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BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

FILE NO. EU-2020-0350

REBUTTAL TESTIMONY OF CHERYL ROBERTO

ON BEHALF OF SIERRA CLUB

August 17, 2020

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LIST OF ATTACHMENTS

Attachment CR 1: Resume of Cheryl Roberto

I. INTRODUCTION AND QUALIFICATIONS

Q Please state your name, title, and employer.

A My name is Cheryl Roberto. I am employed by Synapse Energy Economics, Inc. as a Senior Principal. My business address is 485 Massachusetts Avenue, Cambridge, MA 02139.

Q Please describe Synapse Energy Economics.

A Synapse Energy Economics is a research and consulting firm specializing in electricity industry regulation, planning, and analysis. Synapse works for a variety of clients, with an emphasis on consumer advocates, regulatory commissions, and environmental advocates.

Q Please summarize your professional and educational experience.

A For more than 30 years I have managed, regulated, or guided the operation of utilities and regulatory policy related to public utilities. From 2008 until 2012, I served as a Commissioner of the Public Utilities Commission of Ohio ("PUCO"), where I initiated a national pilot partnership with the U.S. Department of Energy to support cost-effective deployment of combined heat and power systems. I served as Co-Chair of the 2012 National Electricity Forum. As a member of the National Association of Regulatory Utility Commissioners ("NARUC"), I served on the Task Force on Environmental Regulation and Generation, the Committee on Electricity, and Vice Chair of the Committee on Critical Infrastructure. Immediately after my service as a Commissioner, I led a nation-wide program advocating for regulatory reform as Associate Vice President of the Environmental Defense Fund's Clean Energy Program. The goal of the program was accelerating the adoption of renewable energy technologies; modernizing U.S. energy infrastructure; and eliminating financial and regulatory barriers that prevent widespread implementation of renewables, energy efficiency, and innovative energy generation and distribution approaches. Prior to my service as a Commissioner, I led the Department of Public Utilities for the City of Columbus as its Director, serving, with a staff of 1,300, the 1.1 million residents of the

Central Ohio region. From 1987 through 2000, I practiced law as an Assistant Attorney General in Ohio, Assistant Counsel in Pennsylvania, and Assistant City Attorney in Columbus, Ohio. I hold a B.A. in Political Science from Kent State University, and a J.D. from the Moritz College of Law at The Ohio State University. My resume is attached hereto as Attachment CR-1.

Q On whose behalf are you testifying in this case?

A I am appearing on behalf of Sierra Club.

Q Have you testified previously before the State of Missouri Public Service Commission?

A No, I have not.

Q Have you testified previously before any other tribunals?

A Yes. I have previously appeared before the Federal Energy Regulatory Commission ("FERC") and the U.S. Senate Energy and Natural Resources Committee. I have also provided testimony before the Public Utilities Commission of Ohio, the Indiana Utility Regulatory Commission, and the Colorado Public Utilities Commission.

Q What is the purpose of your testimony?

A I have been retained by Sierra Club to review the request by Evergy Metro, Inc. and Evergy Missouri West, Inc. ("Evergy") for authority to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic.[1] I have not been requested to review any other portions of Evergy's application.

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[1] Application of Evergy Metro, Inc. and Evergy Missouri West, Inc. For Accounting Authority Order Related to COVID-19 Costs And Financial Impact, May 6, 2020, State of Missouri Public Service Commission File No. EU-2020-0350, *In Re: 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* ("Application").

Q **Have you testified previously on the topic of lost revenues related to the COVID-19 pandemic?**

A Yes. I testified in a proceeding before the Indiana Utility Regulatory Commission. As I will discuss later in my testimony, the Indiana Utility Regulatory Commission ultimately issued a ruling consistent with my recommendations in that proceeding.[2]

Q **What materials did you rely on to develop your testimony?**

A The sources for my testimony are public documents and industry literature, as well as my personal knowledge and experience.

Q **Did you prepare or direct the preparation of this testimony?**

A Yes.

Q **How is your testimony organized?**

A I have organized my testimony as follows:

I. Introduction and Qualifications

II. Summary of Conclusions and Recommendations

III. Evergy's Application to Defer "Lost Revenue"

IV. Accounting Considerations

V. Regulatory Considerations

VI. Recommendation

[2] Verified Affidavit of Cheryl Roberto, June 10, 2020, Indiana Utility Regulatory Commission Cause Nos. 45380 and 45377, *In Re: Petition of Indiana Office of Utility Consumer Counselor for Generic Investigation into COVID-19 Impacts and Verified Joint Petition.*

II. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Q Please summarize your conclusions regarding Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic."

A My primary conclusions regarding Evergy's request to defer as a regulatory asset lost revenue are as follows:

- Lost or unearned revenue resulting from lower than anticipated sales is not an accounting item that can be recorded under either the Uniform System of Accounts or Financial Accounting Standards Board ("FASB"), which govern Evergy's accounting requirements.
- Even if unearned revenue were construed to be recordable, Evergy's request for a deferral does not comport with the requirements of the Uniform System of Accounts and FASB. If an item does meet the threshold of recordable, such as prudently incurred costs, then it must next meet the test established in General Instruction No. 7 to qualify as a regulatory asset. That is, to be extraordinary, it must be of "significant effect." Evergy has made no claim of net financial harm related to unearned revenue (or any of its other claims for that matter). 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.
- 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 Missouri practice or precedent.
- 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.

- Best utility regulation practice is for Commissions and staff 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.

- Evergy has the regulatory option to file a rate case to update its authorized revenue requirement and its expected sales. Evergy could even seek on a forward-looking basis some rebalancing of the volumetric risk it faces when sales vary, but this should also include an updating of its authorized return on equity because it would change its investors' risk profile.

- A Commission evaluating a request by a utility to create a regulatory asset for unearned revenue due to COVID-19 should consider a balance of the equities. Nothing in regulatory policy implies an obligation for utility customers to insulate utility investors from their earnings disappointment. The Missouri Commission has been explicit about this.[3] Missouri businesses and local governments are struggling through the impact of COVID-19 on their own or going out of business altogether.[4] Economically, Missouri residents are experiencing lost paychecks.[5] Meanwhile, 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.[6] By all appearances, Evergy is in a better position to absorb any potential impact to earnings than their customers who largely face more difficult choices.

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[3] *See* discussion *infra* regarding the Noranda plant.

[4] Application, p. 4, paragraph 12; Ives, pp. 7- 9, lines 12-2.

[5] Application, p. 5, paragraph 14.

[6] "Evergy Announces 2020 Second Quarter Results," August 5, 2020, Press Release. https://investors.evergy.com/static-files/f46132b2-aa40-4932-9b46-9c0f8532008a

- As a grantee of the public franchise authorizing the monopoly opportunity and obligation to serve, Evergy has a public benefit obligation that requires that it can and should do better than seek to be insured against shareholder earnings disappointment at the cost of its customers, who are also suffering.

Q Please summarize your recommendation regarding Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic."

A I recommend that the Commission deny Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic" because it:

- Fails to comply with the governing accounting standards as codified in the Uniform System of Accounts and to the accounting standards promulgated by the FASB;
- Is inconsistent with Missouri precedent and practice;
- Would arbitrarily transfer the risk of volumetric sales from the utility's investors to its customers while still compensating the utility's investors for this risk through the authorized rate of return on equity, thereby improperly insulating Evergy's investors from the economic risk they assumed;
- Does not meet best regulatory practice as evidenced by the emerging treatment of lost or unearned revenues throughout the United States;
- Ignores the fact that Evergy has a reasonable regulatory alternative in that it could file a rate case; and
- Undermines Evergy's public benefit obligation, which requires that Evergy can and should do better than seek to be insured for earnings disappointment by its customers, who are also suffering.

