

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

In the Matter of the Establishment of a Working	)	
Case for the Writing of a New Rule on the	)	
Treatment of Customer Information by	)	Case No. AW-2018-0393
Commission Regulated Electric, Gas, Steam	)	
Heating, Water, and Sewer Utilities and their	)	
Affiliates and Non-Affiliates	)	

**EVERGY’S RESPONSE TO ORDER  
REQUESTING ESTIMATED COST OF COMPLIANCE RESPONSES**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively, “Evergy” or “Company”) and states as follows:

1. On July 19, 2023, Staff (“Staff”) for the Missouri Public Service Commission (“Commission”) filed a *Status Report and Request for Comments on Estimated Cost Impacts Regarding Draft Customer Information Rule* (“Staff Report”).
2. On August 11, 2023, Commission issued an *Order Requesting Estimated Cost of Compliance Responses* (“Order”), which set a deadline of September 11, 2023 for stakeholders to comment on the Staff Report.
3. Staff appears to have ignored the Company’s March 20, 2020 cost of compliance comments which summarized the Company’s significant concerns with the proposed rule as it made no edits to its previous draft of the rule. Staff also states that it believes the Company did not consider the current rules regarding the treatment of customer information. The Company did consider the existing rules and believes that the proposed rule imposes unnecessary restrictions not found in the current rule and other related law or rules. For example, the proposed rule significantly expands the list of items identified as personal information in current state statute at section 407.1500.1 (9) RSMo. Further, the proposed rule requires specific contracting requirements for utility related service providers that is not

required in any existing applicable rules. For that reason, the Company reiterates its previous concerns which have not been addressed in the proposed rule.

4. Responsive to the Order, the Company anticipates significant costs relating to compliance with Staff's proposed rule. In many instances, the Company has not been able to fully evaluate the cost of the proposed rule. Nevertheless, the Company provides its estimates below:

**(1) Definitions**

5. Because the proposed rule significantly expands the list of items that are deemed to be personally identifiable customer information beyond section 407.1500.1 (9) RSMo., there is no sensitivity assessed (i.e. "address" to be protected the same as "social security number"), and there is no recognition that distinct listed information may only be personal information in combination with another listed item (i.e. "date of birth" only personal when combined with another item like "name"), the Company will incur additional costs to secure this information to prevent disclosure. The Company already takes multiple precautions (i.e. limited employee access, redaction, etc.) to protect customer social security numbers from disclosure. In order to provide the same level of protection for address, phone number, date of birth, payment history, unique electronic identifier or routing code, or usage information the Company conservatively estimates the cost of compliance with the rule to be \$6.6 Million to over \$19.7 Million and take multiple years in order to upgrade the Company's information handling and storage systems. Such large expenditures and effort would not be necessary if the rule does not require the Company to enhance protection of personally identifiable customer information beyond the scope of what is required under section 407.1500.1 (9) RSMo. and the Company's current protections.

## (2) Utility Related Services

6. This part of the proposed rule requires specific contractual terms when personally identifiable customer information is transferred to a third-party nonaffiliate providing utility services. While the Company generally supports the intent of the suggested contract terms, the implementation will be difficult and potentially impossible for several reasons. First, while the intent of the language may be possible to negotiate in many contracts, some of the Company's vendors have significant negotiation position and do not negotiate terms and conditions. Therefore, allowance for the contractual terms identified in the proposed rule or terms with similar intent would be necessary. Without the services of some of these significant vendors, the Company will be significantly financially and operationally impacted as these vendors provide critical services that we are unable to perform. Second, the Company believes that unless there is a grandfathering provision in the rule, there will be a significant cost and effort to renegotiate every existing contract. Third, a reasonable implementation period (consider 180 days) is needed after the effective date of the final rule when contract expectations are finalized. Due to the breadth of what has been identified in the proposed rule as personally identifiable customer information, many vendor contracts are implicated. For those select contracts where we have a negotiation position to renegotiate terms and conditions, if we conservatively assume one hundred contracts to be negotiated and assemble or contract a five-person negotiating team (supply chain, legal, risk, security and business representatives) to expedite the review, we could estimate completing on average ten contracts a week that would be ten weeks. The cost of the team at an hourly loaded or outsourced rate of \$400 per hour would be \$800,000. By adding language such as, "This section applies to applicable contracts issued 180 days after the effective date of this rule.", the proposed terms or terms of similar intent can be added as new contracts are negotiated and the above costs would be minimized. Moreover, some existing contracts would not be able to be modified until

they are up for renegotiation because there is little leverage for a vendor to execute an amendment with no benefit in exchange.

### **(3) Nonutility Related Services**

7. This section of the proposed rule requires recorded verbal or written affirmative customer consent. This language should be broadened to include “or another demonstration that customer consent was received.” This would allow the use of electronic forms which while not explicitly logging consent would clearly demonstrate that the customer consent was intended by completing the electronic form. Requiring recorded verbal or written consent and not this flexible but supported demonstration for these services would unnecessarily increase the cost to comply.

### **(4) Aggregated or Anonymized Customer Information or Data**

8. The proposed rule states, “Aggregated or anonymized customer information or data may be disclosed to affiliates or third-party nonaffiliates upon similar terms and conditions.” In the proposed rule, Section (1)(B) excludes aggregated or anonymized customer information from the definition of personally identifiable customer information. Since the aggregated or anonymized customer information does not require the protections of personally identifiable customer information, requiring “similar terms and conditions” in this section of the proposed rule which the language in itself is confusing creates an unclear and unnecessary cost for compliance.

### **(5) Privacy Policy**

9. The proposed rule requires the Company identify applicable federal, state, county and city laws, rules, etc. (which would include subpoenas or court orders) which support, limit or prohibit disclosure of customer information. The Company believes that this rule would create much work for very little benefit as the Company operates in many different jurisdictions. Just listing the numerous jurisdictions much less the requirements would be extensive and not something typically identified in a

privacy policy. In addition, the Company receives 12-15 subpoenas for customer information per month and these subpoenas prohibit notification of the customer. The Company believes that this requirement can be met with no additional cost with a general statement in its privacy policy that states that the Company complies with various applicable laws, rules, orders or judicial processes (e.g. subpoenas or court orders) and utility tariffs which support, limit or prohibit disclosure. The more significant issue is that there would also be the constant need to review the jurisdictions and update the privacy policy for activity on nearly a daily basis. To require the Company to nearly continuously update the privacy policy for the extensive required information would only occur at a significant cost to comply.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**Attorneys for Evergy Missouri Metro and  
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 11<sup>th</sup> day of September 2023.

*/s/ Roger W. Steiner*

Roger W. Steiner