

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

Denise Wray Allegri,	)	
	)	
Complainant,	)	File No. EC-2027-0056
	)	
Evergy Missouri West, Inc., d/b/a)	)	
Evergy Missouri West,	)	
	)	
Respondent.	)	

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

COMES NOW Denise Wray Allegri ("Complainant"), and hereby submits this *Response* ("Response") to *Evergy Missouri West's* ("Evergy") *Answer, Affirmative Defenses and Motion to Dismiss* (collectively, "Answer") filed October 2, 2026 and, in support of my *Response* to the Missouri Public Service Commission, state as follows:

1. 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. Complainants did **not** seek relief from the PSC for easements, which are an **eminent domain circuit court** issue. Complainant has never asked the PSC to rule or make orders on circuit court matters over which it lacks jurisdiction. Evergy is intentionally and incorrectly insinuating that my complaint seeks relief from the PSC for a circuit court matter. 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 or any other facet of a public utility project without first seeking PSC approval;

- whether or not Evergy is adhering to or exceeding NESC standards (per PSC requirements) ;
- whether or not Evergy is adhering to the *Underground Facility Safety and Damage Prevention Act* (RSMo.319.010), which includes adherence to the clearance of private underground lines;
- why Evergy claims a need to go outside of the MoDOT right-of-way ("ROW") when a utility corridor is provided by MoDOT;
- whether or not Evergy is increasing, or plans in the near future (within the next 5-7 years) to increase the subject 69kV line; and
- 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.

2. Also regarding **Introduction** Answer #1, Evergy did dismiss the *circuit court* cases but not its *project*. Evergy twisted this argument and used the misinformation in the Appeals and Supreme Courts (re: RSMo. 575.040). **The potential violations in this complaint should be addressed by the PSC, irrespective of any related cases in the circuit courts.** The *PSC Staff Report and Recommendation* dated November 6, 2023 (Case No. EC-2023-0015, Docket Item #14) -- same project, 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]

3. After the PSC Investigation, the *Report of the Staff* concluded that Evergy **"has violated the terms listed in the Ordered Paragraphs concluded in the Commission's Report and Order in Case No. 9470"**, which in part states, "the Commission fully retain jurisdiction of the parties and the subject matter of this proceeding, on the evidence now before the Commission, for the purpose of making such further order or orders as may be necessary." It also states, "... failure of the parties to reach

such agreement in settlement thereof the matter may be submitted to the Public Service Commission for arbitration and determination as provided for in Section 118 of the Original Act creating the Public Service Commission of this State, now Section 5241 of the Revised Statutes of Missouri for 1929."

4. The PSC Staff has an incorrect interpretation of CCN 9740 Order #4 and the meaning of "persons". RSMo. Section 319.015 (General Safety) defines "persons" as "**any individual**, firm, joint venture, partnership, corporation, ..." Although Evergy should be staying in the provided utility corridor, sending a notice to impacted landowners ("persons") who are or may be affected by the transmission line rebuild is crucial for safety reasons. Landowners may have personal water lines, electrical lines or any number of things on their property near the highway, underground or above ground, unknown to Evergy that may adversely impact worker or landowner safety.

Further, CCN 9470 Order #4 states:

"ORDERED: 4. That *before* beginning the construction of any electrical power and transmission line in the territory herein designated and *before* a change is made in the location, phase or voltage of any electric line that may be in operation, the **applicant** shall give all other utilities, associations **or persons whose lines are or may be affected by such change** or construction at least 15 days' written notice, **showing in sufficient detail what the proposed construction or change will be** to enable competent representatives of those utilities, associations or persons to determine what action the particular utility or utilities, associations or persons may desire to take with reference thereto." [emphasis added]

Pursuant to PSC CCN 9470 #4 orders, Evergy must provide notification to all persons and other utilities impacted by the rebuild project, informing them of the construction of the electrical power and transmission line. In addition, pursuant to RSMo.319.010, Evergy must adhere to the *Underground Facility Safety and Damage Prevention Act*, regarding clearance of any private underground lines.

5. ***It is important to note that based upon Evergy's needs, MoDOT has already acquired an additional 2 feet of ROW*** (i.e., **MoDOT** is the entity which provides an adequate utility ROW/corridor specific to its related highway plan) and there is no *public* need for Evergy to acquire additional land outside of the MoDOT-provided ROW. The PSC must still determine if the line clearances Evergy claims need for would place it outside of the ROW.

