

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

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|-----------------------------------|---|----------------------|
| Bethann C. Hill and Mark A. Hill, | ) |                      |
|                                   | ) |                      |
| Complainants,                     | ) |                      |
|                                   | ) |                      |
| v.                                | ) | Case No.EC-2026-0350 |
|                                   | ) |                      |
| Evergy Missouri West, Inc. d/b/a  | ) |                      |
| Evergy Missouri West,             | ) |                      |
|                                   | ) |                      |
| Respondent.                       | ) |                      |

**PUBLIC COUNSEL’S RESPONSE  
TO STAFF’S RECOMMENDATION**

**COMES NOW** the Office of the Public Counsel (“Public Counsel” or “OPC”) and for its Response to the Staff’s Recommendation states:

1. The purpose of the OPC’s involvement in this case is to represent the interests of the public. On behalf of the public, the OPC asks that the Commission thoroughly investigate this complaint and provide the Complainants with an opportunity to present their case to the Commission.

2. MoDOT has already acquired easements for the highway project that includes an easement for utility facilities, including Evergy’s facilities. Evergy, however, seeks to take additional property from the Hills outside the utility right-of-way (ROW), without any detailed explanation for why the new MoDOT utility ROW, which appears to be the same size as the current utility ROW, is suddenly insufficient for replacing a 69 kV transmission line with another 69 kV transmission line.

3. Evergy addresses MoDOT's ROW in its July 6, 2026, Answer, explaining, "MoDOT has indicated that Evergy may utilize the outer edge of its right of way for pole placement. However, this area alone is not sufficient to meet applicable safety and clearance requirements." This explanation provides no detail to enable the Commission, its Staff, the OPC, or the Hills to understand Evergy's rationale specific to the Hills' property.

4. The Hills assert that the MoDOT utility ROW will provide Evergy with sufficient space to meet clearance requirements that follow the National Electrical Safety Code (NESC), which the Commission's rules require Evergy to follow.<sup>1</sup> Evergy has provided no explanation that refutes the Hills' assertion, such as an explanation as to why the MoDOT ROW is insufficient and why the Company's efforts are otherwise reasonable.

5. This disagreement leaves many questions unanswered that the Commission's processes can resolve. What are the applicable clearance requirements? Does the MoDOT utility ROW allow for these clearance requirements? If so, what ***other reasons*** does Evergy have for taking more private property than what is needed for clearance requirements? Are those reasons, if they exist, lawful and reasonable? Simply stating the taking is for clearance requirements should be a grossly insufficient explanation for the Commission. Also, why is Evergy relocating within the MoDOT ROW for some properties but not all? Shouldn't the same clearance requirement apply all along the transmission line?

6. With Evergy not fully explaining why the line clearance is insufficient within the MoDOT ROW, despite those same requirements being sufficient today, it begs the question of *what else* could be motivating Evergy's efforts? The Hills suggest it places Evergy in the position of having MoDOT compensate Evergy for any future relocations that impact Evergy's easement property rights. In other words, rather than having Evergy be responsible for the costs of moving its line, it puts that burden on Missouri taxpayers.

7. The OPC recognizes that if Evergy's reasons for seeking the private easement are not for the reasons of meeting safety and clearance requirements or are due to Evergy's ability to make profit from future highway expansion projects, this could constitute an abuse of discretion defense in a future condemnation petition. However, to simply assume that this issue will be addressed in the circuit court and to pass on investigating it here would be a disservice to the public; a public that expects the Commission to follow through on its important responsibilities of understanding the practices of the public utilities it regulates to protect the public from unjust and unreasonable practices. The Commission and its Staff are in a far better position to investigate these matters than *pro se* litigants.

8. The Staff's Report and Recommendation does not address the safety and clearance requirements and, therefore, the Commission is without basis to conclude whether Evergy's practices are in compliance with the

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<sup>1</sup> 20 CSR 4240-18.010

NESC, and whether Evergy is otherwise subjecting the Missouri public to unjust and unreasonable practices.

9. Section 393.140(5) RSMo empowers the Commission with clear statutory authority to hear and address the Hills' complaint. It provides the Commission with the 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." Further, it provides the Commission with the following:

Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that...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 acts and regulations to be done and observed...

The Commission has clear authority to make improvements whenever it discovers practices that harm the public interest, such as an unreasonable practice of relocating lines.

10. The OPC requests that the Commission provide the Hills with the opportunity to continue discovery to enable them to develop their case, to direct its Staff to also investigate these matters in greater detail, and to encourage Evergy to be more forthcoming with the reasons for seeking to take far more property than it currently requires.

11. The Commission alone carries the responsibility and duty to ensure Evergy's facilities and practices are "in all respects just and

reasonable.”<sup>2</sup> The circuit court’s jurisdiction over condemnation petitions does not limit the Commission’s ability and its duty to understand the practices of the utilities it regulates and to ensure those utilities are conducting themselves in the public interest.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to the Staff’s Recommendation.

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 on this 21<sup>st</sup> day of September 2026.

/s/ Marc Poston

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<sup>2</sup> § 393.130.1 RSMo