

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2022-0320, In the Matter of the Application of
Jennifer Dutcher for Change in Electric Supplier from
Every Missouri West to Platte-Clay Electric Cooperative, Inc.

FROM: Brodrick Niemeier, Industrial Analysis Division – Engineering Analysis Dept.
Alan J. Bax, Industrial Analysis Division– Engineering Analysis Dept.

/s/ Brodrick Niemeier 10/31/2022 /s/ Don Cospers 10/31/2022
Engineering Analysis Dept. / Date Staff Counsel’s Office / Date

/s/ Alan Bax 10/31/2022
Engineering Analysis Dept. / Date

SUBJECT: Staff Memorandum Recommending Approval of Application

DATE: October 31, 2022

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Application of Jennifer Dutcher (“Ms. Dutcher”) for a Change in Electric Service Suppliers (“Application”) at 13400 N Congress Ave Kansas City, Mo 64163, from Every Missouri West. (“Every”) to Platte-Clay Electric Cooperative, Inc. (“Platte-Clay”), concluding that the Application is in the public interest for reasons other than a rate differential pursuant to 393.106.2 and 394.315.2, RSMo (2021) and 20 CSR 4240-3.140. The Application meets the filing requirements of 20 CSR 4240-2.060 and 20 CSR 4240-3.140.

Staff recommends the Commission open a docket and order Every Missouri West and Every Missouri Metro to complete a review of its similarly situated customers within six (6) months. The review should consist of the following tasks at a minimum:

- (1) Identifying all similarly situated customers;

- (2) Identifying and recording all equipment serving those customers;
- (3) Evaluating and reporting on whether voltage is being maintained within tolerances¹;
and
- (4) Ensuring the equipment serving the similarly situated customers will be adequately inspected and maintained in accordance with the Commission's rules going forward.

Staff intends to utilize the newly created docket to further investigate the safety and customer service issues associated with serving these customers.

OVERVIEW

On May 18, 2022, Ms. Dutcher filed an Application with the Commission seeking approval of her request to change electric service providers from Evergy to Platte-Clay at 13400 N Congress Ave Kansas City, Mo 64163. Ms. Dutcher indicated in her Application that there have been reliability issues for at least 5 years, and that she spoke with an Evergy employee in 2019 or 2020, but issues persisted. When a power outage occurs, Ms. Dutcher is uncertain whether to report the outage to Evergy or Platte-Clay, and has had to consistently contact both companies to resolve the issue. Ms. Dutcher also claims to experience longer outages than her immediate neighbors, who are all Platte-Clay members.

On May 19, 2022, the Commission issued an *Order Directing Notice, Adding Parties, and Directing Responses to Application* that directed its Data Center to send notice of this Application to both Evergy and Platte-Clay and make them parties to the case. This *Order* also directed Evergy and Platte-Clay to file a Response to the Application by June 21, 2022.

¹ Commission Rule 20 CSR 4240-10.030(23)

The Commission later approved an Evergy request for an extension to June 28, 2022. In addition, the Commission ordered Staff to file a Recommendation on the Application by July 5, 2022, which was later extended to October 31, 2022.

Platte-Clay is organized under Chapter 394, RSMo (2021) to provide electric service to its members located in all or parts of seven Missouri counties, including Platte County, in which lies the property identified in the Application. The Commission has limited jurisdiction over rural electric cooperatives, such as Platte-Clay, as specified in Chapter 394, RSMo (2021). For the purpose of this case, Platte-Clay is subject to the jurisdiction of the Commission under Section 394.315.2, RSMo (2021).² Given that Platte-Clay is a rural electric cooperative, the Commission does not require annual reports or assessment fees. Further, Staff is currently not aware of any pending or final unsatisfied decisions against Platte-Clay from any state or federal court involving customer service or rates.

Evergy is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo (2021). For the purposes of this case, Evergy is subject to the jurisdiction of the Commission under Section 393.106.2, RSMo (2021).³ Evergy is current on its filing of annual reports and payments of its

1 Section 394.315.2 states, in relevant part, that "...Once a rural electric cooperative, or its predecessor in interest, lawfully commence supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction[n]."

2 Section 393.106.2 states, in relevant part, that "...Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise

assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against Evergy in any state or federal agency or court involving customer service or rates that would have bearing on the immediate case. There is currently another Change of Provider Case between Platte-Clay and Evergy.⁴ Other than this case Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

DISCUSSION

Staff and Ms. Dutcher discussed the issues listed in her Application, filed May 5, 2022. Ms. Dutcher explained her problems when reporting outages, which included not knowing which company to contact. Since her address was in neither company's outage management system, neither company would be able to immediately address her concerns/outages. Ms. Dutcher would have to provide her account information to prove that she was an Evergy customer when she attempted to report outages to Evergy. After outages were reported, Ms. Dutcher also claimed that her power was consistently restored later than that of her neighbors.

