

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Chair Susan K. Duffy
Commissioner Shari Feist Albrecht
Commissioner Dwight D. Keen

In the Matter of the Complaint Against Kansas)
City Power & Light (Eversource) by William J.) Docket No. 20-EKME-397-COM
Flohrs.)

ORDER ADOPTING LEGAL MEMORANDUM

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having examined Legal Staff’s Memorandum submitted in this matter and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On March 13, 2020, William J. Flohrs filed a Formal Complaint against Kansas City Power & Light Company (now, Eversource Kansas Metro, Inc.,¹ and referred to herein as “Eversource Kansas Metro”).² Mr. Flohrs asserts, among other things, Eversource Kansas Metro’s vegetation management practices are inconsistent with Commission orders. Specifically, the Formal Complaint references Eversource Kansas Metro’s vegetation management practices,³ compliance with Commission dockets,⁴ oversight of contractors,⁵ failure to provide requested copies of vegetation

¹ Previously, Kansas City Power and Light Company requested authority to change the name contained in its tariffs and Commission records to Eversource Kansas Metro, Inc., d/b/a “Eversource Kansas Metro.” The Commission has approved this request. *See* Order Approving Name Change, Docket No. 20-KCPE-122-CCN (Oct 8, 2019).

² Formal Complaint by William J. Flohrs, Docket No. 20-EKME-397-COM (Mar. 13, 2020) (Formal Complaint).

³ *See id.* at p. 4.

⁴ *See id.* at p. 5; *citing* Docket No. 02-GIME-365-GIE.

⁵ *See id.* at pp. 5-6.

management plans and regulations pertaining to transmission lines and conductors,⁶ and notification deficiencies.⁷ The Formal Complaint is attached hereto as Attachment A.

2. On May 1, 2020, Legal Staff for the Commission prepared a memorandum analyzing the Formal Complaint for compliance with Commission regulations.⁸ Legal Staff notes the Formal Complaint satisfies the Commission's rules of practice and procedure set forth in K.A.R. 82-1-220(b).⁹ Legal Staff's Memorandum is attached hereto as Attachment B.

II. FINDINGS AND CONCLUSIONS

3. The Commission is satisfied jurisdiction to conduct the requested investigation exists pursuant to K.S.A. 66-101 *et seq.* Specifically, the Commission is authorized to investigate formal complaints regarding rates, rules, regulations, or practices of gas and electric public utilities.¹⁰ In this instance, the Commission is authorized to conduct an investigation into the alleged violations detailed in the Formal Complaint.

4. The Commission agrees with Legal Staff's analysis and recommendations. Accordingly, the Commission hereby adopts and incorporates into this Order Legal Staff's Memorandum dated May 1, 2020, and its recommendations, by reference.

5. The Commission finds the Formal Complaint complies with the procedural requirements of K.A.R. 82-1-220(b) and establishes a *prima facie* case for Commission action.

6. Accordingly, the Commission finds and concludes the Formal Complaint shall be served upon Evergy Kansas Metro, Inc. for an answer in accordance with the Commission's regulations.

⁶ *See id.* at p. 5.

⁷ *See id.*

⁸ Legal Staff's Memorandum (May 1, 2020).

⁹ *See id.* at p. 3.

¹⁰ *See* K.S.A. 66-101 – 66-101h.

THEREFORE, THE COMMISSION HEREBY ORDERS:

- A. William J. Flohrs' Formal Complaint be accepted.
- B. The Formal Complaint be served upon Evergy Kansas Metro, Inc. for an Answer.
- C. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration.¹¹
- D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 05/07/2020



Lynn M. Retz
Secretary to the Commission

REV

¹¹ See K.S.A. 66-118b; K.S.A. 77-529(a)(1).

ATTACHMENT “A”

KANSAS CORPORATION COMMISSION
OFFICE OF PUBLIC AFFAIRS & CONSUMER PROTECTION
FORMAL COMPLAINT

Note: Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information you provide in the complaint or other documents related to the complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, email address, and the facts of your case may be available online for public viewing.

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

IN THE MATTER OF THE COMPLAINT AGAINST

KANSAS CITY POWER & LIGHT
(Respondent, name of utility company)

by

WILLIAM J. FLOHRS
(Complainant, your name)

For Commission
use only

DOCKET NO.

Please provide complainant (your) contact information:

Full Name(s): WILLIAM J. FLOHRS
Address: 10633 W. 123rd ST.; OVERLAND PARK, KS 66213
Daytime Phone: 913-681-2329
E-mail Address (optional): BFLOHRS @ YAHOO.COM.

FORMAL COMPLAINT

WILLIAM J. FLOHRS
(Your name)

states that the above-named respondent is a public utility providing service in Kansas and is subject to the jurisdiction of the State Corporation Commission.

The facts and circumstances surrounding the complaint are set out in detail below:
(Be specific and as brief as possible. If necessary, attach additional sheets.)

see Attached

(Continued on the other side)

Formal Complaint *continued*

Complainant requests that the respondent utility be required to provide an answer to the complaint and requests the following action be ordered by the Commission. (*State action or result desired.*)

see attached

and for such further order or orders as the Commission may deem necessary.

VERIFICATION: I do solemnly, sincerely, and truly declare and affirm that the statements made in this complaint form are true and accurate to the best of my knowledge, and I do this under the pains and penalties of perjury.

I understand that Formal Complaints filed with the KCC become a public record and may be posted on the KCC's website. Any information provided in the complaint or other documents related to the complaint, including, but not limited to, my name, address, city, state, zip code, telephone number, email address, and the facts of the case may be available online for public viewing.

William J. Stoh
Complainant's (your) signature

3/7/20
Date signed

FILING INSTRUCTIONS

This form may be filed in person at the Kansas Corporation Commission's Office or by mail. All formal complaints, whether filed by mail or delivered in person, must be directed to:

Secretary to the Commission
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

For more information about the formal complaint process please refer to the instructions provided with this form or visit the KCC website: <http://kcc.ks.gov/>, Consumer Assistance, Filing a Complaint. You may also contact our Consumer Assistance staff toll-free at 1-800-662-0027 or by e-mail at public.affairs@kcc.ks.gov.

The Kansas Corporate Commission (KCC) is in charge with regulating electrical utilities in the State of Kansas. This complaint concerns Kansas City Power & Light (KCP&L):

K.A.R 66-101. Electric public utilities; power, authority and jurisdiction of state corporation commission. The commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

The KCP&L 161kV line that runs through the subject property is covered in the following regulation:

K.S.A 66-183. Stringing wires along or across streets, highways or public places; regulations. All public utilities owning or operating wires for the transmission of telegraph or telephone messages or for the transmission of electricity upon, along, or across the streets, highways or public places in this state are required to so use, string and maintain such wires as to avoid unreasonable injury or interference from the wires of other utilities and to avoid unreasonable injury to and interference with the wires of other utilities, and the corporation commission is given the power, and it is hereby made its duty, to prescribe reasonable rules and regulations with respect to the stringing and maintaining of wires in all cases where there is danger or possibility of unreasonable interference with or damage to the wires or service of one utility by those of another utility and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application to the corporation commission, and the corporation commission is given the power, and it is hereby made its duty to prescribe reasonable rules and regulations with respect to the stringing of wires, electric or otherwise, which cross over or under the tracks of any railroad company and with respect to the support, maintenance, repair and reconstruction thereof, which rules shall be furnished to any interested person upon application; but in no case shall the height of any wires which cross above the tracks of a railway company be less than twenty-five feet from the top of the rails, except trolley and feed wires of electric railroads, which wires shall be not less than twenty-two feet above the tops of the rails.

