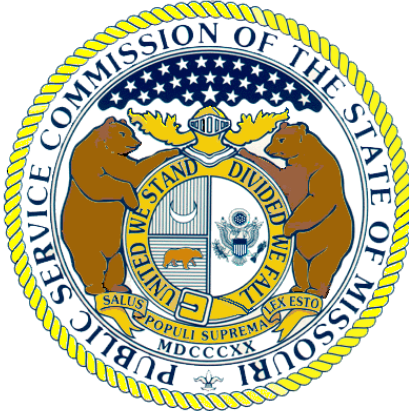


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Evergy)
Metro, Inc. d/b/a Evergy Missouri Metro)
and Evergy Missouri West, Inc. d/b/a)
Evergy Missouri West for an Accounting)
Authority Order Allowing the Companies to)
Record and Preserve Costs Related to)
COVID-19 Expenses)

File No. EU-2020-0350

REPORT AND ORDER

Issue Date: January 13, 2021

Effective Date: January 23, 2021

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

In the Matter of the Application of Evergy)
Metro, Inc. d/b/a Evergy Missouri Metro)
and Evergy Missouri West, Inc. d/b/a) **File No. EU-2020-0350**
Evergy Missouri West for an Accounting)
Authority Order Allowing the Companies to)
Record and Preserve Costs Related to)
COVID-19 Expenses)

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Regulatory Law Judge: **Jana C. Jacobs**

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REPORT AND ORDER

The Missouri Public Service Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

PROCEDURAL HISTORY

On May 6, 2020, Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy”) applied for an accounting authority order (AAO) to govern costs and financial impacts associated with the COVID-19 pandemic.¹ The application asked the Commission to allow Evergy to defer such costs in a regulatory asset, beginning on March 1, 2020, less costs avoided also related to COVID-19.² Evergy requested a Commission order in time to permit the company to reflect the requested deferral in its 2020 books, which it indicated close in late January or early February 2021.³ In addition, Evergy requested waiver of the 60-day notice requirement under Commission Rule 20 CSR 4240-4.017.

¹ The COVID-19 pandemic is discussed in greater detail in Issue A below. The term “COVID-19” may describe both the virus, severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and the illness the virus causes. *COVID-19, SARS-CoV-2*, Merriam-Webster.com (Dec. 29, 2020) (retrieved at <https://www.merriam-webster.com>).

² *Application of Evergy Metro, Inc. and Evergy Missouri West, Inc. for Accounting Authority Order Related to COVID-19 Costs and Financial Impacts* (Evergy Application), p. 12-14 (May 6, 2020). Documents filed in this case, File No. EU-2020-0350, are cited in this order by document title and filing date on first reference, with abbreviated citations on subsequent reference. A file number is specified only for documents filed in other Commission cases.

³ *Evergy Response to Commission Order*, p. 1-2 (June 26, 2020).

The Commission issued notice of the application and granted intervention requests from Midwest Energy Consumers' Group (MECG), Renew Missouri Advocates d/b/a Renew Missouri, Sierra Club, Union Electric Company d/b/a Ameren Missouri, Spire Missouri Inc., Missouri-American Water Company (MAWC), Missouri Industrial Energy Consumers (MIEC), and National Housing Trust (NHT). In addition, the Staff of the Public Service Commission (Staff) and the Office of the Public Counsel (OPC) are parties to this proceeding.⁴

On July 1, 2020, the Commission issued a procedural schedule based on Evergy's unopposed proposal and set a two-day hearing to begin on September 30, 2020. The parties filed direct, rebuttal and sur-rebuttal testimony. On September 23, 2020, the Commission denied Evergy's motion to file sur-surrebuttal testimony.

At Evergy's request, the Commission continued the hearing to allow the parties to discuss settlement. On October 8, 2020, Evergy, Staff, MIEC, MECG and Sierra Club submitted a *Non-Unanimous Stipulation and Agreement* (Agreement) to resolve Evergy's application for an AAO. On October 15, 2020, OPC and NHT filed objections to the Agreement, and NHT requested a hearing.

Under Commission rule, a "nonunanimous agreement" subject to objection is "merely a position of the signatory parties to the stipulated position."⁵ As the rule provides, no party is bound by such an agreement and "all issues shall remain for determination after hearing."⁶

⁴ Section 386.710.1(2), RSMo (2016) (OPC authority to represent the public in any proceeding before the Commission); Commission Rule 20 CSR 4240-2.010 (making Staff and OPC parties to all proceedings). All citations to Missouri statute are to the Revised Statutes of Missouri (2016), unless otherwise noted.

⁵ 20 CSR 4240-2.115(2)(D).

⁶ 20 CSR 4240-2.115(2)(D).

The Commission conducted an evidentiary hearing on November 12-13, 2020.⁷ All signatories to the Agreement appeared at hearing and requested the Commission approve Evergy's application for an AAO and issue an order consistent with the terms of the Agreement.

During the hearing, the Commission took official notice on the record of additional matters before the Commission that include relevant materials. These matters include File No. AW-2020-0356, the Commission's working case on best practices for recovery of past-due payments after the COVID-19 pandemic, and File No. EO-2020-0383, which concerns Evergy's application to implement programs in response to COVID-19, potentially subject to deferral under an AAO.⁸ In addition, the Commission took official notice on the record of two other cases concerning applications for AAOs related to COVID-19 impacts: File No. GU-2020-0376, concerning Spire Missouri Inc.'s application, and File No. WU-2020-0417, concerning Missouri-American Water Company's application.⁹

The parties filed initial briefs on December 4, 2020, and reply briefs on December 14, 2020.

⁷ MAWC, Ameren Missouri and Spire Missouri Inc. were excused and did not appear for hearing. With the consent of the parties, the hearing was conducted by telephone and video conference.

⁸ Transcript Vol. 2 at p. 52 (Nov. 12, 2020).

⁹ Transcript Vol. 3 at p. 319 (Nov. 13, 2020).

ISSUES¹⁰

A. Are the costs and financial impacts to Evergy associated with the COVID-19 pandemic eligible for treatment under an accounting authority order?

Findings of Fact

1. Evergy Metro, Inc. d/b/a Evergy Missouri Metro is a Missouri corporation and is an “electrical corporation” and “public utility” as defined by Section 386.020, RSMo (Cum. Supp. 2020), and is authorized to provide electric service to portions of Missouri.¹¹

2. Evergy Missouri Metro is engaged in the generation, transmission, distribution and sale of electricity in western Missouri and eastern Kansas and operates primarily in the Kansas City metropolitan area.¹²

3. Evergy Missouri West, Inc. d/b/a Evergy Missouri West is a Delaware corporation and is an “electrical corporation” and “public utility” as defined by 386.020, RSMo (Cum. Supp. 2020), and is authorized to provide electric service to portions of Missouri.¹³

4. Evergy Missouri West is engaged in the generation, transmission, distribution and sale of electricity in western Missouri, including suburban Kansas City, St. Joseph, and surrounding counties.¹⁴

5. Evergy Missouri Metro and Evergy Missouri West are wholly owned subsidiaries of Evergy, Inc.¹⁵

6. Rates for Evergy Missouri Metro and Evergy Missouri West were most

¹⁰ The parties formally identified issues posed by Evergy’s application. *List of Issues, List and Order of Witnesses, Order of Opening Statements, and Order of Cross-Examination*, p. 1-3 (Sept. 9, 2020). The parties’ issues 1, 1(a) and 2 are addressed in this order’s Issue A. The parties’ Issue 3, including all sub-issues identified by the parties, is addressed in this order’s Issue B. Issue 4 is addressed in this order’s Issue C. Issue 5 is addressed in this order’s Issue D. Issues 6, 7 and 8 are addressed in this order’s Issue E.

¹¹ Evergy Application, ¶1 (May 6, 2020).

¹² Evergy Application, ¶1.

¹³ Evergy Application, ¶3.

¹⁴ Evergy Application, ¶3.

¹⁵ Evergy Application, ¶5.

recently established by the Commission in File Nos. ER-2018-0145 and ER-2018-0146, respectively.¹⁶ The proceedings in File No. ER-2018-0145 established allocation of items between Kansas and Missouri.¹⁷

7. Evergy's rates are frozen through December 6, 2021, based on Evergy Missouri Metro's and Evergy Missouri West's election under Section 393.1400 for plant-in-service accounting.¹⁸

8. Evergy intends to file general rate cases in January 2022.¹⁹

9. Accounting standards for regulated utilities are governed by the Commission's rules.²⁰ In general, applicable standards require that items be booked in the period in which they occur.²¹

10. Through the use of a regulatory asset or liability, an accounting authority order (AAO) may permit or require a company to defer items from one period to a subsequent period.²² The deferred items may be reflected in rates set in a future rate case.²³

11. The ratemaking process is designed to allow recovery from customers for prudently incurred expenses necessary to provide service.²⁴ Expenses arising from extraordinary events, such as major storms or floods, may not be anticipated by or reflected in rates.²⁵

12. AAOs may be used in the Commission's discretion to account for costs and

¹⁶ Transcript Vol. 2 at p. 217.

¹⁷ Ex. 300: Meyer Rebuttal, p. 23.

¹⁸ Ex. 5: Klote Surrebuttal, p. 7; Ex. 9: Ives Surrebuttal, p. 32.

¹⁹ Ex. 9: Ives Surrebuttal, p. 32.

²⁰ Ex. 200: Schallenberg Rebuttal, p. 2-3; Ex. 300: Meyer Rebuttal, p. 3.

²¹ Ex. 200: Schallenberg Rebuttal, p. 3-4.

²² Ex. 300: Meyer Rebuttal, p. 2.

²³ Ex. 100: Bolin Rebuttal, p. 4; Ex. 200: Schallenberg Rebuttal, p. 3; Ex. 300: Meyer Rebuttal, p. 3.

²⁴ Ex. 100: Bolin Rebuttal, p. 8.

²⁵ Ex. 100: Bolin Rebuttal, p. 8.

savings associated with extraordinary events.²⁶ Natural disasters, such as destructive storms and floods, are often referenced as examples of such extraordinary events.²⁷ Such events may require unanticipated costs to enable utilities to provide safe and reliable service.²⁸

13. In addition to natural disasters,²⁹ the Commission has authorized accounting deferral for costs and savings associated with other types of unusual events. Such extraordinary items and events have included, for example, expenses associated with “Y2K” software problems,³⁰ heightened security costs required by the September 11 attacks,³¹ and significant cost savings arising from a plant closure.³²

14. A Commission decision to allow an AAO does not guarantee deferred items will be included in rates in a future ratemaking case.³³ In this case, Evergy seeks authority to accumulate and defer as a regulatory asset all extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic.³⁴ Such an AAO would allow Evergy to seek recovery of deferred costs in a future rate case proceeding.³⁵

15. The COVID-19 pandemic emerged in the United States and Missouri in

²⁶ Ex. 100: Bolin Rebuttal, p. 4, 8.