III. EVERGY'S APPLICATION TO DEFER "LOST REVENUE"

Q What has Evergy requested in its application regarding "lost revenue"?

A Evergy has requested that the Commission grant authority for it "to accumulate and defer to a regulatory asset for consideration of recovery in future rate cases … all extraordinary costs and financial impacts incurred as a result of the coronavirus disease ("COVID-19") pandemic."[7] With regard to "lost revenue" specifically, Evergy included a request for accounting authority order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic."[8]

Q What is the "lost revenue" Evergy seeks to defer in a regulatory asset?

A In Evergy's last rate cases, the Commission identified the revenue required to provide Evergy an opportunity to recover its fixed costs, variable costs, and to earn a reasonable return on investment or profit for providing electricity to its customers. This is known as the utility's revenue requirement. The Commission set rates, based upon Evergy's projected levels of sales, to collect Evergy's authorized revenue requirement. Because of the COVID-19 health emergency, Evergy reports that it has sold less electricity than predicted to commercial and industrial customers. The "lost revenue" Evergy seeks to defer in a regulatory asset is the money that Evergy expected to earn from the sale of electricity to its customers for the opportunity to cover its fixed costs, variable costs, and profit but that it did not earn because customers used less electricity than anticipated. Because I find it clearer and more accurate to describe this revenue as unearned revenue, I will use that term hereinafter.

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[7] Application, pp. 1 and 3, Introduction and paragraph 9.

[8] Application, pp. 12-13, paragraph 36; Direct Testimony of Ronald A. Klote on behalf of Evergy Metro, Inc. D/B/A Evergy Missouri Metro and Evergy Missouri West, Inc. D/B/A/ Evergy Missouri West, July 2020 ("Klote"), pp. 4 and 5, lines 4 and 10.

Q How does Evergy propose to calculate unearned revenue related to the COVID-19 pandemic?

A According to testimony from Evergy Witness Mr. Klote:

> Beginning in March 2020, actual billed monthly base retail revenue for residential, commercial and industrial classes will be compared to monthly revenues determined in the last general rate case for residential, commercial and industrial classes. In addition, actual billed monthly base retail revenue will include the following adjustment:
>
> - An adjustment to weather-normalize actual-monthly-billed sales will remove the effects of weather impacting revenue levels;
> - An adjustment for reductions in billed monthly sales revenue recovered through the Missouri Energy Efficiency Investment Act ("MEEIA") throughput disincentive;
> - An adjustment for any new special, contract customer related load since the last general rate case order; and
> - An adjustment to eliminate the impact of customer growth that is not associated with the pandemic and not included in the last general rate case for Evergy Missouri Metro and Evergy Missouri West, respectively.[9]

Q What is the significance of the "adjustments" Evergy proposes to make to the revenue it has earned?

A Evergy is requesting that the Commission authorize it to record the difference between the revenue it has earned and the revenue it hoped to earn but did not, as a result of lower sales to commercial and industrial customers; but in counting the revenue it has earned, Evergy plans first to subtract the sales it is making to special contract customers and other customers who became customers after Evergy's last rate case. The significance of Evergy excluding revenue earned from sales to special contract customers and other customers who became customers since Evergy's last rate case is that Evergy will be able keep these

[9] Klote, p. 8, lines 1-14.

additional revenues without crediting customers for all of the actual sales that occurred. When Evergy later seeks to recover from customers the difference between actual and expected sales, the revenue gap Evergy claims will be larger than the gap Evergy experienced.

Q What evidentiary support does Evergy offer for its request to record unearned revenue?

A Evergy offers that business contractions and closures within its service territory as a result of the pandemic "have reduced Evergy's revenues substantially and will continue to do so for an unknown period of time."[10] Evergy reports that total retail load was down for April and May.[11] Industrial and commercial loads have decreased,[12] but residential sales are up as a result of more people working from home.[13] Evergy also references various Energy Information Administration predictions that nation-wide electricity consumption will be reduced for the remainder of the year.[14]

Q Did Evergy quantify the impact of disappointing industrial and commercial sales on its ability to recover its fixed costs?

A No. 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

[10] Application, p. 4, paragraph 12.

[11] Ives, p. 10, lines 11-12.

[12] Direct Testimony of Darrin R. Ives on behalf of Evergy Metro, Inc. D/B/A Evergy Missouri Metro and Evergy Missouri West, Inc. D/B/A/ Evergy Missouri West, July 2020 ("Ives"), p. 7, line 12.

[13] Klote, p. 9, lines 9-11; Ives, p. 14, lines 4-5.

[14] Ives, pp. 10-11, lines 17-6.

residential customers have over-contributed (or paid more than their share) to fixed costs due to this unanticipated increase in electricity usage.

Q What is the significance of Evergy's ability to recover its fixed costs?

A Fixed costs represent the expenses incurred by Evergy regardless of how much electricity its customers use. Revenue from sales provides Evergy the opportunity to recover its fixed costs, variable costs, and profit. If Evergy operates prudently when its sales are lower than expected, the only expense it should experience is its fixed costs.

Q Did Evergy quantify savings or avoidable variable costs due to the COVID-19 related to reduced sales to commercial and industrial customers?

A No. Evergy does note that reductions in fuel costs resulting from the decreased load during the pandemic will eventually flow through to customers through Evergy's fuel adjustment clause,[15] but it does not otherwise identify or quantify any other variable or avoidable expenses associated with reduced load such as operations and maintenance that it could experience.

Q Does Evergy claim to have taken any action to mitigate financial impacts of the disappointing commercial and industrial sales?

A No. Evergy has not indicated that it has considered or explored any actions that may be available to mitigate the financial impacts of disappointing commercial and industrial sales.

Q What types of measures might Evergy consider to mitigate financial impacts of the disappointing commercial and industrial sales, particularly if reduced sales will continue, as Evergy suggests?

A Evergy could look for opportunities to optimize its fleet considering the new load profiles. It could examine whether there are opportunities to economize by identifying which resources are most cost-effective to operate or procure under these new conditions. Additionally, Evergy could investigate whether it could reduce its costs of capital by refinancing higher cost debt, taking advantage of

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[15] Application, pp. 11-12, paragraph 34.

lower interest rates resulting from the economic response to COVID-19.[16] It could also investigate assistance through the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Q Does Evergy provide an overall quantification of the net financial impact from COVID-19 related to reduced commercial and industrial sales?

A No. Evergy has not even claimed, let along quantified, a net financial impact due to the disappointing commercial and industrial sales. Considering over-contribution of fixed costs by residential customers, continued contribution of fixed costs through demand charges by commercial and industrial customers, increased sales from new special contract customers and load growth, potential O&M savings or other avoidable variable non-fuel costs, and the potential that Evergy might be able to reduce its capital costs, it is not possible to determine from the existing record whether and to what extent Evergy has experienced or will experience a net financial impact from COVID-19 related to reduced commercial and industrial sales.[17]

Q Please summarize Evergy's request for accounting authority to create a regulatory asset for the revenue it did not earn due to lower than expected sales to commercial and industrial customers?

A Evergy seeks to defer in a regulatory asset the money that Evergy expected to earn from the sale of electricity to commercial and industrial customers but that it did not earn because the customers used less electricity than anticipated due to the COVID-19 pandemic. Evergy supports this request with reduced retail sales figures from April and May and generic reports from the Energy Information Agency that predict nation-wide electricity sales will be lower than expected. Evergy has not claimed, let along quantified, a net financial impact due to the

[16] *See generally* Cheng Jeffrey, Dave Skidmore, David Wessel, Jun 19, 2020, *What's the Fed doing in response to the COVID-19 Crisis? What more could it do?* Brookings Institute. https://www.brookings.edu/research/fed-response-to-covid19/.

