

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Complaint Against       )  
Kansas Power & Light (Evergy)                )  
By William J. Flohrs                                )       DOCKET No. 20-EKME-397-COM

**COMPLAINANT RESPONSE TO NOTICE OF FILING OF STAFF'S REPORT AND  
RECOMMENDATION**

On August 24, the Kansas Corporate Commission filed a "Notice of Filing of Staff's Report and Recommendation" in the above case. Since the document is false and inaccurate, the Complainant (William J. Flohrs) wishes to offer evidence this complaint should not be dismissed, Staff should revise its report before it is released to the Commission, and the case should proceed.

**Introduction**

1. Staff makes the statement: *"The Easement Conveyance is signed September 4, 1959. The Easement grants a 100 foot easement, which gives the grantee the right of ingress and egress anytime to maintain and patrol the line, and trim and/or cut and clear away any vegetation the grantee believes will interfere with the operation of the transmission line."*

This is misleading and incorrect. The easement goes on to say that, "will interfere with...operation or maintenance of said line." It goes on to state, "The grantee...agrees to pay for any reasonable permanent damage caused." Staff did not address all aspects of the easement and should address all aspects of an easement if they are going to use the easement to reach a conclusion. Staff has taken a "pick and choose" approach in this instance.

- a. **Conclusion:** Staff should address all aspects of the easement if they are going to use it as a basis for their recommendation. Staff has not done this with this filing.

2. Staff makes the statement: *“Staff agrees this flexible approach to tree trimming provides the least impact on a landowner’s trees.”*

While this is convenient for Evergy, it is not at all beneficial to the landowner and it is not a true statement. Staff is condoning the Evergy practice that they can come on a property, use vulgar language, abuse the landowner, and decimate their trees whenever they want. Staff does not have the authority to make this statement or support this claim. When Jeremie Bryant of Thorne Tree was asked if he was going to repair the damage to the yard that he caused, he said, “Fuck you. You can kiss my ass.” (then he turned and walked away and slapped the back of his pants). This kind of abusive behavior from Evergy on personal property is repugnant, offensive, disrespectful, and out of line.

- a. **Conclusion:** The above sentence of the referenced paragraph should be stricken from the report.

3. Staff makes the statement, *“ The door hanger left on June 27, 2019, could have been filled out in a more precise manner, but the hanger provided a means for additional communication, which the Complainant used, to contact the tree trimming organization. ”*

The Complainant did call Evergy. They did not answer. The complainant asked to be called back. Evergy did not return the phone call.

- a. **Conclusion:** Staff did not report the facts correctly and should amend their report to report the facts correctly.

4. Staff makes the statement, *“EKM provided an aerial view of the Complainant’s back yard, depicting the transmission line, right-of-way limits, and approximate location of the trunk of the trees in question.”*

Exhibit 1 that Staff references is a Google map with Evergy's interpretation of the right-of-way. This map is grossly inaccurate. Evergy should have provided a map generated by Johnson County with the County's markings of where the right-of-way is located on the property.

- a. **Conclusion:** Staff used a document that is grossly inaccurate. Evergy provided a document that is grossly inaccurate. Staff should request their own map from Johnson County with the information they need, not depend on Evergy to do their work for them and trust their work to be accurate.

5. Staff makes the statement, *"EKM states when a tree is not to be cut to the ground, it will be trimmed to achieve a clearance that it will not broach a distance from the line that is deemed dangerous to those climbing and/or working in the tree before the next time Evergy decides to trim that tree again."*

This statement is based on Staff Data Request 3 from Evergy. Staff fails to comment on the section where Evergy states, "To achieve that requirement, 25 feet to the side of the line for trees to the side of the wire and at least 20 feet below the wire where the tree is under the wire is minimum". Pictures provided by the Complainant in previous filings clearly show that Evergy did not follow this practice, nor did Staff verify Evergy's statement. Staff took Evergy's response on face value.

- a. **Conclusion:** Staff should verify all materials that Evergy submits to them for accuracy.

Staff has failed to do this.

6. Staff makes the statement, *"it does not appear to Staff that any tree was left in an unsafe or hazardous condition."*

How would Staff come to this conclusion if they never verified information provided to them by doing an onsite inspection? Staff does not have any expertise in determining if a tree is



“unsafe or hazardous”. Staff should have retained a licensed arborist to make this determination. Staff failed to do this.

- a. **Conclusion:** Staff failed to verify the information provided to them by Evergy and came to conclusions that are clearly outside their area of expertise. Staff should retain a licensed arborist to help them determine the health of a tree if Staff wants to render an opinion on this subject. If Staff did consult a licensed arborist, it is not reflected in their report.

7. Staff makes the statement, “*Staff also believes that the use of foul or inappropriate language is unnecessary, especially when talking with landowners.*”

Staff states that foul language is “unnecessary” but does not instruct Evergy to provide Staff with programs and procedures going forward to prevent this from ever happening again.

