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AUDIO RECORDING  
IN RE: DISCOVERY CONFERENCE  
EVERGY METROEVERGY WEST - DISCOVERY  
EO20240002  
VOLUME II  
NOVEMBER 21, 2023

(Due to the quality of the recorded media, portions were unable to be transcribed and include inaudible portions. The transcript may also include misinterpreted words and/or unidentified speakers. The transcriber was not present at the time of the recording; therefore, this transcript should not be considered verbatim.)

TRANSCRIBED BY: MELISSA LANE

1           LAW JUDGE HATCHER: Okay. By my watch I  
2 have 10:00 o'clock, so we'll go ahead and start our  
3 discovery conference. We do not have a court  
4 reporter. We are recording this. So if anybody needs  
5 it transcribed, just send me a request.

6           This is the discovery conference requested  
7 by staff in the case of EO20240002. This is involving  
8 customer data.

9           Ms. Kerr, as I understand it, your main  
10 concern is the timeliness of the responses that you're  
11 getting? I guess I should have seen if Ms. Kerr was  
12 online.

13           MS. KERR: Hello, Judge.

14           LAW JUDGE HATCHER: Yes.

15           MS. KERR: Okay. Actually, our biggest  
16 concern is, the -- the sufficiency and adequacy of the  
17 responses that we're getting from the company. The  
18 responses we're getting are not -- I'm sorry, can you  
19 hear me?

20           LAW JUDGE HATCHER: Yes.

21           MS. KERR: Okay. That's really what we  
22 called the request of the discovery conference for is  
23 that the responses that we're getting are not  
24 adequate. They're not complete, and we'd like to  
25 discuss that today.

1                   LAW JUDGE HATCHER: All right. Why don't  
2 we take your concern right to the company and ask if  
3 they have a response.

4                   MR. FISCHER: Judge, I can take it -- go  
5 ahead.

6                   MS. KERR: If I could -- if I could just --  
7 just kind of start it off.

8                   LAW JUDGE HATCHER: Yes, please.

9                   MS. KERR: Rather than just a general --  
10 if -- I've got Sarah Lange here from staff.

11                   LAW JUDGE HATCHER: Okay.

12                   MS. KERR: She could be -- she'll be  
13 answering the questions and responding on behalf of  
14 the staff regarding DRs in question. It's my  
15 understanding she -- she can go through each DR and  
16 explain why staff believes that the responses that  
17 were provided by the company were either inadequate  
18 and were insufficient and what we expect Evergy to  
19 provide to satisfy the staff's request for  
20 information, so.

21                   LAW JUDGE HATCHER: Okay.

22                   MS. KERR: If we can do that, we can just  
23 -- Sarah Lange can go through the DRs and -- one by  
24 one and go through that, if -- if we want to do that,  
25 that might be the best way to go through it, but I'll

1 leave that up to the judge.

2 LAW JUDGE HATCHER: I don't see any  
3 objection, so that sounds like a good plan.

4 Go ahead, Ms. Kerr. Or I'm sorry, go ahead  
5 with -- with your -- with staff.

6 MS. LANGE: Thank you, Judge. This is  
7 Sarah Lange. So I do appreciate at the time that we,  
8 I think, noted the discovery dispute it was that  
9 Everyg had placed a blanket objection to, I believe it  
10 was, every single DR staff propounded without any  
11 explanation as to what they believe were specifically  
12 objectionable while any one DR.

13 Since that time, they have filed responses  
14 to DR's 1 through, I believe it is, 148 and a handful  
15 of the ones after that, I think three of the ones  
16 after 148.

17 Today, we'll be focused on DR7 through 148  
18 that said the responses that have been provided, very  
19 few of them answer the question asked, and just to  
20 make you a little bit less apprehensive, we don't  
21 quite have 148 DRs to go through. We ask the same  
22 question each of Metro and West, so we have about half  
23 of that number which is still quite a bit.

24 So to get started, DR number 7 to Metro  
25 which was also 78 to West requested the -- the

1 company's estimate of the cost to estimate line  
2 transformer cost and expenses by rate code. The  
3 company responded that they have not prepared an  
4 estimate of the cost to estimate line transformer and  
5 expenses by rate code. I guess I would hope that that  
6 isn't actually the answer because in Mr. Lutz's  
7 testimony, they state an estimate of the costs to  
8 provide the cost by rate code for a number of items,  
9 including transformer costs and expenses, and so I'm  
10 not sure how they can answer what they believed is the  
11 total cost to provide cost and expenses by rate code  
12 without having an estimate of transformer costs and  
13 expenses by rate code.

14           So I -- I believe DR7 and 78, they -- there  
15 has to be more of an answer to that or else, I guess,  
16 we need a written admission that the quantities in  
17 Mr. Lutz's testimony do not reflect a -- I guess a  
18 thoughtful summation of the costs that it is  
19 represented to reflect.

20           LAW JUDGE HATCHER: Ms. Lange, did you want  
21 to continue or do we want to go to the company for a  
22 response at the end of each DR?

23           MS. LANGE: I guess that's up to you,  
24 Judge. It would seem to me that it would be probably  
25 most -- most direct in my mind to have the company

1 respond to each set, but that's entirely up to you.

