

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

In the Matter of Evergy Metro, Inc.)
d/b/a Evergy Missouri Metro Request) **CASE NO. EE-2021-0423**
for Variance of 20 CSR 4240-3.175)

In the Matter of Evergy Missouri West, Inc.)
d/b/a Evergy Missouri West Request for) **CASE NO. EE-2021-0424**
Variance of 20 CSR 4240-3.175)

**STAFF RECOMMENDATION TO GRANT REQUESTED VARIANCES AND WAIVER,
AND REQUEST THAT EVERGY BE ADMONISHED TO FILE FUTURE VARIANCE
OR WAIVER REQUESTS AT LEAST THIRTY DAYS PRIOR TO ANY DEADLINE**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and pursuant to the Commission’s order to file its recommendation on the requests for waiver filed by Evergy Metro, Inc. d/b/a Evergy Missouri Metro (Evergy Missouri Metro) and Evergy Missouri West, Inc. d/b/a/ Evergy Missouri West (Evergy Missouri West) (together, Evergy) for waivers from Commission Rules 20 CSR 4240-3.175 and 20 CSR 4240-4.017(1)(D), recommends that the request variances be granted but that Evergy be admonished to file future requests at least thirty (30) days before the passage of any applicable deadlines.

Background

1. Evergy requests for both Evergy Missouri Metro and Evergy Missouri West a variance from the requirement under 20 CSR 4240-3.175(1)(B), to file depreciation studies by February 2021 for Evergy West and by June 2021 for Evergy Missouri Metro, and instead to file depreciation studies as part of Evergy’s January 2022 rate cases.

2. Additionally, Evergy requests a waiver of the Commission’s sixty-day notice requirement under 20 CSR 4240-4.017(1)(D).

3. Evergy Missouri Metro last filed a depreciation study with the Commission on July 1, 2016, and under 20 CSR 4240-3.175(1)(B), it was required to file a depreciation study on or before June 30, 2021.¹

4. Evergy Missouri West last filed a depreciation study with the Commission on February 23, 2016, and under 20 CSR 4240-3.175(1)(B), it was required to file a depreciation study on or before February 22, 2021.²

5. While the filing deadlines of June 30, 2021 and February 22, 2021, have passed, Evergy states that its request for variance was filed “as of the earliest date the Company knew of its necessity and was able to prepare the required documents.”³

6. Evergy states that both Evergy Missouri Metro and Evergy Missouri West intend to file updated depreciation studies in their upcoming January 2022 rate cases.⁴ Evergy states that it did not file the depreciation studies as required under 20 CSR 4240-3.175(1)(B) because it believes the depreciation studies should be filed in a rate case, and that Evergy was precluded from filing a rate case until January 2022 under its PISA elections under Section 393.1400, RSMo (Supp. 2020)

7. Finally, Evergy states that it does not believe any harm will result in granting the variance because the depreciation information is most relevant in a rate case, and there will be no negative effect on Evergy’s customers or the general public if the Commission grants the waiver request.⁵ Evergy does not state whether it anticipates

¹ Application at Paragraph 10 (EFIS No. 1).

² Application.

³ *Id.* at paragraph 11. The accompanying document is a one-page signed verification.

⁴ *Id.*

⁵ *Id.* at paragraph 11-12.

changes to its current depreciation rates in the depreciation study it intends to file as part of its January 2022 rate case.⁶

Recommendation

- I. **The Commission should grant in part the request by Evergy Missouri West and Evergy Missouri Metro for variances from Rule 20 CSR 4240-3.175(1)(B), but require Evergy to file the depreciation studies as soon as they are final and not later than the filing of Evergy’s January 2022 rate cases.**

8. Every electrical corporation under the jurisdiction of the Commission must file a depreciation study, database, and property unit catalog (“depreciation study”) with the Commission every five (5) years.⁷ In addition, when filing a general rate case, every electrical corporation under the Commission’s jurisdiction must file a depreciation study with the Commission unless one has been filed during the three (3) years prior to the rate case filing.⁸

9. The commission may grant a waiver or variance in whole or in part from 20 CSR 4240-3.175(1)(B) upon a finding of good cause shown upon an electrical corporation’s written application.⁹