²⁷ Ex. 7: Ives Direct, p. 5; Ex. 100: Bolin Rebuttal, p. 4; Ex. 300: Meyer Rebuttal, p. 3.

²⁸ Ex. 100: Bolin Rebuttal, p. 8.

²⁹ For examples of contested proceedings involving natural disasters see, e.g., *In re Union Elec. Co. d/b/a Ameren Missouri for Issuance of an AAO, Report and Order*, File No. EU-2012-0027 (Nov. 26, 2013) (ice storm); *In re Application of S. Union Co. for Issuance of an Accounting Authority Order, Report and Order*, File No. GU-2011-0392 (Jan. 25, 2012) (Joplin tornado). Many other such AAO applications have been resolved by unanimous agreement and are not noted here.

³⁰ *In re the Application of Mo. Gas Energy for Issuance of an AAO Relating to Year 2000 Compliance, Report and Order*, File No. GO-99-258 (March 2, 2000).

³¹ *In re Joint Application of Missouri-American Water Co., St. Louis Water Co, and Jefferson City Water Works Co. for Accounting Authority Order Relating to Security Costs, Report and Order on Remand*, File No. WO-2002-273 (Nov. 10, 2004).

³² *Office of the Pub. Counsel v. KCP&L Greater Mo. Operations Co., Report and Order*, File No. EC-2019-0200 (Oct. 17, 2019).

³³ Ex. 4: Klote Direct, p. 10; Ex. 7: Ives Direct, p. 4; Ex. 100: Bolin Rebuttal, p. 5, 8; Ex. 300: Meyer Rebuttal, p. 22.

³⁴ Evergy Application, p. 1, 12-13.

³⁵ Evergy Application, p. 1, 13.

March 2020.³⁶

16. The term “COVID-19” may refer to both the virus and “coronavirus disease 2019,” the illness caused by the virus.³⁷ COVID-19 is a contagious disease that is transmitted from person to person.³⁸

17. Witness testimony and party filings in this case include numerous uncontested references to official action taken by federal, state and local authorities in response to the pandemic. In addition, testimony includes uncontested statements and observations about the consequences of the pandemic in regard to the economy and aspects of daily life. Many of these references are cited in the Commission’s findings.

18. In addition, the Commission observes that the emergence and scope of the COVID-19 pandemic is a matter of common knowledge, known to the Commission and all parties. As such, the Commission takes official notice of the emergence of the COVID-19 pandemic in March 2020 and the resulting recommendation and/or requirement by federal, state and local officials that individuals avoid close contact outside their households to avoid spreading the virus.

19. When direct testimony was filed in this case in July 2020, deaths caused by the virus in the United States totaled more than 129,000, with more than 1,000 deaths in Missouri.³⁹ As of the filing of reply briefs on December 14, 2020, COVID-19 deaths in the United States were approaching 300,000, including more than 4,500 in Missouri.⁴⁰

³⁶ Proclamation No. 9994, 85 Fed. Reg. 15,337 (March 13, 2020) cited by, e.g., *Position Statement of Evergy Missouri Metro and Evergy Missouri West*, p. 1 (Sept. 16, 2020); Ex. 7: Ives Direct, p. 6.

³⁷ COVID-19, SARS-CoV-2, Merriam-Webster.com (Dec. 29, 2020) (retrieved at <https://www.merriam-webster.com>).

³⁸ Executive Order 20-04 (March 18, 2020), cited by *Corrected Staff Report*, File No. AW-2020-0356 (Aug. 4, 2020). Executive orders are published at the website of the Missouri Secretary of State, <https://www.sos.mo.gov/library/reference/orders/2020>.

³⁹ Ex. 7: Ives Direct, p. 6 (citing U.S. Centers for Disease Control and Prevention (CDC) reports); Ex. 1000: Colton Rebuttal, p. 8 (citing Missouri state website at <https://mophep.map.arcgis.com>).

⁴⁰ *Reply Brief of Evergy Missouri Metro and Evergy Missouri West*, p. 4 (Dec. 14, 2020) (citing CDC reports at <https://covid.cdc.gov/covid-data-tracker>).

20. A presidential proclamation issued on March 13, 2020, announced that the spread of COVID-19, a “novel,” or “new” “coronavirus” constituted a “national emergency,” as of March 1, 2020.⁴¹ The proclamation cited the World Health Organization’s announcement that the COVID-19 outbreak constituted a “pandemic,” with rising rates of infection observed in locations around the world.⁴²

21. On March 13, 2020, Gov. Michael Parson issued an executive order confirming positive cases of COVID-19 in Missouri, warning of the “serious health risk” posed by the “highly contagious” disease and announcing a state of emergency.⁴³ In another order, the Governor authorized state agencies to take emergency action to preserve public health.⁴⁴

22. Pursuant to the Governor’s orders, in April 2020, the Missouri Department of Health and Senior Services issued orders instructing Missourians to practice social distancing and avoid leaving their homes for any purposes other than work, worship, or other basic needs.⁴⁵

23. The pandemic has resulted in “reduced economic activity,” and an economic recession⁴⁶ with varying impacts among different populations.⁴⁷ Stay-at-home orders, social distancing recommendations and reduced demand have resulted in lost

⁴¹ Proclamation No. 9994, 85 Fed. Reg. 15,337 (March 13, 2020).

⁴² Proclamation No. 9994, 85 Fed. Reg. 15,337 (referencing WHO director’s speech announcing COVID-19 “can be characterized as a pandemic”)(accessed Dec. 31, 2020, at <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>).

⁴³ Executive Order 20-02 (March 13, 2020).

⁴⁴ Executive Order 20-04 (March 18, 2020).

⁴⁵ Every Position Statement, p. 2 (citing April 3 and 27, 2020, Department of Health and Senior Services orders)(accessed Dec. 30, 2020, at <https://governor.mo.gov/priorities/stay-home-order>, and <https://governor.mo.gov/sites/gov/files/media/pdf/2020/04/Economic-Reopening-Phase-1.pdf>).

⁴⁶ Ex. 9: Ives Surrebuttal, p. 8, 26 and Attachment: DRI-2, *Short-Term Energy Outlook*, U.S. Energy Information Administration (August 2020); Ex. 202: Marke Rebuttal, p. 2, 6, 7, 8, 16, 18 (page citations to Marke Rebuttal are to the page numbers of testimony, as marked, unless otherwise noted); Ex. 200: Schallenberg Rebuttal, p. 9; Transcript Vol. 3 at p. 275-77.

⁴⁷ Ex. 1000: Colton Rebuttal, p. 11-17.

income for many workers and small businesses.⁴⁸

24. Missouri's unemployment rate increased to 14% in Spring 2020.⁴⁹ Bankruptcies in the United States reached a 10-year high in August 2020.⁵⁰ Also in August, OPC's chief economist advised the Commission that Missouri was experiencing "record levels of unemployment."⁵¹

25. Evergy's Missouri service area has been subject to statewide and local measures, including initial stay-at-home orders, the closure of schools and government offices and intermittent restrictions on businesses.⁵²

26. Major businesses and manufacturers in Evergy's service area shut down in Spring 2020, while K-12 schools and institutions of higher learning closed buildings and campuses.⁵³ Retail, sport and entertainment venues in the Kansas City area closed during stay-at-home orders.⁵⁴

27. Economic and other activity did not return to normal after initial stay-at-home orders expired.⁵⁵ Many schools in Evergy's service area did not reopen until after Labor Day.⁵⁶ During the pandemic, unemployment levels in the Kansas City area have ranged from 7% to 10.5%.⁵⁷

⁴⁸ Ex. 3: Caisley Direct, p. 5; Ex. 202: Marke Direct, p. 16.

⁴⁹ Evergy Application, ¶ 14.

⁵⁰ Ex. 202: Marke Rebuttal, p. 2, n.1 (citing *S&P Global* article).

⁵¹ Ex. 203: Marke Surrebuttal, Attachment: GM-S-1, Memorandum filed in File No. AW-2020-0356 (Aug. 31, 2020).

⁵² Ex. 7: Ives Direct, Schedule DRI-1: City of Kansas City, Missouri, Ninth Amended Order 20-01 (June 26, 2020); Evergy Application, ¶ 13 (citing City of Kansas City, Missouri, Fourth Amended Order 20-01 (April 30, 2020), City of St. Joseph, Fourth Amended Declaration and Order (April 30, 2020)); *Evergy Initial Post-Hearing Brief*, p. 4 n.7, Ex. A: City of Kansas City, Missouri, 11th Amended Order 20-01 (Nov. 16, 2020), Ex. B: Jackson County, Missouri, Amended Order (Nov. 18, 2020) (Brief filed Dec. 4, 2020). No objection has been lodged to Evergy's request the Commission take official notice of the November orders filed with its initial brief on Dec. 4, 2020. OPC's reply brief does not question the authenticity of the orders. *Reply Brief of the Office of Public Counsel*, p. 7 (Dec. 14, 2020).

⁵³ Evergy Application, ¶ 12.

⁵⁴ Evergy Application, ¶ 12.

⁵⁵ Ex. 7: Ives Direct, p. 7-9.

⁵⁶ Ex. 9: Ives Surrebuttal, p. 17.

⁵⁷ Ex. 9: Ives Surrebuttal, p. 25 (citing U.S. Bureau of Labor Statistics reports).

28. While reopened businesses alleviated some concerns in Fall 2020, a resurgence of cases and the possibility of future stay-at-home orders persisted.⁵⁸

29. Local governments in Evergy's service area continued to impose or tighten restrictions in response to the pandemic as of the date of hearing and during post-hearing briefing in this case.⁵⁹

30. The changes in daily life appear to have had significant financial and operating impacts on utilities.⁶⁰

31. Both the number of utility customers on payment plans and total past-due amounts owed by customers have increased statewide during the pandemic.⁶¹

32. In response to the "COVID-19 pandemic emergency," the Commission opened a working case in File No. AW-2020-0356 in May 2020 to address the anticipated increase in past-due accounts among vulnerable Missourians.⁶²

33. Evergy instituted a moratorium on non-payment disconnections on March 13, 2020, in response to the mandatory "quarantine," or stay-at-home orders, in Evergy's service area.⁶³ The moratorium continued through July 15, 2020.⁶⁴

34. In May 2020, Evergy pledged \$2.2 million in charitable contributions, divided between its Missouri and Kansas service areas, including assistance to nonprofit agencies and the Dollar-Aide program to assist customers with utility bills.⁶⁵ Evergy does

⁵⁸ Transcript Vol. 2 at p. 94-95.

⁵⁹ City of Kansas City, Missouri, 11th Amended Order 20-01 (requiring masks, imposing occupancy limits and restricting gatherings to 10 or fewer people) (Nov. 16, 2020) and Jackson County, Missouri, Amended Safer-At-Home Plan (restoring restrictions due to "uncontrolled spread of COVID-19") (Nov. 18, 2020), attached as exhibits to *Initial Post-Hearing Brief of Evergy Missouri Metro and Evergy Missouri West*, (Dec. 4, 2020).

