

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

In the Matter of the Application of Jennifer)
Dutcher for Change of Electric Supplier to)
Platte-Clay Electric Cooperative, Inc. from) File No. EO-2022-0320
Evergy Missouri, Inc. d/b/a Evergy Missouri)
West)

**EVERGY MISSOURI WEST’S RESPONSE
TO ORDER DIRECTING RESPONSES**

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West” or the “Company”) and hereby submits its *Response* (“Response”) pursuant to the Missouri Public Service Commission’s (“Commission”) *Order Directing Responses* (“Order”) issued on November 1, 2022:

1. On May 18, 2022, Jennifer Dutcher (“Ms. Dutcher” or “Customer”) filed an *Application for Change of Electric Service Provider* (“Application”) with the Commission, requesting a change from Evergy Missouri West to Platte-Clay Electric Cooperative (“Platte-Clay”) for the structure located at 13400 N. Congress Ave., Kansas City, MO 64163 (the “Property”).

2. On October 31, 2022, the Commission Staff filed its Staff Recommendation which recommended that the Commission approve Ms. Dutcher’s application and open an investigation into similarly situated customers.

3. On November 1, 2022, the Commission issued its *Order Directing Responses* (“Order”) which directed that “any party that wishes to respond to Staff’s recommendation, or request a hearing, shall do so on or before November 10, 2022.” (Order, p. 2) This pleading is being filed in response to the Commission’s Order.

4. For the reasons stated herein, Evergy Missouri West requests that the Commission reject the Staff's Recommendation, and schedule an evidentiary hearing in this matter.

5. Ms. Dutcher's Property has been served by Company and its predecessors since at least February 2017. Evergy Missouri West regrets the outage reporting issues that Ms. Dutcher has experienced in the past. Evergy has endeavored to understand the cause of these issues, and has now corrected the outage response issue described in the Application. The Customer's facilities have been loaded into Evergy's Network Management System (NMS) and any reported outages in the future will be presented to the dispatcher and processed accordingly. Evergy has added a proxy circuit into the Network Management System. More specifically, Evergy has installed a proxy circuit, connected to the customer's transformer, into the Network Management System to allow the Company to track outages and customer tickets within the NMS System. The customer's transformer has a note on it alerting the Company's Distribution System Operators to contact Platte-Clay whenever the customer experiences an outage. As explained by Staff, this modification allows Ms. Dutcher's meter to signal the NMS system of the outage and prompts Evergy personnel to contact Platte-Clay whenever an outage or other system disturbance occurs. Ms. Dutcher has confirmed that her address is now in Evergy's NMS system. (Staff Memorandum, p. 6) With this improvement in the Company's NMS system, this Customer's outage response issue has been resolved. In addition, the Company has identified 16 other similarly situated customers and has implemented the same solution as with Ms. Dutcher, resolving any potential outage notification issues.

6. Having corrected the technical and unusual issue that caused Ms. Dutcher's outage response issue, it is not in the public interest to grant her application for a change

of supplier at this time. Ms. Dutcher's Property is within the certificated service area of Evergy Missouri West, and the Company has a statutory right to serve this property. See Section 393.106(2). ("Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. . .")

7. By contrast, Platte-County is not authorized to serve Ms. Dutcher's Property since it is located in Kansas City, Missouri, a municipality with a population that exceeds 1,600 customers. Electric cooperatives such as Platte-Clay may only serve customers in "rural areas" except under circumstances where the cooperative was previously serving the property prior to a municipal annexation. Such circumstances do not apply to Ms. Dutcher's property. See Section 394.080(1)(4). While Staff asserts that "Platte-Clay is organized under Chapter 394, RSMo (2021) to provide electric service to its members located in all or parts of seven Missouri counties, including Platte County, in which lies the property identified in the Application" (Staff Memorandum, p. 3), Staff fails to note that Platte-Clay has no authority to serve customers that are not in "rural areas", absent a municipal annexation of a previously served rural customer.