This complaint is being filed with the Kansas Corporate Commission as per:

82-1-220. Complaints. (a) Any person may initiate a complaint proceeding by filing a formal complaint with the commission in which the rates, joint rates, fares, tolls, charges, regulations, classifications, or schedules of any public utility, motor carrier, or common carrier are alleged to be unreasonable, unfair, unjust, unjustly discriminatory, or unduly preferential, or that allege that any service performed or to be performed is illegal, unreasonably inadequate, inefficient, or unduly insufficient, or cannot be obtained. (b) Formal complaints shall be submitted in writing and shall comply with the requirements of these regulations. Formal complaints shall meet the following conditions: (1) Fully and completely advise each respondent and the commission as to the provisions of law or the regulations or orders of the commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts

or omissions; (2) set forth concisely and in plain language the facts claimed by the complainant to constitute the violations; and (3) state the relief sought by the complainant.

History:

I have attached a copy of the door hanger that was left on June 27, 2019 (Exhibit 1). I called the number listed on the card and asked if the trimming was going to be the same as the past, and the man said "yes". I asked when they were coming, and he said, "sometime this summer". The Tree Trimming box is checked, but the line that indicates cut back was left blank, so there is no way for the customer to determine exactly what KCP&L's intentions were.

If you go to the KCP&L website to try and determine what their vegetation management program is for 161 kV lines, the only thing you can find is seen in Exhibit 2 (4 pages). This information references the following:

1. "to comply with regulations from the North American Electric Reliability Council,"
2. "consistent with good arboricultural practices."
3. "Trimmers try to preserve as much of the tree's beauty as possible.."

It is difficult to determine from the above information, the door hanger, or the representative I called; what KCP&L will do as far as vegetation management is concerned.

On Monday, September 23, 2019, Thorne Tree was here and cut the entire back of our tree off (See Exhibit 3; 10 pages). They have now made the tree unsafe and a hazard. The foreman, Jeremie Bryant of Thorne Tree, was assisted by Bryan Baker, Brett Williams, Ryan Demato, Dawson Pope. Mr. Bryant said that they all were certified arborists. When I asked him to produce the certifications, he told me to, "fuck off." I asked him for the guidelines that KCP&L uses for vegetation management for their 161 kV lines, and he said, "I don't have to give you squat." I asked him to give me the name of his superior, and he referred me to Brandan Spicer, of ECI. I called them and asked for the documentation on tree trimming, and he said, "I don't have any, and if I did, I wouldn't give them to you because I don't have too." As I understand it, ECI is Environmental Consultants, Inc. a utility vegetation management company from Stoughton Wisconsin. According to their website, they advocate for aggressive vegetation management in order to reduce their clients cost without regard to the safety and esthetics of the work performed. They do not have a Registered Agent in Kansas, so it is difficult to know how to communicate with them.

I called KCPL and asked for someone in vegetation management and was told someone would call me and no one did. No one can provide the guidelines on vegetation management

On September 25, 2019, Geoffrey Vossen Manager of Transmission Vegetation with KCP&L visited the subject property and inspected the work that was done by Thorne Tree. He took pictures of the property. I asked if there would be any further tree trimming and he said, "I don't know." I said if he identified limbs that needed to be trimmed, I would pay a company to come and trim the branches indicated. Mr. Vossen thought this was a good idea. Mr. Vossen indicated that "line sag" is considered when determining vegetation management. We were both working to try and resolve this matter through the informal KCC Process.

Complainants Concerns and Issues:

We agreed to an October 11, 2019 deadline for KCP&L to provide the following documents:

1. A copy of the contract that KCP&L has with Thorne Tree. If KCP&L can not provide the contract, they will explain why they feel they cannot.
2. Verify that the line running through the subject property is 161kV
3. If the NERC regulations do not apply to this situation, KCP&L will provide a copy of the guidelines that do apply and have been approved by the KCC.
4. Any sag line tests that have been performed on a 161kV line in the area.
5. A measurement from the ground to the lowest point of the transmission line on the subject property.

KCP&L Response:

On October 10, 2019, Mr. Vossen responded to the Complainants issues (Exhibit 5; 6 pages).

KCP&L Issues not resolved that need to be addressed by KCC:

1. KCC has relied on SPP RE and the FAC-003-1 section R1 for guidance and KCP&L has communicated to the KCC that it follows the above guidelines. However, KCP&L will not, or cannot, provide a current plan as outlined in the document with specific distances between lines and vegetation, therefore it is not in compliance with Docket No. 02-GIME-365-GIE. KCC needs to bring KCP&L into compliance.
2. KCC has gone on record as stating that, "the topic of "line sage" has been over-emphasized". KCP&L has missed the point that the clearance between lines and growing trees, not line sag, is the paramount consideration in any vegetation management program. KCC needs to have KCP&L provide a clear and concise vegetation management program for 161kV lines. KCP&L cannot, or will not provide a copy of their vegetation management program for 161 kV lines.
3. KCP&L has been asked for a copy of their Transmission Vegetation Management Plan (TVMP). They provided a training slide but nothing else. KCP&L had to file a copy of their vegetation management program for 161kV lines with their last rate increase request. KCP&L has either been unwilling or unable to provide a copy of said guidelines.
4. KCP&L was asked for a copy of the NERC (or other) regulations that apply to this 161kV line. They provided nothing.
5. The trees in question are 33 feet tall, so the tops of the trees do not come close to the 44 feet that KCP&L claims the power lines are currently at from the ground. Therefore, they did not follow the guidelines they set out.
6. Every Notice: On March 6, 2020 a man left a door hanger on our door (Exhibit 4). He did not ring the doorbell as the document indicated. I called the number on the card, but no one answered. I left a message, but no one called back. I ask the KCC that it instruct KCP&L to not enter my property, perform any further damage to our trees, or do any further tree trimming until all legal avenues of this complaint have been addressed.

7. KCP&L Motion for Extension of Time to Answer Complaint. If KCP&L asks for an extension of time to answer this complaint, the Complainant asks that the Motion be Denied.
8. Discovery Order: Complainant asks the KCC to allow Discovery of documents needed from KCP&L, Thorne Tree, or ECI as it allowed in Docket 13-KCPE-233-COM.
9. KCP&L's notice left on our door on June 27, 2019 was invalid because the notice was not completed properly.
10. Mr. Bryant, from Thorn Tree Service, represented that the 5 people working on our property on September 23, 2019 were all certified arborists. I would ask that KCP&L to produce those certifications.
11. I would ask that KCP&L to produce the documents showing that ECI has a registered agent in the State of Kansas.

Analysis:

It is obvious that KCP&L does not have any control or oversight of its sub-contractors. KCP&L does not hold sub-contractors accountable for their actions even though they are responsible for their actions. KCP&L is not willing to explain or provide basic documentation when requested from a customer. KCC is the governing entity in the State and should hold KCP&L accountable.

Conclusions:

Based on the findings of the KCC, KCP&L should be fined according to KCC guidelines, and I should be reimbursed for damages to my property.