10. In a previous case, the Commission has granted a similar request of Kansas City Power & Light (KCP&L) where KCP&L’s application stated that it “does not believe that there would be recommended changes to its proposed depreciation rates as a part of the 2008 Rate Case.”¹⁰

⁶ *Id.*

⁷ 20 CSR 4240-3.175(1)(B)2. In addition to filing with the Commission, the same items must be filed with the Office of the Public Counsel. *Id.*

⁸ 20 CSR 4240-3.160(1)(A)

⁹ 20 CSR 4240-3.175(2)

¹⁰ *Application of Kansas City Power & Light Co. for a Variance from the Provisions of 4 CSR 240-3.160 related to Submission of a New Depreciation Study*, Case No. EE-2008-0259 (EFIS No. 1, 6).

11. Unlike in the 2008 KCP&L case, Evergy here does not state whether it anticipates changes to its depreciation rates.¹¹ However, Evergy does state that it “does not believe that any harm will result in the granting of this variance since the depreciation information is most relevant in a rate case.”¹² Evergy also states that “[t]here will be no negative effect on the Company’s customers or the general public if the Commission grants this Request.”¹³

12. Nothing in Evergy’s request for a variances purports to set Evergy’s depreciation rates in its next rate case. Nothing in Evergy’s request purports to preclude any party to Evergy’s next rate from adducing evidence what Evergy’s depreciation studies would have shown had they been filed prior to February or June 2021. And nothing in Evergy’s request purports to decide whether or how the cost of the depreciation studies will be accounted for in Evergy’s next rate cases.

13. However, under 20 CSR 4240-3.160(1)(A), if Evergy files its depreciation studies, databases, and property catalogs before its next rate case, it will not be required to file them again as part of the rate case.

14. Accordingly, Staff believes there is good cause to grant the request for variances requested by Evergy Missouri West and Evergy Missouri Metro, so long as the order granting the variance also requires Evergy to file the depreciation studies, database, and property catalog as soon as they are final, and not necessarily waiting until Evergy’s next rate cases.

¹¹ Application.

¹² Application at paragraph 11.

¹³ *Id.*

WHEREFORE, Staff requests the Commission approve the request for variance by Evergy Missouri West and Evergy Missouri Metro from 20 CSR 4240-3.175(1)(B), but requiring Evergy to file the depreciation studies, databases, and property unit catalogs as soon as they are final and ready and not later than the filing of Evergy's January 2022 rate cases.

II. The Commission should grant the request by Evergy for a waiver from Rule 20 CSR 4240-4.017(1)(D).

15. Normally, any person intending to file a case with the Commission must file a notice at least sixty (60) days prior to filing the case detailing the type of case and the issues likely to be before the Commission.¹⁴ A party may request waiver of the sixty (60) day notice for good cause. 20 CSR 4240-4.017(1)(D). Good cause may be established by filing a declaration from the filing party that it has had no communication with the office of the Commission within the prior one hundred and fifty (150) days regarding any likely substantive issue in the case.¹⁵

16. Evergy filed declarations that it has had no communication with the office of the Commission within the prior one hundred and fifty days regarding any likely substantive issue in the case.¹⁶

17. Staff has identified no harm or prejudice that would result from the granting of a waiver of the sixty day notice requirement under 20 CSR 4240-4.017(1) (D).

18. Accordingly, Staff believes there is good cause to grant Evergy's request for waivers from 20 CSR 4240-4.017(1)(D).

¹⁴ 20 CSR 4240-4.017(1).

¹⁵ "Office of the Commission" means "Commissioners, a commissioner, a member of the commission's advisory staff, or the commission's regulatory law judges." 20 CSR 4240-4.015(10).

¹⁶ Application.

WHEREFORE, Staff requests the Commission approve Evergy's request waiver from 20 CSR 4240-4.017(1)(D).

III. The Commission should admonish Evergy to file requests for waivers or variances from Commission rules that establish filing deadlines before those deadlines have passed, and in general at least thirty (30) days in advance of the deadline go provide time for Staff and any interested party to provide a response within ten (10) days as provided in 20 CSR 4240-2.080(13) as well as for the Commission to issue an order with an effective date prior to the passing of the applicable deadline.

