

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

In the Matter of the Application of Union)	
Electric Company d/b/a Ameren Missouri)	File No. ET-2025-0184
for Approval of New or Modified Tariffs)	
for Service to Large Load Customers.)	

**RESPONSE IN OPPOSITION TO APPLICATION FOR INTERVENTION OF EVERGY
MISSOURI WEST AND EVERGY MISSOURI METRO**

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or the “Company”), and for its response in opposition to the Application for Intervention filed herein by Evergy Missouri Metro and Evergy Missouri West, states as follows:

1. On May 14, 2025, the Company initiated this case by filing an application and supporting testimony seeking approval of a Large Load Customer Rate Plan and associated tariffs to apply to large load customers who choose to take service from Ameren Missouri.

2. On May 19, 2025, the Commission issued its *Order Directing Notice, Setting an Intervention Deadline, and Directing Staff to file a Pleading*, which set a June 12, 2025, deadline for applications to intervene.

3. On June 12, 2025, Evergy Missouri Metro and Evergy Missouri West (collectively, “Evergy”) filed an Application for Intervention.

4. Evergy’s Application for Intervention must be denied because it shows on its face that Evergy does not satisfy the requirements of the Commission’s intervention rule, 20 CSR 4240-2.075.

5. Under the intervention rule, all interventions are permissive, that is, unlike in a civil case where under certain circumstances a litigant has a right to intervene, no person or entity has a right to intervene in a Commission case. This is confirmed by the express terms of the rule,

specifically subsection (3), which provides that the Commission “*may* grant a motion to intervene.”

6. But before the Commission can exercise its discretion to allow intervention, the applicant must meet its burden¹ to establish that:

(A) The proposed intervenor ... has an interest which is different from that of the general public *and* which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest

(emphasis added).

7. Evergy does not allege, nor can it, that it has an interest that is different from the general public that may be “adversely affected by a final order” in this case. For that reason alone, Evergy’s intervention application cannot be sustained under subsection (A). But even had Evergy so alleged, it is obvious Evergy does not meet the requirements for intervention under 20 CSR 4240-2.075(3)(A) because a final order in this case cannot affect Evergy because such an order would not in any way be binding on it. The Commission has consistently recognized that this is the case when a utility, often Evergy, seeks to intervene in a contested case of another utility over the objection of other parties, as the decisions discussed below demonstrate.

8. In File No. ER-2021-0312, Evergy timely filed an intervention application in The Empire District Electric Company’s (“EDE”) rate case, arguing in support that it “as a public utility in the State of Missouri it has an interest in regulatory and ratemaking policies that is different from the general public [and that] ... any rate case has the potential to establish regulatory policies that may adversely affect Evergy....” *See Order Denying Application to*

¹ The party seeking to intervene bears the burden to establish that it meets this Commission’s requirements for intervention, and to convince this Commission that it should exercise its discretion to allow it to intervene. *See, e.g., Augspurger v. MFA Oil Co.*, 940 S.W.2d 934, 937 (Mo. App. W.D. 1997) (discussing the corollary intervention rule contained in the Missouri Rules of Civil Procedure).

Intervene, File No. ER-2021-0312 (July 8, 2021). The Commission denied Evergy’s intervention application and the premise behind it, concluding that while Evergy might have an interest that is *different* than the general public, “it has not articulated an interest that may be *adversely affected* by a final order ... [in EDE’s rate case]” (emphasis added). *Id.* While Evergy uses different words in its present Application for Intervention, in substance Evergy is making the same argument now it made then: that a decision in the present case could somehow adversely affect it unless such an order is “consistent”² with an order in Evergy’s pending large load tariff case. The Commission properly and flatly rejected Evergy’s suggestion that orders in the EDE case could adversely affect Evergy: “This rate case does not establish regulatory policy as Evergy suggests, and any order in this case would not be binding on this or any future Commission when making decisions regarding Evergy’s expressed areas of concern.” *Id.*

9. Evergy cites a need for consistency between tariffs as the interest which would justify its intervention in this case. Ameren Missouri does not believe consistency is required by the statute. In fact, consistency between utility A and utility B should not be the goal unless the facts, circumstances, and record in each of their respective cases leads the Commission to a consistent result. In fact, different approaches in the state may even be beneficial in attracting different large load customers.

10. Moreover, there would be serious legal questions raised if the Commission, in utility A’s case, made policy decisions regarding what a large load tariff should include and then *for the sake of consistency*, applied that decision to utility B’s case. The legal concerns would be raised because doing so would in effect mean the Commission is making decision and then generally applying it to all (in this case) electric utilities, which would be unlawful as such

² See ¶6 of Evergy’s Application for Intervention, advocating for “consistent regulation.”

general applicable principles can only be established by following the notice and comment rulemaking requirements in Chapter 536, RSMo. *See, e.g., Beaufort Transfer Co. v. Pub. Serv. Comm’n*, 610 S.W.2d 96 (Mo. App. W.D. 1980) (Ruling that deciding a route authority case for one common carrier using a formula that would then be applied to other carrier cases as a matter of policy of practice is unlawful; instead, the Commission would need to properly adopt a rule under Chapter 536).

