility over which they have jurisdiction, and said investigation is exactly what is expected of the PSC in their authority role over utilities. Likewise, **the Court proceedings are directly related to the PSC investigation**, as evidenced by the *Empire District Electric Co. vs. Cox* case referenced above.

6. Evergy’s inclusion of footnotes, legal descriptions and excess information in support of a non-existing claim in a pleading (see *Item #4* of this *Reply*) do not make it any more accurate. Evergy needs to fully comply with the CCN and negotiate in good faith, as well as acknowledge that they are not being forced out of the MoDOT Right-of-way.

7. Evergy has asked the Missouri Public Service Commission to Dismiss with Prejudice over thirty (30) Formal Complaints by landowners. The taxpayer funded agency which exists to ensure that Missourians receive safe and reliable utility services; establishes standards to maintain or improve the quality of services; and provides an efficient regulatory process that is responsive to all parties, all while performing their duties ethically and professionally ... Evergy is asking the PSC to simply dismiss our complaints without the possibility of filing any further complaints. The agency we fund, as citizens, exists because of us and our taxpayer dollars. Missouri law gives the PSC regulatory rights, and citizens the right and obligation to bring to the attention of the PSC all issues or concerns we have with a utility they govern.

WHEREFORE, I again respectfully ask the Commission to disregard Evergy’s claim that the CCN 9470 ‘service area’ is in question and to deny Evergy’s frivolous and unwarranted *Motion to Dismiss with Prejudice*. I look forward to hearing the investigative findings of this Consolidated Complaint and the Orders resulting from it.

**Submitted via EFIS, October 31, 2023 by:**

/s/ Timothy P. Allegri

**Timothy P. Allegri, Complainant**