

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

In the Matter of the Application of Evergy Metro,            )  
Inc. d/b/a Evergy Missouri Metro and Evergy            )  
Missouri West, Inc. d/b/a Evergy Missouri West            )     File No. EU-2020-0350  
for an Accounting Authority Order Allowing the            )  
Companies to Record and Preserve Costs Related            )  
to COVID-19 Expenses    )

**INITIAL POST-HEARING BRIEF OF  
EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST**

COMES NOW Evergy Metro, Inc., d/b/a/ Evergy Missouri Metro (“Evergy Metro”) and Evergy Missouri West, Inc. (“Evergy Missouri West”) (collectively, “Evergy” or “Company”), pursuant to the Order Setting Hearing Date and Resuming Procedural Schedule issued by the Missouri Public Service Commission (“Commission” or “PSC”) on October 28, 2020, and state the following for their Initial Post-Hearing Brief:

**Introduction**

On May 6, 2020 Evergy filed an Application for an accounting authority order (“AAO”) permitting Evergy Metro and Evergy Missouri West to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings all extraordinary costs and financial impacts that they incurred as a result of the coronavirus disease (“COVID-19”) pandemic, plus associated carrying costs, pursuant to Section 386.250<sup>1</sup> and 393.140. However, after the filing of direct, rebuttal and surrebuttal testimony, extensive negotiations were conducted that led to a Non-Uniform Stipulation and Agreement (“Stipulation”) being filed with the Commission on October 8, 2020. The parties to the Stipulation are the Staff of the Commission (“Staff”), the

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<sup>1</sup> All citations are to the Revised Statutes of Missouri (2016), as amended.

Midwest Energy Consumers Group (“MECG”), the Missouri Industrial Energy Consumers (“MIEC”), the Sierra Club, and Evergy (collectively, “Signatories”).<sup>2</sup>

Only the Office of the Public Counsel (“OPC” or “Public Counsel”) and the National Housing Trust (“NHT”) oppose the settlement. Notably, OPC opposes several of the recommendations of NHT.<sup>3</sup>

**1. Is the COVID-19 pandemic an extraordinary event within the scope of the Uniform System of Accounts as it has been historically interpreted and applied by the Commission or as subsequently modified by Missouri courts?**

A. The COVID-19 Pandemic Constitutes an Extraordinary Event

On March 13, 2020 the President issued a Proclamation declaring that “the outbreaks of the coronavirus disease (“COVID-19”) that has now spread globally” constituted a “national emergency” as of March 1, 2020 under the National Emergencies Act. The Proclamation noted that the Secretary of Health and Human Services had declared a public health emergency on January 31, 2020 under Section 319 of the Public Health Service Act, in response to COVID-19. The Federal Energy Regulatory Commission (“FERC”) recognized this declaration in its Statement of Policy issued on April 2, 2020 in Docket No. PL20-5-000. The presidential proclamation referenced the World Health Organization’s announcement on March 11, 2020 that, based upon the “alarming levels of spread and severity” of the disease around the world, the COVID-19 outbreak “can be characterized as a pandemic.”

On July 6, 2020, the U.S. Centers for Disease Control and Prevention (“CDC”) reported a total of 2,886, 267 COVID-19 cases for the country, with 129,881 total deaths. For Missouri, there were reported 23,856 total cases with 1,028 deaths. As of December 4, 2020, the CDC stated that

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<sup>2</sup> Although Ameren Missouri, Missouri-American Water Co., and Spire Missouri did not sign the Stipulation, they did not oppose it. Renew Missouri did not sign the Stipulation, did not oppose it, and did not request a hearing.

<sup>3</sup> See Public Counsel’s Position Statement at 10-11 (Sept. 16, 2020).

13,822,249 cases in the U.S. had been reported to it since January 21, 2020, with 272,525 total deaths.<sup>4</sup> On this same date the Missouri Department of Health and Senior Services advised that 313,421 cases had been reported to it, with total deaths at 4,122.”<sup>5</sup>

At Governor Parson’s direction, the Department of Health and Senior Services (“DHSS”) issued a series of orders closing schools, government offices, and businesses to prevent the further spread of COVID-19 through the end of May 2020. See DHSS Order (Apr. 3, 2020); DHSS Order (Apr. 27, 2020). A number of local governments in Evergy’s Missouri service territory designated electricity and related energy businesses as “essential” and issued stay-at-home or shelter-in-place orders in April that affected all aspects of economic activity into May. See Fourth Amended Order 20-01, City of Kansas City (Apr. 30, 2020); Fourth Amended Declaration and Order, City of St. Joseph (Apr. 30, 22 2020).<sup>6</sup>

Although the effects of the pandemic appeared to subside during the summer, in recent weeks COVID-19 cases and deaths have dramatically increased, both nationally and locally. The Mayor of Kansas City recently issued an order that took effect on November 20 that limited all indoor gatherings to 10 people, directed all restaurants, taverns and other venues, including wedding and event spaces, to close at 10 p.m., and mandated the wearing of masks in all indoor spaces. See Eleventh Amended Order 20-01, City of Kansas City (Nov. 16, 2020) (attached as **Exhibit A**). It cited an advisory issued by the health directors of Kansas City and the Counties of Jackson, Clay and Platte stating that “the uncontrolled rise in COVID-19 infections has created a dangerously low number of available physical acute care beds in local hospital facilities and significant staffing shortages for health personnel.” It advised that “the uncontrolled spread of

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<sup>4</sup> <https://covid.cdc.gov/covid-data-tracker> (accessed Dec. 4, 2020).

<sup>5</sup> <https://showmestrong.mo.gov/data/statewide-public-health/> (accessed Dec. 4, 2020).

<sup>6</sup> Ex. 7 at 5-6 (Ives Direct).

COVID-19 in the metropolitan area and in rural areas of Missouri and Kansas poses a serious threat to our businesses and local economy ....” Id. at 2.

Jackson County issued a similar order, re-imposing restrictions that limited gatherings to 10 persons and business occupancy to 10%, and that directed restaurants, taverns and other venues to close at 10 p.m. See Amended Order of Jackson County Executive and Health Dep’t at 4-5 (Nov. 18, 2020) (Attached as **Exhibit B**). It noted that “[t]he spread of COVID-19 presents a substantial threat to the health of the Greater Kansas City area communities of Missouri and Kansas.” Id. at 1. Both the Kansas City and the Jackson County orders will continue until amended or rescinded. The orders together reported that the total number of COVID-19 cases in their jurisdictions was 32,206, with the total number of deaths at 399.<sup>7</sup> Because of “the continued severity of the outbreak” of COVID-19, on December 1 the U.S. District Court for the Western District of Missouri issued a General Order that continued to a future date all jury trials and non-emergency in-person hearings that were scheduled between December 1 and March 22, 2021 (<https://www.mow.uscourts.gov>).

Based on these irrefutable facts, in addition to the testimony of Evergy witness Ives<sup>8</sup>, Staff witness Bolin<sup>9</sup> and MECG/MIEC witness Meyer<sup>10</sup>, the Commission should find that the COVID-19 pandemic is an extraordinary event for Evergy, its employees, and customers, and adopt the joint recommendations contained in the Stipulation.

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<sup>7</sup> These orders update governmental orders discussed in the direct and surrebuttal testimony of Evergy witness Darrin Ives. See Ex. 7 at 6-7; Ex. 9 at 14-15. Pursuant to Section 536.070(6), Evergy requests that the Commission take official notice of these orders, just as the courts have noticed and discussed similar orders, reports, regulations in similar circumstances. See Roman Catholic Diocese v. Cuomo, 592 U.S. \_\_\_\_, Slip Opin. at 1, 3 (Nov. 25, 2020); Gershman Investment Corp. v. Danforth, 475 S.W.2d 36, 37-38 (Mo. en banc 1971); Estate of Layne v. Williams, 157 S.W.2d 157, 159 (Mo. App. W.D. 1987).

<sup>8</sup> Ex. 7 at 4-9 (Ives Direct); Ex. 9 at 3-8 (Ives Surrebuttal).

<sup>9</sup> Ex. 100 at 6 (Bolin Rebuttal).

<sup>10</sup> Ex. 300 at 5 (Meyer Rebuttal).

B. The Commission’s Authority Is Not Constrained by General Instruction 7 of the Uniform System of Accounts which is Irrelevant to Deferral Accounting and the Creation of Regulatory Assets.

Despite the contrary arguments of the Public Counsel,<sup>11</sup> the Commission is not constrained by General Instruction 7 of the FERC Uniform System of Accounts (“USOA”)<sup>12</sup> as it exercises its discretion to approve an AAO to address the extraordinary circumstances created by the greatest health threat in our lifetime. Furthermore, the Commission should reject the Public Counsel’s contention that an AAO may not be issued if it does not involve costs in excess of five percent (5%) of the Company’s income. The Commission stated almost 40 years ago that while the five percent standard is relevant to materiality and whether an event is extraordinary, it “is not case-dispositive.”<sup>13</sup> More recently, the Commission rejected as “meritless” arguments that deferrals under an AAO may only be granted for amounts greater than 5 percent of income.<sup>14</sup> Certainly, the Commission has often in the past authorized deferral of costs that did not reach 5% of income. For example, the Commission has authorized AAOs and trackers associated with changes to the Cold Weather Rule,<sup>15</sup> renewable energy standard costs,<sup>16</sup> electric vehicle charging costs,<sup>17</sup> green

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<sup>11</sup> Ex. 200 at 3-4 (Schallenberg Rebuttal).

<sup>12</sup> Under 20 CSR 4240-20.030(1), electrical corporations like Evergy must keep their accounts “in conformity” with the USOA.

<sup>13</sup> *Report & Order, In re Mo. Public Service*, 1991 WL 501955 at 5, No. EO-91-358 (Mo. P.S.C. 1991) (AAO granted to defer depreciation expenses and carrying costs associated with life extension construction and coal conversion project at the Sibley Generating Station). See *Order regarding Motion to Reject Pleading, Application for Rehearing and Request For Reconsideration* at 3, *In re Mo. Gas Energy*, No. GO-99-258 (June 3, 1999) (“a finding of materiality is not necessary for deferral”).

<sup>14</sup> *Report & Order* at 13 & n.35, *In re Application of Southern Union Co. for an AAO*, No. GU-2011-0392 (Jan. 25, 2012) (AAO granted for Joplin tornado expenses, capital costs, depreciation, and carrying charges).

<sup>15</sup> *Order Approving Unanimous Stipulation and Agreement and Authorizing Tariff Filing, In re Laclede Gas Co.*, No. GU-2007-0137 (July 19, 2008) (Emergency Cold Weather Rule costs); *In re Laclede Gas Co.*, No. GU-2007-0138 (April 17, 2008) (Cold Weather Rule costs);

<sup>16</sup> *Order Approving Stipulation and Agreement, In re Application of Kansas City Power & Light Co. and KCP&L Greater Mo. Operations Co. for the Issuance of an Accounting Auth. Order*, No. EU-2012-0131 (Apr. 17, 2012) (Renewable Energy Standards costs).

<sup>17</sup> *Order Approving Stipulation and Agreement, In re Union Elec. Co. for Approval of Efficient Electrification Program*, No. ET-2018-0132 (Oct. 17, 2019) (EV charging costs).

tariff program costs,<sup>18</sup> construction accounting,<sup>19</sup> Y2K costs,<sup>20</sup> ice storm costs,<sup>21</sup> security costs,<sup>22</sup> and numerous other occasions without a finding that they exceeded 5% of income.

As Staff witness Bolin recognized: “At this time, it is unknown what the final incremental costs, revenues and/or savings incurred will be as the COVID-19 pandemic continues for an indefinite period of time.”<sup>23</sup> Therefore, it is not appropriate to apply a materiality test in this case.

With regard to the applicability of General Instruction 7 to AAO cases, Darrin Ives, a certified public accountant and Evergy’s Vice President of Regulatory Affairs, testified that there is no relationship in the USOA between General Instruction 7 and the establishment of regulatory assets or liabilities:

There is nothing in General Instruction 7 that discusses the establishment of regulatory assets or regulatory liabilities, which is what Evergy has asked the Commission to authorize through its AAO application. General Instruction 7’s closing reference to Accounts 434 (“Extraordinary income”) and 435 (“Extraordinary deductions) have nothing to do with deferral accounting, or regulatory assets or liabilities.

These accounts appear in the section of the USOA relating to “Income Accounts” that contains a series of accounts in the 400’s, beginning with Account 400 (“Operating revenues”). Here the USOA directs where an item of extraordinary revenue or expense should appear “below the line” on a utility’s income statement. See Sched. DRI-3 at 6-8 (Accounts 434-435).<sup>24</sup>

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<sup>18</sup> Order Approving Stipulation and Agreement, In re Application of Union Elec. Co. for Approval of 2017 Green Tariff, No. ET-2018-0063 (June 27, 2018) (Stipulation, ¶ 8).

<sup>19</sup> Order Approving Accounting Authority Order, In re KCP&L Greater Mo. Operations Co., No. EU-2011-0034 (Sept. 28, 2010) (construction accounting authorized).

