

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Timothy P. Allegri,	)	
	)	
Complainant,	)	File No. EC-2027-0058
	)	
Evergy Missouri West, Inc., d/b/a)	)	
Evergy Missouri West,	)	
	)	
Respondent.	)	

REPLY TO EVERGY MISSOURI WEST'S
ANSWER, AFFIRMATIVE DEFENSES AND MOTION TO DISMISS

COMES NOW Timothy P. Allegri ("Complainant"), and hereby files this *Reply* ("Reply") to Evergy Missouri West's ("Evergy") *Answer, Affirmative Defenses and Motion to Dismiss* (collectively, "Answer") filed September 18, 2026 and, in support of my *Reply*, state as follows:

1. Complainant has never asked the Commission to rule or make orders on circuit court matters over which it lacks jurisdiction. It is a moot argument pertaining to my complaint. Evergy is intentionally and incorrectly insinuating that Complainant is seeking relief from the Commission for a circuit court eminent domain issue.

2. Staff's dismissal recommendation of a related complaint was premature, stating its reason was "**based on the evidence available**" which ironically is what is still being sought in all related complaints -- evidence.

3. The requested line clearance information **directly relates** to NESC standards and Commission orders. This information also directly relates to the **dollars** Evergy pays for an easement, which directly affects the **cost of service for its customers (ratepayers)**. Without the requested information, neither the PSC nor its Staff has sufficient evidence at this point to prove or disprove whether or not Evergy has made any violations, which is why the

discovery process and the case must continue. If, at the point Evergy provides all requested information and an evidentiary hearing is held, the Commission will have an opportunity to consider **all** evidence and make its orders. If dismissed, my rights under 20 CSR 4240-2.070 for relief would be violated.

4. Evergy must comply with all discovery requests to produce documents and answer questions in my complaint, and avoid an unfair advantage by concealing information unknown to me and the PSC. I look forward to receiving the documents in a timely manner.

5. A dismissal of my complaint has potential for direct damage to me as a ratepayer and Missouri citizen by a utility governed by the PSC. The absurdity of Evergy (and in some cases, the PSC Staff) suggesting dismissal before all of the evidence has been gathered, and ignoring the investigation of potential violations and resulting orders *prior to* Evergy seeking **any** amount of a Missouri citizen's property is unconscionable. Further, Staff has not made any attempts, to my knowledge, to communicate with me regarding evidence related to my case but has, however, recently made at least 13 *Data Requests* to Evergy for discovery into this matter.

6. By its own admission in a January 5, 2024 statement by Evergy referred to in my recently filed *Motion to Compel*, Evergy is attempting to move its equipment outside of the MoDOT right-of-way so that any future highway expansion would pass all costs of moving said equipment on to the entire **State of Missouri** rather than to only its customers.

7. Evergy's abuse of discretion related to its transmission line project must be investigated further in order to ensure my statutory rights of entitlement to be heard under RSMo. 386.420. For this reason, I request the Commission schedule an evidentiary hearing as soon as all discovery has been received. I also request the Commission to order Evergy to provide a monthly status report on its project in order to keep all parties apprised of the status, including when a completed and final engineering plan will become available which will allow determination of the specific public needs of the transmission line rebuild. In addition, because of these potential violations and coupled with the fact that Evergy has never supplied a completed and final engineering plan, I am requesting the PSC to order fines and punitive damages to all claimants impacted in the transmission line project should *any* violations of law be found. No Complainant should be held financially responsible for a utility's abuse of Missouri law.

8. With regard to Evergy's answer in **Introduction #1**, it asserts the original Public Service Commission ("PSC") Complaints (Case No. EC-2023-0015) were related to Evergy's efforts to secure easements for the transmission line project. While it is true the PSC complaints were related to the same Evergy transmission line project, Complainants did not seek relief from the PSC for an eminent domain circuit court issue. The issues ("live controversies") with regard to the PSC are (but not limited to):

- whether or not Evergy is seeking excessive land for its project (a direct violation of Commission orders);
- whether or not Evergy is permitted to change its company policy regarding equipment placement without first seeking PSC approval;
- whether or not Evergy is adhering to or exceeding NESC standards (per PSC requirements) ;
- why Evergy claims a need to go outside of the MoDOT right-of-way ("ROW") when a utility corridor is provided by MoDOT for the project;
- why engineering evidence for the completed plan has not been provided, despite repeated requests, in order for all parties to determine whether or not there is a *public* need for the utility project to go outside of the MoDOT ROW.

