

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

Mark A. Hill and Bethann C. Hill	)	
	)	
Complainant,	)	
	)	
v.	)	<u>File No. EC-2026-0350</u>
	)	
Evergy Missouri West, Inc. d/b/a	)	
Evergy Missouri West	)	
	)	
Respondent.	)	

STAFF REPORT AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its Staff Report and Recommendation states as follows:

Review of Pleadings and Report On Staff’s Investigation

1. On June 3, 2026,¹ Bethann C. Hill and Mark A. Hill (“the Hills”) filed a complaint with the Missouri Public Service Commission (“Commission”) against Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) pursuant to Commission Rule 20 CSR 4240-2.070. The complaint is regarding the replacement of a 69kV transmission line along Missouri Highway 13 (“MO Route 13”) coinciding with an expansion of the highway by the Missouri Department of Transportation (“MoDOT”). In their *Complaint*, the Hills allege that EMW’s proposed transmission line relocation is in violation of EMW’s Certificate of Convenience and Necessity (“CCN”) in Case No. 9470, specifically in regard to EMW’s adherence to National Electric Safety Code (NESC) standards, as EMW seeks additional clearances

¹ All date references will be to 2026 unless otherwise indicated.

beyond those required by the NESC.² The Hills' requested relief is that the Commission order EMW to adhere to CCN 9470 and the NESC and direct EMW to place transmission poles within the MoDOT right-of-way.

2. On June 4, the Commission determined that the case would proceed as a Formal Complaint under Rule 20 CSR 4240-2.070, set a deadline for EMW's response, and ordered Staff to investigate the complaint and file a report no later than July 30.

3. On June 5, the Hills filed a motion to reclassify their complaint as a Small Formal Complaint and therefore handled under the procedures of 20 CSR 4240-2.070(15). The Commission denied this request on the grounds that cases involving easements and transmission line placements are above the \$3,000 cap for Small Formal Complaints.³

4. On July 6, EMW filed its *Answer, Affirmative Defenses, and Motion to Dismiss*.

5. On July 21, with the consent of all parties, Staff filed a *Motion for Extension of Time* to file its Recommendation by September 11. On July 22, the Commission granted this Motion.

6. On August 17, the Hills filed a *Motion to Consolidate* with EC-2024-0015. On August 19, EMW filed a *Response in Opposition to Motion to Consolidate*. On August 20, the Commission issued an Order closing EC-2024-0015, making it ineligible for consolidation.

² *Complainant's Additional Document, Exhibit C*, EC-2026-0350, Docket Item No. 4

³ Order Denying Complainants' Request to Reclassify Complaint, EC-2026-0350, Docket Item No. 9

7. Staff now tenders a report of its investigation, a copy of which is attached hereto and incorporated herein as Appendix A.

8. ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **

9. The Hills allege that EMW is in violation of the CCN authorized in Case No. 9470, in that EMW seeks clearances *beyond* what is required by the NESC out of “company preference/want.”⁴ This is a question of arbitrariness of EMW’s land acquisition decision, not a question of adherence to safety standards. The Commission has no jurisdiction or authority to grant a public utility eminent domain; landowners disputing a utility condemnor’s eminent domain must seek remedy from the courts, not from the Commission.⁵ Missouri statute grants public utilities the authority to condemn property for the construction or expansion of its transmission lines.⁶ This authority is subject to a utility receiving a CCN to provide service to the area from the Commission, per Section 393.170, RSMo. The Commission has the authority to issue a CCN but plays no role in easement

⁴ *Complainant’s Additional Document, Exhibit C*, EC-2026-0350, Docket Item No. 4

⁵ Section 523.256, RSMo; *Am. Petroleum Exch. v. Pub. Serv. Commn.*, 172 S.W.2d 952, 955 (Mo. 1943) (citing to *Kirkville v. Hines*, 285 Mo. 233, 240 (1920)); *In the Matter of the Application of Grain Belt Express LLC for an Amendment to its Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage, and Maintain a High Voltage, Direct Current Transmission Line and Associated Converter Station*, EA-2023-0017

⁶ 523.010 RSMo

negotiation or eminent domain proceedings, as, pursuant to § 523.256 RSMo, the authority to adjudicate eminent domain proceedings rests with the judicial system, not the Commission.

10. This case is substantively similar to EC-2024-0015. The Hills were a party to EC-2024-0015 and sought to consolidate this case with EC-2024-0015, as both cases arose out of EMW's proposed transmission line relocation along MO Route 13. Staff in EC-2024-0015 took issue with the notice EMW provided to landowners as being potentially deficient for the notice requirement under ordered paragraph four in Case No. 9470.⁷ This interpretation mistakenly equates the "persons" referenced in order paragraph four to be landowners. An issue in Case No. 9470 was the overlapping of service territories between multiple electric providers, including a cooperative. To address this concern, the Commission's Order states, "In carrying out any construction program for which it now seeks authority, the applicant states that before the construction of any extension or before any major change is made in the location, phase or voltage of any existing electric transmission line in the territory described in this proceeding, it will give at least fifteen days' notice to *any and all other public utility or utilities whose lines or system may be affected.*"⁸ While the language in ordered paragraph four requires notice to affected people, the language in the rest of the order demonstrates that this notice is to be given to other utility providers, such as individual member-owners of transmission lines, not as a general

⁷ Staff Recommendation, EC-2024-0015, Docket Item No. 57 ("[O]rdered paragraph four provides for notice to be provided to any utility, association or person affected by the construction or change to the phase, voltage or location of an electric line of at least 15 days.")

⁸ *Order of the Commission*, Case No. 9470 (emphasis added)

public notice provision. As such, Staff in this case does not take issue with the notice given by EMW to the Hills in the current case.

Recommendation

11. Staff recommends that EMW's *Motion to Dismiss* be granted. As Staff's investigation found that EMW is acting in accordance with its CCN in Case No. 9470 and in compliance with the NESC, the Hills' request for EMW to adhere to these standards has been met, and no Commission order is required. As the Commission lacks jurisdiction over matters pertaining to eminent domain, the Hills' requested relief for EMW to locate their transmission line poles within the MoDOT right-of-way cannot be granted by this Commission. As such, Staff recommends that this case be dismissed.

WHEREFORE, Staff respectfully files this Report and Recommendation for the Commission's information and consideration; on account of all the foregoing, Staff prays that the Commission dismiss this Complaint; and grant such other and further relief as the Commission deems just in the circumstances.

Respectively Submitted,

/s/ Travis J. Pringle

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 11th day of September, 2026.

/s/ Travis J. Pringle

Case No. EC-2026-0350

INFORMATION CONTAINED IN

STAFF REPORT

IS DEEMED CONFIDENTIAL

IN ITS ENTIRETY