

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 4<sup>th</sup> day of August, 2021.

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 the February )  
2021 Cold Weather Event )

**File No. EU-2021-0283**

**ORDER DENYING MOTION TO DISMISS**

Issue Date: August 4, 2021

Effective Date: August 4, 2021

Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy”) filed a joint application and supporting testimony requesting an accounting authority order (AAO) for costs incurred from Winter Storm Uri. On July 14, 2021, the Office of the Public Counsel (OPC) filed a motion to dismiss. Evergy filed a response to OPC’s motion to dismiss, and OPC replied to that response.

OPC argues that the Commission should dismiss Evergy’s application because that application fails to include a reason why the expense deferred could not be immediately included for recovery in a rate case. OPC also states that Evergy does not need an order to track costs and Evergy could file rate cases in which these costs could be included as part of the historical test year for those rate cases. OPC states that those reasons constitute good cause to dismiss the case pursuant to Commission Rule 20 CSR 4240-2.116(4). In considering OPC’s motion to dismiss the Commission is limited to

review of "...the adequacy of the plaintiff's petition. It assumes that all of plaintiff's averments are true and liberally grants to plaintiff all reasonable inferences therefrom."<sup>1</sup> As the movant, OPC has the burden of establishing that the elements pled by Evergy fail to state a cause of action.<sup>2</sup>

OPC is not alleging that the Commission is without authority to consider the Evergy's application, and Evergy's application meets the minimum requirements for consideration.<sup>3</sup> OPC has alleged no defect with Evergy's application, but has merely expressed a preference as to what kind of case should address costs for Winter Storm Uri.

OPC's motion asserts that Evergy's application does not demonstrate good cause for the issuance of an AAO, but this is a merits based argument where the Commission can best determine whether an AAO should be issued through an orderly, evidence based, review process.

Commission Rule 20 CSR 4240-2.116(4), gives the Commission general authority to dismiss a case "for good cause found by the Commission." The Commission does not find good cause exists to dismiss Evergy's AAO application. The Commission finds that Evergy's application adequately asserts a cause of action, and will therefore deny OPC's motion.

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1 *City of O'Fallon v. Union Electric Co.* 462 S.W.3d 438, 441 (Mo. App. 2015), quoting *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 392 S.W.3d 24, 28 (Mo. App. 2012).

2 *Weicht v. Suburban Newspapers of Greater St. Louis, Inc.*, 32 S.W.3d 592, 598 (Mo. App 2000).

3 *State ex rel. Chicago B. & Q. R. Co. v. Public Service Commission*, 334 S.W.2d 54, 58 (Mo. 1960), quoting, *State ex rel. Kansas City Terminal Ry. Co. v. Public Service Commission*, 308 Mo. 359, 372, 272 S.W. 957, 960 (Mo. 1925). "Complaints or other pleas before the Commission are not tested by the rules applicable to pleadings in general, if a complaint or petition 'fairly presents for determination some matter that falls within the jurisdiction of the Commission, it is sufficient."

**THE COMMISSION ORDERS THAT:**

1. *Public Counsel's Motion to Dismiss Evergy Missouri Metro and Evergy Missouri West's Application for an AAO for Storm Uri Costs* is denied.
2. This order shall become effective when issued.



**BY THE COMMISSION**

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

Morris L. Woodruff  
Secretary

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

Clark, Senior Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 4<sup>th</sup> day of August, 2021.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**August 4, 2021**

**File/Case No. EU-2021-0283**

**Missouri Public Service  
Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.