

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

In the Matter of the Application of Evergy)
Metro, Inc. d/b/a Evergy Missouri Metro)
and Evergy Missouri West, Inc. d/b/a)
Evergy Missouri West for an Accounting)
Authority Order Allowing the Companies)
to Record and Preserve Costs Related to)
COVID-19 Expenses)

File No. EU-2020-0350

SIERRA CLUB’S STATEMENTS OF POSITION

Sierra Club respectfully offers the following statements of position:

Issue 1. Is the Covid 19 pandemic an extraordinary event within the scope of the Uniform System of Accounts as it has been historically interpreted and applied by the Commission or as subsequently modified by Missouri courts?

Sierra Club Position:

Yes, the Public Service Commission of the State of Missouri (“Commission”) can fairly categorize the COVID-19 pandemic as an extraordinary event.

Issue 1.a. Is the resulting economic impact material within the scope of the Uniform System of Accounts?

Sierra Club Position:

There is not enough evidence in the record to demonstrate that the economic impact is significant and/or material within the scope of the Uniform System of Accounts. The Uniform System of Accounts provides, with few exceptions, that net income shall reflect all items in the same reporting period. A regulatory asset is an exception to this timing requirement and is governed by Uniform System of Accounts General Instruction No. 7, which states:

Those items related to the effects of events and transactions which have occurred during the current period and which are of unusual nature and infrequent occurrence shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which are abnormal and significantly different

from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future... To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary.¹

Therefore, if an item does meet the threshold of recordable (discussed under Issue 3.f), then it must next meet the test established in General Instruction No. 7 to qualify as a regulatory asset—it must be of “significant effect.”

Sierra Club witness Cheryl Roberto details how Evergy has made no claim of net financial harm related to unearned revenue. Reduced revenue does not equal reduced income. Evergy must demonstrate that the reduced revenue also reduced its income; and that such a reduction in income was significant. Moreover, Evergy has reported to its investors that its financial performance for the second quarter of this year was even better than last year’s second quarter. So while the COVID-19 pandemic can be judged an extraordinary event, Evergy has not claimed, let alone quantified, the significance of the event to its financial health, as required by the Uniform System of Accounts.

Issue 2. Should the Commission approve the Application for an accounting authority order (“AAO”) permitting Evergy to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings before the Missouri Public Service Commission (“Commission”) extraordinary costs and financial impacts incurred as a result of the coronavirus disease (“COVID-19”) pandemic?

Sierra Club Position:

This issue asks in which future proceeding should the Commission determine whether the AAO is recoverable. Sierra Club notes that making this Issue 2 is logically and sequentially confusing, as the Commission must first determine that it is appropriate to create an AAO before

¹ Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, 18 CFR Part 101, General Instruction 7 (emphasis added).

it addresses what future docket the Commission will consider recoverability. If the Commission doesn't create an AAO, it never needs to address this issue. The Commission should thus delay consideration of this issue until it determines whether it is appropriate to create an AAO. If the Commission does create an AAO, then Sierra Club agrees that it is appropriate for the Commission to consider recoverability in a future rate case proceeding.

Issue 3. If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with the COVID-19 pandemic, what items should be deferred?

Sierra Club Position:

Issue 3 examines whether the Commission should create an AAO for eight types of costs or lost revenue, listed as sub-issues (a-i). Sierra Club recommends that the Commission organize the requests into the following five categories. Evergy requests that the Commission create an AAO for four categories of items: (1) direct-COVID-19 costs (Issues 3.b, 3.d, 3.e); (2) revenues that Evergy earned but didn't collect (Issues 3.a and 3.c); (3) lost or unearned revenue (Issue 3.f); and (4) a catch-all request for any other costs or expenses (Issue 3.h). Fifth, there are two sub-issues that the Commission only has to address if the Commission first allows the creation of an AAO (Issues 3.h and 3.i). Since each category has its own set of considerations, it would streamline and ease the burden on the Commission to group similar requests together.

Accordingly, Sierra Club has organized its position statement under each of these five categories.

