

**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)	Case No. ER-2026-0143
Authority to Implement a General Rate)	
Increase for Electric Service)	

**EVERGY MISSOURI METRO’S OPPOSITION
TO PUBLIC COUNSEL’S MOTION FOR A COMMISSION ORDER**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy” or “Company”), for its *Opposition to the Office of the Public Counsel’s (“OPC”) Motion for a Commission Order* (“Motion”), states as follows:

1. OPC asks the Commission to open confidential information to public view unless Evergy resubmits more detailed confidentiality explanations and narrows certain designations. See Motion at 3–4. The Motion should be denied. First, OPC bypassed the case-specific process the Commission established to confer about party disputes before written motion practice. Second, OPC did not actually confer before filing its Motion, even though the Commission’s Rules and orders favor discussion first and motion practice later. Third, OPC overreads Rule 20 CSR 4240-2.135(2)(B): the rule requires a cover sheet or pleading describing the specific subsection relied upon for confidentiality under (2)(A), but it does not impose automatic forfeiture of confidentiality or immediate public disclosure whenever OPC believes the initial explanation could have been more detailed. Fourth, OPC does not identify any changed circumstance explaining why known categories of information that Evergy has treated as confidential without objection in prior rate cases should suddenly be opened to the public here. Finally, if the Commission desires additional detail, prior Commission decisions show the proper remedy is targeted supplementation, not public unsealing.

I. OPC bypassed the case-specific process the Commission established to raise and narrow disputes before motion practice.

2. On March 18, 2026, the Commission entered its procedural schedule and set and Directing the Filing of Dates for Local Public Hearings, ER-2026-0143 at 4 (Mar. 18, 2026).

3. The following day, the Commission entered a separate order governing those discovery conferences. That order required that, “[n]ot less than three business days before each discovery conference,” any party with “a discovery disagreement or concern involving another party” file a brief statement describing the disagreement or concern and identifying other parties involved. Order Setting Procedures for Discovery Conferences, ER-2026-0143 at 1 (Mar. 19, 2026). The order further provided that if the parties did not identify any discovery disagreements or concerns, the presiding officer could cancel the conference. Id.

4. Here, OPC had Evergy’s February 6, 2026, confidentiality designations for approximately two months before the first scheduled discovery conference. If OPC believed Evergy’s cover sheets were inadequate, or that certain schedules were designated too broadly, OPC could have raised that concern through the April 7 discovery conference process. But it did not.

5. Instead, the April 7 discovery conference was canceled because “[n]o party has identified any discovery concerns.” Order Canceling Discovery Conference, ER-2026-0143 at 1 (Apr. 6, 2026). As it turned out, OPC had identified discovery concerns, but rather than raising those concerns in accordance with the Commission’s orders, it instead chose to ambush Evergy with them when it filed this Motion on April 8.

6. To be sure, Rule 20 CSR 4240-2.135(11) permits a party to challenge a confidentiality designation by motion. But nothing in that subsection permits OPC to ignore the Commission’s case-specific order designed to address disputes less formally first. At minimum,

OPC's failure to use the process that the Commission put in place weighs heavily against the drastic relief it seeks here.

II. OPC also failed to confer before filing a written motion.

7. Commission Rule 20 CSR 4240-2.090(8) requires the same approach that OPC ignored when it bypassed the April 7 discovery conference to file this Motion. Absent Commission authorization, the Commission "will not entertain any discovery motions" until counsel has conferred or attempted to confer by telephone or in person, and "[m]erely writing a demand letter is not sufficient." 20 CSR 4240-2.090(8)(A) (emphasis added). If issues remain unresolved, counsel must arrange an immediate telephone conference with the presiding officer and opposing counsel, and "[n]o written discovery motion shall be filed until this telephone conference has been held." 20 CSR 4240-2.090(8)(B) (emphasis added).

8. That same preference for informal resolution appears in Rule 20 CSR 4240-2.135 itself. When a party disagrees with a confidentiality designation on discovery responses, the rule directs the challenging party to follow the informal dispute resolution procedures in Rule 2.090(8) before filing a motion. 20 CSR 4240-2.135(5)(B). While OPC's present Motion targets prefiled testimony and schedules rather than discovery responses, subsection (5)(B) confirms the Commission's general preference that confidentiality disputes be discussed first, not launched directly into burdensome motion practice.

9. Indeed, OPC's Motion contains no certification of compliance with Rule 2.090(8), no representation that any telephonic or in-person conferral occurred, and no representation that counsel arranged the required conference with the presiding officer before filing. Rather than amicably resolving the issue through the meet-and-confer process, Evergy is instead forced to spend attorneys' fees in drafting a response to a premature Motion.

