

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its Office in Jefferson City, Missouri on the 8th day of July, 2021.

In the Matter of the Request of The Empire District)
Electric Company d/b/a Liberty for Authority to File)
Tariffs Increasing Rates for Electric Service) **File No. ER-2021-0312**
Provided to Customers in its Missouri Service Area)

ORDER DENYING APPLICATION TO INTERVENE

Issue Date: July 8, 2021

Effective Date: July 8, 2021

The Empire District Electric Company d/b/a Liberty submitted tariff revisions on May 28, 2021, to implement a general rate increase for electric service. The Commission issued an order suspending those tariff revisions, directing notice, delegating authority, scheduling a prehearing conference, and setting a deadline of June 22, 2021, for requests to intervene.

On June 14, 2021, Evergy Missouri Metro and Evergy Missouri West (collectively “Evergy”) filed an application to intervene. On June 22, 2021, the Office of the Public Counsel (OPC) filed a pleading opposing Evergy’s application to intervene. OPC argues that Evergy’s application to intervene fails to satisfy the requirements of Commission Rule 20 CSR 4240-2.075.

OPC’s opposes Evergy’s application to intervene because it does not disclose Evergy’s interest in in this case as required by Commission Rule 20 CSR 4240-2.075(2)(E). OPC asserts that because there is no statement of Evergy’s interest in this case, there is nothing from which the Commission can find that Evergy’s interest is

different from the general public and may be adversely affected by a final order as required by Commission Rule 20 CSR 4240-2.075(3)(A).

OPC also asserts that Evergy's claim that it will assist in creating a record for the Commission's decision does not serve the public interest, because the automatic parties in this case (Liberty, the Commission's Staff, and OPC) will create a sufficient record. OPC states that Evergy can raise issues in its own cases, or in a general rulemaking, workshop, or other general proceedings before the Commission.

OPC adds that allowing Evergy to intervene in this case would allow it to oppose settlements and complicate proceedings, which could slow and hamper an already large, contested proceeding.

Evergy filed a response to OPC's opposition on July 1, 2021. Evergy states that as a public utility in the State of Missouri it has an interest in regulatory and ratemaking policies that is different from the general public. Evergy asserts that any rate case has the potential to establish regulatory policies that may adversely affect Evergy in the future. Evergy's interest in this particular case relates to the inclusion of renewable facilities in rate base, the retirement of Liberty's coal-fired plant, and Plant-In-Service-Accounting (PISA). Evergy's concern is that the Commission may issue an order in the Liberty rate case that will establish the regulatory and ratemaking policy for renewable energy facilities, coal-fired facility retirements, and PISA accounting issues that will then be followed in future Evergy rate cases.

Applications to intervene are governed by Commission Rule 20 CSR 4240-2.075, which states in relevant part:

(2) A motion to intervene or add new member(s) shall include:

(E) A statement of the proposed intervenor's or new member's interest in the case and reasons for seeking intervention or to be added; and

(F) A statement as to whether the proposed intervenor or new member supports or opposes the relief sought or that the proposed intervenor or new member is unsure of the position it will take.

(3) The commission may grant a motion to intervene or add new member(s) if—

(A) The proposed intervenor or new member(s) has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

As a public utility, Evergy may have an interest in this rate case that differs from that of the general public, but it has not articulated an interest that may be adversely affected by a final order in this case. This rate case does not establish regulatory policy as Evergy suggests, and any order in this case would not be binding on this or any future Commission when making decisions regarding Evergy's expressed areas of concern. Therefore, Commission Rule 20 CSR 4240-2.075(3)(A) does not justify allowing Evergy to intervene.

The question then becomes, would granting the proposed intervention of Evergy serve the public interest? Evergy asserts that its participation will assist in creating a complete and robust record for the Commission to decide rate case issues. However, there are a sufficient number of experienced parties in this case to ensure a complete record from which the Commission can make a decision. As a result, the public interest would not be served by allowing Evergy to participate in Liberty's rate case under Commission Rule 20 CSR 4240-2.075(3)(B). If Evergy wants to be heard on some item

of interest to the larger utility community, it may seek leave to file an amicus brief to bring its concerns to the Commission's attention.

The Commission will deny Evergy's application to intervene.

THE COMMISSION ORDERS THAT:

1. Evergy Missouri Metro and Evergy Missouri West's application to intervene is denied.
2. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Coleman, Holsman, and
Kolkmeier, CC., concur.
Rupp, C., dissents.

Clark, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 9th day of July, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 9, 2021

File/Case No. ER-2021-0312

Missouri Public Service Commission

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@psc.mo.gov

Evergy Missouri Metro

James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 65101
jfisherpc@aol.com

Evergy Missouri Metro

Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@evergy.com

Evergy Missouri West

James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 65101
jfisherpc@aol.com

Evergy Missouri West

Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@evergy.com

Liberty (Empire)

Diana C Carter
428 E. Capitol Avenue, Suite 303
Jefferson City, MO 65101
Diana.Carter@LibertyUtilities.com

Liberty (Empire)

Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Liberty (Empire)

Sarah Knowlton
116 North Main Street
Concord, NH 03301
sarah.knowlton@libertyutilities.com

Midwest Energy Consumers Group

David Woodsmall
308 E. High Street, Suite 204
Jefferson City, MO 65101
david.woodsmall@woodsmalllaw.com

Missouri Public Service Commission

Nicole Mers
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
nicole.mers@psc.mo.gov

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.