

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

In the Matter of the Ninth Prudence Review of    )  
Costs Subject to the Commission-Approved Fuel    )  
Adjustment Clause of Evergy Missouri West, Inc.    )  
d/b/a Evergy Missouri West    )  
**File No. EO-2020-0262**

**STAFF OBJECTION TO MOTION TO SUPPLEMENT  
REBUTTAL TESTIMONY OF BRIAN FILE**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and for its *Staff Objection to Motion to Supplement Rebuttal Testimony of Brian File* respectfully states:

1. On January 25, 2021, Evergy Metro Inc, d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy” or “Company”) filed a *Motion to Supplement Rebuttal Testimony of Brian File* (“Motion”), pursuant to Commission Rule 20 CSR 4240-2.130, requesting that the Commission accept the supplemental testimony of Evergy witness Brian File.

2. Evergy filed its Motion in response to the January 13, 2021 filing of Staff witness J Luebbert’s surrebuttal testimony in this case, which included schedules consisting of testimony and Staff’s reports from File No. EO-2020-0227/0228, *In the Matter of the Second Prudence Review of the Missouri Energy Efficiency Investment Act (MEEIA) Cycle 2 Energy Efficiency Programs of Evergy Metro, Inc., d/b/a Evergy Missouri Metro* (“MEEIA Proceeding”).

3. Evergy requests that the Commission accept the supplemental testimony of Mr. File because “The addition of these schedules from the MEEIA Proceeding in Staff’s surrebuttal testimony go significantly beyond the direct testimony filed by Staff in

this case, or the rebuttal testimony filed by any party in this case, and thus left Evergy unable to adequately respond to these schedules in rebuttal testimony of this case.”<sup>1</sup>

4. Mr. Luebbert’s surrebuttal testimony was filed in response to Mr. Files’s rebuttal testimony in this docket, filed on December 4, 2020. In his rebuttal, Mr. File asserts that the purpose of his rebuttal was to “address pp. 19-22 of the direct testimony of OPC witness Lena Mantle where OPC alleges that the Company was imprudent by not calling on its demand response programs.”<sup>2</sup>

5. Mr. File further clarified that the allegations from Ms. Mantle he was responding to “repeats the bare allegations and adjustment amounts **asserted by Staff** in the MEEIA Cycle 2 audit proceeding, Case Number EO-2020-0227/0228 regarding the number of demand response events called by Evergy (emphasis added).”<sup>3</sup>

6. Rather than going “significantly beyond...the rebuttal testimony filed by any party in this case,”<sup>4</sup> Mr. Luebbert’s surrebuttal testimony was a direct response to the above assertion of Mr. File, arising from his own rebuttal testimony.

7. By directly addressing Staff’s position in the MEEIA Proceeding, Mr. File opened the door requiring Staff to defend those positions in this docket. Further, rather than attempting to address Staff’s position in the MEEIA Proceeding in this FAC docket, Mr. Luebbert’s surrebuttal stresses that “the recommended disallowances are **appropriate to address through the MEEIA prudence review...** (emphasis added)”<sup>5</sup>

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<sup>1</sup> *Motion to Supplement Rebuttal Testimony of Brian File*, pg. 2, ¶ 2 (January 25, 2021).

<sup>2</sup> *Rebuttal Testimony of Brian File*, pg. 3, ¶ 14-16 (December 4, 2020).

<sup>3</sup> *Id.*, pg. 3, ¶ 19-21.

<sup>4</sup> *Motion to Supplement Rebuttal Testimony of Brian File*, pg. 2, ¶ 2.

<sup>5</sup> *Surrebuttal Testimony of J Luebbert*, pg. 2, ¶ 18-19 (January 13, 2021).

8. Staff incorporated Mr. Luebbert's position that the recommended disallowances proposed by OPC within this docket remain best addressed in the MEEIA Proceeding throughout *Staff's Statement of Position* filed on January 21, 2021.

9. Evergy did not file any surrebuttal in this proceeding.

10. This appears to be another attempt by Evergy to "insist on the introduction of a fourth round of testimony (to apply exclusively to them) prior to an evidentiary hearing."<sup>6</sup> The Commission disagreed with Evergy's professed need to an exclusive fourth round of testimony, and set the procedural schedule that is in effect today: simultaneous direct, rebuttal, and surrebuttal by all the parties.<sup>7</sup>

11. Commission Rule 20 CSR 4240-2.130(10) governs supplemental pre-filed testimony, and states:

No party shall be permitted to supplement prefiled prepared direct, rebuttal, or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

12. Evergy chose to address Staff's position in the MEEIA Proceeding through Mr. File's rebuttal testimony in this docket, and Staff responded in kind. This was not a matter that had gone previously undisclosed; it was a matter brought to light in Mr. File's own rebuttal testimony, filed on behalf of Evergy. And this does not constitute a filing of supplemental direct for the purpose of replacing projected financial information with actual results.

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<sup>6</sup> *Joint Proposed Procedural Schedule on Behalf of the Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and Sierra Club*, pg. 1, ¶ 2 (October 5, 2020).

<sup>7</sup> *Order Setting Procedural Schedule*, pg. 3, ¶ 1 (October 21, 2020).

13. Staff objects to Evergy's attempt to give itself an extra round of testimony, and requests that the Commission reject Evergy's request.

**WHEREFORE**, Staff hereby tenders its *Objection to Motion to Supplement Rebuttal Testimony of Brian File* for the Commission's information and consideration.

Respectfully Submitted,

**/s/ Travis J. Pringle**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all parties and/or all counsels of record this 26<sup>th</sup> day of January, 2021.

**/s/ Travis J. Pringle**