⁶⁰ Ex. 100: Bolin Rebuttal, p. 5.

⁶¹ Transcript Vol. 3 at p. 288; *see also* Ex. 300: Meyer Rebuttal, p. 12.

⁶² *Order Opening a Working Case to Consider Best Practices*, File No. AW-2020-0356 (May 13, 2020).

⁶³ Ex. 3: Caisley Surrebuttal, p. 5; *see also Responses to Questions for Utilities*, File No. AW-2020-0356, Response to Q.1 (July 15, 2020) (Evergy Responses).

⁶⁴ Ex. 3: Caisley Surrebuttal, p. 5.

⁶⁵ Ex. 3: Caisley Surrebuttal, p. 11; Transcript Vol. 2 at p. 86-87; *see also* Evergy Responses, File No. AW-

not seek authority to defer these charitable contributions under an AAO and has stated it will not seek to recover these amounts in rates.⁶⁶

35. On May 22, 2020, in File No. EO-2020-0383, Evergy filed a verified application before the Commission regarding its customer programs related to COVID-19.⁶⁷ Citing “severe economic consequences” resulting from rising unemployment, Evergy advised the Commission that it had suspended disconnections for non-payment for all but its largest business customers, suspended the accumulation of interest and late-payment fees and offered flexible 12-month payment arrangements.⁶⁸

36. On May 28, 2020, the Commission issued an order in File No. EO-2020-0383 permitting implementation of Evergy’s proposal to extend its disconnection and late-fee moratorium until July 15, 2020; offer extended payment plans for commercial and industrial customers; provide bill credit incentives in arrearage payment plans from June through August 2020; and continue offering a 12-month payment plan.⁶⁹

37. Evergy observed that the number of customers owing past-due balances and the amount of arrearage owed grew steadily during the moratorium period.⁷⁰

38. As Evergy planned to end the disconnection moratorium, it enacted a plan for direct contact with customers most at risk of disconnection.⁷¹ The company attempted

2020-0356, Response Ex. 2.

⁶⁶ Ex. 9: Ives Surrebuttal, p. 30; Transcript Vol. 2 at p. 39; see also *Initial Post Hearing Brief of Evergy Missouri Metro and Evergy Missouri West*, p. 26 (Dec. 4, 2020).

⁶⁷ *Evergy Missouri Metro’s and Evergy Missouri West’s Application for Approval of COVID-19 Customer Programs and Motion for Expedited Treatment*, File No. EO-2020-0383, p. 4 (May 22, 2020) (Evergy Program Application).

⁶⁸ Evergy Program Application, p. 6-9. Evergy’s application also included a charitable program to provide relief to some residential customers. See Evergy Program Application, p. 7-8 (confidential version).

⁶⁹ *Order Permitting COVID-19 Customer Programs*, File No. EO-2020-0383 (May 28, 2020).

⁷⁰ Ex. 3: Caisley Surrebuttal, p. 5; Ex. 9: Ives Surrebuttal, p. 15.

⁷¹ Ex. 3: Caisley Surrebuttal, p. 10 (citing Evergy Responses, File No. AW-2020-0356, Response to Q.7, Response Ex. 3).

20,000 calls in a 13-day period.⁷² In addition, the company used email, mail and online and social media platforms in a new campaign to communicate with customers.⁷³

39. Evergy expedited the hiring and training of customer service representatives and increased call center remote capability from 20% to up to 99% remote capability.⁷⁴

40. The one-month plan encouraged customers to pay the balance due in that period by providing a bill of credit up to \$100.⁷⁵ The four-month plan provided a \$25 credit, with an additional credit of up to \$75 after final pay off.⁷⁶ The incentive plans were available to customers in June, July and August 2020.⁷⁷

41. Evergy began offering a 12-month payment plan without bill credit incentives to residential and small business customers in March 2020,⁷⁸ and Evergy has committed to offering that option through December 31, 2020.⁷⁹

42. Evergy also committed to waive late-payment fees and security deposit fees through December 31, 2020, and suspended non-payment, late payment and debt reporting to credit bureaus.⁸⁰

43. As of September 4, 2020, Evergy reported 68,000 customers were enrolled in pay arrangements, including 9,000 customers that received incentive bill credits.⁸¹

44. In addition to costs associated with a non-payment moratorium and customer communication, Evergy has incurred new and increased operations and

⁷² Ex. 3: Caisley Surrebuttal, p. 10; see *also* Evergy Responses, File No. AW-2020-0356, Response to Q.7, Response Ex. 3.

⁷³ Ex. 3: Caisley Surrebuttal, p. 10.

⁷⁴ Transcript Vol. 2 at p. 101.

⁷⁵ Ex. 3: Caisley Surrebuttal, p. 8.

⁷⁶ Ex. 3: Caisley Surrebuttal, p. 5.

⁷⁷ Ex. 3: Caisley Surrebuttal, p. 8.

⁷⁸ Evergy Responses, File No. AW-2020-0356, Response to Q. 5.

⁷⁹ Ex. 3: Caisley Surrebuttal, p. 8-9.

⁸⁰ Ex. 3, Caisley Surrebuttal, p. 7.

⁸¹ Ex. 3: Caisley Surrebuttal, p. 10-11.

maintenance expenses to protect employees and customers during the pandemic.⁸² These items include costs for additional cleaning of facilities and vehicles, personal protective equipment such as masks, gloves, sanitizing sprays, temperature testing, and plastic shields.⁸³

45. Evergy has also incurred costs to enable employees to work from home⁸⁴ and to prepare to sequester employees, should sequestration of essential employees become necessary.⁸⁵

46. The pandemic has resulted in cost savings for Evergy's operations.⁸⁶ Areas of savings include reduced travel costs, reduced office supply expenses and reduced utility expenses for Evergy offices.⁸⁷

47. Evergy estimated that after savings are included as an offset, costs incurred by Evergy in relation to the COVID-19 pandemic total about \$1.4 million to \$1.5 million for Evergy Missouri West and \$2 million for Evergy Missouri Metro through the end of September 2020.⁸⁸

48. The emergency of the COVID-19 pandemic and its prolonged and pervasive effects constitute an "extraordinary" event, akin to a damaging storm or other devastating disaster.⁸⁹

⁸² Ex. 4: Klote Direct, p. 6; Ex. 300: Meyer Rebuttal, p. 17.

⁸³ Ex. 4: Klote Direct, p. 5, 7; Ex. 7: Ives Surrebuttal, p. 4-5, Table 1; Ex. 300: Meyer Rebuttal, p. 17.

⁸⁴ Ex. 4: Klote Direct, p. 6-7; Ex. 300: Meyer Rebuttal, p. 16-17.

⁸⁵ Ex. 4: Klote Direct, p. 7; Ex. 300: Meyer Rebuttal, p. 17.

⁸⁶ Ex. 4: Klote Direct, p. 9; Ex. 7: Ives Direct, p. 14; Ex. 200: Schallenberg Rebuttal, Attachment: RES-R-5, Evergy response to data request re: savings; Evergy Application, ¶ 18.

⁸⁷ Ex. 4: Klote Direct, p. 9; Ex. 7: Ives Direct, p. 14; Ex. 200: Schallenberg Rebuttal, Attachment: RES-R-5, Evergy response to data request re: savings.

⁸⁸ Transcript Vol. 2 at p. 175-76.

⁸⁹ Ex. 100: Bolin Rebuttal, p. 6 ("The COVID-19 pandemic has affected life in the U.S. to a degree not previously seen from a disease outbreak in living memory"); Ex. 200: Schallenberg Rebuttal, p. 10 ("COVID-19 is an extraordinary event that has global effects"); Ex. 201: Murray Rebuttal, p. 3 ("While the COVID-19 pandemic may be an extraordinary event, a recession is not"); Ex. 202: Marke Rebuttal, p. 2 (Existing rates compensate Evergy for "extraordinary events"); Ex. 300: Meyer Rebuttal, p. 5 ("Much like a tornado, ice storm or other Act of God, the pandemic is an event that is abnormal or significantly different from that normally faced by Evergy. ... [T]his is an extraordinary situation"); Ex. 500: Roberto Rebuttal, p. 15 ("The COVID-19

49. The full consequences of the pandemic for Evergy are not yet known and cannot be predicted at this time.⁹⁰

Conclusions of Law

A. The Commission may take official notice to the same extent as the courts take judicial notice.⁹¹ Judicial notice permits the court and jury to rely upon known facts without additional proof because such facts constitute either “judicial knowledge” or “common knowledge.”⁹²

B. Missouri courts may take judicial notice of the acts of government officials, and may do so even when such acts are not referenced by the parties in a case.⁹³ In the context of the COVID-19 pandemic, courts have taken judicial notice of the emergence of the pandemic, established facts about disease risk and impacts and the government response.⁹⁴

C. Section 386.020(15) defines “electrical corporation” as including:

every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, ... owning, operating,

pandemic can be judged an extraordinary event”); Ex. 1000, Colton Rebuttal, p. 8 (“[T]he COVID-19 pandemic is obviously a critical public health crisis to the general population”).

⁹⁰ Ex. 3: Caisley Surrebuttal, p. 4 (“Evergy faces an unknown, and as yet indeterminable risk”); Ex. 4: Klote Direct, p. 4 (“It is unknown at this time how long the extraordinary impacts associated with COVID-19 will continue”); Ex. 9: Ives Surrebuttal, p. 15 (“[T]he effects that Evergy is experiencing will continue for some unknown period of time”); Ex. 100: Bolin Rebuttal, p. 6 (Ultimate financial impacts are “unknown” as the pandemic persists for an “indefinite period”); Ex. 200: Schallenberg Rebuttal, p. 11, 12 (“[T]he [c]ompanies don’t know the financial impacts of COVID-19 on their operations and will not know for the foreseeable future,” “[I]t [is] impossible to quantify the potential adverse financial impacts at this time”); Ex. 203: Marke Surrebuttal, Attachment: GM-S-1, Memorandum, File No. AW-2020-0356 (Aug. 31, 2020) (“[W]e are operating in a world of pronounced uncertainty”); Ex. 300: Meyer Rebuttal, p. 5 (“[T]he pandemic is ongoing and the duration is highly uncertain”).

⁹¹ Section 536.070(6).

⁹² *State v. Mullenix*, 73 S.W.3d 32, 37 (Mo. App. W.D. 2002).

⁹³ *Shannon Cty. ex rel. Winona Consol. Sch. Dist. v. Shannon Cty. Bank*, 86 S.W.2d 1070, 1072-73 (Mo. App. 1935)(referencing proclamations by the president and governor concerning bank closures).

