

REPORT OF THE STAFF

TO: Missouri Public Service Commission Official Case File
File No. EC-2024-0015, In the Matter of Timothy P. Allegri, Complainant
v. Evergy Metro, Inc., d/b/a Evergy Missouri Metro and
Evergy Missouri West, Inc. d/b/a Evergy Missouri West, Respondent

FROM: Alan J. Bax – Associate Engineer
Engineering Analysis Department

/s/ Alan J. Bax / 11-06-2023
Industrial Analysis Division / Date

DATE: November 6, 2023

EXECUTIVE SUMMARY

This report provides Staff’s investigation, findings, and recommendations concerning the formal complaint of Mr. Timothy P. Allegri¹ (“Mr. Allegri”) and fellow property owners² (“Complainants”) along an 8.7 mile stretch of Missouri State Highway 13 (“Hwy 13”) against Evergy Missouri West³ (“EMW” or “Evergy”). Mr. Allegri et al. requested the following relief:

1. Utility service through West Central Electric COOP be available to all MO-13 properties for the 8.7 miles impacted.
2. A hearing to discuss the issues contained in this protest/complaint.
3. Your [The Commission’s] support in compelling Evergy to negotiate honestly with us [the Complainants] and if needed, mediation.

In formal complaints cases, the Staff of the Missouri Public Service Commission (“Staff”) considers whether a utility has violated any statute, tariff, or rules and/or Orders of the Missouri

¹ Mr. Allegri filed his Formal Complaint in Case No. EC-2024-0015.

² Fellow property owners filed individual cases that were eventually consolidated with EC-2024-0015. This Staff Report will be copied into each of these individual cases: EC-2024-0062, EC-2024-0063, EC-2024-0064, EC-2024-0065, EC-2024-0066, EC-2024-0067, EC-2024-0068, EC-2024-0069, EC-2024-0070, EC-2024-0071, EC-2024-0072, EC-2024-0073, EC-2024-0074, EC-2024-0075, EC-2024-0076, EC-2024-0077, EC-2024-0078, EC-2024-0079, EC-2024-0080, EC-2024-0081, EC-2024-0082, EC-2024-0083, EC-2024-0084, EC-2024-0085, EC-2024-0086, EC-2024-0087, EC-2024-0088, EC-2024-0089, EC-2024-0090, EC-2024-0091, EC-2024-0092, EC-2024-0093, EC-2024-0094, EC-2024-0095, EC-2024-0096, EC-2024-0097, EC-2024-0114, and EC-2024-0115.

³ Although the Complaints were filed against both Evergy Missouri Metro (“EMM”) and EMW, EMM would subsequently request to be dismissed. EMM’s request to be dismissed was accepted and Ordered by the Missouri Public Service Commission (“Commission”) in its “*Order to Consolidate Files and Dismiss Party*”, which was filed on October 3, 2023.

Public Service Commission (“Commission”) as it pertains to the allegations/dealings with the complainants. In this instance, Mr. Allegri et al. raised questions specific to the Certificate of Convenience and Necessity (“CCN”) for this area, which was requested by EMW’s predecessor, the Missouri Public Service Corporation. This request for a CCN was filed in 1937 (Case No. 9470) and approved by the Commission in its *Report and Order* filed in January 1938.

Based on its investigation of the Complaints made by Mr. Allegri and the fellow property owners, the Staff concludes that EMW has violated the terms listed in the Ordered Paragraphs included in the Commission’s *Report and Order* in Case No. 9470. These Ordered Paragraphs are attached to this Staff Report in Schedule AJB-1. In particular, Staff points out these specific parts of Ordered Paragraphs 2, 3, and 4 as indicated below:

ORDERED: 2. That said electric transmission and power lines and all equipment connected therewith shall be constructed so as to conform to the specific rules and regulations contained in the National Electric Safety Code, issued by the United States Bureau of Standards, and where said transmission lines cross the tracks of any railroad company, said crossing shall be constructed so as to conform to the specific rules and regulations contained in the Commission’s General Order No, 24, issued August 17, 1925. Furthermore, that said applicant herein shall maintain and operate said transmission lines and all equipment in a reasonably state and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines, and shall give reasonable notice to any other utility whose service might be affected by any proposed construction or change; and that **the Commission fully retain jurisdiction of the parties and the subject matter of this proceeding, on the evidence now before the Commission, for the purpose of making such further order or orders as may be necessary** [Emphasis added].