8. Pursuant to § 394.080(1)(4), a cooperative is entitled to provide retail electric service in "rural areas" which, as defined by § 394.020(3), includes "any area . . . not included within the boundaries of any city, town or village having a population in

excess of sixteen hundred inhabitants. . ." See also Union Co. v. Platte-Clay Electric Coop, 814 S.W.2d 643 (Mo.App. 1991).

9. Staff's memorandum discusses ten factors that the Commission has reviewed in a past change of supplier application case.¹ (Staff Memorandum, pp. 7-12) Considering these ten factors discussed in the *Jessip* case, the Commission should conclude that it is not in the public interest to order a change of supplier under the facts of this case for the following reasons:

a) Whether the customer's needs cannot be adequately be met by the present supplier with respect to either the amount or quality of power;

With the changes made by Company to its NMS system, the customer's needs can adequately be met by the present supplier, Evergy Missouri West, with respect to the amount or quality of power required by Ms. Dutcher's property;

b) Whether there are health or safety issues involving the amount or quality of power;

There are no longer any health and safety issues involving the amount or quality of power provide by the Company to the Property;

c) What alternative a customer has considered, including alternative with the present supplier;

The alternative supplier considered by Ms. Dutcher (i.e. Platte-Clay) is not qualified to serve the location of the Property within the city limits of Kansas City, Missouri, a municipality with more than 1,600 population;

¹ In the matter of the Application of Brandon Jessip for Change of Electric Supplier from Empire District Electric to New-Mac Electric, EO-2017-0277

d) Whether the customer's equipment has been damaged or destroyed as a result of a problem with the electric supply;

There has been no assertion that the customer's equipment has been damaged or destroyed as a result of the outage response problem described in the Application;

e) The effect the loss of the customer would have on the present supplier;

The loss of the customer would minimally lessen the ability of Evergy Missouri West to spread its fixed costs over its customer base since Ms. Dutcher's Property would not be included in the Company's customer base;

f) Whether the change in supplier would result in a duplication of facilities, especially in comparison with the alternatives available from the present supplier, a comparison should include; (i) The distance involved and cost of any new extension, including the burden on others—for example, the need to procure private property easements, and (ii) The burden on the customer relating to the cost or time involved, not including the cost of the electricity itself.

A change of supplier in this case would require the installation of new facilities by Platte-Clay and the removal of existing facilities, including a meter, fuse, primary cable and a transformer currently installed by Evergy Missouri West, resulting in unnecessary and inefficient facilities;

g) The overall burden on the customer caused by the inadequate service including any economic burden not related to the cost of electricity itself and any burden not considered with respect to factor (f)(ii) above;

Since the outage response problem has been resolved by the Company, there are no economic burdens prospectively on the customer caused by outage response problem;

h) What efforts have been made by the present supplier to solve or mitigate problems;

Evergy Missouri West with the assistance of the Commission Staff and Platte-Clay has resolved the outage response issue that has existed, and the Company does not expect the unusual outage response problem that existed in the past to continue into the future;

i) The impact the Commission's decision may have on economic development on an individual or cumulative basis;

A decision to deny the application will not have a material impact upon economic development in the area where the Property is located;

j) The effect the granting of authority for a change of suppliers might have on any territorial agreements between the two suppliers in question, or on the negotiation of territorial agreements between the electric suppliers.

Since there are no territorial agreements between Evergy Missouri West and Platte-Clay related to the Property, a decision to deny the application will not have an impact upon any territorial agreement in effect between the Company and Platte-Clay.

10. For all these reasons, the Commission should not approve the application as recommended by Staff since it would not be in the public interest to allow Platte-Clay to serve a customer that is not in a “rural area”, and there is no competent and substantial evidence demonstrating that it would otherwise be in the public interest to order a change of supplier in this case.

WHEREFORE, the Company submits its response to the *Order Directing Filing Responses*, and respectfully requests that the Commission reject the Commission Staff’s recommendation, and order the filing of a procedural schedule, including an evidentiary hearing in this matter.

Respectfully submitted,

/s/ James M. Fischer

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to all parties of record on this 10th day of November 2022.

/s/ James M. Fischer

Attorney for Evergy Missouri West