If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with the COVID-19 pandemic, what expenses (or incurred costs) directly related to pandemic should be deferred?

- Issue 3.b** **Costs incurred in connection with the one- and four-month Pandemic payment plan incentives that the Commission permitted the Company to implement in Case No. EO-2020-0383 (including credits awarded as incentives and costs related to customer communications)?**
- Issue 3.d** **Information technology-related costs incurred to enable employees to work from home, including hardware, licensing fees and connectivity costs?**
- Issue 3.e** **Costs incurred to protect employees unable to work from home, including cleaning supplies, personal protective equipment, temperature testing, employee sequestration preparation (and employee sequestration if that becomes necessary)?**

Sierra Club Position:

Sierra Club did not file testimony on Issues 3.b, 3.d, or 3.e but reserves the right to base a final position on the evidence presented at hearing.

If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with the COVID-19 pandemic, what earned but uncollected revenue should be deferred?

- Issue 3.a** **Uncollectible expense in excess of amounts included in rates in the most recent general rate cases of Evergy Missouri Metro and Evergy Missouri West, respectively?**
- Issue 3.c** **Waived late payment fees / reconnection fees to the extent that they fall short of the amount included in rates?**

Sierra Club Position:

Sierra Club did not file testimony on Issues 3.a or 3.c but reserves the right to base a final position on the evidence presented at hearing.

If the Commission determines that an AAO or other deferral accounting mechanism could be ordered in connection with the COVID-19 pandemic, should revenue not earned or lost as a result of reduction in electric usage during the Pandemic be deferred?

Issue 3.f Lost revenues associated with the reduction of electric usage during the Pandemic? As an alternative, should the Commission order the deferral of pandemic-related lost fixed cost recovery due to the pandemic?

Sierra Club Position:

The Commission should not create an AAO or other deferral accounting mechanism for unearned or lost revenue for seven reasons. First, as Sierra Club witness Cheryl Roberto detailed, unearned income does not qualify as a regulatory asset under the Uniform System of Accounts. While Evergy makes much in its application of the extraordinary nature of the COVID-19 pandemic, the question of “extraordinary” only goes to whether the timing of an accounting claim can be moved to another reporting period. Evergy never addresses the threshold issue under the Uniform System of Accounts, which is whether unearned revenue is a recordable accounting item. Unlike the claims Evergy has made for “its actual reasonable and prudently incurred costs related to the COVID-19 pandemic,” selling less electricity than expected to commercial and industrial customers is not an incurred cost and would not “otherwise be charged to expense.” Nor can disappointing sales be construed to be “specific revenues, expenses, gains, or losses that would have been included in net income determination” under the Uniform System of Accounts because sales that never occurred would never have been included in a net income determination.

Second, even if lost or unearned revenue resulting from lower than anticipated sales was a recordable accounting item pursuant to the Uniform System of Accounts, Evergy has made no claim of net financial harm related to lost or unearned revenue to demonstrate the significance of the impact, as required by the Uniform System of Accounts General Instruction No. 7 (discussed above under Issue 1.a).

Third, the Missouri Public Service Commission has never permitted a utility to create a utility asset for lost or unearned revenue. Disappointing sales do not qualify for treatment as a regulatory asset under the governing accounting rules or as applied in Missouri.

Fourth, the balance of equities demonstrates that the Commission should not allow deferred accounting for lost revenue. Evergy's customers have no obligation to insulate Evergy from the economic impact of the COVID-19 pandemic. Missouri businesses and local governments are struggling through the impact of COVID-19 or going out of business altogether, and Missouri residents are experiencing lost paychecks. On the other hand, as Sierra Club witness Cheryl Roberto documented, Evergy has reported to its investors that its financial performance for the second quarter of this year was even better than last year's second quarter. By all appearances, Evergy is in a better position to absorb any potential impact to earnings than its customers who largely face more difficult choices.

Fifth, Missouri regulation places the risk of volumetric electricity sales variation squarely with the utility. The Commission authorized Evergy's return on equity under circumstances that included this allocation of risk. If the risk had been allocated to customers, the Commission would have necessarily reduced the return on equity granted to Evergy to account for the reduction in risk to Evergy's investors.