2 LAW JUDGE HATCHER: No. That sounds like a  
3 good plan.

4 Does the company have a response.

5 MR. FISCHER: Judge, let me just take it to  
6 start with. Yeah, Ms. Lange is correct that we've  
7 answered 1 through 48, and I think three more.  
8 There's about 25 more that are -- that are being  
9 prepared this week and should be filed this week. A  
10 couple of them are a few days late, but they should  
11 be -- should be in as far as, you know, I think we're  
12 going to have this problem on a number of them because  
13 the company's filed testimony in the case providing  
14 the estimate of what the various items that -- that  
15 were included in Ms. Lange's testimony would cost to  
16 prepare, and they are quite -- you know, quite -- in  
17 the millions of dollars, although, the numbers are  
18 confidential. You can look at them in the testimony,  
19 and while she would like, I think, to have more  
20 granular estimates, the company has looked at it from  
21 a higher perspective and that when you aggregate all  
22 those things that she's requested, that's what the  
23 numbers come out to a specific one that's included in  
24 Brad Lutz's testimony, and I think that's really the  
25 nuts of this whole case is, whether it is cost

1 beneficial to go to the -- the trouble of getting down  
2 to the granular information that staff is requesting,  
3 whether it makes sense to do that whenever it's going  
4 to be so expensive to accumulate that data.

5           So apparently, you know, the staff would  
6 like to have a line by line estimate. We have not  
7 prepared that. And I think under the discovery rules,  
8 if it's not prepared, it's not required to be  
9 produced, but we have produced the aggregate amount  
10 that is included in Brad Lutz's testimony, and we've  
11 also got two other pieces of testimony to discuss the  
12 industry practices and -- and the other practical  
13 problems to what staff is requesting.

14           MS. LANGE: So Judge, I think it's  
15 important to note that when he refers to that is what  
16 staff is requesting, it is, in fact, what the company  
17 stipulated they would provide or else they would  
18 provide the reason that they can't provide it, and  
19 they would provide the cost that it would take to  
20 provide it. So if you look at what they committed to  
21 provide, they committed to identify and provide the  
22 data required to determine line transformer costs and  
23 expenses by rate code, primary distribution costs, and  
24 expenses by voltage, secondary distribution costs, and  
25 expenses by voltage, primary voltage service drop

1 costs and expenses, line extension costs expenses, and  
2 contributions by rate code and voltage, and meter cost  
3 by voltage and rate code.

4           What Mr. Lutz has provided in testimony is  
5 \$1 value for that entire thing that I just read. So  
6 if the company's answer is that they just picked a  
7 number based on something that is not explained  
8 anywhere in that testimony, rather than saying, well,  
9 it's going to cost this much to do this, it's going to  
10 cost us this much to do that, then they need to so  
11 state.

12           MR. FISCHER: So Judge, I think that's what  
13 the hearing is -- the hearing is going to go to is  
14 really reviewing the company's estimate, and it's --  
15 it's not a discovery problem. It's a problem that we  
16 have a difference of opinion in the hearing.

17           MS. LANGE: Well, Mr. Fischer, your  
18 discovery response doesn't state that you didn't look  
19 at any individual component. If you didn't look at  
20 any individual component, then I think you need to so  
21 state, and I think that's a matter not only for this  
22 case but also staff's complaint case.

23           MR. STINER: Our response, Sarah, is we did  
24 not perform that analysis. We don't have to state the  
25 way you like it to be stated. You can raise that in



1 your rebuttal testimony at the hearing. Our testimony  
2 speaks for itself.

3 MS. LANGE: So Judge --

4 LAW JUDGE HATCHER: Yes.

5 MS. LANGE: Judge, is it fair for me to  
6 construe every time in these DR responses that Everygy  
7 stated, we didn't do it, we don't have to do it, as an  
8 admission that they don't have it, because that's  
9 where we have, one, into issues when we get to  
10 hearing, we're told -- we ask a DR, the company said,  
11 they don't have it, and then the company says, well,  
12 you didn't do a discovery conference to make us prove  
13 we don't have it. So that's why we're in this  
14 discovery conference today.

15 MR. STINER: Judge, for the record, I don't  
16 believe the company has ever said that.

17 LAW JUDGE HATCHER: I'm guessing that --  
18 obviously different details, but that the majority of,  
19 Ms. Lange, your DRs are going to run into the same  
20 response by the company that this is the underlying  
21 case. It costs too much.

22 I guess I'll go backwards and to the  
23 company first, is that going to be your stance,  
24 Everygy?

25 MR. STINER: There's so many it's hard to

1 generalize, but we --

2 LAW JUDGE HATCHER: Okay.

3 MR. STINER: We had three days to prepare  
4 objections for 150 questions, so. I find it  
5 disingenuous that staff says, well, we didn't specify  
6 each objection for each 150 questions. We wanted to  
7 get the objections out there, but we are taking the  
8 stance which is done and been done for a year, pretty  
9 much done in every case that these are data requests.  
10 They're asking for data that the company has. If the  
11 company doesn't have it, they don't have to produce  
12 it.

13 MS. LANGE: So Judge, I think what's unique  
14 about this case --

15 MR. STINER: -- requested many of these,  
16 and we so stated in the objection and in the answer.

17 MS. LANGE: Judge, what's unique about this  
18 case is this case exists for them to provide the  
19 answers to data requests that they failed to answer in  
20 prior cases and that they stipulated that they would  
21 answer and that if they could not answer, they would  
22 file testimony indicating why they cannot answer it.

23 Now to your underlying question, as opposed  
24 to Mr. Stiner's commentary on staff's genuine,  
25 whatever -- whatever the proper term for implication

1 that we are disingenuous is, most of these DRs, but  
2 not all, are asking specifically for items that Evergy  
3 committed to provide, did not provide, and did not  
4 explain in their testimony. Some of these items or --  
5 are for information that we need to try to determine  
6 whether or not we can utilize alternative data and for  
7 a number of those items, such as, you know, how many  
8 millions of dollars do you have in your continuing  
9 property records. The company just provided what they  
10 viewed as an adequate answer that did not answer the  
11 data request, and specifically asked for 10 years of  
12 information for many plant and expense values so that  
13 we could get a view of pre-PZA during PZA and current  
14 levels on -- I don't believe the company provided that  
15 on any of the data requests. On some of those  
16 parts -- of some of the data request, they did provide  
17 five years of information, and I believe staff is  
18 entitled to that full set of information for 10 years  
19 of data.