<sup>20</sup> Report and Order at 4, In re Application of Mo. Gas Energy for an Accounting Auth. Order Relating to Year 2000 Compliance Projects (Mar. 2, 2000) (“... the Commission need not find that the expenditures are material to allow deferral”).

<sup>21</sup> Order Approving Stipulation and Agreement, In re Union Elec. Co. for an Accounting Auth. Order for Extraordinary Costs Relating to Damage from January 2007 Ice Storm, No. EU-2008-0141 (April 30, 2008).

<sup>22</sup> Report and Order, In re Mo.-American Water Co., No. WO-02-273 (Nov. 10, 2004) (security costs).

<sup>23</sup> Ex. 100 at 5 (Bolin Rebuttal). She confirmed that this is her opinion today (Tr. at 205). OPC’s David Murray testified that the Bureau of Economic Research, a federal agency, has declared that the United States is in a recession as a result of the pandemic (Tr. at 275-80).

<sup>24</sup> Ex. 9 at 9-10 (Ives Surrebuttal).

By contrast, regulatory assets and regulatory liabilities are found in a different section of the USOA relating to “Balance Sheet Accounts” that contains a series of accounts in the 100’s and 200’s, beginning with Account 101 regarding “Electric plant in service (Major only).” Definition 31 in the USOA provides the requirements to be met for the establishment of regulatory assets and liabilities, *not* General Instruction 7. When the appropriate USOA criteria in Definition 31 are met, regulatory assets and liabilities are to appear in either Account 182.3 (“Other regulatory assets”) or Account 254 (“Other regulatory liabilities”) on the balance sheet. Ex. 9 (Ives Surrebuttal), Sched. DRI-3 at 1-5. The Commission has referenced these accounts in numerous orders. Finally, neither Definition 31 nor the account descriptions in the USOA for Accounts 182.3 or 254 make any reference to General Instruction 7, however, they do cite to Definition 31.<sup>25</sup>

The expert opinion of Mr. Ives has been confirmed by Evergy’s controller, accounting team, and two of the largest national independent accounting firms in the country PricewaterhouseCoopers and Deloitte.<sup>26</sup> As an expert in public utilities regulatory accounting, Mr. Ives may reasonably rely on such facts in forming his opinion under Section 490.065.2(2). The Commission should not feel constrained to apply General Instruction 7 to the facts of this case. Instead, the Commission should continue to evaluate the circumstances of this extraordinary pandemic as it has traditionally done in other cases involving numerous AAOs without regard to the criteria contained in General Instruction 7.

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<sup>25</sup> Ex. 9 at 9-10 (Ives Surrebuttal).

<sup>26</sup> Id. at 11.

**2. Should the Commission approve the Application for an AAO permitting Evergy to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings before the Commission extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic?**

- A. Given the extraordinary nature of the Pandemic, the Commission should grant an AAO as recommended in the Stipulation which it possesses the lawful authority to do

As explained in response to Issue 1 above, there is no legitimate dispute that the pandemic constitutes an extraordinary event.

The Commission<sup>27</sup> and the courts<sup>28</sup> have found that AAOs are lawful and reasonable under appropriate circumstances for many years. In Missouri, there is no statute or Commission rule that specifically mentions utility applications for AAOs or that prescribes legal or regulatory principles governing such applications. Section 393.140, in both subsections (4) and (8), respectively, authorize the Commission, on a case-by-case basis and “in its discretion,” to “prescribe, by order, forms of accounts, records and memoranda to be kept by” utilities or “after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.” In addition, Section 393.140(4) generally vests the Commission with the authority to “prescribe uniform methods of keeping accounts, records and books” of utilities subject to its jurisdiction. But nowhere in the statutes or the Commission’s rules are there standards that explicitly govern AAOs. Thus, the Commission has broad regulatory discretion to grant AAO applications under specific sets of circumstances for various types of costs when the Commission believes the granting of an AAO is appropriate.

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<sup>27</sup> See Commission orders cited in nn. 13-22, *supra*. See also In re Mo. Gas Energy, Report & Order at 80, No. GU-2010-0015 (Sept. 8, 2005) (Kansas property tax associated regard gas storage facilities); In re Laclede Gas Co., GR-2007-0137 (July 17, 2007) (pensions and OPEBs); In re United Cities Gas Co., No. GA-98-464 (Feb. 26, 1999) (manufactured gas plant clean-up costs).

<sup>28</sup> State ex rel. Aquila, Inc. v. PSC, 326 S.W.3d 20, 27-28 (Mo. App. W.D. 2010); State ex rel. Office of Public Counsel v. PSC, 301 S.W.3d 556, 569 (Mo. App. W.D. 2009); State ex rel. Mo. Gas Energy v. PSC, 210 S.W.3d 330, 335-37 (Mo. App. W.D. 2006).



The Commission recognized its broad regulatory discretion regarding AAOs when it granted Evergy's predecessors AAOs to defer costs associated with the Renewable Energy Standards compliance costs, where it stated:

Missouri courts have recognized the Commission's regulatory authority to grant a form of relief to a utility in the form of an AAO "which allows the utility to defer and capitalize certain expenses until the time it files its next rate case." "The AAO technique protects the utility from earnings shortfalls and softens the blow which results from extraordinary construction programs." "However, AAOs are not a guarantee of an ultimate recovery of a certain amount by the utility." The AAO "simply allows for certain costs to be separately accounted for possible future recovery in a future ratemaking proceeding." "This is not retroactive ratemaking because the past rates are not being changed so that more money can be collected from services that have already been provided; instead, the past costs are being considered to set rates to be charged in the future." Although the courts have recognized the Commission's authority to authorize an AAO in extraordinary and unusual circumstances, there is nothing in the Public Service Commission Law or the Commission's regulations that would limit the grant of an AAO to any particular set of circumstances.<sup>29</sup>

Under the extraordinary circumstances that exist as a result of the COVID-19 global pandemic, the Commission should exercise its discretion, as it did in other recent cases,<sup>30</sup> and authorize the AAO as recommended in the Stipulation filed by Evergy, Staff, MIEC, MECG, and the Sierra Club.

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<sup>29</sup> Order at 2-3, In re Application of Kansas City Power & Light Co. and KCP&L Greater Mo. Operations Co. for an Accounting Auth. Order, No. EU-20212-0131 (Apr. 19, 2012) (footnotes omitted).

<sup>30</sup> Order Approving Amended Unanimous Stipulation and Agreement, In re Spire Missouri Application for an Accounting Auth. Order Related to COVID-19 Impacts, No. GU-2020-0376 (Oct. 21, 2020), Order Approving Non-Unanimous Stipulation and Agreement, In re Application of Mo.-American Water Co. for an Accounting Auth. Order related to COVID-19 (Oct. 28, 2020).

3. **If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with the COVID-19 pandemic, what items should be deferred?**

a. **Uncollectible expense in excess of amounts included in rates in the most recent general rate cases of Evergy Missouri Metro and Evergy Missouri West, respectively?**

See Sections A and B, below.

b. **Costs incurred in connection with the one- and four-month Pandemic payment plan incentives that the Commission permitted the Company to implement in Case No. EO-2020-0383 (including credits awarded as incentives and costs related to customer communications)?**

See Section A, below.

c. **Waived late payment fees / reconnection fees to the extent that they fall short of the amount included in rates?**

See Sections A and B, below.

d. **Information technology-related costs incurred to enable employees to work from home, including hardware, licensing fees and connectivity costs?**

See Sections A and B below.

e. **Costs incurred to protect employees unable to work from home, including cleaning supplies, personal protective equipment, temperature testing, employee sequestration preparation (and employee sequestration if that becomes necessary)?**

See Sections A and B, below.

f. **Lost revenues associated with the reduction of electric usage during the Pandemic? As an alternative, should the Commission order the deferral of pandemic-related lost fixed cost recovery due to the pandemic?**

See Section C, below.

g. **Other incremental costs or other unfavorable financial impacts resulting from the Pandemic not presently identified?**

See Sections A and B, below.

- h. What pandemic-related savings should be booked as a regulatory liability or included as an offset to the regulatory asset related to the pandemic- financial impacts?**

See Sections A and B, below.

- i. Should carrying costs be excluded during the deferral period and be considered for inclusion in rates in Evergy's next general rate case?**

See Section D, below.

- A. The Specific Costs and Cost Reductions Eligible for Deferral Under the Stipulation are Detailed and Reasonable.

Paragraph 2 of the Stipulation sets forth the incremental costs caused by the pandemic that are eligible for deferral with specificity, and Paragraph 7 does the same for operating cost reductions caused by the pandemic.<sup>31</sup>

Costs caused by the pandemic eligible for deferral are limited to:

- (1) new or incremental expenses related to protecting employees and customers for (i) additional cleaning of facilities and vehicles; (ii) personal protective equipment; (iii) technology upgrades to enable employees to work from home, including associated contract labor; and (iv) costs to prepare for employee sequestration (and costs to sequester employees if that becomes necessary).
- (2) increased bad debt expense above levels included in rates;
- (3) costs related to customer assistance programs implemented by Evergy to aid customers with payment of electric bills during the pandemic except for charitable contributions made by the Company which shall be borne by shareholders; and
- (4) waived fee revenues, up to the amounts included in rates, related to waived late payment fees and waived reconnection fees.

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<sup>31</sup> Ex. 1, Stipulation, ¶ 2 at 1-2, ¶ 7 at 3-4.

Significantly, there is no “other” or “miscellaneous” category of costs eligible for deferral under the Stipulation. The absence of such a “catch-all” category, in conjunction with the periodic reporting of deferred amounts as provided in Paragraph 9 of the Stipulation, provides assurance that there will be no surprises when the recovery of deferred amounts is requested in Evergy’s next general rate cases.

Cost reductions caused by the pandemic that shall be tracked and netted against deferred pandemic costs are limited to:

- (1) Travel expense;
- (2) Training expense;
- (3) Office supplies;
- (4) Utility service to Evergy facilities;
- (5) Staffing reductions due to the pandemic and excluding reductions in furtherance of merger savings and integration plans or in furtherance of the Sustainability Transformation Plan<sup>32</sup>;
- (6) Reduced compensation and benefits due to the pandemic and excluding reductions in furtherance of merger savings and integration plans or in furtherance of the Sustainability Transformation Plan;
- (7) Income tax benefits from taxable net operating losses carried back to previous tax years per the 2020 Coronavirus Aid, Relief and Economic Security Act; and
- (8) Direct federal or state assistance related to the pandemic properly allocable to Evergy Missouri West and/or Evergy Missouri Metro.

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<sup>32</sup> Evergy has not reduced headcount, compensation or benefits due to the pandemic and has no plans to do so. See Stipulation, ¶ 7, n.1 at 3; Tr. at 147 (Klote).

Similar to the recommendation made in the Stipulation for deferral of costs caused by the pandemic, there is no “other” or “miscellaneous” category of pandemic-related cost reductions that will be tracked and netted against cost deferrals under the Stipulation. The absence of such a “catch-all” category, in conjunction with the periodic reporting of deferred amounts as provided in Paragraph 9 of the Stipulation, provides assurance that there will be no surprises when the recovery of deferred amounts is requested in Evergy’s next general rate cases.

Because Evergy’s AAO request relates to financial impacts of the pandemic and because PSC policy is to use deferral accounting sparingly on the theory that it dulls incentives to operate efficiently under Missouri’s rate regulation approach,<sup>33</sup> it is reasonable and appropriate to limit the deferral of costs and cost reductions to only the items specified in Paragraphs 2 and 7 of the Stipulation, both of which require that all such items be caused by the pandemic. To do otherwise by deferring costs and cost reductions irrespective of any reasonable causal nexus to the pandemic would effectively amount to consideration of all relevant factors as occurs in a general rate proceeding.

Clearly that is not appropriate here, on either the cost side or cost reduction side of the ledger. Given Evergy’s experience during the pandemic, the specific lists of pandemic-related costs eligible for deferral and cost reductions eligible to be netted against such deferred amounts, as recommended in the Stipulation, is reasonable.<sup>34</sup>

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<sup>33</sup> In re Kansas City Power & Light Co., Report & Order at 51, No. ER-2014-0370 (Sept. 2, 2015), aff’d Kansas City Power & Light Co. v. PSC, 509 S.W.3d 757, 769 (Mo. App. W.D. 2016).

<sup>34</sup> Tr. at 124-28 (Klote).

B. The AAO Recommended in the Stipulation Provides Targeted and Limited Relief to Evergy, Unlike the Orders of Other State Regulatory Commissions that are General in Nature and Do Not Set Termination Dates for COVID-19 Accounting Deferrals.

The AAO that is recommended in the Stipulation provides targeted and limited relief to Evergy for the costs associated with the extraordinary pandemic facing the Company, its customers, and its employees. Unlike the AAOs granted in the majority of other states that have approved deferral accounting authority in connection with the pandemic, cited in the attached **Exhibit C**, the AAO recommended by the Signatories is more limited than in most states in that the Stipulation specifies the items eligible for deferral. The AAO also does not provide for a general provision for pandemic-related costs not yet identified nor does it recommend that revenue losses due to customer usage reductions caused by the pandemic be eligible for deferral.

