

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

In the Matter of Requests for Customer            )  
Account Data Production                            )            **File No. EO-2024-0002**

**STAFF’S OBJECTION TO  
LIBERTY’S APPLICATION TO INTERVENE**

**COMES NOW**, the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Objection to Liberty’s Application to Intervene* (“*Liberty’s Application*”), states as follows:

1. On June 30, 2023, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (EMM) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (EMW) (collectively, “Evergy”) filed its *Motion to Establish Docket for Further Consideration of Data Production* (“*Evergy’s Motion*”).

2. This EO docket was established to consider certain data requested by the Staff of the Commission pursuant to a *Stipulation and Agreement* entered into by Evergy which requires it to “provide the reason why it cannot provide the requested data and its individual estimate of the cost to provide each set of requested data, for the further consideration of the parties and the Commission.” That *Stipulation and Agreement*, which is at the heart of this matter, was entered into by Staff, Evergy, and various other Signatories<sup>1</sup>, not including The Empire District Electric Company d/b/a Liberty (“Liberty”), was reached at the conclusion of Evergy’s general rate case, number ER-2022-0129 and ER-2022-0130, and, as it relates to

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<sup>1</sup> The other signatories included the Office of the Public Counsel, Nucor Steel Sedalia, LLC, the City of St. Joseph, Missouri, Midwest Energy Consumers Group, and Renew Missouri Advocates. Evergy was the only electric utility corporation that was a party to the Stipulation and Agreement. Neither Ameren Missouri nor Liberty were parties or signatories to the *Stipulation and Agreement*.

this docket, requires Evergy to “identify and provide data requested in the direct testimony of Sarah Lange.”<sup>2</sup>

3. On July 6, 2023, the Commission issued an *Order* directing any party wishing to intervene in the above-captioned case to do so by July 27, 2023.<sup>3</sup>

4. On July 26, 2023, Liberty filed its *Application to Intervene* pursuant to Commission Rule 20 CSR 4240-2.075 and this Commission’s July 6, 2023 *Order*, and asserted that Evergy’s Motion noted “that many aspects of the data ordered for an Ameren Missouri study are similar to the data requested by Staff from Evergy” in this docket, and that “Liberty recognizes the need to understand and resolve the issue of data availability as it relates to collecting similar customer-specific information in the future.” As such, Liberty noted its “intended participation ... in this docket.”

5. Rule 20 CSR 4240-2.075 provides in pertinent part:

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

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

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

6. Liberty argues that it should be allowed to intervene because its interests are “different than the general public.” It argues that because of the “Commission’s focus on consistency ... and the common characteristics among investor-owned electric utilities, Liberty’s interests may be adversely affected by a final order arising from this case.” This case was filed by Evergy to provide the Commission and Staff with information about the

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<sup>2</sup> An outline of the specific data requested of Evergy is set forth in detail in *Staff’s Objection to Ameren Missouri’s Application to Intervene*, paragraph 3, subparagraphs 1 -10, which was filed in this case on July 12, 2023.

<sup>3</sup> *Order Directing Notice, Setting Deadline for Intervention Requests, and Setting Prehearing Conference*, issued and effective July 6, 2023.

cost of Evergy to provide certain information and data to Staff. This Evergy case should consist of Evergy filing direct testimony about what Evergy thinks it must do to provide each item of information and its cost estimate for doing so; not to include that of Liberty's or any other utility's costs or actions.

7. Liberty also argues its intervention “would serve the public interests ..., promote administrative economy and preserve the scarce resources of the Commission, Staff, Public Counsel, and other interested parties if all the affected regulated electric companies are allowed to participate in one proceeding.” Allowing Liberty to intervene would not serve the public interest nor promote administrative economy. Allowing multiple utilities acting in concert in a contested case proceeding where only one utility, Evergy, will be subjected to the outcome is unfair to the other parties, as the other utilities have more resources than the typical stakeholders,<sup>4</sup> and forces stakeholders to respond or refute multiple arguments, when the result only binds one of the companies. For example, instead of just having to respond to Evergy's witnesses, the parties would now have to respond to Evergy, as well additional, unrelated company testimony, witnesses from parties who do not have interests directly impacted by the case, including Liberty and/or Union Electric Company d/b/a Ameren Missouri. It could also have a chilling effect on a potential settlement if a utility not subjected to the outcome of this case, Liberty for example, can impede settlement to further its goals in other dockets, to the detriment of a reasonable solution among impacted stakeholders in the current docket.

8. Staff worked with Evergy and the signatories to that *Stipulation and Agreement* in Evergy's case for specific deliverables. Furthermore, Evergy's motion to

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<sup>4</sup> See, *In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service Case*, No. ER-2014-0370.

establish this EO docket concerns Evergy's difficulty and cost in providing the data as related to specific systems in which its data is stored internally. Liberty was not and is not a party to that *Stipulation and Agreement*. Liberty does not possess relevant information concerning how or why Evergy can or cannot cost-effectively provide Evergy's internal data cross-referenced with Evergy's internal systems. Therefore, Liberty's interests cannot be positively or negatively impacted by intervening in this matter and should not be allowed entry into this docket.

9. Furthermore, Staff negotiated with Evergy and the other signatories for specific deliverables in the context of that particular *Stipulation and Agreement* to which Liberty was not a party. Staff is open to working with each utility, whether it is Ameren Missouri or Liberty to obtain the information sought, but it is not interested in surrendering the procedural progress it has made to date with Evergy by including Liberty in this particular docket. As such, Liberty should not have procedural rights in this Evergy matter.

10. Finally, Liberty's alleged interest in this Evergy proceeding to potentially address the Commission *Order Approving Stipulations and Agreements* issued on March 9, 2022, in Liberty's general rate case, No. ER-2021-0312, may constitute a collateral attack on that Order. Liberty cannot be bound by the results of this case concerning Evergy's costs of interpreting Evergy's data, and to the extent that Liberty intends the outcome of this Evergy case to affect its obligations under Liberty's March 9, 2022 Order, that outcome would be a collateral attack on Liberty's Order and cannot be permitted<sup>5</sup>.

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<sup>5</sup> See, *Bugg v. Rutter*, 466 SW3d 596, 602 (Mo.App. W.D. 2015).

**WHEREFORE**, Staff prays that Liberty's *Application to Intervene* will be denied outright or, if it is not, then the Commission should issue notice and set a hearing on the issue of Liberty's *Application to Intervene*; and grant such other and further relief as is just and reasonable under the circumstances.

Respectfully submitted,

**/s/ Carolyn H. Kerr**

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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 2nd day of August, 2023, to all counsel of record.

**/s/ Carolyn H. Kerr**