

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

**In the Matter of the Application of** )  
**Midland Residential, LLC for a** )  
**Variance from 20 CSR 4240-20.050** ) Case No. EA-\_\_\_\_\_  
**Regarding** )  
**Individual Electric Meters.** )

**APPLICATION OF MIDLAND RESIDENTIAL, LLC  
FOR A VARIANCE FROM THE INDIVIDUAL ELECTRIC METER  
REQUIREMENT AND MOTION FOR EXPEDITED TREATMENT**

Applicant Midland Residential, LLC (“Midland Residential” or “Applicant”), pursuant to 20 CSR 4240-20.050(5) and 4240-2.060(4), hereby seeks a variance from the Missouri Public Service Commission's (“Commission”) individual electric meter rule for a new affordable housing residential building.

Applicant moves for expedited treatment pursuant to 20 CSR 4240-2.080(14), requesting that the Commission act no later than May 20, 2024 to grant the variance, for the reasons stated below.

1. Applicant Midland Residential LLC is a limited liability company with its principal place of business located at 120 South Central Avenue, Clayton, Missouri 63105. Applicant authorizes the undersigned counsel to subscribe and verify the facts of this Application. Correspondence, communications, and orders and decisions of the Commission may be sent to the undersigned counsel, with copies sent to:

Melissa Frank  
The Cordish Company  
601 East Pratt St., 6<sup>th</sup> Floor  
Baltimore, MD 21202  
Phone: (410) 246-2257  
Email: [mfrank@cordish.com](mailto:mfrank@cordish.com)

2. A copy of Applicant's Certificate of Good Standing from the Secretary of State is attached as Exhibit 1.

3. Applicant acquires, holds, leases, sells and otherwise deals in real property.

4. Applicant has no pending actions or final unsatisfied judgments or decisions from any state or federal agency or court that involve customer service or rates, which action, judgment, or decision has occurred within three years of the date of this application.

5. Applicant is not an electrical corporation and is a non-regulated entity such that it does not file annual reports or submit assessment fees to the Commission.

#### **About the Midland Residential Project**

6. Applicant is currently working with its contractors, vendors, and other service providers to complete construction of residential apartments at 1221 Baltimore Ave., Kansas City, Missouri 64105 (the "Project") to provide housing to approximately 300 area residents. Per agreement with the City of Kansas City, the Project is planned and designed to accommodate residents who work in the immediate surrounding metropolitan area, many of whom require affordable housing accommodations. Per an agreement<sup>1</sup> ("Agreement") with the City of Kansas City, not less than one-third (1/3) of the Project's units will be made available to lower income residents for affordable housing as defined by such Agreement. Month-to-month leases will be available to Midland Residential tenants as appropriate.

7. Affordable residential unit is defined by reference to the geographical location in which the units are to be constructed, the size of the residential unit, and the median income for all households within the Kansas City, MO-KS Metro Area as calculated and reported by the

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<sup>1</sup> Kansas City Live, LLC is a Maryland limited liability company affiliated with Midland Residential. Kansas City Live, LLC and the City of Kansas City entered into the Thirteenth Amendment of the Master Development Agreement, and the Agreement's terms encompass multiple residential buildings in Kansas City, including the Midland Residential Project requesting this variance.

American Community Survey 1-Year Estimates (the "Median Household Income") for the calendar year immediately preceding the year in which an affordable residential unit is to be leased.<sup>2</sup>

8. The Project is currently in the final phases of development, and pursuant to the Agreement and its leases with its tenants, the Applicant must complete construction and make Midland Residential units available to residents by May 31, 2024.<sup>3</sup>

9. Midland Residential will be served by Evergy, Inc. ("Evergy"), a Commission-regulated investor-owned utility certificated by the Commission to serve Midland Residential.

### **Applicant's Proposal Promotes Energy Efficiency and Conservation**

10. Applicant proposes to install a single electric metering system, using EcoStructure™ Energy Hub. A copy of the EcoStructure™ Energy Hub Sales Data Sheet is attached as Exhibit 2. The system is comprised of two meters for each tenant. One meter will monitor the energy usage for the tenant's electrical panel and the second meter will monitor the HVAC unit for that tenant's space. The meter data will be recorded every 15 minutes and stored in the cloud for as many years as the owner requires. The owner will use this energy data to create an electrical utility bill with the software in order to pass on electrical costs for that tenant. The owner will not make a profit from the electrical costs. Each unit will have individual thermostats and occupants will control their own energy usage.

11. Applicant's proposed system promotes energy efficiency, simplifies energy management using fully automated software, and uses less energy than individual meter systems.

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<sup>2</sup> For one bedroom units - that which a household (both family and nonfamily) having a total gross income equal to eighty percent (80%) of the Median Household Income would be able to rent if applying a thirty percent (30%) front-end ratio; and for two/three bedroom units - that which a household (both family and nonfamily) having a total gross income equal to one hundred percent (100%) of the Median Household Income would be able to rent if applying a thirty percent (30%) front-end ratio.

<sup>3</sup> The Agreement provides for extension of time in the event of force majeure. By this statement, Applicant is not waiving its right to make a claim of force majeure with the City.

Key energy-efficiency features include the system's ability to: collect and store interval energy data; rank and compare energy use across units in the building; view and aggregate energy consumption by hour, day, week, month, and year; conduct period-over-period comparisons; and send energy alarm notifications in real-time when energy spikes occur.