19. Under 20 CSR 4240-3.175(1)(B), Evergy Missouri West was required to file a depreciation study on or before February 22, 2021, and Evergy Missouri Metro was required to file a depreciation study on or before June 30, 2021.¹⁷

20. Evergy did not meet those filing deadlines, and its request for variance was not filed in time for the Commission to grant a variance from either deadline.¹⁸

21. Under Commission Rule 20 CSR 4240-2.080(13), parties are allowed ten (10) days from the date of a filing to respond to a filing unless otherwise ordered by the Commission.¹⁹

22. In addition, while the Commission has discretion under Section 386.490, RSMo (2016) to set an effective date less than thirty days from the issue date of its orders, it is "presumptively unreasonable" to set an effective date less than ten (10) days and "if challenged, would require the PSC to demonstrate that the circumstances surrounding the case are so extraordinary as to clearly warrant further encroachment on the time provided to the parties in which to exercise their right to apply for rehearing." *State ex rel.*

¹⁷ *Id.* at Paragraph 10.

¹⁸ *Id.*

¹⁹ Parties requesting expedited treatment must include the words "Motion for Expedited Treatment" in the title of the pleading. 20 CSR 4240-2.080(14)

Office of Pub. Counsel v. Pub. Serv. Comm'n, 409 S.W.3d 522, 528-29 (Mo. App. W.D. 2013).

23. Here, Evergy filed its request for variance from the February 2021 deadline several months after the deadline had passed and its request for variance from the June 2021 deadline less than ten days before it was due to pass.²⁰

24. Staff finds no support for Evergy's assertion that its request for variances was filed "as of the earliest date the Company knew of its necessary and was able to prepare the required documents."²¹ First, Evergy made its PISA election known to the Commission more than a year before the February 2021 deadline for Evergy Missouri West's depreciation study. As a result, the fact that Evergy believed its depreciation study should be filed in an upcoming rate case, and that it believed it was precluded from filing a rate case until January 2022, were facts known, or that should have been known, long before Evergy Missouri West's February 2021 filing deadline.

25. Second, the only document filed with Evergy's requested waiver is a verified statement that Evergy has had no communication with the office of the Commission.²² There is nothing in Evergy's filing indicating why this simple one-page declaration could not have been prepared well in advance of February 2021.

26. Third, while Staff has identified no prejudice at this time to Evergy's customers or the general public, the consequence of the timing of Evergy's filing is that Evergy Missouri West and Evergy Missouri Metro are technically in violation of

²⁰ Application.

²¹ *See, id.* at 11.

²² Application.

Rule 20 CSR 4240-3.175 until the effective date of a Commission order (if any) granting Evergy's requested variances from that rule.

27. As a result, Staff believes that while the Commission should grant Evergy's requested variances and waivers, this case presents a good opportunity to admonish Evergy to timely file requests for variances or waivers from the Commission's rules.

28. As a general rule, Staff believes Evergy (and any other party) should file requests for waiver or variance from filing deadlines at least thirty (30) days in advance of any deadline in order to give Staff and any interested party ten (10) days to respond to any request, and to allow the Commission time to review the requests and issue an order with an effective date at least ten (10) days from the date the order is issued.

WHEREFORE, Staff requests the Commission admonish Evergy to file future requests for variances or waivers from any deadlines established in Commission rules at least thirty (30) days in advance of the deadline.

Conclusion

For the reasons stated above, Staff respectfully requests the Commission enter an order:

1. Granting the requested variances from 20 CSR 4240-3.175(1)(B), but require Evergy to file the depreciation studies, databases, and property unit catalogs as soon as they are final and ready and not later than the filing of Evergy's January 2022 rate cases;
2. Granting the requested waiver from 20 CSR 4240-4.01(1) (D);

3. Admonishing Everyy to file future requests for variances or waivers from any deadlines established in Commission rules at least thirty (30) days in advance of the deadline; and
4. Granting such other and further relief the Commission deems appropriate.