Remember that Evergy counsel has argued a need for taking excessive land "for future use" so it "won't have to come back again in 10 years" and do this again. Evergy's bullying scheme of taking excess land "for future use" violates the boundaries of PSC orders, usurps landowner rights and does not serve a present public need as required by Missouri Chapter 523 law. Makes one wonder how many times this scheme has been allowed to go under the radar and harm not only Missourians, but also other states the utility serves.

6. In a January 5, 2024 response to a *Data Request*, Evergy's Engineering personnel made the following statements:

"When transmission facilities are located within the MoDOT ROW and a MoDOT project takes place that requires the relocation of the transmission facilities, 100% of the costs related to the engineering, material and construction of the impacted facilities are the responsibility of Evergy."

"When transmission facilities are located outside of the MoDOT ROW within private Evergy held easement and a MoDOT project takes place that requires the relocation of the transmission facilities, 100% of the costs related to the engineering, material and construction of the impacted facilities are the responsibility of MoDOT."

To clarify, **if Evergy obtains a private easement, outside of the MoDOT ROW, it passes 100% of future costs in pole movement/replacement on to all Missouri taxpayers (the majority of whom are not Evergy customers), rather than its limited number of ratepayers. This is not a public need, it is a strategic private business move.** Ironically, all in the name of "safety."

7. In 2024, Complainants offered Evergy a *Maintenance-Access-Only Easement Agreement* at no charge, which would allow access to properties for any necessary maintenance along the project line, alleviating unnecessary land-taking as well as costs to Evergy and its ratepayers. Evergy refused the free offer.

8. Complainants in any of the 40+ PSC complaints with regard to the transmission line 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. Missourians have a *Constitutional right to due process of law* in the court system. Evergy's argument for its circuit court dismissals are false in that it cites eminent domain matters in a PSC

regulatory court. You don't need a bar number to understand that there is a "live controversy" (refer to Paragraph #1 herein). Importantly, some of the impacted landowners **might not have already lost valuable land** to an easement **had an evidentiary hearing been held** by the PSC prior to Evergy seeking condemnation in circuit courts. The PSC holds the authority to intervene.

9. Regarding **Second Complaint**, Paragraph #7, Evergy alleges that "unlike in the previous case in File No. EC-2024-0015, Evergy is not requesting an easement from the Complainant." My husband's (Timothy Allegri) complaint was filed *prior to being served* with an eminent domain *Petition*, and my PSC complaint was filed shortly thereafter. Pursuant to 20 CSR 4240-2.070(1), Complainants all are aggrieved by Evergy's actions preceding any petition.

10. With regard to **II-Answer to Complaint, #14**, Complainant contends that exceeding NESC standards is not adhering to its limits, and by design will harm Missourians by passing costs on to the State. The PSC serves Missouri, and is in a position to protect its financial interests. Once necessary evidence has been gathered, the PSC will be able to make a determination on this argument.

11. Now that Evergy is moving forward with its project and has resumed pre-acquisition activities, Complainant requests the PSC to order its General Counsel to file a *Motion for Preliminary Injunction* to stay all circuit court proceedings if and when any eminent domain actions regarding its project are filed in circuit court, *until the PSC holds a hearing and makes its final orders*. This action would protect Missourians from a utility's potential abuse of Chapter 523 eminent domain law. It is essential that the PSC intervene until it completes the discovery and hearing process, and prior to any acquisition activity in the circuit courts. Whether or not **this** Complainant is impacted by condemnation at this time, the violations must still be addressed by the PSC before condemnation of private land is sought in circuit court. The PSC cannot fall short of its statutory duty to protect Missouri citizens from further harm.

12. Also with regard to **II-Answer to Complaint, #14**, Evergy denies that the original Fayetteville Project has remained active since 2023, yet Evergy has stated 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 also has stated,

"In March 2026, Evergy relaunched the *revised* project and restarted pre-acquisition activities" and "no easements will be required from Complainant." Again, **the easement 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 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. One phone call, put on hold, resumes. Evergy placed its project *on hold* in expectancy of MoDOT's changes to the highway plan, and in anticipation of the project resuming once changes were made. One project, put on hold, resumes.