[17] We do know, however, from Evergy's report to investors that at the conclusion of the second quarter of 2020 it is doing better than it did during the COVID-19-free second quarter of 2019. See "Evergy Announces 2020 Second Quarter Results," August 5, 2020, Press Release. https://investors.evergy.com/static-files/f46132b2-aa40-4932-9b46-9c0f8532008a.

disappointing commercial and industrial sales. Evergy has not indicated that it has considered or explored any actions that may be available to mitigate the financial impacts of disappointing commercial and industrial sales. In calculating the difference between what it earned and what it expected to earn, Evergy plans to subtract revenue it has earned from sales to special contract customers and other customers who became customers after Evergy's last rate case. The likely result will be that when Evergy later seeks to recover from customers the difference between actual and expected sales, the revenue gap Evergy claims will be larger than the actual gap Evergy experiences. In sum, Evergy is requesting an accounting order that it will ultimately use to seek an order from the Commission requiring Evergy's customers to pay Evergy for electricity it never sold or delivered, without providing any quantification of the net financial harm it has experienced.

IV. ACCOUNTING CONSIDERATIONS

Governing Accounting Standards

Q What are the governing accounting standards applicable to Evergy's request for recognition of a deferral to a regulatory asset?

A Evergy's request to accumulate and defer unearned revenue to a regulatory asset for consideration of recovery in future rate cases is subject to requirements of the Uniform System of Accounts and to the accounting standards promulgated by the FASB. Missouri has adopted the Uniform System of Accounts prescribed by the FERC for major electric utilities, which provides instruction for recording financial information about electric utilities.[18] Evergy is also subject to the Securities and Exchange Commission ("SEC") requirement that companies keep their records in accord with the financial accounting and reporting standards

[18] 20 CSR 4240-20.030. See Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, 18 CFR Part 101.

adopted by FASB.[19] Both FERC and SEC require electric utilities like Evergy to maintain their records in compliance with FASB Accounting Standards Codification (ASC) Topic 980, Regulated Operations.[20]

Q What does the Uniform System of Accounts require for creation of regulatory asset?

A The Uniform System of Accounts defines regulatory assets as follows:

> Regulatory Assets and Liabilities are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from **specific revenues, expenses, gains, or losses that would have been included in net income determination** in one period under the general requirements of the Uniform System of Accounts but for it being probable: (A) that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services.[21] (Emphasis added.)

As recently explained by the Missouri Court of Appeals Western District, the Uniform System of Accounts provides, with few exceptions, that net income shall reflect all items in the same reporting period.[22] A regulatory asset is an exception to this timing requirement and is governed by Uniform System of Accounts General Instruction No. 7:

> 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

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[19] Policy Statement: Reaffirming the Status of the FASB as a Designated Private-Sector Standard Setter, modified April 25, 2003, Securities and Exchange Commission, Release Nos. 33-8221; 34-47743; IC-26028; FR-70). https://www.sec.gov/rules/policy/33-8221.htm.

[20] ASC 980 https://asc.fasb.org/topic&trid=2156578; See also Comment Letter No. 7 to FASB, April 22, 2016, Federal Energy Regulatory Commission, p.1. https://www.fasb.org/cs/BlobServer?blobkey=id&blobnocache=true&blobwhere=1175833272031&blobheader=application%2Fpdf&blobheadername2=Content-Length&blobheadername1=Content-Disposition&blobheadervalue2=596826&blobheadervalue1=filename%3DPENS1.ED.0007.FEDERAL_ENERGY_REGULATORY_COMMISSION_BRYAN_K._CRAIG.pdf&blobcol=urldata&blobtable=MungoBlobs.

[21] Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, 18 CFR Part 101, Paragraph 31 (A).

[22] *Office of Public Counsel et al. v. Evergy Missouri West, Inc.*, WD 83319 (W.D. MO, July 28, 2020).

> 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. (In determining significance, items should be considered individually and not in the aggregate. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate. 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.[23] (Emphasis added.)

Q What does FASB require for creation of regulatory asset?

A FASB provides that in order for a utility to create a regulatory asset, it must first have an "incurred cost" that would otherwise be charged to expense.[24] An "incurred cost" is "a cost arising from cash paid out or obligation to pay for an acquired asset or service, a loss from any cause that has been sustained and has been or must be paid for."[25]

Q Does unearned income qualify as a regulatory asset under the Uniform System of Accounts and FASB?

No. Unearned income does not qualify as a regulatory asset under either the Uniform System of Accounts or FASB. 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 both the Uniform System of Accounts and FASB, which is whether unearned revenue is an accounting item that can be recorded at all. 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

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[23] 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.

[24] ASC 980-340-25-1 https://asc.fasb.org/section&trid=2156667#d3e43596-110378.

[25] ASC 980-340-20 https://asc.fasb.org/glossarysection&trid=2156666&id=SL2322129-110378.

commercial and industrial customers is not an incurred cost and would not "otherwise be charged to expense."[26] 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. There is no temporal element to the question of whether unearned revenue can be recorded. (Recall that the extraordinary nature of COVID-19 only relates to timing.) There is no time period in which disappointing sales are recordable under either the Uniform System of Accounts or FASB.

Q If unearned revenue were recordable, would Evergy's request for a deferral comport with the requirements of the Uniform System of Accounts and FASB?

A No. Even if unearned revenue were construed to be recordable, Evergy's request for a deferral does not comport with the requirements of the Uniform System of Accounts and FASB. If an item does meet the threshold of recordable, such as prudently incurred costs, then it must next meet the test established in General Instruction No. 7 and discussed above to qualify as a regulatory asset. That is, to be extraordinary, it must be of "significant effect." As I discuss above, Evergy has made no claim of net financial harm related to unearned revenue (or any of its other claims for that matter). 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. The COVID-19 pandemic can be judged an extraordinary event but Evergy has not claimed, let alone quantified, the significance of the event to its financial health, as required by the Uniform System of Accounts.

[26] ASC Chapter 700 describe expenses, none of which could be construed to include sales that did not occur.

Missouri Accounting Practice and Precedent

Q As an accounting matter, has the Missouri Public Service Commission ever permitted a utility to create a utility asset for unearned revenue?

A No. To the best of my knowledge, the Missouri Public Service Commission has never permitted a utility to create a utility asset for unearned revenue. Evergy acknowledges in its application that "there is not substantial Commission precedent for deferral of lost revenues."[27] Evergy has identified no Missouri precedent for deferral of lost or unearned revenue.

Q You state there is no Commission precedent, but doesn't Evergy Witness Mr. Ives testify that the Missouri Public Service Commission has recognized lost revenue as an extraordinary item that may be deferred?

A One could read Mr. Ives testimony to imply that the Missouri Public Service Commission has recognized lost revenue as an extraordinary item that may be deferred. But a careful reading of his testimony clarifies that this is not the case. In response to a question about Evergy's request to defer lost revenue, Mr. Ives responds that "this Commission has recognized, revenues not collected by a utility can be an extraordinary item that may be deferred and considered for later ratemaking where the utility lost a significant portion of its customer base as a result of a natural disaster."[28] The case Mr. Ives references, however, does not involve lost or unearned revenue. The Commission, in that instance, ruled that "revenue not collected by a utility **to recover its fixed costs** may be deferred and considered for later rate making."[29] (Emphasis added.) In that case, a January ice storm cut power to Ameren's largest customer, Noranda Aluminum. The molten aluminum hardened in two of the three production lines and Noranda's output was

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[27] Application, p. 12, paragraph 35.

[28] Ives, p. 10, lines 6-8.

