

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

In the Matter of the Second Prudence)
Review of the Missouri Energy Efficiency)
Investment Act (MEEIA) Cycle 2 Energy) **File No. EO-2020-0227**
Efficiency Programs of Evergy Metro, Inc.)
d/b/a Evergy Missouri Metro)

In the Matter of the Second Prudence)
Review of the Missouri Energy Efficiency)
Investment Act (MEEIA) Cycle 2 Energy) **File No. EO-2020-0228**
Efficiency Programs of Evergy Missouri) (consolidated)
West, Inc. d/b/a Evergy Missouri West)

**STAFF MOTION FOR CLARIFICATION OR
MODIFICATION OF PROCEDURAL SCHEDULE**

COMES NOW Staff of the Missouri Public Service Commission and submits this Motion for Clarification or Modification of the Commission’s *Order Consolidating Cases and Setting Procedural Schedule* (the “Order”) issued herein on August 5, 2020, and in support hereof respectfully states as follows:

1. Staff and the Office of the Public Counsel (“OPC”) submitted a proposed procedural schedule and proposed procedural requirements in these cases on July 22, 2020. Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy”) also submitted a significantly different proposed procedural schedule and proposed procedural requirements on the same date.

2. The Commission’s Order issued herein on August 5, 2020, adopted what it referred to as “a compromise schedule.” In other words, the schedule adopted by the Commission did not exactly match either of the schedules proposed by the parties.

3. The Commission's compromise schedule sets October 21, 2020, as the due date for Evergy's sur-surrebuttal testimony responsive to the surrebuttal testimony of Staff and OPC, *as well as* the Last Day to Issue Discovery Requests, Subpoenas, or Take Depositions (referred to herein as the "discovery cutoff date"). This means that Staff and OPC will be precluded from conducting *any* discovery of Evergy concerning its sur-surrebuttal testimony which, in turn, means that Staff and OPC will be prevented from appropriately and adequately preparing for hearing *and* that hearing time may well be wasted covering matters that could have, and more appropriately should have, otherwise been covered in discovery – results which may not have been intended by the Commission when it issued the Order.

4. The procedural schedule proposed herein by Staff and OPC provided for seven (7) days between the last testimony filing and the discovery cutoff date. Even Evergy's proposed procedural schedule provided for five (5) days between the last testimony filing and the discovery cutoff date. Staff respectfully requests the Commission issue an order clarifying that it did not intend to preclude Staff and OPC from conducting discovery of Evergy concerning its sur-surrebuttal testimony. Staff offers two options to allow for such discovery:

Option A: The Commission could modify the discovery cutoff date from October 21 to October 27, 2020, i.e., six (6) calendar days (but only four (4) business days) between the last testimony filing date and the discovery cutoff date. Since Evergy will have ten (10) days to respond to data requests (discovery requests) regarding its sur-surrebuttal testimony, Evergy's responses to data requests submitted on October 27 would not be due until November 6, 2020, and the Evidentiary Hearing is currently set for

November 5 - 6, 2020. Therefore, Staff submits that the Evidentiary Hearing dates should also be slightly modified if this option is adopted. In order to allow time for Evergy to respond to discovery requests and for Staff and OPC to have adequate time to review and factor such responses into their case preparation for hearing, Staff respectfully requests the Commission modify the Evidentiary Hearing dates from November 5 – 6 to November 12 – 13, 2020.

Option B: The Commission could modify the discovery cutoff date from October 21 to October 23, 2020, i.e., two (2) calendar days. Since Evergy will have ten (10) days to respond to data requests (discovery requests) regarding its sur-surrebuttal testimony, Evergy's responses to data requests submitted on October 23 would be due November 2, 2020. The Evidentiary Hearing, which is currently set for November 5 - 6, 2020, could remain as scheduled.

5. Finally, Staff would note that the due date for rebuttal testimony from all parties is set for September 12, 2020. Unfortunately, September 12 is a Saturday. Commission rule 20 CSR 4240-2.050, Computation of Time, provides that

(1) In computing any period of time prescribed or allowed by the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. **This rule does not apply when the commission establishes a specific date by which an action must occur**, nor does it operate to extend effective dates which are established by statute. (Emphasis added)

Therefore, based on this rule it appears that rebuttal testimony from all parties is actually due on the preceding Friday, September 11, 2020. Staff respectfully requests the Commission clarify that rebuttal testimony of all parties is due September 11 rather than September 12.

WHEREFORE, for the reasons set forth above, Staff respectfully moves that the Commission issue an order (1) modifying the discovery cutoff date, and possibly the Evidentiary Hearing dates, as set forth in *either* Option A or Option B in paragraph 4 above; (2) clarifying that rebuttal testimony of all parties is due September 11 rather than September 12, 2020; and (3) granting such further relief as the Commission deems just and reasonable.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 7th day of August 2020.

/s/ Jeffrey A. Keevil