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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

PROCEDURAL CONFERENCE

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

MONDAY, MARCH 4, 2024
1:00 p.m.

Jefferson City, MO 65101
via WebEx

VOLUME II

JOHN CLARK, Presiding
SENIOR REGULATORY LAW JUDGE

(Due to the quality of the recorded media, portions were unable to be transcribed and include inaudible portions. The transcript may also include misinterpreted words and/or unidentified speakers. The transcriber was not present at the time of the recording; therefore, this transcript should not be considered verbatim.)

TRANSCRIBED BY: MELISSA EICKEN

1 (Background noise in audio.)

2 (Silence in audio.)

3 LAW JUDGE CLARK: Good afternoon. This is
4 John Clark. I'm the regulatory law judge overseeing
5 this proceeding today. It's now 1:00 o'clock. It
6 doesn't appear that we have as many complainants here
7 as I expected so far, so I'm going to wait just a few
8 minutes to see if I get some more complainants, and
9 then I will go ahead and start the procedural
10 conference. So we're just going to wait a couple of
11 minutes. If you have joined, and you are -- I would
12 ask that you remain muted until it's -- until you need
13 to speak, just so that it's easier for everybody else
14 who is on the Webex.

15 UNIDENTIFIED MALE: (Inaudible).

16 (Silence in audio.)

17 TIMOTHY ALLEGRI: Judge Clark, Timothy
18 Allegri here. Most of the people with such
19 ridiculously short notice of this call are not going
20 to be participating, so -- but I would give them maybe
21 a couple more minutes, like you suggested, just to see
22 if they are, but we have been in contact with
23 everyone, and Denise and I are together on this call.

24 LAW JUDGE CLARK: Okay. Thank you,
25 Mr. Allegri.

1 I'm going to go ahead. It's 1:02 right
2 now. I'm going to give a few more minutes, so we'll
3 start at 1:05.

4 (Silence in audio.)

5 LAW JUDGE CLARK: Okay. Kayla, I don't
6 know if we've started recording yet, but we're going
7 to go on the record.

8 So Kayla, if we haven't, if you would start
9 recording.

10 Today is March the 4th, and the current
11 time is 1:00 p.m., and this procedural web -- this
12 procedural conference is being conducted via Webex.
13 The commission has set aside this time for a
14 procedural conference in the case captioned as Timothy
15 Allegri, complainant versus Evergy Missouri West,
16 Incorporated, doing business as Evergy Missouri West,
17 respondent, and that is file number, EC-2024-0015.

18 We don't have a court reporter today so
19 this procedural conference is being recorded and that
20 recording will be sent out and transcribed, and then
21 that transcript will be uploaded to EFIS, the
22 commission's electronic filing system where anybody
23 will be able to access and -- and view that.

24 My name is John Clark. I'm the regulatory
25 law judge overseeing this matter. I'm going to begin

1 by asking the attorneys to enter their appearance
2 starting with Evergy Missouri West.

3 MR. STEINER: This is Roger Steiner,
4 attorney for Evergy Missouri West. Jim Fischer also
5 online, outside counsel for Evergy Missouri West.

6 LAW JUDGE CLARK: Thank you, Mr. Steiner.
7 On behalf of the commission staff.

8 MS. SCURLOCK: Whitney Scurlock on behalf
9 of the staff of the Missouri Public Service
10 Commission.

11 LAW JUDGE CLARK: Thank you, Ms. Scurlock.
12 Do I have anyone today from the Office of
13 the Public Counsel?

14 MR. POSTON: Marc Poston appearing for the
15 Office of the Public Counsel.

16 LAW JUDGE CLARK: Thank you, Mr. Poston.
17 Now, complainants, I believe, are still not
18 represented by an attorney; is that correct,
19 Mr. Allegri?

20 TIMOTHY ALLEGRI: That's correct.

21 LAW JUDGE CLARK: Okay. And you said that
22 a number of people weren't able to be here today. I'm
23 going to quickly run down -- and if you're here, just
24 let me know that you're here so I have a record of it.
25 Candace Robertson. Carl Wouden. Chad Krummel.