[29] Report and Order, November 26, 2013, Public Service Commission of the State of Missouri File No. EU-2012-0027, *In Re: Application of Union Electric Company d/b/a Ameren Missouri for the Issuance of an Accounting Authority Order Relating to its Electrical Operations*, p. 3, Conclusion of Law 3.

reduced for most of that year.[30] During this same time, Ameren expended over $35 million dollars in fixed costs to serve Noranda, which represented nearly 8.5 percent of Ameren's net income that year.[31] As I will discuss later, while the Commission permitted the utility to create a regulatory asset for these expended costs, the Commission ultimately denied Ameren recovery of the $35 million in fixed costs.[32]

Conclusions: Accounting Implications

Q What are your conclusions regarding the accounting considerations related to Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic."

A My conclusions regarding the accounting considerations related to Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic" are:

- Lost or unearned revenue resulting from lower than anticipated sales is not an accounting item that can be recorded under either the Uniform System of Accounts or FASB, which govern Evergy's accounting requirements.
- Even if lost or unearned revenue resulting from lower than anticipated sales was a recordable accounting item pursuant to the Uniform System of Accounts and FASB, Evergy has made no claim of net financial harm related to lost or

[30] Report and Order, May 12, 2015, Public Service Commission of the State of Missouri File No. ER-2014-0258, *In Re: Union Electric Company d/b/a Ameren Missouri's Tariff to Increase Its Revenue for Electric Service*, pp. 35-36.

[31] Report and Order, November 26, 2013, Public Service Commission of the State of Missouri File No. EU-2012-0027, *In Re: Application of Union Electric Company d/b/a Ameren Missouri for the Issuance of an Accounting Authority Order Relating to its Electrical Operations*, p. 2, Findings of Fact 3 and 4.

[32] Report and Order, May 12, 2015, Public Service Commission of the State of Missouri File No. ER-2014-0258, *In Re: Union Electric Company d/b/a Ameren Missouri's Tariff to Increase Its Revenue for Electric Service*, pp. 41-43.

unearned revenue to demonstrate the significance of the impact, as required by the Uniform System of Accounts General Instruction No. 7.

- 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.

V. REGULATORY CONSIDERATIONS

Allocation of Volumetric Risk

Q Electricity sales volumes go up and down for any number of reasons including weather or customer energy conservation. How does Missouri allocate volumetric risk between the utilities and customers?

A Missouri regulation places the risk of volumetric electricity sales variation squarely with the utility. Electricity utilities do have the opportunity to seek periodic rate adjustments, outside of a general rate case, to account for the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in weather, conservation, or both.[33] However, the Commission has indicated a reluctance to adopt a rate adjustment that includes energy efficiency outside of utility sponsored programs. The Commission has characterized this as an "unreasonably broad" interpretation of conservation that would include any customer decisions or actions that reduce or increase energy consumption.[34] When sales volumes dropped precipitously as a result of the major

[33] Section 386.266.3 RSMo; Amended Report and Order, July 23, 2020, Public Service Commission of the State of Missouri File No. ER-2019-0374, *In Re: The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area,* Conclusions of Law p. 57, paragraph Q.

[34] Amended Report and Order, July 23, 2020, Public Service Commission of the State of Missouri File No. ER-2019-0374, *In Re: The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area,* Findings of Fact pp. 56-57, paragraph 146.

ice storm and resulting damage to the Noranda plant, the Commission found that the risk of lost sales rested solely with the utility's investors:

> When Ameren Missouri chose to provide service to a customer the size of Noranda, it understood that the profits it could earn from the business relationship came with a substantial risk. The risk that Noranda's production would fall and that it would be unable to sell as much electricity as it anticipated was a risk the company's shareholders, who benefit from the profits earned by serving Noranda, should bear. **Ratepayers are not the insurers of Ameren Missouri profits and should not have to bear the risk that those profits are not as great as anticipated because of a drop in production** at Noranda. To now alter the consequences of that drop in production would be to retroactively change the allocation of risk approved by the Commission for the fuel adjustment clause that was in effect at the time.[35] (Emphasis added.)

Q What is the regulatory significance of this allocation of risk?

A Because this is a risk the Commission has allocated to the utility's investors, that risk is one of the factors in setting the utility's return on equity. 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.

Emerging Regulatory Best Practice Regarding COVID-19

Q How have Commissions responded to utility requests to establish a regulatory asset for unearned income?

A Requests by utilities to create a regulatory asset for unearned income are rare relative to requests to create a regulatory asset for COVID-19-related expenses or recovery of earned but uncollected revenue. Trade press reports that regulators are rejecting these claims. [36] After a comprehensive investigation, I could locate only

[35] Report and Order, May 12, 2015, Public Service Commission of the State of Missouri File No. ER-2014-0258, *In Re: Union Electric Company d/b/a Ameren Missouri's Tariff to Increase Its Revenue for Electric Service*, pp. 41-43 (emphasis added).

[36] Penrod, Emma, July 7, 2020, "Regulators reject utility moves to recover revenue lost to COVID-19 as analysts, advocates see trend continuing." *Utility Dive Brief*.

three Commission decisions addressing utility requests relating to lost or unearned revenue. In two of the three, the Commission denied creation of a regulatory asset.[37]

Q Which state Commissions have addressed a utility request to establish a regulatory asset for unearned revenue?

A The three Commissions I identified as having addressed a utility request to establish a regulatory asset for unearned revenue are the Indiana Utility Regulatory Commission, Wisconsin Public Service Commission, and State Corporation Commission of the State of Kansas.

Q You previously referenced that you provided testimony before the Indiana Utility Regulatory Commission regarding the utilities' request to create a regulatory asset for unearned revenue. What was the outcome of that matter?

A The Indiana Utility Regulatory Commission ruled against the request for "lost revenue" in a strongly worded order:

> Finally, with regard to the Joint Utility Petitioners' request for regulatory accounting authority for lost revenues due to customer load reductions, we fail to see how creation of a regulatory asset for lost revenues would be in the public interest under the current circumstances absent a financial emergency to the utility that impacts its ability to provide safe and reliable service. No such financial emergency evidence has been provided here. As the OUCC and other intervenors point out, the Joint Utility Petitioners have provided no demonstration of the financial impact that decreased

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https://www.utilitydive.com/news/regulators-reject-utility-moves-to-recover-revenue-lost-to-covid-19-as-anal/580899/

[37] See Phase I and Interim Emergency Order of the Commission, June 29, 2020, Indiana Utility Regulatory Commission Cause No. 45380, *In re: Verified Joint Petition of Duke Energy Indiana, LLC, Indiana Gas Company D.B.A Vectren Energy Delivery of Indiana, Inc., Indiana Michigan Power Company, Indiana Natural Gas Corporation, Indianapolis Power & Light Company Midwest Natural Gas Corporation, Northern Indiana Public Service Company, LLC, Ohio Valley Gas Corp. and Ohio Valley Gas, Inc., Southern Indiana Gas & Electric Company D/B/A Vectren Energy Delivery of Indiana, Inc., and Sycamore Gas Company for Authority to Defer As Regulatory Asset Certain Incremental Expense Increases and Revenue Reductions*, pp. 8-9. https://iurc.portal.in.gov/legal-case-details/?id=197c5aad-9a93-ea11-a811-001dd8018921 and Supplemental Order, May 14, 2020, Public Service Commission of Wisconsin Docket No. 5-AF-105, *In Re: Accounting Treatment for Utility Costs Incurred Due To and During Declared Public Health Emergency for COVID-19*, p. 7, Order Paragraph 3. https://apps.psc.wi.gov/ERF/ERFsearch/content/searchResult.aspx?UTIL=5&CASE=AF&SEQ=105&START=none&END=none&TYPE=ORD&SERVICE=none&KEY=none&NON=N.

loads are having on utility operations or, more specifically, how such impacts have affected their access to capital markets.[38]

Q How did the Wisconsin Public Service Commission rule regarding the utility request to establish a regulatory asset for unearned revenue?