Sixth, best utility regulation practice is for Commissions to recognize the distinction between expenses, foregone revenue, and unearned revenue. Commissions employing this best practice uniformly deny utility requests to create a regulatory asset for unearned (lost) revenue due to COVID-19.

Seventh, as Sierra Club witness Cheryl Roberto notes, Evergy, as a grantee of the public franchise authorizing the monopoly opportunity and obligation to serve, has a public benefit

obligation that requires that it can and should do better than seek to be insured for earnings disappointment by their customers, who are also suffering.

Finally, Evergy includes an alternative request in its surrebuttal testimony—recovery of lost fixed costs. Evergy’s application does not request lost fixed-cost recovery, and the Company presents the concept only in surrebuttal testimony. Because the request wasn’t presented until surrebuttal testimony, parties weren’t given the opportunity to present evidence regarding why the Commission should deny such a request.

Evergy’s tardy request, however, would fail for some of the same reasons that lost revenues aren’t appropriate for an AAO or deferral accounting. For instance, Evergy has not provided a single witness who has testified that Evergy has not been able to recover its fixed costs. As Sierra Club Witness Cheryl Roberto has testified:

Evergy has made no effort to quantify the impact of disappointing industrial and commercial sales on its ability to recover its fixed costs. It has not acknowledged or attempted to quantify the contribution to fixed costs that commercial and industrial customers make each month through demand charges or customer charges regardless of the volume of energy they consume. While Evergy does acknowledge that it enjoyed residential sales higher than anticipated, it does not acknowledge or attempt to quantify the over-contribution residential customers are making to fixed costs. By the nature of regulatory rate design, these residential customers have over-contributed (or paid more than their share) to fixed costs due to this unanticipated increase in electricity usage.²

Evergy concedes the formula it presents is only an approximation of fixed costs. It is actually a gross generalization that obscures the fact that fixed-cost recovery varies by rate class; and that the rate classes have responded very differently to COVID-19. Without such information, Evergy has failed to show that it has suffered an actual negative impact and that it was material or significant.

² Cheryl Roberto Rebuttal Testimony at pp. 9:17 – 10:2; *see also, id. at 10:3-8.*

In addition, Missouri regulation places the risk of volumetric electricity sales variation (and all revenues above the variable costs help defray fixed costs) squarely with the utility. Because the Commission authorized Evergy's return on equity under circumstances that included this allocation of risk, a reallocation of this risk to customers would necessitate a reduced return on equity granted to Evergy. Therefore, Sierra Club opposes the creation of an AAO or other deferred accounting mechanism for Evergy's attempted lost fixed-cost recovery.

Finally, Sierra Club reserves the right to supplemental its position on this newly introduced theory based on the evidence presented at hearing.

If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with the COVID-19 pandemic, are there any other expenses (or costs) that should be deferred?

Issue 3.g Other incremental costs or other unfavorable financial impacts resulting from the Pandemic not presently identified?

Sierra Club Position:

Evergy's application does not identify any other incremental costs or unfavorable impacts resulting from the pandemic, and its supporting evidentiary testimony also does not support such a claim. Sierra Club opposes the creation of an AAO or other deferred accounting mechanism for unknown and unidentified costs that aren't supported by record evidence.

If the Commission orders the creation of an AAO or other deferral accounting mechanism for any of the costs, earned but not collected, and unearned income above, what pandemic-related savings should be booked as a regulatory liability or included as an offset to the regulatory asset related to the pandemic-financial impacts and how should carrying costs be handled?

Issue 3.h What pandemic-related savings should be booked as a regulatory liability or included as an offset to the regulatory asset related to the pandemic- financial impacts?

Issue 3.i Should carrying costs be excluded during the deferral period and be considered for inclusion in rates in Evergy’s next general rate case?