1 Charles Bracken.

2 CHARLES BRACKEN: Yes.

3 LAW JUDGE CLARK: Thank you, Mr. Bracken.

4 Cheryl Hedden. Cheryl Wouden. Colette

5 Collett. David Handly. David Berg.

6 DAVID BERG: Here.

7 LAW JUDGE CLARK: Thank you, Mr. Berg.

8 Denise Allegri.

9 DENISE ALLEGRI: Here.

10 LAW JUDGE CLARK: Thank you, Ms. Allegri.

11 Donald Rasa. Dorothy Bell. Dwayne Marsh.

12 Glen Wolfe. Jesse Green.

13 JESSE GREEN: Here, Your Honor.

14 LAW JUDGE CLARK: Thank you, Mr. Green.

15 Jessica Krummel. Kendra Butner. Letha

16 Boland. Marjorie Dyer. Mark Hill. Norman Howard.

17 Rebecca Marsh. Rhonda Berg.

18 RHONDA BERG: Here.

19 LAW JUDGE CLARK: Scott Rasa. Thank you,

20 Ms. Berg.

21 Scott Rasa. Steven Robertson. Steven

22 Dyer. Steven Bell. Susan Bracken.

23 SUSAN BRACKEN: Here.

24 LAW JUDGE CLARK: Thank you, Ms. Bracken.

25 Theresa Howard. Timothy Allegri, for the

1 record.

2 TIMOTHY ALLEGRI: Hey.

3 LAW JUDGE CLARK: Thank you, Mr. Allegri.

4 Victor Butner. And Walter Dyer.

5 All right. We've done entries of

6 appearance.

7 Now, when we had one prior procedural
8 conference and that was for the purpose of trying to
9 work out a hearing date and schedule, and that was
10 back before this was deemed a non-small formal
11 complaint. At some point prior to the January hearing
12 date the parties, I guess, Mr. Allegri filed a motion,
13 and then I allowed time for other complainants to
14 weigh in to basically cancel and reschedule the
15 hearing so that the parties could engage with
16 mediation, and this is a non-commission mediation,
17 although the commission does do mediations. This is a
18 non-commission mediation. Now I -- I do not want to
19 know what happened in mediation because that is
20 confidential. It's considered settlement, and there
21 is no reason that I should know it and -- and frankly,
22 those kinds of confidential things should be kept from
23 me. However, I am entitled to know if mediation is
24 ongoing because that may change how to schedule things
25 whether it's been completed and whether issues were

1 resolved or not. So can somebody enlighten me as to
2 whether mediation is ongoing at this point?

3 TIMOTHY ALLEGRI: Tim Allegri here.

4 Mr. Fischer, if you don't mind -- or the -- and
5 Steiner. So, yeah, the mediation is ongoing. And
6 does that -- how does that matter?

7 LAW JUDGE CLARK: Well, it matters in that
8 I can schedule another hearing date, but --

9 TIMOTHY ALLEGRI: Yeah.

10 LAW JUDGE CLARK: -- currently, hearing
11 dates are in demand, so if --

12 TIMOTHY ALLEGRI: Okay.

13 LAW JUDGE CLARK: -- I schedule a hearing
14 date and I have to cancel it again or reasonably close
15 to the hearing, then I'm preventing possibly another
16 party from having a hearing date that they -- they
17 might be ready to go ahead with. So I'm reluctant to
18 while mediation is ongoing --

19 TIMOTHY ALLEGRI: Yeah.

20 LAW JUDGE CLARK: -- to schedule --

21 TIMOTHY ALLEGRI: Right.

22 LAW JUDGE CLARK: -- further hearing dates
23 close. So --

24 TIMOTHY ALLEGRI: Okay.

25 LAW JUDGE CLARK: -- at this point --

1 MR. STEINER: Judge this is Roger Steiner.

2 This is --

3 LAW JUDGE CLARK: Yes, Mr. Steiner.

4 MR. STEINER: So I agree with you. I think
5 there's another mediation tomorrow, I believe. It
6 might make more sense just to, in a month, schedule
7 another prehearing or something like that to see
8 another status or we can report the status or whatever
9 is best for you.

10 LAW JUDGE CLARK: Okay. Well, let me think
11 about that, and I'll try to make a decision before the
12 end of this procedural conference, but thank you for
13 letting me know.

14 MR. STEINER: Okay.

15 LAW JUDGE CLARK: I wanted to know where it
16 was, and I would have been surprised if mediation had
17 been a one-day thing.

