

**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) Case No. EA-2026-0343
Them To Construct, Install, Own, Operate, Manage,)
Maintain, And Control A Natural Gas Production)
Facility And A Battery Energy Storage System.)**

MOTION FOR RECONSIDERATION

COMES NOW Charles Jason Brown (“Brown”), appearing pro se, and requests reconsideration of the Commission’s September 29, 2026, Order insofar as it denies his application to intervene. Brown requests an individualized ruling on good cause for his late filing and on both grounds for intervention in [20 CSR 4240-2.075\(3\)](#). The September 29 Order groups Brown with other applicants without separately addressing his identified property interests, proposed contribution to the Unit 2 record, or good cause for filing after the deadline. Brown requests reconsideration under [20 CSR 4240-2.160\(2\)](#) on the specific grounds below. Brown also expressly claims that the property interests and inadequate representation pleaded in his application warrant intervention as of right, rather than treating his application solely as a request for permissive intervention. See *Missouri-American Water Co. v. Hall*, 470 S.W.3d 761 (Mo. App. W.D. 2015). Brown requests a new or amended order with an effective date 30 days after issuance, to afford a meaningful opportunity to respond and/or seek statutory rehearing¹. Brown does not

¹ The request for 30 days is not meant to delay or prejudice any party. Brown will be traveling and has family, business, and legal obligations that necessitate additional time to properly respond.

claim that a new effective date retroactively cures the September 29 Order. This motion supplements, rather than abandons, Brown's previous filings.

AN INDIVIDUALIZED ASSESSMENT IS APPROPRIATE

The Commission issued its intervention order on September 29, 2026. *Order Regarding Intervention Requests and Order Regarding OPC's Motion for Supplemental Notice* ("September 29 Order"), pp. 1–4. The order addressed applicants collectively; it did not separately analyze Brown's claimed interests, his proposed contribution to the record, or his explanation for filing late. Brown asks the Commission to decide whether his own interests satisfy either alternative in [20 CSR 4240-2.075\(3\)](#), and whether he has shown good cause under subsection (10). As it stands, the Commission's denial is unreasonable and unjust as its collective treatment of applicants leaves unanswered whether his pleaded interests and proposed site-specific satisfy either independent ground in Rule 2.075(3), and whether his prompt filing after learning of the deadline establishes good cause under subsection (10). Additionally, the denial is unlawful if it treated representation by OPC or the existence of public-comment opportunities as a categorical substitute for applying the rule to his individual application, or denied an available right to intervene despite the direct-interest, inadequate-representation, and practical impairment allegations addressed below.

INTERVENTION HAS BEEN GRANTED IN SIMILAR INSTANCES

In **EA-2005-0248**, Aquila sought authority concerning a combustion-turbine generating station and related substations in Cass County. StopAquila.org and Cass County sought intervention in opposition. Aquila opposed StopAquila.org on grounds

including its status as an unincorporated association and whether intervention served the public interest. The Commission held that its intervention rule permitted intervention where an applicant had an interest different from the general public that might be adversely affected **or** participation would serve the public interest. It expressly found that both Cass County and StopAquila.org met both tests, rejected the association objection, and granted their applications. *Order Granting Interventions*, EA-2005-0248 (Feb. 10, 2005), pp. 1–2.

In EA-2006-0309, nearby residents Frank Dillon, Kimberly Miller, and James E. Doll sought to intervene in another Aquila generating-plant proceeding. Their application identified each resident’s location near the plant, the effects they claimed on property value, noise, pollution, and use of their homes, and their contention that no other party was speaking exclusively for them. They also identified specific issues they wished to contest, including the proposed procedural schedule and the scope of the relief Aquila sought. *Application to Intervene of Frank Dillon, Kimberly Miller, and James E. Doll*, EA-2006-0309 (Feb. 27, 2006), ¶¶ 1–4, 6–8. The Commission granted the residents’ application along with those of other applicants. Applying the same two alternative grounds, it found each proposed intervenor met at least one: an interest different from the general public that might be adversely affected, or intervention serving the public interest. *Order Granting Interventions*, EA-2006-0309 (Mar. 2, 2006), pp. 1–2. Aquila did not object at the prehearing conference, and the applications in that proceeding were timely; the order therefore is not a ruling that a late, opposed application must be granted. It does show that the Commission has admitted individual nearby landowners to participate in a generating-plant CCN case based on articulated site-specific interests.

Unlike that order, the September 29 Order does not explain why Brown's identified properties and proposed issues fail either alternative ground.