ORDERED: 3. Wherever said electric transmission lines may or do parallel aerial lines belonging to or operated by other companies or individuals or cross such line or lines or come in close proximity thereto so as to cause induction or other electrical interference, thereby making necessary changes in said line or lines or in the said line or lines of the applicant for the general benefit and safety of the public, the expense, if any accrued in making such changes shall be determined by an agreement between the parties operating such lines and the applicant, and in of **failure of the parties to reach such agreement in settlement thereof the matter may be**

submitted to the Public Service Commission for arbitration and determination as provided for in Section 118 of the Original Act creating the Public Service Commission of this State, now Section 5241 of the Revised Statutes of Missouri for 1929 [Emphasis added.].

ORDERED: 4. That before beginning the construction of any electrical power and transmission line in the territory herein designated and **before a change is made in the location**, phase or voltage of any electric line that may be in operation, **the applicant shall give all other utilities, associations or persons whose lines are or may be affected by such change or construction at least 15 days' written notice, showing in sufficient detail what the proposed construction or change will be to enable competent representatives of those utilities, associations or persons to determine what action the particular utility or utilities, associations or persons may desire to take with deference thereto** [Emphasis added.].

Staff recommends that the Commission order a hearing in this matter, as requested by the Complainants. In addition, Staff recommends the Commission find that EMW has exceeded the bounds of the Commission's approval of said CCN.

OVERVIEW

On July 25, 2023, Mr. Allegri filed a Formal Complaint against Evergy Missouri Metro⁴ ("EMM") and EMW. Mr. Allegri contends that EMM and EMW are seeking to acquire additional easement widths on his and nearby Complainants' properties along an 8.7-mile stretch of Hwy 13 located in Johnson and Lafayette County, Missouri in conjunction with EMW's proposed project named the Fayetteville Transmission Line Upgrades ("Fayetteville Project"). EMW has an existing 69 kV electric line routed in the Missouri Department of Transportation's ("MoDOT") highway right-of-way ("ROW") along this stretch of Hwy 13. In regard to its attempts to acquire said additional easement widths, Mr. Allegri asserts in his Complaint, on Page 1 of 7 of his Attachment ("Attachment"), "... this formal complaint/protest is filed against Evergy for the unpleasant matters as follow:

⁴ As noted earlier, EMM has been dismissed as a party to these Complaint cases.

- Refusing to negotiate easements in the public interest,
- Disregard of a utilities public purpose
- Misleading statements regarding CCN related issues with misrepresentations of fact....

Mr. Allegri continues, on Pages 2 and 3 of his Attachment, making several statements that he describes as “misleading and false” concerning the methods employed by EMW related to this process, including:

1. Evergy claims MoDOT is forcing them out of the MoDOT ROW for the full 8.7 miles.
2. Evergy tells landowners that Evergy has an existing easement on their land.
3. Future MoDOT projects require Evergy to move their poles.

Mr. Allegri is challenging Evergy’s attempt to acquire greater easement widths, as Evergy has not illustrated that the additional easement width is either necessitated or needed in conjunction with its purported plans to upgrade said line, stating on Page 3 of Attachment, “Evergy refuses to respond when asked if “demands” on the current transmission line are pressing it beyond its 69kV capacity.” Furthermore, on Page 3 of Attachment, Mr. Allegri adds, “When we asked Evergy’s attorney, Zach Roeschlein, if the subject transmission line was going to exceed 69kV he said it was not. Yet, the Evergy land agents will not commit to that limit.”⁵ Mr. Allegri mentions that he, and other landowners over the years, have offered access onto their properties, when needed, in association with conducting maintenance and repair, for example. Mr. Allegri states on Page 1 of Attachment, “...Since 1928, when the Evergy line (since replaced but remaining in its same position) was first developed, the landowners along MO-13 have always cooperated with the utility managing the subject power line.” “...Landowner cooperation is proven through nearly 100 years of partnership with the electric utilities on this 8.7- mile stretch...” Mr. Allegri indicates the Complainants’ willingness to maintain such access into the future saying, on Page 2 of Attachment, “...We want to enable Evergy with the confidence of a 15-foot maintenance-only easement from

⁵ If Evergy did plan to increase the operating voltage of this line as part of the Fayetteville Project, additional considerations for the location of the line, which includes corresponding easement widths, would require additional analysis.

their current pole positions along MO-13 onto our private land. In situations where a pole must move to accommodate necessary MoDOT road widening, the landowners offer the same 15-foot maintenance-only easement from the edge of the MoDOT ROW.” However, Mr. Allegri emphasizes on Page 2 of Attachment, “Evergy is not open to consider this real and mostly cost-free option. Evergy will only negotiate price.”

