

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

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

**STAFF’S MOTION TO STRIKE TESTIMONY
OF EVERGY WITNESSES
BRADLEY D. LUTZ AND SEAN P. RILEY**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion to Strike Testimony of Evergy Witnesses Bradley D. Lutz and Sean P. Riley*, states as follows:

MOTION TO STRIKE

1. On November 1, 2023, Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy” or “Company”) filed Direct Testimony in this matter by Bradley D. Lutz, Julie Dragoo, and Sean P. Riley. On December 15, 2023, Staff of the Missouri Public Service Commission (“Staff”), namely, J Luebbert, Michael L. Stahlman, Kim Cox, and Sarah L.K. Lange, filed Rebuttal Testimony. Thereafter, on January 8, 2024, Evergy filed Surrebuttal Testimony by Bradley Lutz and Julie Dragoo, and the Office of Public Counsel (OPC) filed Surrebuttal testimony by Geoff Marke.

2. Pre-filed testimony must meet specific requirements pursuant to 20 CSR 4240-2.130(7)(A)-(D), which states in relevant part:

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party’s case-in-chief;

- (B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;
- (C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and
- (D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

3. Portions of Evergy Witness Bradley D. Lutz's Surrebuttal Testimony, filed on January 8, 2024, was not responsive to matters raised within another party's rebuttal testimony, but instead covered issues that went beyond the subject matter and topics raised by the witnesses' rebuttal testimony and those covered by this docket.

4. More specifically, portions of Mr. Lutz's surrebuttal testimony go beyond the subject of why this docket was opened, which was to address "the reason why [Evergy] cannot provide the requested data and its individual estimate of the cost to provide each set of requested data."¹

5. Mr. Lutz's surrebuttal testimony at page 24, lines 7 – 10 states as follows:

The Commission should provide guidance to the Company and Staff concerning rate design proposals. Should there continue to be competing, even mutually exclusive rate design proposals offered by Staff and the Company?

This testimony is improper surrebuttal. It is not responsive to any rebuttal testimony, and it is not related to the stipulated purpose of this docket, which is for Evergy to "provide the reason why it cannot provide the requested data and its individual estimate of the cost to

¹ See Stipulation and Agreement dated August 30, 2022, at page 12, approved by the Commission in its *Order Approving Four Partial Stipulations and Agreements* in Case Nos. ER-2022-0129 and ER-2022-0130, effective October 2, 2022.

provide each set of requested data.” Further, to the extent this request were proper in the context of the limited purpose of this docket, which Staff contends it is not, it should have been included in Evergy’s direct filing.

6. Since Mr. Lutz’s surrebuttal testimony failed to respond to matters that were raised within another party’s rebuttal testimony, Staff moves the Commission to strike Mr. Lutz’s Surrebuttal Testimony at page 24, lines 7 – 10, as it is improper and detrimental or prejudicial to the Staff and the other parties if allowed to remain in evidence.

7. Mr. Lutz’s Direct testimony at page 6 describes the direct testimony of other Evergy witnesses’ prefiled testimony, stating at lines 8 – 11 as follows:

Sean Riley, Partner with PricewaterhouseCoopers LLP (“PwC”) - offering insights into industry practices and confirmation that Evergy is following normal practice with its systems and data management. He also offers reaction to select Staff data retention requests.

This testimony is not related to the stipulated purpose of this docket, which is for Evergy to “provide the reason why it cannot provide the requested data and its individual estimate of the cost to provide each set of requested data.”

8. The entirety of Mr. Riley’s direct testimony should be stricken as it is not related to the stipulated purpose of this docket and fails to assert and explain Evergy’s case-in-chief.

9. Staff moves the Commission to strike the entirety of Mr. Riley’s Direct Testimony as it is improper and detrimental or prejudicial to the Staff and the other parties if allowed to remain in evidence.

WHEREFORE, for the reasons set forth above, Staff hereby submits its *Motion to Strike Testimony of Evergy Witnesses Bradley D. Lutz and Sean P. Riley* and respectfully requests the Commission strike Mr. Lutz’s Surrebuttal Testimony at page 24, lines 7 – 10,

and the entirety of Mr. Riley's Direct Testimony, and for any other such orders as the Commission sees just and reasonable under the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

Missouri Bar # 45718

Senior Staff Counsel

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102

573-751-5397 (Voice)

573-526-6969 (Fax)

Carolyn.kerr@psc.mo.gov

Attorney for Staff of the

Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, on this 19th day of January, 2024, to all counsel of record.

/s/ Carolyn H. Kerr