

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

In the Matter of the Application of) Evergy Missouri West, Inc. d/b/a) Evergy Missouri West For Approval of) an Amendment to Nucor Steel Sedalia,) LLC Agreement)	Case No. EO-2026-0129
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**RESPONSE TO MOTION FOR LEAVE TO FILE TESTIMONY IN SUPPORT OF
NON-UNANIMOUS STIPULATION AND AGREEMENT, OBJECTION TO
TESTIMONY, AND (IN THE ALTERNATIVE) MOTION TO SUSPEND THE
PROCEDURAL SCHEDULE**

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Response to Motion for Leave to File Testimony in Support of Non-Unanimous Stipulation and Agreement, Objection to Testimony, and (in the alternative) Motion to Suspend the Procedural Schedule*, states as follows:

1. On May 18, 2026, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy West” or “the Company”) and Nucor Steel Sedalia, LLC (“Nucor”) collectively filed a *Non-Unanimous Stipulation and Agreement* (the “*Stipulation and Agreement*”) in the above referenced case file.

2. That same day, Evergy West filed a *Motion for Leave to File Testimony in Support of Non-Unanimous Stipulation and Agreement* and included fourteen pages of new testimony by Evergy West witness Brian A. File.¹

¹ The same Mr. File who had previously filed both direct and surrebuttal testimony in this case.

3. On May 20, 2026, this Commission issued an *Order Shortening Response Time* requiring that any response to this *Motion for Leave to File Testimony in Support of Non-Unanimous Stipulation and Agreement* be filed no later than May 21, 2026.

4. Pursuant to this Commission *Order*, the OPC now responds to the *Motion for Leave to File Testimony in Support of Non-Unanimous Stipulation and Agreement* filed by Evergy West and further objects to the newly offered testimony of Evergy West witness Brian A. File, or, alternatively, moves to suspend the procedural schedule for the reasons now set forth:

Evergy West’s Motion Violates the Commission’s Ordered Procedural Schedule

5. This case is concerned solely with Evergy West’s request for the Commission to amend the existing Special Rate for Incremental Load Service (“SIL”) contract governing the provision of electrical service to only Nucor.

6. While Nucor intervened in this case, it offered no testimony opposing the application, made no filing in opposition to Evergy West’s request to amend its own SIL tariff contract, and has generally taken no action whatsoever to oppose Evergy West’s request in whole or in part.

7. Nucor’s filed position statement requests the Commission approve the requested amendment to its own SIL tariff contract.

8. Given the respective actions and positions taken by Nucor and Evergy West, it is self-evident that there has never been any real dispute between the two

parties and that Evergy West and Nucor have been effectively acting as “dual applicants” in all but name.

9. The *Stipulation and Agreement* now filed represents an agreement that exists solely between Nucor and Evergy West.

10. Given the alignment between Evergy West and Nucor, there is no justifiable reason that the now filed *Stipulation and Agreement* between the two parties would not or could not have been reached early in this case or, more likely, before this case even commenced.

11. The Commission’s *Order Setting Procedural Schedule* filed on February 17, 2026, provided for two subsequent rounds of testimony in this case to follow Evergy West’s direct testimony, which was included in the initial case filing on December 18, 2025.

12. Those two rounds began with a rebuttal round on March 30, 2026 and concluded with the filing of surrebuttal testimony on April 29, 2026.²

13. No other rounds of testimony were included or contemplated in the procedural schedule.

14. The parties met to engage in settlement discussions as early as April 2, 2026, well before the filing of surrebuttal testimony.

15. Despite all the foregoing, Evergy West and Nucor delayed filing their *Stipulation and Agreement* – and the offered testimony in support of it – until two minutes before 5:00 pm on May 18, 2025.

² Once again, Nucor made no attempt to file testimony in either of these rounds.

16. This placed the filing of the new testimony at effectively just two days before position statements were to be filed and one week before hearing commenced.

17. This filed testimony is thus, without question, well beyond the deadlines set for testimony in the Commission's *Order Setting Procedural Schedule*.

18. More importantly, this filing represents an attempt by Evergy West and Nucor to purposefully delay the presentation of evidence in a manner that hampers opposing parties' ability to present their case.

19. There is no basis for permitting a party to delay until the very eve of hearing the presentation of evidence that could have most certainly been offered at nearly any other point during the pendency of this case and in clear contradiction to the procedural schedule previously ordered by the Commission.

Admitting the Filed Testimony Would Violate Due Process of Law

20. As previously stated, Evergy West's request to file additional testimony was filed two minutes before 5:00 pm on May 18, 2025, which placed it effectively just one week before the scheduled commencement of the hearing (May 26, 2026).

21. What has not been stated is that this filing comes five days after the deadline to request discovery (May 13, 2026) included in the Commission's ordered procedural schedule.

22. Due to the timing of this filing (in conjunction with the other dates included in the procedural schedule), the OPC now lacks the ability to:

1. Engage in a meaningful review of the newly filed testimony;
2. Issue discovery over the filed testimony to either Evergy West or Nucor;

3. Provide its own testimony in opposition to the filed *Stipulation and Agreement*; or
4. Prepare, let alone file, rebuttal testimony responding to Everyg West's new testimony in support of the filed *Stipulation and Agreement*.

23. The result is a manifestly unfair and unjust shift in the balance of all parties' ability to prepare and present their respective cases in favor of Everyg West and Nucor.

24. "The procedural due process requirement of fair trials by fair tribunals applies to an administrative agency acting in an adjudicative capacity." *State ex rel. AG Processing, Inc. v. Thompson*, 100 S.W.3d 915, 919 (Mo. App. W.D. 2003).

25. This unfair attempt by Everyg West to place its thumb on the balance of the evidence thus violates the OPC's rights to due process and should consequently be denied

Objection or, in the alternative, Motion to Suspend the Procedural Schedule

26. For the reasons now laid out, the OPC objects to the offered *Testimony in Support of Non-Unanimous Stipulation and Agreement* and requests the Commission deny admission of the same.

27. If the Commission so chooses to overrule the OPC's objection and admit the offered testimony, the OPC requests in the alternative that the Commission immediately suspend the procedural schedule (including the commencement of the hearing on May 26, 2026), and order the parties to present a new procedural schedule

so as to give sufficient time for filing testimony in opposition to the filed *Stipulation and Agreement* and to respond to the new testimony offered by Evergy West.

28. The OPC wishes to make clear that this alternative request is not the preferred outcome. Barring the admission of the additional last-minute testimony offered by Evergy West, the OPC is fully prepared to move forward with the current schedule.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Response to Motion for Leave to File Testimony in Support of Non-Unanimous Stipulation and Agreement, Objection to Testimony, and (in the alternative) Motion to Suspend the Procedural Schedule* and deny the admission of such testimony or, in the alternative, suspend the procedural schedule and order the parties to present a new procedural schedule to provide sufficient time for filing testimony in opposition to the *Stipulation and Agreement* and respond to the offered testimony in support of it.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this twenty-first day of May, 2026.

/s/ John Clizer