9. Also regarding **Introduction** Answer #1, just because Evergy dismissed the circuit court cases related to its project does not mean the potential violations already found in the PSC Staff's investigation into the same transmission line rebuild are no longer applicable. **The potential violations still need to be addressed by the PSC whether or not Evergy has related cases in the circuit courts.** PCS's *Staff Report and Recommendation* dated November 6, 2023 (Case No. EC-2023-0015, Docket Item #14) states:

“Staff contends that **Evergy has exceeded the bounds of its CCN** based on the authority granted **in ordered paragraph one of the CCN order** extending to **construction in the right of way**. Evergy has sought to relocate an electric line **outside of the highway right of way** and even states that **this is a new policy of the company** in its response to Staff DR 3, citing safety concerns. **Staff argues that this policy of the Company to encroach on private land outside of the existing highway right of ways is sufficient to warrant it seeking Commission approval prior to the policy change and prior to seeking eminent domain.** Staff also argues that **giving notice to the Commission of the project would have alleviated some concerns** and at the least **Evergy should have ensured that proper notice of the exact plans was provided to landowners** given the ordered paragraphs in the order granting a CCN in Case No. 9470.” [emphasis added]

10. Complainants in any of the 40+ PSC complaints with regard to the subject rebuild have not been provided an evidentiary hearing to determine whether or not any violations cited in the complaints or the *Staff Report and Recommendation* are about to be, are, or have been made. Most of the PSC complaints have been dismissed without providing Missourians/Complainants their Constitutional right to due process of law. Additionally, Evergy's argument, as well as the PSC's argument for its dismissals, are false in that they both cited eminent domain matters in which *none* of the parties have jurisdiction to argue in a *regulatory* court. The "live controversy" always has been and still remains the same (refer to Paragraph #8 herein). However, it must also be noted that some of the impacted landowners might not have lost their valuable land to an easement had an evidentiary hearing been held by the PSC prior to Evergy seeking condemnation in circuit court.

11. Note that **Introduction** #2 does not exist in Evergy's *Answer*.

12. With regard to **Introduction** #3 and the Missouri Court of Appeals, Complainant contends that the same false narrative of an *eminent domain matter* was presented by both Evergy and PSC counsel rather than the *PSC violations* as outlined in Paragraph #8 herein. The Court of Appeals was given the impression that Evergy's **project** had been dismissed ***rather than the eminent domain proceedings***. The appeals court is surely aware of the differences between regulatory court and circuit court matters, but based its findings upon misleading statements presented for the ongoing subject project.

13. In the original related complaints filed in July 2023 regarding the same rebuild project, during mediation, Evergy counsel emailed this statement:

"Evergy is **changing direction** with this project due to **budgetary constraints** and will not be pursuing the rebuild of the line **except for in the area that is impacted by MoDot's [sic] work**. Once Evergy has gathered the necessary information on the tracts that will be impacted, it will reach out to those owners individually. In light of this information, there is no need to reconvene the mediation tomorrow." [emphasis added]

14. With regard to **Second Complaint** #7, Evergy is arguing that an easement is not being sought against my property--again, a **circuit court** matter. It also argues the project is now smaller in scope, which is of no relevance to the PSC seeking whether or not violations of rules or orders have been made. Consequently, Evergy's argument of 4 CSR

4140-2.070(1) is in error. Again, the potential violations outlined in Paragraph #8 herein must be addressed by the PSC.

15. With regard to **Answer to Complaint #14**, Evergy denies that the original Fayetteville Project has remained active since 2023, yet in this same document, in **Second Complaint #7**, Evergy states its project "has been substantially modified" since it "commenced in 2024" and is "smaller in scope and perplexity" and refers to it as a "revised plan" not a new plan. It goes on to state, "In March 2026, Evergy relaunched the *revised* project and restarted pre-acquisition activities" and "no easements will be required from Complainant." Again, this argument is a circuit court argument and does not relate to the relief Complainant seeks from the PSC. Evergy's same transmission line project that was put "on hold" now resumes after a revision of the original plan. If an activity is "on hold," it has been intentionally delayed. For instance, if you are *on hold* when using the phone, you are waiting to speak to someone, in anticipation of the call resuming. Evergy intentionally delayed its project in expectancy of MoDOT's changes to the highway plan, and in anticipation of the project resuming once MoDOT's changes have been made.

16. ***It is important for the PSC to note that MoDOT has already acquired an additional 2 feet of ROW to accommodate utilities, specifically Evergy*** (i.e., MoDOT is the entity which provides an adequate utility ROW/corridor specific to its highway plan) and there is no public need for Evergy to acquire additional land outside of the ROW.

17. With regard to **Answer to Complaint #15**, Evergy denies that it is placing lines and poles in violation of CCN 9470. If any line, pole or piece of equipment is outside of the MoDOT ROW, it is in violation of PSC CCN orders. Until a complete and finalized engineering plan is made available, no parties are able to determine whether there is a violation of orders and/or exceeding NESC standards for private need.

18. With regard to **Affirmative Defenses, First Defense** Item a, **Evergy's mootness argument is itself moot** because Complainant has never sought relief for an eminent domain easement with the PSC and Evergy's easement mootness defense argument applies to a circuit court matter under which the PSC has no jurisdiction.

19. With regard to **Second Defense** Item b, related to 4 CSR 4240-2.070(4)(D), Evergy fails to state exactly how Complainant has failed to demonstrate my interest in a clear and concise manner, nor has it submitted a Data Request for same. Complainant

would gladly provide Evergy counsel clarification or advisement on any matter related to my complaint.

20. With regard to **Third Defense** Item c, Evergy counsel is arguing a circuit court matter as a defense in regulatory court. The PSC does in fact have a justiciable controversy as described throughout this document.