12. The full automation of the system will allow Applicant to more quickly (1) identify defects within each unit that may lead to spikes in electrical usage, (2) leverage predictive maintenance capabilities, (3) conduct prospective infrastructure and appliance repair prior to major system issues, and (4) reduce energy waste overall. Applicant's planned use of this system demonstrates Applicant's commitment to both increasing energy efficiency and providing low-cost housing. Applicant's planned operation will accordingly conserve energy consumption.

13. Granting a variance to allow Applicant to install this system is consistent with the goals of the Public Utility Regulatory Policies Act to increase conservation of electric energy, increase efficiency in the use of facilities and resources by electric utilities, and establish equitable retail rates for electric consumers. By having a single meter in lieu of individual meters, consumers will pay a lower cost due to the removal of meter charges and other individual administrative costs associated with using individual meters. Further, monitoring each unit allows problems or maintenance issues to be addressed, such that any inefficient use of energy may be recognized and resolved and the building operator will be able to focus on increasing conservation efforts across the whole building.

14. Midland Residential will not re-sell electricity to its residents.<sup>4</sup> Rather, Midland Residential will bill each unit for electricity usage consistent with rates charged by Evergy and

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<sup>4</sup> RSMo 386.020(14) defines an "electric plant" as "all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light,

established in Evergy's Commission-approved rate schedule. Midland Residential will not profit from the billing of electricity to its residents.

**Granting the Variance Serves the Public Interest**

15. "A variance from all or parts of this rule (20 CSR 4240-20.050) and for good cause shown" may be granted if it is deemed to be "in the public interest." Pursuant to 20 CSR 4240-2.060(4), Applicant sets forth below the reasons for the requested variance of the individual metering requirement of 20 CSR 4240-20.050 and a complete justification setting out the good cause for granting the variance.

16. Granting the variance will serve the public interest. Allowing Applicant to utilize the proposed single meter will allow affordable housing to be available to the public sooner. If individual meters are required, prospective tenants will be forced to wait approximately twelve months before the units become available. It is in the public interest to avoid unnecessary delays in the provision of electric services and affordable housing. *Osage Util. Operating Co., Inc. v. Missouri Pub. Serv. Comm'n*, 637 S.W.3d 78, 99 (Mo. App. W. Dist. 2021). Finally, as stated in Paragraph 11, Applicant's planned system of operation will promote energy efficiency, encourage safety precautions in the delivery of electricity via the system's tracking technology, and promote substantial justice in allowing Applicant to provide affordable housing with electricity on Applicant's planned schedule. *Pub. Serv. Comm'n. of State v. Missouri Gas Energy*, 388 S.W.3d 221, 228 (Mo. App. W. Dist. 2012).

**Applicant Will Face Hardship Without a Variance**

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heat or power." Midland Residential is not operating or owning the building for, nor will its single-meter system be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity. Rather, Midland Residential's single-meter system will be served by Evergy, and Evergy will own, operate, and control the single meter system, and accordingly, the distribution, sale, and furnishing of electricity at the Project.

17. Applicant will face hardship and delays without the variance. Applicant faces significant delay in its attempt to use individual meters, and this delay would hinder Applicant's ability to comply with the timeline set forth in the Agreement and in its leases. Due to issues with equipment availability and shipping delays, the lead time to obtain metering sockets is lengthy (approximately 68 weeks), which would put Applicant well beyond its planned Project schedule. Requiring Applicant to use individual meters would cause significant delay, cost increases, and a delay in providing affordable housing to the community.

**Granting a Variance Would Bring Long-term Cost Savings for Residents**

18. The long-run benefits of requiring separate meters for residents at Midland Residential do not outweigh the costs of installing such meters. Attempting to obtain individual meters for all units now would exceed \$500,000, increasing construction costs, and inhibiting Applicant's ability to provide affordable housing as required by the Agreement with the City of Kansas City. Even if individual meters could be obtained quickly, residents would have no benefit from having individual meters since, under both scenarios, they will pay only for their portion of electricity consumption. In fact, implementing a single meter using the energy tracking system as Applicant proposes will result in a reduction in energy consumption in individual units over time, ultimately decreasing electricity costs for consumers residing in such units.

19. Midland Residential is not aware of any opposition to this application and, based upon prior indication from Evergy representatives, does not believe that Evergy will oppose this request.

20. Applicant requests expedited consideration of this application by the Variance Committee, 20 CSR 4240-20.050(5), so that the action of the Commission may be expedited in accordance with the schedule of the Agreement with the City of Kansas City.

21. Applicant is not aware of any party that will be prejudiced by this request.

WHEREFORE, Applicant Midland Residential respectfully requests that the Commission:

1. Grant a variance from the individual electric meter requirements of the Commission pursuant to 20 CSR 4240-20.050.

2. Grant expedited treatment and issue its variance no later than May 20, 2024.

Respectfully submitted,

/s/ Aimee Davenport

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**AFFIDAVIT OF BETSY SMITH**

**STATE OF MISSOURI** )  
 ) ss  
**COUNTY OF JACKSON** )

Betsy Smith, of lawful age, on oath states: that I have read the foregoing document and that the facts stated therein are true and correct in all material respects to the best of my knowledge, information, and belief, and that I am authorized to approve the filing of such document on behalf of Midland Residential, LLC, a Missouri limited liability company.

  
\_\_\_\_\_  
Betsy Smith

Subscribed and sworn before me on this 8th day of May, 2024



  
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NOTARY PUBLIC



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Application was served upon the parties listed below by email, this 9th day of May, 2024.

Nancy Dippell  
Secretary and Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360 Jefferson City, MO 65102  
[Nancy.dippell@psc.mo.gov](mailto:Nancy.dippell@psc.mo.gov)

/s/ Aimee Davenport

/s/ Betsy Smith

Attorneys for Midland Residential, LLC