20 LAW JUDGE HATCHER: Evergy --

21 MR. FISCHER: I would point out, yeah, that  
22 this -- this case really goes to how much would it  
23 cost to get the full amount of -- of information that  
24 staff has requested. We've gotten in front of us DRs  
25 that don't go to that. It goes to things like the

1 number of line transformers, the gross plan  
2 accumulation, depreciation, net book, net expenses,  
3 the feet of underground conduit, the number of poles,  
4 the overhead devices, the number of under --  
5 underground devices, that kind of thing which is  
6 more -- if you were working on a rate design case,  
7 maybe you would need some of those things, but in this  
8 context, I don't think it's really all that relevant.  
9 We're trying to get this information to staff because  
10 we're trying to be cooperative to the -- with the --  
11 with the commission staff to give them the information  
12 they think they need, but --

13 MS. LANGE: Mr. Fischer? Your witness,  
14 Mr. Lutz, filled his testimony with references to  
15 Evergy's willingness to provide alternative data and  
16 references. The class cost of service study, when we  
17 asked the direct question, what is this alternative  
18 data, and have you discussed it with staff? The  
19 answer was no, we have not.

20 So we're trying to find the alternative  
21 data that may satisfy the concerns that we have that  
22 your witness, Mr. Lutz, said in testimony he was  
23 willing to provide.

24 MR. FISCHER: Judge, once again, I think --  
25 I think that's kind of the issue we would talk about

1 at a hearing or in testimony. It's not a discovery  
2 issue.

3 MS. LANGE: No. But your inability to  
4 provide us 10 years of account data is a discovery  
5 issue, Jim.

6 MR. STINER: Yeah. We --

7 MR. FISCHER: I think --

8 MR. STINER: -- object to that as  
9 overbroad. Ten years of data is more than we could do  
10 in the 10 days, and we gave you five. There's no --

11 MS. LANGE: So are you going to provide us  
12 10 --

13 MR. STINER: -- requirement that this  
14 covered the years of PZA. That -- again, you're going  
15 beyond what -- what the docket is for. Do we need to  
16 produce this level of granularity that you're  
17 requesting --

18 MS. LANGE: That is not --

19 MR. STINER: -- discovery dispute. It's  
20 something for the commission to decide.

21 MS. LANGE: Roger, that is not what the  
22 docket is for. The docket is for you to say why you  
23 can't provide it.

24 MR. STINER: Which we did in direct  
25 testimony of Brad Lutz and two other witnesses.

1 MS. LANGE: You did not --

2 MR. STINER: -- respond to commission --

3 MR. LANGE: -- respond to that -- I would  
4 appreciate it if you stop interrupting me. It will  
5 make it much easier for the stenographer, when we get  
6 to that point.

7 You are telling me that I can't ask for  
8 what I want to ask for because it's an issue for  
9 hearing, and you're telling me --

10 MR. STINER: I don't think I said that.

11 MS. LANGE: You said that I can't ask for  
12 10 years of account data. You said that I can't ask  
13 for estimates of what it would cost to provide data.

14 MR. STINER: I said we don't have the 10  
15 years. It's overbroad. We gave you five. You can  
16 ask for it. We gave you a response.

17 MS. LANGE: So Judge, we asked for 10, they  
18 gave us five. I think a suitable instruction would be  
19 to provide within the next five business days the  
20 remaining five years of information.

21 LAW JUDGE HATCHER: Mr. Stiner, I heard you  
22 say that you did not have 10 years worth of  
23 information; is that correct?

24 MR. STINER: That's right.

25 LAW JUDGE HATCHER: So how many years back

1 do you have?

2 MR. STINER: We gave them what we had which  
3 was five.

4 MS. LANGE: Judge, respectively, that is  
5 not what their response states. The response states,  
6 the company is providing data for five years as this  
7 period is readily available within the limited time  
8 available for discovery responses. That strongly  
9 implies that additional years are available, and I  
10 would be incredibly concerned if a utility has not  
11 retained their accounting records for every single  
12 year of existence.

13 MR. STINER: That's what I did say. I  
14 don't have all these memorized. I don't have them in  
15 front of me. But, yeah. We -- as a reasonable  
16 accommodation to get it done in 10 days, we gave them  
17 five years' worth of data.

18 MS. LANGE: And I think a reasonable  
19 instruction would be to provide the remaining data in  
20 five additional business days.

21 MR. STINER: I don't believe we'll be able  
22 to do that in five days, Your Honor.

23 MS. LANGE: How long will it take you?

24 MR. STINER: I don't know. I'll have to  
25 ask.

1 MR. FISCHER: Judge -- Judge, I would ask  
2 counsel for staff to explain the relevance of all this  
3 data. I mean, it's -- we're not going to the -- the  
4 heart of the issue of the case. We're talking about  
5 all kinds of costs of service data which is more  
6 likely to be produced at a rate design case or a rate  
7 case for -- for goodness sakes, over a 11-month  
8 period, not over a five-day period.

9 MS. LANGE: Jim, your -- your witness  
10 answered data requests and answered testimony by  
11 saying this is a cost -- we would do this in class  
12 cost of service -- cost of service.

13 MR. FISCHER: Right. This is not a class  
14 cost of service case. It's not relevant, but we're  
15 trying to give them the information that we have,  
16 Judge. It's just not -- it's just over the top --  
17 it's unreasonable.

18 MS. LANGE: Jim, have you actually looked  
19 at what you committed to provide?

20 MR. FISCHER: I think we've got a staff  
21 complaint about it, yeah. We've all looked at this,  
22 sure. We've -- we've provided you testimony --

23 MS. LANGE: -- that sentence -- again, if  
24 you don't interrupt me, it'll be easier for the court  
25 reporter.



1 I don't know how you can look at the data  
2 that is to be provided and look at the very narrow  
3 information that I requested and say that any bit of  
4 it isn't relevant. Tell me one DR that is not  
5 relevant outside of your -- or as included in your  
6 blanket objection that every DR propounded was  
7 irrelevant.

