

1 BEFORE THE PUBLIC SERVICE COMMISSION 2 STATE OF MISSOURI 3 4 TRANSCRIPT OF PROCEEDINGS 5 6 Prehearing Conference 7 September 27, 2021 Jefferson City, Missouri 8 9 Volume 1 10 WebEx 11 12 13 14 In the Matter of the Application) of Evergy Metro, Inc. d/b/a Evergy) Missouri Metro for Authority to 15) Implement Rate Adjustments) File No. Required by 20 CSR 4240-20.090(8)) ER-2022-0025 16 and the Company's Approved Fuel) 17 and Purchased Power Cost) Recovery Mechanism) 18 19 JOHN CLARK, Presiding 20 REGULATORY LAW JUDGE 21 22 23 24 REPORTED BY: Beverly Jean Bentch, CCR No. 640 25 TIGER COURT REPORTING, LLC

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PROCEEDINGS

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2 JUDGE CLARK: Let's go on the record. Today's date is September 27 of 2021. The current time is 2:00 3 The Commission has set aside this time for a 4 p.m. procedural conference in the case captioned as In the 5 6 Matter of the Application of Evergy Metro, Incorporated 7 d/b/a Evergy Missouri Metro for Authority to Implement 8 Rate Adjustments Required by 20 CSR 4240-20.090(8) and the Company's Approved Fuel and Purchased Power Cost 9 10 Recovery Mechanism. That is File No. ER-2022-0025. 11 My name is John Clark. I'm the Regulatory Law 12 Judge in this matter. I'm going to begin by having the 13 attorneys enter their appearance for the record starting 14 with Evergy Missouri Metro. 15 MR. FISCHER: Thank you, Judge. On behalf of 16 Evergy Missouri Metro, let the record reflect the appearance of James Fischer, law firm is Fischer & 17 18 Dority PC. Our address is 101 Madison Street, Suite 19 400, Jefferson City, Missouri 65101. I believe Roger 20 Steiner may be on or he will join us later. He will also be appearing. He's in-house counsel for Evergy 21 22 Missouri Metro. 23 JUDGE CLARK: Thank you, Mr. Fischer. On behalf of the Staff of the Commission. 24 25 MR. BRETZ: Karen Bretz for Staff of the

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Missouri Public Service Commission, 200 Madison Street, 1 2 8th Floor, Jefferson City, Missouri 65102. 3 JUDGE CLARK: Thank you, Ms. Bretz. For the Office of Public Counsel. 4 5 MR. WILLIAMS: Nathan Williams, PO Box 2230, 6 Jefferson City, Missouri 65102, and I have a new 7 attorney here for the Office of Public Counsel, Lindsey 8 Van Gilpin. She's not going to enter her appearance, 9 but I did want to introduce her to you all. 10 JUDGE CLARK: Okay. Thank you very much. Ι 11 will look forward to meeting the new OPC attorney. 12 And Mr. Woodsmall, on behalf of Missouri Industrial Energy Consumers. Mr. Woodsmall, are you able to enter 13 your appearance? I don't have you as muted, but I can't 14 15 hear you. I got a text from him that says I can hear 16 you, but I don't think my microphone is working. Sorry. 17 Well, for the record, Mr. Woodsmall is in 18 appearance. If you're able to get your microphone 19 working, great. If not, if you continue to use the chat 20 function, I will announce those to the others present. 21 I will say the chat function I'm generally not a big fan 22 of, because all of those I believe get saved in the 23 WebEx. So there's kind of a record of that. 24 Is there anyone else that I have not called? Any other parties? Okay. Hearing none, let's just go 25

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1 ahead.

2 Now, I think we all know where we are with this case. The question is where are we going. 3 On September 15, effective I guess over the weekend the 4 5 Commission rejected the tariff to change the fuel 6 adjustment rates in this case and that was Tariff 7 JE20220024. And the Commission had 60 days to do that. 8 Obviously they fulfilled their obligation by making a 9 decision of that. So we're kind of left in, I'm not 10 going to say unknown territory because this happens 11 occasionally. But I am going to ask a few questions and 12 try to get the parties to commit to doing a procedural 13 schedule of some kind.

