

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

In the Matter of Evergy Missouri West,)
Inc. d/b/a Evergy Missouri West's)
Request for Authority to Implement a) **File No. ER-2024-0189**
General Rate Increase for Electric Service)

MOTION TO COMPEL

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and in support of its *Motion to Compel* states as follows:

1. On February 2, 2024, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or “Evergy”), filed its *Request for Authority to Implement a General Rate Increase for Electric Service* pursuant to 20 CSR 4240-22.080(18), along with proposed revised tariff sheets the above-captioned case.

2. On March 8, 2024, the Commission entered an *Order Granting Applications to Intervene and Order Setting Procedural Schedule (Order)* the above-captioned case.

3. Title 20 CSR 4240-2.090(1) allows parties to obtain discovery “by the same means and under the same conditions as in civil actions in the circuit court.” The use of data requests are one means of obtaining such discovery. 20 CSR 4240-2.090(2).

4. As part of its March 8, 2024 *Order*, several procedures were established, including discovery response (DR) deadlines. Specifically, in paragraph 5.d. of the *Order*, “until the filing of Rate Design Rebuttal testimony, the response time for all data requests shall be 20 calendar days, and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information.”¹

¹ As of the date of filing this *Motion to Compel*, only Direct testimony has been filed by Evergy in this case.

5. On February 16, 2024, Staff served DR 159 upon Evergy. Evergy filed its response on March 12, 2024, 25 days later.

6. On February 16, 2024, Staff served DR 160 upon Evergy. Evergy filed its response on March 12, 2024, 25 days later.

7. At no time did Evergy request an extension of time to file either DR 159 or DR 160 late, nor did Evergy file any objections to the form, content, or subject matter of either of the DRs.

8. Under 20 CSR 4240-2.090(8)(A), the Commission will not entertain a discovery motion until the moving party conferred or attempted to confer by telephone or in person with the opposing counsel concerning the matter prior to filing of the motion. Pursuant to that rule, the undersigned certifies compliance with this rule.

9. Under Rule 56.01(b)(1), as long as the matter “is relevant to the subject matter involved in the pending action, ... provided the discovery is proportional to the needs of the case considering the totality of the circumstances, including, but not limited, to the importance of the issues at stake in the action, ... the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expenses of the proposed discovery outweighs its likely benefit,” a party is entitled to that information sought. The information need only be “reasonably calculated to lead to the discovery of admissible evidence.”

10. The subject matter of the pending action involves Evergy’s request for a rate increase. As such, the information requested in DRs 159 and 160 are relevant to the subject matter of this case and is likely to lead to the discovery of admissible evidence.

11. On May 6, 2024, Staff requested a discovery conference to be scheduled in order for the parties to discuss and resolve the issues surrounding the lack of information from Evergy to Staff's DRs.

12. On May 8, 2024, a discovery conference was held in the above-captioned case.

13. During the May 8, 2024 discovery conference, the Judge found that counsel for Staff had attempted to resolve the discovery issues with counsel for Evergy prior to the telephone conference being held but had failed, in compliance with 20 CSR 4240-2.090(8), and therefore ordered Staff Counsel to file this *Motion to Compel*.

14. This *Motion* requests the Commission compel Evergy to respond with a complete response to DR 159, in that, to date, Evergy's response has been insufficient, incomplete, and inadequate.

15. Evergy's response to DR 159 merely refers to its response to DR 160 without any additional content, information, or response specific to the questions asked by Staff specifically in DR 159. Therefore, Evergy fails to provide any information for the specific sets of customer samples described in and requested by Staff in DR 159.

16. This *Motion* requests the Commission compel Evergy to respond with a complete response to DR 160, in that, to date, Evergy's response has been insufficient, incomplete, and inadequate.

17. Evergy's response to DR 160 essentially states that it refuses to do any sampling of its customer bills for purposes of the rate case it filed herein. As such, that information is not available and will not be available for Staff or the Commission.

18. In this case, Evergy's suspended tariffs include a significant restructuring of its Small General Service (SGS), Large General Service (LGS), and Large Power Service (LPS) rates, such as a 73% decrease in its LGS customer charge and an 89% increase in its LGS facilities charge. Evergy also proposes to increase LGS demand charges by more than six times as much as LGS energy charges. While as a general matter Staff would seek to review customer impact in any rate case, in this rate case, review of customer impact for Evergy's requested non-residential rate restructuring is particularly important in light of the Commission's concerns in the last case (File Nos. ER-2022-0129 and ER-2022-0130) that a study of non-residential rate impacts had not occurred.

19. Furthermore, with regard to nonresidential customers, the information Staff requests in DRs 159 and 160 is necessary for Staff to study the rate changes that Evergy requests, which will have significantly different impacts on customers depending on the customer's usage and demand characteristics.

20. With regard to residential customers, Evergy requests various regulatory relief for residential customer rate switching without providing any usable information, specifically the information requested by DR 159, as to the variation in load among customers on various residential rate plans. Staff requires that residential sample data to evaluate the reasonableness of Evergy's requested residential rate adjustment, its requested residential revenue tracker, and to evaluate customer impacts of Evergy's requested interclass revenue shifts. Residential sample customers are also necessary to evaluate the effect of a customer charge on these two requested regulatory treatments, as well as to estimate customer impacts in general. Evergy also proposes to increase the residential customer charge by approximately 150% of the energy charge change,

which will cause various customer impacts across customers. This requires evaluation by Staff, none of which can be done without the data from Evergy responsive to DRs 159 and 160.

21. This motion is made in the interest of justice and without the intent to unreasonably delay or hinder these proceedings in any manner.

WHEREFORE, for the foregoing reasons, Staff requests the Commission to issue an *Order* compelling Respondent to provide full and complete responses to the Data Requests 159 and 160, and for such other orders it deems reasonable and just under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, on this 13th day of May, 2024, to all counsel of record.

/s/ Carolyn H. Kerr