⁹⁴ *Sinner v. Jaeger*, 467 F.Supp.3d 774, 779 n.2 (D. N.D. 2020); see also *Ware v. St. Louis City Justice Center*, No. 4:20-CV-01065-AGF, 2020 WL 7240455, at *1 n.1 (E.D. Mo. Dec. 9, 2020) (defining COVID-19 pandemic by reference to presidential proclamation). See also Fed. R. Evid. 201. The federal rule, while not operative in state courts, has been consulted to construe the nature of judicial notice. See *State v. Todd*, 183 S.W.3d 273, 277 (Mo. App. W.D. 2005), *State v. Spain*, 759 S.W.2d 871, 874 n.1 (Mo. App. E.D. 1988).

controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others[.]

D. Section 386.020(43) defines “public utility” as including:

every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heating company or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter[.]

E. Evergy Missouri Metro and Evergy Missouri West are “electrical corporations” and “public utilities” subject to regulation by the Commission pursuant to its authority under Chapters 386 and 393 of the Revised Statutes of Missouri.⁹⁵

F. The Commission’s authority under Section 393.140 includes the express power to “prescribe uniform methods of keeping accounts, records and books” to be observed by electrical corporations.⁹⁶ In addition, the Commission may order “forms of accounts, records and memoranda to be kept by such persons and corporations.”⁹⁷ The Commission may prescribe and order accounting methods and forms “in its discretion.”⁹⁸

G. Commission supervision of utility accounting includes the power, “after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited” by electrical corporations.⁹⁹

H. An AAO is a Commission order that authorizes a utility to account for

⁹⁵ Evergy Application, p. 1-2; *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm’n*, 858 S.W.2d 806, 807 (Mo. App. W.D. 1993)(Section 393.140 establishes Commission’s general powers); *see also* Section 386.250.

⁹⁶ Section 393.140(4).

⁹⁷ Section 393.140(4).

⁹⁸ Section 393.140(4).

⁹⁹ Section 393.140(8).

extraordinary items.¹⁰⁰ AAOs may be used to govern expense and savings items.¹⁰¹ An AAO creates a “balance-sheet account” to defer items to be considered in a utility’s next general rate case, even though such items may occur outside the “test” period used to set rates.¹⁰²

I. An AAO is not ratemaking and creates no expectation of recovery.¹⁰³ The Commission is not bound by the terms of an AAO in setting rates.¹⁰⁴

J. The Commission is vested with “substantial discretion in determining whether an AAO is appropriate in a particular case.”¹⁰⁵

K. Under the test applied by the Commission, an AAO may be appropriate when “events occur during a period which are extraordinary, unusual and unique, and not recurring.”¹⁰⁶ This has been described as “the Sibley standard.”¹⁰⁷

L. Consistent with the Commission’s authority to prescribe accounting standards, Commission Rule 20 CSR 4240-20.030(1) requires electrical corporations to keep accounts in conformity with the Uniform System of Accounts (USoA) Prescribed for Public Utilities and Licensees, as prescribed by the Federal Energy Regulatory Commission and published at 18 CFR Part 101 (1992).¹⁰⁸

¹⁰⁰ *Office of Pub. Counsel v. Every Mo. W., Inc.*, 609 S.W.3d 857, 860 (Mo. App. W.D. 2020)(citing *State ex rel. Aquila, Inc. v. Pub. Serv. Comm’n*, 326 S.W.3d 20, 27 (Mo. App. W.D. 2010)).

¹⁰¹ *Office of Pub. Counsel*, 609 S.W.3d at 868 (holding AAOs may be granted for savings items); *State ex rel. Aquila, Inc.*, 326 S.W.3d at 27 (describing use of AAO for expense items).

¹⁰² *Office of Pub. Counsel v. Every Mo. W., Inc.*, 609 S.W.3d at 860 (citing *Aquila, Inc.*, 326 S.W.3d at 27)).

¹⁰³ *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm’n*, 210 S.W.3d 330, 336 (Mo. App. W.D. 2006)(items deferred under an AAO are not automatically entitled to recovery in the next rate case because of the Commission’s obligation to consider all relevant factors)(citing *Mo. Gas Energy v. Pub. Serv. Comm’n*, 978 S.W.2d 434, 438 (Mo. App. W.D. 1998)).

¹⁰⁴ *Mo. Gas Energy*, 978 S.W.2d at 438.

¹⁰⁵ *Office of Pub. Counsel*, 609 S.W.3d at 866 (quoting *In re Kan. City Power & Light Co.’s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Pub. Serv. Comm’n*, 509 S.W.3d 757, 770 (Mo. App. W.D. 2016) (“KCP&L”)).

¹⁰⁶ *In re Mo. Pub. Serv., Report and Order*, File No. EO-91-358, p. 7 (Dec. 20, 1991)(“1991 Sibley Order”), *aff’d State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm’n*, 858 S.W.2d 806 (Mo. App. W.D. 1993).

¹⁰⁷ *Office of Pub. Counsel*, 609 S.W.3d at 868.

¹⁰⁸ See also *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm’n*, 858 S.W.2d at 808.

M. The Commission developed the “extraordinary, unusual, unique and not recurring” standard in reference to General Instruction 7 of the USoA.¹⁰⁹

N. The USoA provides that a utility’s income should generally reflect all items of profit and loss during the period.¹¹⁰ Certain items, however, may be eligible for special treatment. In the words of the instruction:

Those items related to the effects of events and transactions which have occurred during the current period and which are of unusual nature and infrequent occurrence shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future. ... To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary.¹¹¹

O. Although the Commission has consulted General Instruction 7 in its decisions regarding AAOs, a determination that “extraordinary” expenses are eligible for deferral accounting is a “policy decision” and “is not dictated by whether, in the abstract, the USoA provides a mechanism to defer costs.”¹¹²

P. In the 30 years since the Commission described what is now recognized as the “Sibley standard,”¹¹³ the Commission has at times found it useful to evaluate the scope of items potentially subject to deferral relative to company income. This issue has been described as an evaluation of “materiality.”¹¹⁴

¹⁰⁹ 1991 Sibley Order, p. 7-8.

¹¹⁰ “It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments as described in paragraph 7.1 and long-term debt as described in paragraph 17 below.” 18 CFR Ch. 1, Pt. 101, General Instruction 7 (1992).

¹¹¹ 18 CFR Ch. 1, Pt. 101, General Instruction 7.

¹¹² *KCP&L*, 509 S.W.3d at 769-70.

¹¹³ *Office of Pub. Counsel*, 609 S.W.3d at 868.

¹¹⁴ See, e.g., *Office of Pub. Counsel v. KCP&L Greater Mo. Operations Co., Report and Order*, File No. EC-2019-0200, p. 6, (Oct. 17, 2019) (“financial impact” of plant retirement, in excess of 5% of net income, among fact findings in support of order for AAO requiring use of regulatory liability for revenue derived from retired plant), *aff’d Office of Pub. Counsel*, 609 S.W.3d 857 (Mo. App. W.D. 2020); *In re Application of Spire Missouri Inc. for AAO Concerning Comm’n Assessment*, File No. GU-2019-0011, p. 11, 14-17 (March 20, 2019)(citing

Q. “Materiality” was considered by the Commission in the order cited as the source of the “Sibley standard.” In that case, the Commission observed that “whether the event has a material or substantial effect on a utility’s earnings is also important, but not a primary concern.”¹¹⁵

R. Other Commission decisions have evaluated and granted AAOs without requiring demonstration of a specific degree of financial impact for the company.¹¹⁶

S. While the Commission may consult its prior decisions, the Commission is not bound by *stare decisis*.¹¹⁷ A Commission decision may differ from previous orders so long as the decision is otherwise lawful and reasonable.¹¹⁸

Decision

Evergy seeks an order authorizing the use of a regulatory asset to accumulate and defer all extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic. An AAO will allow Evergy to seek recovery of such costs, offset by any savings,

5% standard as “yardstick” for materiality of cost proposed for deferral treatment; finding assessment amounting to 1% did not qualify for an AAO because the increased assessment was not unusual, infrequent or extraordinary); *In re Application of Missouri-American Water Co. for AAO, Report and Order*, File No. WU-2017-0296, p. 7, 9 (Nov. 30, 2017)(finding Commission has considered “materiality” of costs, under a 5% standard, to determine whether costs are extraordinary); *In re Joint Application of Missouri-American Water Co., St. Louis Water Co., and Jefferson City Water Works Co. for AAO, Report and Order on Remand*, File No. WO-2002-273, p. 34 (Nov. 10, 2004)(observing Commission must consider the “magnitude of the item proposed for deferral” and that such “materiality” is one factor considered). Orders approving unanimous agreements are not addressed.

¹¹⁵ 1991 Sibley Order, p. 8.

¹¹⁶ *In re Application of S. Union Co. for Issuance of AAO Relating to its Nat. Gas Operations, Report and Order*, File No. GU-2011-0392, p. 14-15 (Jan. 25, 2012)(finding specific expenditure threshold need not be met to establish “significant effect” justifying AAO after tornado, noting restoration costs continued at the time of decision); *In re the Application of Mo. Gas Energy for Issuance of an AAO Relating to Year 2000 Compliance, Report and Order*, File No. GO-99-258, p. 4-6 (March 2, 2000)(finding expenses associated with “Y2K” compliance need not be determined to be “material” to allow deferral when “both the event causing the expenditures and the expenditures themselves are extraordinary.”). Orders approving unanimous agreements are not addressed.

¹¹⁷ *State ex rel. GTE N., Inc. v. Pub. Serv. Comm’n*, 835 S.W.2d 356, 371 (Mo. App. W.D. 1992) (citing *State ex rel. Churchill Truck Lines, Inc. v. Pub. Serv. Comm’n*, 734 S.W.2d 586, 593 (Mo. App. 1987)).

¹¹⁸ *State ex rel. Aquila Inc.*, 326 S.W.3d at 32.

in a future rate case proceeding. Evergy's rates are frozen through December 6, 2021, and Evergy intends to file general rate cases in January 2022.

The first issue posed by Evergy's application is whether costs and financial impacts resulting from the COVID-19 pandemic are eligible for treatment under an AAO. Deferral accounting is an exception to ordinary accounting standards, which generally require that costs be accounted for when incurred. Some situations, however, justify a deviation from ordinary accounting rules, in particular when the Commission determines certain costs and/or savings should be deferred for consideration in a future proceeding. The Commission's established standard provides that an AAO may be appropriate when events occur that are extraordinary, unusual and unique, and not recurring.

The Commission finds the COVID-19 pandemic is such an extraordinary, unusual and unique and not recurring event, which has had a demonstrated impact on Evergy's operations. Therefore, the Commission finds costs and savings directly associated with the pandemic are eligible for deferral under an AAO so that they can be considered in a future rate case.

COVID-19 is "extraordinary" in many ways. Attempts to deter spread of the virus from person-to-person have resulted in pervasive disruption of daily life throughout the country and the state, and Evergy's service area is no exception. Few institutions or businesses were prepared to cope with the sudden need to separate people and adapt to remote work arrangements. The disruption has resulted in reduced income and lost jobs, and the economic impacts of the pandemic have been profound for many.