Finally, unlike the majority of other states that have granted deferral authority in connection with the pandemic, the Stipulation recommends that deferral accounting authority in connection with the pandemic be subject to specific termination dates which may be extended only with the approval of the Signatories and the Commission, or by the Commission if the Signatories do not agree.

The Stipulation is largely consistent with the stipulations already approved by the Commission that granted deferral accounting to Spire Missouri and to Missouri-American Water Company<sup>35</sup> regarding COVID-19 related costs and cost reductions.

For these reasons, the Commission should consider the recommended AAO as a conservative approach which provides Evergy with limited relief to address the costs associated with the extraordinary pandemic.

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<sup>35</sup> See n. 30, supra.

C. Evergy has Agreed not to Defer Revenue Losses due to Reduced Customer Usage Caused by COVID-19.

Paragraph 6 of the Stipulation confirms Evergy's agreement not to defer revenue losses due to reduced customer usage caused by the pandemic.<sup>36</sup> Evergy witness Ives testified that this is a reasonable outcome under the circumstances and the conditions presented in the Stipulation, and demonstrates that Evergy is sharing the economic pain that many of its customers are experiencing as a result of COVID-19.<sup>37</sup>

D. The Commission should Not Decide Whether Carrying Costs should be Applied to Deferred Amounts in this Proceeding, but instead should address this issue in Evergy's Next General Rate Proceedings.

Paragraph 5 of the Stipulation proposes that issues regarding the treatment of carrying costs related to the AAO recommended by the Stipulation may be proposed by any party to Evergy's next general rate cases.<sup>38</sup> This was the position of Staff witness Bolin and MECG/MIEC witness Meyer<sup>39</sup> who viewed this matter as a ratemaking or revenue requirement issue, and Evergy ultimately agreed that this recommendation was reasonable.<sup>40</sup>

**4. Should the Commission adopt a sunset provision in connection with the AAO and, if so, how should it be structured? Should any sunset provision include the opportunity for the AAO to be extended?**

A. The Primary and Secondary Deferral Periods of the AAO are Reasonable

Paragraph 8 of the Stipulation sets out the periods of time the Signatories recommend that the Commission grant Evergy pandemic-related deferral authority. The starting date – March 1, 2020 – has not been disputed. It reflects the declarations and orders from federal, state and local governmental authorities that the spread of COVID-19 constituted an emergency.<sup>41</sup> March 31,

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<sup>36</sup> Ex. 1 at ¶ 6 at 2 (Stipulation).

<sup>37</sup> Tr. at 162-63, 171-72 (Ives).

<sup>38</sup> Ex. 1, Stipulation, ¶ 5 at 3.

<sup>39</sup> Ex. 100 at 13 (Bolin Rebuttal); Ex. 300 at 21-22 (Meyer Rebuttal).

<sup>40</sup> Ex. 5 at 2-3 (Klote Surrebuttal).

<sup>41</sup> Ex. 7 at 5-6 (Ives Direct).

2021 is the recommended ending date of the primary deferral period for all costs and cost reductions for which deferral authority is recommended in the Stipulation.<sup>42</sup> Although this ending date is different than originally recommended by witnesses for Evergy, Staff and MECG/MIEC, they testified at the evidentiary hearing that March 31, 2021 is a reasonable date to conclude the primary deferral period, given experience to date and the possibility that it may need to be extended by the Commission if circumstances change.<sup>43</sup> Neither NHT nor OPC challenge the ending date for the primary deferral period recommended in the Stipulation.

OPC challenges the secondary deferral period recommended in the Stipulation for uncollectibles expense – running from April 1 through September 30, 2021, subject to a possible extension approved by the Commission<sup>44</sup> – wrongly labeling it a “gambling provision”<sup>45</sup> when it could operate to customers’ benefit if cost reductions exceed costs. Although this ending date is also different than originally recommended by witnesses for Evergy, Staff and MECG/MIEC, they testified that September 30, 2021, is a reasonable ending date for the secondary deferral period.<sup>46</sup>

The competent and substantial record evidence clearly supports the reasonableness of this secondary deferral period for uncollectibles expense. First, no witness disputes that, due to the pandemic, Evergy voluntarily imposed a moratorium on disconnections of residential and small business customers for non-payment through mid-July 2020,<sup>47</sup> and has offered flexible pay arrangements – most significantly in the form of 12-month payment plans to residential and small business customers – to help customers avoid being in arrears and having service disconnected for non-payment thereafter.<sup>48</sup> As of September 4, 2020 when the surrebuttal testimony of Evergy’s

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<sup>42</sup> Ex. 1, Stipulation, ¶ 8 at 4.

<sup>43</sup> Tr. at 128-32 (Klote); Tr. at 206-09 (Bolin); Tr. at 245-47 (Meyer).

<sup>44</sup> Ex. 1, Stipulation, ¶ 8(a) at 4-5.

<sup>45</sup> Tr. at 62-63, 291, 323.

<sup>46</sup> Tr. at 128-32 (Klote); Tr. at 207-09 (Bolin); Tr. at 246-47 (Meyer).

<sup>47</sup> Ex. 3 at 4-5 (Caisley Surrebuttal).

<sup>48</sup> Id. at 8-11.



Charles Caisley was filed, more than 68,000 customers across Evergy had been enrolled in payment arrangements which allowed them to avoid disconnection.<sup>49</sup> Evergy customers continue to enroll in payment plans to this day.

As the Commission is aware, the terms of the Cold Weather Rule (20 CSR 4240-13.055) impose substantial constraints on utilities' disconnection of residential customers' heating-related utility service during the period from November 1 through March 31. This means that collections activities for residential customers cannot begin in any substantial way before April 1, 2021. Given Evergy's voluntary disconnection moratorium through mid-July, its continuing voluntary offer of extended payment plans to residential and small business customers, and the constraints on collections activities imposed by the Cold Weather Rule, the combined effect of these factors is likely to produce what some witnesses in this proceeding have called a "long tail"<sup>50</sup> of pandemic-related increases in uncollectibles expense.

The uncollectibles expense amounts included in rates are derived by net write-offs of customer accounts that have not been paid in full. The write-off of an account occurs after the account has been disconnected for non-payment, typically within approximately 90 days after the disconnection.<sup>51</sup> As a result of these factors, increases in pandemic-related uncollectibles expense will necessarily extend well beyond the conclusion of the pandemic itself by many months.<sup>52</sup> This is why the Stipulation calls for the secondary deferral period – for uncollectibles expense *only* – to run until September 30, 2021. It is reasonable and necessary, therefore, to permit recognition of net write-offs that can only occur after Evergy has undertaken collection activities that cannot commence until April 1, 2021.

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<sup>49</sup> Id. at 10.

<sup>50</sup> Tr. at 170-72 (Ives); Tr. at 306-09 (Marke).

<sup>51</sup> Ex. 5 at 5 (Klote Surrebuttal)

<sup>52</sup> Id. at 5-6.

This secondary deferral period from April 1 through September 30, 2021 is also reasonable because deferral can only occur in the event of a meaningful variation in actual uncollectibles expense per quarter relative to levels included in rates. A threshold of 10 percent variation must be reached before a deferral or an offset of uncollectibles expense can be recorded.<sup>53</sup> In this fashion the Stipulation ensures that a deferral or offset can occur only when actual net write-offs during the secondary deferral period exceed or fall short of the amount of uncollectibles expense included in rates by at least 10 percent. This is a meaningful threshold which ensures that any increase or decrease in costs or cost reductions is not caused by a usual, non-extraordinary variability over time, but rather caused by something extraordinary like the COVID-19 pandemic.

Finally, it must be recognized that the 13-month primary deferral period and the possibility of an additional two quarters of the secondary deferral period that is related *only* to uncollectibles are shorter than other deferral periods approved by the Commission. In the case of the 2011 Joplin tornado, the PSC approved deferral periods for electric and natural gas suppliers that were two years or more.<sup>54</sup> The deferral granted to Ameren Missouri for its “green tariff” renewable choice program could last up to three years.<sup>55</sup>

For all of these reasons, the primary and secondary deferral periods for the AAO recommended to the Commission in the Stipulation are reasonable and should be adopted by the Commission.

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<sup>53</sup> Ex. 1, Stipulation, ¶ 8(b)-(c) at 4-5.

<sup>54</sup> See Order Approving Unanimous Stipulation and Agreement at 2, In re Application of Empire Dist. Elec. Co. for an Accounting Auth. Order, No. EU-2011-0387 (Nov. 30, 2011) (Two years; deferral began May 22, 2011, ending with filing of rate case on June 1, 2013); Report & Order at 16, In re Application of Southern Union Co. for an Accounting Auth. Order, No. GU-2011-0392 (Jan. 25, 2012) (Two years, four months; deferral began May 22, 2011, ending with filing of rate case by Sept. 18, 2013).

<sup>55</sup> See In re Application of Union Elec. Co. for Approval of 2017 Green Tariff, Second Non-Unanimous Stipulation and Agreement at 12, No. ET-2018-0063 (June 12, 2018); Id., Order Approving Stipulation and Agreement (June 27, 2018); Id., Order Approving Tariff Filings (Aug. 2, 2018) (Potential deferral of three years; deferral began Aug. 15, 2018 and will conclude with effective date of new rates in Ameren’s next general rate case in 2021).

**5. If the Commission adopts an AAO for some or all of the costs and revenues associated with the COVID-19, should the Commission order periodic reporting of information associated with the deferral? If so, what information should be reported and how often?**

- A. The Reporting Recommended by Paragraph 9 of the Stipulation is Reasonable and Will Enable the Commission and the Parties (a) To Compare the Pandemic-related Costs Deferred with Cost Reductions Netted Against such Costs, (b) To Review Customer Payment Practices; and (c) To Assess the Magnitude of the Company's Risk Related to Extended Payment Plans.

Paragraph 9 of the Stipulation calls for Evergy to provide quarterly reports identifying costs to be deferred and cost reductions to be tracked.<sup>56</sup> Pursuant to Paragraph 11, costs will be tracked by month and the reporting will continue until the conclusion of the update or true-up period, if applicable, in the next general rate cases for Evergy Missouri Metro and Evergy Missouri West.<sup>57</sup>

In addition, Evergy will report:

- (a) The number of customers by customer class;
- (b) The number of customers, by customer class, voluntarily disconnected by month;
- (c) The number of customers, by customer class, involuntarily disconnected by month;
- (d) Number of utility reconnections, reported by month;
- (e) Number of customers on a utility payment plan, by payment plan type (including budget billing), by month;
- (f) Total dollar amount of arrearages by customer class;

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<sup>56</sup> Ex. 1, Stipulation, ¶ 9 at 5-6.

<sup>57</sup> Ex. 1, Stipulation, ¶¶ 11-12 at 7.

- (g) The number of accounts in arrearage by customer class in increments (e.g., less than \$100, \$101 to \$250, \$251 to \$500, \$501 to \$750, \$751 to \$1000, \$1001 to \$1501, \$2001 to \$2500, \$2501 to \$3000, and \$3000+) by month;
- (h) The range of arrearage amounts by customer class (i.e., current high and low dollar amount) and the mean average;
- (i) A quantification of total past-due customer arrearages and number of customers experiencing arrearages that are thirty, sixty, and ninety days overdue; and
- (j) Total dollar amount of accounts receivable balances, including accounts receivable balances that are subject to payment plan agreements, by customer class.<sup>58</sup>

The information to be reported pursuant to sub-paragraphs (a) through (i) of the Stipulation's Paragraph 9 is consistent with information that Evergy has been providing to Staff and OPC since early in the pandemic and provides an overall look at customer payment practices.<sup>59</sup>

The information to be reported pursuant to sub-paragraph (j) in Paragraph 9 provides an indication of the magnitude of Evergy's risk that accounts receivable balances subject to payment plan agreements may go unpaid and become uncollectibles expense.<sup>60</sup>

The information provided in these quarterly reports will be filed in this case and be available to the Commission and the parties. As a result, the information reported under Paragraph 9 of the Stipulation will enable the Commission and the parties to be familiar with the costs Evergy defers under the AAO recommended in the Stipulation prior to the next general rate cases of

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<sup>58</sup> Ex. 1, Stipulation, ¶ 9(a)-(i) at 6-7.

<sup>59</sup> Tr. at 229-30 (Dietrich).

<sup>60</sup> Id. at 230.

Evergy Missouri Metro and Evergy Missouri West, which are expected to be filed in early January 2022.<sup>61</sup>

Likewise, the other information reported under Paragraph 9 will enable the PSC and the parties to observe the overall payment practices of Evergy's customers, as well as the magnitude of risk Evergy bears in connection with extended payment plan agreements. All of this information is directly related to the provisions of the AAO recommended in the Stipulation.