8 MR. FISCHER: Well, Judge, I would -- I  
9 would just refer you to the many -- many DRs that are  
10 being asked for -- for technical information about  
11 our -- our distribution system and our generation  
12 system, number of line transformers, gross plan,  
13 accumulated appreciation, net -- net depreciation,  
14 number of poles, the number of feet underground  
15 conduit, the overhead devices, cost of the expenses,  
16 the number of overhead devices, the number of  
17 underground devices, instra operating at primary  
18 voltage utilized by a single customer. Those that are  
19 utilized by multiple customers. That's not what you  
20 need to know in order to evaluate whether all the  
21 information staff is requesting is cost beneficial.

22 MS. LANGE: That's -- one, that's not the  
23 question in the case. Two, other than generation  
24 which you referenced, that is exactly the information  
25 the company committed to provide, and I would like to

1 know what DR you just represented to the judge. I'd  
2 ask that discusses generation in this particular data  
3 request.

4 MR. FISCHER: I'm sorry, I stand corrected  
5 on that, Sarah. I stand corrected.

6 MS. LANGE: And so tell me, Jim, for a  
7 question such as the company's commitment to provide  
8 for each rate code for which services vary -- I'm  
9 sorry. I picked the wrong one there.

10 So you think that the company can identify  
11 and provide the data required to determine and that  
12 was the commitment to provide the data required to  
13 determine something like secondary distribution cost  
14 and expenses by voltage, your position is that the  
15 cost number of poles and conductors is irrelevant?  
16 Did I hear that properly? Poles and conductors are  
17 irrelevant, the data required to determine the cost of  
18 the secondary distribution system?

19 MR. STINER: We did not say we -- we said  
20 we can either provide the data or provide an estimate  
21 or the cost. We provided the estimate or the cost in  
22 Brad Lutz's testimony.

23 MR. FISCHER: And an explanation why we  
24 couldn't produce it.

25 MS. LANGE: That -- that's just not

1 accurate. The commitment was to identify and provide  
2 the data required.

3 MR. STINER: And if we couldn't say why and  
4 how much it cost.

5 MS. LANGE: Okay. But you didn't -- so --  
6 so your position, because this wasn't clear in  
7 Mr. Lutz's testimony --

8 MR. STINER: And that's what rebuttal  
9 testimony is for.

10 MS. LANGE: -- you could not provide -- I'm  
11 sorry, what's that?

12 MR. STINER: That's what you should say in  
13 rebuttal testimony.

14 MS. LANGE: No. I'm asking because --

15 MR. STINER: This is a discovery  
16 conference.

17 MS. LANGE: No. This is what my data  
18 request asks that you didn't answer. Are you saying  
19 you cannot provide any item of the data that the  
20 company committed to provide in the last rate case?  
21 Because that's what --

22 MR. STINER: What DR is that?

23 MS. LANGE: That is -- well, I asked about  
24 each individual item.

25 MR. STINER: And we responded to each

1 individual item whether we had it or not, whether they  
2 had done the analysis, that's our response.

3 MS. LANGE: All right. Judge, I think if  
4 we get a transcript --

5 MR. STINER: -- that's our response.

6 MS. LANGE: Okay. So Judge, let me ask the  
7 evidentiary weight of that comment in the transcript,  
8 when we get to the hearing. Does Mr. Stiner's  
9 representation that there are responses that they have  
10 not prepared an estimate is conclusive proof that the  
11 company has not prepared an estimate? Will the  
12 commission accept that?

13 LAW JUDGE HATCHER: It seems that we are  
14 close to the end of our discovery conference. I want  
15 to circle back to Mr. Stiner. I thought I heard --  
16 and I'm -- I'm asking to confirm. He said he was  
17 going to check into the -- the accounting information  
18 that was the subject of the five of the 10-year  
19 discussion, and he was going to check to see either  
20 how much it would cost to get years six through 10 or  
21 give --

22 MR. STINER: -- days to provide it. I will  
23 check, Judge.

24 LAW JUDGE HATCHER: Thank you.

25 What I'm hearing from the parties is that

1 this is the case -- that the case is a docket so that  
2 Everygy can provide in detail the reasons why the  
3 requested data is not available and cost prohibitive  
4 to produce. I'm not going to rule on any motions  
5 right now. I want to give staff the opportunity to  
6 file this in writing, but I want to share my initial  
7 thoughts that if the company's answer is that all  
8 these data requests are the actual data that we are  
9 saying we can't -- you know, that it's cost  
10 prohibitive, I don't know what the path forward would  
11 be if that was the -- you know, the -- the issue in  
12 the case, how that would play out with discovery  
13 asking for what would seem to me -- and again, I don't  
14 see any of these data requests, so I have no  
15 information about the details that you all are  
16 discussing right now, but I would question how that  
17 would play out in discovery. I want to give the  
18 parties another opportunity. I don't want to cut  
19 staff short. I recognize (inaudible) DRs and we only  
20 covered or even talked about 1 through 148 just now  
21 and only even a couple of those in depth. Does staff  
22 believe it would be productive to go through any  
23 further DRs in detail?

24 MS. LANGE: Yes, Judge. So that discussion  
25 applies to -- to give you a sense of what the -- the

1 DRs are that Evergy has not provided full and adequate  
2 responses to, it is virtually all of 7 through 148.  
3 There are a handful that I can note that they did  
4 provide, particularly ones that they did respond to or  
5 where we asked the name of an individual at Evergy  
6 with knowledge of the system in question. So we did  
7 ask for each of those items that Evergy committed to  
8 provide. We asked, what is their estimate of the cost  
9 to provide it, what is their estimate of the time it  
10 would take to do that calculation, and what discrete  
11 data systems would be involved in that. So that is  
12 the -- the -- by numbers, the majority of the data  
13 request.

