

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

In the Matter of the Application of)
The Empire District Electric)
Company d/b/a Liberty to Implement)
Robust and Mutually-Beneficial)
Energy Efficiency Offerings Under)
the Framework Prescribed by)
MEEIA)

Case No. EO-2022-0078

Motion to Deny Evergy Intervention

COMES NOW the Office of the Public Counsel (“OPC”) and for its Motion to Deny Evergy Intervention states as follows:

1. On October 9, 2021, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West”) (collectively, “Evergy”) filed an application to intervene in this case.

2. The Public Service Commission may grant a motion to intervene if: “(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” (20 CSR 4240-2.075, emphasis added). Evergy’s request fails to satisfy (A) or (B).

3. Since this is not a rulemaking, an order applicable to Ameren is neither applicable nor binding on Evergy because the Commission hears every case on its own merits. The merits of Evergy’s next MEEIA case will

rely on the evidence and argument in that case, not any decisions rendered in a prior Empire MEEIA case. Accordingly, Evergy does not qualify as having an interest under (A) that may be adversely impacted. Evergy is fully capable of addressing all of its issues in its own MEEIA cases.

4. Evergy does not qualify for intervention under (B) because its participation would not serve the public interest. Evergy did not assert that granting its intervention would serve the public interest, and Evergy's ability to oppose settlements and challenge issues could slow and hamper this proceeding -- a case that is inapplicable to Evergy in every way.

5. Evergy filed a similar intervention request in Ameren Missouri's current rate case, and the Commission denied the request, stating:

Evergy Missouri Metro and Evergy Missouri West have not shown that they have an interest in the case that can be adversely affected by the Commission's final order. The Commission's order will apply only to Ameren Missouri, not to any other utility. Similarly, Evergy Missouri Metro and Evergy Missouri West have not shown that allowing them to intervene in another utility's rate case will serve the public interest. If they want to be heard on some item of interest to the larger utility community, Evergy Missouri Metro and Evergy Missouri West may seek leave to file an amicus brief to bring their concerns to the Commission's attention.¹

6. Evergy also filed a similar request in Empire's rate case, which the Commission also denied, stating in part:

¹ Case No. ER-2021-0240, Order Regarding Application to Intervene Out-of-Time, July 8, 2021.

As a public utility, Evergy may have an interest in this rate case that differs from that of the general public, but it has not articulated an interest that may be adversely affected by a final order in this case. 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. Therefore, Commission Rule 20 CSR 4240-2.075(3)(A) does not justify allowing Evergy to intervene.

The question then becomes, would granting the proposed intervention of Evergy serve the public interest? Evergy asserts that its participation will assist in creating a complete and robust record for the Commission to decide rate case issues. However, there are a sufficient number of experienced parties in this case to ensure a complete record from which the Commission can make a decision. As a result, the public interest would not be served by allowing Evergy to participate in Liberty's rate case under Commission Rule 20 CSR 4240-2.075(3)(B). If Evergy wants to be heard on some item of interest to the larger utility community, it may seek leave to file an amicus brief to bring its concerns to the Commission's attention.

7. For the same reasons the Commission denied Evergy's request to intervene in Ameren's and Empire's rate cases, the Commission should also deny Evergy's request to intervene in Empire's MEEIA case. Evergy's interests will not be impacted by this case, and the public interest will not be served by Evergy's status as a party to the case. If Evergy wants to be heard

on some item of interest to the larger utility community, Evergy may seek leave to file an amicus brief.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission deny intervention to Evergy.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 15th day of October 2021.

/s/ Marc Poston