Respectfully submitted,

/s/ Curt Stokes

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 14th day of December, 2020, to all parties and/or counsels of record.

/s/ Curt Stokes

MEMORANDUM

TO: Missouri Public Service Commission Official Case Files
Case No. EE-2021-0423, Evergy Missouri Metro
and;
Case No. EE-2021-0424, Evergy Missouri West

FROM: David Buttig, PE, Engineering Analysis Department

/s/ Claire M. Eubanks, P.E. 07/21/2021 /s/ Curtis Stokes 07/21/2021
Manager – Engr. Analysis Department / Date Staff Counsel’s Office / Date

SUBJECT: Staff Recommendation to Grant Evergy Metro, Inc. d/b/a Evergy Missouri Metro (Evergy Missouri Metro) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (Evergy Missouri West) (together Evergy) a Variance from Commission Rule 20 CSR 4240-3.175 and 20 CSR 4240-4.017(1)(D)

DATE: July 21, 2021

DISCUSSION

On June 24, 2021, Evergy filed a request for both Evergy Missouri West and Evergy Missouri Metro a Variance of Commission rule 20 CSR 4240-3.175 “Submission Requirements for Electric Utility Depreciation Studies” and 20 CSR 4240-4.017(1)(D) 60-Day Notice Provision.

Evergy Missouri Metro (EMM) last submitted a depreciation study on July 1, 2016. Staff was unable to locate the date the accompanying database and continuing property records were provided to Staff. According to Commission Rule 20 CSR 4240-3.175, Evergy Missouri Metro would be required to file its next depreciation study, database, and property unit catalog by June 30, 2021.¹

¹ Commission Rule 20 CSR 4240-3.175(1)(B)2.: An electric utility shall submit its depreciation study, database and property unit catalog on the following occasions:...2. Before five (5) years have elapsed since the last time the commission’s staff received a depreciation study, database and property unit catalog from the utility.

Every Missouri West (EMW) last submitted a depreciation study on February 23, 2016. The database and property unit catalog were submitted to Staff in data requests in their previous rate case.² According to Commission rule 20 CSR 4240-3.175, Every Missouri West would be required to submit its next depreciation study, database, and property unit catalog by February 22, 2021.

Granting this request would allow EMM and EMW to delay the filing of their depreciation studies, databases, and property unit catalogs until their upcoming January 2022 rate cases. If the depreciation studies, databases, and property unit catalogs are final and ready for submission to Staff, nothing in 20 CSR 4240-3.160 or 20 CSR 4240-3.175 would prohibit EMM and EMW from filing them earlier than the January 2022 rate cases. .

- EMM and EMW represent that their upcoming rate cases are expected to be filed in January 2022.
- Staff anticipates that some depreciation rates will need to be changed from the information provided in the depreciation studies, databases, and property unit catalogs.
- The Commission ordered, by its approval of the first Non-Unanimous Stipulation and Agreement in ER-2018-0145, certain items be reflected in EMW's next depreciation study.

RECOMMENDATION

Staff has no objection to the Companies' application to delay the filing of their depreciation studies, databases, and property unit catalogs until their January 2022 rate cases at the latest. Staff would recommend that the Commission order that both EMW and EMM submit their

² Database: ER-2016-0156 DR 99
Property Unit Catalog: ER-2016-0156 DR 100

depreciation studies, databases, and property unit catalogs to Staff as soon as the documents are finalized and ready for submittal if they are ready prior to the filing of their January 2022 rate cases.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Metro, Inc. d/b/a)	
Evergy Missouri Metro Request for Variance)	File No. EE-2021-0423
of 20 CSR 4240-3.175)	
		and
In the Matter of Evergy Missouri West, Inc.)	File No. EE-2021-0424
d/b/a Evergy Missouri West Request for)	
Variance of 20 CSR 4240-3.175)	

AFFIDAVIT OF DAVID T. BUTTIG, PE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW DAVID T. BUTTIG, PE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.




DAVID T. BUTTIG, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 21st day of July 2021.

D. SUZIE MANKIN Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: April 04, 2025 Commission Number: 12412070



Notary Public