Evidence on the record in this case demonstrates that Evergy responded to the initial stay-at-home orders by temporarily ending disconnections and offering new programs to help customers pay past-due bills and maintain service. Like most other employers at this

time, Evergy also incurred costs to cope directly with the threat of the virus, enabling employees to work remotely and preparing essential workers to work amid a pandemic. At the same time, remote work and limited travel have resulted in savings for the company. As of the end of September 2020, the collective impact of the COVID-19 pandemic for the companies was estimated to be in the range of about \$3.5 million after savings.¹¹⁹

In addition to actual financial consequences, uncontested facts on the record demonstrate that the COVID-19 pandemic has required Evergy to act in unprecedented ways to protect its employees and customers and cope with increasing arrearages in an uncertain environment. The circumstances are unusual and have demanded that the company act quickly to adapt its workforce, train employees and initiate new programs for customers.

OPC proposes the Commission should not allow an AAO at this time on the theory that Evergy has failed to show a significant or “material” financial impact from the pandemic. It argues that the Commission should deny Evergy’s application because financial impacts appear to be less than 5% of net income. This “materiality” standard, OPC contends, is required by the USoA and the Commission’s application of the USoA in previous cases.

The Commission is not able to adopt OPC’s view because it does not comport with the Commission’s wide discretion to determine when an AAO is appropriate under a given set of facts. As provided by Section 393.140, RSMo, the Commission has authority, in its discretion, to prescribe the methods used by electrical corporations to keep accounts, records and books.¹²⁰ The Commission is not bound by *stare decisis*¹²¹ and determines each AAO application on its distinct facts. Even if the Commission were bound by its prior

¹¹⁹ This observation is made for the limited purpose of determining whether an AAO is appropriate at this time and should not be applied or relied upon for any other purpose.

¹²⁰ See also Section 386.250.

¹²¹ *State ex rel. GTE N.*, 835 S.W.2d at 371.

decisions, the Commission's AAO decisions do not align with the rigid standard OPC proposes. In fact, the Commission has repeatedly rejected imposition of narrow standards and maintained its practice of case-by-case review. In determining whether an AAO is warranted to address "extraordinary" circumstances, the Commission has consistently regarded financial impact as relevant but not dispositive.

Even if the Commission's previous decisions indicated strict adherence to a showing of financial impact, requiring such a showing in this case is impractical. The pandemic has caused profound uncertainty. Like a destructive storm, COVID-19 arrived suddenly. But unlike a storm, it has not passed. Ten months after the onset of the pandemic, the scope of damage remains unclear and it is not known when conditions might return to "normal" or how long it will take for communities to recover. The full financial impact of the pandemic is not yet known and cannot be known at this time. Materiality can be determined in a future rate case. The limited exceptions to ordinary accounting practices provided by this order are reasonable given the uncertainty caused by COVID-19, and the Commission will grant in part Evergy's application for an accounting authority order.

B. What items should be included in an accounting authority order?

Findings of Fact¹²²

50. Evergy's application sought deferral accounting for its "actual reasonable and prudently incurred costs related to the COVID-19 pandemic," including (1) "new or incremental operating and maintenance expense related to protecting employees and customers and plan[ning] for and communicat[ing] about impacts of the pandemic"; (2) "costs related to preparing for and any actual sequestration of employees"; (3) "costs

¹²² Issues are divided for purposes of organization and clarity. Findings of fact are cumulative; each set of findings incorporates findings stated for previous issues.

related to new assistance programs implemented to aid customers with payment of electric bills during the pandemic”; and (4) “increased bad debt expense to the extent [bad debt] exceed[s] levels included in the cost of service.”¹²³

51. In addition, Evergy’s application sought deferral accounting for carrying costs and “lost revenues related to the COVID-19 pandemic.”¹²⁴

52. Evergy’s application proposed that cost items should be identified, tracked, accumulated and deferred in a regulatory asset, to be offset by “costs avoided related to COVID-19.”¹²⁵ Savings items, or “offsets,” identified in Evergy’s application include: reduced travel costs, reduced utility and “other costs” at Evergy offices, as well as “any related increase in residential revenues that occurs as a result of more people working from home.”¹²⁶

53. Since the onset of the pandemic, Evergy has incurred costs to protect employees at work.¹²⁷ These costs include cleaning supplies, personal protective equipment, temperature testing and preparations for the potential need to sequester employees during a quarantine to continue to provide service.¹²⁸

54. In response to stay-at-home orders, Evergy has incurred costs to enable employees to work from home, including hardware, software and internet-access costs.¹²⁹

55. Evergy’s director of regulatory affairs testified that through September 2020, costs for the incentive payment plans offered in June, July and August 2020 totaled \$38,199 for Evergy Missouri Metro and \$31,028 for Evergy Missouri West, not including costs for

¹²³ Evergy Application, ¶ 36 (renumbered for clarity).

¹²⁴ Evergy Application, ¶ 36.

¹²⁵ Evergy Application, ¶ 36.

¹²⁶ Evergy Application, ¶¶ 36, 38.

¹²⁷ Ex. 4: Klote Direct, p. 7.

¹²⁸ Ex. 4: Klote Direct, p. 7; see also Ex. 300: Meyer Rebuttal, p. 17.

¹²⁹ Ex. 4: Klote Direct, p. 6-7.

customer communications and outreach associated with the plans.¹³⁰

56. With the introduction of a disconnection moratorium coinciding with stay-at-home orders in March 2020, Evergy observed increasing numbers of customers with past-due balances and a corresponding increase in the amount of arrears owed.¹³¹ The moratorium included waiver of all charges, fees and deposits typically associated with non-payment or late payment of electricity bills.¹³²

57. Uncollectible expense, or “bad debt,” is among the types of costs that are considered when rates are established.¹³³ In addition, rates include late fees, charges and deposits as revenue associated with late payments.¹³⁴ The cost of service determined in Evergy’s most recent rate cases includes consideration of these categories of costs and revenues.¹³⁵

58. Evergy, Staff, MIEC, MEGC and Sierra Club filed a *Non-Unanimous Stipulation and Agreement* (Agreement) to resolve Evergy’s application for an AAO.¹³⁶ The Agreement specifies proposed cost items that the signatories ask the Commission to approve for deferral under an AAO, as well as savings items the signatories ask the Commission to require as an offset to any such deferred costs.¹³⁷

59. At hearing in this case on November 12-13, 2020, Evergy, along with the other signatories to the Agreement, asked the Commission to issue an AAO consistent with the terms of the Agreement.¹³⁸ The Agreement proposes that Evergy be authorized to defer

¹³⁰ Transcript Vol. 2 at p. 150-51.

¹³¹ Ex. 3: Caisley Surrebuttal, p. 5; Ex. 6C: Ives Direct, p. 9.

¹³² Ex. 3: Caisley Surrebuttal, p. 4.

¹³³ Ex. 300: Meyer Rebuttal, p. 12-13;

¹³⁴ Ex. 300: Meyer Rebuttal, p. 13.

¹³⁵ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶¶4; see also Transcript Vol. 2 at p. 41,; Transcript Vol. 3 at p. 309.

¹³⁶ Ex. 1: *Non-Unanimous Stipulation and Agreement*.

¹³⁷ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶¶2, 7.

¹³⁸ Transcript Vol. 2 at p. 142-43; Evergy Initial Brief, p. 32 (Dec. 4, 2020).

only new or incremental costs specifically identified by the Agreement, to be offset by specified savings, or “cost reductions,” caused by the COVID-19 pandemic.¹³⁹

60. Consistent with the terms of the Agreement, the signatories request the Commission issue an order that authorizes Evergy “to track and defer into a regulatory asset the following incremental costs caused by the COVID-19 pandemic:”

- (a) new or incremental operating and maintenance expense related to protecting employees and customers – eligible costs are the following:
 - (i) additional cleaning of facilities and vehicles;
 - (ii) personal protective equipment (i.e., masks, gloves, sanitizing sprays, temperature testing, plexiglass shields, etc.);
 - (iii) technology upgrades which include equipment directly related to enabling employees to work from home and associated contract labor. Such costs shall not extend to costs normally incurred by the employee including internet connectivity at the home; and
 - (iv) employee sequestration preparation costs (and employee sequestration costs if that becomes necessary).
- (b) increased bad debt expense due to COVID-19 to the extent total bad debt expense exceeds levels included in the cost of service;
- (c) Costs related to any assistance programs implemented to aid customers with payment of electric bills during the pandemic except for the contributions by the Company addressed in paragraph 17 and the program designated as confidential in the Company’s filing in Case No. EO-2020-0383; and
- (d) Waived fee revenues up to the amount included in rates related to waived late payment fees and waived reconnection fees.¹⁴⁰

61. Consistent with the terms of the Agreement, the signatories propose the Commission should provide for specific items to offset deferred costs under the AAO, as follows:

The Signatories agree that operating cost reductions caused by the

¹³⁹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶¶ 2, 7, 13.

¹⁴⁰ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶2.

COVID-19 pandemic shall be tracked and netted against the deferred costs recorded as a regulatory asset. These cost reductions will be identified and tracked separately and included in the reporting process prescribed in paragraph 9 below. These deferred COVID-19 operating cost reductions will be tracked so long as the total expense in each cost category is below the level included in rates in the Company's last rate cases. Operating cost reductions related to the COVID-19 pandemic will be reported separately for Evergy Missouri Metro and Evergy Missouri West. COVID-19 operating cost reductions to be tracked and netted against deferred costs include:

- (a) Travel expense (hotels, airfare, meals, entertainment);
- (b) Training expense;
- (c) Office supplies;
- (d) Utility service provided to facilities leased or owned by the Company;
- (e) Staffing reductions due to the COVID-19 pandemic and excluding staffing reductions instituted in furtherance of merger savings and integration plans or in furtherance of the Sustainability Transformation Plan;
- (f) Reduced employee compensation and benefits due to the COVID-19 pandemic and excluding reductions in furtherance of merger savings and integration plans or in furtherance of the Sustainability Plan;
- (g) Any income tax benefits from taxable net operating losses that are carried back to previous tax years per the 2020 Coronavirus Aid, Relief and Economic Security ("CARES") Act; and
- (h) Any direct federal or state assistance the Company receives, or any federal or state assistance received by Evergy, Inc., properly allocable to Evergy Missouri Metro and/or Evergy Missouri West, related to COVID-19 relief.¹⁴¹

62. The Agreement proposes that the Commission should limit deferral for certain items based on the amounts established in the most recent rate case proceedings and establishes the specific uncollectibles or "bad debt" expense, late payment fees and service reconnection charges included in the most recent rate cases.¹⁴² Those figures are as follows: \$5,552,581 (Evergy Missouri Metro) and \$2,894,841 (Evergy Missouri West) for

¹⁴¹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶7.