18 Now, next on my list, Mr. Allegri, you had
19 filed --

20 TIMOTHY ALLEGRI: Yes. Just a -- yeah.
21 We're not lagging empathy with the situation there at
22 all. But perhaps, the middle of May, so just like the
23 court hearings, they're continued to another date. So
24 having setting a -- setting the evidentiary hearing
25 for the end of March would be ridiculous, but we were

1 thinking the middle of May as a reasonable time frame,
2 so if it were -- if -- if mediation is successful,
3 then it won't -- it would not impact other schedules,
4 the other hearings you might have, Judge Clark. So if
5 we could nail it down and know where we're at to know
6 the time frame that would be beneficial in our opinion
7 for the mediation.

8 LAW JUDGE CLARK: And I -- I certainly -- I
9 can see that point, too. Like I said, why don't we
10 get to the schedule --

11 TIMOTHY ALLEGRI: Okay.

12 LAW JUDGE CLARK: -- part here in a little
13 bit. I'm looking at May, which you have to realize is
14 there are, I believe, currently seven judges. There
15 are five commissioners. The commissioners like to, as
16 much as possible, attend these hearings, either
17 virtually or in person. So it's really -- it's less
18 my time as it is splitting up the time --

19 TIMOTHY ALLEGRI: Okay.

20 LAW JUDGE CLARK: -- with the
21 commissioners. Currently, it looks like -- I knew we
22 were full through May, so I'm glad you said May. May
23 looks pretty full. June looks like it is starting to
24 clear up a little bit, but I might be able to
25 squeeze -- it might be possible to squeeze something

1 into May, if necessary --

2 TIMOTHY ALLEGRI: Okay.

3 LAW JUDGE CLARK: -- done in April. And in
4 addition to hearings, there's also certain conferences
5 that certain commissioners are obliged to go to.

6 All right. Mr. Allegri, you had filed a
7 motion, and you had titled it, second motion for
8 commission to provide explanation, and in that motion,
9 you had asked me to provide in writing at
10 10:00 o'clock, prior to today's conference, answers to
11 several questions, which I did not do, and what I'm
12 going to do instead is inform you on a one by one why
13 I'm not going to be doing that with each of these.

14 TIMOTHY ALLEGRI: I -- I appreciate that,
15 but if you can put it in writing, that would be fine
16 rather than wait for the minutes, so you can forego
17 that explanation for now.

18 LAW JUDGE CLARK: Well, I -- since it is
19 going to have an effect on it, I'm going to go ahead
20 and do it. It is --

21 TIMOTHY ALLEGRI: Okay.

22 LAW JUDGE CLARK: You asked that -- that
23 the commission provide the rules for filing exhibits
24 on Missouri's EFIS to provide the Missouri statute and
25 commission rule for deadline, timeline of rescheduling

1 prehearing conference, and evidentiary hearing. To my
2 knowledge, there's none. To provide the Missouri
3 statutes for commission rule for deadline, timing --
4 timeline of making order or regarding the results of
5 the staff, report staff, and vacate staff
6 investigation to provide the Missouri statute or
7 commission rule that governs the timing of which the
8 commission must act on an investigation findings in
9 any complaint case and to provide the answer as to
10 whether or not the commission staff investigation
11 found responded Evergy is doing anything or about to
12 do anything permitting, anything or about to permit
13 anything to be done contrary to or in violation of a
14 law in any order or decision of the commission with
15 regard to said case, and finally, to provide detail
16 answers to why the commission refused after numerous
17 requests by complainant to uphold RSMo 386.360,
18 Section 1 and 2 with regard to this complaint.

19 Now -- and I'm not trying to be callous
20 here in any way, shape or form, but you are a pro se
21 complainant which means that you are self-represented,
22 and unfortunately, because of rules of fairness, under
23 Missouri law, a pro se complainant is not to be
24 treated any different from a party represented by a
25 licensed attorney. So at least in regard to the first

1 four where you're asking essentially what would be
2 legal research questions to provide rules or statutes,
3 those are something you're going to have to do your
4 own legal research there. I can't do it for you any
5 more than I can do legal research for Evergy. Some of
6 these based upon some of the arguments I've seen in
7 your motions in regard to Chapter 2 of the
8 commission's rules, the code of state regulations
9 rules, you have some familiarity with that, and that
10 is where the commission's procedural rules are held.
11 But I think your question there actually was, trying
12 more to the point you're asking how does this evidence
13 get filed in EFIS, and the answer is really, when does
14 it become evident? And it doesn't really become
15 evidence until it is somebody used to admit it during
16 a hearing, other parties have an opportunity to object
17 to it, and then it is either received into the record
18 or not. The commission can't re -- examine any
19 evidence until it's been properly admitted to the
20 record and other parties have had an opportunity to
21 vet it, so.

