

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

The Office of the Public Counsel and The Midwest)	
Energy Consumers Group,)	
)	
Petitioners,)	
)	Case No. EC-2019-0200
v.)	
)	
KCP&L Greater Missouri Operations Company,)	
)	
Respondent.)	

**PUBLIC COUNSEL’S REPLY TO KCP&L GREATER
MISSOURI OPERATIONS COMPANY’S NOTICE**

COMES NOW, the Office of the Public Counsel (OPC), to reply to the KCP&L Greater Missouri Operations Company’s (GMO or Company) Verified and Supplemental Notice of Adverse Market Response as follows:

1. This Public Service Commission (Commission) discussed the above captioned docket during its October 9, 2019, agenda. The Commission’s discussions indicate that the Commission will support an order granting the Midwest Energy Consumers Group (MECG) and the OPC’s requested accounting order.

2. On October 10, 2019, GMO, evidently no longer confident in the merits of its position, desperately filed a notice purporting to demonstrate that the Commission’s discussions had an adverse effect on Evergy’s stock price. GMO then filed a Supplemental Verified Notice on October 15, 2019, to the same effect. The Company’s syllogism appears to be that because shareholders lowered their return expectations, the Commission should be frightened and not issue an order that maintains balance between shareholders and ratepayers. That is merely GMO’s preference, not an element of deferral accounting.

3. GMO's Notices are improper in form. GMO is explicitly asking the Commission to consider hearsay and extra-record evidence. On this basis alone, GMO's Notice can be discounted.

4. GMO's Notices are also irrelevant in that they speak to evidence that does not bear on either of the issues presented in the list of issues that GMO agreed to. The parties' list of issues asked the Commission to consider whether retiring the Sibley units was extraordinary, and how a deferral should be recorded. Evergy's share price is not germane to either issue.

5. GMO's Notices are also redundant. GMO raised concerns about its earnings at both the evidentiary hearing¹ and within its reply brief.² The Commission obviously considered GMO's complaints, but recognized that they have no bearing to the Uniform System of Accounts determination of extraordinary events. GMO should not be permitted to raise the same fallacious argument again.

6. OPC is not disputing that Evergy's stock price declined by around \$1.25 during a 10 minute period following the Commission's agenda discussion of this case. This was not because the Commission is unfair, but rather because investors did not expect the Commission to evaluate the record and decide in favor of the consumers; the other side of the scale that needs to be considered for balance. However, GMO's attempt to attribute changes in Evergy's share value to the Commission's signaled decision subsequent to this 10 minute period is highly suspect.

7. GMO's attempt is particularly suspect when one considers how the market is valuing Evergy's share price at a year and five-year high.³

¹ Transcript of Proceedings, Evidentiary Hearing, EC-2019-0200 p. 85 (Aug. 7-8, 2019).

² *Reply Brief of KCP&L Greater Missouri Operations*, EC-2019-0200 p.2-3 (Sep. 10, 2019).

³ The enclosed graphs were obtained from Google's synthesis of Evergy's stock price, and is obtainable simply by typing the stock ticker code within Google's search bar.