Tree Crews will be working near the high voltage lines soon

KCP&L's goal is to provide safe and reliable electric service. Because transmission lines deliver bulk electricity to cities, towns and industry, obstructions to them can create public and safety hazards. Specifically, trees and brush that grow in our right of way near high-voltage transmission lines can cause power interruption and hinder emergency restoration work and line maintenance.

Today we stopped by your property to explain the work we plan to do at this site. You were not here, so the specific work scheduled is indicated on the back of this notice.

If you have any questions about the work required on your property, please call us at the number below within the next five business days.

Thornes' Tree Serv.

785-615-1817



Form 252-D
252-17-4679 (10/17)



KCP&L controls vegetation within our right of way using one or more of these methods

KCP&L's right of way at this site is approx. _____ wide.

- ☐ **Tree Removal/Mowing.** Trees and brush within the right of way will be cut down leaving stumps near ground level. Stumps may receive a herbicide treatment to control resprouting and encourage low-growing, line-compatible vegetation.
- ☒ **Tree Trimming.** Trees along the edge of right of way will be cut back _____ feet to provide sufficient long-term conductor clearance.
- ☐ **Danger Trees.** Trees near the right of way edge that pose a danger to the conductor or public safety will be trimmed back or cut down.
- ☐ **Herbicide Application.** We will apply herbicides that control incompatible woody vegetation. This will encourage the growth of low-growing plants such as grasses, forbs, ferns and shrubs. Converting the right-of-way from trees and brush to a native low-growing plant improves wildlife habitat. In addition, this plant cover is more resistant to tree invasion, which means less work will be needed in the future, reducing the impact on your property and the environment. Our contractors are licensed and will use herbicides registered by the U.S. Environmental Protection Agency.

All firewood will be left on site. Removal of tree limbs from this process will be:

- ☒ Hauled away
- ☐ Stacked and left on site
- ☐ Mulched with mower
- ☐ Left on site

Form 252-D
252-17-4679 (10/17)

"EXHIBIT I"

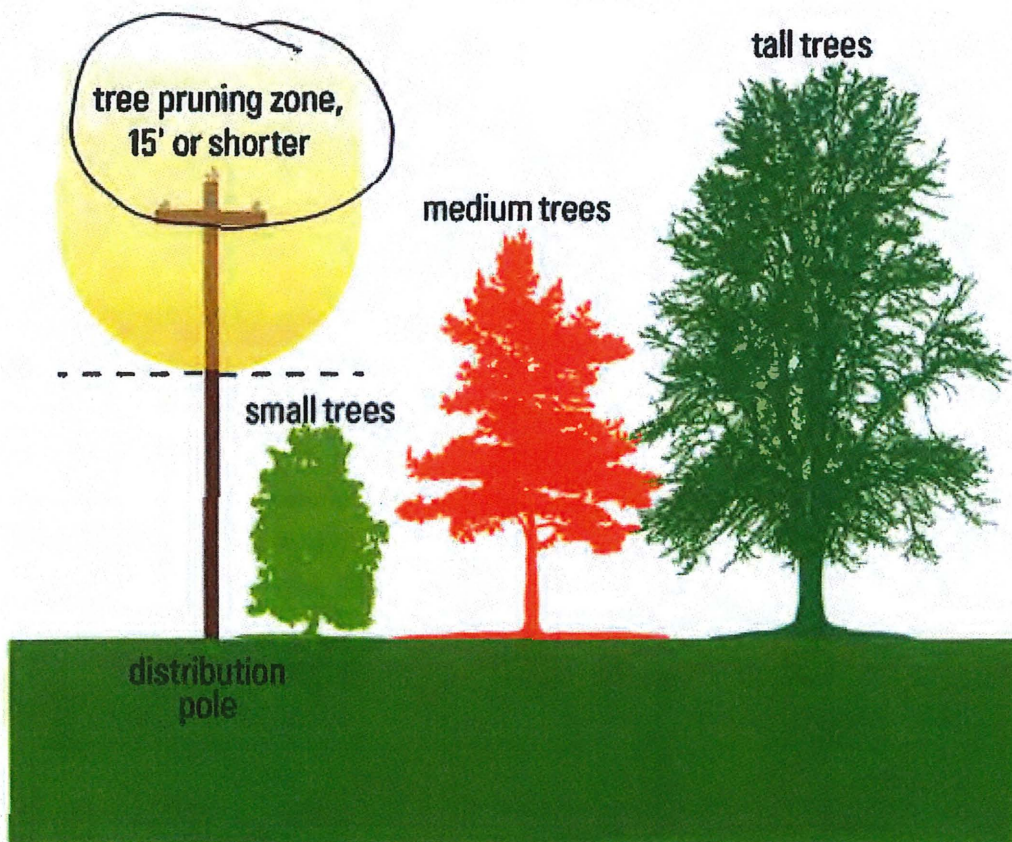
[Home](#)[Involvement](#)[Safety](#)[Tree Trimming and Planting](#)[Our Responsibility](#)

Our Responsibility

We work year-round to manage the impact of trees on power lines. Our tree trimming program helps reduce the impact of vegetation on lines.

Our specially-trained team of utility foresters, supervisors and contractors maintain more than 24,000 miles of lines, which we inspect and address to eliminate potential issues. We let you know if maintenance is needed at your property with a door notice that provides more detail and contact information.

Planting around distribution lines



Tree Trimming Guidelines

Tree trimming guidelines take into account the tree's size, species, health and growth rate, as well as its proximity to power lines. Based on regulations, we trim vegetation to create clearance between power lines and the canopy of a tree. We also consider trees or limbs that could blow or fall into lines.

Our crews maintain lines before trees and vegetation are close enough to cause outages, in a way that is consistent with good arboricultural practices. Trimmers try to preserve as much of a tree's beauty as possible while providing enough clearance between limbs and lines to ensure safe and reliable electric service. Crews generally visit neighborhoods once every four to five years.

When vegetation and brush prevents our employees from accessing equipment or interferes with power lines, we clear it with an approved herbicide. For safety reasons, we also use herbicide on vines rather than pulling them from lines.

Most trees along power lines can be maintained through directional pruning or trimming so growth is directed away from lines. We'll only remove large branches from the top of a tree's canopy, if it's necessary, to maintain clearance between lines and the tree.

If we must remove a tree with a trunk larger than four inches in diameter, we first get your permission. Most of these fall under the category of tall-growing "volunteer trees," or trees that spring from seeds by natural causes rather than being planted with human hands. We also treat stumps with a safe application of an approved herbicide to prevent re-growth.

Requesting a Line Clearance

If you see a potential issue with vegetation on the lines that run from pole to pole near your house, please let us know by filling out our [online vegetation request](#) or calling [888-471-5275](tel:888-471-5275). We'll send a crew member to review the vegetation's proximity to the power line and take action if appropriate. Vegetation impacting the line that runs from a pole to your meter are the customer's responsibility. [Learn more](#) about the appropriate steps to take.

Trimming to Restore Power



[Home](#) [Involvement](#) [Safety](#) [Tree Trimming and Planting](#)

Trimming Trees and Planting

KCP&L regularly trims trees near power lines as part of our mission to provide safe, reliable electric service.

To ensure reliable service, the safety of our employees, and to comply with regulations from the North American Electric Reliability Council, we perform regular vegetation maintenance.

Tree Trimming and Planting Safety



Our Responsibility

KCP&L's tree trimming efforts.

[Learn More](#)



Your Responsibility

Tree trimming responsibilities.

[Learn More](#)

Planting Guidelines

The right tree in the right place.

[Learn More](#)

Before You Trim Trees

Contact KCP&L Vegetation Management

You can submit an [online request](#) or call [888-471-5275](tel:888-471-5275).

What is Vegetation?

Vegetation is trees or other plants, including bushes and vines.

Free Tree Mulch

- Delivered when available from our tree trimming efforts.
- Mulch may vary in shape and color.

[Mulch Request Form](#)

Planting Guidelines

[A Comprehensive Guide to Planting the Right Tree](#)

[⬅️ Back to Top](#)

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Tree Trimming Guidelines

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Trimming to Restore Power

When a power outage occurs, our immediate priority is to restore power to our customers. If trimming is necessary to get the lights back on, we:

- Perform a courtesy knock to let you know we're on your property.
- Clear trees and vegetation that interfere with power lines and equipment to ensure restoration is performed safely and quickly.
- Rely on you to clean up the outage debris so we can focus on the work of restoring power to the community. If you need help, check online or in your local directory for a reliable tree or lawn care service company. Many cities in our service area offer debris pick-up or drop-off locations after major storm events.

Watch to learn more about our [routine tree maintenance](#).

Routine Tree Maintenance: What to expect when we c...



Before You Trim Trees

Contact KCP&L Vegetation Management

You can submit an [online request](#) or call [888-471-5275](#).

Free Tree Mulch

- Delivered when available from our tree trimming efforts.
- Mulch may vary in shape and color.

What is Vegetation?

Vegetation is trees or other plants, including bushes and vines.

Planting Guidelines

[A Comprehensive Guide to Planting the Right Tree](#)

[Mulch Request Form](#)

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Help Lines

Automated Outage Reporting:

1-888-544-4852

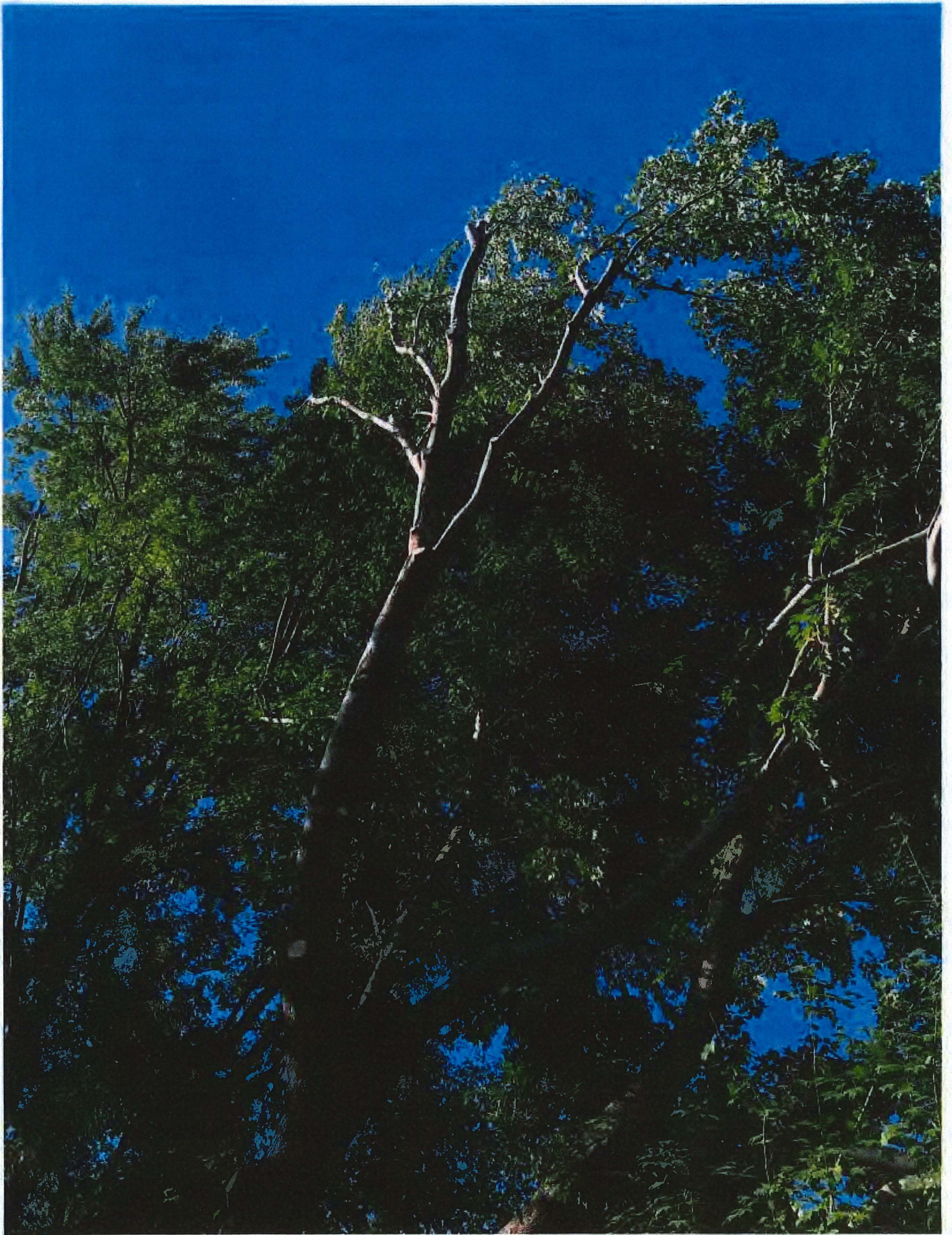
Call Before You Dig:

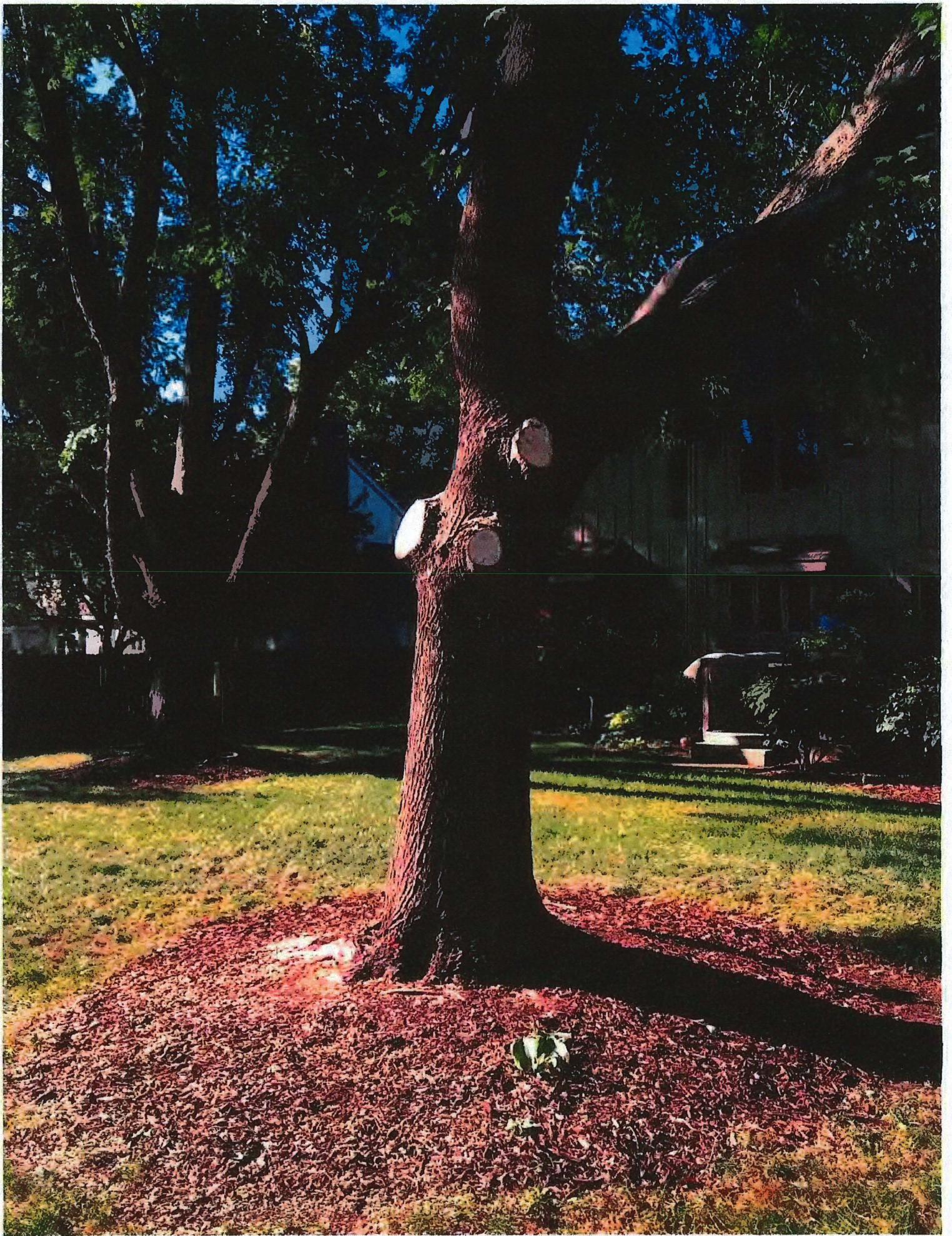
811



EXHIBIT 3 (10 PAGES)



















Tree Work Required Transmission Utility Easement

As part of Evergy's commitment to supply safe, reliable electric service, contractors will visit your property to maintain vegetation within the **utility easement** that could interfere with the **transmission** power lines.

Our specially-trained utility foresters have identified trees requiring maintenance. Our tree trimming contractors will use arboricultural practices supported by industry standards and tree care professionals.

Trees requiring work are marked with blue paint:

- **Single Dot** = Side Trim/Crown Reduction
- **Double Dot** = Good Removal Candidate
- **Long Painted Line** = Small volunteer trees that will be cut down
- **Painted "X"** = Removal

Tree Work: What to expect

***Tree Pruning:** Trees with limbs encroaching the power lines will be cut back to provide sufficient long-term clearance. This may include the removal of branches from the line side of the tree, as well as a reduction in overall height.

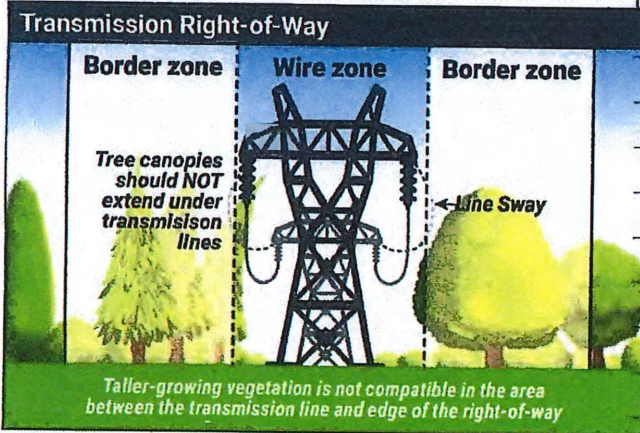
***Tree/Brush Removal:** Incompatible trees and brush within the "Wire Zone" will be cut down leaving stumps near ground level. Stumps may receive an herbicide treatment to control re-sprouting.

Mechanical Clearing: Mechanical forestry equipment will be utilized to manage unmaintained, woody areas. Resulting mulched debris will be left on site to naturally decompose, decrease erosion risks, and return nutrients to the soil. Future maintenance will be achieved through targeted application of herbicide to incompatible species.

**All firewood sized pieces will be left on-site. Smaller sized tree limbs and brush will be hauled away.*

Comments

Scheduled maintenance tree work will be done in a few weeks



*Fast growing species within the "Wire Zone" will be targeted for removal

If you have any questions about the work required on your property, please call us at the number below within the next five days.

Brandon

Evergy Representative

913 238 2557

Phone Number

3/6/20

evergy

EXHIBIT 4

FW: Informal Complaint Submitted to the KCC

bflhrs@yahoo.c.../Email



Geoffrey Vossen <geoffrey.vossen@evergy.com>
To: bflhrs@yahoo.com <bflhrs@yahoo.com>

Oct 10, 2019 at 4:15 PM

Mr. Flohrs- this email and all attachments will be sent to the KCC in response to your informal complaint. I wanted to provide you the same email for your information.

I have attached items that pertain to this situation, including the easement, an excerpt from a training presentation given to TVM crews, pictures of the tree that was trimmed, KCPL Damage Claim Form, and the updated informal KCC complaint that the property owner submitted after my meeting with him on 9/25. Below, I have prepared responses to the property owner's concerns regarding the vegetation management that was performed at 10633 w 123rd Street, Overland Park, KS.

Incident recap: The 161kV line named Olathe-Switzer was patrolled in June, and a contract inspector was on this particular property June 27, 2019, and identified a maple tree in need of side trimming. (Side note: all transmission lines are patrolled every year). On September 23, 2019, a crew from Thorne Tree Service, one of our Transmission VM contractors, was trimming the tree at this address in response to what was identified on a patrol. The trunk of the tree that was identified on patrol and later trimmed by the crew is well within the limits of the easement. A second tree on the property, whose trunk was at the edge of the easement, was also in process of being trimmed until the property owners demanded the crew stop. Manager of Transmission Vegetation Management contacted property owner at a approx. 5:30 pm, 9/23/19, to discuss situation; then, in-person meeting took place approx. 2 pm 9/25/19.

The easement defect needs to be cured. Real Estate Dept. confirmed defect is typographical in nature, therefore, all rights outlined in the easement are valid. (easement attached)

KCPL Vegetation guidelines that have been approved by KCC need to be provided. Vegetation Management provided slide from contractor training presentation (attached) states side clearance expectations.

Damage to my property needs to be compensated. Property owner did not specifically identify damage to property at time of onsite meeting (9/25/19). KCPL Damage Claim form is attached if property owner wishes to submit claim and request compensation.

KCPL needs to admit that they trespassed. Real Estate Dept. confirmed Easement language states ingress/egress is allowed by right.