22 I think the short answer to your question
23 is, what you filed in -- in EFIS as an exhibit is not
24 an exhibit or evidence yet and won't be until a
25 hearing, and the commission, at this point in time,

1 cannot in any way consider it.

2 In regards to whether or not the commission
3 staff investigation found that respondent Evergy is,
4 that's a discovery question. And if you want an
5 answer to that question, then the party to ask is
6 staff. I oversee this thing. I'm a regulatory law
7 judge functioning for the commission, and it's just
8 like a court judge in that, that I'm to be neutral.
9 I'm not really to interfere with the affairs of the
10 parties until they -- they kind of cross each other,
11 so if you want an answer to -- if you have questions
12 about staff's investigation, then you probably need to
13 propound data requests to staff asking that, and I'm
14 sure staff would be happy to help you go through the
15 process of propounding a data request.

16 And in regard to your last question which
17 was, provide detail answers as to why the commission
18 have refused after numerous requests by complainant to
19 uphold RSMo 386.360, Section 1 and 2 in regard to this
20 complaint and that, I believe, is the injunction
21 statute. The commission has twice ruled on that
22 regard to you, and I believe once in regard to a -- a
23 staff motion, and this is not a request for
24 clarification because you clearly seem to understand
25 that the commission said, no, we're not doing that.

1 So I am of the opinion that the order stands on its
2 own and does not need further explanation as I believe
3 it explained that the commission is not at this point
4 convinced that an imminent violation is going to
5 occur. So that --

6 TIMOTHY ALLEGRI: Oh. Well, 386, Judge
7 Clark, it does say, we're about to commit, so. Seems
8 to be a lot of information out there that implies that
9 it's about to be committed. But that's fine. Thank
10 you.

11 LAW JUDGE CLARK: Okay. Now let's -- let's
12 get to what we were talking about briefly earlier
13 which is the new hearing dates in light of mediation,
14 and I believe Mr. Steiner had indicated that he
15 believed that -- that mediation might be occurring
16 again -- another round of mediation may be occurring
17 on March 5th which would be tomorrow.

18 And Mr. Allegri I'm going to be speaking to
19 you, but I'm certainly -- any other complainants
20 are -- are entitled to weigh in, if you had to at this
21 point, and it seems given what I've seen in previous
22 motions of yours that you would like to go ahead and
23 get a -- an evidentiary hearing set even though
24 mediation is ongoing; is that correct?

25 TIMOTHY ALLEGRI: Correct.

1 LAW JUDGE CLARK: When is the next circuit
2 court hearing in this case scheduled for?

3 TIMOTHY ALLEGRI: Oh. I'm -- I'm thinking
4 in -- in April. It would be well before anything that
5 we'd be talking about.

6 LAW JUDGE CLARK: Okay. And that would
7 be -- is that for Johnson and Lafayette Counties or
8 just one or the other?

9 TIMOTHY ALLEGRI: Both.

10 LAW JUDGE CLARK: Okay. I would have to
11 check, but would it be your preference right now to
12 tentatively set a hearing date in May; is that
13 correct?

14 TIMOTHY ALLEGRI: Well, the preference
15 would be for that to be in May, and the court case is
16 May, also continue as well, and they might even go
17 beyond that date.

18 DENISE ALLEGRI: Which has --

19 TIMOTHY ALLEGRI: Which has -- you know,
20 that begs the question, what does that have to do with
21 anything? Again, Everygy's about to commit a violation
22 based upon all the evidence before the commission
23 which is -- I mean, that's what we've been talking
24 about. So I don't know why we choose to not apply the
25 full statute in Everygy about to commit a violation.

1 That doesn't -- that doesn't jive.

2 LAW JUDGE CLARK: I understand that you
3 disagree with commission's decision. I do understand
4 that.

5 TIMOTHY ALLEGRI: Okay. I don't disagree
6 with the statute is my point. Thank you.

7 LAW JUDGE CLARK: All right. Everyy, are
8 you opposed to setting a tentative hearing date in
9 May?

10 MR. STEINER: I would need to check with
11 witnesses, if you have dates, but I mean, that's fine.

12 LAW JUDGE CLARK: I don't have dates at
13 this time --

14 MR. STEINER: Are you going to set the
15 dates now; is that what you're saying?

16 LAW JUDGE CLARK: No. I'm not going to set
17 up the dates now. I need to see what the commission's
18 availability is because it looks like the weekend
19 of -- or the week of the 6th, it looks like there is a
20 hearing going on almost all week. The week of the
21 13th, at this point, has some availability, and it
22 looks like there's a couple of -- a couple of days
23 available the following week. After that, I think
24 we're probably looking at late June, the week of the
25 17th, because there is a week-long conference on the

