

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

In the Matter of Evergy Metro, Inc. d/b/a)
Evergy Missouri Metro’s Request for Authority)
to Implement A General Rate Increase for Electric) **Case No. ER-2022-0129**
Service)

In the Matter of Evergy Missouri West Inc. d/b/a)
Evergy Missouri West’s Request for Authorization to) **Case No. ER-2022-0130**
Implement A General Rate Increase for Electric)
Service)

**EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST’S
MOTION TO STRIKE**

COMES NOW Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) (collectively, the “Company”), by and through their counsel and, for their *Motion to Strike*, state as follows:

1. The Office of the Public Counsel (“OPC”) witness Lena Mantle filed, *inter alia*, *True-Up Rebuttal Testimony* in these cases on August 25, 2022.

2. Commission Rule 20 CSR 4240-2.130(7) provides:

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party’s entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party’s direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party’s direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(Emphasis added.)

3. None of the true-up direct testimony of Company witnesses filed August 16, 2022 raises or discuss any issue regarding the Plant In-Service Accounting ("PISA") statute and the compound annual growth rate ("CAGR") cap. However, OPC addresses these issues in Ms. Mantle's *True-Up Rebuttal Testimony*, at pg. 6, ll. 9 – pg. 8, l. 20 and Schedule LMM-TR-1.

4. These portions of Ms. Mantle's testimony are therefore subject to being stricken because they violate Commission Rule 20 CSR 4240-2.130(7)(B) in that they do not merely respond to matters raised in another party's direct testimony but raise new matters for the first time.

5. Additionally, Ms. Mantle's cited testimony necessarily prejudices the Company and every other party who will have no opportunity to reply to or rebut such assertions in contravention of those parties' right of Due Process of Law, leaving the Commission's rate case decision subject to reversal on appeal.

6. This Commission has previously struck improper testimony in other cases, for example:

- *Order Granting Motion to Strike*, Case no. ER-2016-0156, *In the Matter of KCP&L Greater Missouri Operations Company*, July 26, 2016 (portions of direct testimony of OPC witness Michael Gorman stricken as improper under rule 20 CSR 4240-2.130(7)).

WHEREFORE, the Company respectfully moves the Commission to strike the offending testimony, to-wit:

- True-Up Rebuttal Testimony of Lena M. Mantle, pg. 6, ll. 9 – pg. 8, l. 20; Schedule LMM-TR-1, ER-2022-0129, EFIS Item No. 282;

and grant such other and further relief as is just.

Respectfully submitted,

/s/ Roger W. Steiner

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**Attorneys for Evergy Missouri Metro and Evergy
Missouri West**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 1st day of September 2022, by either e-mail or U.S. Mail, postage prepaid.

/s/ Roger W. Steiner

Roger W. Steiner