10. Compliance with Rule 2.090(8) is clear: the Commission “**will not** entertain any discovery motions” until its requirements are satisfied. See 20 CSR 4240-2.090(8)(A) (emphasis added). OPC did not comply with Rule 2.090(8) before filing the Motion. For that independent reason, the Motion should be denied.

III. OPC overreads Rule 20 CSR 4240-2.135(2)(B).

11. Evergy does not dispute that Rule 20 CSR 4240-2.135(2)(B) requires a cover sheet describing how information qualifies as confidential, including the specific subsection relied upon and an explanation of its applicability. Nor does Evergy dispute that only the specific information that qualifies as confidential should be designated as such. Id.

12. But OPC’s Motion effectively treats subsection (2)(B) as requiring a highly particularized cover-sheet brief on pain of public unsealing. The Rule does not require OPC’s proposed burden, nor does it penalize an insufficient initial explanation by automatically forfeiting confidentiality. Tellingly, OPC cites no Missouri authority holding that OPC’s added particularity is required or else immediate public disclosure is the default consequence.

13. OPC does not dispute that Evergy filed the challenged materials with cover sheets, or that Evergy identified the (2)(A) subsections supporting its confidentiality designations. The Rule’s good-faith provision confirms that point. Rule 20 CSR 4240-2.135(18) provides that a claim of confidentiality constitutes a representation to the Commission that the claiming party has a “reasonable and good faith belief” that the information is confidential under the cited subsection. That framework contemplates good-faith designation in the first instance, followed by Commission review if a real dispute later remains. OPC misread and failed to follow the Commission’s Rules.

IV. OPC identifies no changed circumstance explaining why similar treatment is suddenly improper.

14. The categories of information that OPC challenges are by no means novel. In fact, similar Tucker and Foo direct testimonies were filed (in public and confidential versions) in a recent Evergy Missouri West rate case. See [Direct Testimony of Hsin Foo \(Public and Confidential\)](#), ER-2024-0189 (Feb. 2, 2024); [Direct Testimony of Jessica L. Tucker \(Public and Confidential\)](#), ER-2024-0189 (Feb. 2, 2024).

15. OPC's Motion does not identify any intervening rule change, Commission order, or other changed circumstance explaining why similar treatment is suddenly improper now. While OPC's Motion asks the Commission to publicly unseal categories of fuel procurement, modeling, outage, and generation information, it fails to explain why OPC did not seek that treatment of the analogous direct testimonies by Ms. Tucker and Ms. Foo in previous rate cases. OPC's inconsistency further demonstrates the invalidity of its Motion.

V. If the Commission requires more detail, the proper remedy is targeted supplementation.

16. OPC's Motion attempts to force an unnecessary all-or-nothing choice: either immediate public unsealing or burdensome motion practice with a full document-by-document merits analysis. Because the Motion is procedurally defective and because a narrower remedy is available if more detail is desired, the Commission should deny the Motion and require OPC's compliance with its Rules and Orders instead.

17. If, despite the Motion's procedural defects, the Commission desires additional document-specific support, Evergy respectfully requests leave to provide that support in a targeted supplemental filing directed to whatever testimony portions or schedules the Commission identifies. That would allow any remaining issue to be addressed in a focused way without ordering immediate public disclosure.

18. The Commission's order in a recent Liberty rate case provides a useful analogy. There, OPC challenged Liberty's confidentiality explanations and argued that some redactions were too broad. The Commission did not simply make the disputed material public. Instead, it directed Liberty to re-file certain testimony and schedules with more specific explanations and, where appropriate, narrower redactions. Order Directing Further Filing Regarding Information Designated as Confidential, ER-2024-0261 (Mar. 3, 2025). Accordingly, if the Commission concludes that any of Evergy's current confidentiality explanations would benefit from more detail, the appropriate remedy is a supplemental filing or a revised public version directed to the specific material at issue.

19. Such a measured approach is especially appropriate because OPC acknowledges it already has access to the challenged information and is not prejudiced. See Motion ¶ 7. By contrast, the potential competitive harm from public disclosure of Evergy's sensitive information would be immediate and irreversible.

WHEREFORE, Evergy Missouri Metro respectfully requests that the Commission deny OPC's Motion for a Commission Order. In the alternative, if the Commission concludes that any additional explanation is warranted under 20 CSR 4240-2.135(2)(B), Evergy Missouri Metro requests that the Commission deny OPC's request to open the challenged information to public view and instead permit Evergy Missouri Metro to submit a targeted supplemental filing, revised cover sheets or pleadings, or revised public versions limited to any specific line or schedule the Commission identifies.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon counsel for all parties on this 10th day of April 2026, by EFIS filing and notification, and/or e-mail.

/s/ Cole Bailey

Cole Bailey