A The Wisconsin Public Service Commission affirmatively considered but decided against approving declining sales revenue as a component of a regulatory asset for deferral.[39]

Q What was the State Corporation Commission of the State of Kansas' ruling relative to creation a regulatory asset for "lost revenue" associated with reduced sales due to the COVID-19 pandemic?

A The State Corporation Commission of the State of Kansas granted authority to create a regulatory asset for "lost revenue" but did not offer any reasoning for permitting the utility to record unearned revenue that was distinct or separate from the utility's request for cost recovery of pandemic-related expenses.[40] This distinction was not raised by the Commission's staff, which combined incremental costs and lost revenue together and called the pandemic a "textbook example of the type of financial event that should be deferred to a regulatory asset

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[38] Phase I and Interim Emergency Order of the Commission, June 29, 2020, Indiana Utility Regulatory Commission Cause No. 45380, *In re: Verified Joint Petition of Duke Energy Indiana, LLC, Indiana Gas Company D.B.A Vectren Energy Delivery of Indiana, Inc., Indiana Michigan Power Company, Indiana Natural Gas Corporation, Indianapolis Power & Light Company Midwest Natural Gas Corporation, Northern Indiana Public Service Company, LLC, Ohio Valley Gas Corp. and Ohio Valley Gas, Inc., Southern Indiana Gas & Electric Company D/B/A Vectren Energy Delivery of Indiana, Inc., and Sycamore Gas Company for Authority to Defer As Regulatory Asset Certain Incremental Expense Increases and Revenue Reductions*, pp. 8-9. https://iurc.portal.in.gov/legal-case-details/?id=197c5aad-9a93-ea11-a811-001dd8018921.

[39] Supplemental Order, May 14, 2020, Public Service Commission of Wisconsin Docket No. 5-AF-105, *In Re: Accounting Treatment for Utility Costs Incurred Due To and During Declared Public Health Emergency for COVID-19*, p. 7, Order Paragraph 3. https://apps.psc.wi.gov/ERF/ERFsearch/content/searchResult.aspx?UTIL=5&CASE=AF&SEQ=105&START=none&END=none&TYPE=ORD&SERVICE=none&KEY=none&NON=N.

[40] Order Approving Application For Accounting Authority, July 7, 2020, Corporation Commission of the State of Kansas Docket No. 20-EPDE-427-ACT, *In Re: Application of The Empire District Electric Company for an Accounting Order Allowing The Empire District Electric Company to Record and Preserve Costs and Lost Revenues Related to the COVID-19 Virus*, p. 6, Order paragraph A. https://estar.kcc.ks.gov/estar/ViewFile.aspx/20200709104238.pdf?Id=00b96e3d-29c4-498c-a867-bc332e3418d8.

in order to be considered for inclusion in rates in the next rate case."[41] The only intervenor to the action, the Citizens' Utility Ratepayer Board ("CURB") also failed to note the distinction between expenses incurred and unearned revenue.[42] At no point did the Commission have the benefit of relying on a record that recognized the distinction between actual expenses incurred, which may be a regulatory asset, and revenue unearned, which cannot be a regulatory asset.

Q Evergy Witness Ives testified that the Iowa Utilities Board and the Connecticut Regulatory Authority granted or indicated a willingness to consider granting deferral accounting for lost revenues caused by COVID-19. Do you agree with his assessment of these orders?

A No. I disagree with Mr. Ives' reading of these orders. Mr. Ives has failed to distinguish unearned revenue from earned but not collected revenue (or foregone revenue). The Iowa order relates to the Commission's extension of its winter disconnection moratorium. While the ordering paragraph does state "rate-regulated utilities may utilize a regulatory asset account to track the increased expenses and other financial impacts, including revenue change, incurred after March, 1, 2020,"[43] this sentence must be read in context. The remainder of the order directs the utilities to file reports with the following information:

> (a) All reporting categories separated by residential, commercial, and industrial customer classes in addition to the totals reported for all classes.

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[41] Notice of Filing of Staff's Report and Recommendation, May 20, 2020, Corporation Commission of the State of Kansas Docket No. 20-EPDE-427-ACT, *In Re: Application of The Empire District Electric Company for an Accounting Order Allowing The Empire District Electric Company to Record and Preserve Costs and Lost Revenues Related to the COVID-19,* Notice and p. 3. https://estar.kcc.ks.gov/estar/ViewFile.aspx/S20200520163710.pdf?Id=c278ef17-ad84-4b9d-95f0-ee4ef78c6934.

[42] CURB'S Response to Staff's Report and Recommendation, May 27, 2020, Corporation Commission of the State of Kansas Docket No. 20-EPDE-427-ACT, *In Re: Application of The Empire District Electric Company for an Accounting Order Allowing The Empire District Electric Company to Record and Preserve Costs and Lost Revenues Related to the COVID-19 Virus.* https://estar.kcc.ks.gov/estar/ViewFile.aspx/S20200527154720.pdf?Id=11343b52-1a49-448b-8dac-544833f634e2.

[43] Order Authorizing Regulatory Accounts and Establishing Additional Reporting Instructions, May 1, 2020, Iowa Department of Commerce Utilities Board Docket No. SPU-2020-003 et al, *In Re: Winter Moratorium Extension*, Ordering Clause 1.

> (b) The number of customers disconnected by customer class.
>
> (c) The number of customers involuntarily disconnected that were eligible for energy assistance.
>
> (d) The number of customers that entered into initial payment agreements, the average duration of the payment agreement, and the average monthly payment.
>
> (e) The number of customers that entered into second payment agreement, the average duration of the second payment agreements, and the average monthly payment.
>
> (f) The number of customers who entered into payment agreements not required by Board rules, the average duration of those payment agreements, and the average monthly payment.
>
> (g) Revenue owed by class that are 30, 60, 90 or more than 90 days in arrears.[44]

The entire order concerns customers who are unable to pay their bills. There is no discussion whatsoever about customers using less electricity. The Iowa Commission granted the utilities an opportunity to create a regulatory asset for earned revenue owed the utility that the utility has not been able to collect. It did not address unearned revenue.

Similarly, the Connecticut case is also exclusively related to a moratorium on disconnections and the Commission's directive to the utilities to establish a "COVID-19 Payment Program." The Commission mandated that the COVID-19 Payment Program must include waiver of initial or down payments, fee waivers on monthly charges, and may include waivers of accumulated interest associated with late payments.[45] The Commission's authorization of a regulatory asset was limited to the costs incurred or revenues lost as a "direct result" of the moratorium

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[44] Order Authorizing Regulatory Accounts and Establishing Additional Reporting Instructions, May 1, 2020, Iowa Department of Commerce Utilities Board Docket No. SPU-2020-003 et al, *In Re: Winter Moratorium Extension*, Ordering Clause 5.

[45] Interim Decision, April 29, 2020, State of Connecticut Public Utilities Regulatory Authority, Docket No. 20-03-15, *In Re: State of Connecticut, For A Proceeding To Establish A State of Emergency Utility Shut-Off Moratorium*, Section I.

and the COVID-19 Payment Program[46] (that is, increased arrearages, the fees and down payments, and accumulated interest payments that customers owed to the utility but that were waived by the utility as a part of the COVID-19 Payment Program). These cases are relevant only to Evergy's request for "increased bad debt expense to the extent they exceed levels included in the cost of service,"[47]which would be revenue earned but not collected.

Q What is emerging best regulatory practice regarding utility requests to create a regulatory asset for unearned revenue due to COVID-19?