B. The Reporting OPC Recommends is Unreasonable.

Despite the fact that OPC totally opposes the deferral accounting requested by Evergy, its witness Dr. Marke recommends that the Commission require Evergy to provide the following ten (10) categories of information in connection with the AAO:

- A detailed identification of monthly weather normalized revenue, by customer class;
- A detailed identification of revenue changes by customer class, both increases and decreases, during the COVID-19 pandemic;
- The impact COVID-19 has had in Evergy's capital expenditure program during the previous quarter;
- Any issuances of short-term debt and long-term debt during the previous quarter and the all-in costs at which the financing was issued;
- The embedded cost of short-term debt for that quarter;
- Updated and most recent credit metrics calculated by Evergy or provided to the Company by nationally recognized credit rating agencies;

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<sup>61</sup> Ex. 5 at 7 (Klote Surrebuttal).

- Any correspondence with nationally recognized credit rating agencies and equity analysts during the previous quarter;
- Copies of credit rating agencies and equity analysts' reports published during the previous quarter;
- A list of reductions and their cost savings (to date) made to capital, operational and discretionary expenses (as articulated in Dr. Marke's testimony) to minimize cost impacts to ratepayers; and
- A list of COVID-19 expenses and their related amount that the Company incurred to provide safe and reliable service.<sup>62</sup>

The first two reporting items recommended by OPC above relate to Evergy's revenues even though (1) OPC opposed deferral of revenues lost due to customer usage reductions caused by the pandemic, and (2) Evergy has agreed in Paragraph 6 of the Stipulation *not* to defer such revenue losses. The balance of the reporting items that OPC recommends are similarly unrelated and irrelevant to the deferral authority recommended by the Stipulation, are unreasonable, and should be rejected by the Commission.<sup>63</sup>

**NOTE: TO AVOID REPETITIVE ARGUMENTS, ISSUES 6 AND 7 WILL BE ADDRESSED TOGETHER AS THEY BOTH RELATE TO CUSTOMER RECOMMENDATIONS**

6. **Should the Commission adopt the recommendations of NHT related to extension of the moratorium on nonpayment service disconnections, arrearage management programs, long-term payment deferment plans, expansion of the Economic Relief Program, income-eligible energy efficiency plans, suspend credit reporting, suspend disconnection and reconnection fees, or other customer programs?**
7. **Should the Commission adopt any of the customer-specific recommendations of OPC including: (1) waiving disconnection and reconnection fees; (2) ceasing full credit reporting; (3) waiving late payment fees and deposits; (4) expanding**

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<sup>62</sup> Ex. 202 at 11-12 (Marke Rebuttal).

<sup>63</sup> Ex. 5 at 15 (Klote Surrebuttal).

**payment plans to 12 months or greater; and (5) establishing an arrearage matching program, dollar-for-dollar on bad debt for eligible customers?**

A. Evergy Promptly Instituted Extensive Pandemic-related Customer Programs and in Extending Many of Them the Stipulation is in the Public Interest.

Given the extensive programs initiated by Evergy and the terms of the Stipulation, none of the recommendations of NHT and OPC should be adopted.

At the beginning of the pandemic on March 13 of this year, Evergy was one of the first utilities in the country to announce a voluntary moratorium on service disconnection for non-payment.<sup>64</sup> That moratorium included waiving all charges, fees and deposits typically associated with non-payment or late payment of bills.<sup>65</sup> Evergy was also one of only a handful of investor-owned utilities in the United States to offer payment programs offering bill credits for customers who made pay arrangements during the pandemic.<sup>66</sup> As detailed in the filing made by Evergy in May of this year in Case No. EO-2020-0383, these payment programs, slated to roll-out in June, were intended to lessen the impact of COVID-19 on customers' electric service by:

- (a) Reducing the number of customers in arrears and the magnitude of customer arrearages;
- (b) Accelerating the ability to interact with customers to establish payment plans;
- (c) Reducing the number of phone calls made by customers to the contact center and associated wait times;

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<sup>64</sup> Ex. 3 at 4-5 (Caisley Surrebuttal).

<sup>65</sup> Id. at 4.

<sup>66</sup> Id. OPC witness Dr. Marke testified "that Evergy should be praised for its willingness to think outside the box" regarding customer incentive payment plans." See Ex. 202 at 17 (Marke Rebuttal).

- (d) Reducing the number of customer disconnections for non-payment, associated truck rolls and other collection activity costs;
- (e) Reducing ultimate consumer write-offs and bad debt expense; and
- (f) Maintaining essential electric service to as many customers as possible which assists in maintaining continuity of revenue streams that supports the continued provision of safe and reliable electric service.<sup>67</sup>

In the course of rolling out these payment programs, Evergy put in place a robust customer communication plan, placing nearly 20,000 outbound calls in 13 days to customers identified as at risk for disconnection and also making use of e-mail and other electronic communications tools.<sup>68</sup>

Evergy's customer response plan has provided tangible benefits to customers. As of September 4, 2020, when Mr. Caisley's surrebuttal testimony was filed:

- Nearly 9,000 customers enrolled in pay arrangements for which they received an incentive credit; and
- Over 68,000 customers enrolled in pay arrangements allowing them to avoid disconnection.<sup>69</sup>

In addition to the incentive programs described in Evergy's request for approval of COVID-19 programs,<sup>70</sup> the Company also offered – and continues to offer to this day – 12-month payment plans to residential and small business customers, which comprise the vast majority of the 68,000 pay arrangements as of early September 2020, noted above.<sup>71</sup>

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<sup>67</sup> Ex. 3 at 6-7 (Caisley Surrebuttal).

<sup>68</sup> Id. at 10.

<sup>69</sup> Id. at 10.

<sup>70</sup> See Order Permitting COVID-19 Customer Programs, In re Application of Evergy Metro and Evergy Missouri West for Approval of COVID-19 Related Customer Programs, No. EO-2020-0383 (May 28, 2020).

<sup>71</sup> Tr. at 112 (Caisley); Ex. 9 at 16 (Ives Surrebuttal).



Evergy's customer response plan served to reduce residential customer arrearages as of late August 2020 below pre-pandemic levels.<sup>72</sup> While residential arrearages rose from April 3 to June 12 (climbing from \*\* [REDACTED] \*\* to \*\* [REDACTED] \*\* for Evergy Missouri Metro and from \*\* [REDACTED] \*\* to \*\* [REDACTED] \*\* for Evergy Missouri West), they fell (to \*\* [REDACTED] \*\* and \*\* [REDACTED] \*\* for Evergy Missouri Metro and Evergy Missouri West, respectively) as of August 28, 2020.<sup>73</sup> Clearly, Evergy's customer response plan served to reduce residential arrearage levels.

It should also be noted that although the Company's moratorium on disconnection of service to residential and small business customers for non-payment ended in mid-July 2020, Evergy has continued to waive late payment fees and security deposits and has not been reporting non-payment, late payment, or any other debt to credit bureaus.<sup>74</sup> Pursuant to Paragraph 18 of the Stipulation, waiver of late payment fees will continue through March 31, 2021, as will Evergy's current practice of not submitting external credit reporting.<sup>75</sup> In addition, on the effective date of a Commission order approving the provisions in the Stipulation, Evergy would commence waiving reconnection fees and continue that practice through March 31, 2021.<sup>76</sup>

Evergy has also committed in Paragraph 16 of the Stipulation to evaluate, in consultation with Staff, OPC and NHT after December 31, 2020, the advisability of (1) extending its offering of twelve-month payment plans beyond December 31, 2020 (for small business customers) and March 31, 2021 (for residential customers); and (2) offering additional customer assistance programs.<sup>77</sup>

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<sup>72</sup> Ex. 3 at 4 (Caisley Surrebuttal).

<sup>73</sup> Ex. 8C at 15 (Ives Surrebuttal).

<sup>74</sup> Ex. 3 at 7 (Caisley Surrebuttal).

<sup>75</sup> Ex. 1 at ¶ 18 at 9 (Stipulation).

<sup>76</sup> Id.

<sup>77</sup> Id. at ¶ 16 at 8.

To ascertain the full scope of Evergy’s efforts to assist customers during the pandemic, the Company’s charitable contributions – which are being recorded below-the-line and will not be included in customer rates – must also be recognized. On May 19, 2020, Evergy announced that it had pledged \$2.2 million to help agencies, communities and customers recover from the pandemic, bringing its planned charitable giving in 2020 to more than \$8 million.<sup>78</sup> \$400,000 will help non-profit agencies on the front lines that have remained open and are delivering essential services to communities in Evergy’s service area.<sup>79</sup> \$800,000 will assist communities in Evergy’s service territory to re-build local economies by promoting small business and related entrepreneurial efforts to attract business, to retain and train their employees, and to assist in other development initiatives.<sup>80</sup> \$1 million of this amount will be devoted to assisting customers with utility payments through programs such as Dollar Aide and Project Deserve.<sup>81</sup> It is clear that Evergy has made substantial efforts to assist its customers during the pandemic, and that its efforts have had a positive and beneficial impact on customers.

Paragraph 6 of the Stipulation confirms that the recommended AAO will *not* authorize deferral of lost revenue due to reduced customer usage caused by COVID-19.<sup>82</sup> Evergy’s commercial and industrial customer usage decreased substantially during the early months of the pandemic,<sup>83</sup> recovering only partially after the early substantial reductions.<sup>84</sup> Levels of customer usage remain at risk, given uncertainty about when a vaccine will be available<sup>85</sup> or when the pandemic will end. In light of the fact that revenue losses due to pandemic-related customer usage

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<sup>78</sup> Ex. 3 at 11 (Caisley Surrebuttal).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 11.

<sup>81</sup> *Id.* at 12.

<sup>82</sup> Ex. 1, Stipulation, ¶ 6 at 3.

<sup>83</sup> Ex. 9 at 16-17 (Ives Surrebuttal).

<sup>84</sup> *Id.* at 17.

<sup>85</sup> *Id.*

reductions occurred during the summer months, when higher electric usage typically occurs, as well as the resurgence of COVID-19 in recent weeks, Evergy's agreement not to defer revenue losses due to customer usage reductions related to the pandemic is a significant concession.<sup>86</sup> In assessing the significance of this concession, it should be borne in mind that Evergy – like most electric utilities across the country – recovers a substantial amount of the fixed costs of its system and operations through the per kWh charge that customers pay in rates.<sup>87</sup> In light of its agreement not to defer revenue losses from customer usage reductions caused by COVID-19, any suggestion by OPC and NHT that Evergy is not sharing the pain experienced by its customers due to the pandemic is grossly inaccurate.

Finally, given the fact that neither OPC nor NHT conducted an analysis of what their recommendations would cost, whether they could be feasibly executed, and how long it would take before they could be operational, there is no reasonable factual basis in the record that would justify an order directing their implementation. Given the admissions of NHT's witness Colton, in particular his lack of due diligence regarding the cost and feasibility of Evergy being able to implement his numerous recommendations,<sup>88</sup> there is no competent and substantial evidentiary basis to approve such recommendations. See United for Missouri v. PSC, 515 S.W.3d 754, 758 (Mo. App. W.D. 2016); State ex rel. Mo. Power & Light Co. v. PSC, 669 S.W.2d 941, 947-49 (Mo. App. W.D. 1984) (lack of evidence to support opinion required reversal of Commission order).

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<sup>86</sup> Tr. at 170-71 (Ives).

<sup>87</sup> Ex. 9 at 20 (Ives Surrebuttal).

<sup>88</sup> Tr. at 339-42 (Colton).

B. The Commission cannot impose the Conditions requested by OPC and NHT or similar Conditions as they would unlawfully Infringe Evergy's Right to Conduct its Business

Missouri courts have long recognized that while the Commission has significant authority to exercise its statutory powers in the regulation of public utilities, “it does not have the power to direct the use of a utility’s property.” City of O’Fallon v. Union Elec. Co., 462 S.W.3d 438, 444 (Mo. App. W.D. 2015) (“City of O’Fallon”). Directing the use of Evergy’s property by imposing conditions that would require it – contrary to lawful tariffs approved by the Commission – to extend a moratorium on disconnections, to suspend indefinitely disconnection and reconnection fees, and to establish an arrearage program funded entirely by Evergy “would involve a property right in the utility,” and “[t]he law has conferred no such power upon the Commission.” Id., citing State ex rel. Harline v. PSC, 343 S.W.2d 177, 181 (Mo. App. K.C. 1960) (“Harline”).

“The utility’s ownership of its business and property includes the right of control and management” subject to the Commission’s regulation. Id. at 181-82. Although the PSC’s “comprehensive” powers permit it to address “every conceivable source of corporate malfeasance,” they “do not, however, clothe the Commission with the general power of management incident to ownership.” Id. at 182.

Evergy has voluntarily established and continues to administer a variety of consumer protection programs. It has agreed in the Stipulation to continue certain of them, as well as to carry out commitments it has publicly announced.<sup>89</sup> There has been no suggestion by any party that Evergy’s conduct during the pandemic has harmed the public. To the contrary, OPC’s Dr. Marke has “praised” its efforts as “commendable,” as did NHT’s Mr. Colton.<sup>90</sup>

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<sup>89</sup> Tr. at 110-11 (Caisley), Tr. at 170-72 (Ives); Ex. 3 at 2C & 3 at 7-12 (Caisley Surrebuttal); Ex. 1, Stipulation, at ¶¶ 16-18.

