

**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 RESPONSE TO AMEREN MISSOURI AND EVERGY’S RESPONSES TO
STAFF’S OBJECTION TO AMEREN MISSOURI’S APPLICATION TO INTERVENE**

COMES NOW, the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and in response to Ameren Missouri’s and Evergy’s replies to Staff’s *Objection to Ameren Missouri’s Application to Intervene* (“*Objection*”), 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*. This EO docket was established for Evergy to provide the reason why it cannot provide data it agreed to provide and its individual estimate of the cost to provide each set of such data for consideration by the parties and the Commission. The *Stipulation and Agreement*, which did not include Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) as a signatory, was reached at the conclusion of the Evergy’s general rate case number ER-2022-0129 and ER-2022-0130.

2. On July 7, 2023, Ameren Missouri filed its *Application to Intervene*, and asserted an interest in this case, specifically, that its interests were different than the general public, “in that it is a regulated public utility who may be affected by results of this docket, especially considering the Commission’s focus on consistency across the state.” Ameren Missouri argued, “[i]n the Commission’s Report and Order, effective June 24, 2023, in Ameren Missouri’s most recent electric general rate review, File No. ER-2022-0337, the Company is directed ‘to retain customer and rate schedule

characteristics related to draws of reactive demand.’ The Company is also directed ‘to provide the information Staff requested that it can provide at reasonable expense.’”¹

3. On July 12, 2023, Staff filed its *Objection to Ameren Missouri’s Application to Intervene*.

4. On July 19, 2023, Ameren Missouri filed its *Reply to Staff’s Objection to Ameren Missouri’s Application to Intervene*, and on July 21, 2023, Evergy filed its *Reply to Staff’s Objection to Ameren Missouri’s Application to Intervene*. Both parties ask the Commission to overrule or deny Staff’s *Objection* and to grant Ameren Missouri’s *Application to Intervene*.

5. Allowing Ameren Missouri to intervene would not serve the public interest and would not 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 utilities have more resources than the typical stakeholders,² 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 Ameren Missouri and/or The Empire

¹ Ameren Missouri *Application to Intervene* at paragraph 10.

² The Commission recognized this disparity in previous cases, such as the proper treatment of rate case expense. “All consumer groups were represented by hired counsel in this case, and some also engaged expert witnesses. While KCPL is able to recoup the costs of its legal counsel and expenses through utility service rates, OPC, the entity representing ratepayers, operates within a tight annual budget, and interveners pay their own legal expenses. Awarding a utility all of its incurred rate case expenses could provide that utility with a significant financial advantage over other participants in the rate case process, who may be constrained by budgetary and other financial restrictions.” *Report and Order*, p. 66-67, *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.

District Electric Company d/b/a Liberty. It could also have a chilling effect on a potential settlement if a utility not subjected to the outcome of this case, Ameren Missouri 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.

6. Ameren Missouri seeks intervention on the basis of its allegations that the Commission's Report and Order in ER-2022-0337 imposed requirements similar to those Evergy accepted in the above-referenced *Stipulation and Agreement*. As stated in Staff's *Objection*, paragraph 11, allowing Ameren Missouri to intervene in this case would be a collateral attack on the Commission's Report and Order issued in Ameren Missouri's general rate case, No. ER-2022-0337. Ameren Missouri cannot be bound by the results of this case concerning Evergy's costs of interpreting Evergy's data, and to the extent that Ameren Missouri intends the outcome of this Evergy case to affect Ameren Missouri's obligations under Ameren Missouri's order, that outcome is a collateral attack on Ameren Missouri's Order and cannot be permitted³.

7. Furthermore, Ameren Missouri argues that it should be allowed to intervene because its interests are "different than the general public in that it is a regulated public utility who may be affected by the results of this docket." This case was filed by Evergy to provide the Commission and Staff with information about the cost of Evergy to provide certain information and data to Staff. Ameren Missouri took to hearing in its general rate case (No. ER-2022-0337) the issue of whether or not Ameren Missouri should be ordered to produce data to Staff and other parties and was ordered to produce the data as a result. The results of this docket, Ameren Missouri argues, will affect how Ameren Missouri will

³ See, *Bugg v. Rutter*, 466 SW3d 596, 602 (Mo.App. W.D. 2015).

be affected in gathering and accessing its data across its systems in its other case, and in its obligation to comply with the Commission's order in ER-2022-0337. Again, 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 Ameren Missouri's or any other utility's costs or actions.

WHEREFORE, Staff prays that Ameren Missouri'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 Ameren Missouri'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

Missouri Bar # 45718

Senior Staff Counsel

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102

573-751-5397 (Voice)

573-526-6969 (Fax)

Carolyn.kerr@psc.mo.gov

Attorney for Staff of the

Missouri Public Service Commission

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 26th day of July, 2023, to all counsel of record.

/s/ Carolyn H. Kerr