13. In the original related complaints filed in July 2023 (same project), 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]

Budgetary constraints *were* Evergy's concern and *remain* Evergy's concern. By taking more valuable highway frontage land, it will make money on easements in the future when the highway expands. I argue this is the reason it refuses to provide the requested engineering data, which will validate the allegations.

14. With regard to **Answer to Complaint #15**, Evergy's claims a new safety need but fails to provide the evidence. Is this safety need Evergy's admittance that all the current poles and equipment along the highway are unsafe? As for penalties, the PSC holds authority to order its General Counsel to seek penalties as the PSC deems appropriate.

15. Regarding **Answer to Complaint #15**, Evergy should be required to provide finalized engineering plans considering it is a vital piece of evidence for the Complaint, as well as for proving its argument of "need" for the project. The circuit courts will not approve condemnation without proof of public need which is why the PSC is currently addressing potential violations via the October 11, 2026 *DRs*. I look forward to receiving true data and detailed answers to all of the requests.

16. With regard to **First Defense** Item a, again, the same circuit court argument in a regulatory court. Circuit-Court-related easements are not the reason for my complaint, potential violations of PSC rules and orders are. Evergy's twisted argument is getting old.

17. Regarding **Second Defense** Item b, related to 4 CSR 4240-2.070(4)(D), Evergy fails to state exactly how Complainant has failed to demonstrate interest in a clear and concise manner, nor has it contacted me for clarification of any allegation. Complainant would gladly provide Evergy counsel a concise explanation on matters related to my complaint. The PSC is also welcome to contact me with any questions.

18. With regard to **Third Defense** Item c, the PSC is the authority on complaints submitted and how they are categorized, not Evergy.

19. Regarding **Fourth Defense** Item d, Evergy counsel is again arguing a circuit court matter regarding easements as a defense in regulatory court. The PSC Staff is surely aware of this, and the fact there is without question a justiciable controversy. Legislators have provided statutory authority for the PSC to settle this complaint in a fair and equitable manner.

20. With regard to **Fifth Defense** Item e, related to 20 CSR 4240-2.070(1), Complainant (and the PSC Staff) argues that Evergy is exceeding the bounds of its PSC-ordered CCN by seeking excessive land outside of the MoDOT ROW and claiming a safety need. Evergy must prove a public and/or safety need to leave the state-provided utility corridor. A completed engineering plan and all requested discovery will provide the PSC the information it needs to make determinations.

21. Regarding **Sixth Defense** Item f, 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.

22. With regard to **Seventh Defense** Item g, Evergy's argument is *nonsense*. Complainant has repeatedly asked for relief. Refer to Item #1 herein.

23. Regarding **Eighth Defense** Item h, CCN 9470 Order #1 allows Evergy 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). 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*. Only the circuit courts allow land-taking via eminent domain, not a utility. This process begins *after* the PSC has completed its checks-and-balances with the project; then if necessary, the utility files a petition in eminent domain in circuit court with statements by the utility that it has met RSMo. Chapter 523 requirements -- including the utility's proof of **public** need (not **utility** need). **Every 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.** The courts require **proof** of need to go outside of the statutorily-ordered parameters of an already-provided right-of-way, and proof of meeting (*not exceeding or falling short of*) NESC safety standards, and no violation of related rules or orders.

The circuit court only assumes the PSC has authorized the utility project and the utility has met **all** of the requirements of these orders and laws before being allowed to proceed with an eminent domain action in circuit court. **In short, the proof-of-public-need must be presented by the utility to the PSC prior to an eminent domain action** because **the circuit court is not in the business of governing utilities**, the PSC is. ***The PSC is the link (potentially the missing link) for the protection of the public.*** The circuit courts presume the PSC's checks and balances for a project are in place and have been met prior to utilities being authorized to petition for condemnation of a Missourian's land. Everygy or any utility cannot be allowed to pick-and-choose only a **portion** of eminent domain and PSC laws and orders it follows.

24. Regarding **Ninth Defense** Item i, Everygy has not provided the necessary evidence that it has complied with all NESC requirements and PSC orders.

Everygy has also previously stated that transmission line will remain 69Kv. However, if there **are** future plans to increase the voltage, it is worthy of making impacted landowners aware of such an increase, and also whether or not any poles being replaced would accommodate an increased voltage. This information should be identified in the requested engineering plan and *DRs*, but if not, the PSC should verify current and future voltage plans.