<sup>90</sup> Ex. 202 at 16-17 (Marke Rebuttal); Ex. 1000 at 74 (Colton Rebuttal).

Other unlawful conditions recommended by OPC and NHT are the suspension of credit reporting,<sup>91</sup> while NHT proposes material changes in Evergy’s Economic Recovery Pilot Program (“ERPP”) and the establishment of an Arrearage Management Program (“ARP”).<sup>92</sup>

Evergy “retains the lawful right to manage its own affairs and conduct its business as it may choose,” and the Commission may not impose new conditions that it has not agreed to.<sup>93</sup> Moreover, given the costs that OPC and NHT seek to impose on Evergy in this AAO proceeding where rates are not being set and “all relevant factors” are not before the Commission, conditioning the grant of deferral accounting recommended by the Stipulation upon Evergy’s agreeing to fund the OPC and NHT programs would amount to a taking of property without due process.<sup>94</sup>

**8. What, if any, other conditions should the Commission adopt in connection with the AAO?**

- A. The Conditions Contained in the Stipulation are Lawful and Reasonable as they were Agreed to by Evergy and the Other Signatories.

On October 8, 2020, Evergy, the Staff, MIEC, MECG and the Sierra Club filed the Stipulation which contains their joint recommendation on a resolution of the issues in this case, including various conditions that would be apply to the grant of the AAO. See Exhibit 1.

These conditions recommended in the Stipulation include provisions related to tracking of costs (¶ 3), the level of bad debts in rates from Evergy’s the last general rate cases (¶ 4), the treatment of carrying costs (¶ 5), an agreement not to defer lost revenues due to the pandemic (¶ 6), the tracking of cost reductions (¶ 7), the duration of the AAOs (¶ 8), agreement on reporting of costs and arrearages (¶¶ 9-12, inclusive), accounting practices (¶ 13), reservations related to

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<sup>91</sup> Ex. 202 at 19 (Marke Rebuttal); Ex. 1000 at 107-08 (Colton Rebuttal).

<sup>92</sup> Ex. 1000 at 117-21 (Colton Rebuttal). NHT’s Mr. Colton “commend[ed]” Evergy for proposing the ERPP tariff in 2017 and the Commission for approving it. Id. at 74.

<sup>93</sup> See City of O’Fallon, 462 S.W.3d at 444 (Mo. App. W.D. 2015); Harline, 343 S.W.2d at 182. See State ex rel. City of St. Joseph v. PSC, 30 S.W.2d 8, 14 (Mo. en banc 1930); State ex rel. PSC v. Bonacker, 906 S.W.2d 896, 899-900 (Mo. App. S.D. 1995).

<sup>94</sup> See State ex rel. Util. Consumers Council of Mo., Inc. v. PSC, 585 S.W.2d 41, 49, 58 (Mo. en banc 1979).

future recovery of costs (¶ 14), information regarding customer arrearage plans and agreement to evaluation an extension of the plans (¶ 16), and customer protections related to waiver of late payment fees and external credit reporting (¶ 18).

During the evidentiary hearing, other stipulations granting deferral accounting and approved by the Commission were discussed, however, none of them are directly relevant to issues regarding customer programs. In Spire Missouri's case, the utility had not taken early steps like Evergy to establish customer payment plans or arrearage management procedures that afforded bill credits and other consideration. In the stipulation approved by the Commission, Spire agreed "to create" payment plans and provide funding for various programs, in contrast to Evergy's proactive efforts.<sup>95</sup> Similarly, the stipulation entered into by Missouri-American Water Co. called for it to make an additional contribution to existing programs, whereas Evergy had previously announced its intent to do so and has been making such contributions to various agencies.<sup>96</sup>

OPC's citation<sup>97</sup> to the Empire-Liberty Utilities 2016 merger case has no relevance to the efforts of Missouri utilities to cope with COVID-19, and the unexpected and extraordinary costs and revenue losses that they have incurred.

The conditions in the Stipulation are lawful and reasonable as they are agreements among Evergy and the other Signatories, and are based upon the competent and substantial evidence in the record. Evergy respectfully recommends that the Commission approve the disputed issues consistent with the recommendation of the entire Stipulation, including the specific conditions contained therein.

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<sup>95</sup> See Amended Unan. Stipulation and Agreement, ¶ 18 at p. 6, In re Spire Mo. Inc. Application for an Accounting Auth. Order related to COVID-19, No. GU-2020-0376 (Sept. 15, 2020).

<sup>96</sup> See Non-Unanimous Stipulation and Agreement, In re Application of Mo.-American Water Co. for an Accounting Auth. Order, ¶ 16 at p. 7, WU-2020-0417 (Oct. 7, 2020).

<sup>97</sup> Ex. 203 at 21 (Marke Rebuttal). See Order Approving Stipulations & Agreements and Authorizing Merger Transaction, In re Empire Dist. Elec. Co. and Liberty Utilities Concerning an Agreement and Plan of Merger, No. EM-2016-0213 (Sept. 7, 2016).

B. The Commission may not Condition its Approval of the AAOs provided in the Stipulation by ordering Additional Conditions not agreed to by the Signatories.

For the reasons stated above in Section 7(B), the Commission may not direct Evergy to implement conditions that would direct the use of its property, fund additional customer programs, or otherwise restrict the control and management of its business. City of O’Fallon v. Union Elec. Co., 462 S.W.3d 438, 444 (Mo. App. W.D. 2015); State ex rel. Harline v. PSC, 343 S.W.2d 177, 181 (Mo. App. K.C. 1960).

Commission rules and Commission-approved tariffs prescribe the conditions under which Evergy: (1) may disconnect electric service for non-payment, including the terms of payment plans that must be made available to allow residential customers to avoid disconnection for non-payment during the cold weather months of November through March; (2) provides assistance to customers under the Economic Relief Pilot Program; (3) may impose late payment fees; and (4) may impose reconnection fees. The procedures that must be followed to change Commission rules and approved tariffs are well defined.

Rules may be changed only by following the statutory procedures required under the Missouri Administrative Procedure Act in Sections 536.010-.160. As a creature of statute, the PSC may only change tariffs under the file-and-suspend method required by Section 393.150, or by way of a complaint filed under either Section 393.260 or 386.390.<sup>98</sup> However, in an attempt to avoid those statutory requirements, Public Counsel and NHT seek to impose significant conditions that would extend payment plans and a waiver of fees in a proceeding that relates only to deferral accounting issues. As such, these recommendations are beyond the Commission’s authority and the scope of this proceeding.

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<sup>98</sup> State ex rel. Util. Consumers Council of Mo., Inc. v. PSC, 585 S.W.2d 41, 48-49 (Mo. en banc 1979).

OPC and NHT also request that the Commission order Evergy to suspend or cease full external credit reporting in connection with customer non-payment during the pandemic.<sup>99</sup> Given that the Public Service Commission Law provides the PSC with no powers regarding credit reporting by public utilities, their recommendations must also be rejected.<sup>100</sup> Similarly, OPC's recommendation that if the Commission adopts the arrearage management plan or expansion of the ERPP requested by NHT, then Commission should order the cost of such programs to be booked "below-the-line" and not be eligible for rate recovery is likewise beyond the Commission's authority and unlawful.<sup>101</sup> Such an order would effectively direct Evergy and its shareholders to make charitable contributions, an action that is not authorized or even contemplated anywhere in the Public Service Commission law.

### **Conclusion**

Based upon the foregoing, Evergy requests that the Commission issue its Report and Order resolving the issues presented in this proceeding as recommended by the Stipulation whose provisions are extensive, as well as lawful and reasonable.

**WHEREFORE**, Evergy Missouri Metro and Evergy Missouri West request that the Commission decide the disputed issues as recommended in the Non-Unanimous Stipulation and Agreement and approve its terms which authorize Evergy Missouri Metro and Evergy Missouri West to track and defer in a regulatory asset the specified COVID-19 costs, as offset by savings, as just and reasonable and, therefore, in the public interest.

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<sup>99</sup> Ex. 1000 at 107-08 (Colton Rebuttal); Ex. 202 at 19 (Marke Rebuttal).

<sup>100</sup> However, the Commission should recognize that in an effort to respond to difficulties that customers have encountered during COVID-19, Evergy has stopped such external credit reporting and agreed to continue that practice through March 31, 2021. See Ex. 1, Stipulation, ¶ 18 at 9.

<sup>101</sup> Ex. 203 at 5-7 (Marke Surrebuttal).



Respectfully submitted,

*/s/ Robert J. Hack*

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**Attorneys for Evergy Missouri Metro and  
Evergy Missouri West**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 4<sup>th</sup> day of December 2020, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

*/s/ Robert J. Hack*

\_\_\_\_\_  
**Counsel for Evergy Missouri Metro and  
Evergy Missouri West**



ELEVENTH AMENDED ORDER 20-01

WHEREAS, On March 12, 2020, a proclamation of a state of emergency was issued to allow the City of Kansas City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Kansas City residents, along with an accompanying order; and

WHEREAS, COVID-19 spreads between people who are in contact with one another or present in shared spaces; and

WHEREAS, a gathering of individuals without necessary mitigation for the spread of infection will pose a risk of the spread of infectious disease; and

WHEREAS, the City wishes to employ all means available under the law to protect public life, health, safety and property to limit the development, contraction and spread of COVID-19 creating this emergency; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") continues to study the spread and effects of COVID-19 across the United States and has determined that a significant portion of individuals with coronavirus lack symptoms and that even those who eventually develop symptoms can transmit the virus to others before showing symptoms which means that the virus can spread between people interacting in close proximity even if those people are not exhibiting symptoms; and

WHEREAS, the CDC has directed the use of masks or face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others.

WHEREAS, on July 10, 2020, Mayor Quinton Lucas issued the Tenth Amended Order 20-01 superseding all prior orders and requiring, in part, the use of masks or face coverings shielding the nose and mouth at all indoor places of public accommodation until the expiration of the Mayor's Emergency Proclamation or subsequent order directs otherwise; and

WHEREAS, the spread of COVID-19 presents a substantial threat to the health of not only Kansas Citizens, but all within Greater Kansas City area communities of Missouri and Kansas; and

WHEREAS, recognizing the uncontrolled spread of COVID-19 in their region, our peer communities in the City of St. Louis and the County of St. Louis have issued orders to limit the spread of COVID-19, including reduction in indoor dining and drinking for a temporary period, earlier closure of restaurants and taverns, and limits to the total size of social gatherings; and

WHEREAS, on November 13, 2020, the health directors of Kansas City, Jackson County, Platte County, Clay County, the Unified Government of Wyandotte County and Kansas City, Kansas, and Johnson County, Kansas (the "Regional Health Directors") issued an advisory stating that the uncontrolled spread of COVID-19 in the metropolitan area and in rural areas of Missouri and Kansas significantly strained healthcare resources in the region for both COVID-19 and non-COVID-19 patients; and

WHEREAS, the Regional Health Directors advised that the uncontrolled rise in COVID-19 infections has created a dangerously low number of available physical acute care beds in local hospital facilities and significant staffing shortages for health personnel; and

WHEREAS, the Regional Health Directors advised that the uncontrolled spread of COVID-19 in the metropolitan area and in adjacent rural areas of Missouri and Kansas poses a serious threat to our businesses and local economy, creates a risk for our children's education and well-being, and forces hospitals to ration care; and

WHEREAS, the most recent White House Coronavirus Task Force reports for Missouri and Kansas have advised that counties in the metropolitan area and in adjacent rural areas of Missouri and Kansas should adopt practices including, but not limited to, limiting indoor dining and drinking at restaurants and taverns to reduced capacities and restricting hours until cases and test positivity decrease is effective at decreasing infections; communicating to the public they should not gather with anyone who does not live with them; and that members of the public should always wear masks in public spaces; and

WHEREAS, the Regional Health Directors have recommended a series of temporary measures to limit the spread of COVID-19 in our region; including, but not limited to, limiting indoor dining and drinking in spaces outside the home; reducing the number of persons with whom individuals interact in person each day; and reiterating the importance of infectious disease control, including the wearing of masks in all public spaces; and

WHEREAS, on November 13, 2020 the Kansas City Health Department confirmed 18,226 total cases of COVID-19 illness in Kansas City and 1,279 cases confirmed within the prior week, and 246 deaths from the COVID-19 illness in Kansas City; and

WHEREAS, on November 16, 2020, Mayor Quinton Lucas has issued this Eleventh Amended Order 20-01; NOW, THEREFORE,

IT IS SO ORDERED:

That in accordance with Section Six below, the Tenth Amended Order 20-01 dated July 10, 2020, is hereby repealed and the following Eleventh Amended Order 20-01 (the "Order") is enacted in lieu thereof, to read as follows:

#### Section One: Community Health Guidance

- A. People at high risk of severe illness from COVID-19, as recommended by the Director of Public Health, are urged to stay in their residence or place of rest except as necessary to seek medical care and to obtain provision of essential life items. All individuals should comply with Social Distancing Requirements at all times, including wearing face coverings or masks when others may be present closer than six feet away.
- B. All persons are encouraged to limit exposure, to the extent possible, by properly wearing face coverings or masks, maintaining Social Distancing Requirements, as defined infra, and avoiding large groups or other crowd-based activities.
- C. For the purposes of this Order: "Social Distancing Requirements" includes maintaining at least six foot social distancing from other individuals and wearing a face covering or masks that is affixed in place without the use of one's hands and that securely covers the nose and mouth.

