

**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	)	Case No. ER-2026-0143
Authority to Implement a General Rate	)	
Increase for Electric Service	)	

**EVERGY MISSOURI METRO'S REPLY IN FURTHER SUPPORT OF ITS
MOTION TO STRIKE PORTIONS OF THE SURREBUTTAL TESTIMONIES
OF PUBLIC COUNSEL WITNESSES DAVID C. SHAPLEY AND PAUL J. ALVAREZ**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("EMM" or the "Company") replies to Public Counsel's Response in Opposition to Evergy Missouri Metro's Motion, filed September 29, 2026 (the "Response"), and states as follows:

1. The Response leaves two key points undisputed. It does not contend that Section VI of either OPC surrebuttal responds to anything in the Company's rebuttal testimony, and thus OPC concedes that its testimony is not proper surrebuttal. Nor does OPC oppose the Company's alternative request for leave to file the sur-surrebuttal testimony of Messrs. Rietcheck and Reuter tendered with the Motion. At a minimum, the Commission should therefore grant such leave.

2. Public Counsel's defense of Section VI is merely a flawed account of the parties' discovery.¹ The Commission need not resolve the flaws in that account, because it does not change the appropriate result. However the data request timing is explained, Public Counsel presented \$87.8 million in new transmission disallowances, together with a recommendation to amend the Company's large load tariffs, in the last round of pre-filed testimony.² The Company has had no opportunity to answer any of it in writing.

¹ See Response ¶¶ 7–22.

² Shapley Surrebuttal at pp. 27–33; Alvarez Surrebuttal at pp. 28–32.

3. The Commission's rules supply the procedure for this situation. No party may supplement its pre-filed testimony without leave.³ Mr. Shapley recognizes as much, as he reserves the right to add to his testimony "as necessary and appropriate, and as the Commission permits."⁴ Public Counsel sought no leave before presenting Section VI. By contrast, the Company did seek leave to file its proposed responses, which it tendered with the Motion.⁵ The Commission should strike Section VI, or at least grant the Company's request for leave.

4. The Company is entitled to answer a challenge to the prudence of its investment. A utility's expenditures are presumed prudent, but the presumption yields once another party raises serious doubt, and the utility then bears the burden of dispelling that doubt.⁶ That sequence, of course, assumes the utility has a chance to respond. The order of pre-filed testimony secures that chance by giving each witness "the last word on their own evidence,"⁷ and Section 536.070(2) guarantees each party the right "to rebut the evidence against him or her."⁸ But because Section VI arrived in surrebuttal, the Company has had neither the last word nor the opportunity to rebut.

5. Public Counsel argues without support that the Company has shown no harm.⁹ Not so, as the harm is what the record would lack if the proposed testimony of Messrs. Rietcheck and Reuter is not admitted. Mr. Rietcheck's proposed testimony explains why the four transmission projects Mr. Shapley challenges were prudent when the decisions were made, and it corrects the factual premises of his line-rebuild adjustments, including the age of the poles, the number of structures replaced, and the net book value of the retired plant.¹⁰ Mr. Reuter's proposed testimony

³ 20 CSR 4240-2.130(10).

⁴ Shapley Surrebuttal at p. 34, l. 12 – p. 35, l. 2.

⁵ Motion ¶ 15 & Attachments 1–2.

⁶ *State ex rel. Associated Natural Gas Co. v. Pub. Serv. Comm'n*, 954 S.W.2d 520, 528–29 (Mo. App. W.D. 1997).

⁷ Order Granting Motion to Strike, p. 3, *In re: KCP&L Greater Missouri Operations Co.*, No. ER-2016-0156 (July 26, 2016).

⁸ Section 536.070(2), RSMo.

⁹ Response, WHEREFORE clause.

¹⁰ *See* Motion, Attachment 1 at pp. 3–19.

shows that Panasonic reimbursed the actual cost of the distribution facilities that serve it, and that the transmission facilities Mr. Alvarez targets are regional Southwest Power Pool upgrades whose revenue requirement is spread among all transmission customers in the region, with EMM responsible for a load-ratio share of about 6.86 percent.¹¹ Without that testimony, the Commission would decide \$87.8 million in disallowances on a written record that contains only Public Counsel's opinions in improper surrebuttal, and the Company would be penalized for the timing of Public Counsel's own testimony and procedural improprieties.

6. The proposed sur-surrebuttal testimony has been on file since September 23 and is limited to the Section VI material. Public Counsel may cross-examine both witnesses at the hearing that begins October 5. It is also the relief the Commission granted in the 2016 proceeding the Motion describes.¹² The Response does not suggest otherwise, and so OPC has conceded that there is no harm to it if the Commission grants leave.

WHEREFORE, Evergy Metro, Inc. d/b/a Evergy Missouri Metro respectfully requests that the Commission grant the relief requested in the Motion, including striking the subject testimony or, at a minimum, leave to file the sur-surrebuttal testimony of Messrs. Rietcheck and Reuter attached to the Motion as Attachments 1 and 2; that it rule before the evidentiary hearing begins on October 5, 2026; and that it grant such other and further relief as the Commission deems just and reasonable.

¹¹ See Motion, Attachment 2 at pp. 2–4.

¹² See Motion ¶¶ 11, 15.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail on counsel of record in this proceeding on this 30th day of September 2026.

/s/ Roger W. Steiner _____

Roger W. Steiner