- a. **Conclusion:** Staff seems to condone the use of inappropriate and rude language when talking with the landowner. This is unacceptable and needs to be addressed.

8. Staff makes the statement, “*FAC-003-03, in Table 2, states the MVCD for elevations between 1000 feet and 2000 feet is 2.19 feet.*”

Evergy provided a completely different criteria in their document dated 6/23/2020. Evergy also had a reference on their website (Previous Complainant Exhibit 2 of 4 pages) that does not reflect either of the 2 new criteria provided and also does not represent their door hanger that Staff referenced that was left on the Complainants door on march 6, 2020. So far, Evergy has presented 4 different sets of documents that all conflict with each other.

- a. **Conclusion:** Staff fails to reconcile the conflicting information provided to Staff. Staff should ask Evergy to provide a clear and concise document that outlines their programs and procedures for VM of a 161v line. Staff has failed to do that.

9. Staff makes the statement, “*Staff understands that the Complainant’s phone call was not returned and cannot offer any explanation as to why the call was not returned.*”

Staff is condoning Evergy’s practice of doing whatever they want, whenever they want. Staff is therefore not representing the citizens of the State of Kansas as they are supposed to do.

- i. **Conclusion:** Staff should hold Evergy accountable as they are required to do by Kansas Statute.

10. Staff failed to address a previous statement by Evergy: “**Evergy has confirmed that its contractor trimmed the trees on Mr. Flohrs’ property in this instance in a manner consistent with Evergy’s vegetation management policy and guidelines.**”

Evergy has not provided any such guidelines that it is referencing. If you go to the KCP&L website (this information has recently been removed) to try and determine what their Transmission Vegetation Management Plan for 161 kV lines (TVMP), the only thing you can find is seen in Exhibit 2 (4 pages) of the Complainants previous filing. 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 what Evergy will do as far as vegetation management is concerned.

**Conclusion:** The KCC needs to hold Evergy accountable. 18-KCPE-095-MER stipulates that Evergy will supply such guidelines. However, neither the KCC nor Evergy can provide a copy of the Transmission Vegetation Management Plan for 161 kV lines (TVMP).

**Comments:**

1. K.A.R 66-101 states the following: 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.

**Conclusion:** Staff has not complied with this statute and needs to address all aspects of a complaint that have been documented in all filings of this case, not just pick and choose certain parts of a complaint. Staff has failed to do this.

2. K.S.A 66-183 states the following: 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.

**Conclusion:** Evergy has failed to comply with this regulation and is in violation of KCC guidelines. Therefore, they should be fined and brought into compliance. Staff has not complied with this statute and needs to address all aspects of a complaint that have been documented in all filings of this case, not just pick and choose certain parts of a complaint. Staff has failed to do this.

3. Evergy made the statement:” Section 6.15 of Evergy Kansas Metro’s General Rules and Regulations”. This is yet another example of a document that Evergy is referencing that they have not provided to anyone.

**Conclusion:** Evergy needs to supply the entire document that it is referencing to all parties involved for a thorough and rigorous review. Evergy also needs to have KCC acknowledge that the document is a governing document. Staff has not complied with this statute and needs to address all aspects of a complaint, not just pick and choose certain parts of a complaint. Staff has failed to do this.





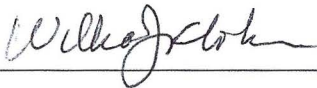
## Analysis:

1. It is obvious that Staff does not have any interest in representing the citizens of Kansas. Staff does not hold Evergy accountable for any of their actions. Evergy does not hold sub-contractors accountable for their actions even though they are responsible for their actions. Evergy 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 Evergy accountable.
2. In K.S.A. 66-101h, it states: “**The commission shall have general supervision of all electric public utilities doing business in this state** and shall inquire into any neglect or violations of the laws of this state by any electric public utility or by the officers, agents or employees thereof. **From time to time, the commission shall carefully examine and inspect the condition of each electric public utility, its equipment, the manner of its conduct and its management with reference to the public safety and convenience.** Nothing in this section shall be construed as relieving any electric public utility from its responsibility or liability for damage to person or property. In 97-GIME-483-GIE, the KCC stated, “**the Commission may, upon its own motion, and without complaint being made, conduct an investigation of an electric utility,**”. The KCC is well within its power and scope to investigate Evergy in this matter. Staff has not complied with the referenced Statute.

**Claimant Requests:**

1. Claimant would ask that Staff address each of the 10 issues raised in this filing and revise its report to the commission before it is released.
2. Based on the findings of the KCC, Evergy should be fined according to KCC guidelines, and the Claimant should be reimbursed for damages to his property.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of August 2020, the foregoing "COMPLAINTANT RESPONSE TO NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION"

was sent via email to the parties listed below:

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