Mr. Allegri included a Petition in his Complaint that contained the names and addresses of some of the neighboring property owners who shared like concerns. Initially, the Commission denied their participation in Mr. Allegri case. Subsequently, as previously noted, these landowners, and others as well, filed their own separate Complaints similar to Mr. Allegri’s case⁶. These other Cases were eventually consolidated with Mr. Allegri’s Case.

While Evergy acknowledges seeking additional easement widths from Mr. Allegri and neighboring properties in conjunction with its intentions to upgrade this existing 69 kV line, it has yet to provide a specific plan regarding said upgrade and thus no illustrative evidence has been proffered in proving that additional easement width would be necessary. Within 48 hours of Mr. Allegri filing this Complaint with the Commission, Evergy initiated condemnation proceedings against Mr. Allegri, and other landowners, in the circuit courts of Lafayette and Johnson County, Missouri on July 27, 2023.⁷ Referencing these circuit court cases, Evergy has filed a Motion to Dismiss Mr. Allegri’s Complaint, as well as all other associated Complaints filed with the Commission, citing, in part, that no Complainant has offered compelling evidence in proving “...that the utility’s claim of necessity constitutes fraud, [is in] bad faith, or [is]an unwarranted abuse of discretion...”⁸. Evergy also challenges the Commission’s jurisdiction over the matters expressed in these Complaints saying that a determination of necessity in the taking of

⁶ EC-2024-0062, EC-2024-0063, EC-2024-0064, EC-2024-0065, EC-2024-0066, EC-2024-0067, EC-2024-0068, EC-2024-0069, EC-2024-0070, EC-2024-0071, EC-2024-0072, EC-2024-0073, EC-2024-0074, EC-2024-0075, EC-2024-0076, EC-2024-0077, EC-2024-0078, EC-2024-0079, EC-2024-0080, EC-2024-0081, EC-2024-0082, EC-2024-0083, EC-2024-0084, EC-2024-0085, EC-2024-0086, EC-2024-0087, EC-2024-0088, EC-2024-0089, EC-2024-0090, EC-2024-0091, EC-2024-0092, EC-2024-0093, EC-2024-0094, EC-2024-0095, EC-2024-0096, EC-2024-0097, EC-2024-0114, and EC-2024-0115

⁷ The following condemnation lawsuit cases were filed in Lafayette and Johnson County as follows:

- Lafayette County – 23LF-CV00700, filed on July 27, 2023 and 23LF-CV00939 – filed on September 29, 2023;

- Johnson County – 23JO-CC00142, filed on July 27, 2023.

⁸ Answer, Affirmative Defenses, and Motions to Dismiss of Evergy Missouri Metro and Evergy Missouri West – Page 2, Paragraph 2

private property has been delegated to the condemning authority via the Missouri Statute granting eminent domain (Chapter 523 RSMo 2020).

EMW is an electrical corporations subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393 RSMo 2020. EMW is current on filing its annual reports and payments of its respective assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against EMM or EMW in any state or federal agency or court involving customer service or rates that would have bearing on the immediate Case. Staff is not aware of any other matter before the Commission that affects, or is affected by, this filing.

DISCUSSION

As depicted in Confidential Schedule AJB-2 attached to this Staff Report, EMW contacted MoDOT as early as October 22, 2020. EMW states,

Evergy has a project slated for 2023 where we will be rebuilding our transmission line that runs along 13 highway between I-70 and Warrensburg. It is our understanding that MoDot may have a road widening project for this highway that might happen in the next 3-5 years. I would like to coordinate these projects as much as possible at this stage so we can start the easement acquisition process. Do you have any information that you can share on the new right-of-way limits that might be proposed?

In reply, MoDOT acknowledged at this time that it had yet to include a Hwy 13 improvement project in its Statewide Transportation Improvement Program (“STIP”).⁹ The STIP is prepared annually, and sets forth the specific construction projects MoDOT will undertake in the next five years. Notably however, it appears that from the beginning of this process, MoDOT stated its intention to avoid other utility lines in its design of such a project. MoDOT states,

Currently we are in development of plans improvements along MO 13 from I-70 to the north roundabout at Warrensburg. It will consist of a three lane portion from the roundabout north to approximately CRD 575, alternate passing lanes (two NB and 2 SB), turn lanes at RT H and RT E, pavement overlay and some miscellaneous items. In general, we anticipate requiring ROW on both sides of the highway for the three lane section between the roundabout and CRD

⁹ Email from Richard Shipley, MODOT to Mark Rothmier dated October 23, 2020 (*see* Page 2 of Confidential Schedule AJB-2).

