

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

In the Matter of Requests for)
Customer Account Data Production)
from Evergy Metro, Inc. d/b/a Evergy) Case No. EO-2024-0002
Missouri Metro and Evergy Missouri)
West, Inc. d/b/a Evergy Missouri)
West)

**OFFICE OF THE PUBLIC COUNSEL’S MOTION FOR THE COMMISSION
TO ORDER EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST
TO COMPLY WITH COMMISSION RULE 20 CSR 4240-2.135**

COMES NOW the Office of Public Counsel (“OPC”) and moves the Commission as follows:

1. On July 6, 2023, Evergy Missouri Metro and Evergy Missouri West¹ filed a *Motion to Establish Docket for Further Consideration of Data Production* with the Public Service Commission (“Commission”).

2. On November 1, 2023, Evergy witnesses Bradley D. Lutz and Julie Dragoo both filed public and confidential versions of their Direct Testimony for this case.

3. Both witnesses’ testimonies include the Company’s general pricing estimates that Evergy is currently asserting for its production of Staff-requested data, central to this case.

4. Commission rule 20 CSR 4240-2.135(2)(B) states:

B) Any information designated as confidential *shall be submitted with a cover sheet or pleading describing how such information qualifies as confidential under subsection (2)(A) of this rule*, including the specific subsection relied upon and an explanation of its applicability. Only the specific information that qualifies as confidential shall be designated as such. In addition, each

¹ Referred to jointly as “Evergy” or “Company.”

document that contains confidential information *shall bear the designation “Confidential” and the paragraph(s) of [20] CSR 240-2.135(2)(A) through which that information is protected.* (emphasis added).

5. The Company never filed a cover letter or pleading explaining why its general cost estimates related to this data production should be considered confidential. Further, neither of Evergy’s witnesses identified “the paragraph(s) of [20] CSR 4240-2.135(2)(A) through which [Evergy’s cost estimate] information is protected.”

6. Commission rule 20 CSR 4240-2.135(2)(A) states:

(2) Confidential Designation.

(A) Any person may submit to the commission, without first obtaining a protective order, information designated as confidential if that information is-

1. Customer-specific information;
2. Employee-sensitive personnel information;
3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors, consultants, or attorneys except that total amounts billed by each external auditor, consultant, or attorney or services related to general rate proceedings shall always be public;
6. Strategies employed, to be employed, or under consideration in contract negotiations;
7. Relating to the security of company’s facilities; or
8. Concerning trade secrets, as defined in section 41.453 RSMo.

7. The information that Evergy has denoted as confidential is both vague and subjunctive in nature. Further, the Company’s confidentiality denotation is in

violation of Commission rule 20 CSR 4240-2.135(2)(B) due to its lack of a cover letter or pleading.

8. Commission rule 20 CSR 4240-2.135(1) emphasizes the Commission's interest in transparency with the public stating, "All items filed in case proceedings before the commission shall be open to the public unless protected pursuant to this rule or otherwise protected by law."

9. If the Commission believes it proper for the Company to designate this information as confidential, then the Commission should require Evergy to follow Commission rule 20 CSR 4240-2.135(2)(B) and produce the necessary filing to explain to the public why it should not be allowed to see these cost estimates.

Wherefore, the Office of Public Counsel prays the Commission order Evergy follow Commission rule 20 CSR 4240-2.135(2)(B). Further, if appropriate, the Commission should order the estimated costs, that are currently designated as confidential information, public.

Respectfully submitted,

By: /s/ Anna Kathryn Martin

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 18th of January, 2024.

/s/ Anna Martin