

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

Timothy Allegri, et al.	)	
	)	
Complainants,	)	
v.	)	File No. EC-2024-0015, et al.
	)	[consolidated]
Evergy Missouri West, Inc. d/b/a Evergy	)	
Missouri West,	)	
	)	
Respondent.	)	

**EVERGY MISSOURI WEST’S REPLY TO COMPLAINANT ALLEGRI’S  
RESPONSE TO MOTION TO DISMISS DUE TO LACK OF CONTROVERSY**

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West” or the “Company”) and, for its *Reply to Complainant Allegri’s Response to Dismiss Due to Lack of Controversy* (“Reply”), states as follows:

1. On April 10, 2024, Evergy Missouri West notified the Missouri Public Service Commission (“Commission”) that the Company has dismissed the Missouri Circuit Court condemnation cases in Lafayette and Johnson Counties that are underlying this Consolidated Complaint.<sup>1</sup> The Company requested that the Commission dismiss the consolidated complaints as the Company is no longer seeking easement rights from the Complainants identified as Defendants in the pending Circuit Court cases..

2. Since the Commission does not issue advisory opinions<sup>2</sup>, there is no controversy for the Commission concerning the CCN to adjudge.

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<sup>1</sup> In the April 10, 2024 *Motion To Dismiss*, the Company failed to attach a *Notice of Voluntary Dismissal* in a second matter pending before the circuit court in Lafayette County, *Evergy Missouri West, Inc. v. Donal W. Rasa, et al.*, Case No. 23LF-CV00700 which was filed on September 22, 2023. (See attached).

<sup>2</sup> Like other administrative agencies, the Commission is not authorized to issue advisory opinions. *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm’n of State of Missouri*, 392 S.W.3d 24, 38 (Mo. App., W.D. 2012).

3. In addition, since there is no longer an underlying condemnation dispute with Timothy P. nor Denis W. Allegri (“Complainants”), Complainants lack standing to continue to pursue their Consolidated Complaint.

4. On April 11, 2024, Complainants filed their response to the Company’s *Motion to Dismiss*. The Complainants seem concerned that the Company may still be pursuing easements from them at this time. This is not the case. Due to the Company’s change of plan for the rebuild of the electric transmission line along Highway 13 in Johnson and Lafayette Counties, it will not be necessary for the Company to seek easements from the Complainants.

5. Contrary to the assertions of the Complainants, the Company is no longer seeking easement rights with regards to the Defendants named in the referenced Missouri Circuit Court cases. The Company affirms that as of the filing of this pleading, the Company no longer seeks easements rights from the Complainants. Moreover, there are no planned or pending projects which would require such an easement. Without a change in circumstances created by external forces, the Company does not expect any change in needing such easement rights from Complainants.

6. Second, contrary to the assertions of the Complainants, with the exception of the Company’s *Motion to Dismiss* filed on April 10, 2024, there are no outstanding procedural motions before the Commission. All procedural motions by Complainants have been ruled upon and denied.

7. Third, contrary to the assertions of the Complainants, there is no need for the Commission to convene an evidentiary hearing on May 14-16 to deal with pending motions. The Company’s *Motion to Dismiss* may be granted by written order, and there are no other motions that have not been already ruled upon by the Commission.

8. Dismissal of the Consolidated Complaint under the circumstances of this case is reasonable and does not deny the Complainants due process of law. The granting of the *Motion to Dismiss* simply recognizes that there is no longer a live controversy in the Missouri circuit courts between the Company and the Complainants and co-complainants who are defendants in the Missouri circuit court cases, and there is no relief that may be granted by the Commission.

**WHEREFORE**, Evergy Missouri West and respectfully renews its Motion to Dismiss and requests dismissal of the Consolidated Complaints.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**Attorneys for Evergy Missouri West**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, to all parties of record, this 23<sup>rd</sup> day of April 2024.

*/s/ Roger W. Steiner*

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Attorney for Evergy Missouri West

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSOURI

EVERGY MISSOURI WEST, INC.,

Plaintiff,

v.

DONALD W. RASA and BARBARA A. RASA, Co-Trustees of the DONALD W. RASA and BARBARA A. RASA JOINT REVOCABLE TRUST, et. al.

Defendants.

Case No. 23LF-CV00700

NOTICE OF VOLUNTARY DISMISSAL

Plaintiff, by and through undersigned counsel, pursuant to Rule 67.02(a), voluntarily dismisses the captioned matter without prejudice.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of September 2023, the above and foregoing Voluntary Dismissal was filed with the Court's e-filing system, and a true and correct copy of the above and foregoing was placed in the US Mail, first class postage prepaid, to:

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