The trees they trimmed need to be made safe. Vegetation Management Dept. confirmed tree is not unsafe as a result of our VM contractor's activities. (pictures attached)

1. A copy of the contract that KCP&L has with Thorne Tree. If KCP&L can not provide the contract, they will explain why they feel they cannot. Contract is a legally binding agreement between two private companies and is not for public review.
2. Verify that the line running through the subject property is 161kV. Line in question was built as a 161kV and has been operated at that voltage since.
3. If the NERC regulations do not apply to this situation, KCP&L will provide a copy of the guidelines that do apply and have been approved by the KCC. Addressed above
4. Any sag line tests that have been performed on a 161kV line in the area. With data from the line Olathe-Switzer re-build in 2011, Engineering Dept. used a PLS model to determine wire height and perform sag analysis for this property: The height of the wire is approx. 44 feet from the ground and can sag to approx. 36 feet.
5. A measurement from the ground to the lowest point of the transmission line on the subject property. Depending on the conditions, the wire can be between 36 and 44 feet from the ground over this property.

Thank you.

Geoff Vossen

KCP&L and Westar, Evergy Companies
Manager, Vegetation Mgmt
O: 816-245-4061
M: 913-238-0734
Kcpl.com

From: Brett Steven Lange

Sent: Tuesday, October 1, 2019 8:45 AM

To: Geoffrey Vossen <geoffrey.vossen@evergy.com>

Cc: Brett Steven Lange <Brett.Lange@westarenergy.com>

Subject: RE: Informal Complaint Submitted to the KCC

Geoff,

Have you had a chance to look into this or speak to the customer?

From: Brett Steven Lange <Brett.Lange@westarenergy.com>

Sent: Tuesday, September 24, 2019 1:11 PM

To: Geoffrey Vossen <geoffrey.vossen@evergy.com>

Cc: Brett Steven Lange <Brett.Lange@westarenergy.com>

Subject: RE: Informal Complaint Submitted to the KCC

I appreciate the update. I know that we don't need his permission to access our equipment, so there are no issue there, but could you let me know if there is an easement? I assume there has to be for the transmission line.

We will likely need to provide proof that the trees are not unsafe, as he claims, so pictures would be helpful. We will also need to address his claim that we damaged his property. I am not sure if he is referring to his property (ruts left by trucks or something else) or if he is claiming that we damaged his trees.

There is nothing in the KCC rules and regulations related to tree trimming. Please let me know if we have a set of guidelines or standards and whether they are from the KCC or just our company policy.

Feel free to address all of my questions after you meet with the customer.

Thanks for your help on this!

EXHIBIT 5
6 PAGES

From: Geoffrey Vossen <geoffrey.vossen@evergy.com>
Sent: Tuesday, September 24, 2019 12:58 PM
To: Randy Luebke <Randy.Luebke@evergy.com>; Brett Steven Lange <Brett.Lange@westarenergy.com>
Cc: David Martin <david.martin@evergy.com>
Subject: Re: Informal Complaint Submitted to the KCC

I plan to visit the property owner at his home later this week. The work being performed was in response to our annual transmission power line patrol where we identify trees/vegetation that concern us because of how close they are getting to the wire. This location has a 161kV power line running through the back yard. We have trimmed the trees in the back yard many times over the years without issue. I do not agree with his assertion that the trees are a hazard and/or will die as a result of this trimming. He told me that he was going to pursue everything he listed in the KCC complaint regardless of how our discussion goes when I meet with him. I will send an update after I meet with him.

Get [Outlook for Android](#)

From: Randy Luebke <Randy.Luebke@evergy.com>
Sent: Tuesday, September 24, 2019 12:04:26 PM
To: Brett Steven Lange <Brett.Lange@westarenergy.com>; Geoffrey Vossen <geoffrey.vossen@evergy.com>
Cc: David Martin <david.martin@evergy.com>
Subject: RE: Informal Complaint Submitted to the KCC

Brett,
This is related to transmission vegetation clearing. I've included Geoff Vossen, as he is manager over those activities. He can follow up with you on this.

Randy Luebke
KCP&L and Westar, Evergy Companies
Manager – Vegetation Management
O: 816-245-3978

From: Brett Steven Lange <Brett.Lange@westarenergy.com>
Sent: Tuesday, September 24, 2019 11:51 AM
To: Randy Luebke <Randy.Luebke@evergy.com>
Cc: David Martin <david.martin@evergy.com>; Brett Steven Lange <Brett.Lange@westarenergy.com>
Subject: FW: Informal Complaint Submitted to the KCC

Can you please look into this complaint and let me know what is going on. It might be helpful if we provide pictures to the KCC, if his claims are invalid.

From: Steve Boyd <s.boyd@kcc.ks.gov>
Sent: Tuesday, September 24, 2019 11:45 AM
To: KCC Complaint <KCCComplaint@evergy.com>; Brett Steven Lange <Brett.Lange@westarenergy.com>
Subject: FW: Informal Complaint Submitted to the KCC

This is an EXTERNAL EMAIL. Stop and think before clicking a link, opening attachments or entering credentials.

This gentleman requested a formal complaint, but I asked if we could try to resolve this informally first? Would you please look into this situation as soon as possible?

Thank you.

Steve Boyd
Program Consultant



Public Affairs and Consumer Protection
Kansas Corporation Commission
1500 SW Arrowhead Road | Topeka, KS | 66604-4027
Phone (785) 271-3242 | Fax (785) 271-3111 | <http://kcc.ks.gov/>

This transmission, email and any files transmitted with it, may be: (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential under federal or state law. If you are not the intended recipient of this message, you may not use, disclose, print, copy or disseminate this information. If you have received this transmission in error, notify the sender (only) and delete the message. This message may also be subject to disclosure under the KORA, K.S.A. 2010 Supp. 45-215 et seq.

From: noreply@kcc.ks.gov <noreply@kcc.ks.gov>
Sent: Tuesday, September 24, 2019 9:29 AM
To: bfohrs@yahoo.com; Public.Affairs <public.affairs@kcc.ks.gov>
Subject: Informal Complaint Submitted to the KCC

Your complaint was received by the Kansas Corporation Commission (KCC). The details submitted appear below for your records. We will begin looking into the matter and contact you with our findings. If you have questions or additional information to add, please call us at 800-662-0027 or email public.affairs@kcc.ks.gov. Thank you for contacting the KCC.

Name: william flohrs
Street: 10633 w 123rd street
City: overland park
State: KS
Zipcode: 66213
Home Phone: 9136812329
Email: bflohrs@yahoo.com
Contact: william
Utility Industry: Electric
Company Name: KANSAS CITY POWER & LIGHT COMPANY
Company Contact Date: 09/23/2019

Complaint Details:

Yesterday September 23 2019 Thorne Tree was here and cut way more than they needed to off our trees. They have now made the tree unsafe and a hazard. The foreman referred me to ECI I called them and asked for the documentation on tree trimming and he said he didn't have any and if he did he would not share it with me. I called KCPL and asked for someone in vegetation management and was told someone would call me and no one did until 5 30 PM long after the Thorne crew had left. No one can produce the easement that KCPL has that gives them the right to enter my property without my permission. No one can provide the guidelines on vegetation management. I called the police they came and said it was a civil matter for Federal Court so that is where this is headed.

Company Response:

No Response

Suggested Resolution:

The easement defect needs to be cured.

KCPL Vegetation guidelines that have been approved by KCC need to be provided.







Damage to my property needs to be compensated.

KCPL needs to admit that they trespassed.

The trees they trimmed need to be made safe.

*Special characters and most punctuation have been removed from the comments submitted.