14 I'm going to go and ask -- I have a few 15 questions. If anybody has anything they'd like to add, 16 I'd be happy to hear it. Now, the first one is I saw in 17 Staff's recommendation in regard to the true-up that the 18 only thing that they saw the true-up affecting was this 19 FAC rate adjustment. And with that in mind, more than 20 10 days have gone by for parties to respond to Staff's 21 recommendation. No responses have been received.

Is there any reason that the Commission cannot go ahead and act in regard to the true-up? MS. BRETZ: We have no objection to that, Judge.

JUDGE CLARK: I'm just going to go through the 1 2 Evergy, do you have any objection to going parties. 3 ahead and dealing with the true-up at agenda? Mr. Fischer? 4 5 MR. FISCHER: I'm sorry. I was on mute. Ι don't think Evergy has a problem with that, but Ron 6 7 Klote is also on. Ron, do you have a comment on that 8 point? Ron is our accounting person. 9 Ron, you're on mute. This is MS. STARKEBAUM: 10 Lisa Starkebaum. I'm also on from the Company. Can you 11 hear me? 12 MR. FISCHER: Yeah. Lisa, do you have a 13 comment about that point? 14 MS. STARKEBAUM: I don't think we have an 15 issue with moving forward with that. 16 JUDGE CLARK: Thank you. Office of Public 17 Counsel? 18 MR. WILLIAMS: No, Judge, but I believe the 19 parties are likely to file a settlement saying -- or an 20 agreement as to what tariff would go into effect pending 21 resolution of the disputed amounts. 22 JUDGE CLARK: Okay. And that was actually the 23 next subject I was going to get to. Why don't we go on 24 to that. I'm assuming --25 MR. WOODSMALL: Your Honor?

JUDGE CLARK: Yes. 1 2 MR. WOODSMALL: This is David Woodsmall. Can 3 you hear me now? JUDGE CLARK: I can indeed. 4 MR. WOODSMALL: Do you have any objection 5 6 regarding --7 MR. WOODSMALL: No, I don't. We have no 8 objection to that. Thank you for indulging my 9 technological failings. 10 JUDGE CLARK: You're just fine. I'm just 11 happy to hear you now. 12 MR. WOODSMALL: Thank you. 13 JUDGE CLARK: Okay. Let's move on to the next 14 question, which is the one that Mr. Williams just 15 breached which is, is there any reason that an amount 16 not in dispute can be included in some kind of interim 17 fuel adjustment tariff. 18 MR. FISCHER: Yes, Judge. On behalf of 19 Evergy, I can let you know that at least the Staff and 20 Public Counsel have been discussing a joint request for 21 interim tariff rates to go into effect. I'm not sure 22 that Mr. Woodsmall has been involved in those 23 discussions. We are hoping to be able to file a motion 24 which would -- or a joint request which would allow the 25 proposed tariffs filed by the Company to go into effect

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1	on an interim basis pending resolution of the case.
2	JUDGE CLARK: Now, when you say the proposed
3	tariffs, you're talking about the tariff that was just
4	rejected? I think the allowance that the rules makes is
5	only as to the question is, is there a nondisputed
б	amount, not whether the tariff that's just been rejected
7	can now go into effect as it was written.
8	MR. FISCHER: I think the agreement would be
9	the tariffs that were filed as of July 30 of this year
10	is what we were planning to file, which I guess we can
11	give you a number, but that's how we were characterizing
12	it. Staff or Public Counsel, do you have a comment?
13	MS. BRETZ: I don't have anything. That's
14	what our agreement is.
15	JUDGE CLARK: That's the tariff revision that
16	was rejected, correct?
17	MR. WILLIAMS: Judge, I think what it comes
18	down to is at least Staff and the utility and Public
19	Counsel are okay with the tariff rates that were in the
20	proposed tariff going into effect. The amount disputed
21	is not really a part of what was included in the tariff
22	filing.
23	JUDGE CLARK: You'll have to bear with me,
24	Mr. Williams. I'm having a little bit of a hard time
25	hearing you. That kind of We're a little bit off