A Best utility regulation practice is for Commissions and staff 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.

Available Regulatory Alternative

Q Are you suggesting that Evergy has no recourse but to continue operating with less than expected revenue for the foreseeable future?

A No. Evergy has the regulatory option to file a rate case to update its authorized revenue requirement and its expected sales. Evergy could even seek on a forward-looking basis some rebalancing of the volumetric risk it faces when sales vary but this should also include an updating of its authorized return on equity because it would change its investors' risk profile.

Balance of Equities

Q Are there any other regulatory factors a Commission should consider when evaluating a request by a utility such as Evergy to create a regulatory asset for unearned revenue due to COVID-19?

A Yes. A Commission evaluating a request by a utility to create a regulatory asset for unearned revenue due to COVID-19 should consider a balance of the equities.

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[46] Interim Decision, April 29, 2020, State of Connecticut Public Utilities Regulatory Authority, Docket No. 20-03-15, *In Re: State of Connecticut, For A Proceeding To Establish A State of Emergency Utility Shut-Off Moratorium,* Section V. Order No. 7.

[47] Application, pp. 12-13, paragraph 36.

Evergy's customers have no obligation to insulate Evergy from the economic impact of the COVID-19 pandemic. Nothing in regulatory policy implies an obligation for utility customers to insulate utility investors from their earnings disappointment. The Missouri Commission has been explicit about this.[48] Utility regulation is a stand-in for competition. It does not guarantee utility investors will always profit. As described at length by Evergy in its Application and by Evergy Witness Ives, Missouri businesses and local governments are struggling through the impact of COVID-19 on their own or going out of business altogether.[49] Economically, Missouri residents are experiencing lost paychecks.[50] On the other hand, 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.[51] 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.

Public Benefit Obligation of a Monopoly Electric Utility

Q As a regulated monopoly public electric utility, does Evergy have any obligation during wide-spread community disaster?

A I suggest that 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 against earnings disappointment by their customers, who are also suffering. Examples of good utility practice in the face of COVID-19 abound in other jurisdictions. The following are examples of companies and/or jurisdictions that have advanced solutions that go beyond the nearly universal shutoff protections and waiver of fees to ameliorate hardships for customers and community:

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[48] *See* discussion *supra* regarding the Noranda plant.

[49] Application, p. 4, paragraph 12; Ives, pp. 7- 9, lines 12-2.

[50] Application, p. 5, paragraph 14.

[51] "Evergy Announces 2020 Second Quarter Results," August 5, 2020, Press Release. https://investors.evergy.com/static-files/f46132b2-aa40-4932-9b46-9c0f8532008a.

- In New York, National Grid has suspended implementation of its authorized rate increase in light of the economic burden of the COVID-19.[52]

- In Kentucky, the Commission noted that jurisdictional utilities would be permitted to seek approval to offer reduced rate or free electric service to customers.[53]

- In Minnesota, the Commission urged utilities to identify investments that could be made to support the economic recovery from the pandemic. The Commission promulgated a set of criteria for these investments, requiring, among other things, that they provide "significant utility system benefits" and "create jobs or otherwise assist in economic recovery" for the state.[54]

- The Texas Public Utility Commission established a COVID-19 Electricity Relief Program which implements a tariff rider to cover short-term costs. The rider acts as an interest-free loan between ERCOT and each Transmission and Distribution Utility ("TDU") that will be paid back at the end of the program. Funds are then directed towards qualified residential customers for assistance with bill payment.[55]

- Other electric utilities are experiencing a similar reduction in revenue resulting from electric load decreases in commercial and industrial customer classes, but they have simply opted not to request relief related to load and revenue declines.[56]

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[52] New York Public Service Commission. *Order Postponing Approved Electric and Gas Delivery Rate Increases and Updated Reduction to the Low Income Discount Credit and Temporarily Waiving Certain Tariff Fees*. March 25, 2020. Case 17-E-0238, Case 17-G-0239, Case 16-G-0058, Case 16-G-0059, Case 14-M-0565.

[53] Kentucky Public Service Commission. *Order*. March 6, 2020. Case No. 2020-00085.

[54] Minnesota Public Utilities Commission. *Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic.* Docket No. E,G-999/CI-20-425, Docket Not. E,G-999/M-20-427. May 22, 2020.

[55] Public Utility Commission of Texas, *Order Related to COVID-19 Electricity Relief Program.* Project No. 50664, Item 107 (Filed 3/26/2020).

[56] Comments of DTE Electric Company and DTE Gas Company on Utility Accounting, In Re: Commission's own motion to review its response to novel coronavirus (COVID-19), Case No. U-20757, (Michigan Public Service Commission, April 3, 2020) p. 4; Consumers Energy Company's Comments On Utility Accounting Issues Resulting From COVID-19, In Re: Commission's own motion to review its response to novel coronavirus (COVID-19), Case No. U-20757, (Michigan Public Service Commission, April 3, 2020) pp. 4-5.

Conclusions: Regulatory Implications

Q What are your conclusions regarding the regulatory considerations related to Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic."

A My conclusions regarding the regulatory considerations related to Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic" are:

- 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.
- Best utility regulation practice is for Commissions and staff 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.
- Evergy has the regulatory option to file a rate case to update its authorized revenue requirement and its expected sales. Evergy could even seek on a forward-looking basis some rebalancing of the volumetric risk it faces when sales vary but this should also include an updating of its authorized return on equity because it would change its investors' risk profile.
- A Commission evaluating a request by a utility to create a regulatory asset for unearned revenue due to COVID-19 should consider a balance of the equities. Nothing in regulatory policy implies an obligation for utility customers to insulate utility investors from their earnings disappointment. The Missouri

Commission has been explicit about this.[57] Missouri businesses and local governments are struggling through the impact of COVID-19 on their own or going out of business altogether.[58] Economically, Missouri residents are experiencing lost paychecks.[59] On the other hand, 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.[60] 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.

- I suggest that 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.

VI. RECOMMENDATION

Q What is your recommendation regarding Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic"?

A I recommend that the Commission deny Evergy's request for an order "to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward lost revenues related to the COVID-19 pandemic" because it:

- Fails to comply with the governing accounting standards as codified in the Uniform System of Accounts and to the accounting standards promulgated by the FASB;
- Is inconsistent with Missouri precedent and practice;

[57] *See* discussion *supra* regarding the Noranda plant.

[58] Application, p. 4, paragraph 12; Ives, pp. 7- 9, lines 12-2.

[59] Application, p. 5, paragraph 14.

[60] "Evergy Announces 2020 Second Quarter Results, August 5, 2020, Press Release." https://investors.evergy.com/static-files/f46132b2-aa40-4932-9b46-9c0f8532008a.

- Would arbitrarily transfer the risk of volumetric sales from the utility's investors to its customers while still compensating the utility's investors for this risk through the authorized rate of return on equity, thereby improperly insulating Evergy's investors from the economic risk they assumed;
- Does not meet best regulatory practice as evidenced by the emerging treatment of lost or unearned revenues throughout the United States;
- Fails to recognize that Evergy has a reasonable regulatory alternative in that it could file a rate case;
- Fails to recognize that, upon a balance of the equities, 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.
- Undermines Evergy's public benefit obligation, which requires that it can and should do better than seek to be insured for earnings disappointment by its customers, who are also suffering.

Q Does this conclude your testimony?

A Yes, it does.

Cheryl Roberto, Senior Principal

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PROFESSIONAL EXPERIENCE

Synapse Energy Economics Inc., Cambridge, MA. *Senior Principal*, 2019–present.

Provides expert consulting services for removing operational, regulatory, and policy barriers to the decarbonization of the energy system on behalf of mission-driven investors, regulators, and other stakeholders seeking to accelerate the transformation of the grid.