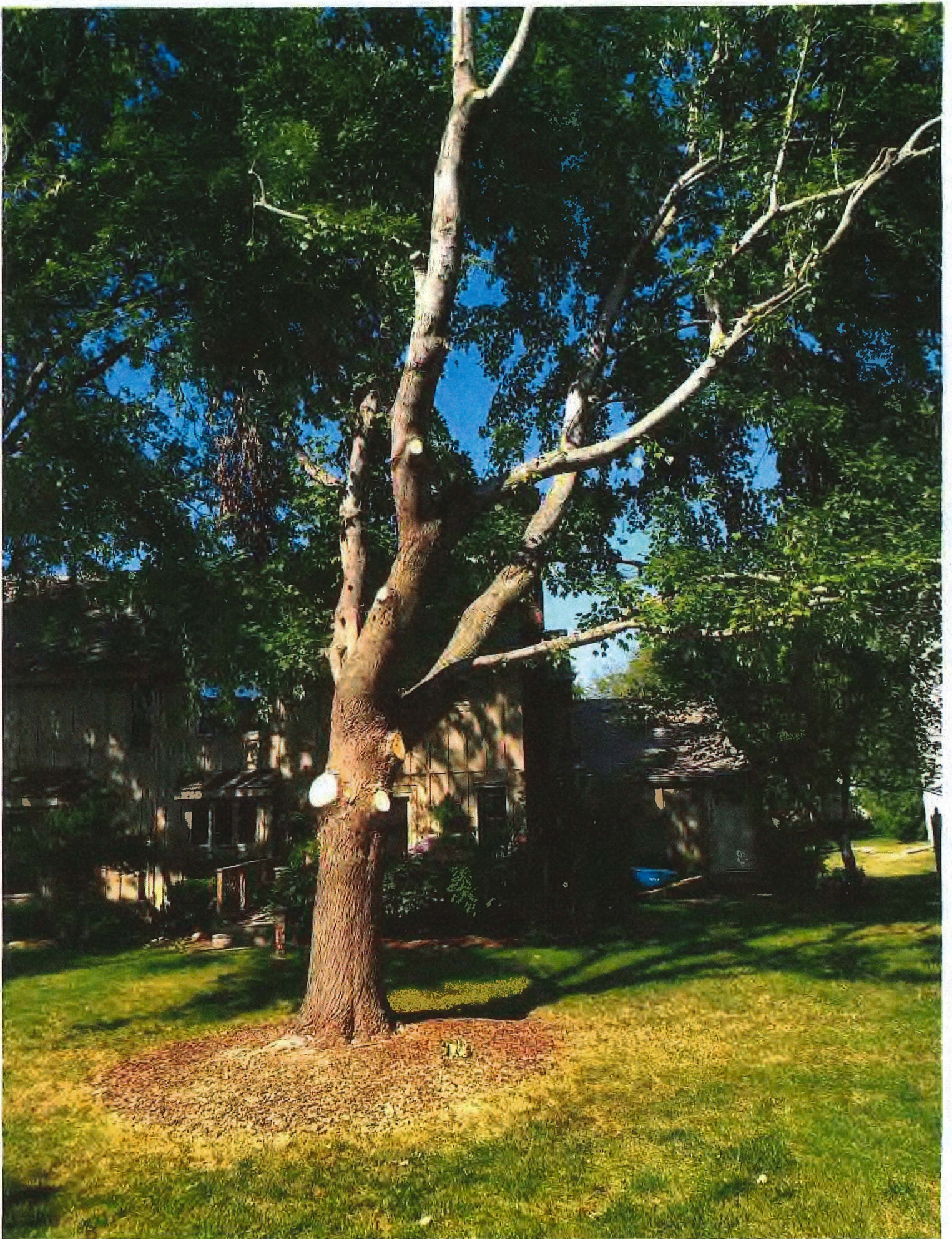
6 Files 10.7MB

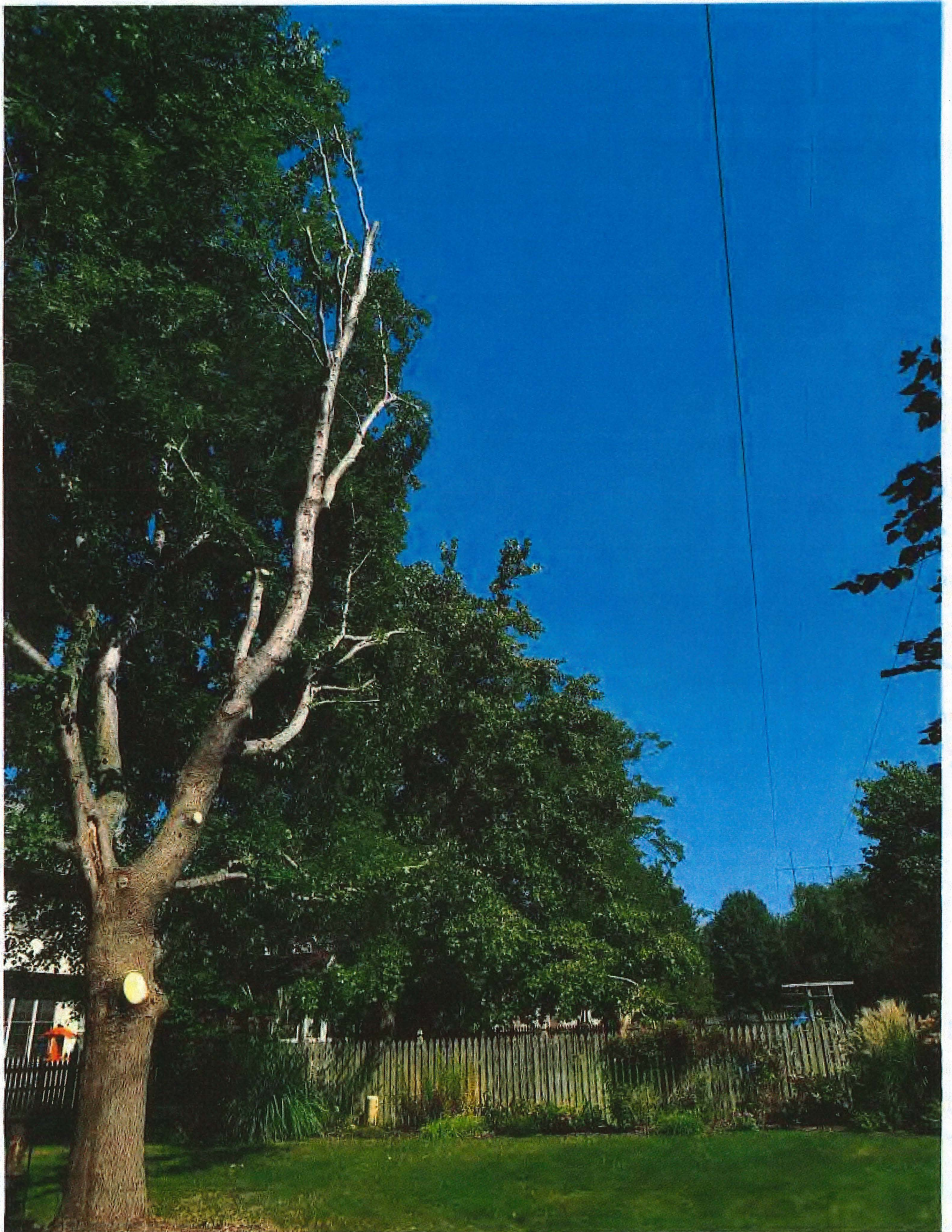
-  Easement- 10633 W. 123rd St., OP, KS.JPG
279kB
-  Reliability Expectations.pptx
976kB
-  10633 W. 123rd St., Overland Park, KS.JPG
5MB
-  10633 W. 123rd St., Overland Park, KS2.jpg
4MB
-  Property Damage Claim Form - KCPL.DOCX
699kB
-  KCPL Update 25SEP2019.docx
14kB