25. In response to Everygy's ***Motion to Dismiss***, its arguments are all an attempt to avoid requested and future discovery. Everygy states it meets the NESC requirements but fails to provide requested data to substantiate any of its claims. RSMo.393.140(3) gives the PSC authority to investigate the truthfulness of these claims, stating "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, ..."

26. The numerous complaints against Evergy allege its efforts to condemn property are unlawful in violation of PSC orders, and unreasonable in that it has misled impacted property owners in its efforts to proceed with its project.

27. Several *Data Requests* ("DR") have been made with regard to this complaint. The requested information **directly relates** to NESC standards and PSC orders, which directly relates to the **dollars** Evergy pays for an easement, which directly affects the **cost of service for its customers (ratepayers)**. There is insufficient evidence *at this point* to prove or disprove whether or not violations have been made, *which is why the discovery process and the case must continue*. Without the requested information, Evergy would hold an unfair advantage by concealing information unknown to both the PSC and me. Once all evidence has been provided by Evergy, the PSC will have an opportunity to hear and consider **all** evidence and make its orders. If dismissed, my rights under 20 CSR 4240-2.070 for relief would be violated.

28. Dismissal of my complaint would also directly damage 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. Evergy's dismissal recommendation is premature, and an obvious attempt to avoid an evidentiary hearing in which the allegations stated throughout the complaint process will be revealed.

29. Evergy has acted in bad faith and unwarranted abuse of discretion in its claim of necessity for excessive land, pursuant to *Missouri Pub. Serv. Comm'n. v. H&W Inv. Co.*, 602 SW 2d 41, 43 (Mo. Ct. App. 1980); see *Mapco, Inc. v. Williams*, 581 SW 2d 402, 405 (Mo. Ct. App. 1979). 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. 386.420.2.

WHEREFORE, Complainant objects to Evergy's *Answer, Affirmative Defenses* and *Motion to Dismiss* and respectfully asks the Missouri Public Service Commission to:

- Deny Evergy's claims in this *Answer, Affirmative Defenses and Motion to Dismiss*;
- Order Evergy to comply with all discovery requests until an evidentiary hearing is held;
- 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.
- Investigate Evergy's abuse of discretion related to its transmission line project in order to ensure my statutory rights of entitlement to be heard;
- Order Evergy to provide detailed line clearance information so the PSC is able to determine if the line clearances Evergy claims "need" for would place it outside of the MoDOT ROW.
- Order the General Counsel to file a *Motion for Preliminary Injunction* to stay all circuit court proceedings should any *Petitions in Eminent Domain* be filed by Evergy with regard to its Fayetteville Transmission Line project, until a final order has been issued by the PSC regarding all related complaints;
- Discover whether or not Evergy is increasing, or plans in the near future (within the next 5-7 years) to increase the 69kV transmission line;
- Consider the use of "Maintenance-Access-Only Easement Agreements" for access to properties requiring utility maintenance;
- Order the General Counsel to file the necessary paperwork requesting fines and punitive damages be awarded to all claimants impacted in the transmission line project should any violations of law be found;
- Order Evergy to file a *Monthly Status Report* of its project on EFIS, due the last business day of each month, beginning October 2026.
- Provide via EFIS (or order Evergy to provide) a copy of all proposed changes to the existing transmission line that was submitted to other utilities;
- Provide via EFIS (or order Evergy to provide) a copy of Evergy's notice to impacted landowners ("persons") whose lines are or may be affected by the transmission line rebuild, pursuant to CCN 9470 Order #4.
- Provide the PSC's procedures for a utility project
- Pursuant to RSMo.319.010, please provide proof that Evergy is adhering to the *Underground Facility Safety and Damage Prevention Act*, which includes adherence to the clearance of private underground lines.

Such orders will avoid prejudice to the Complainant as the case moves forward.

Respectfully Submitted,

/s/ Denise Wray Allegri

Denise Wray Allegri, Complainant

[REDACTED]

CERTIFICATE OF SERVICE

The foregoing was submitted this 9th day of October 2026 to all parties via EFIS by:

/s/ Denise Wray Allegri

Denise Wray Allegri