14 We also did ask ongoing plant balances for  
15 a number of -- well, for all relevant plant which is  
16 the distribution accounts. Despite Mr. Fisher's  
17 representation, we did not touch on generation in  
18 this.

19 Now that said a recurrent issue that I  
20 think could be resolved just with clarification is  
21 that when we asked -- I'll read an example data  
22 request here. Let me find -- make sure that I find  
23 the right one. A lot of them have pretty similar  
24 wording. Sorry, I'm trying to find a -- an exact --  
25 here we go.

1           So looking at -- for example, DR number 30  
2 which is Evergy Metro Number 30, Evergy West 101. The  
3 question is, please provide the number of poles on  
4 Evergy Missouri Metro System based on its continuing  
5 property record for each year 2013 through 2023 as of  
6 year end or the most current values available for the  
7 current year. B, for any dataset other than the  
8 continuing property record which contains information  
9 concerning the number of in-service poles on Evergy  
10 Missouri's Metro System, provide the number of  
11 in-service for each year 2013 to 2023 as of year end  
12 or the most current values available for the current  
13 year. C, for any dataset other than the continuing  
14 property record which contains information concerning  
15 the number of stored warehouse poles, provide the  
16 number of stored warehouse for each year 2013 to 2023  
17 as of year end or the most current value available for  
18 the current year. So we -- we asked that question for  
19 each of the 10 relevant plant accounts.

20           What the company responded is, the company  
21 is providing data for five years, is this period  
22 readily available within the limited time period for  
23 discovery responses. The total pole quantity is for a  
24 Missouri Metro -- is for total Metro, not just  
25 Missouri. Allocation factors are used when allocating

1 the financials for regulatory cases. The quantities  
2 in the continuing property records do not reflect what  
3 is actually installed due to timing and historical  
4 differences, and then a set of numbers is provided.

5 In the context of that response, I am very  
6 confused as to whether the numbers that are provided  
7 are from the continuing property records and the  
8 company has simply included, I guess, disclaimer  
9 information that we shouldn't rely on their continuing  
10 property records because they're inaccurate or if they  
11 are providing in response to my request for  
12 information from the continuing property records  
13 information from some other dataset. If that's the  
14 case, we need to know what that dataset is. And if it  
15 is from the continuing property record and that's just  
16 some disclaimer the company felt was necessary given  
17 the accuracy of their internal records, we just need  
18 clarity on -- on which of those that is and -- and as  
19 I said, this comes up in, I guess, 20 separate DRs  
20 asking that same information of -- of the continuing  
21 property record and other dataset values.

22 LAW JUDGE HATCHER: So Ms. Lange, what is  
23 your question?

24 MS. LANGE: My question is, when they said  
25 in response to question A -- so question A is, how



1 many are in the continuing property record for 10  
2 years? And they answered, here are some numbers from  
3 five years. The continuing property record is  
4 inaccurate. Are they saying, here are the numbers  
5 from the continuing property record, but they're  
6 inaccurate? Or are they saying, here's some numbers,  
7 we don't know where they're from or here's some  
8 numbers, they're from something else? The wording of  
9 their response with that disclaimer inserted makes it  
10 very ambiguous.

11 LAW JUDGE HATCHER: Can Everyg either  
12 provide a response now to Ms. Lange or provide the  
13 person who would know to follow up with her?

14 MR. STINER: Judge, this is the first we're  
15 hearing of this issue, so I'll have to look into it.  
16 I don't know.

17 LAW JUDGE HATCHER: Okay.

18 MS. LANGE: I think directing them to  
19 file --

20 LAW JUDGE HATCHER: Okay.

21 MS. LANGE: -- a follow up indicating the  
22 system that it is from would -- would be necessary, if  
23 it is from a different system. I think an e-mail  
24 clarifying that it is from the continuing property  
25 record would be adequate. It would be best to file it

1 in EFIS but I mean, I think that them inserting  
2 ambiguity in their response is -- is a matter that's  
3 easily addressed in this conference, Judge.

4 LAW JUDGE HATCHER: Okay. I asked the  
5 follow-up question --

6 MR. STINER: It might be -- Judge, if we  
7 would have known what the question was beforehand, but  
8 again, this is the first I'm hearing of it, so I'll  
9 have to --

10 MS. LANGE: Well, Roger, what would you  
11 propose here?

12 MR. STINER: I don't know, Sarah. Again,  
13 you've hit me cold with this. I don't know.

14 MS. LANGE: Well, you -- you hit us with  
15 148 objections.

16 MR. STINER: All in response to your 148  
17 questions that would be due in 10 days.

18 LAW JUDGE HATCHER: Counsel, let's get back  
19 to the discovery conference.

20 Ms. Lange, do you have more issues?

21 MS. LANGE: Yes. I'm scrolling through to  
22 see which ones don't fall into the camps that we've  
23 already discussed. A great many of these are the two  
24 issues -- the two items we've already discussed.

25 LAW JUDGE HATCHER: Okay. Then I'm not

1 going to order anything at this discovery conference.

2 However --

3 MS. LANGE: Well, Judge --

4 LAW JUDGE HATCHER: Go ahead.

5 MS. LANGE: No, I'm sorry. I'm looking  
6 through -- I've noted on each one what the issues are.  
7 I'm -- I'm down to 40 looking through to see if  
8 there's other issues other than the two we've  
9 discussed.