Twenty First Century Utilities, Washington, D.C. *Senior Advisor*, 2019 – present; *Managing Director: Utility Transformation,* 2015–2019.

Worked to transform, through acquisition and operation, regulated utilities with a 21st century model that drives mass adoption of clean, low-cost energy producing and energy saving technologies. Advanced utility of the future policies, operations, technologies, and governance inclusive of grid optimization, de-carbonization of utility-scale fleet, implementation of TFC Utilities' Million Rate Base Market Platform, and achieving sustainable business value.

Environmental Defense Fund, *Associate Vice President, EDF Clean Energy Program,* 2013–2015.

Led national program advocating regulatory reform to help modernize U.S. energy infrastructure, accelerate deployment of clean technologies into the nation's electric system, and break down the regulatory and financial barriers to broad-scale adoption of renewable energy, energy efficiency, and other innovative ways to generate, distribute, and use energy. Managed a team of over 30 individuals and an annual budget of $11 million dollars.

Public Utilities Commission of Ohio, Columbus, Ohio. *Commissioner,* 2008–2012.

In addition to customary responsibilities of a Commissioner, initiated a national pilot partnership with the United States Department of Energy (U.S. DOE) for combined heat power; served as Co-Chair 2012 National Electricity Forum, Co-Chair, State and Local Energy Efficiency Action Network Driving Ratepayer-Funded Efficiency Working Group (also Chair Sub-Committee for Utility Financial Incentives), Co-Leader U.S. Agency for International Development (U.S. A.I.D.)/NARUC meeting with National Electricity Regulatory Commission of Ukraine (Kiev, Ukraine, September 2011), and a member of the National Association of Regulatory Utility Commissioners (NARUC):

- Task Force on Environmental Regulation and Generation (2012)
- Committee on Critical Infrastructure (also served as Vice Chair) (2010–2012)
- Committee on Electricity (2008–2012)

Department of Public Utilities, City of Columbus, Columbus, OH. *Director*, 2003–2006, *Deputy Director for Operations,* 2001–2003.

Led municipal water, wastewater, and electric utility with annual operating budget of $400 million dollars, an annual capital budget of $250 million dollars, and a staff of 1300 people serving the nation's 15th largest city and 22 Central Ohio political subdivisions. Established and successfully managed $2.5 billion dollar capital engineering and construction program, the largest ever undertaken by the City of Columbus. Completed extensive restructuring of utility rate models and design for the first time in two decades to validate cost of service. Managed successful water quality-focused environmental initiatives involving extensive stakeholder outreach and public education, including the development and adoption of the Hellbranch Run Watershed protection Overlay and Clean Water Act Facilities Plan.

Office of the Mayor, City of Columbus, Ohio, Columbus, OH. *Policy Advisor*, 2000.

Provided advice on public policy issues including health, environment, public utilities, housing, public safety, and development to support the launch of the Mayoral administration of Michael B. Coleman.

Office of the City Attorney, City of Columbus, Columbus, OH. *Assistant City Attorney,* 1997–2000.

Represented City of Columbus for municipal law issues related to environmental, health, and safety matters including environmental permitting (NPDES, Title V, MS4), regulatory enforcement (industrial pretreatment, fire code, storm water development), compliance counseling (RCRA, OSHA, Clean Drinking Water), environmental liability management (PCB disposal, real estate), and contracts.

Commonwealth of Pennsylvania, *Assistant Counsel, Office of Chief Counsel,* 1996–1997.

Served as counsel to the Department of Environmental Protection concerning Superfund, drinking water, wastewater, solid and hazardous waste, and air pollution.

Cheryl L. Roberto, Esq. *Owner,* 1993–1996.

Built boutique law practice specializing in environmental matters; representative clients included City of Erie, Pennsylvania, Erie Sewer Authority, and Erie County Department of Health.

State of Ohio, Columbus, OH. *Assistant Attorney General,* 1987–1992.

Represented the State of Ohio in Environmental and Consumer Protection matters through administrative proceedings, civil actions, and criminal prosecutions concerning wastewater, solid and hazardous waste, and air pollution.

EDUCATION

Moritz College of Law, The Ohio State University, Columbus, OH
Juris Doctor, 1987. Member, Journal of Dispute Resolution. Recipient, University Scholarship and Caris Fellowship. Founding Member, Board of Directors for the Student Funded Fellowship.

Kent State University, Kent, OH
BA, Political Science, *cum laude*, 1984.

Graduated with General Honors from the Honors College. Omicron Delta Kappa and Pi Sigma Alpha. Recipient of Manchester Cup, Junior Service Award, Sophomore Leadership Award, Honor's Scholarship. Honor's Dissertation adopted and implemented by K.S.U. Board of Trustees: "Student Leadership Compensation Model for Kent State University," KSU Library Archives, Honors Papers (1984).

CONTINUING EDUCATION

Harvard University, John F. Kennedy School of Government, Cambridge, MA
Executive Education Certificate of Completion: Strategic Management of Regulatory and Enforcement Agencies, 2012.

University of Colorado, Silicon Flatirons Center, Boulder, CO
Institute for Regulatory Law and Economics, Seminar, May 2012.

Scott Hempling Attorney at Law LLC, Electricity Law Update Seminar, March 2012.

American Law Institute/American Bar Association
42nd Annual Advanced Course of Study in Environmental Law, February 2012.

SNL Center for Financial Education, Essentials of Regulatory Finance, June 2011.

National Regulatory Research Institute, Electricity's Current Challenges: Capital Investment, Renewables, Energy Efficiency, "Modern" IRP, and Transmission. January 2011.

Michigan State University, East Lansing, MI
Advanced Regulatory Studies Program, "Ratemaking, Accounting, and Economics," September 2010.

HONORS AND AWARDS

Inspiring Efficiency Leadership Award, January 2013.
Presented by the Midwest Energy Efficiency Alliance to the organization or individual in the 13-state region who has served as a strong leader in support of energy efficiency in their city, state, region, company, or community.

BOARDS AND COMMISIONS

- Executive Group for the State and Local Energy Efficiency Network (2012–present)
- Board of Directors of the National Regulatory Research Institute (NRRI) (2012)
- Financial Research Institute (FRI) Advisory Board (2011–2012), Chair, Hot Topic Hotline Committee (2012)
- Audubon Ohio, Board Member (2007–2008)
- Franklin County Planning Commission, Member (2001–2006)

- Solid Waste Authority of Central Ohio, Board Member (2003–2006); Engineering, Operations and Compliance Committee Chair
- Mid-Ohio Regional Planning Commission, Member (2003–2006); Greenways Steering Committee Chair; Member Public Works Integrating Committee
- Community Research Partners, Board Member (2000–2002)

PRESENTATIONS

Roberto, C. 2017. "Aligning Economic Incentives: Evolution of the Utility Business Model." Hawaii Clean Energy Law and Finance. Honolulu, HI. July 21, 2017.

Roberto, C. 2017. "TFC's Million Rate Base Model." National Association of Regulatory Utility Commissioners Committee on Energy Resources and the Environment. May 15, 2017.

Roberto, C. 2017. "Creating a Resilient Energy Economy." Maui Energy Conference. Maui, HI. April 6, 2017.

Roberto, C. 2016. "A Twenty First Century Utility." Department of Energy Quadrennial Energy Review Second Installment Public Meeting. Atlanta, GA. May 24, 2016.

Roberto, C. 2016. "What is Sustainable Electricity." Electric Power Research Institute ENV-VISION: Environmental Vision – An International Electricity Sector Conference. Washington, D.C. May 10, 2016.

Roberto, C. 2016. "Utility Transformation: Opportunities for Jobs, our Communities & the Planet." Florida Women in Energy Conference. April 15, 2016.