575. We have identified the rough locations for the NB and SB passing lanes. These section(s) will be three lanes as well. **We are anticipating doing all the widening on the east side of the highway for these passing lanes to avoid utilities on the west side (which would include your transmission lines** [Emphasis added.].

MoDOT indicates planning to have a more definitive plan in the summer of 2021. CRD 575 is approximately 1.3 miles north of the Warrensburg roundabout on Hwy 13. Staff has attached MoDOT's draft plan sheets dated January 10, 2023 and its revisions dated April 18, 2023 for reference (Schedules AJB-3 and AJB-4 respectively).

Mr. Allegri indicates that Evergy began contacting associated property owners in the spring of 2021. Mr. Allegri says Evergy was seeking additional width, of varying lengths, to its existing easements as a result of the Mo-DOT plans to improve/widen Hwy 13, including the 8.7-mile stretch identified in the Complaint, in which Evergy's existing 69 kV line is routed within the MoDOT ROW. However, as Mr. Allegri pointed out on Page 3 of the Attachment in his Complaint, "Evergy says they need a 30-foot easement outside the MoDOT ROW because of future MoDOT projects that may push them. **Evergy acknowledged** [Emphasis added.] the MoDOT project affects Evergy on the West side of MO-13 for only the southernmost .6 miles of the 8.7-mile Evergy project. We asked MoDOT to detail all future projects on MO-13." Mr. Allegri continued, "MoDOT responded saying that other than the upcoming MoDOT project, no future projects are funded or planned for the 8.7-mile segment of MO-13. Please request evidence if needed."¹⁰

In addition to referencing MoDOT's Hwy 13 Project as the reason for seeking additional easements, Evergy also proffered its intention to upgrade this line segment of its overall system due to the age of the associated equipment. Plans for this proposed upgrade, referenced by EMW as the "Fayetteville Project" have not been finalized. Despite its Response to Staff Data Request No. 0003 indicating that such a plan was substantially completed, its Response to Staff Data

¹⁰ MoDOT identified four (4) poles requiring relocation on the Collett property on the East side of Hwy 13 (Evergy's existing line segment that is the subject of this Case is routed on the West side of Hwy 13). Additionally, in its investigation, Staff was not able to locate the property of Jesse Green, Jr., Stephen Dyer, or Walter Dyer. Also, the property identified as being owned by the Bergs is actually the property of Rhonda Berg's father (Gerald Stockton), but Mrs. Berg has a Power of Attorney.

Request No. 0014 indicates that such plans will not be available until April 29, 2024.¹¹ Without specific plans being provided, it is not possible to definitively determine that additional easement width is necessary. Furthermore, the supplemental Response to Staff Data Request No. 0005 indicates that EMW considered the Fayetteville Project in part to be ** [REDACTED]

[REDACTED] **

Evergy filed its “Answer, Affirmative Defenses, and Motion to Dismiss of Evergy Missouri Metro and Evergy Missouri West” on August 30, 2023. Evergy acknowledges that it is seeking additional easement widths along Hwy 13 frontage that it has determined is needed. Evergy indicates that the determination of need has been delegated to the public utilities in Missouri by the Legislature and is generally not subject to judicial review. Further, Evergy claims that the determination of need for condemning land is vested in the “sound discretion of the utility.” Evergy denies any allegation made in the Complaints and states that the Complainants have not identified any statute, tariff, or Commission Order / Regulation that has been violated.

Furthermore, Evergy says that Mr. Allegri and the other Complainants are not entitled to the stated relief sought in the Complaints, which include a change in electric service providers to West Central Electric Cooperative, Inc., a hearing to discuss the issues presented in the Complaints, and compelling Evergy to negotiate in good faith. Evergy states its belief it has complied with its tariffs, Commission rules, regulation and orders and therefore recommends the Commission dismiss the Complaints.