10 LAW JUDGE HATCHER: Oh, I'm sorry. You  
11 need more time to go through?

12 MS. LANGE: Yes. Yes, I'm sorry.

13 LAW JUDGE HATCHER: Okay. Sure.

14 MS. LANGE: I'm -- so there are a number of  
15 questions. 114 is an example. I'm sorry, 44 for  
16 Metro and 115 for -- for West as an example. So we  
17 asked, please identify the number of working hours  
18 Every Metro anticipates would be required to survey  
19 100 randomly selected segments of underground  
20 conductor at each of the common voltage served and  
21 determine which retirement units or plant  
22 characteristics are utilized. This was a good faith  
23 attempt by staff to find alternative data to the  
24 information that Every states it cannot provide.  
25 I -- I feel like we're kind of caught in

1 the catch 22 because I agree that typically under  
2 discovery rules, we -- we can't ask them to do an  
3 analysis, but this case is basically a -- a punting of  
4 all of the discovery issues from the last case, and I  
5 feel like if we're ever going to move the -- this ball  
6 ahead, a good faith effort by Everyg to respond to  
7 questions like this is the only way to do that, and  
8 I -- I recognize you may not be able to -- to grant  
9 any relief on that under the particular circumstances  
10 of this case, but I -- I don't know how we ever move  
11 the ball forward if they're simply allowed to say,  
12 well, we can't do that now because it's a rate case,  
13 and we're too busy which is what we hear in the rate  
14 case. So we created this special docket, and we're  
15 told, we can't do that now, because it's not a rate  
16 case. So simply note that there are a number of  
17 questions similar to that. Metro 44, West 115.

18 LAW JUDGE HATCHER: Okay.

19 MS. LANGE: Sorry. Continuing to scroll.

20 LAW JUDGE HATCHER: No, you're fine.

21 And my request to the company is on the  
22 specific ones, I think, Mr. Stiner, you volunteered on  
23 DR30, you were going to check into that on --

24 MR. STINER: Is that the 10 years worth of  
25 data, Judge?

1                   LAW JUDGE HATCHER: I want to say that  
2 might have been 7 was the 10 years and 30 was the  
3 number of poles. Although, it -- it was the property  
4 records and that was -- yes. Thirty was also going  
5 back 10 years and the DR44 on -- an estimate of the  
6 number of hours to look at the segments underground.  
7 I think it was in hundred-foot sections. My request  
8 to the company is to look into those specifically,  
9 give Ms. Lange a date that you anticipate getting a  
10 response by, attempt to provide extra communication to  
11 Ms. Lange about the progress of those, where the  
12 company has legal objections, then let's make those  
13 clear so that staff can then go ahead and file a  
14 written motion, and I'll direct the company to follow  
15 up after that, and we'll go from there.

16                   MS. LANGE: Judge --

17                   LAW JUDGE HATCHER: Ms. Lange. Yes.

18                   MS. LANGE: So there's another set of data  
19 requests which the company simply didn't answer.  
20 Their -- their response was, we addressed this in  
21 direct testimony. Details are offered there. Well,  
22 they're not, and I asked more detail than what is in  
23 direct testimony, and these are West -- or I'm sorry,  
24 Metro Number 69, 70, 71, 72, possibly 73 -- No. 73 is  
25 not. Portions of 74, and then the -- the West

1 equivalence of those are 145, 143, 142, 141, 140, and  
2 again, on those, they -- they said, see testimony when  
3 we asked questions that were not answered in  
4 testimony, and that was why we asked them and -- and  
5 those are answers that I think each have a yes or no  
6 answer.

7           LAW JUDGE HATCHER: My request for the  
8 company is the same for that, since I do not know what  
9 the questions are, and I anticipate the counsel also  
10 stating that they're not sure of that answer -- well,  
11 I'll just ask. Is Everygy counsel aware of the answer  
12 here?

13           MR. STINER: We're not, Your Honor, but the  
14 issue that they don't like our answer because we said  
15 see our testimony, and they want us -- I think that is  
16 our answer.

17           MS. LANGE: The -- the issue is, Roger, we  
18 asked yes or no questions --

19           MR. STINER: Sarah, I would like to not be  
20 interrupted.

21           MS. LANGE: My apologies.

22           MR. STINER: If our answer is, see our  
23 direct testimony, I mean, that's our answer to the DR.  
24 I don't -- I don't really have anything else to check  
25 on it, like --

1 MS. LANGE: So the question propounded is  
2 the -- to give the first one here, is Evergy Metro  
3 currently capable of providing the total number of  
4 customer served on any given rate code on the first  
5 day of the month and the last day of the month? I  
6 don't know how that's not a yes or no answer.

7 MS. KERR: And besides if you say -- this  
8 is Carolyn Kerr. If you say, see our testimony, I  
9 think the least the company could do is cite to where  
10 in the testimony the answer is. I think -- you know,  
11 see our testimony, you know, Lutz page such and such,  
12 line such and such. I think that -- you know, if the  
13 answer is more than a yes or no question -- answer, if  
14 the company is saying something, I think that you  
15 could do that. I don't think that's, you know, asking  
16 too much either. You know, just -- just as an extra  
17 note.

18 LAW JUDGE HATCHER: That sounds reasonable.  
19 I will pass that on and add that to my list of things  
20 I'm asking the company to follow up with.

21 MS. KERR: Okay. Thank you.

22 MS. LANGE: And Judge, that does get me to  
23 the end of the list, but just to clarify, those --  
24 those specific numbers that you called out earlier, so  
25 those -- I think that the numbers we used were for the

1 line transformer example for needing more than 10  
2 years, but we had to ask that for each of the  
3 distribution accounts, not just the line transformer  
4 accounts. So it's not only DR10 and 81, I think were  
5 the examples we used, it's, you know, 10 other DR sets  
6 for each of those other distribution accounts, and  
7 then similarly for the continuing property record  
8 issue, you know, they -- they answered that same way  
9 on each of those, which we had to ask about each of  
10 the distribution accounts. So I think there would be  
11 10 other sets of DRs where they answered in a way that  
12 is unclear, if they're providing continuing property  
13 record information or whether they're providing  
14 information from some other source.

