

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

TIMOTHY P. ALLEGRI)	
)	
Complainant,)	
v.)	File No. EC-2024-0015
)	
Evergy Metro, Inc. d/b/a Evergy Missouri)	
Metro And Evergy Missouri West, Inc.)	
d/b/a Evergy Missouri West,)	
)	
Respondent.)	

COMPLAINANT TIMOTHY ALLEGRI, REQUEST ONGOING INVESTIGATION

COMES NOW, Timothy P. Allegri, for his request to ensure The Commission’s investigation continues and roles are clarified.

Please note that in response to the July 25, 2023 filing of this formal complaint, Evergy filed a condemnation suit on July 27, 2023 of which I am a Defendant, regarding the same project, in the Circuit Courts of **Lafayette County (Case No. 23LF-CV-00700)**. The condemnation hearing date is scheduled for September 19, 2023 at 11am.

This complaint is specific to Evergy and its proposed upgrade to its line running along MO-13 in Lafayette and Johnson counties. Among other items cited, I allege Evergy is not conforming to what they’ve indicated is their applicable CCN, #9470, dated January 18, 1938.

Do I interpret Missouri law correctly, that it gives The Commission jurisdiction and authority for CCNs? If so, **I respectfully request The Commission confirm *the specific Certificate of Convenience and Necessity (CCN) the subject Evergy MO-13 Project is governed.*** It is my understanding according to R.S.Mo. 386.280, “every ... certificate issued or approved by the commission ...shall be in writing ... and entered on the records of the commission ... and such record shall impart notice of its provisions to all persons ...”. Accordingly, **please provide this certificate number for my records.**

I request The Commission’s verification that Evergy is operating and proposing upgrades within the *specific parameters* of the CCN under which they are claiming use on MO-13.

- 1. Regardless of the CCN, has The Commission had the opportunity to evaluate Evergy’s plans, designs and intentions as to their need/necessity for the MO-13 project? If so, please provide that design information.**

2. **Is The Commission fully apprised of the MO-13 plan intents in the MoDOT related project plan and Evergy project design, having both presented and filed with the Circuit Court pursuant to Rule 86.04 of the Missouri Rules of Civil Procedure and R.S.Mo. §227.050?**
3. **Can The Commission confirm if the project design plan exceeds the NESC standard of pole placement and easements?**
4. **Can The Commission confirm if the MO-13 project plan places poles and/or lines “along” MO-13 highway and/or “along” private rights-of-way?**
5. **Can The Commission confirm if the MO-13 project plan places lines “above” MO-13 highway and/or “above” private rights-of-way?**
6. **Can The Commission confirm if the MO-13 project plan places poles “upon” MO-13 highway and/or “upon” private rights-of-way?**

There is no debate The Commission has limited statutory authority to require an electric utility (Evergy) to obtain a revised CCN prior to each improvement, retrofit or rebuild of any electric line for which a CCN has already been granted. It is incorrect to presume the act of ‘CCN issuance’ removes The Commission of its role in future oversight of a line and compliance of the approved CCN. Doing so would improperly negate the ongoing role and responsibility of The Commission and risk public safety, service reliability and compliance. A governed electric utility has a duty to ensure line safety is maintained and kept in a reasonably safe and adequate manner so as not to endanger the public or to interfere unreasonably with the service of other aerial lines.

The act of The Commission’s issuance/order of a CCN does not eliminate their role in upholding future specific requirements and specifications set forth in the order. Such as the operational safety of lines, power delivery, NESC standards being met, pole/line placements and proximity kV increases.

The Commission serves Missouri taxpayers by overseeing all aspects of utilities, the CCNs issued to utilities and the ongoing compliance of each CCN they approve. The Commission remains in authority as legislated, and in so doing clearly stands separate of the utility if/when a utility’s CCN non-compliance creates liability.

The onus is upon The Commission to ensure project expansions are planned and then implemented within the specific parameters and limits of the applicable CCN.

A utility's submission to The Commission’s role in oversight can’t be relied upon. The domino effect of irreversible damage begins if the CCN requirements of a project are not met. Specifically, errors that can harm the utility through poorly planned expenditures and needless land taking from Missouri landowners.

Without The Commission’s role in ensuring CCN *compliance* to any newly approved project or subsequent upgrade, Missourian’s would be without the responsible oversight they fund (PSC) and as passed to The Commission through the Federal Energy Regulatory Commission.

The attentions of Lafayette County and Johnson County citizens are upon this situation are concerned the MO-13 project will take the course of the Wichita error and end up in after-the-fact negotiations and rectification.

A utility determining on its own what is in the public interest is not a reliable practice as evidenced in Wichita. <https://www.kwch.com/2023/03/02/evergy-replaces-large-metal-power-poles-northeast-wichita/>

Remedy:

- **I respectfully ask The Commission to**
 - **respond to all questions raised herein,**
 - **provide me a copy of Evergy’s completed project design,**
 - **ensure the MO-13 project does not deviate from its ‘source’ CCN and**
 - **continue to investigate all issues raised in this ongoing complaint.**
- **If The Commission identifies non-compliance in the Evergy MO-13 project, I respectfully ask The Commission to intervene to protect Evergy and me from irreversible harm by issuing an order for injunction no later than September 18, 2023. The courts have no authority to evaluate and determine issues that fall within the role and public duty of the Missouri Public Service Commission.**
 - ***Please refer to:* Empire Dist. Electric Co. v. Cox / Court of Appeals of Missouri, Southern District, October 4, 1979 / No. 10861 HN1 Appeals, Standards of Review**

“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.**”

Thank you for your urgent attention to this complaint and for supporting the public and utility’s interests.

Respectfully submitted by,

Timothy P Allegri

Complainant/landowner/citizen


Email: 

CERTIFICATE OF SERVICE

A copy of the foregoing has been filed this 7th day of September 2023 with the Missouri Public Service Commission’s Electronic Filing Information System.