1	where even I anticipated us being. That leaves the
2	question is if the tariff that Evergy filed goes into
3	effect as it is and there's no disputed amounts
4	included, then I'm not sure what needs to happen,
5	because the impression I got was Staff filed a
6	recommendation, I asked Evergy to respond to that
7	recommendation and Evergy responded essentially their
8	response, if I remember correctly, was we disagree with
9	Staff's interpretation of this rule and we would like a
10	hearing.
11	MR. WILLIAMS: Judge, if I may.
12	JUDGE CLARK: Yes, please.
13	MR. WILLIAMS: I believe Staff is saying that
14	the rate that should have been in that tariff is a lot
15	higher than what is in it but on an interim basis it's
16	amenable to the rate that was included as originally
17	filed.
18	JUDGE CLARK: Okay. That's somewhat clear to
19	me.
20	MR. FISCHER: Judge, this is Jim Fischer. I
21	think we'd like to talk with the parties about a
22	procedural schedule too that would allow for some legal
23	briefing of a legal issue before we actually got to a
24	hearing. So that's what we will likely propose.
25	JUDGE CLARK: What do you mean some legal

briefing prior to? 1 2 MR. FISCHER: Well, I think the issue is whether the rule allows the deferral of extraordinary 3 revenue is my understanding, and we think it might be 4 efficient for the Commission to look at that legal issue 5 6 before we have any other hearings. 7 JUDGE CLARK: So what you're talking about 8 maybe is making a determination on what the law allows 9 regardless of the facts? 10 MR. FISCHER: Yes, yes, basically the tariff. 11 JUDGE CLARK: Which is going to bring me back 12 to, because this is new ground for me, I'm not sure how one would resurrect a rejected tariff. Does a new 13 tariff need to be filed? 14 15 MR. FISCHER: I think the Company would 16 certainly follow the desire of the Judge and the 17 Commission on how to do that procedurally, but I think 18 the Commission could grant our motion to have that go 19 into effect on an interim basis, but we can refile it if 20 that's what the Commission wants. 21 JUDGE CLARK: When does this need to go into 22 effect? I mean, we've already passed I believe the date 23 by which it was to go into effect, haven't we, or pretty 24 close to that? Let me look back at what the original 25 tariff date was.

1 MR. FISCHER: We were going to propose that it 2 would be effective on October 1, 2021. JUDGE CLARK: Was that the original date? 3 MR. WILLIAMS: -- a new tariff sheet filed 4 that has the same rate, I'm sure the parties can do 5 6 that. 7 THE COURT REPORTER: I'm sorry. Judge Clark 8 9 JUDGE CLARK: Yes. 10 THE COURT REPORTER: -- could you have 11 Mr. Williams speak up and repeat what he just said? 12 JUDGE CLARK: Yes. Mr. Williams, would you 13 mind doing that? 14 MR. WILLIAMS: I'm not sure where my 15 microphone is. Basically I'm saying that if you want a 16 new tariff sheet that has the same rate, I'm sure the 17 parties will accommodate you. 18 JUDGE CLARK: And I don't have a problem with 19 Then we run into the 30-day problem. that. 20 MR. WILLIAMS: I don't --21 MR. FISCHER: If we need to file a motion for 22 expedited treatment or approval of that tariff, I guess 23 we could do that too, Judge. 24 JUDGE CLARK: Why don't I look into it on my 25 end. If I can just informally let the parties know,