15 LAW JUDGE HATCHER: Okay. I -- I think  
16 I -- I understand -- we're talking about these as  
17 proxies, and my hope is that both sides increase  
18 communication. It's especially important in difficult  
19 circumstances.

20 MS. LANGE: Well, Judge, if I may --

21 LAW JUDGE HATCHER: Yes.

22 MS. LANGE: If we had what their actual  
23 objections were, that would have made --

24 LAW JUDGE HATCHER: Uh-huh.

25 MS. LANGE: -- this process much more



1 streamlined. What we have is, every objection to  
2 every data request, and then after we requested the  
3 discovery conference, we started getting responses  
4 filed in EFIS, which we're glad they did file some  
5 things, but you know, we -- we can't really narrowly  
6 tailor a discovery conference to every objection to  
7 every data request.

8 LAW JUDGE HATCHER: Understood.

9 MR. STINER: Again, Judge, I had three days  
10 to object for 150 questions. I was not able to  
11 specify each -- each one, but it's my practice to give  
12 a blanket objection, and then at the end it said, we  
13 will answer it subject to the objections. I had to  
14 basically put all my objections in the letter, so I  
15 wouldn't miss my deadline.

16 LAW JUDGE HATCHER: Okay. I think we're  
17 kind of circling back and rehashing some things, which  
18 I do not want to do. What I am going to do from  
19 here -- I'm going to stop talking. I think maybe  
20 somebody wanted to speak.

21 MS. KERR: This is Carolyn Kerr again.  
22 With regard to the -- the PZA information that, you  
23 know, we had gotten the last five years, but we had  
24 asked for 10 years, would it be possible to get the,  
25 you know, year six through 10, like, within the next

1 10 business days?

2 LAW JUDGE HATCHER: I'm looking to the  
3 company.

4 MR. STINER: That's one of the items that I  
5 was going to check on. Is that DR7?

6 MS. LANGE: That's --

7 MS. KERR: I don't remember.

8 MS. LANGE: So that is approximately 20  
9 total DRs.

10 MS. KERR: I mean, you said you couldn't  
11 get them in within the next three or so business days.  
12 So, you know, 10 business days, could you get the rest  
13 of the next five years?

14 MR. STINER: I'm trying to work with you  
15 with DR7, but I hear -- DR7 plus --

16 MS. LANGE: 10 -- no.

17 MR. STINER: I said I would double check on  
18 the number of time. Again, I'm --

19 MS. LANGE: Roger, it's not -- it's not DR7  
20 at all. It's DR10 and 81 is an example of that, and  
21 then there's similarly worded DRs for the other  
22 distribution accounts that are the subject of Everygy's  
23 commitments in the last rate cases stipulated to and  
24 that the commission ordered.

25 MR. STINER: So what are those 20 DRs?

1 MS. LANGE: I can go through right now. 10  
2 and 81. 12 and 83 have the same problem as well as  
3 the identification of what plant is -- or what the  
4 source is coming from. The next set is 18 and 89. 19  
5 and 90 are the corresponding accounts for expense. 27  
6 and 98, 30 and 101. 34 and 105. 38 and 109. 43 and  
7 114. 47 and 118. Oh, wait, no, I'm sorry. Not those  
8 last two. Not 47 and 118. 48 and 119. 52 and 123.  
9 60 and 131. 64 and 135. And I believe that is it of  
10 those where we requested 10 years of information.

11 And Judge, to just give you some reference  
12 on what we're asking there, each of those were for  
13 each of the distribution accounts. We asked for what  
14 are the dollars in those accounts for 10 years, and  
15 what are the number of items in those accounts for 10  
16 years.

17 LAW JUDGE HATCHER: Okay. Thank you. I'll  
18 make a note of that.

19 MS. KERR: And our staff rebuttal is due on  
20 December 15th, so. You know, we don't want to push it  
21 out too far, but. I mean, if you've got the first  
22 five years, within our DR response time, then the next  
23 five years should be able to get in -- I mean, I would  
24 think that you would be able to get that within the  
25 response time, too, so. I mean, if you take that --

1                   LAW JUDGE HATCHER: Okay. So thank you,  
2 Ms. Kerr.

3                   So what I'm hearing, then, is the company's  
4 going to work on it. I have asked them to follow up  
5 with more informational e-mails as to -- and the  
6 expected dates they might be able to provide some of  
7 these requests.

8                   As to staff, I know that the procedural  
9 order allows rulings at these discovery conferences  
10 and by me by delegation order. Because of the  
11 objections raised here, I think this might go a little  
12 bit beyond that, so. I want to tread slowly. If  
13 staff has any further objections and would like to put  
14 those in writing as a -- as a written objection, then  
15 we will treat that as such and get written responses  
16 from the company. Depending on the objections raised  
17 and the issues, then we'll decide what goes through  
18 agenda or not.

19                   As far as timeliness, I'm very aware that  
20 staff is seeking THIS information and that it has been  
21 delayed for one reason or another, so I would be  
22 receptive to any motion that staff might have to delay  
23 filing its surrebuttal or other potential solutions.  
24 I don't know.

25                   MS. LANGE: Judge, just to make --

1 LAW JUDGE HATCHER: -- granting. Yes. Go  
2 ahead.

3 MS. LANGE: So there is a spoliation issue  
4 at hand.

5 LAW JUDGE HATCHER: Oh, okay.

6 MS. LANGE: I don't want to go into the  
7 details, obviously, on this call, but there is  
8 information that is not being retained that is  
9 important information, and so staff is not interested  
10 in -- in further delay, to the extent we can avoid it.  
11 We believe the company is interested in further delay  
12 to the extent it can cause it.