Sierra Club Position:

Sierra Club did not file testimony on Issue 3.h or 3.i but reserves the right to base a final position on the evidence presented at hearing. However, if the Commission creates an AAO or other deferral accounting mechanism for any costs discussed above, the Commission should offset the costs of the regulatory asset with pandemic-related savings (Issue 3.h) to ensure that rates are fair, just, and reasonable.

Issue 4. Should the Commission adopt a sunset provision in connection with the AAO and, if so, how should it be structured? Should any sunset provision include the opportunity for the AAO to be extended?

Sierra Club Position:

Sierra Club did not file testimony on this issue but reserves the right to base a final position on the evidence presented at hearing.

Issue 5. If the Commission adopts an AAO for some or all of the costs and revenues associated with the COVID-19, should the Commission order periodic reporting of information associated with the deferral? If so, what information should be reported and how often?

Sierra Club Position:

Sierra Club did not file testimony on this issue but reserves the right to base a final position on the evidence presented at hearing.

Issue 6. Should the Commission adopt the recommendations of NHT related to extension of the moratorium on nonpayment service disconnections, arrearage management programs, long-term payment deferment plans, expansion of the Economic Relief Program, income-eligible energy efficiency plans, suspend credit reporting, suspend disconnection and reconnection fees, or other customer programs?

Sierra Club Position:

Sierra Club did not file testimony on this issue but reserves the right to base a final position on the evidence presented at hearing. However, Sierra Club has reviewed NHT's testimony and believes that extending and expanding customer protection programs, including the moratorium on disconnections for nonpayment, arrearage management programs, long-term payment deferment plans, Economic Relief Programs, suspension of credit reporting and reconnection fees, and income-eligible energy efficiency programs, would serve the public interest in Missouri. Over 99,000 Missourians have tested positive for the coronavirus, with over 1,700 of them losing their lives, and over 81,000 Missourians are still unemployed. The financial cliff that persons living paycheck-to-paycheck avoided prior to the COVID-19 pandemic is now unavoidable, with utility, rent, and other bills coming due. School and childcare closures, job furloughs, permanent job losses, and COVID-19-related health issues are just some of the crises low-income families, in particular, have experienced and still continue to experience. It is within this context of suffering across Missouri that the Commission should view these issues. Whether in this Docket, Docket AW-2020-0356, or another docket, the Commission should pick up the mantle and look to create a program for Evergy customers that can relieve the economic pressure, which will allow Missourians to rebound from the financial fallout of this pandemic while maintaining access to utility service essential to slowing the spread of the disease and to protecting public health.

Issue 7. Should the Commission adopt any of the customer-specific recommendations of OPC including: 1) waiving disconnection and reconnection fees; 2) ceasing full credit reporting; 3) waiving late payment fees and deposits; 4) expanding payment plans to 12 months or greater; and 5) establishing an arrearage matching program, dollar-for-dollar on bad debt for eligible customers.

Sierra Club Position:

Sierra Club did not file testimony on this issue but reserves the right to base a final position on the evidence presented at hearing. However, Sierra Club has reviewed OPC's testimony and believes that extending and expanding customer protection programs, including waiving disconnection and reconnection fees, ceasing full credit reporting, waiving late payment fees and deposits, expanding payment plans for at least 12 months, and establishing an arrearage matching program, would serve the public interest in Missouri, for the same reasons mentioned in Issue 7, above.

Issue 8. What, if any, other conditions should the Commission adopt in connection with the AAO?

Sierra Club Position:

Sierra Club did not file testimony on this issue but reserves the right to base a final position on the evidence presented at hearing.

Respectfully submitted,

/s/ Henry B. Robertson

Henry B. Robertson
Great Rivers Environmental Law Center
319 N. 4th St., Suite 800
St Louis, MO 63102
314-231-4181
hrobertson@greatriverslaw.org

Kristin Henry
Managing Attorney
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
415-977-5716
kristin.henry@sierraclub.org

Sunil Bector
Staff Attorney
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
415-977-5759
sunil.bector@sierraclub.org

Counsel for Sierra Club

Dated: September 16, 2020

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS on this 16th day of September, 2020, with notice of the same being sent to all counsel of record.

/s/ Kristin Henry _____