

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 Authority to)
Implement a General Rate Increase for Electric)
Service

Case No. ER-2026-0143

ORDER GRANTING MOTION TO STRIKE AND MOTION FOR EXPEDITED TREATMENT

Issue Date: September 28, 2026

Effective Date: September 28, 2026

On September 14, 2026, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (Evergy Metro) filed a motion asking the Commission to strike a portion of the prefiled direct testimony of Staff's witness, Sarah Lange. The portion of Lange's testimony to which Evergy Metro objects relates to information gathered by Lange during a tour of a non-utility party's facility.

Evergy Metro objects to the inclusion of information acquired during the facility tour because the testimony was developed by circumventing the entry-upon-land procedures in the Commission's rules, the opinions are based upon data not reasonably relied upon by experts in the field, and the statements that the testimony relies on are hearsay from declarants that no party can cross-examine. The Commission directed its Staff (Staff) to respond to Evergy Metro's motion to strike.

In its response to Evergy Metro's motion to strike, Staff states that the facility tour was conducted in connection with the regulatory inspection activities of the Commission's Manufactured Housing Department and that Lange chose to attend to gather information for this rate case. Staff argues that any concerns about the testimony's foundation, reliability,

hearsay, or the weight can be addressed through discovery, cross-examination, rebuttal evidence, and, where appropriate, specific objections to particular evidence. However, surrebuttal has already been filed, and the evidentiary hearing starts next week on October 5, 2026.

Staff asserts that the question is whether Missouri Court Rule 58.01, concerning document production and entry onto land prohibits the Commission from acting pursuant to statutory authority or from conducting an authorized regulatory inspection because the property owner is also a party to a contested case. Staff relies on Lange having undertaken the tour pursuant to the Commission's regulatory responsibilities.

However, the facility owner is a party in this case, but it is not a Commission regulated utility and the Commission's jurisdiction is limited. Staff's assertion that this tour was an inspection pursuant to its regulatory obligations is somewhat disingenuous given that Lange was there to gather information for this case. Staff's response states: "Ms. Lange chose to attend to see what, if any, information from the tour would be helpful for the Commission in deciding this case."

The fact that Lange took the tour and asked questions is not in itself inappropriate, but when the information from the tour becomes the rationale for a Staff proposed disallowance then the appropriate method to make that information useful is to follow up on it with appropriate discovery requests.

Lange's direct testimony, to the extent that it is opining on information gathered during a tour organized for the Commission's Manufactured Housing Department is improper. Staff has not indicated that the tour provider would be a witness in this case.

Because it was used in testimony, and not just to satisfy her curiosity or address a Commission inspection issue, Lange essentially conducted an informal deposition on a witness unavailable to cross-examine at hearing.

The Commission will grant Every Metro's request to strike Lange's tour related testimony. However, the Commission will grant Staff the opportunity to provide conforming testimony.

THE COMMISSION ORDERS THAT:

1. Every Metro's Motion to strike portions of the prepared direct testimony of Lange is granted.
2. The specific portions of Lange's direct testimony stricken are contained in Appendix A to *Every Missouri Metro's Motion to Strike Portions of The Direct Testimony of Staff Witness Sarah Lange*.
3. Staff may file conforming testimony no later than October 1, 2026. Any objections or responses to conforming Lange direct testimony will be addressed at the evidentiary hearing.
4. This order is effective when issued.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

John T. Clark, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 28th day of September, 2026.

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

Pursuant to 386.290, RSMo., I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 28th day of September, 2026.



A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 28, 2026

Case No: ER-2026-0143

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).¹

Sincerely,

A handwritten signature in black ink that reads "Nancy Dippell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**Nancy Dippell
Secretary**

¹

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.