¹⁴² Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶¶ 2, 4.

bad debt; \$1,909,451 (Evergy Missouri Metro) and \$725,422 (Evergy Missouri West) for late payment fees, and \$362,605 (Evergy Missouri Metro) and \$271,385 (Evergy Missouri West) for service reconnection charges.¹⁴³ A witness for MECG/MIEC verified the accuracy of the figures stated in paragraph 4 of the Agreement.¹⁴⁴

63. The Agreement proposes that Evergy be required to track all costs separately for Evergy Missouri Metro and Evergy Missouri West¹⁴⁵ and report all cost reductions separately for each company.¹⁴⁶

64. Evergy's director of regulatory affairs testified that allocation principles should be followed in the accumulation of deferred costs, and that the company would follow allocation principles established in company cost allocation manuals.¹⁴⁷

65. Evergy may realize savings from the pandemic through its parent company or directly at the operating company level.¹⁴⁸

66. OPC's chief economist suggests the Commission require Evergy to offset deferred costs with additional savings items, including: "[u]se of short-term debt" at lower interest rates; "[d]eferral of capital projects that will not affect reliability and safety" and "[r]educed allocation of costs from shared services or parent organizations due to cost reductions experienced at those entities."¹⁴⁹

67. OPC's chief economist also suggests savings in "income and revenue taxes," as well as "reduced salaries and wages," "reduced incentive pay or employee bonuses," and any reduced "chief executive officer" and "named executive officer" compensation.¹⁵⁰

¹⁴³ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶4.

¹⁴⁴ Ex. 300: Meyer Rebuttal, p. 14, 17.

¹⁴⁵ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶3.

¹⁴⁶ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶7.

¹⁴⁷ Ex. 5: Klote Surrebuttal, p. 18.

¹⁴⁸ Ex. 300: Meyer Rebuttal, p. 19-20.

¹⁴⁹ Ex. 202: Marke Rebuttal, p. 11.

¹⁵⁰ Ex. 202: Marke Rebuttal, p. 19.

68. The Agreement does not allow for deferral of lost revenues,¹⁵¹ and Evergy has withdrawn the issue and agrees it is no longer requesting deferral of lost revenues or lost fixed costs.¹⁵²

69. Consistent with the Agreement,¹⁵³ Evergy has withdrawn its request regarding carrying costs and agrees treatment of carrying costs should be determined in the companies' next general rate case proceedings.¹⁵⁴

Conclusions of Law

There are no additional conclusions of law for this issue.

Decision

The Commission will grant an AAO to allow Evergy to defer, in a regulatory asset, specified costs associated with the COVID-19 pandemic netted against specified savings, also associated with the pandemic. The Commission finds the categories of costs proposed for deferral are closely related to the pandemic as they are expenses incurred to protect employees and offer some assistance to customers during the pandemic.

Because the purpose of the AAO is to capture and reflect the financial impact of the COVID-19 pandemic for consideration in a future rate case, the Commission finds it is appropriate to adopt the Agreement's provisions to determine excess uncollectibles or "bad debt" expense and depressed late payment fee and service reconnection charge revenue items by reference to amounts established in the most recent rate cases. The Commission finds the Agreement's proposed limitation of deferral of uncollectibles expense, late payment fees and service reconnection charges is appropriate, because rates incorporate anticipated amounts of "bad debt," as well as anticipated income from late payment fees

¹⁵¹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶6.

¹⁵² Transcript Vol. 2 at p. 144.

¹⁵³ Transcript Vol. 2 at p. 42; Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶5.

¹⁵⁴ Transcript Vol. 2 at p. 156, 186-87; Evergy Initial Brief, p. 15 (Dec. 4, 2020).

and service reconnection charges. Based on testimony that the amounts stated in the Agreement derive from the most recent rate proceeding and have been verified, the Commission will approve the figures stated in paragraph 4 of the Agreement to be applied in compliance with this order.

The Commission's order will adopt the cost and savings items specified by the Agreement. The Commission finds the record demonstrates Evergy has incurred, or may be reasonably expected to incur, each of the costs identified by the Agreement. Likewise, the Commission finds the savings items identified by the Agreement reasonably reflect the types of savings likely to be derived from the circumstances of the pandemic and finds Evergy's agreement to those items provides additional support for application of those savings items as offsets under an AAO.

The Commission finds there is inadequate information on the record to evaluate OPC's recommendations regarding taxes, the cost of debt and capital projects because those proposals were made in summary fashion. Savings arising from reduced labor costs in the pandemic appear to be addressed by the Agreement. However, Evergy's potential savings from reduced allocation of costs from shared services or parent organizations should be addressed, as OPC recommends. Based on the corporate structure in which Evergy Missouri West and Evergy Missouri Metro operate, the Commission finds such additional potential savings should be accounted for as an offset to any costs deferred under an AAO.

The Commission finds savings should be netted against a regulatory asset as Evergy requests, rather than accumulated as a regulatory liability. MEEG and MIEC are the only parties that proposed the use of a regulatory liability, on the basis that such an

arrangement would be preferable for purposes of audit and a future rate case.¹⁵⁵ However, both parties are signatories to the Agreement and now ask the Commission to issue an order consistent with its terms.¹⁵⁶

The accounting and reporting requirements under the Agreement, discussed in Issue D, will allow Evergy and the Commission to track savings items against costs without the use of a regulatory liability. Therefore, the Commission will approve the offset of savings items against a regulatory asset, as proposed by the Agreement.

In a related issue, the Commission will approve the requirement that costs and savings be tracked separately for Evergy Missouri West and Evergy Missouri Metro. As advocated by MCEG and MIEC,¹⁵⁷ and because both companies are subsidiaries of Evergy, Inc., and Evergy Missouri Metro operates in two states, the Commission will order that costs and savings be allocated correctly, taking into consideration additional Evergy, Inc. subsidiaries and in accord with the allocation in Evergy Missouri Metro's most recent rate proceeding.¹⁵⁸

Evergy has withdrawn its requests to defer lost revenue or lost fixed costs. Likewise, Evergy no longer requests that an AAO address carrying costs. Therefore, those items will be excluded from an AAO.

C. What should be the duration of an accounting authority order?

Findings of Fact

70. It is not known how long the COVID-19 pandemic or the consequences of the pandemic will continue.¹⁵⁹

¹⁵⁵ Ex. 300: Meyer Rebuttal, p. 19.

¹⁵⁶ Transcript Vol. 2 at p. 247; *Initial Brief of Midwest Energy Consumers Group*, p. 3 (Dec. 4, 2020); *Missouri Industrial Energy Consumers' Initial Brief*, p. 3-4 (Dec. 4, 2020).

¹⁵⁷ Ex. 300: Meyer Rebuttal, p. 22-23.

¹⁵⁸ File No. ER-2018-0145.

¹⁵⁹ Ex. 7: Ives Direct, p. 14; Ex. 3: Caisley Surrebuttal, p. 4; Ex. 4: Klote Direct, p. 4; Ex. 9: Ives Surrebuttal,

71. In the general rate proceeding it plans to file in January 2022, Evergy anticipates a “test year” consisting of the 12-month period of July 1, 2020, to June 30, 2021,¹⁶⁰ with a true-up period ending June 30, 2022.¹⁶¹

72. Evergy’s application sought an AAO authorizing deferrals beginning on March 1, 2020.¹⁶² Evergy proposed the Commission should not impose a “sunset” date for any COVID-19 AAO and instead authorize deferral at least until January 10, 2022, based on the company’s intent to file a rate case in January 2022.¹⁶³

73. The parties to the Agreement propose the Commission approve an AAO beginning on March 1, 2020,¹⁶⁴ and ending on March 31, 2021, with an extension under specified terms for uncollectibles expense.¹⁶⁵

74. Under the Agreement, the period of deferral for uncollectible expense may be extended for up to two three-month periods, from April 1, 2021, through September 30, 2021, under specified circumstances.¹⁶⁶

75. The extended deferral period proposed under the Agreement would apply only to uncollectible expense and would not include offset from savings items as proposed in the initial deferral period through March 31, 2021.¹⁶⁷

76. The proposed extended deferral period would compare the uncollectibles expense determined in each company’s last rate case with actual net write-offs incurred during the quarter, potentially resulting in either an additional amount deferred to the

p. 15; Ex. 100: Bolin Rebuttal, p. 6; Ex. 200: Schallenberg Rebuttal, p. 11, 12; Ex. 300: Meyer Rebuttal, p. 5.

¹⁶⁰ Ex. 7: Ives Direct, p. 14.

¹⁶¹ Ex. 5: Klote Surrebuttal, p. 14.

¹⁶² Evergy Application, ¶ 36.

¹⁶³ Ex. 5: Klote Surrebuttal, p. 4-7.

¹⁶⁴ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶ 2; see also Ex. 100: Bolin Rebuttal, p. 6.

¹⁶⁵ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶ 8.

¹⁶⁶ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶ 8; Transcript Vol. 2 at p. 43, 128-29, 171, 207-8, 246-47.

¹⁶⁷ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶8; Transcript Vol. 3 at p. 42-43, 128-30.

regulatory asset or an offset.¹⁶⁸

77. Deferral would be allowed for net write-offs in excess of 10% of the uncollectible expense for that quarter as determined in the last rate case.¹⁶⁹ Conversely, an offset to the regulatory asset would be allowed to the extent that uncollectibles expense for the quarter as determined in the last rate case exceeded net write-offs for the quarter by 10%.¹⁷⁰

78. Under the Agreement, the duration of the AAO, including the potentially extended period for uncollectibles expense, could be further extended by Commission order.¹⁷¹

79. On October 21, 2020, the Commission approved Spire Missouri Inc.'s application for an AAO to govern extraordinary costs and financial impacts related to the COVID-19 pandemic, pursuant to a unanimous amended agreement.¹⁷² The order establishes a deferral period of March 1, 2020, through March 31, 2021.¹⁷³

80. On October 28, 2020, the Commission approved Missouri-American Water Company's application for an AAO to govern all extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic.¹⁷⁴ No party in that case objected to the non-unanimous agreement.¹⁷⁵ The order establishes a deferral period of March 1, 2020, through March 31, 2021.¹⁷⁶

¹⁶⁸ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶¶8(a),(b),(c), and Exhibit 1 attached to Agreement; Transcript Vol. 2 at p. 207.

¹⁶⁹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶8(b); Transcript Vol. 2 at p. 208, 246-47.

¹⁷⁰ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶8(c); Transcript Vol. 2 at p. 208, 246-47.

¹⁷¹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶8, ¶8(a).

¹⁷² *Order Approving Amended Unanimous Stipulation and Agreement*, File No. GU-2020-0376 (Oct. 21, 2020). The Commission has taken official notice of File Nos. GU-2020-0375 and WU-2020-0417. Transcript Vol. 3 at p. 319.

¹⁷³ *Order Approving Amended Unanimous Stipulation and Agreement*, File No. GU-2020-0376, Appendix A: *Amended Unanimous Stipulation and Agreement*, ¶¶2, 8.

¹⁷⁴ *Order Approving Non-Unanimous Stipulation and Agreement*, File No. WU-2020-0417 (Oct. 28, 2020).

