

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Andrew J. French, Chairperson  
Dwight D. Keen  
Annie Kuether

In the Matter of the Complaint Against )  
Evergy Kansas Central by Dr. Jeffrey F. Van ) Docket No. 24-EKCE-608-COM  
Petten, DVM. )

**ORDER DISMISSING COMPLAINT IN PART AND DESIGNATING PRESIDING  
OFFICER TO SCHEDULE FURTHER PROCEEDINGS**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its pleadings and records, the Commission concludes the following:

1. On March 1, 2024, Dr. Jeffrey F. Van Petten, DVM filed a Formal Complaint against Evergy Kansas Central (Evergy), seeking \$34,700 for damage to his property from construction of a new power line. Dr. Van Petten also accuses Evergy of harassing him while attempting to acquire an easement on his property.

2. On March 12, 2024, the Commission found that Dr. Van Petten's Formal Complaint established a prima facie case and directed it to be served upon Evergy for an answer within 10 days.<sup>1</sup>

3. On March 22, 2024, Evergy filed its Answer, claiming it exercised reasonable care and has met or exceeded commercially reasonable standards while performing its work and communicating with the Complainant.<sup>2</sup> Evergy argues there is no allegation or fact supporting any willful or wanton conduct by Evergy,<sup>3</sup> and therefore requests that the Commission deny the

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<sup>1</sup> Order Making Prima Facie Determination, Mar. 12, 2024, ¶ 3.

<sup>2</sup> Answer of Evergy Kansas Central, Inc., Mar. 22, 2024, ¶ 6.

<sup>3</sup> *Id.*

Complaint, determine that Evergy's offer of \$5,500 to repair 4 acres of grass damaged where its crews drove to perform work was fair, reasonable and appropriate under the circumstances of this proceeding.<sup>4</sup>

4. On January 27, 2025, Commission Staff (Staff) filed its Report and Recommendation, stating it does not believe Evergy met its statutory duty to restore the property to its prior condition,<sup>5</sup> and recommending leaving a determination of whether Evergy's \$5,500 offer was fair, reasonable, and appropriate to the Courts.<sup>6</sup> Staff recommends requiring Evergy to: (1) restore the property to the condition which existed prior to construction per K.S.A. 66-1,183;<sup>7</sup> and (2) remove and properly dispose any remnant oil in accordance with applicable federal, state, and local laws to the extent practical or provide evidence suggesting they did comply with all applicable laws.<sup>8</sup> Because allegations 6-8 (trespassing, mental anguish, and harassment) do not relate to the restoration of property, Staff recommends allegations 6-8 be dismissed.<sup>9</sup>

5. Neither Evergy nor Dr. Van Petten has responded to Staff's Report and Recommendation.

6. The Commission agrees with Staff that K.S.A. 66-1,183 does not create a cause of action for claims of trespass, mental anguish, and harassment. Accordingly, the Commission dismisses those claims in the Complaint. But, Dr. Van Petten's claim for damages resulting from Evergy's alleged failure to restore his property to its prior condition can proceed. The Commission lacks sufficient evidence to determine the appropriate costs to restore Dr. Van Petten's property to its prior condition. Therefore, additional proceedings are necessary.

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<sup>4</sup> *Id.*, ¶ 9, p. 4.

<sup>5</sup> Staff Report and Recommendation, Jan. 15, 2025, p. 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Notice of Filing of Staff's Report and Recommendation, Jan. 27, 2025, pp. 1-2.

<sup>9</sup> *Id.*, p. 1.

7. The Commission may designate a presiding officer to conduct prehearing conferences to address any matters appropriately considered in a prehearing conference, including all items listed in K.S.A. 77-517(b) of the Kansas Administrative Procedure Act (KAPA). Accordingly, the Commission designates Brian G. Fedotin, General Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604, telephone number (785) 271-3105, brian.fedotin@ks.gov, as Presiding Officer in this proceeding.<sup>10</sup> The Commission may designate other staff members to serve in this capacity.

8. The Commission directs the Presiding Officer to schedule a status conference to establish a procedure to resolve Everyg's alleged failure to restore his property to its prior condition.

**THEREFORE, THE COMMISSION ORDERS:**

- A. Brian G. Fedotin is designated as Presiding Officer in this proceeding.
- B. Dr. Van Petten's allegations of trespass, mental anguish, and harassment fail to state a claim upon which relief can be granted.
- C. The Presiding Officer is directed to schedule a status conference on the issue of restoring Dr. Van Petten's property to its prior condition.

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/27/2025



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Abigail D. Emery  
Acting Secretary to the Commission

BGF

<sup>10</sup> K.S.A. 77-514; K.S.A. 77-516; K.S.A. 77-551.

**CERTIFICATE OF SERVICE**

24-EKCE-608-COM

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 02/27/2025.

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