1 10th. There's already cases set for the weeks of the
2 3rd and the last week of May, so I think --

3 MS. SCURLOCK: -- Clark, this is -- this is
4 Whitney Scurlock for staff. I'm sorry to throw a
5 wrench in things, but I was just informed that staff's
6 witness will be out of town from the 20th to the 24th
7 of May.

8 LAW JUDGE CLARK: Okay. Hold on just a
9 second.

10 TIMOTHY ALLEGRI: So the 13th's good.

11 DENISE ALLEGRI: The week of --

12 TIMOTHY ALLEGRI: That week.

13 LAW JUDGE CLARK: I will see what the
14 commission's -- like I said, all I have is the
15 availability that I can see in the calendar thus far.
16 But I will look at the week of the 13th and see if I
17 can schedule something in there. If I can't schedule
18 something in there, then I may shoot something out to
19 the parties, either have another procedural conference
20 or to ask the parties to weigh in on dates that I --
21 that I put in an order, so. That's where we are with
22 that, so I will check --

23 MR. STEINER: Thank you.

24 LAW JUDGE CLARK: I'm sorry, I didn't hear
25 you, Mr. Allegri.

1 MR. STEINER: It's Roger. I said that
2 makes sense. Thank you.

3 LAW JUDGE CLARK: Okay. So I will do that,
4 and I will try and get back with the parties as soon
5 as possible. If it -- if a date -- if that week of
6 the 13th works and I can fit a two to three-day
7 hearing in there, then I will do that, and I will just
8 issue those dates in an order. If not, you will hear
9 from me again, and we will try to figure out another
10 time that we can set. Like I said, there -- it's kind
11 of a balance point in that the commission has a lot of
12 hearings going on right now, and a lot of cases that
13 are still rescheduled for hearings, so. I would like
14 to tentatively preserve that date with an
15 understanding that I don't want to get too close to it
16 before cancelling it, so if something comes up, if
17 mediation looks like it's going to run past that date
18 or if mediation resolves the issue, if somebody can
19 let me know as soon as possible, I would appreciate
20 it. That is all --

21 TIMOTHY ALLEGRI: Absolutely.

22 LAW JUDGE CLARK: That is all I had
23 scheduled to talk about. I wanted to engage with the
24 parties, and I try to as much as possible in setting
25 dates. So that's all I wanted to talk about.

1 Are there any other matters that any party
2 would like to bring before the commission at this
3 time?

4 TIMOTHY ALLEGRI: Nothing here.

5 LAW JUDGE CLARK: Okay. Hearing nothing, I
6 am going to conclude this procedural conference.
7 We'll go off the record, and you will all hear from me
8 in a future order.

9 MS. SCURLOCK: Thanks, Judge.

10 TIMOTHY ALLEGRI: Thank you.

11 LAW JUDGE CLARK: Thank you. We'll go off
12 the record.

13 MR. STEINER: Thank you.

14 (Silence in audio.)

15 (Audio ended.)

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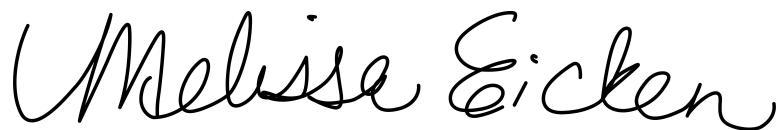
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1 CERTIFICATE OF REPORTER

2
3 I, Melissa J. Eicken, Certified Court
4 Reporter of Missouri, Certified Shorthand Reporter of
5 Illinois and Registered Professional Reporter, do
6 hereby certify that I was asked to prepare a
7 transcript of proceedings had in the above-mentioned
8 case, which proceedings were held with no court
9 reporter present utilizing an open microphone system
10 of preserving the record.

11 I further certify that the foregoing pages
12 constitute a true and accurate reproduction of the
13 proceedings as transcribed by me to the best of my
14 ability and may include inaudible sections or
15 misidentified speakers of said open microphone
16 recording.

17 

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19 Melissa J. Eicken, CCR, CSR, RPR

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24 Date: March 14, 2024

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