¹⁷⁵ *Order Approving Non-Unanimous Stipulation and Agreement*, File No. WU-2020-0417, p. 1-2.

¹⁷⁶ *Order Approving Non-Unanimous Stipulation and Agreement*, File No. WU-2020-0417, Appendix A:

Conclusions of Law

There are no additional conclusions of law for this issue.

Decision

Although Evergy initially requested that the Commission authorize deferral accounting through the filing of the companies' next rate case, the Agreement's proposed term establishes a deferral period of March 1, 2020, through March 31, 2021, with the possible exception of uncollectibles expense.

The record supports allowing deferral of costs beginning on March 1, 2020, which coincides with the date of the pandemic's onset as stated by the presidential proclamation that initiated state and local interventions to address COVID-19. Determining an appropriate end date for an AAO is more challenging. All parties acknowledge the duration of the pandemic cannot be predicted.

The Commission will not adopt the potential extension for uncollectibles expense. The extension isolates one possible consequence of the pandemic – increased “bad debt” – and treats that issue separately with reference only to bad debt write-offs in periods before the pandemic. However, the record demonstrates the pandemic has caused various financial impacts, some of which may result in savings for the company. Therefore, the Commission finds the proposed extension fails to properly account for the range of financial consequences of the pandemic for Evergy. The Commission's order will not include such an extension.

With the bad debt extension excluded, the Commission finds deferral through March 31, 2021, is reasonable under the circumstances. Such an order is largely consistent with the Agreement and aligns with the term established in the prior orders issued by the

Nonunanimous Stipulation and Agreement, ¶¶4, 8.

Commission to govern deferral accounting for COVID-19. Although the Commission's approval of those agreements is not controlling in this case, the Commission finds that it is reasonable to order the same treatment given to other utilities to address similar facts and circumstances arising from the pandemic.

The Commission will evaluate any application to extend the AAO based on the circumstances at that time.

D. Should an accounting authority order require Evergy to make reports to the Commission?

Findings of Fact

81. Evergy's application proposed an annual report setting forth its "costs incurred and revenues lost relating to COVID-19 during the preceding calendar year."¹⁷⁷ Evergy proposed such reports would continue no later than May 1 for each year until each company's next general rate case filing.¹⁷⁸

82. The signatories to the Agreement propose Evergy file an initial report and updated quarterly reports to "identify all cost increases and decreases related to the pandemic" to date.¹⁷⁹

83. In addition to specifying all cost increases and decreases related to the pandemic, the proposed initial and quarterly reports are required to include the following information:

- (a) The number of customers, by customer class;
- (b) The number of customers, by customer class, voluntarily disconnected by month;
- (c) The number of customers, by customer class, involuntarily disconnected by month;

¹⁷⁷ Evergy Application, p. 13.

¹⁷⁸ Evergy Application, p. 13; Ex. 9: Ives Surrebuttal, p. 37.

¹⁷⁹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶9.

- (d) Number of utility reconnections, reported by month;
- (e) Number of customers on a utility payment plan, by payment plan type (including budget billing), by month;
- (f) Total dollar amount of arrearages by customer class;
- (g) The number of accounts in arrearage by customer class in increments (e.g., less than \$100, \$101 to \$250, \$251 to \$500, \$501 to \$750, \$751 to \$1000, \$1001 to \$1500, \$1501 to \$2000, \$2000 to \$2500, \$2501 to \$3000, and \$3000+) by month;
- (h) The range of arrearage amounts by customer class (i.e., current high and low dollar amount) and the mean average;
- (i) A quantification of total past-due customer arrearages and number of customers experiencing arrearages, that are thirty, sixty, and ninety days overdue; and
- (j) Total dollar amount of accounts receivable balances, including accounts receivable balances that are subject to payment plan agreements, by customer class.¹⁸⁰

84. Under the Agreement, the initial quarterly report is required no later than two weeks after an AAO is issued and should identify cost categories to be tracked and deferred from March 1 through June 30, 2020.¹⁸¹

85. The Agreement proposes that quarterly reports, updating the initial report, be required within 45 days of the end of each quarter.¹⁸² As proposed, the reports are required “until the conclusion of the update or true-up period, if applicable, in [Evergy’s] next general rate case.”¹⁸³

86. Arrearage amounts proposed to be reported are defined to include only past-due bills.¹⁸⁴ Costs are to be “tracked by month” in the initial and quarterly reports.¹⁸⁵

87. No party opposes the reporting requirements in the Agreement, although

¹⁸⁰ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶9.

¹⁸¹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶9.

¹⁸² Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶12.

¹⁸³ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶12.

¹⁸⁴ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶10.

¹⁸⁵ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶11.

OPC and NHT ask the Commission to impose additional reporting requirements.¹⁸⁶

88. The Agreement proposes Evergy provide signatories to the Agreement copies of policies and procedures to govern how monthly deferral amounts are to be calculated for each category.¹⁸⁷ Such policies and procedures are required to include a proposed monthly reporting format.¹⁸⁸

89. While recommending that the reporting required by the Agreement is consistent with transparency and accurate recording,¹⁸⁹ OPC proposes additional reporting categories.¹⁹⁰

90. OPC recommends reporting of (1) “detailed identification of monthly weather normalized revenue by customer class”; (2) “detailed identification of revenue changes by customer class”; (3) the “impact COVID-19 has had on Evergy’s capital expenditure program”; (4) any “issuances of short-term and long-term debt” and the “all-in costs at which financing was issued”; (5) “embedded cost of short-term debt; (6) “updated and most recent credit metrics”; (6) correspondence with and reports by credit rating agencies and equity analysts; (7) listed reductions and cost savings to date made to capital, operational and discretionary expenses to minimize cost impacts to ratepayers; and (8) a list of COVID-19 related expenses and their respective amount incurred to ensure safe and reliable service.¹⁹¹

91. NHT proposes Evergy be required to collect on a monthly basis various

¹⁸⁶ Ex. 1000: Colton Rebuttal, p. 114-16; *Statement of Positions of the National Housing Trust*, p. 5-6 (Sept. 16, 2020); *Initial Post-Hearing Brief of the Office of the Public Counsel*, p. 22 (Dec. 4, 2020).

¹⁸⁷ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶13.

¹⁸⁸ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶13.

¹⁸⁹ *Initial Post-Hearing Brief of the Office of the Public Counsel*, p. 22 (Dec. 4, 2020); see also Ex. 202: Marke Rebuttal, p. 19-20 (recommending reporting that includes all but one of the 10 lettered reporting provisions listed in the Agreement).

¹⁹⁰ Ex. 202: Marke Rebuttal, p. 11-12.

¹⁹¹ Ex. 202: Marke Rebuttal, p. 11-12.

additional categories of information, which it proposes could be reported at whatever intervals the Commission prefers.¹⁹² Reporting categories suggested by NHT that do not appear to be duplicated by the Agreement's reporting requirements include: (1) amount of billed revenue; (2) revenue collected; (3) number of accounts paid on time and in full; (4) number of accounts receiving notice of disconnection for non-payment; (5) average income of Economic Relief Pilot Program (ERPP) participants by poverty range (percent of federal poverty line); (6) number of new ERPP participants with unpaid balances; (7) value of unpaid balances at time of ERPP entry; (8) number of ERPP participants by poverty range; (9) average usage and average bill figures; (10) final bill number, specifying accounts with unpaid balances and no unpaid balance; and (11) detailed metrics regarding profile, arrearages, grant value and number of Evergy customers receiving hardship grants.¹⁹³

Conclusions of Law ¹⁹⁴

T. In addition to the authority to establish uniform methods of keeping accounts, records and books of electrical corporations, Section 393.140(4), RSMo, authorizes the Commission to, "in its discretion, prescribe, by order, forms of accounts, records and memoranda" to be kept by electrical corporations. Such records are subject to examination by the Commission.¹⁹⁵

¹⁹² Ex. 1000: Colton Rebuttal, p. 114.

¹⁹³ Ex. 1000: Colton Rebuttal, p. 114-16; *Statement of Positions of the National Housing Trust*, p. 5-6 (Sept. 16, 2020).

¹⁹⁴ Issues are divided for purposes of organization and clarity only. Conclusions of law are cumulative; each set of conclusions incorporates conclusions stated for previous issues, as necessary. Some issues may not require additional conclusions of law.

¹⁹⁵ Section 393.140(4).

Decision

In addition to its authority to prescribe uniform accounting methods, the Commission is authorized by Section 393.140(4) to order the forms of accounts, records and memoranda to be kept by electrical corporations, and is authorized by Section 393.140(8) to require electrical corporations to answer Commission inquiries and file specific reports.

The Commission finds that reporting associated with an AAO should be related to the matters addressed by the accounting order. None of the parties in this case object to the reporting proposed by the Agreement, although OPC and NHT propose additional items. Most of the additional items proposed by OPC and NHT pertain to Evergy's now withdrawn request to defer lost revenues or lost fixed costs. OPC has acknowledged that most of its recommendations for reporting are derived from a Kansas Corporation Commission order, which authorized Evergy to use deferral accounting to include "lost revenue."¹⁹⁶ However, the AAO issued here is limited to specified costs derived from the COVID-19 pandemic and does not include "lost revenue."

Nevertheless, OPC's recommendation that Evergy "list" COVID-19 expenditures and amounts appears to provide greater specificity than the "cost increases and decreases" proposed by the Agreement. Because the Commission determines it is reasonable to request Evergy provide specific cost information rather than a summary, the Commission will require that Evergy's initial report and quarterly updates also include a list of COVID-19 related expenses and their respective amount incurred to ensure safe and reliable service.

Finally, the Agreement proposes that Evergy disclose its policies and procedures for calculating monthly deferral amounts, as well as a proposed monthly reporting format. The

¹⁹⁶ Ex. 202: Marke Rebuttal, p. 11-12; Ex. 5: Klote Surrebuttal, p. 15-16.

Commission finds such disclosure is essential to the purposes of an AAO and will enable the Commission's oversight, as allowed by law. The Commission will approve the reporting provisions of the Agreement, which are not contested, and will add the requirement that Evergy list expenses and amounts in its reports. Rather than require submission to the various parties, the Commission will order that Evergy file in this case proposed policies and procedures for calculating monthly deferral amounts, as well as a proposed monthly reporting format.

E. Should the Commission require customer assistance as a condition of deferral accounting in this case?

Findings of Fact

92. The proposed Agreement includes provisions reciting customer assistance measures taken by Evergy to address the pandemic, including incentive payment programs no longer offered to customers.¹⁹⁷ In addition, the Agreement recounts charitable pledges made by Evergy in May 2020.¹⁹⁸

93. In addition to reciting events and acts that have already taken place, the proposed Agreement includes agreements by Evergy to (1) consider and consult with Staff, OPC and NHT regarding further customer relief programs after December 31, 2020;¹⁹⁹ (2) continue to waive late payment fees through March 31, 2021;²⁰⁰ (3) continue to waive credit reporting through March 31, 2021;²⁰¹ and, with Commission approval of an AAO, (4) waive re-connect fees through March 31, 2021.²⁰²

94. All signatories to the Agreement advise the Commission that they would

¹⁹⁷ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶16.

