

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

Marquette Lumumba Mugae Bey)	
)	
Complainant,)	
v.)	File No. EC-2024-0289
)	
Evergy Metro, Inc. d/b/a Evergy Missouri Metro,)	
)	
Respondent.)	

**EVERGY MISSOURI METRO MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro,” the “Company,” or “Respondent”), by and through its counsel and, for its *Motion to Dismiss* (“Motion”) the formal complaint of Marquette Lumumba Mugabe Bey (“Complainant”), states as follows.

I. PROCEDURAL BACKGROUND

1. On April 3, 2024, Complainant filed with the Missouri Public Service Commission (“Commission”) a formal complaint against Evergy Missouri Metro (“Complaint”).
2. On April 8, 2024, the Commission issued its *Notice of Complaint and Order Directing Answer* (“Order”).
3. On May 8, 2024, Evergy Missouri Metro filed its *Answer, Affirmative Defenses, and Motion to Dismiss* (“Answer”).

4. On May 23, 2024, Staff (“Staff”) for the Commission filed the results of its ordered investigation (“Report”). In its Report, Staff finds that the Complainant did not identify any Commission rules, statutes, or tariffs that have been violated by the Company.¹

II. MOTION TO DISMISS

5. Pursuant to 20 CSR 4240-2.070(7), “The Commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted.”

6. Evergy Missouri Metro moves to dismiss the Complaint in its entirety on the basis that it fails to state a claim upon which relief can be granted.

7. None of the allegations made by Complainant constitutes a violation of any law, regulation, Commission Order, or Evergy Missouri Metro tariff. The Complainant claims Evergy Missouri Metro violated the Missouri Uniform Commercial Code, by not accepting his form of payment of endorsing Evergy’s bill. Complainant’s endorsement of the bill is not within acceptable payment methods of Evergy, nor does it meet the payment definition contained within 20 CSR 4240-13.015(1)(V). Moreover, the Missouri Uniform Commercial Code is outside of the Commission’s jurisdiction.

8. Evergy Missouri Metro has operated within its approved tariffs, Commission orders and regulations, Missouri law and therefore the Complaint should be summarily dismissed.

9. In a recent similar Ameren Missouri case² involving a customer attempting to pay their bill with purported negotiable instruments, the Commission granted Ameren Missouri’s motion to dismiss as that complaint did not allege any violation of a rule, statute or tariff for which

¹ “Having concluded its investigation, Staff is of the opinion that Complainant does not identify any violation by Evergy of applicable Commission rules, Evergy’s approved tariffs or statutes under the Commission’s jurisdiction.” *Staff Report*, ¶7, p. 2.

² Dudley v. Ameren Missouri, File No. EC-2024-0191, *Order Dismissing Case*, issued February 29, 2024.

the Commission has jurisdiction. The Commission should take the same course of action in this case because the Complaint alleges no claim for which relief may be granted and no violation of any statute, rule, regulation, or tariff over which the Commission has jurisdiction, good cause exists to dismiss the Complaint.

10. Staff's recommendations regarding the Company's disconnection processes should not delay the dismissal of the Complaint as they are not related to the Complainant's allegations regarding acceptance of payment. The Company will review its internal disconnection process and provide training regarding disconnection rules.

III. CONCLUSION

11. Evergy Missouri Metro has complied with its tariffs and all Commission rules, regulations and orders. For the reasons set forth herein, Evergy Missouri Metro requests the Commission find there is no basis for the allegations in the Complaint and dismiss them accordingly.

WHEREFORE, Evergy Missouri Metro respectfully moves the Commission for an order dismissing the Complaint for failure to state a claim upon which relief can be granted, and for any such further relief the Commission deems appropriate.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

A copy of the foregoing has been served this 5th day of June 2024 upon counsel for all parties of record in this proceeding via electronic service or U.S. mail postage prepaid.

/s/ Roger W. Steiner

Roger W. Steiner