

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 23rd day of September, 2020.

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 )

**ORDER DENYING MOTION FOR LEAVE  
TO FILE SUR-SURREBUTTAL TESTIMONY**

Issue Date: September 23, 2020

Effective Date: September 23, 2020

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 associate with the COVID-19 pandemic. The Commission granted several applications to intervene.<sup>1</sup> On June 22, 2020, Evergy filed a proposed procedural schedule and indicated no party objected to the proposal. On July 1, 2020, the Commission issued its *Order Setting Procedural Schedule*, which adopted the proposed dates for filing prepared testimony and allowed for direct, rebuttal and surrebuttal testimony.

The parties proceeded to file testimony as provided in the procedural order, with

---

<sup>1</sup> In addition to the Staff of the Commission and the Office of the Public Counsel, parties to this case include Midwest Energy Consumer’s Group (MECG); Missouri-American Water Company; Missouri Industrial Energy Consumers; National Housing Trust; Renew Missouri Advocates d/b/a Renew Missouri; Sierra Club; Spire Missouri Inc.; and Union Electric Company d/b/a Ameren Missouri.

surrebuttal testimony to be filed no later than September 4, 2020. On September 11, 2020, Evergy filed a motion for leave to file “sur-surrebuttal” testimony. The Commission directed that any response to Evergy’s motion be filed no later than September 16, 2020. The Office of the Public Counsel (OPC) on September 14, 2020, filed a response objecting to Evergy’s motion. On September 16, 2020, Evergy filed a reply in support of its motion. No additional responses were received.

Evergy requests permission to file sur-surrebuttal testimony of Evergy witness Darrin R. Ives. Evergy proposes the sur-surrebuttal testimony is necessary to address testimony by an OPC witness, Dr. Geoff Marke. As described by Evergy, Dr. Marke’s surrebuttal testimony indicates Dr. Marke either endorses or does not oppose proposals made by a National Housing Trust witness, Roger Colton. Specifically, Evergy proposes sur-surrebuttal is appropriate because Dr. Marke “expanded his recommendations to the Commission to consider ordering customer programs to be funded by Evergy’s shareholders.”<sup>2</sup> An additional rejoinder, Evergy argues, is justified by Evergy’s duty to carry its burden in its application for an AAO.

Hearings before the Commission are governed by the Commission’s rules,<sup>3</sup> and procedural orders are established in the Commission’s discretion pursuant to those rules.<sup>4</sup> The Commission’s order in this case does not provide for a fourth round of prefiled testimony. The order was adopted based on a schedule proposed by Evergy without objection from any other party. Evergy’s reply in support of its motion suggests previous Commission orders indicate an applicant is entitled to the “last word” on the issues. To

---

<sup>2</sup> *Evergy Missouri Metro and Evergy Missouri West Motion for Leave to File Sur-surrebuttal Testimony*, ¶1 (Sept. 11, 2020).

<sup>3</sup> Section 386.410, RSMo (2016).

<sup>4</sup> Commission Rule 20 CSR 4240-2.110.

the contrary, the Commission's orders in the cases cited by Evergy, File Nos. EO-2020-0227, ER-2012-0166, and EA-2012-0281, reflect the Commission's assessment of the proper development of the record in those cases, none of which concerns an AAO. Under the circumstances of this case, in which Evergy had a full opportunity to file surrebuttal testimony in response to the testimony of Mr. Colton, the Commission finds Evergy is not entitled to an additional round of testimony to respond to Dr. Marke's assessment of some of Mr. Colton's positions.

Declining to allow sur-surrebuttal testimony does not necessarily foreclose any opportunity for Evergy to address Dr. Marke's testimony. As OPC points out in its opposition to Evergy's motion, Evergy may cross-examine witnesses at hearing and Evergy's legal arguments can be made in briefing and oral argument before the Commission.

**THE COMMISSION ORDERS THAT:**

1. Evergy's motion for leave to file sur-surrebuttal testimony is denied.
2. This order shall be effective when issued.



**BY THE COMMISSION**

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

Morris Woodruff  
Secretary

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

Jacobs, Regulatory Law Judge