11. Turning to the question of whether Evergy met the requirements of 20 CSR 4240-2.075(3)(B) (requiring the applicant to convince the Commission that its intervention would serve the public interest), the Commission similarly concluded that it did not. Evergy had argued that its participation would “assist in creating a complete and robust record.” *Id.* (quoting Evergy’s intervention application). The Commission properly recognized that the existing parties (which in the present case include capable parties with diverse interests, including Staff, OPC, industrial customers, and entities who would qualify as large load customers) were perfectly capable of ensuring a complete record in the case: “There are a sufficient number of experienced parties in this case to ensure a complete record from which the Commission can make a decision.” *Id.*

12. In Evergy’s intervention application in this case, Evergy in effect attempts to make the same argument but using different words: “Evergy’s request to intervene will help provide full transparency to large load customer tariff implications” That statement is, in substance, equivalent to Evergy’s argument in the EDE case, that its presence in the case would assist in creating a more robust record, a claim which, as noted, this Commission rejected. But just as in the EDE case, there are many capable parties in this case (Staff, OPC, Google, Amazon, MIEC, Renew Missouri) and for that matter in Evergy’s case (including Staff, OPC,

the Data Center Coalition, Google) that are more than capable of providing “transparency to large load customer tariff implications” in each case, based upon the facts and circumstances of each utility.

13. At the same time, it denied Evergy’s intervention attempt in EDE’s rate case, the Commission also denied Evergy’s attempt to intervene in Ameren Missouri’s then-pending electric and gas rate cases. *See Order Regarding Application to Intervene Out-of-Time*, File Nos. ER-2021-0240, GR-2021-0241 (July 8, 2021). Evergy’s arguments in those cases were like its arguments in EDE’s case, and its arguments in the present case. While it is true that Evergy’s application was late in the Ameren Missouri case, the Commission indicated it was ruling against Evergy’s attempt to intervene *regardless* of whether the intervention request was timely: “Aside from the lateness of the application to intervene ... [Evergy has no interest that can be adversely affected since the order would only apply to Ameren Missouri].” *Id.* In addition, the Commission rejected the claim that the public interest supported Evergy’s intervention, stating that “if they [Evergy] want to be heard on some item of interest to the large utility community . . . [they] may seek leave to file an amicus brief to bring their concerns to the Commission’s attention.” *Id.*

14. The Commission has similarly ruled against Evergy in a *non-rate* case setting, indeed in a tariff approval case like this one. *See Order Denying Evergy’s Application to Intervene*, File No. EO-2022-0078 (Nov. 3, 2021), where Evergy claimed it should be allowed to intervene in EDE’s MEEIA³ plan docket. Evergy’s basis for seeking to intervene in that case was that it was “concerned that Staff and OPC’s arguments in the Liberty [EDE] case will be similar to the arguments raised in Evergy’s last MEEIA 3 case and *could establish regulatory*

³ Missouri Energy Efficiency Investment Act.

policies *inconsistent* with what was approved in Evergy's MEEIA Cycle 3." *Id.* (emphasis added). This is essentially the argument Evergy makes in the present case, that the Commission is somehow constrained to act *consistently* in utility A and B's cases, even though a Commission order in utility A's case would not bind utility B. Once again, the Commission rejected the notion that one utility can intervene in another utility's contested case based on its worries about whether the Commission will make consistent decisions: "This case does not establish regulatory policy, as Evergy argues, and [will not be binding on the Commission or Evergy in an Evergy case]." Moreover, the Commission specifically concluded that "Evergy's intervention to litigate issues that would be unaffected by a final Commission order *does not serve the public interest*" (emphasis added). And as it did in the above-cited Ameren Missouri rate case order, the Commission pointed out that Evergy was free to seek leave to file an amicus brief, which meant Evergy could there (and could here) make whatever points it desires to make about consistency, or otherwise, in such a brief.

15. Deciding one utility's contested case does not create an order that binds another utility and thus such an order cannot adversely affect other utilities. That this is true has repeatedly been recognized by the Commission and since it is true, Evergy cannot satisfy section (3)(A)'s requirements and thus cannot be allowed to intervene on that basis. Nor would it serve the public interest for Evergy to be allowed to intervene, as the Commission has also repeatedly recognized. As the Court of Appeals has stated (in discussing permissive intervention; all Commission interventions are merely permissive, as discussed above), "Intervention may not be used by strangers to a pending action as 'a vehicle by means of which such strangers may urge claims or contentions which have a proper and available forum elsewhere.' *In the Matter of Missouri-American Water Co. v. Hall*, 470 S.W. 3d 761, 766 (Mo. App. W.D. 2015), *quoting*

State ex rel. Farmer's Mut. Auto. Ins. v. Weber, 273 S.W.2d 318, 323 (Mo. 1954). Evergy is a stranger to this case, and indeed Evergy does have another forum in which to make whatever arguments it desires respecting what terms and conditions should apply to serve large load customers: its currently pending case, File No. EO-2025-0154.⁴

WHEREFORE, Ameren Missouri respectfully requests this Commission to exercise its discretion to enter its order denying Evergy's Application for Intervention, and for such other and further relief deemed proper under the circumstances.

Dated: June 23, 2025

Respectfully submitted,

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**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

⁴ And, as noted in the earlier discussed Commission decisions that denied Evergy's request to intervene in another utility's case, Evergy can seek leave to file an amicus brief in the present case.

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing was served on the Staff of the Missouri Public Service Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 23rd day of June, 2025.

/s/ *James Lowery*
James Lowery