Mr. Allegri also provides conversations between Evergy and landowners in which Evergy refers to Senate Bill 564 from the 2018 Legislative Session as the reason Evergy was seeking additional width in conjunction with its proposed Fayetteville Project. On April 18, 2023, Evergy counsel Zachary Roeschlein sent Mr. Allegri an email that stated, “In 2018, Missouri passed SB 564 to spur investment in electrical infrastructure.”¹² However, as pointed out earlier, Evergy

¹¹ Evergy indicates on its website that it plans to begin construction on the Fayetteville Project in June 2024, with completion in December 2024.

¹² This email is attached to this Staff Report as Confidential Schedule AJB-2.

has yet to provide definitive plans that would specifically illustrate a “need” for an easement that requires additional landowner property.¹³

In its Motion to Dismiss, Evergy questions the jurisdiction of the Commission citing the eminent domain cases even though those were initiated after Mr. Allegri filed his Complaint with the Commission. Evergy also contends the Complainant failed to allege that it has violated a statute, tariff, or Commission regulation or order or prove that Evergy’s claim of necessity constitutes fraud, bad faith or an arbitrary or unwarranted abuse of discretion.

The Commission Order approving CCN in Case No. 9470 included five Ordered Paragraphs. These five Ordered Paragraphs are attached to this Staff Recommendation as Schedule AJB-1. In considering Ordered Paragraph 1 – “That the Missouri Public Service Corporation be and is hereby authorized to construct, maintain, and operate electric transmission lines and distribution systems over, along and across highways...” EMW’s predecessor installed a 69 kV line along this 8.7-mile stretch of Hwy 13 in the late 1970s.¹⁴

Evergy proposes that the changes to this line segment included in its Fayetteville Project are needed citing the general age of this line segment and associated equipment.

** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **

In contemplating the Fayetteville Project, Evergy’s Response to Staff Data Request No. 0003 indicates, “...Evergy’s current guideline concerning existing transmission line rebuilds is that, **if possible** [Emphasis added.], existing transmission structures shall be located outside of the road right-of-way...” However, when asked for documentation of Evergy’s current guidelines, Evergy informed Staff that none exist (Evergy Response to Staff Data Request No. 0003.1).

¹³ In the condemnation hearing held in Lafayette County, Evergy agreed to revise its Petition with which it initiated the hearing. Evergy was being questioned as to failing to sufficiently define its “need” for additional easement width in relation to its proposed Fayetteville Project (Transcript of hearing – Page 13, Lines 13-20.).

¹⁴ The original line was indicated to have been installed in 1928. The original line was upgraded to 69 kV in the late 1970s.

The Fayetteville Project is not being proposed for known increases in anticipated load, as Evergy notes in its Motion to Dismiss that this line is currently energized at 69 kV and will remain energized at 69 kV following the upgrade. Nor is the proposed upgrade in relation to any known service issues. Evergy has yet to provide a final, detailed design of this intended upgrade, such as if the replacement poles would be wood or steel, so there is no specific information available on which to make a claim that additional easement width is necessary. In one of its communications to the landowners, Evergy depicts the replacement of the existing wood poles with steel ones. However, without finalized plans, it is impossible to know, with certainty, if that is a definite change. Replacing the existing line can be kept ‘along the highway’, as indicated in the CCN. As previously indicated, MoDOT’s Hwy 13 Project only affects EMW on the southern end of the 8.7-mile stretch noted.

Ordered Paragraph No. 2 indicates the Commission retains jurisdiction for the purposes of making changes to its Order approving this CCN if necessary. Ordered Paragraph No. 2 states:

[t]hat said electric transmission and power lines and all equipment connected therewith **shall be constructed so as to conform to the specific rules and regulations contained in the National Electric Safety Code**, issued by the United States Bureau of Standards, and where said transmission lines cross the tracks of any railroad company, said crossing shall be constructed so as to conform to the specific rules and regulations contained in the Commission’s General Order No, 24, issued August 17, 1925. Furthermore, that said applicant herein shall maintain and operate said transmission lines and all equipment in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines, and shall give reasonable notice to any other utility whose service might be affected by any proposed construction or change; and that **the Commission fully retain jurisdiction of the parties and the subject matter of this proceeding, on the evidence now before the Commission, for the purpose of making such further order or orders as may be necessary** [Emphasis added].¹⁵

Evergy indicates that it has utilized the 2017 edition of the National Electric Safety Code (“NESC”) in its preliminary design of the Fayetteville Project.¹⁶ The NESC was recently revised

¹⁵ The NESC is currently published by the Institute of Electrical and Electronic Engineers (“IEEE”).