13 LAW JUDGE HATCHER: Is anything going to be  
14 deleted in the next 10 business days?

15 MS. LANGE: It's being deleted every  
16 15 minutes to my understanding, Judge. This pertains  
17 to the items under -- I'm trying to think of a  
18 shorthand way to reference this in what the company  
19 stipulated to provide. This -- this relates to  
20 customer account data and energy usage data and demand  
21 data.

22 LAW JUDGE HATCHER: And the company stopped  
23 what I'm assuming is some type of automatic data  
24 retention deletion program.

25 MR. STINER: What DR are we talking about

1 here?

2 MS. LANGE: So this case, Roger.

3 MR. STINER: I know. But what DR are we  
4 talking about?

5 MS. LANGE: Well, a number of them, but  
6 74 --

7 MR. STINER: I saw you raise this -- I  
8 believe we -- go ahead. I interrupted you. I'm  
9 sorry, Sarah.

10 MS. LANGE: So this relates to, at a  
11 minimum, DR73 and 144, 74 and 145, 75 and 146, and I  
12 believe also -- it's unclear based on the responses.  
13 I believe it may also relate to 69 and 140. 70 and  
14 141, 71 and 142, 73 and 143.

15 MS. KERR: You mean 72 and 143.

16 MS. LANGE: Yes.

17 MR. STINER: If I remember right, I think  
18 we said we did not keep data in 15-minute intervals.  
19 Is that the ones you're referring to?

20 MS. LANGE: You explicitly stated that.  
21 I'm also coming to the understanding that you don't  
22 retain customer numbers, that if we need customer  
23 number information, that would need to be pulled on  
24 specific dates to be retained and so that each day  
25 that that information is not pulled, it is -- you're

1 unable to retrieve it.

2 MR. STINER: I don't know that. But, yeah.  
3 Judge, to your question, I don't -- we're not keeping  
4 it now, so I think we -- that is our process, so.

5 LAW JUDGE HATCHER: I'm going to --

6 MR. STINER: I can stop it.

7 LAW JUDGE HATCHER: Might I ask this one to  
8 the company is to put a higher priority on this than  
9 the other, that I've asked you to check on and get  
10 back to staff with potential dates that you might be  
11 able to respond, if that response isn't, then if you  
12 could put this one at the top of that list. I'm --  
13 I'm certainly -- I hear what Ms. Lange is saying, and  
14 I am conscious that if data is being rolled, as would  
15 happen in a lot of systems, that that might result in  
16 a -- in lost data, but if you would just pass that  
17 onto whoever knows at the company so they can look  
18 into it and either stop the deletion or provide a  
19 final answer to Ms. Lange's question.

20 MR. STINER: Again, I don't -- again, I  
21 think the final answer was, we don't -- we don't keep  
22 data in 15-minute increments. So you're asking me to  
23 see if we can stop that?

24 MS. LANGE: And staff is not --

25 LAW JUDGE HATCHER: I'm asking -- if I can

1 go. I'm asking you to double check --

2 MR. STINER: Will do.

3 LAW JUDGE HATCHER: -- on whatever those  
4 DRs are, whatever they asked for, if you would please  
5 double check and you -- yes, if you would repeat your  
6 answer, confirming that that is your answer or if  
7 there is something different and also about the -- the  
8 data deletion, I'm sure there's an IT department  
9 somewhere that they can tell you, you know, oh, my  
10 God, we've got to take apart the entire testimony to  
11 do that or here's the button, and I'll push it. I'm  
12 sure --

13 MS. LANGE: And Judge, if I may --

14 MR. STINER: We'll check, Judge.

15 LAW JUDGE HATCHER: Thank you.

16 MS. LANGE: And I think --

17 LAW JUDGE HATCHER: Ms. --

18 MS. LANGE: -- it is very important -- it's  
19 very important to clarify something here because the  
20 company regarding this data has either purposely or --  
21 or accidentally misunderstood staff's intent in prior  
22 dockets. Our intent is not to require the company to  
23 keep and provide 15-minute data for every single  
24 customer. There is a process to determine the peak  
25 usage which is a common industry practice from that



1 data so that the remainder of the data can be  
2 disregarded and -- and that's the difference between  
3 retaining one piece of information per customer per  
4 month versus, you know, 24 hours times 30 days times  
5 four 15-minute intervals per hour per month. We are  
6 not requesting that every piece of data be retained in  
7 perpetuity. We're asking that a process that is  
8 applicable already to most of their rate classes be  
9 run on that data before it is discarded.

10 LAW JUDGE HATCHER: Okay. I think that  
11 clarified things to the company. Thank you.

12 I think we are finished and everyone has  
13 their marching orders.

14 Are there any questions or concerns before  
15 I close our discovery conference?

16 MS. LANGE: I just wanted to clarify a  
17 comment you made or instructions you provided, Judge.  
18 You -- you said something about staff filing written  
19 objections, but I -- I think you may have meant the  
20 company filing written objections or staff filing  
21 written motions to compel. Is that -- is that proper?

22 LAW JUDGE HATCHER: Yes. Motions to  
23 compel.

24 MS. LANGE: Okay. Thank you.

25 LAW JUDGE HATCHER: Not a problem. Thank

1 you.

2 Any other issues?

3 Okay. Thank you all. We are adjourned.

4 And off the record. If anyone needs a transcript --

5 (Audio ended.)

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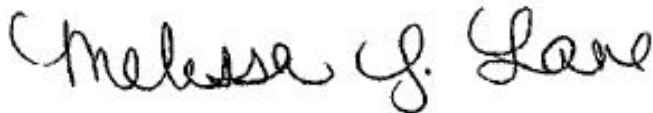
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