Reliability Expectations

- Forester
 - Appropriately identify and categorize required VM activities for each site
 - Secure permission for removals
 - Complete planning and deliver work orders in a timely manner
 - Report structure and/or hardware damage
- Crews
 - Achieve required clearances
 - 161kV- Trees will be cleared ground to sky at least 20' or edge of ROW and to at least 25' below the lowest conductor
 - Cut down all secured removals
 - Eliminate brush manually, mechanically, and/or chemically
 - Apply herbicide to all stumps
 - Report structure and/or hardware damage





ATTACHMENT “B”

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

**MEMORANDUM
LEGAL DIVISION**

To: Chair Susan K. Duffy
Commissioner Shari Feist Albrecht
Commissioner Dwight D. Keen

From: Robert Elliott Vincent, Senior Litigation Counsel

Date: May 1, 2020

Re: Docket No. 20-EKME-397-COM
In the Matter of the Complaint Against Kansas City Power & Light (Evergy) by William J. Flohrs

EXECUTIVE SUMMARY:

William J. Flohrs (Complainant) filed a Formal Complaint against Kansas City Power & Light Company (now, Evergy Kansas Metro, Inc., and referred to herein as “Evergy Kansas Metro”)¹ on March 13, 2020.² Regulations adopted by the State Corporation Commission of the State of Kansas (“Commission”) establish procedural requirements formal complaints must satisfy to be actionable. Complainant’s Formal Complaint satisfies the procedural requirements established in K.A.R. 82-1-220(b). Legal Staff recommends the Commission accept the Formal Complaint, and serve the Formal Complaint on Evergy Kansas Metro for an answer in accordance with the Commission’s regulations.

BACKGROUND & ANALYSIS:

On March 13, 2020, Complainant filed a Formal Complaint against Evergy Kansas Metro regarding, among other things, Evergy Kansas Metro’s vegetation management practices,³ compliance with Commission dockets,⁴ oversight of contractors,⁵ failure to provide requested vegetation management plans and copies of regulations pertaining to transmission lines and

¹ Previously, Kansas City Power and Light Company requested authority to change the name contained in its tariffs and Commission records to Evergy Kansas Metro, Inc., d/b/a “Evergy Kansas Metro.” The Commission has approved this request. *See* Order Approving Name Change, Docket No. 20-KCPE-122-CCN (Oct 8, 2019).

² Formal Complaint by William J. Flohrs, Docket No. 20-EKME-397-COM (Mar. 13, 2020) (Formal Complaint).

³ *See id.* at p. 4.

⁴ *See id.* at p. 5; *citing* Docket No. 02-GIME-365-GIE.

⁵ *See id.* at pp. 5-6.

conductors,⁶ and notification deficiencies.⁷ Complainant requests: (1) no further tree trimming occur at the subject property until the formal complaint process has concluded,⁸ (2) Evergy Kansas Metro be fined,⁹ and (3) Complainant be reimbursed for damages to their property.¹⁰

Upon the filing of a Formal Complaint, the Commission must determine whether the allegations, if true, would establish a *prima facie* case for Commission action. To determine whether a *prima facie* case exists, the Commission evaluates whether a formal complaint satisfies certain procedural requirements.¹¹

K.A.R. 82-1-220(b) requires formal complaints satisfy three procedural requirements:

- (1) Fully and completely advise each Respondent and the Commission as to the provisions of the law or the regulations or orders of the Commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions;
- (2) Set forth concisely and in plain language the facts claimed by the Complainant to constitute the violation(s); and
- (3) State the relief sought by the Complainant.

Legal Staff reviewed the Formal Complaint and found it procedurally sufficient. The Formal Complaint cites K.S.A. 66-101 which gives the Commission jurisdiction to supervise and control Evergy Kansas Metro, and to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.¹² The Formal Complaint references a 161kV line running through Complainant's property, and cites K.S.A. 66-183 as the statutory authority requiring the line to comply with Commission regulations.¹³ The Formal Complaint specifically asserts Evergy Kansas Metro is not in compliance with Docket No. 02-GIME-365-GIE. Finally, the Formal Complaint indicates it is being filed pursuant to K.A.R. 82-1-220 (i.e., the regulation permitting the filing of formal complaints). The references to Kansas statutes, regulations, and Commission orders are sufficient to find the Formal Complaint satisfies the procedural requirements of K.A.R. 82-1-220(b)(1).

The Formal Complaint sets forth concisely and in plain language alleged facts constituting the violation. The Complainant asserts Evergy Kansas Metro's vegetation management practices are inconsistent with Commission orders. Additionally, the Complainant provides a narrative history of vegetation management operations occurring at the subject property. This narrative is sufficient to find the Formal Complaint satisfies the procedural requirements of K.A.R. 82-1-220(b)(2).

⁶ See *id.* at p. 5.

⁷ See *id.*

⁸ See *id.* at p. 5.

⁹ See *id.* at p. 6.

¹⁰ See *id.* at p. 6.

¹¹ K.A.R. 82-1-220(c).

¹² See *id.* at p. 3.

¹³ See *id.* at p. 3.

The Complainant requests: no further tree trimming occur at the subject property until the formal complaint process has concluded, the Commission fine Evergy Kansas Metro, and the Complainant be reimbursed for damages to their property. This statement of relief sought is sufficient to find the Formal Complaint satisfies the procedural requirements of K.A.R. 82-1-220(b)(3).

No recommendation regarding the validity or truthfulness of the Complainant's claim is made, nor should any such recommendation be assumed or concluded with the filing of this memorandum. The only recommendations made here are: (1) the Commission should find the Formal Complaint satisfies the procedural requirements of K.A.R. 82-1-220, and (2) a *prima facie* case for Commission action has been made.

The Complainant preemptively requests the Commission deny any motions for extension of time that may (or may not be) filed by Evergy Kansas Metro.¹⁴ Legal Staff disagrees with this request. Given the ongoing pandemic, Legal Staff asserts the Commission should evaluate such motions on a case-by-case basis if and when they are filed.

RECOMMENDATION:

Legal Staff recommends the Commission accept the Formal Complaint, and serve the Formal Complaint on Evergy Kansas Metro, Inc. for an answer in accordance with the Commission's regulations.

¹⁴ See *id.* at p. 6.

CERTIFICATE OF SERVICE

20-EKME-397-COM

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 05/07/2020.

ROBERT J. HACK, LEAD REGULATORY COUNSEL
EVERGY METRO, INC
D/B/A EVERGY KANSAS METRO
ONE KANSAS CITY PL, 1200 MAIN ST
19TH FLOOR
KANSAS CITY, MO 64105
Fax: 816-556-2787
rob.hack@evergy.com

WILLIAM J FLOHRS
WILLIAM J. FLOHRS
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OVERLAND PARK, KS 66213
bflohrs@yahoo.com

ROBERT VINCENT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
r.vincent@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe