

**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)	<u>Case No. ER-2026-01431</u>
Increase for Electric Service)	

**PUBLIC COUNSEL'S RESPONSE IN OPPOSITION
TO EVERGY MISSOURI METRO'S MOTION TO STRIKE TESTIMONY**

COMES NOW the Office of Public Counsel ("Public Counsel") and for its response in opposition to Evergy Missouri Metro's motions titled, *Evergy Missouri Metro's Motion to Strike Portions of the Surrebuttal Testimony of Public Counsel Witnesses David C. Shapley and Paul J. Alvarez and Motion for Expedited Treatment*, states:

1. In his direct testimony Mr. Alvarez's clearly states that "[t]he purpose of my direct testimony is to present the results of my examination of the reasonableness of EMM's transmission and distribution infrastructure spending since the Company's last rate case, and to provide recommendations to the Commission regarding EMM capital spending governance."

2. He also clearly states his recommendation that "[t]he Commission should require discretionary investments that EMM makes or proposes to pass a risk-informed benefit-cost analysis test of customer cost-effectiveness," for those investments to qualify for recovery through retail customer rates.

3. Similarly, in his direct testimony Mr. Shapley also clearly states why he is testifying, "The purpose of my direct testimony is to examine the spending of Evergy Missouri Metro (EMM) for prudence on behalf of Public Counsel and to provide recommendations to the Commission regarding EMM's discretionary spending.

4. In paragraph 4 of its motion EMM acknowledges Mr. Alvarez's purpose is stated in his direct testimony which Public Counsel prefiled on June 30, 2026.

5. EMM has known that Public Counsel witnesses Mr. Alvarez and Mr. Shapley were evaluating EMM's discretionary spending on its transmission and distribution system and that they were recommending EMM be required to conduct a risk-informed benefit-cost analysis test of customer cost-effectiveness since at least June 30, 2026; it is in no position to claim it was blindsided with they testified to that same recommendation in their surrebuttal testimony.

6. EMM complains in its motion about the magnitude of Public Counsel witnesses Mr. Alvarez's and Mr. Shapley's proposals for the dollar amounts of EMM's transmission and distribution spending since its last rate case for which EMM should not recover in retail rates because EMM is prioritizing distribution and transmission system plant replacement regardless of the results of objective tests and formal inspections to evaluate the likelihood of service failures. That is no basis for not allowing their surrebuttal testimony as to those amounts into evidence any more than not allowing true-up testimony. The real issue is EMM's *criteria* for transmission and distribution spending, not the magnitude of that spending for which EMM should recover from its retail customers, *i.e.*, the magnitude of EMM's spending that the Commission should allow EMM to recover through its retail customers' rates is a *consequence* of how EMM decides what and where to spend on its transmission and distribution system.

7. What EMM also omits from its motion is how unreasonably it delayed giving Public Counsel information wholly within EMM's control until pressed to do so. That information includes accounting information about EMM's transmission and distribution infrastructure spending which Mr. Alvarez and Mr. Shapley required to be able to quantify the extent to which that spending is unreasonable.

8. Public Counsel reasonably requested information to identify projects to review in more detail.

9. As EMM states, Public Counsel issued its data request 5000 to EMM on April 21, 2026, but EMM did not answer subpart (h) of that request on May 11, 2026. With that subpart Public Counsel requested “[t]he approved capital spending authorization for the [transmission] project or program [\$250,000 annual aggregate or \$250,000 each, respectively], including all materials Company personnel presented in support of the request.”

10. Still not having received the requested information and recognizing that a complete response to subpart (h) might be overly burdensome, on June 22, 2026, Public Counsel offered to limit its request in subpart (h) to transmission projects over \$3 million rather than over \$250,000, if EMM would provide the requested information promptly.

11. On June 29, 2026, EMM responded, “I am told that a supplemental DR response to 5000 will be completed 7/7 for projects over \$3M.”

12. Public Counsel received EMM’s supplemental response to Public Counsel data request 5000 on July 9, 2026, which included the following statement, “The attached file provides the justification for the original project file provided over three million.”

13. After finally receiving EMM’s response to Public Counsel data request 5000 (h) and reviewing it, Public Counsel issued to EMM data requests nos. 5031-5054 on July 27, 2026, requesting project specific information for projects identified in EMM’s supplemental response to Public Counsel data request 5000.

14. As EMM states in its motion it responded on July 29, 2026, that it would not respond fully until August 20, 2026. The content of EMM’s email response follows:

This set of requests is a big lift for us. We will not be able to achieve the deadline.
We will be able to complete 5031, 5032, and 5049 on time.
The rest we are requesting an extension to 8/20.

15. Pertinent to extensions, Commission rule 20 CSR 4240-2.090(2)(E) states:

(E) If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer.

16. As EMM represents in its motion, it provided its responses Public Counsel data requests 5031 and 5032 on August 6, 2026, but despite its July 29, 2026, representation, as EMM subtly acknowledges, EMM did not provide its response to Public Counsel data request 5049 until August 20, 2026, when it provided its responses to Public Counsel data requests 5033-5048 and 5050-5054.

17. Public Counsel also had difficulty getting timely complete responses to other data requests it issued to EMM. For example, on August 21, 2026, Public Counsel emailed EMM as follows:

It has come to the attention of our experts that Evergy did not provide complete responses to some of our requests, specifically to subparts (g) and (h)(vii) & (viii) of data request no. 2024. Those requests are:

2024. Refer to Ryan Mulvaney Direct Testimony, and to the Lateral Improvement Program described on page 14. Please provide:

* * * *

g. Any analyses, such as benefit-cost analyses, indicating that the value of reliability improvements to customers delivered from this program exceeds the incremental costs of the program to customers. If no such analyses have been completed, please explain why not.

h. Provide a list of laterals improved under this program in 2022. For each lateral listed, please provide:

* * * *

vii. The counts of customers interrupted and customer minutes of interruption on the lateral by year 2019-2021

viii. The counts of customers interrupted and customer minutes of interruption on the lateral by year 2023-2025.

Evergy's response to DR 2024 (g) is: "g. The AssetLens tool calculates a benefit-to-cost ratio (BCR) based on outage information and age of assets to calculate a projected benefit based on reduced outages and outage minutes, utilizing data from the ICE calculator, as well as a projected cost to complete the project. A

BCR greater than 1 suggests that the overall benefits of the project are greater than the upfront costs.”

Evergy’s response to DR 2024 (g) does not show the analyses, at best it identifies the methodology.

Please provide the requested analyses, i.e., the analysis for each lateral improvement project. The response should include, for each lateral improvement project, at a minimum, the costs per project and benefits estimated by type per project (with benefit types per Alexander Rebuttal at 15); customer outage benefit; critical outage benefit; restoration benefit; safety benefit; environmental benefit; and collateral benefit), but Public Counsel will accept whatever analyses Evergy performed.

Evergy’s responses to DR 2024 (h)(vii) and (h)(viii) include customer minutes of interruption by year for each identified period (2019-2021 and 2023-2025), neither include the requested counts of customers interrupted.

Please provide the requested counts of customers interrupted by year for the identified periods of 2019-2021 and 2023-2025.

If you have questions let me know. If Evergy believes a discussion among experts would be helpful to getting the information to Public Counsel, let me know the availabilities of your experts and I will try to set up a time for a conversation to expedite getting responses.

18. EMM promptly responded clarifying some of EMM’s responses on that same day of August 21, 2026, and the parties held the suggested discussion late morning on September 2, 2026, clarifying other of EMM’s responses.

19. On August 27, 2026, Public Counsel also issued to EMM another set of data requests, nos. 5055-5068. EMM objected to Data Request Nos. 5056(c) and (d) as follows:

The Company objects to these requests to the extent they seek information back to 2016. The Company has not yet been able to verify whether complete and reliable data exist for the full requested period. Given that Evergy Missouri Metro's last Missouri rate case was filed in January 2022, the Company submits that 2022 forward is a more reasonable and proportional time period for these requests. Subject to and without waiving these objections, the Company will respond to the extent responsive information is available for the period beginning January 1, 2022.

Notwithstanding and without waiving the foregoing objections, the Company will provide answers to the Data Requests.

20. By data request 5056 Public Counsel requested the following information:

Refer to Q2029_Worst Performing Circuit Guidance, which appears to indicate that EMM operates a Worst-Performing Lateral (“WPL”) program in addition to its worst-performing circuit program. Refer also to Mr. Alexander’s Rebuttal Testimony, page 6, which describes the Lateral Improvement program. Please:

- a. Explain the difference between the WPL program and the Lateral Improvement Program.
- b. OPC believes to be the Lateral Improvement Program and the program that rebuilds laterals to be one and the same. Please confirm or otherwise explain.
- c. Provide i) O&M spending and ii) capital spending on the WPL program by year from 2016-2025.
- d. Provide i) O&M spending and ii) capital spending on the Lateral Improvement Program by year from 2016-2025.
- e. Provide the threshold used to qualify a lateral worst-performing lateral for attention under the worst-performing lateral program.
- f. Provide the threshold used to qualify a lateral for rebuild under the Lateral Improvement Program, and explain any relationship to the worst-performing lateral program.

21. With the ordered surrebuttal filing date of September 10, 2026, impending, Public Counsel brought EMM’s objection before RLJ Clark at the scheduled September 1, 2026, discovery conference. Only after that conference did EMM agree to provide the information requested by subparts c and d back to 2020.

22. Despite being the sole source of the information Public Counsel was seeking, EMM is seeking to have the Commission shift the burden from EMM complying with reasonable discovery requests to requiring Public Counsel to have the Commission force it to do so.

Wherefore, the Office of Public Counsel requests the Commission to overrule *Evergy Missouri Metro’s Motion to Strike Portions of the Surrebuttal Testimony of Public Counsel Witnesses David C. Shapley and Paul J. Alvarez* both for its failure to show harm and because Evergy Missouri Metro unreasonably delayed providing to Public Counsel its cost and other information regarding its transmission and distribution investments since its last rate case that are

wholly within the control of Evergy Missouri Metro when responding to Public Counsel's discovery requests.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 29th day of September 2026.

/s/ Nathan Williams