¹⁹⁸ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶16.

¹⁹⁹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶16.

²⁰⁰ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶18.

²⁰¹ Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶18.

²⁰² Ex. 1: *Non-Unanimous Stipulation and Agreement*, ¶18.

support an AAO consistent with the Agreement if it did not include the requirements in paragraphs 16, 17, 18, which is the source of the affirmative obligations that would be imposed under the Agreement, as described above.²⁰³

95. OPC opposes approval of an AAO.²⁰⁴

96. As an alternative to denial of the application, OPC asks the Commission to require Evergy to (1) waive disconnection and reconnection fees for the duration of the AAO;²⁰⁵ (2) cease full credit reporting for the duration of an AAO;²⁰⁶ (3) waive late payment fees and deposit requirements for the duration of an AAO;²⁰⁷ (4) offer a 12-month payment plan for the duration of an AAO;²⁰⁸ and (5) offer an dollar-for-dollar arrearage matching program for eligible customers.²⁰⁹ OPC proposes the cost of the arrearage matching program would be booked “below-the-line” and not eligible for recovery in rates.²¹⁰

97. In contrast to OPC’s position, NHT supports an AAO, but only with conditions requiring customer assistance measures and additional data collection and “public reporting.”²¹¹ NHT asks the Commission to order Evergy to: (1) create a “best-practices Arrearage Management Program” with specified eligibility and terms, funded at \$2 million, divided between ratepayers and Evergy shareholders, modeled on the plan adopted in the

²⁰³ Sierra Club’s endorsement of an order without the provisions of paragraphs 16, 17 and 18 is the most limited. Sierra opines that an order “without its critical consumer protection provisions” would be “unfortunate,” but Sierra Club “would likely not oppose” such an order because it excludes Evergy’s request for “lost or unearned revenues.” *Sierra Club’s Initial Brief*, p. 28 (Dec. 4, 2020). Signatory statements affirming support for an order without those provisions may be found in the record as follows: Evergy: Transcript Vol. 3 at p. 349; Staff: *Initial Brief*, p. 22 (Dec. 4, 2020); *Missouri Industrial Energy Consumers’ Initial Brief*, p. 3 (Dec. 4, 2020); *Initial Brief of Midwest Energy Consumers Group*, p. 39 (Dec. 4, 2020).

²⁰⁴ *Public Counsel’s Position Statement*, p. 3 (Sept. 16, 2020); Ex. 202: Marke Rebuttal, p. 2; *Initial Post-Hearing Brief of the Office of the Public Counsel*, p. 31 (Dec. 4, 2020).

²⁰⁵ Ex. 202: Marke Rebuttal, p. 19.

²⁰⁶ Ex. 202: Marke Rebuttal, p. 19.

²⁰⁷ Ex. 202: Marke Rebuttal, p. 19.

²⁰⁸ Ex. 202: Marke Rebuttal, p. 20.

²⁰⁹ Ex. 202: Marke Rebuttal, p. 20-21.

²¹⁰ Ex. 202: Marke Rebuttal, p. 21.

²¹¹ *Initial Post-Hearing Brief of the National Housing Trust*, p. 2 (Dec. 4, 2020) (brief is not page numbered; page references here exclude cover page).

Spire COVID-19 AAO;²¹² (2) expand Evergy's Economic Relief Pilot Program (ERPP);²¹³ (3) enact a moratorium on disconnections for non-payment until 180 days after public availability of a COVID-19 vaccine;²¹⁴ (4) expend all approved income-based energy efficiency funds and contribute new usage reduction funds for customers in arrears;²¹⁵ and (5) suspend credit reporting of unpaid bills,²¹⁶ meet the needs of limited English-proficient customers²¹⁷ and "engag[e] in proper data collection and public reporting practices."^{218 219}

98. NHT's recommendations are not based specifically on Evergy's customers.²²⁰ The record does not include information about additional employee training, customer communication materials, billing system modifications or additional costs associated with the proposed programs.²²¹

99. Some of the recommendations by NHT and OPC with the greatest administrative burdens may not be possible to implement before the termination of the AAO on March 31, 2021.²²² The ERPP program is not prepared at this time to "ramp up" as recommended by NHT.²²³

²¹² Ex. 1000: Colton Rebuttal, p. 64-67.

²¹³ Ex. 1000: Colton Rebuttal, p. 73-87.

²¹⁴ Ex. 1000: Colton Rebuttal, p. 42-53.

²¹⁵ Ex. 1000: Colton Rebuttal, p. 94-106.

²¹⁶ Ex. 1000: Colton Rebuttal, p. 106-7.

²¹⁷ Ex. 1000: Colton Rebuttal, p. 108-113.

²¹⁸ Ex. 1000: Colton Rebuttal, p. 114-16.

²¹⁹ *Initial Post-Hearing Brief of the National Housing Trust*, p. 4-5;

²²⁰ Transcript Vol. 3 at 341; Ex. 1000: Colton Rebuttal, p. 8, 30-42.

²²¹ Transcript Vol. 3 at p. 339-42.

²²² Ex. 301: Meyer Surrebuttal, p. 7.

²²³ Ex. 203: Marke Surrebuttal, p. 7.

Conclusions of Law

U. Commission authority does not extend to the general management of a utility.²²⁴ The Commission may not impose on a utility's management discretion.²²⁵

V. "The Commission's powers are limited to those conferred by statute either expressly 'or by clear implication as necessary to carry out the powers specifically granted.'"²²⁶

Decision

The Agreement reached by some of the parties recites voluntary measures Evergy has taken to address the COVID-19 pandemic. In an effort to settle the parties' dispute about the proposed terms of an AAO, the Agreement includes promises by Evergy to provide additional customer assistance and to consult with some parties about further measures. The negotiations did not result in a unanimous agreement. Therefore, the Commission must make its own findings on each issue necessary to address Evergy's application.

While OPC opposes Evergy's application, it requests that if the Commission approves an AAO it should condition approval on additional actions that it recommends Evergy should be required to take to address the pandemic. NHT advances its own slate of interventions, which it proposes the Commission should impose as conditions.

The Commission encourages Evergy and other regulated utilities to respond appropriately to assist customers during the COVID-19 pandemic. However, the Commission will not extend the scope of this AAO proceeding to require particular measures as a condition of deferral accounting. Some of the programs proposed require

²²⁴ *State ex rel. Sw. Bell Tel. Co. v. Pub. Serv. Comm'n*, 262 U.S. 276, 289 (U.S. 1923).

²²⁵ *State ex rel. Harline v. Pub. Serv. Comm'n*, 343 S.W.2d 177, 182 (Mo. App. 1960).

²²⁶ *City of O'Fallon v. Union Elec. Co.*, 462 S.W.3d 438, 443-44 (Mo. App. W.D. 2015)(quoting *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm'n*, 331 S.W.3d 677, 682 (Mo. App. W.D. 2011)).

far more comprehensive consideration than can be provided in this particular case or than was actually offered on the record. Therefore, the AAO granted in this case is not conditioned on customer assistance programs.

Because Evergy requested a Commission order that would allow it to apply an AAO for its 2020 books, and because Evergy must finalize its 2020 books at the end of January 2021 or mid-February 2021,²²⁷ the Commission will make this order effective in 10 days.

Finally, the Commission will grant Evergy's request for waiver of the 60-day notice requirement under 20 CSR 4240-4.017. The Commission finds good cause exists for waiver, based on Evergy's verified declaration that it had no communication with the Office of the Commission regarding substantive issues in the application within 150 days before it filed its application.

THE COMMISSION ORDERS THAT:

1. Evergy's application for an AAO to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic is granted in part and denied in part, as stated in this order.

2. Evergy is authorized to track and defer into a regulatory asset specified new and incremental costs caused by the COVID-19 pandemic, beginning March 1, 2020, and continuing through March 31, 2021, in accordance with this order.

3. Evergy's deferral authority is limited to categories of costs specified by this order, as stated in paragraphs 2 and 13 of the Agreement, as recited above.

²²⁷ *Evergy Missouri Metro and Evergy Missouri West Response to Commission Order*, p. 1-2 (June 26, 2020).

4. Cost reductions caused by the COVID-19 pandemic shall be tracked and netted against the deferred costs recorded as a regulatory asset, as stated in paragraph 7 of the Agreement and as stated above.

5. In addition, any savings from reduced allocation of costs from shared services or parent organizations caused by the COVID-19 pandemic shall be included among cost reductions tracked and netted against deferred costs recorded as a regulatory asset pursuant to this order.

6. Deferral of increased bad debt expense due to COVID-19 is authorized only to the extent total bad debt expense exceeds levels included in the cost of service, as stated in paragraphs 2 and 4 of the Agreement.

7. Deferral of waived fee revenues is authorized only up to the amount included in rates related to waived late payment fees and waived reconnection fees included in rates, as stated in paragraphs 2 and 4 of the Agreement.

8. All costs and cost reductions shall be tracked and reported separately for Evergy Missouri West and Evergy Missouri Metro, as stated in paragraphs 3 and 7 of the Agreement.

9. Evergy shall comply with the reporting requirements stated in the Agreement at paragraphs 9, 10, 11 and 12.

10. Within two weeks after the effective date of this order, Evergy shall file an initial report in this case, as proposed by the Agreement. Updated reports shall be filed quarterly within 45 days of the end of each quarter until all costs and savings through March 31, 2021, are accounted for in an updated report.

11. Initial and updated reports shall identify all cost increases and decreases related to the pandemic identified to date and shall include a list of COVID-19 related expenses and the respective amounts incurred to ensure safe and reliable service.

12. Initial and updated reports shall report all categories identified in paragraph 9 of the Agreement, as recited above.

13. Within 30 days after the effective date of this order, Evergy shall file in this case copies of the applicable policies and procedures intended to govern how monthly deferral amounts are to be calculated for each category. Such policies and procedures shall include a proposed monthly reporting format, as stated in paragraph 13 of the Agreement.

14. This order does not limit the ability of any party to propose or oppose certain ratemaking treatment of carrying costs related to this AAO in Evergy's next general rate cases.

15. This order does not authorize deferral of any lost revenues from reduced customer usage or lost fixed costs due to the pandemic.

16. Nothing in this order shall constitute a finding or conclusion by the Commission concerning the reasonableness of any amount deferred, and the Commission reserves the right to consider the ratemaking treatment to be afforded any deferred amount.

17. Extension of this order may be sought by application to the Commission.

18. The *Non-Unanimous Stipulation and Agreement*, admitted to the record as Exhibit 1, will be attached to this order for reference only.

19. The 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1) is waived for good cause.

20. This report and order shall be effective on January 23, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Jacobs, Regulatory Law Judge