In this matter, the Commission granted Renew Missouri's timely application. Renew stated that its renewable-energy and energy-efficiency advocacy gave it an interest different from that of the public, and that its participation would improve the decisional record. It had not yet taken a final position on the application and proposed to do so after testimony and discovery. *Application to Intervene of Renew Missouri Advocates*, EA-2026-0343 (Sept. 16, 2026), ¶¶ 1–4. The September 29 Order found Renew's interests distinct and its participation in the public interest. September 29 Order, pp. 1–2. Renew identified no site-specific property interest; Brown does not suggest that it needed to do so or seek to disturb its intervention. Rather, the comparison underscores that the rule permits distinct interests and public-interest contributions of different kinds. The order reports that Renew's timely application was unopposed, but does not say that lack of opposition caused the grant. Brown acknowledges his application was late and opposed and addresses those differences directly.

**BROWN HAS IDENTIFIED A DISTINCT INTEREST
AND A CONCRETE CONTRIBUTION TO THIS MATTER**

Brown's Application gives his name, contact information; explains his interests and reasons for intervention; states his present opposition to approval of Unit 2 at the proposed site; and identifies the subjects on which he seeks to participate. *Application to Intervene Out of Time*, EA-2026-0343 (Sept. 21, 2026). It therefore addresses the information required by [20 CSR 4240-2.075\(2\)\(A\)–\(C\), \(E\)–\(F\)](#). Brown identifies interests in his residence, nearby farms, a Buchanan County property held through an

LLC, and a Gower building held through another LLC; his law firm leases space in that building, which also houses other businesses. His application identifies possible effects on the use and enjoyment of those properties and business operations from the proposed plant and its associated construction, air emissions, water supply, drainage, stormwater, traffic, noise, and lighting. *Application to Intervene Out of Time* ¶¶ 15–18. Brown invokes his identified ownership and/or economic interests and whether a final order authorizing this site and operation may adversely affect them. That is the standard in [20 CSR 4240-2.075\(3\)\(A\)](#), not proof of ultimate injury at the intervention stage.

Brown also identified a contribution to the public-interest inquiry under subsection (3)(B). His application sets out questions concerning the water source and demand for both co-located units, rural-water capacity, groundwater, wastewater and stormwater; emissions and dispersion at nearby homes, farms, businesses and schools; whether the siting study adequately assessed water, wetlands and nearby uses; and whether alternatives or protective conditions are needed. *Application to Intervene Out of Time* ¶¶ 19–28. The application connects those questions to the proposed Unit 2 CCN and the shared facilities on which Unit 2 would rely. Brown’s September 28 reply further identifies concrete subjects on which he proposes to assist: how shared facilities’ costs and operations would be allocated; the support for siting and cost estimates, subject to applicable confidentiality procedures; the requested variances and CWIP safeguards; the proposed deferral of operations-and-maintenance and outage-restoration plans; and the reliability and timing of large-load assumptions. *Reply in Support of Application to Intervene Out of Time* ¶¶ 13–16. These subjects bear on the Unit 2 certification and possible conditions, not a request to certify Unit 1 or decide separate environmental

permits. Brown offers local, site-specific information and the analytical perspective of more than twenty-six years of legal practice; he seeks to participate under the existing schedule and record, subject to any appropriate issue limits. *Id.* ¶¶ 13, 16–17.

The September 29 Order treated the resident applicants collectively, finding that their interests did not differ from those of “other area residents” and that OPC, public comments, a possible hearing, and possible amicus briefing were sufficient. September 29 Order, pp. 2–3. Brown respectfully submits that this grouping did not decide whether his identified property and business interests may be affected by the final CCN or whether his stated examination of shared infrastructure and site alternatives would serve the public interest. Some other residents may share a concern; that does not by itself resolve whether an applicant’s own identified property interests are different from those of the general public. Nor do comments or an amicus brief provide the same ability as party participation to examine the evidentiary case. Brown requests findings on both independent grounds rather than a presumption that OPC represents his particular interests.

The Aquila and Renew Missouri’s grants are persuasive comparisons. The Aquila residents identified possible effects on nearby property, as Brown does; Renew proposed to contribute to the Commission’s decisional record without claiming a local property interest, as Brown also proposes through his identified questions. As Brown explained in his September 28 reply, his proposed examination of site-specific conditions and shared facilities concerns the Unit 2 CCN decision and possible protective conditions, not collateral claims or a request for a Unit 1 certificate. *Reply in Support of Application to*

Intervene Out of Time ¶¶ 13–14. His application thus presents an individualized basis for considering both alternatives in Rule 2.075(3).