¹⁶ Response to Staff Data Request No. 0003.2.

to its 2023 edition and the Commission adopted the 2023 edition in Chapter 18.010 – Safety Standards for Electrical Corporations, Telecommunications Companies, and Rural Electric Cooperatives, effective November 30, 2023. Evergy asserts it may continue to utilize the 2017 version per the NESC, given that internal approval of the Fayetteville Project occurred prior to the effective date of the 2023 NESC.¹⁷ NESC Rule 016 states, in part, “...this edition shall become effective...for application to new installations and extension where both design and approval were started after the expiration of that period, unless otherwise stipulated by the administrative authority.” Evergy anticipates its design of the Fayetteville Project will be completed on April 29, 2024. Staff recommends the Commission order EMW to utilize the latest edition in its design methods.

Mr. Allegri, along with a few others, indicates that landowners have historically granted access to EMW and its predecessors, when needed, in regard to maintenance and repair activities conducted by Evergy to this electric line. Furthermore, while historically such access has been allowed, the Complainants report to have offered a document to Evergy that would essentially maintain the status quo in this regard. However, Staff in its investigation did not find any information to reflect that Evergy considered this offer. Evergy appears to prefer acquiring and owning the additional easement width, but does not provide evidence to illustrate that this is no more than a want rather than a need. Moreover, Evergy has not previously given information to Staff, or the Commission, regarding a change in its internal policy to not maintain existing lines in the highway ROW¹⁸.

In considering Ordered Paragraph No. 4:

That before beginning the construction of any electrical power and transmission line in the territory herein designated and **before a change is made in the location, phase or voltage of any electric line that may be in operation**, the applicant shall give all other utilities, **associations or persons** whose lines are or may be affected by such change or construction at least 15 days' written notice, showing **in sufficient detail** what the proposed construction or change will be to enable competent representatives of those utilities, associations or persons to determine what action the particular

¹⁷ Response to Staff Data Request No. 0006.1.

¹⁸ Complainants express their belief that this suggests the Commission consider “revising” its *Report and Order*.

utility or utilities, associations or persons may desire to take with deference thereto” [Emphasis added.].

Despite the evidence of numerous requests by the Complainants, there is no evidence that Evergy has provided the information in compliance with Ordered Paragraph No. 4, having yet to provide “sufficient detail” to analyze whether any additional easement width is necessary. While Evergy’s Response to Staff Data Request No. 0003 indicates that the design of the Fayetteville Project is “substantially completed”, its Response to Staff Data Request No. 0014 states that such a design will not be available until April 29, 2024. This was also identified in the latest filings from a number of Complainants in responding to Evergy’s Motion to Dismiss. In addition, the condemnation hearings were rescheduled and/or postponed as Evergy agreed to withdraw its initial Petition (Case No. 23LF-CV00700) and revise its contents prior to refileing it in Lafayette County (23LF-CV00900)¹⁹ and the hearing in Johnson County has been further postponed. Additional easement width may be nice to have, but Evergy has not satisfactorily demonstrated that the additional easements requested are necessary.

CONCLUSION

As described above, Staff recommends that the Commission conduct a hearing on the issues proffered by the Complainants, concluding that EMW has exceeded the bounds of the Commission’s *Report and Order* issued in Case No. 9470. EMW has not shown, in sufficient detail, that additional easement width is necessary in regard to Evergy seeking such additional easement width from Mr. Allegri and other Complainants along Hwy 13 in Johnson and Lafayette County, Missouri. Evergy states that a final design of their proposed Fayetteville Project will not be available until April 29, 2024. Further, Staff will consider the prudence of this project, the expense of these associated legal proceedings, and make any necessary recommendations in the context of EMW’s next general rate case.

¹⁹ Counsel for the landowners (Complainants) argued Evergy’s Petition for additional easement width was based on the MoDOT Hwy 13 Project (Transcript of Proceedings).

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Timothy Allegri,)	
)	
Complainant,)	<u>File No. EC-2024-0015</u>
)	
v.)	
)	
Evergy Metro, Inc. d/b/a Evergy Missouri)	
Metro and Evergy Missouri West, Inc. d/b/a)	
Evergy Missouri West,)	
)	
Respondent)	

AFFIDAVIT OF ALAN J. BAX

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW ALAN J. BAX, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

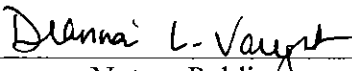
Further the Affiant sayeth not.



ALAN J. BAX

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 6th day of November 2023.



Notary Public

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2027 Commission Number: 15207377