Platte-Clay has indicated that electric service was initiated in 1994, and was connected by Platte-Clay and one of Evergy's predecessors. The primary circuit, which is routed along the road fronting the property, is owned by Platte-Clay while the overhead fuse and all equipment after it is owned by Evergy, including a pad-mounted transformer and a meter. Evergy only recently extended a primary circuit line to within one-half mile of the property in

permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction[n]."

4 EO-2023-0105

April 2022. The property, along with all surrounding properties, lies within the city limits of Kansas City, with which both Evergy and Platte-Clay have franchise agreements⁵ regarding electric service. Ms. Dutcher is the sole Evergy customer connected to this Platte-Clay primary circuit, as all the other properties on this circuit are Platte-Clay members.

In Platte-Clay's Response to the Application, filed on June 21, 2022, Platte-Clay indicates its support of Ms. Dutcher's Application. Platte-Clay bases its argument on the fact that the customer has alleged deficiencies in the electric service provided by Evergy, and that the best way to solve these issues/concerns is for Ms. Dutcher to receive service from Platte-Clay. Platte-Clay views the current situation as not ideal for any party involved, as outages affecting the property could be on either Evergy or Platte-Clay equipment and Evergy has no way of knowing where the respective issue is, which complicates restoration/repairs.

In Evergy's Response, filed on June 28, 2022, Evergy recommends the Commission deny Ms. Dutcher's Application. Evergy noted in paragraph 2 of this Response that Ms. Dutcher's property lies within the city limits of Kansas City, and it claimed that Platte-Clay was not franchised with Kansas City, which thereby restricted their ability to serve the customer. Evergy also believes that it has solved Ms. Dutcher's issues, asserting that their records were recently updated to successfully identify her, and other similarly situated customers, when these customers contact call centers. Specifically, Evergy attempted to resolve Ms. Dutcher's concern by ** [REDACTED]

⁵ Platte-Clay response to DR 41. Under Section 393.106.2, RSMo (Supp. 2022), the Commissions' authority is "limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction."

[REDACTED]

[REDACTED]

[REDACTED] . **⁶ It is Staff's understanding that Ms. Dutcher contacted Evergy and confirmed that her address was now in ** [REDACTED] ** however she was unsatisfied/unconvinced that this would address her concerns.

Further, Staff is concerned with the safety of the current arrangement, Evergy's compliance with Commission rules regarding infrastructure inspections, and the potential that other customers may be negatively impacted by a similar arrangement. ** [REDACTED]

[REDACTED]

[REDACTED] . **⁷

Staff conducted a site visit to Ms. Dutcher's property on October 14, 2022, which was attended by James Ferneau and two linemen from Evergy, Jared Wolters and one other Platte-Clay employee, Alan Bax and Brodrick Niemeier from Staff, and Ms. Dutcher. The main purpose of this was to confirm ** [REDACTED]

[REDACTED] .⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6 Evergy response to Staff DR #8.
7 Evergy response to DR 39.
8 Evergy response to DRs 8, 8.1 and 8.2

[REDACTED]

[REDACTED]. ** Also during the site visit, Evergy noted it had only recently extended its primary line to within a half-mile of this property. It is not economical for Evergy to extend its facilities another half-mile to be utilized in providing service to solely this property. For these, as well as the following reasons, Ms. Dutcher's request to transfer her electric service to Platte-Clay in this instance should be approved.

In previous Change of Provider Cases, the Commission has identified ten factors⁹ when considering the "...meaning of 'public interest' for a change of supplier." These ten factors, along with Staff's analysis are:

- (1) Whether the customer's needs cannot adequately be met by the present supplier with respect to either the amount or quality of power;**

Ms. Dutcher believes that her needs cannot be met with the current situation. Both Ms. Dutcher and Platte-Clay assert that outages are lasting longer for her as compared to any of her neighbors due to needing to contact both Evergy and Platte-Clay in resolving the issue. While Evergy's improvements to its outage system may help reduce outage response times, this does not fully rectify Mrs. Dutcher's concerns. ** [REDACTED]

[REDACTED]. **¹⁰ This disregards the fact that Evergy equipment may very

⁹ In the matter of the Application of Brandon Jessip for Change of Electric Supplier from Empire District Electric to New-Mac Electric, EO-2017-0277.

¹⁰ Staff DR #12

well be the cause of the outage, and Platte-Clay would not be able to repair this equipment and restore power. ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].**

(2) Whether there are health or safety issues involving the amount or quality of power;

Ms. Dutcher was unsure of who to contact during outages due to the fact that neither company had her address in its respective outage database. This poses serious issues, as energized downed or damaged lines could go unreported for an extended period of time.