BROWN CLAIMS INTERVENTION AS OF RIGHT

Hall did not accept the utility’s argument that all PSC intervention is necessarily permissive. Instead, it assumed without deciding that intervention as of right might exist before the Commission and that denial of it might be appealable. It dismissed Hall’s appeal because his application did not plead the required claim: a direct interest in the subject of the proceeding, inadequate representation by existing parties, and practical impairment of his ability to protect that interest. *Hall*, 470 S.W.3d at 765–67. While, Brown’s original application did not use the words “intervention as of right,” it did allege a direct connection between the requested authorization to construct and operate Unit 2 at this location and the effects he seeks to prevent or mitigate on his residential and farm interests. It identified his property and business interests, detailed site-specific water, drainage, emissions, construction and traffic concerns, stated his opposition to authorization at the proposed site, and explained why OPC and Staff do not represent his particular interests. *Application to Intervene Out of Time* ¶¶ 15–28. A CCN granting construction at the proposed site would allow the project whose location and operation Brown seeks to contest to proceed; a denial would withhold that authorization. His opportunity to protect the claimed interests in this CCN decision may therefore be impaired if he is excluded from the evidentiary proceeding. This is a claim about the practical effect of the authorization, not an assertion that the CCN itself transfers Brown’s property, adjudicates an environmental permit, or proves that an injury will occur. The distinction from *Hall* is concrete: Hall’s desired use of his own septic system could not be

changed by the PSC order authorizing a utility to purchase and operate an existing sewer system. Here the order sought would authorize the construction and operation of the proposed generating facility at the site giving rise to Brown's stated concerns.

BROWN HAS ESTABLISHED GOOD CAUSE

The Commission set September 17, 2026, as the deadline. Brown's application states that he resided in adjacent Clinton County, did not receive or see notice before that deadline, learned of it from Jayson Watkins the following Friday, and filed on September 21, the next business day. *Application to Intervene Out of Time* ¶¶ 4–13. He explicitly accepted "the record established in this case and the requirements of Commission orders as they exist on the date of this filing," as [20 CSR 4240-2.075\(10\)](#) requires. He stated that he would comply with existing and future orders and would not seek delay. Lack of individual notice alone does not invalidate the notice order; however, prompt action following actual notice, acceptance of the record, and absence of a requested delay support a good-cause finding. The Commission relied on the number of public comments and applications in denying OPC's request for supplemental notice. September 29 Order, p. 3. Those totals show that many people received notice, but do not establish when Brown learned of the deadline. He requests an individual finding on his explanation rather than a finding derived solely from aggregate participation.

If the Commission considers full participation too broad, [20 CSR 4240-2.075\(9\)](#) expressly permits intervention limited to particular issues or interests. Brown alternatively requests participation limited to the proposed Unit 2 site, the effects on his identified interests, shared Unit 1/Unit 2 infrastructure insofar as it bears on Unit 2, and

site-specific water, air, drainage, construction, alternatives, and protective conditions. He will accept the established record and scheduling orders and will not seek to reopen completed stages merely because intervention is granted.

THE COMMISSION’S “EFFECTIVE WHEN ISSUED” IS IMPROPER

Brown claims intervention as of right. If his denial is independently reviewable, [§ 386.500.1–2, RSMo](#) provides for an application for rehearing specifying the grounds for review and requires that application before the order’s effective date as a prerequisite to court review. The September 29 Order states that it is effective when issued. September 29 Order, p. 4. That timing leaves no practical interval after issuance to prepare and file a statutory rehearing application directed to a reviewable denial of the claimed right.

In [*State ex rel. Office of the Public Counsel v. Public Service Commission*, 236 S.W.3d 632, 636–37 \(Mo. banc 2007\)](#), the Supreme Court held that the Commission could not make the statutory opportunity for rehearing of a reviewable tariff order ineffective by leaving only one hour and twenty minutes between issuance and effectiveness. While that decision did not address intervention denials or establish appellate jurisdiction over the type of Order at issue in this case, the reasoning is persuasive. If denial of intervention as of right is reviewable, the same meaningful-opportunity concern is actually stronger in this case where the Commission’s denial took place immediately; upon issuance.

REQUESTED RELIEF

WHEREFORE, Brown respectfully requests that the Commission:

- 1.- Reconsider the September 29 Order as to his individual application, with express findings on his interests, his proposed contribution, and good cause;
- 2.- Find good cause under 20 CSR 4240-2.075(10) for his September 21, 2026, filing and recognize his express acceptance of the established record and existing orders;
- 3.- Determine whether intervention as of right is available in a PSC proceeding and, if so, find that Brown's pleaded direct personal interests, inadequate representation, and risk of practical impairment warrant intervention on that basis;
- 4.- Alternatively, grant intervention under 20 CSR 4240-2.075(3)(A) because his distinct interests may be adversely affected, **or** under subsection (3)(B) because his participation would serve the public interest; alternatively, grant issue-limited intervention under subsection (9);
- 5.- If intervention remains denied, expressly address his claimed intervention as of right and, if the denial is reviewable, issue a new or amended ruling with a prospective effective date at least 30 days after issuance, as requested relief affording an opportunity for statutory rehearing under § 386.500; and
- 6.- Rule promptly before further material procedural or evidentiary opportunities pass.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on September 30, 2026, the foregoing was filed through the Missouri Public Service Commission's Electronic Filing and Information System.

/s/ Charles Jason Brown
Charles Jason Brown