

**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 Missouri Metro) **File No. EO-2024-0002**
and Evergy Missouri West, Inc. d/b/a)
Evergy Missouri West)

POST – HEARING REPLY BRIEF

COMES NOW, the Staff of the Missouri Public Service Commission (“Staff”), through counsel, and files its *Post-Hearing Reply Brief*:

This case boils down to what the Commission can do now in light of the obligations that Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (hereafter “Evergy” or the “Company”) committed to under the terms¹ of the 2022 *Stipulation and Agreement*,² for Staff to obtain sufficient data to make reasonable ratemaking recommendations, and for the Commission to make lawful decisions.

In its brief at page 14, Evergy mischaracterizes Staff’s argument in this case as “the Company agreed to provide the data and then failed to honor the agreement by opening this docket.” It goes on to state that it opened the “docket so that it could explain the reasons the data were not available, and provide an estimate of the cost to create and produce each of the ten sets of data listed ... in Lange’s Direct testimony in the last rate case. Evergy has fully complied with this agreement.” What Staff’s argument actually is, stated both during the hearing and in its Initial Brief, is that Evergy failed to meet its

¹ Case Nos. ER-2022-0129 and ER-2022-0130, Sarah Lange, Direct testimony, pp. 61-64, June 22, 2022. See also, Exhibit 204.

² That *Stipulation and Agreement*, approved by the Commission by its September 22, 2022 *Order Approving Four Partial Stipulations and Agreements* in Case Nos. ER-2022-0129 and ER-2022-0130, effective October 2, 2022.

obligations under the *Stipulation and Agreement* by not actually producing the data that the Company did, in fact, possess. Evergy also failed to provide detailed cost information relating to actually producing the information described in Ms. Lange's testimony and the particular data sets outlined in Mr. Brad Lutz's schedule BDL-1 attached to his Direct testimony filed in this case. Staff understands that if the data is not available at all, Evergy could not produce it. But Evergy possesses much of the data, according to Company witnesses Mr. Lutz and Ms. Julie Dragoo. It's just not readily available at the asking.³ According to Evergy witness testimony, the information would have to be compiled from various sources within Evergy before it could be provided to Staff.⁴ It is the compiling of that information or data that would require time and money – cost to produce or process – that Evergy refuses to estimate.

The information requested by Staff and promised to be produced from Evergy is crucial. As an example, Staff witness Kim Cox explained during the hearing, “for me to do my analysis I have to know where that usage is in order to apply the correct rates.”⁵ The problem Staff has encountered in past rate cases, and the problem Evergy agreed to address by making the commitments in the *Stipulation and Agreement*, was articulated by Staff witness J Luebbert when he stated, “to get that information [to Staff] as current as we can while also providing us with time to be able to do our analysis, make our recommendations, discuss internally, have testimony drafted and reviewed. So kind of the ability to get that information up to date in a relatively short amount of time would be important.... So that when I'm talking about that information, I'm specifically talking about

³ Tr. 76:1-7.

⁴ See, Julie Dragoo Surrebuttal, 3:1-16; 15:1-11.

⁵ Tr. 424: 21-23.

customer count, customer usage by hour, that type of information.”⁶ After all, that information is data “that the Company would want to keep as well.”⁷

Evergy states on page 7 of its brief, that Staff wants the data “in part, to support [its] long-term vision or ‘options’ for electric rate design for the future.” Again, Evergy mischaracterizes Staff’s position in this case. Staff’s position in this case is not about modernizing rate structures for the future, but about doing its job and “about the Commission ordering this docket to stay open to get information.”⁸ Staff needs to study “those relationships that cause price differences to similarly situated customers,” and the information it seeks, and which Evergy committed to provide, “as part of this case is necessary ... to achieve that end.”⁹ While the data is relevant to rate design under existing rate structures and to Staff’s recommended rate modernization proposals, Staff is not seeking the data to “dictate what rates should look like” for Evergy or any company now or in the future.¹⁰

In order to get needed information to Staff in the most cost-effective way, Evergy must cooperate more fully with Staff. As admitted by Evergy in its testimony, no substantive meetings to discuss how or when or if the information was ever going to be provided to Staff even took place until after the Company filed this case.¹¹ After filing, only one other meeting took place between the Company and Staff that specifically addressed this docket. According to Ms. Lange while describing the attempts that Staff took prior to the hearing to obtain information and to generally communicate with

⁶ Tr. 455: 20-25 and 456: 15-18.

⁷ Tr. 460: 10-12.

⁸ Tr. 279: 13-15.

⁹ Tr. 281: 7-15.

¹⁰ Tr. 294: 9-15.

¹¹ Tr. 186:24-25 and 187:1-5.

Evergy personnel, “there was a settlement conference in this case I think about two weeks ago. All I can say is it was not productive.”¹² Otherwise, Evergy took no substantive steps to comply with the *Stipulation and Agreement*, to work with Staff to compile the information, or otherwise attempt to come to any resolution or compromise to the problems it faced.¹³

Evergy’s claim, on page 28 of its brief, that Staff is requesting the Commission to essentially mandate or force the Company to “create and produce” new systems or processes to collect the data and provide it to Staff “at all times and at a level of detail beyond the Company’s need” is not accurate. What Staff is asking the Commission to order Evergy to do is to leave this docket open so that the parties can work through and gather information or alternative information necessary for Staff and the Commission to make proper ratemaking recommendations and decisions, respectively, by providing for the resolution of discovery disputes relating to distribution data, customer and usage data, and the other commitments made by Evergy in the *Stipulation and Agreement*.

In the end, as Ms. Lange put it, “Staff believes this information is necessary to ensure the Commission is approving rates that are just and reasonable and that are not unjustly discriminatory or unduly preferential.”¹⁴ The only way to do so is to keep this matter as an open docket so that the Staff and the Company have a structured mechanism within which to operate to obtain the specific information or data sets outlined by the parties.

¹² Tr. 348: 4-6.

¹³ See, Tr. 188: 6-24.

¹⁴ Tr. 249:24 to 250:2.

WHEREFORE, Staff hereby submits this *Post-Hearing Reply Brief* for the Commission's consideration and prays that the Commission will determine the issues herein as Staff recommends; and grant such other and further relief as is just and reasonable in the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 8th day of April, 2024, to all parties and counsel of record.

/s/ Carolyn H. Kerr