** [REDACTED]

[REDACTED] .¹² [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].” ** Commission rule 20 CSR 4240-23.020(C) and (D), requires utilities to perform regular visual, detailed, and intrusive inspections of its equipment, including transformers, and maintain records related to its inspection activities. ** [REDACTED]

[REDACTED]

11 Evergy’s response to Staff DR #8
12 Evergy’s response to DR 8, 8.1, 8.2

[REDACTED]

[REDACTED]

[REDACTED] . **

(3) What alternative a customer has considered, including alternative with the present supplier;

Ms. Dutcher tried working with Evergy almost two years ago, in October of 2020, to resolve the issues she was having when reporting outages, ** [REDACTED] [REDACTED] ** and no further work appears to have been attempted/conducted until after this Application was submitted.¹³ According to records of Evergy call logs¹⁴, Ms. Dutcher expressed interest in being supplied off of an Evergy circuit instead of the current Platte-Clay circuit when she first became aware of the current situation. However, this option is not practical, nor feasible due to the lack of available Evergy lines in the area.¹⁵ While this may illustrate that Ms. Dutcher does not necessarily wish to abandon Evergy’s electric service, she reiterated her preference to Staff to be served by a single entity (Platte-Clay), which would likely reduce outage times.

(4) Whether the customer’s equipment has been damaged or destroyed as a result of a problem with the electric supply;

13 Dutcher Application and Evergy response to DR #8.

14 From Evergy response to DR #13, concerning Ms. Dutcher’s calls to Evergy over the last 5 years. On 10/8/2020, the items discussed were, “customer called to advised line owned by clay platt, but line from road to home owned by KCPL/EVERGY, advised clay platt sends someone out to read her meter, but bill comes from EVERGY. Wants changed over to Evergy only. Customer states, it’s a hassle every time we loose power the two companies dont talk and I dont get notices that my power is out.”

15 As previously stated, Evergy extended its primary circuit to within a half-mile of the property in April 2022.

Staff is not aware of any claims by Ms. Dutcher of damaged equipment as a result of the electric service provided.

(5) The effect the loss of the customer would have on the present supplier;

Evergy has not indicated what possible effects losing this customer may have on its system/operations. Although any impacts are likely negative on Evergy and its customer base, such impacts are outweighed by the safety concerns raised by the current arrangement.

(6) Whether the change in supplier would result in a duplication of facilities, especially in comparison with the alternatives available from the present supplier, a comparison that should include;

- (i) The distance involved and cost of any new extension, including the burden on others – for example, the need to procure private property easements, and**
- (ii) The burden on the customer relating to the cost or time involved, not including the cost of the electricity itself.**

No duplication should occur as a result of transferring Ms. Dutcher to Platte-Clay, as Platte-Clay's primary circuit is routed along the road fronting the property though minimal replacement or transfer of assets may be required. Comparatively, it would be unnecessarily duplicative and uneconomic for Evergy to extend its primary circuit a half-mile in order to provide electric service to this property without utilizing Platte-Clay's system. Evergy gave an initial estimate of \$100,000 for the half-mile extension¹⁶. Further, the construction of a

half-mile extension would be a burden on the surrounding neighbors both during and after construction.

(7) The overall burden on the customer caused by the inadequate service including any economic burden not related to the cost of electricity itself and any burden not considered with respect to factor 6(ii) above;

Ms. Dutcher has spent an unusual amount of time, compared to the average Evergy customer, in reporting service issues such as power outages due to needing to contact both companies. Moreover, Ms. Dutcher has claimed in the Application, and Platte-Clay agreed¹⁷ that issues with electric service have been experienced for a greater duration than the average Evergy or Platte-Clay customer, including her immediate neighbors considering they are served from the same circuit.

(8) What efforts have been made by the present supplier to solve or mitigate problems;

In 2020, an Evergy Planner met with the Ms. Dutcher and identified the issue as the transformer serving the customer not being in the ** [REDACTED] ** which prevented the customer from being identified as a customer during outages. No further action is known to have been taken until the Application was submitted, after which, Evergy ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. ** As already stated, Evergy believes all outages at the

¹⁷ Platte-Clay response to Staff DR #24

property are due to Platte-Clay equipment issues, and thus do not require Evergy personnel to restore power. ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. **

(9) The impact the Commission’s decision may have on economic development on an individual or cumulative basis;

No party has discussed the potential for positive or negative impact to economic development resulting from the approval of Ms. Dutcher’s application. Economic development is not a significant factor in this Change of Supplier request as it relates to the transfer of an individual residential customer.