Roberto, C. 2016. "Confluence of Environmental & Economic Regulation." Ohio Bar Association Environmental Law Conference. Columbus, OH. April 14, 2016.

Roberto, C. 2016. "Can Ohio Meet the Clean Power Plan?" John Glenn College of Public Affairs Dialogue. January 21, 2016.

Roberto, C. 2015. "Right to Data Access." SmartGrid Consumer Collaborative. August 26, 2015.

Roberto, C. 2015. "Success Factors: Career Profiles of Women Leaders." National Association for Environmental Management Women's EHS & Sustainability Leadership Roundtable. San Antonio, TX. April 16, 2015.

Roberto, C. 2015. "Smart Grid: Lessons Learned." Energy Thought Summit 2015. Austin, TX. March 25, 2015.

Roberto, C. 2015. "Decarbonizing the Energy Supply." Energy & Climate Change: 15th National Conference and Global Forum on Science, Policy, and the Environment. January 27, 2015.

Roberto, C. 2014. "Clean Energy Policy -- Looking Ahead to 2020." Forum 20/20: Innovation and the Future of CleanTech. October 29, 2014.

Roberto, C. 2014. "2014 EPRI-TVA Environmental Benchmarking Forum, Charlotte, NC, October 6, 2014.

Roberto, C. 2014. "Product Innovations for Retail Customers." Retail Energy Supply Association's 2014 Energy Competition Symposium. Columbus, Ohio. October 2, 2014.

Roberto, C. 2013. "Policies Matter: Practical Approaches for Regulators to Encourage CHP." WVU Law Center for Energy & Sustainable Development Energy Conference 2013. April 24, 2013.

Roberto, C. 2013. "Enhancing Industry through Industrial Energy Efficiency & Combined Heat and Power." National Governors Association Policy Academy. March 4, 2013.

Roberto, C. 2013. "Breaking Through the 'Grid'-lock." ARPA-E Energy Innovation Summit. February 26, 2013.

Roberto, C. 2013. "Investing in Combined Heat and Power: Benefits and Challenges." National Association of Regulatory Utility Commissioners Winter Meeting. February 5, 2013.

Roberto, C. 2013. "Should There Be a Change to Cost Effectiveness Testing?" 2013 Midwest Energy Solutions Conference. January 17, 2013.

Roberto, C. 2013. "Working Together to Advance Energy Efficiency: Partnerships for Tackling Persistent Barriers & Achieving Results." Department of Energy. January 16, 2013.

Roberto, C. 2013. "Transmission Cost Allocation: What Lies Ahead?" Harvard Electricity Policy Group Sixty-Eighth Plenary Session. October 11-12, 2012.

Roberto, C. 2012. "What is the future design of the regulatory process?" 2012 Financial Research Institute Symposium: Emerging Issues in the Management of the Regulatory Interface, September 19, 2012.

Roberto, C. 2012. NARUC/FERC Forum on Reliability and the Environment. February 7, 2012.

Roberto, C. 2012. "Testing…Testing: Are We Getting the Most Value out of Cost-Effectiveness Tests for Energy Efficiency?" Mid-Atlantic Conference of Regulatory Utilities Commissioners 17th Annual Education Conference. June 26, 2012.

Roberto, C. 2012. "Successful Approaches to Promote Industrial EE and CHP." U.S. DOE Midwest Industrial Energy Efficiency and Combined Heat & Power Dialogue Meeting. June 21, 2012.

Roberto, C. 2012. "Promoting Industrial CHP Through Utility Ownership." Industrial Energy Efficiency and CHP Dialogue DOE Regional Meeting—Midwest. June 22, 2012.

Roberto, C. 2012. "All Cost-Effective Energy Efficiency. All? You're Kidding, Aren't You." Financial Research Institute, Hot Topic Webinar. June 13, 2012.

Roberto, C. 2012. "Natural Gas Pipeline Safety: How to Address Cost-Effectiveness and Ratemaking Concerns While Ensuring Public Safety." National Regulatory Research Institute Teleseminar, original broadcast. April 26, 2012.

Roberto, C. 2012. "Using Regulations and Markets to Broaden and Deepen the Savings Delivered by Energy Providers" Policies for Energy Provider Delivery of Energy Efficiency North American Regional Policy Dialogue. Washington, D.C. April 18-19, 2012.

Roberto, C. 2011. “Pipeline Safety—Steps to a Robust Integrity Management Program.” Financial Research Institute, Hot Topic Webinar. December 15, 2011.

Roberto, C. 2011. “Safety First! How Pipeline Safety Programs are Evolving.” 2011 NARUC Annual Meeting.

Roberto, C. 2011. “What is a ‘Utility’ Anyway and Who Needs It?” National Regulatory Research Institute Teleseminar - original broadcast. February 2, 2011.

Roberto, C. 2011. “A Black Swan? Geomagnetic Storms, Pandemics & Cyber Events: Planning for the Uncertain.” 2011 NARUC Winter Committee Meetings, Committees on Electricity and Critical Infrastructure.

Roberto, C. 2011. “CyberSHIELD: Cybersecurity Legislation and the SHIELD Act.” 2011 NARUC Summer Committee Meetings, Committees on Consumer Affairs and Critical Infrastructure.

Roberto, C. 2011. “Regulatory Tools and Limits.” Serving National Security Workshop. July 20, 2011.

Roberto, C. 2011. “Regulation, Accounting & the Capital Markets” 2011 Financial Research Institute Symposium, The Search for Capital: Utility Financing in the 21st Century. September 2011.

Roberto, C. 2001. “Hellbranch Run Enhanced Development Standards: The process to develop the City of Columbus draft Hellbranch Run Watershed Protection Ordinance.” Water Management Association of Ohio, 2001 Fall Conference.

TESTIMONY AND PUBLICATIONS

United States Senate Committee on Energy and Natural Resources (SD-366): Direct testimony of Cheryl Roberto regarding national electric grid modernization, reliability, and security. April 10, 2014.

Roberto, C., N. Dormady. 2013. *The Costs of Inefficiency: Ignoring Ohio’s Energy Efficiency Potential.* John Glenn School of Public Affairs.

Federal Energy Regulatory Commission Reliability Technical Conference (Docket No. AD12-1-000): Direct testimony of Cheryl Roberto regarding maintaining electric grid reliability and affordability while meeting EPA goals. On behalf of the Public Utilities Commission of Ohio. November 30, 2011.

Roberto, C. 1987. *Limits of Judicial Authority in Pretrial Settlement Under Rule 16 of the Federal Rules of Civil Procedure.* 2 Ohio St. J. Dis. Res. 311.

Roberto, C. 1987. *Alternative Dispute Resolution: A Resource for Practitioners.* Ohio Lawyer Practitioner’s Desk-top Reference.

Resume dated July 2019

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	**)))))))**	**Case No. EU-2020-0350**

AFFIDAVIT

Pursuant to Missouri Public Service Commission Guidance released on March 24, 2020,

I, Cheryl Roberto, hereby state:

1. My name is Cheryl Roberto, and I am a Senior Principal at Synapse Energy Economics, Inc. My business address is 485 Massachusetts Avenue, Cambridge, MA 02139.
2. Attached hereto and made part hereof for all purposes is my Rebuttal Testimony on behalf of Sierra Club, including exhibits, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.
3. I hereby swear and affirm that based upon my personal knowledge, the facts stated in the rebuttal testimony are true. In addition, my judgment is based upon my professional experience, and the opinions and conclusions stated in the testimony are true, valid, and accurate.

Under penalty of perjury, I declare that the foregoing is true and correct to the best of my knowledge and belief.

Cheryl Roberto

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Cheryl Roberto