

**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.	)	

**EVERGY’S OPPOSITION TO STAFF’S MOTION TO STRIKE AND FOR LEAVE TO
REPLACE THE TESTIMONY OF JAMES A. BUSCH, AND MOTION FOR
EXPEDITED TREATMENT**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro” or “EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West” or “EMW”) (collectively, “Evergy” or the “Company”), and for its *Response* (“Response”) to the Staff (“Staff”) for the Missouri Public Service Commission’s (“Commission”) *Motion to Strike and for Leave to Replace the Rebuttal Testimony of James A. Busch, and Motion for Expedited Treatment* (“Motion”), states as follows:

1. On September 5, 2025, Staff witness James A. Busch filed rebuttal testimony sponsoring Staff’s Report and Recommendation in this proceeding. Mr. Busch’s testimony is that of similarly filed rebuttal testimony in Evergy’s own tariff proceeding, No. EO-2025-0154.

2. On September 30, 2025, Mr. Busch testified under oath at Evergy’s large load customer evidentiary hearing in No. EO-2025-0154 regarding Staff’s Report and Recommendation, which included proposed tariffs that mirror Staff’s approach in this proceeding.

3. Under oath, Mr. Busch testified, among other issues, that Staff’s proposed tariffs are “novel” and were essentially created in a vacuum with no input from any large load customers, Missouri’s electrical utilities, Data Center Coalition, the Department of Economic Development, the Department of Natural Resources (“DNR”), the Division of Energy in DNR, or any outside

consultants specializing in economic development, data centers, or large load customers.¹ Additionally, Mr. Busch's rebuttal testimony in this proceeding, as well as in No. EO-2025-0154, reflect his opinion that large load customers and the economic benefits they would provide to Missouri are simply not worth their associated risk.²

4. On October 2, 2025, Mr. Busch resigned from his position as Staff Division Director.

5. Over 20 days later, on October 24, 2025, Staff improperly moved to strike Mr. Busch's rebuttal testimony, apparently seeking to replace it with "supplemental rebuttal testimony" of J Luebbert.

6. However, Staff's Motion to Strike is an improper procedural mechanism, as Mo. Rev. Stat. Section 55.27(e) is inapplicable to pre-filed testimony.³ Section 55.27(e) authorizes a court to strike "redundant, immaterial, impertinent, or scandalous matter" from a pleading. By its terms, the rule applies only to pleadings, not to testimony. Pre-filed testimony is not a pleading, nor has Staff identified any redundant, immaterial, impertinent, or scandalous matter in Mr. Busch's rebuttal. Rather, Staff attempts to eliminate similarly situated testimony as provided under oath in No. EO-2025-0154 and stated herein, materially altering Staff's position in this proceeding. The Commission should not permit Staff to change its fundamental position regarding large load customers at this stage of the proceeding, and certainly not via an improper procedural mechanism. Mr. Busch's testimony created the foundation on which Staff's tariff was developed and its opposition to the Ameren tariff was based. To allow a retreat at this late hour and act as if that testimony did not exist is improper at this time.

¹ See Tr. 215:7-22, 263:19-264:12 (J. Busch), No. EO-2025-0154, (Sep. 30, 2025).

² See J. Busch Rebuttal at 5.

³ All citations are to the Revised Statutes of Missouri (2016), as amended.

7. Additionally, 20 CSR 4240-2.130(10) prohibits a party from supplementing pre-filed testimony “unless ordered to do so by the presiding officer or the commission.” This prohibition preserves fairness by stabilizing the scope of issues and preventing late-stage shifts that prejudice other parties. Staff’s proposed replacement is not a ministerial witness substitution. It is a substantive change in the scope and content of Staff’s position and contemporaneously developed tariff proposal, and Staff’s request tellingly comes after its position regarding large load customers was unfavorably cross-examined at the evidentiary hearing for No. EO-2025-0154. Staff had multiple opportunities to present and refine its position, including in prior testimony filings in No. EO-2025-0154, but it has failed to do so.

8. Moreover, granting Staff’s motion would preclude Evergy, along with other parties, “from having a reasonable opportunity to address” Staff’s supplemental rebuttal testimony and materially altered position, violating due process. See 20 CSR 4240-2.130(10); Mathews v. Eldridge, 424 U.S. 319, 333 (Feb. 24, 1976) (“The fundamental requirement of due process is the opportunity to be heard “at a meaningful time and in a meaningful manner.”). Staff’s proposed late-stage alteration would force parties either to respond to a moving target or to file surrebuttal without adequate time to address the changed testimony, contrary to these due process principles.

9. Evergy otherwise joins and is in support of Ameren’s response to Staff’s Motion, including Ameren’s proposal regarding the surrebuttal deadline in this case.

WHEREFORE, Evergy opposes any Commission order that would permit Staff to somehow eliminate Staff’s position to which Mr. Busch already testified under oath in No. EO-2025-0154, from this proceeding.

Respectfully submitted,

/s/ Roger W. Steiner

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**Attorneys for Evergy Missouri Metro and
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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 28th day of October 2025, by EFIS filing and notification, and/or e-mail.

/s/ Roger W. Steiner

Roger W. Steiner