(10) The effect the granting of authority for a change of suppliers might have on any territorial agreements between the two suppliers in question, or on the negotiation of territorial agreements between the electric service suppliers.

There are no existing Territorial Agreements between Evergy and Platte-Clay that include the property at 13400 N Congress Ave Kansas City, Mo 64163. Staff is not aware of any discussions between Evergy and Platte-Clay regarding any Territorial Agreements nor the effect on such negotiations if the Commission should approve the Application. Although

Platte-Clay mentioned a Territorial Agreement in its Response to the Application, Platte-Clay later explained it intended to refer to a Wholesale Power Agreement with Evergy¹⁸.

CONCLUSION

Staff recommends the Commission approve Ms. Dutcher's Application, determining that her request for a change in electric service providers from Evergy to Platte-Clay at 13400 N Congress Ave Kansas City, Mo 64163, is in the public interest for reasons other than a rate differential as required under Sections 393.106.2 and 394.315.2, RSMo (2020) and 20 CSR 4240-3.140.

In her Application, Ms. Dutcher explained her issues with electric reliability as well as her inability to know for certain who to contact when experiencing service issues such as a power outage. She has experienced service reliability issues and the arrangement has created a safety concern regarding her electric service. Authorizing a change in electric service providers would also simplify the associated circuit used in servicing this property by removing Evergy's equipment supplying this effectively isolated customer, in favor of a wholly owned Platte-Clay circuit. This would prevent Evergy from needing to dispatch a crew for a single, effectively isolated customer during widespread power outages when Platte-Clay would already be in the area restoring power. The change in service providers from Evergy to Platte-Clay would not result in duplication, nor significantly impact Evergy's financials.

Ms. Dutcher's complaints have two sources, electronic and physical. While it initially appeared that Evergy was able to partially solve the electronic issue with its ** [REDACTED]

18 According to Platte-Clay in DR #34, Evergy is charged \$0.0933/kWh, with a minimum of \$25.38. No other information was provided by either company.

[REDACTED] . ** This raises larger issues related to Evergy's compliance with Commission rules requiring periodic inspection of equipment¹⁹. Evergy does not currently have a cost effective method to address the physical issues contributing to outage duration. The best solution, in Staff's opinion, is to transfer the electric service of the customer to Platte-Clay, despite the opposition currently expressed by Evergy.

Evergy has indicated that there are ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] . ** Staff is concerned that Evergy has electrical equipment in the field serving these customers which it is not inspecting and maintaining in accordance with Commission rules.

Staff recommends the Commission open a docket and order Evergy Missouri West and Evergy Missouri Metro to complete a review of its similarly situated customers within 6 months. The review should consist of the following tasks at a minimum:

- (1) Identifying all similarly situated customers;
- (2) Identifying and recording all equipment serving those customers;
- (3) Evaluating and reporting on whether voltage is being maintained within tolerances²¹; and

19 Electrical Corporation Infrastructure Standards 20 CSR 4240-23.020
20 Staff DR #27
21 Commission Rule 20 CSR 4240-10.030(23)

(4) Ensuring the equipment serving the similarly situated customers will be adequately inspected and maintained in accordance with the Commission's rules going forward.

Staff intends to utilize the newly created docket to further investigate the safety and customer service issues associated with serving these customers.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Jennifer Dutcher for Change of Electric)
Supplier to Platte-Clay Electric Cooperative,)
Inc. from Evergy Missouri, Inc. d/b/a)
Evergy Missouri West)

File No. EO-2022-0320

AFFIDAVIT OF BRODRICK NIEMEIER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW BRODRICK NIEMEIER, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

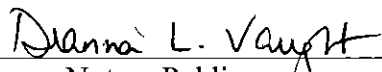
Further the Affiant sayeth not.



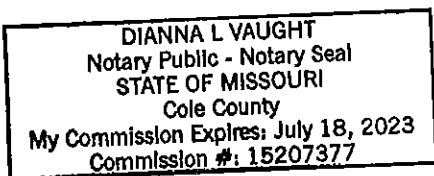
BRODRICK NIEMEIER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28th day of October, 2022.



Notary Public



BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Jennifer Dutcher for Change of Electric)
Supplier to Platte-Clay Electric Cooperative,)
Inc. from Evergy Missouri, Inc. d/b/a)
Evergy Missouri West)

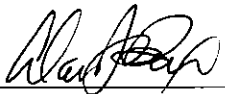
File No. EO-2022-0320

AFFIDAVIT OF ALAN J. BAX

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW ALAN J. BAX, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

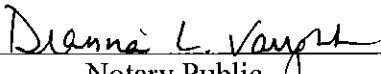
Further the Affiant sayeth not.



ALAN J. BAX

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28th day of October, 2022.



Notary Public