21. With regard to **Fourth Defense** Item d, related to 20 CSR 4240-2.070(1), Complainant (and in some cases the PSC Staff) argues that Evergy is exceeding the bounds of its PSC-ordered CCN by seeking excessive land to place equipment outside of the MoDOT ROW and claiming a safety need that also potentially exceeds NESC standards. Claimant has repeatedly requested and never received a completed and final engineering plan for the project in order to determine if there is any public and/or safety need for Evergy to leave the state-provided utility corridor. A completed engineering plan must be made available to the PSC and all Complainants in order to make these determinations.

22. Regarding **Fifth Defense** Item e, Complainant states that under the Revised Statutes of Missouri, Chapter 386 allows the PSC jurisdiction to hear this complaint and the numerous other complaints related to this matter, and more specifically, Section 386.390 allows individuals to file formal complaints regarding utility services.

23. Regarding **Sixth Defense** Item f, Complainant has repeatedly asked for relief by requesting information such as a completed engineering plan from Evergy for its project, as well as an investigation into this matter and evidentiary hearing scheduled and held by the PSC to allow determination of possible violations, with resulting orders made.

24. Regarding **Seventh Defense** Item g, Evergy's argument is partially correct in that CCN 9470 does allow a utility to construct, maintain and operate electric transmission lines over, along and across the highway, and *along* private rights-of-way (not *IN* private rights-of-way). **However**, in order to secure a private right-of-way (easement), Evergy must be able to **prove a public need** for an easement *in circuit court*. Evergy does not have a right to take any land via eminent domain unless the **circuit court** allows it to do so. This process begins with a petition in eminent domain, by which the courts are presented statements including the utility's proof of **public** need (not utility "need"). Evergy simply *stating* it has a need for an easement in order to bring electricity down the line for the public is **not** proof of public need. It must prove it has a need to go outside of

its statutorily-ordered parameters of an already-provided right-of-way, and prove that it has met and not exceeded or fallen short of NESC safety standards of the PSC and CCN orders, as well as adhering to Missouri Chapter 523 condemnation law. The circuit court only assumes the utility's governing authority (PSC) has authorized the utility project and the utility has met **all** of the requirements of these orders and laws in order to proceed, if necessary, and file an eminent domain action in circuit court. In other words, the proof-of-public-need must be presented to the PSC prior to an eminent domain proceeding being allowed because the circuit court is not in the business of governing the utility, the PSC is. ***The PSC is the link (and potentially the missing link) for the protection of the public.*** The circuit courts can only assume the PSC's checks and balances for a project are in place and have been met by a utility prior to condemnation of a Missourian's land. Evergy cannot pick-and-choose only **part** of a statute for its defense argument.

25. Regarding **Eighth Defense** Item h, Evergy has not provided the necessary evidence that it has complied with all NESC requirements. Complainant has never received a completed engineering plan for evidence, as stated previously.

26. **Motion to Dismiss** Items #17-24 are all moot, and an attempt to avoid requested and future discovery. Evergy states in Item #23 that it meets the required easement width necessary to maintain NESC clearances, and states in Item #24 that it has fully complied with CCN 9470, yet it has failed to provide requested data to substantiate any of its claims. The PSC holds authority to investigate the truthfulness of these claims. RSMo.393.140(3) states, in part, that the PSC, "for the purpose of determining ... whether the commission shall have power, of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering and supplying ... electricity ... and shall have access, through its members or persons employed and authorized by it, to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission or distribution of ... electricity by any such person or corporation, ..."

27. The numerous complaints against Evergy allege its efforts to condemn property are unlawful in violation of a PSC order and unreasonable in that it attempted to mislead the impacted property owners in its efforts to proceed with its project. The PSC dismissed most complaints without addressing whether Evergy violated a PSC order and

without addressing whether Evergy's actions were unjust and/or unreasonable, and exceed the limits of NESC safety requirements to acquire private land for its own protection from future public projects in order to pass future expenses upon the state of Missouri.

28. For all of the reasons outlined herein, Complainant wholly objects to Evergy's *Answer, Affirmative Defenses and Motion to Dismiss*.

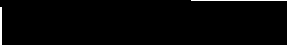
WHEREFORE, for the reasons stated herein, Complainant respectfully asks the Missouri Public Service Commission to:

- 1) Deny Evergy's claims in this *Answer, Affirmative Defenses and Motion to Dismiss*;
- 2) Order Evergy to comply with all discovery requests until an evidentiary hearing is held; and
- 3) After *Data Request* answers have been provided, schedule and hold an evidentiary hearing to ensure my statutory right to be heard pursuant to RSMo. 386.420; and
- 4) Order Evergy to file a *Monthly Status Report* of its project on EFIS, due the last business day of each month, beginning September 2026.

Such orders will avoid prejudice to the Complainant as the case moves forward and will in no way negatively affect Evergy customers or the general public.

Respectfully Submitted,

/s/ Timothy P. Allegri
Timothy P. Allegri, Complainant

E-Mail: 

The foregoing was submitted this 22nd day of September, 2026 to all parties via EFIS by:

/s/ Timothy P. Allegri
Timothy P. Allegri