#### Section Two: Business Operations and Gatherings

- A. A reasonable standard of care is established in Kansas City requiring that businesses shall reasonably accommodate employees with health or safety concerns or with responsibilities to care for minors or other persons to not report to work while this Order is in effect, absent undue hardship, if:
  - 1. The employee has an underlying health condition, including but not limited to, pregnancy, asthma, other respiratory conditions, or AIDS or other illnesses that result in a compromised immune system, putting that person at greater risk of death or serious injury if they contract COVID-19; or
  - 2. The employee is the primary caregiver for a family member who contracted COVID-19 and qualifies for leave under the Family Medical Leave Act; or
  - 3. The employee is employed by a business with fewer than 500 employees, and under the Families First Coronavirus Relief Act (FFCRA) that employee is eligible for paid leave because the employee must care for a minor child due to the closure or loss of a caregiver resulting from the COVID-19 pandemic.
- B. Business Operations. Business operations may continue as under the previous emergency order with the following modifications:

1. Restaurants, taverns, and all other venues, including public and private or membership-only event spaces, serving food and drink indoors shall limit the number of occupants to no more than 50 percent of building occupancy, and shall close at 10:00 p.m. Indoor and outdoor patrons must be seated, and masked at all times except when actively eating or drinking. Indoor and outdoor parties are limited to ten (10) or fewer persons and parties shall be spaced with no less than six feet of distance between themselves and individuals from any other parties.
2. Masks must be worn at all indoor spaces with more than one person per room or barrier-divided space and outdoor spaces where social distancing of at least six feet cannot be maintained, except where further exceptions, if any, are approved by the Director of Public Health. Exceptions to the mask requirement pursuant to this Order include only:
  - i. Minors below the age of 5; and
  - ii. Persons who have disabilities for which masks constitute a substantial impairment to their health and well-being based upon medical, behavioral, or legal direction; and
  - iii. Persons who are in a restaurant or tavern and are engaged in consuming food or drink while adequately distanced from other patrons.
  - iv. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering or mask is necessary to perform the service.
3. Contact Tracing.
  - i. In the interest of public health and to avoid the worsening of the COVID-19 outbreak in the community, business operations should maintain a record of occupants who are seated on the premises or in contact with stationary furniture, fixtures, or other equipment at a facility for a period of longer than ten (10) minutes. Salons may, for example, satisfy the registration recommendation by maintaining a roster of reservations or appointments. Any information collected under this subsection by the business operation or the Director of Public Health shall, to the extent allowed by law, remain confidential and be utilized only for public health purposes or to address public health concerns.
  - ii. If a business operation is notified that a patron, occupant, or employee has tested positive for COVID-19, the business operation must immediately notify the Director of Public Health.



4. Gyms, fitness, and recreational centers, including city, school, and other publicly-owned and managed facilities, shall be limited to no more than 50 percent capacity and be subject to all indoor and outdoor rules within this Order, including the requirement that all patrons wear masks indoors at all times and maintain social distancing of not less than six feet.
5. Business operations generally open to the public and operating in a publicly accessible capacity where six feet of social distancing cannot be maintained during the provision of service and not described elsewhere in this order shall maintain six feet of distance between areas of service, such as tables, booths, or stations in addition to the wearing a face covering or mask.
6. All businesses are encouraged to allow their employees to work remotely to the fullest extent possible.

C. Gatherings.

1. Unless otherwise provided by this Order, all indoor gatherings are limited to a maximum of ten (10) people. Gatherings are groups of individuals, who are not members of the same household, congregated together for a common or coordinated social, community, or leisure purpose. This prohibition includes planned and spontaneous gatherings as well as public and private, including membership-required, gatherings. Gatherings are permitted with ten (10) or fewer persons in one place, subject to Social Distancing Requirements. Prohibited gatherings do not include non-event-based regular commercial, non-profit, or educational activity by workers, students, or customers of businesses.
2. Gatherings of more than ten (10) persons may take place only with the approval of the Director of Public Health after submission, review, and approval of a plan to mitigate the potential spread of infectious disease. The infectious disease pre-approval requirement covers all gatherings of 10 or more persons, including, but not limited to, celebrations, concerts, sporting events with spectators, receptions, private parties, lectures, or life milestone events. Venues may submit a plan for pre-approval of all gatherings if plans will be applied consistently despite a change in individual patrons present.

D. The Director of Public Health and other relevant city officials, including but not limited to the Director of Regulated Industries, the Fire Chief, and law enforcement, may close, revoke licensure, or fine any entities or individuals found in violation of occupancy, hygiene, and Social Distancing Requirements of this section.

E. Exemptions. Nothing in this Order shall prohibit any individual from performing or accessing "Essential Governmental Functions." Essential Government Functions

means all services needed to ensure the continuing operation of any government agencies, including schools, and provide for the health, safety and welfare of the public. All Essential Governmental Functions shall be performed in compliance with mask and Social Distancing Requirements as defined this Order, to the extent possible.

Section Three. Violation of any provision of this Order constitutes an imminent threat, creates an immediate menace to public health, and shall be considered a violation of Section 50-155 of the City's Code of Ordinances. All remedies prescribed by the provisions of this Order shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Order.

Section Four. The Director of Public Health, the Director of Regulated Industries, the Chief of the Kansas City Police Department, and the Chief of the Kansas City Fire Department, or their designees (the "Directors") are authorized, under the Constitution of the United States, the Constitution of Missouri, the Charter of the City of Kansas City, this Order and subject to applicable law, to enter all property necessary to enforce all laws relating to public health and for purposes of providing for the avoidance, suppression or mitigation of disease, and abatement of nuisances and other unhealthy conditions. Upon complaint, or whenever the Directors deem a business, trade or profession carried on or engaged in by any person in the City detrimental to the public health, the Directors shall notify that person to show cause to the City at a time and place to be specified in the notice, why the trade or profession should not be discontinued or removed. The notice shall be served before the time specified therein as provided by law.

Section Five. Violation of any provision of this Order may result in the suspension or revocation of the Certificate of Occupancy and/or Business License for the offending business or concern in accordance with the Sections 18-23 and 40-28 of City Code of Ordinances.

Section Six. If any provision of this Order or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such determination shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

Section Seven. The Eleventh Amended Order herein shall take effect at 12:01 a.m. on Friday, November 20, 2020 and shall expire contemporaneously with the expiration of the Third Amended Emergency Proclamation unless and until it is extended, rescinded, superseded, or amended in writing prior thereto.

Authenticated as Adopted

This 16<sup>th</sup> day of November, 2020

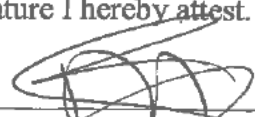


Quinton D. Lucas

Mayor



Filed with me, the City Clerk of the City of Kansas City, Missouri, this 16 day of November, 2020, by Mayor Quinton D. Lucas, whose signature I hereby attest.



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Marilyn Sanders  
City Clerk

# JACKSON COUNTY, MISSOURI

RECEIVED  
NOV 18 2020 JHK  
11:50 AM

OFFICE OF THE COUNTY EXECUTIVE  
415 E. 12<sup>th</sup> St., Ste. 200, Kansas City, MO 64106  
JACKSON COUNTY HEALTH DEPARTMENT  
313 S. Liberty, Independence, MO 64050

MARY JO SPINO  
COUNTY CLERK

**AMENDED ORDER** OF JACKSON COUNTY EXECUTIVE FRANK WHITE, JR., JACKSON COUNTY HEALTH DIRECTOR BRIDGETTE SHAFFER, AND JACKSON COUNTY EMERGENCY MANAGEMENT COORDINATOR TROY M. SCHULTE DIRECTING ALL INDIVIDUALS LIVING IN, AND BUSINESSES OR ENTITIES OPERATING IN, JACKSON COUNTY, MISSOURI, EXCEPT KANSAS CITY, MISSOURI, TO ADHERE TO THE PROVISIONS OF PHASE ONE OF THE EASTERN JACKSON COUNTY SAFER-AT-HOME PLAN AS OUTLINED BELOW.

**DATE OF ORDER: November 18, 2020**

Please read this Order carefully. Pursuant to §192.300 R.S.Mo. and §192.320 R.S.Mo., violation of or failure to comply with this Order is a class A misdemeanor punishable by fine, imprisonment, or both.

UNDER THE AUTHORITY GRANTED INDIVIDUALLY AND COLLECTIVELY BY THE RELEVANT PROVISIONS OF THE MISSOURI STATE CONSTITUTION, STATUTES, REGULATIONS, AS WELL AS BY RELEVANT PROVISIONS OF THE HOME RULE CHARTER OF JACKSON COUNTY AND COUNTY CODE PROVISIONS, INCLUDING, BUT NOT LIMITED TO: THE MISSOURI CODE OF STATE REGULATIONS, RULES OF DEPARTMENT OF HEALTH AND SENIOR SERVICES (19 CSR 20-20.020; 19 CSR 20-20.030; 19 CSR 20-20.040; 19 CSR 20-20.050) AND JACKSON COUNTY CODE CHAPTER 40, THE JACKSON COUNTY EXECUTIVE, JACKSON COUNTY HEALTH DIRECTOR, AND JACKSON COUNTY EMERGENCY MANAGEMENT COORDINATOR DO HEREBY ORDER:

1. This Order re-imposes restrictions in Eastern Jackson County due to the following:
  - The spread of COVID-19 presents a substantial threat to the health of the Greater Kansas City area communities of Missouri and Kansas; and
  - On November 13, 2020, the health directors of Kansas City, Jackson County, Platte County, Clay County, the Unified Government of Wyandotte County and Kansas City, Kansas, and Johnson County, Kansas (the "Regional Health Directors") issued an advisory stating that the uncontrolled spread of COVID-19 in the metropolitan area and in rural areas of Missouri and Kansas significantly strained healthcare resources in the region for both COVID-19 and non-COVID-19 patients; and
  - The Regional Health Directors advised that the uncontrolled rise in COVID-19 infections has created a dangerously low number of available physical acute care beds in local hospital facilities and significant staffing shortages for health personnel; and

- The Regional Health Directors advised that the uncontrolled spread of COVID-19 in the metropolitan area and in adjacent rural areas of Missouri and Kansas poses a serious threat to our businesses and local economy, creates a risk for our children’s education and well-being, and forces hospitals to ration care; and
- The most recent White House Coronavirus Task Force reports for Missouri and Kansas have advised that counties in the metropolitan area and in adjacent rural areas of Missouri and Kansas should adopt practices including, but not limited to, limiting indoor dining and drinking at restaurants and taverns to reduced capacities and restricting hours until cases and test positivity decrease is effective at decreasing infections; communicating to the public they should not gather with anyone who does not live with them; and that members of the public should always wear masks in public spaces; and
- On November 16, 2020 the Jackson County Health Department confirmed 13,980 total cases of COVID-19 illness in Eastern Jackson County and 1,237 cases confirmed within the prior week, and 153 deaths from the COVID-19 illness in Eastern Jackson County; and

Thus, as of the effective date and time of this Order set forth below, all individuals, businesses, and government agencies in Jackson County, Missouri, excluding Kansas City, Missouri, are required to follow the provisions of this Order, otherwise known as the Eastern Jackson County Safer-at-Home Plan (“the Plan”).

2. While more information can be found in the Eastern Jackson County Safer-at-Home Plan, the following Criteria and Recommendations are contained within the Plan:

a) Criteria

i. Face Coverings

1. Definition: For purposes of this order, a face covering means a cloth face covering that covers the nose and mouth. It can be:

- A sewn mask secured with ties or straps around the head or behind the ears;
- Multiple layers of fabric tied around the head;
- Made from a variety of materials, such as fleece, cotton, or linen; or
- Factory-made or made from household items.

2. Requirement:

- **All persons over the age of five, including employees or visitors, present at any business, public accommodation, or outdoors where social distancing is not possible must wear a face mask or covering.**
- When in a public indoor space (including a workplace, business, school, place of worship, or public facility such as a community center or library) individuals are required to wear a mask covering the nose and mouth

- Masks should be positioned carefully over the mouth and nose and should not be touched or readjusted until such time as the mask is removed. Hand hygiene is encouraged before taking masks off and prior to re-masking.
- Masks are not required inside a solitary, enclosed workspace such as office.
- Masks may be removed in restaurants and bars when individuals are actively eating or drinking but must be worn at all times otherwise.
- When in a public outdoor space or when using public transportation, taxis or ride-sharing services individuals are required to wear a mask covering the nose and mouth.
  - Including all outdoor public gathering places such as bus stops, parks, playgrounds, farmers markets, and restaurant/bar patio seating.
  - Masks are not required when individuals are driving alone or with others they live with, when individuals are exercising alone or with others they live with.
- The following individuals are exempt from the requirement to wear a face covering:
  - Those who are deaf or hard of hearing
  - Children younger than five years old; and
    - Children who are younger than two years old should never wear face coverings due to the risk of suffocation.
    - Children who are two, three, or four years old, with the assistance and close supervision of an adult, are strongly recommended to wear a face covering at all times in settings, like grocery stores or pharmacies, where it is likely that a distance of at least six feet cannot be maintained from non-household members and vulnerable people must go.
  - Persons with a medical condition, mental health condition, or disability that prevents wearing a face

covering. This includes, but is not limited to, persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.

- Businesses shall deny entry to and refuse to serve members of the public who refuse to wear face coverings, unless a medical exemption applies or the individual is a child under the age of five. A business shall neither require the individual to produce medical documentation verifying a medical condition or disability, nor ask about the nature of a medical condition or disability. Businesses are encouraged to offer members of the public alternatives to in-person shopping such as curbside pickup and delivery.
- ii. Unless otherwise noted in the attached document, or in this order, both essential and non-essential businesses that are frequented by the public can open provided they limit the number of individuals (staff and customers) in the building or room to 50 percent of the lowest occupancy load on the certificate of occupancy of the room or facility (whichever is lower) in which the gathering is occurring. This is only permissible as long as adequate social distancing (six feet) can be maintained. If social distancing cannot be maintained due to facility layout, the occupancy limit should be reduced. Proper PPE must be utilized.
  - iii. Restaurants, taverns, and all other venues, including public and private or membership-only event spaces, serving food and drink indoors shall continue to limit the number of occupants to no more than 50 percent of building occupancy, but shall now close at 10:00 p.m. Indoor patrons must be seated, and masked at all times except when actively eating or drinking. Indoor and outdoor parties are limited to ten (10) or fewer persons and parties shall be spaced with no less than six feet of distance between themselves and individuals from any other parties.
  - iv. Gyms, fitness, and recreational centers, including publicly-owned and managed facilities, shall be limited to 50% capacity and be subject to all indoor and outdoor rules within this Order, including the requirement that all patrons wear masks indoors at all times and maintain social distancing of not less than six feet.
    - 1. If you are unable to wear a mask because of difficulty breathing during high intensity activities, choose an outdoor location with greater ventilation and air exchange and where social distancing from others can be guaranteed. Participants may consult with their primary care provider to determine if mask wearing while partaking in vigorous physical activity is safe for them.



- v. Gatherings: including, but not limited to, non-essential business activities, such as: weddings, funerals, lectures, meetings, parades, fairs, festivals, sporting events, and performances may resume subject to the following requirements, but must adhere to the guidance found in the Safer-at-Home Plan:
  - 1. All gatherings shall not exceed ten (10) people unless attendees wear a face covering and maintain 6 feet of distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
  - 2. All gatherings exceeding 10 people are required to submit a Gathering Protocol at least 7 business days in advance of the event. The Gathering Protocol must be approved by Jackson County and easily accessible to all attendees.
- vi. All essential and non-essential businesses that are open to the general public are required to complete and post a Social Distancing Protocol that is easily accessible to the staff and customers.

b) Recommendations

- i. Staying at home remains the safest option.
  - ii. All persons should maintain social distancing and remain six (6) feet apart.
  - iii. Employers should allow for telework for as many workers as possible.
  - iv. Employers should provide PPE if possible for workers who engage with the public and/or work in otherwise high-risk environments where social distancing is not feasible.
  - v. Continued testing to monitor disease prevalence and determine if a spike in new infections is occurring.
  - vi. Possibility that restrictions will need to be re-imposed if there is a large spike in new infections.
3. For information regarding restrictions on specific types of businesses and gatherings, as well as further general guidance for individuals, please refer to the Eastern Jackson County Safer-at-Home Plan. In the event there is a real or perceived inconsistency between this document and the aforementioned Safer-at-Home Plan, this document shall govern. *See attached.*
  4. Polling locations and their staff (paid and volunteer) shall be considered essential businesses and workers. To the maximum extent possible, we recommend that they follow social distancing guidelines promulgated by federal, state, and local health authorities.
  6. Pursuant to §192.300 R.S.Mo. and §192.320 R.S.Mo., the Health Director requests that the Sheriff, all chiefs of police, Park Rangers in the County, and the Jackson County Environmental Health Department ensure compliance with and enforcement of this

Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

7. This Order shall be effective at 12:01 a.m, on November 20, 2020, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the County Executive, Health Director, and Emergency Management Coordinator.
8. Copies of this Order shall promptly be: (1) made available outside the Jackson County Courthouses at 415 E. 12th St., Kansas City, MO 64106 (Downtown Location) and 308 W. Kansas Ave., Independence, MO 64050 (Independence Location); (2) posted on the Jackson County Health Department website ([www.jacohd.org](http://www.jacohd.org)); and (3) provided to any member of the public requesting a copy of this Order.
9. If any provision of this Order to its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

Authenticated as Adopted

This 18th day of November, 2020



Frank White, Jr.  
County Executive



Bridgette Shaffer  
Health Director



Troy M. Schulte  
County Administrator & Emergency Management  
Coordinator

COVID-19 Cost Treatment Orders			
State	Bill / Docket No.	Termination Date for Cost Deferrals	Eligible Costs / Limits
Alaska	Senate Bill 241 signed into law on May 18, 2020  Declaration of Public Health Disaster Emergency dated	Alaska State Legislature extended until November 15, 2020 the declaration of a public health disaster emergency issued by the governor on March 11, 2020  Governor extended public health disaster emergency through December 15, 2020	Regulatory assets, to be recovered through future rates, for uncollectable residential utility bills and extraordinary expenses that result from the novel coronavirus disease (COVID-19) public health disaster emergency declared by the governor on March 11, 2020, as extended by this Act (Senate Bill 241).
Arkansas	Docket No. 20-012-A Order No. 1 dated April 10, 2020 Order No. 2 dated May 27, 2020 Order No. 3 dated June 16, 2020 Order No. 4 dated July 10, 2020	Disconnection of electricity services is suspended during the pendency of the Governor's emergency declaration of March 11, 2020, or until this directive is rescinded by the Commission	Initial order authorized regulatory asset for costs resulting from the suspension of disconnections offset by any cost savings; subsequent orders authorized inclusion of other costs requested in utility filings  Representative expenses in utility filings: Incremental bad debt, direct cash expenses for PPE, isolation or potential sequestration of essential employees, commercial cleaning and sanitization, technology needed to deploy remote work locations, incremental labor and outside services related to potential escalation of workload after end of disconnection suspension  Quarterly reporting beginning July 1, 2020 on cost and savings amounts booked to regulatory
California	Resolution M-4842 dated April 16, 2020	Starting with date of Governor's emergency declaration on March 4, 2020  Due to the COVID-19 pandemic, the Commission extends to California customers the emergency customer protections from D.19-07-015 and D.19-08-025, through April 16, 2021, with an	Expenses reasonably incurred while complying with Resolution
Connecticut	Docket No. 20-03-15, Motion No. 2 dated March 18, 2020	Shut-off moratorium extended from residential customers to all classes until May 1, 2020 or such other time as determined by the Authority	Costs incurred and revenues lost as result of implementing shut-off moratorium and not requiring security deposits or balance reduction payments for restoration of utility service
Delaware	Docket 20-0286, Order No. 9588 dated May 13, 2020	Starting March 24, 2020 and ending 30 days after Governor issues order, declaration, proclamation, or similar announcement that state of emergency is no longer in effect	COVID-19 incremental costs and offsetting savings to ensure that residents have essential utility services; incremental costs are not fully known and certain at this time  Quarterly reporting of costs incurred and offsets
District of Columbia	GD2020-01, Order No. 20329 dated April 15, 2020	During the public health emergency (declared on March 17, 2020) and 15 days afterward	Incremental costs (and any offsets) prudently incurred for continued provision of service to DC residents



<b>COVID-19 Cost Treatment Orders</b>			
<b>State</b>	<b>Bill / Docket No.</b>	<b>Termination Date for Cost Deferrals</b>	<b>Eligible Costs / Limits</b>
Florida	Docket No. 20200151-EI, Order No. PSC-2020-0405-PCO-EI dated October 27, 2020	No termination date specified (Gulf Power petition provides cost estimates for the year 2020)  Monthly reporting until Gulf Power presents the regulatory asset for Commission consideration	Incremental bad debt and safety-related costs  Assistance or benefits received by the Company in connection with COVID-19, regardless of form, that would offset any COVID-19 related expenses  Proposed by Gulf Power; initially approved by Commission as procedural order; decision vacated and reentered as proposed agency action
Georgia	Docket No. 42516  Order on COVID-19 Costs dated April 7, 2020  Order Approving Deferral of Incremental COVID-19 Costs dated	Commencing with public health state of emergency on March 14, 2020; no termination date specified  Company will report to the Commission on the level of delinquent accounts monthly during the disconnection suspension	Georgia Power allowed to defer incremental cost of bad debt resulting from suspension of disconnections; Company and Commission Staff are to work collaboratively on establishing a methodology to identify incremental charge offs resulting from suspension of disconnections  Incremental costs resulting from COVID-19 approved: supplies/PPE, labor (overtime), expenses (meals for front line workers), internal services (transportation, printing services), contract services (cleaning, sleeper trailer rental, potential sequestration)
Hawaii	General: Order No. 37125 (undocketed) dated May 4, 2020  Hawaiian Electric Company (HECO): Docket No. 2020-0069, Order No. 37192 dated	HECO: Costs associated with COVID-19 incurred from March 17, 2020, through December 31, 2020	HECO: Bad debt expense resulting from higher than average levels of write-offs of uncollectible accounts associated with the suspension of disconnects and non collection of late payment fees to assist customers facing extreme economic pressures  HECO: Increased financing costs, sequestration costs for mission critical employees, increased sanitation and decontamination costs and other costs that cannot currently be reasonably estimated or predicted given the extraordinary nature of this event
Idaho	Case No. GNR-U-20-3, Order No. 34718 dated July 8, 2020	No set end date to state of emergency declared by governor on March 13, 2020	Unanticipated, Emergency-related expenses due to the COVID-19 public health emergency  Incremental Operations & Maintenance (“O&M”) expenses for unplanned cleaning and other Personal Protective Equipment (“PPE”) expenses plus new hardware/software expenses required to comply with the stay-at-home order  Uncollectible bad debt expenses (report to Commission by December 31, 2020)  Uncollected late fees at 2019 levels  Utilities will not be allowed to apply a carrying charge to the Emergency related deferral balance

COVID-19 Cost Treatment Orders			
State	Bill / Docket No.	Termination Date for Cost Deferrals	Eligible Costs / Limits
Illinois	Docket No. P2020-0309, Order dated June 18, 2020	<p>No termination date specified; utilities are authorized to track all costs resulting from Commission Emergency Interim Order and any measures in response to COVID-19</p> <p>Quarterly reporting until quarter ending December 31, 2022, unless extended</p>	<p>COVID-19 related costs net of offsets</p> <p>Utilities should track all costs resulting from the Emergency Interim Order issued by the Commission on March 18, 2020 to impose a moratorium on disconnection of utility services and the imposition of late fees during the public health emergency declared by the governor and any measures in response to the COVID-19 pandemic</p> <p>One-time costs and cost reductions, such as information technology changes needed to enact this Stipulation, set up for remote work options (e.g., servers, software, computer equipment) and signage</p> <p>Ongoing costs and cost reductions, such as incremental administration costs associated with programs provided in this Stipulation, communications for remote operations, communications with the public, regulatory compliance costs, cleaning supplies and services, PPE, employee benefits and accommodations, contact tracing, and medical testing to the extent not paid by or covered by insurance</p> <p>Credits, payments, or other benefits received by the Utility from the federal, state, or local government as assistance for, reimbursement for, or to otherwise pay for or reduce a COVID-19</p>
Indiana	Cause No. 45380, Order dated June 29, 2020	<p>Beginning on March 6, 2020, the date of Governor Holcomb's emergency declaration</p> <p>No termination date specified (service disconnections are prohibited through August 14, 2020)</p>	<p>Utility service disconnections are prohibited through August 14, 2020, along with the collection of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees)</p> <p>Regulatory accounting for COVID-19 related impacts directly associated with any prohibition on utility disconnections, collection of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees), and the use of expanded payment arrangements, as well as COVID-19 related uncollectible and incremental bad debt expense</p> <p>Joint Utility Petitioners' request for regulatory accounting authority for O&amp;M expense, financing costs, pension expense, and lost revenues related to customer load reductions was denied</p>

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Iowa	Docket No. SPU-2020-0003, Order Authorizing Regulatory Accounts and Establishing Additional Reporting Instructions dated May 1, 2020  Docket No. ARU-2020-0156, Order Addressing Regulatory Asset Account Plans and Contested Case Proceedings dated	Beginning after March 1, 2020; no termination date specified  Quarterly reports	The Board finds appropriate the use of regulatory accounts for the tracking of financial impacts arising from the COVID-19 pandemic. The Board is opening separate dockets for each rate-regulated utility to file the information regarding the regulatory asset account.  Regulatory asset account to track the increased expenses and other financial impacts, including revenue changes, incurred after March 1, 2020  Regulatory asset includes costs, savings, federal or state grants or other payments to compensate for costs or lost revenue
Kentucky	Case 2020-0085, Order dated September 21, 2020	March 16, 2020 until October 1, 2020	Investor-owned utilities, are expressly permitted, but not required, to apply and defer carrying charges in order to finance the arrearage payment plans for arrearages accumulated on or after <u>March 16, 2020 until October 1, 2020</u>
Louisiana	Special Order No. 22-2020 dated April 29, 2020  Special Order No. 43-2020 dated June 24, 2020	Commencing with the first billing cycle following July 16, 2020, utilities may commence disconnection procedures for non-payment of outstanding balances on bills rendered after July 16, 2020	Regulatory asset for expenses incurred from the suspension of disconnections and collection of late fees imposed by both the March 13, 2020 Executive Order and Commission Special Order No. 22-2020
Maryland	Case No. 9639, Order No. 89542 dated April 9, 2020	Beginning March 16, 2020  No termination date specified; Order refers to costs prudently incurred to ensure residents have essential utility services during state of emergency declared by governor	Regulatory asset to record the incremental costs net of savings offsets related to Covid-19 prudently incurred beginning on March 16, 2020

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Michigan	Case No. U-20757, Order dated July 23, 2020	March 24, 2020 is appropriate start date for tracking and deferral: no termination date is specified	<p>Uncollectible, or bad debt, expense incurred beginning March 24, 2020 (the date of Governor Whitmer’s Executive Order 2020-21) that are in excess of the amount used to set current rates</p> <p>The Commission declines to authorize a carrying charge to be applied to deferred uncollectible expenses, or any other COVID-19 related costs or forgone revenue, at this time. This does not preclude a utility from requesting a carrying charge in a future proceeding, at which time, the Commission will evaluate the merits of the request.</p> <p>Commission declines to explicitly define what constitutes extraordinary costs and declines to direct utilities to track or defer any specific category of expenses related to their COVID-19 response beyond the Commission’s previous authorization set forth in the April 15 order for utilities to track and defer uncollectible expenses</p> <p>Should a utility seek special accounting treatment of COVID-19 costs beyond uncollectible expenses, the Commission instructs the utility to submit an informational filing no later than <del>November 2, 2020</del> with updated information and actual dollar amounts for each cost (and</p>
Minnesota	<p>DOCKET NOS. E,G-999/CI-20-425 &amp; E,G-999/M-20-427</p> <p>ORDER APPROVING ACCOUNTING REQUEST AND TAKING OTHER ACTION RELATED TO COVID-19 PANDEMIC dated May 22, 2020</p> <p>ORDER ADOPTING METHODOLOGY AND SETTING ADDITIONAL REQUIREMENTS dated <del>November 4, 2020</del></p>	Commission will allow deferred COVID-19-related expenses to be tracked through the end of the Governor’s peacetime emergency (Emergency Executive Order 20-01), plus 30 days	<p>Deferred accounting of incremental costs incurred as a result of COVID-19, with an effective date of March 13, 2020</p> <p>Cost and revenue categories for consideration include uncollectible accounts expenses; other operating expense impacts; revenue impacts; and a miscellaneous category for capturing other costs not yet identified. Anticipate “other impacts” to include items such as cost savings.</p>

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Mississippi	Docket No. 2018-AD-141, Order dated April 14, 2020	Beginning with the date of the State of Emergency declared by the governor on March 14, 2020; no termination date specified	<p>Certain costs or expenses associated with COVID-19</p> <p>Defer to a regulatory asset account, all necessary and reasonable Incremental costs or expenses to plan, prepare, stage, or react to protect and keep safe its employees and customers, and to reliably operate its utility system beginning with the date of the Governor's declared State of Emergency</p> <p>Utilities shall defer any costs, including any incremental bad debt expenses and all associated credit and collection costs, related to connections, reconnections, or disconnections for all</p>
Nevada	Docket No. 20-03021, Order dated March 27, 2020	<p>Begin recording, as of March 12, 2020, in regulatory asset accounts, amounts that reflect the costs of maintaining service to customers affected by Covid-19 whose service would have been terminated, discontinued, and/or disconnected under normally-applicable terms of service</p> <p>No termination date specified</p> <p>Recognizing the fluid nature of the current circumstances surrounding the COVID-19 pandemic, the Commission will, as necessary,</p>	Costs associated with suspending the termination, discontinuance, and/or disconnection of services
New Jersey	Docket No. AO20060471, Order dated July 2, 2020	Beginning on March 9, 2020, and through September 30, 2021 or 60 days after Governor issues an order that the Public Health Emergency is no longer in effect	Incremental COVID-19 related expenses offset by any federal or state assistance that the utility may receive as a direct result of the COVID-19 pandemic

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New Mexico	Docket No. 20-00069-UT, Order dated June 24, 2020	<p>Duration of Executive Orders 2020-004 through 2020-0010</p> <p>Executive Order 2020-080 renewed and extended through December 11, 2020 the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-055, 2020-059, 2020-064, and 2020-073</p> <p>Public utilities shall submit additional motions if deferred accounting treatment is requested beyond the termination of the Executive Orders</p>	<p>Regulatory assets for the accounting deferral of COVID-19 related uncollectibles and other expenses incurred during the period beginning March 11, 2020 through the termination of the Governor's Executive Orders 2020-0004 through 2020-0010</p> <p>Utilities creating a regulatory asset are also required to pursue all federal, state, or other subsidies available and shall record a regulatory liability for all offsetting cost savings resulting from the COVID-19 pandemic</p>
North Carolina	Docket Nos. E-7, Sub 1241 and E-2, Sub 1258, Joint Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of Accounting Orders to Defer Incremental COVID-19 Expenses dated August	Duke does not specify termination date for requested deferrals, but application provides estimates for actual expenses through June 30, 2020 and projected totals through December 31, 2020	<p>Duke Energy (DEC and DEP) have requested deferral of the following COVID-19 related incremental costs*: customer fees waived, bad debt/ charge-offs, employee stipends, employee safety-related costs, costs for remote work, and other costs including overtime</p> <p>*plus carrying costs at the approved overall cost of capital approved in the pending rate cases</p>
Ohio	Case No. 20-591-AU-UNC, Order dated March 20 2020	No termination date specified	Requests for accounting authority or incremental cost recovery related to the emergency be addressed in each individual case by subsequent entry
Oklahoma	Cause No. PUD 202000050, Order No. 711412 dated May 7,2020	<p>Beginning March 15, 2020, with the issuance of the Governor's Declaration of Emergency</p> <p>Until September 1, 2020, unless otherwise ordered by the Commission</p>	<p>Increased bad debt expenses, including bad debts associated with factoring of accounts receivable, costs associated with expanded payment plans, waived fees, and incremental expenses that are directly related to the suspension of or delay in disconnection of service (or the reconnection of service)</p> <p>Expenses associated with ensuring continuity of service and protecting utility personnel, customers and the general public (such as additional personal protective equipment (PPE), increasing sanitation efforts at facilities, implementing health-screening processes, and securing</p>

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Oregon	General: UM 2114, Order No. 20-401 entered November 5, 2020  Idaho Power: UM 2067, Order No. 20-377 dated October 27, 2020	Idaho Power: 12-month period beginning March 24, 2020	Order No.20-401 (11/5/20) adopts Staff recommendation to approve the Energy Utilities' applications for deferred accounting of COVID-19 related costs and benefits.  All six energy utilities (gas & electric) have filed applications for deferred accounting of costs and benefits resulting from the COVID-19 health epidemic  Incremental personal protective equipment, cleaning supplies and services, contact tracing, medical testing, financing costs to secure liquidity including carrying costs associated with time payment agreements, information technology updates and administration needed to enact the stipulation, and equipment needed for remote work options  Direct costs are net of credits, payments, direct cost savings, or other benefits received by the Utility from a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal, state, or local tax credits or benefits  Late payment fees not assessed, bad debt expense above baseline in 2020, 2021, and 2022, foregone reconnection charges, all costs to fund a COVID-19 bill payment assistance program (if funding is authorized)  Deferral balance found to be prudent shall accrue interest at Treasury rate plus 100 basis points
Pennsylvania	Docket No. M-2020-3019775, Commission Letter dated May 13, 2020	Since issuance of Emergency Order on March 13, 2020; no termination date specified	Track extraordinary, nonrecurring incremental COVID-19 related expenses  Incremental expenses incurred for the provisioning of utility services used to maintain the health, safety and welfare of customers during the COVID-19 pandemic  With the exception of the separate regulatory authorization afforded uncollectible expenses, does not grant authorization for utilities to defer any other potential COVID-19 related expenses
Rhode Island	DOCKET NO. 5022, Order dated July 15, 2020	No termination date specified  Weekly reports until further order	Each utility that ordinarily charges late fees, interest charges, or passes through credit card, debit card, or ACH fees to the customer should continue to track all such expenses not collected and those absorbed by the utility that are not included in the utility's revenue requirement for later review by the Commission. This portion of the order will be reviewed in September 2020. (No record of review found as of 12/1/20)

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South Dakota	Docket GE20-002 Utilities Joint Petition dated May 1, 2020 Order dated August 19, 2020	Beginning from the date the emergency was declared, March 13, 2020; no termination date specified  Quarterly reporting providing, at a minimum, the number of customers that have been disconnected, number of customers that are in arrears at the time the quarterly report is submitted, the total amount of arrears associated to the number of customers reported, and payment arrangements that have been made with its customers, including number of payment arrangements made, average length of payment arrangements, and total dollar amounts associated with such payment arrangements	Deferred accounting for costs incurred as a result of the COVID-19 pandemic  If costs in addition to incremental bad debt are included, must also include an account of all COVID-related cost decreases and, if applicable, all benefits received related to the pandemic (federal and other) in the regulatory asset as well
Texas	Control No. 50664, Item No. 108 dated March 26, 2020	No termination date specified	Expenses resulting from the effects of COVID-19, including but not limited to non-payment of qualified customer bills
Utah	Docket 20-035-17 Rocky Mountain Power (RMP) Application dated April 3, 2020 RMP Order dated September 15, 2020	Effective until December 31, 2020  Quarterly reporting	Costs associated with COVID PHE response, effective until December 31, 2020  RMP shall not include non-waived late fees in this regulatory asset  Commission approves RMP's preliminary request to apply the PSC-approved carrying charge on the deferred accounts
Virginia	Case No. PUR-2020-00074, Order dated April 29, 2020	No termination date specified	1) Incremental uncollectible expense incurred, 2) late payment fees suspended, 3) reconnection costs incurred with the billing suspended, 4) carrying costs, and 5) other incremental prudently incurred costs associated with the COVID-19 pandemic
West Virginia	General Order No. 262.4 dated May 15, 2020	No termination date specified	Additional, extraordinary costs directly related to complying with the various government shut-down orders and COVID-19 precautions, including impacts on uncollectible expense and cash flow related to temporary discontinuance of "service terminations" for non-payment and credits for minimum demand charges associated with business customers adversely impacted by shut-downs or temporary closures related to the COVID-19 pandemic



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<b>State</b>	<b>Bill / Docket No.</b>	<b>Termination Date for Cost Deferrals</b>	<b>Eligible Costs / Limits</b>
Wisconsin	5-AF-105 Order dated March 24, 2020 Supplemental Order - First dated May 14, 2020 Supplemental Order - Second dated August	Deferral shall continue until a future Commission order on this topic or future rate case proceeding  Quarterly reporting for utilities	Incremental increases in bad debt or uncollectible expense above what is currently included in authorized rates; any recovery of bad debt should flow back to the deferral as an offset  Include any federal or state reimbursements provided to utilities for possible reimbursement and offset of costs associated with COVID-19  Utilities shall identify and track any funding sources, such as government lending programs, that, while not intended to reimburse costs, provide assistance to utilities in covering the identified
Wyoming	Docket No. 90000-151-XO-20 (Record No. 15474) dated March 26, 2020  Montana-Dakota Utilities (MDU): Docket No. 20004-147-EA-20 (Record No. 15520), Order dated June 1, 2020  Rocky Mountain Power: 20000-581-EA-20 (Record No. 15488), Order dated May 18, 2020  Black Hills: 20002-117-EA-20 (Record No.	Commencing March 13, 2020, and continuing until the COVID-19 Pandemic has passed	Utilities are authorized to establish a deferred regulatory account for extraordinary expenses related to the COVID-19 pandemic, effective on and after March 13, 2020.  Utilities shall also account for any benefits received, from any source, related to the COVID-19 pandemic in the deferred regulatory account.  Utilities are directed to file written quarterly status updates.