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I'll just send an email to everybody what I think needs 1 2 to happen. Is that amenable to everybody? MR. WILLIAMS: Sure. 3 MR. FISCHER: Yes. 4 JUDGE CLARK: I think that would be faster at 5 this point; and if it needs to follow up with an order, б I can certainly do that. Obviously, if there's a way to 7 8 get either the rejected tariff back in play or get -- at least allow a substitute version thereof that keeps the 9 10 original dates, that would be an ideal situation, if 11 that's what the parties have agreed. Now, I'm assuming, 12 because we have an agreement here, I'm assuming that 13 that agreement is going to be submitted in some form. 14 MR. FISCHER: Yes, that was our intention, 15 Judge. 16 JUDGE CLARK: When do you see that happening, 17 because obviously if you're planning on something going into effect soon, sooner would be better. 18 19 MR. FISCHER: I think assuming all the parties 20 are agreeable we can do it yet today. JUDGE CLARK: Okay. If you can get something 21 2.2 filed today, that would certainly be helpful. Is there 23 any reason that can't happen? 24 MR. FISCHER: Not from the Company's 25 perspective.

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MR. WILLIAMS: I'm not sure if all the parties 1 2 have been notified about it. JUDGE CLARK: That could be a problem. 3 As Mr. Woodsmall pointed out in asking me to appear here 4 today, there are all the parties to the rate case that 5 6 are automatic parties here. MR. FISCHER: Judge, I think we could file it 7 8 and if any of the parties actually intend to 9 participate, they could voice their position at that 10 time. Go ahead. I'm sorry. 11 JUDGE CLARK: I think that would be contrary 12 to the Commission's rules which allows 10 days for responses unless otherwise designated. I could 13 14 designate otherwise, but I mean, they're still going to 15 have a short period of response. I guess my question is 16 what's the impact if this doesn't happen on October 1? MR. FISCHER: Well, we won't begin collecting 17 those rates as soon as we would otherwise. 18 19 JUDGE CLARK: Well, I understand that. Okay. 20 It sounds like we're kind of at a little bit of a 21 standstill here until I know what's going on with the 2.2 tariff. So why don't we do this. 23 How long is it going to take, in regard to 24 procedural schedule and you're contemplating I'm 25 guessing -- if you're contemplating submitting something

1	on briefs as to a mere question of law, you're really
2	there's no time or hearing limitations that I would see
3	need to be necessary other than maybe possibly an
4	on-the-record presentation of some kind if the parties
5	wanted to make argument.
б	MR. FISCHER: I think, Judge, we were
7	proposing having some legal briefing on that particular
8	issue due in mid November and having however the
9	Commission wanted to handle it, whether you wanted to
10	have an oral argument or just deal with it on the
11	briefs.
12	JUDGE CLARK: All right. Why don't you guys
13	put together a procedural schedule then, and you said
14	you're looking at times in mid November. My question
15	is, today is the 27th. Would it be possible to have a
16	procedural schedule submitted by the 8th of October or
17	is that too much of a push?
18	MS. BRETZ: Judge, this is Karen Bretz for
19	Staff. We're supposed to file it by Thursday. We've
20	had some internal discussions here with staff.
21	JUDGE CLARK: You're right. I'm sorry. I
22	forgot I put that in the order, didn't I?
23	MS. BRETZ: I think that's pretty doable
24	unless Mr. Woodsmall thinks differently.
25	MR. WOODSMALL: I can tell you I'm not going

1	to be a holdup to any procedural schedule. I doubt if
2	I'm a holdup to any type of stipulation to start
3	collecting something on an interim basis. So even
4	though I haven't been involved, I don't see me being a
5	problem in that regard as long as any going forward
6	process will allow me to present my issues I'm not going
7	to have a problem.
8	JUDGE CLARK: Ms. Bretz, thank you for
9	reminding me. I forgot that I had put that in the order
10	rejecting that there was to be a procedural schedule by
11	September 30. So let's just stick with that date. At
12	this point, I'm kind of stuck in regards to what can be
13	done with the tariff. I'm going to look into that, and
14	I will let everybody know today. Okay?
15	With that in mind, are there any other matters
16	that I need to address or anything that anybody wanted
17	to address that I have not addressed? I hear nothing.
18	All right. Hearing nothing, I'm going to adjourn this
19	hearing or this prehearing and we'll go off the record.
20	Thank you very much.
21	MR. WOODSMALL: Thank you, Judge.
22	(Off the record.)
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