

**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) No. EU-2020-0350
for an Accounting Authority Order Allowing the)
Companies to Record and Preserve Costs Related)
to COVID-19 Expenses)

**EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST’S
REPLY TO PUBLIC COUNSEL RESPONSE TO MOTION FOR LEAVE TO FILE
SUR-SURREBUTTAL TESTIMONY**

COME NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro”) and Evergy Missouri West, Inc. (“Evergy Missouri West”) (collectively, “Evergy” or the “Company”) and hereby files its reply to the Office of the Public Counsel’s (“OPC”) Response to Motion for Leave to File Sur-surrebuttal Testimony (“Response”) and, in support of its response, states as follows:

1. On September 14, 2020, OPC filed its Response which requested that the Commission deny Evergy’s motion to file brief sur-surrebuttal testimony of Darrin R. Ives to the testimony of Dr. Geoff Marke. Dr. Marke recommended for the first time in surrebuttal testimony that the Commission order the expansion of certain customer programs on the condition that the shareholders fund the programs.

2. Since Dr. Marke’s affirmative recommendations were first submitted in surrebuttal testimony, Evergy has requested the opportunity to respond so that there will be evidence in the record on Evergy’s position on Public Counsel’s new recommendations.

3. The Commission has recognized in a recent proceeding that the public utility that has the burden of proof in a case should have the opportunity to have the last word on the issues.

In *its Order Consolidating Cases and Setting Procedural Schedule*, in Re Second Prudence

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

Commission recognized this principle as follows:

Commission rules define direct testimony as all testimony and exhibits asserting and explaining that party's entire case-in-chief. Where all parties file direct testimony, rebuttal testimony must respond to direct testimony. If only one party files direct, rebuttal testimony shall include all testimony that explains why a party rejects, disagrees, or proposes an alternative to the moving party's direct case. Surrebuttal testimony must be responsive to another party's rebuttal testimony. The concept of cross-rebuttal testimony is not addressed in the regulation.

The Commission has reviewed the two proposed schedules and finds that a compromise is appropriate. The Commission will allow Evergy to have the final word while also giving Staff and Public Counsel the opportunity to challenge Evergy's explanation of prudence. . . . (emphasis added)

4. The Commission has in the past also recognized the importance of having a complete record when new proposals are filed in surrebuttal. For example, in its *Order Granting Ameren Missouri's Alternative Motion To File Sur-Surrebuttal Testimony, Re: Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service*, File No. ER-2012-0166 (Sept. 13, 2012), the Commission concluded that Ameren should be allowed to file brief sur-surrebuttal testimony to address a new proposal filed by an opposing party in surrebuttal rather than striking the surrebuttal testimony from the record. See also Order Denying Motion To Strike Cross-Surrebuttal Testimony, But Allowing Ameren Missouri To File Additional Responsive Testimony, Re Union Electric Company, d/b/a Ameren Missouri for Permission and Approval and a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain, and Otherwise Control and Manage a Utility Waste Landfill and Related Facilities at its Labadie Energy Center, File No. EA-2012-0281 (October 3, 2013).

5. The Commission should continue to recognize this important principle and ensure that the record contains the position of the Company that would be adversely affected if the Commission adopted Public Counsel's eleventh-hour recommendation. The Commission should reject Public Counsel's claim that somehow Mr. Ives' testimony is "redundant" since his responsive testimony is the first opportunity to address Dr. Marke's recommendations contained in his surrebuttal testimony.

WHEREFORE, Evergy respectfully renews its motion and request a Commission order granting leave to file the attached sur-surrebuttal testimony of Company witness Darrin R. Ives.

Respectfully submitted,

/s/ Robert J. Hack

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**Attorneys for Evergy Missouri Metro and
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to counsel for all parties this 16th day of September 2020.

/s/ Robert J. Hack

Attorney for Evergy Missouri Metro and Evergy
Missouri West