Market Summary > Evergy Inc

NYSE: EVRG

64.02 USD **+0.20 (0.31%)** ↑

Oct 15, 11:56 AM EDT · Disclaimer

1 day

5 days

1 month

6 months

YTD

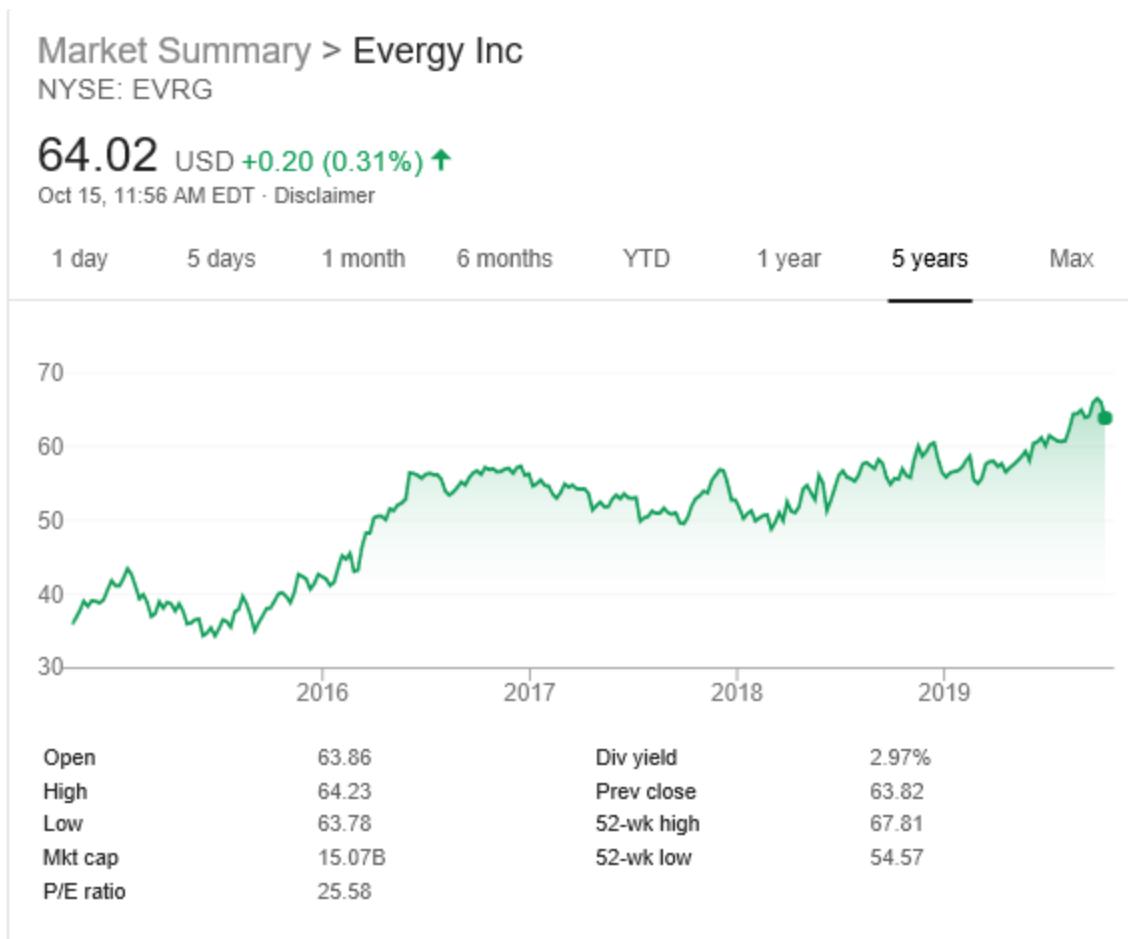
1 year

5 years

Max



Open	63.86	Div yield	2.97%
High	64.23	Prev close	63.82
Low	63.78	52-wk high	67.81
Mkt cap	15.07B	52-wk low	54.57
P/E ratio	25.58		



8. GMO’s Notices similarly neglect to explain how any decline in Evergy’s shares was caused by the Company’s own broadcasts to the investment community. On October 11, 2019, Bank of America Merrill Lynch (BAML) responded to GMO’s Notice by remarking that the share price drop was not due to “market participants questioning the fairness of Missouri regulation” as GMO portends, but rather that the market reacted to the “optimistic messaging from the company” not holding true. BAML’s response is attached hereto as OPC-1.

9. GMO and Evergy set up its investors to be surprised because it never indicated that OPC and MECG could possibly meet the burden of proof for an accounting order. Another report from BAML, attached as OPC-2, exemplifies Evergy’s cavalier attitude. BAML reported that

Evergy's management "remains confident in a favorable ruling in the Sibley hearing after reply briefs in [September] largely agreed with EVRG's position."

10. This Commission should also remember that "the primary purpose of public regulation of utilities is the ultimate good of the public. Protection afforded utilities is merely incidental to the attainment of that object."⁴ Furthermore, "the dominant thought and purpose of the policy is the protection of the public while the protection given the utility is merely incidental."⁵ The Company's ahistorical position that a proceeding may be delayed simply because it is negatively valued by investors insults its customers, this Commission, and established principles of public utility regulation.

11. If the Commission were to entertain GMO's request in response to the opinions of a few analysts offered after Commission deliberations, this would most likely invite similar responses in virtually every large dollar case before the Commission. What sort of power would a Commission reaction to GMO's filing give to energy market analysts? What confidence should the public have in a Commission that would reverse decisions based on a stock ticker? This highly unusual and highly improper attempt to sway the Commission's decision should be rejected.

WHEREFORE, the OPC replies to GMO's Notice. The OPC implores the Commission to disregard the Company's Notice, and not relent to GMO's last-resort plea to delay these proceedings.

⁴ *State ex rel. Pitcairn v. Pub. Serv. Comm'n*, 111 S.W.2d 982, 987 (Mo. App. W.D. 1937).

⁵ *State ex rel. Crown Coach Co. v. Pub. Serv. Comm'n*, 179 S.W.2d 123, 126 (Mo. App. W.D. 1944).

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 16th Day of October, 2019, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall