

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

In the Matter of the Evergy Metro, Inc. )  
d/b/a/ Evergy Missouri Metro and )  
Evergy Missouri West, Inc. d/b/a )  
Evergy Missouri West for Permission )  
and Approval of Certificates of )  
Convenience and Necessity )  
Authorizing them to Construct, )  
Install, Own, Operate, Manage, )  
Maintain, and Control a Natural Gas )  
Production Facility and a Battery )  
Energy Storage System )

Case No. EA-2026-0343

**THE OFFICE OF THE PUBLIC COUNSEL’S REPLY TO THE COMPANY’S  
OPPOSITION TO INTERVENTION REQUESTS AND MOTIONS**

**COMES NOW** the Office of the Public Counsel (“OPC”) and for its *Reply to the Company’s Opposition to Intervention Requests and Motions*, states as follows:

**Relevant Facts**

1. On September 2, 2026, the Public Service Commission (“Commission”) issued an *Order and Notice* (“Order”), ordering the Public Policy and Outreach Department to provide notice to the media outlets in Buchanan and Jasper Counties, Missouri.<sup>1</sup>
2. The Order stated that “[a]pplications to intervene shall be filed no later than September 17, 2026.”<sup>2</sup>
3. On September 15, 2026, six (6) customers or customer households applied to be parties in this case.

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<sup>1</sup> *Order and Notice*, p. 1, Case No. EA-2026-0343, EFIS Item No. 12 (Sept. 2, 2026).

<sup>2</sup> *Id.* at p. 2.

4. On September 16, 2026, Renew Missouri and another customer household applied to intervene as parties in this case.
5. On September 17, 2026, nine (9) additional customer households filed applications to intervene as parties in this case.
6. On September 18, 2026, six (6) more customer households applied to intervene in this case and the OPC filed a *Motion to Extend the Intervention Period and Issue New Notice* (“Motion”).
7. In the Motion, the OPC cites “the number of comments the Commission received and the Public Counsel’s communications with members of the public” as the reason that the OPC determined a need to file a motion to extend the intervention deadline.<sup>3</sup>
8. On September 21, 2026, a further three (3) customer households filed applications to intervene in this case, and a fourth (4<sup>th</sup>) party filed a late-filed application to intervene. That same day, Evergy Metro, inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, inc, d/b/a Evergy Missouri West<sup>4</sup> filed both an opposition to the OPC’s motion to extend the intervention period, an opposition to timely applications to intervene, and opposition to late-filed applications to intervene.

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<sup>3</sup> *Public Counsel’s Motion to Extend Intervention Period and Issue New Notice*, p. 4, Case No. EA-2026-0343, EFIS Item No. 37 (Sept. 18, 2026).

<sup>4</sup> Referred to, together, as “Evergy” or “Company.”

9. In Evergy's filed opposition to the OPC's motion to extend the intervention period, Evergy argued both that the OPC's motion was untimely and that the Commission's order was not unreasonable.<sup>5</sup>
10. On September 23, 2026, two (2) more customer households filed applications to intervene in this case.

### **Argument**

#### **A. The Commission should Consider the OPC's Motion.**

##### ***1. The Motion was filed in response to context that members of the public provided, not the Commission's Order.***

One of the arguments that Evergy made is that the OPC's Motion was filed untimely to the Order.<sup>6</sup> However, Evergy's assessment, that the OPC's Motion is merely a belated response to the Order is incorrect. As the OPC states in the Motion, at least a portion of the OPC's belief that such a motion was necessary was in response to the clear confusion that members of the public had in conversation with the OPC. Had the OPC not faced such a high degree of interest from the public regarding this case, it is likely that the OPC would not have filed the Motion in the first place.

Evergy's assertion that the OPC filed its Motion as an untimely response to the Commission's Order lacks situational context. Nothing in the Motion implies that it was filed in direct opposition to the Commission's order. Rather, the OPC reviewed

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<sup>5</sup> See Generally *Opposition of Evergy Missouri Metro and Evergy Missouri West to the Office of the Public Counsel's Motion to Extend Intervention Period and Issue New Notice*, Case No. EA-2026-0343, EFIS Item No. 43 (Sept. 21, 2026).

<sup>6</sup> *Id.* at p. 2 § II.

the Order and grew concerned after holding conversations with members of the public. Eventually, the OPC found a need to file the Motion because “many members of the public who did learn of the intervention deadline do not understand its significance in terms of how they can be heard by the Commission[.]”<sup>7</sup>

As it stands, Commission regulation does not have an oversight method to determine whether a public utility provided notice to affected Missouri citizens in an effective manner. The OPC is, thus, stuck in a more reactive role in its ability to respond to the adequacy of the public notice provided for a certificate of convenience and necessity (“CCN”) case. As soon as the OPC recognized the scope of the notice and intervention issues in this case, it filed its Motion.

***2. Even if the Commission does consider the Motion a response to the Order, nothing in 20 CSR 4240-2.160(2) explicitly prevents this practice.***

Commission Regulation 20 CSR 4240-2.160(2) states that “Motions for reconsideration of procedural and interlocutory orders *may* be filed within ten (10) days of the date the order is issued, *unless otherwise ordered by the commission.*” (emphasis added). Moreover, motions to reconsider are argued on grounds that the order is “unlawful, unjust, or unreasonable[.]” but that the Commission may “by its own motion reconsider, correct or otherwise amend any order or notice issued in the case.”<sup>8</sup>

Everygy seeks to argue that no Commission order can be amended unless a party objects to it within a ten (10) day period. Neither Commission precedent, nor

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<sup>7</sup> *Public Counsel’s Motion to Extend Intervention Period and Issue New Notice* at p. 4.

<sup>8</sup> 20 CSR 4240-2.160(2).

the cited Commission rule reflects that argument. The Commission is not prohibited from amending its own order merely because the context that highlighted the necessary change was unknown within the first ten (10) days. The Commission may amend the Order at any point before it issues a Final Order.<sup>9</sup> Any argument otherwise unduly limits the Commission's ability to properly address orders based on incomplete information.

Evergy is the party to this case with the most information about this case, including the area wherein it is planning to place these facilities. The citizens and business-owners in that area, intervention applicants, Commission Staff ("Staff"), and even the Commission, itself, lacks the information that Evergy has. The Company is asking the Commission to place inapplicable regulation on the OPC in order to ensure that there is less public input in this case.

After gathering context from the public, the OPC determined that the shortened intervention period that the Commission originally ordered would, in fact, be unjust for the interested citizens who were, and still are, seeking to intervene. With consideration of the high public interest focused on this case, especially due to the fact that the public is not necessarily adept in this niche area of law, the shortened intervention period is unreasonable.

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<sup>9</sup> Id.

***3. The Commission's shortened intervention period may prevent parties from being able to effectively protect their interests.***

In its opposition filing to the OPC's motion, Evergy argued that the Commission's original order shortening the intervention period was reasonable because of the number of intervention applications that were filed timely.<sup>10</sup> The Company pointed to the sixteen (16) customer households that were able to timely intervene in this case as proof that the shortened intervention period was reasonable. However, Evergy's argument ignores the twelve (12) additional applications to intervene that would have been timely under the Commission's standard thirty (30) day intervention period from 20 CSR 4240-2.075(1).

Pointing to the number of interventions that occurred on or before the Commission ordered the intervention period to close does not, in fact, prove that the shortened intervention period was reasonable. Rather, the high number of timely applications to intervene in this case supports the OPC's argument that the case is capturing the public's interest, making it clear that the public interest is in favor of keeping the intervention period open.

**B. Evergy's Filing In Opposition to the Numerous Applications to Intervene Misunderstands Public Service Commission Case Law and the Role of the OPC.**

***1. The facts surrounding landowner intervention in EA-2024-0302 do not apply in this instance.***

Despite the time and effort that Evergy spent on assessing and applying the landowner intervention that occurred in EA-2024-0302 to this case, the facts that

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<sup>10</sup> *Opposition of Evergy Missouri Metro and Evergy Missouri West to the Office of the Public Counsel's Motion to Extend Intervention Period and Issue New Notice* at pp. 4 & 5.

occurred in that instance are far different. In that case, much like Evergy, itself, admits, the issue concerned landowner concerns specifically related to the placement of electric transmission lines within the state. The infrastructure at issue was related to the transmission of electricity from one substation to another and the placement of the poles. However, those affected landowners were similar to several of the landowners at issue here, as most, if not all, of them also did not have a proposed pole or easement on their property related to utility infrastructure.

The OPC would also like to point out that a generation facility is likely to have a higher effect on its surrounding territory than infrastructure such as a transmission line.

Evergy argues that landowner intervention may cause a delay in constructing these facilities, which would harm the public interest. In reality, if the Commission refuses to acknowledge the applying intervenors' requests and concerns, the delay could very likely increase when considering the ability of the landowners to utilize the appeals process to ensure they are heard.

***2. Evergy's description of the OPC's role in this case simplifies this agency's role to a degree that is ethically and legally problematic.***

Evergy's most concerning argument in opposition to the intervention of these various landowners is that their interests are protected due to the mere fact that the OPC is a party to this case. The OPC is alarmed that Evergy appears to believe that our role is to both hold and argue the varied and often contradictory interests of every member of the public simultaneously. Moreover, it is unclear how the Company

expects the party with the smallest staff to weave the various public interests in its arguments in a way that speaks to the Commission.

As several applied-intervenors stated in their own responses, the OPC is required to advocate for the interest of the general public, not the individualized interests that they seek to protect.<sup>11</sup> The Office of the Public Counsel does not have the knowledge or ability to research, address, and argue all the interests of various members of the public in cases such as this one. Moreover, the OPC's duty is to represent the interests of the public as a whole. Fulfilling this duty may cause the OPC to view concerns solely to the local citizens within the subject area differently than the residents, themselves.

Making the OPC's duty as expansive as Evergy states leads to an untenable outcome. In cases such as this one, the OPC could not take a position as its stance would be expected to protect any interest by any member of the public. While the OPC does attempt to adequately balance the interests of local residents near a generation facility with the interests of Evergy customers as a whole, it is not always possible. Therefore, it would be appropriate to permit more local members of the public to express their concerns with this process and the effects it may have on their area.

### **Conclusion**

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<sup>11</sup> *Response to Evergy's Opposition to an Application to Intervene*, pp. 2 & 3, Case No. EA-2026-0343, EFIS Item No. 50 (Sept. 23, 2026); *Response to Evergy's Opposition to an Application to Intervene*, p. 1, Case No. EA-2026-0343, EFIS Item No. 52 (Sept. 23, 2026); *Response to Evergy's Opposition to an Application to Intervene*, p. 1, Case No. EA-2026-0343, EFIS Item No. 53 (Sept. 24, 2026).

In cases where the general public is seeking a right to be heard, the OPC does not believe that it would be beneficial for the Commission to hinder that right. Utilizing court objections to obfuscate the process will not create a smoother process, but a more contentious one. Therefore, the OPC believes that the Commission should reopen the intervention period and should analyze the litigants' applications to intervene on their own merits, without consideration of the opposition filings made by Everygy.

WHEREFORE, the OPC respectfully requests the Commission reopen the intervention period and send a new notice, as requested in its Motion, and discount the opposition filings Everygy made to the other party requests in this case.

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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 24th day of September, 2026.

/s/ Anna Martin