

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

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

**PUBLIC COUNSEL’S RESPONSE**

COMES NOW the Office of the Public Counsel (“OPC”) and offers the following response to the May 2, 2024, *Motion for Case Review and Motion for Expedited Treatment* filed by Complainants Timothy and Denise Allegri:

1. The Complaints allege, among other things, violations of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s (“Evergy”) certificate of convenience and necessity (CCN). The Commission’s Staff agreed that these violations occurred. Staff’s Recommendation states in part:

Staff’s position is that Evergy has exceeded the parameters of its authority granted in its certificate of convenience and necessity (CCN) granted to the Missouri Public Service Corporation in Case No. 9470 for the counties central to these complaint filings.<sup>1</sup>

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<sup>1</sup> Staff Recommendation, Case No. EC-2024-0015, November 6, 2023, p. 4, EFIS Item No. 57.

2. If Complainants and the Staff are correct, and Evergy sought easements beyond that authorized by Evergy's CCN, those violations occurred regardless of whether Evergy continues to pursue easements.

3. To the extent the Allegris or any other complainant continues to seek a Commission order finding such a violation occurred, there is still an issue to be determined by the Commission.<sup>2</sup>

4. If the Commission finds that Evergy violated its CCN, the relief contemplated by Section 386.570 RSMo provides relief in the form of penalties. It states in relevant part:

Any corporation, person or public utility which...fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

5. In addition, without seeing Evergy's revised plans, Complainants are justifiably concerned that the Company's new plans could continue to pursue condemnation beyond what is authorized by the CCN. Evergy has not conceded that it lacks the necessary authority to condemn and take the Complainant's land. Suspending the evidentiary hearing until Evergy provides details of its new plan is a solution that could help resolve these Complaints.

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<sup>2</sup> 386.390 RSMo, states in part, "Complaint may be made...by the public counsel or any corporation or person...by petition or complaint in writing, **setting forth any act or thing done** or omitted to be done by any corporation, person or public utility **in violation, or claimed to be in violation**, of any provision of

6. The Allegri's *Motion* also references issues with Evergy's methods and practices, stating:

Because this Complaint is not only about unauthorized and excessive easements being sought and violations made of CCN orders, but also the methods and practices used by Evergy in the transaction of their business, each issue raised in the complaint(s) must be addressed and deficiencies corrected.

The Commission has the authority and duty to:

Examine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed;<sup>3</sup>

7. Accordingly, the Complainants have raised issues that are not mooted by Evergy's assertion that it has changed its plans due to budgetary concerns. For these reasons, the OPC opposes dismissal of these cases and supports the Allegri's request to suspend this case to provide time for Evergy to submit its plans to the Complainants and the Commission.

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law subject to the commission's authority, of any rule promulgated by the commission, of any utility tariff, or **of any order or decision of the commission;**" (emphasis added).

<sup>3</sup> 393.140(5) RSMo.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to the Complainant Allegri's *Motion*.

Respectfully submitted,

/s/ Marc Poston

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 7<sup>th</sup> day of May 2024.

/s/ Marc Poston