Exhibit No. 319P

OPC – Exhibit 319P
Angela Schaben
Direct Testimony
File Nos. ER-2022-0129 & ER-2022-0130

Exhibit No.: ______________
Issue(s): The MEEIA Uplight Contract/Incentive Compensation/Storm Reserve/Property Tax Tracker
Witness/Type of Exhibit: Schaben/Direct
Sponsoring Party: Public Counsel
Case No.: ER-2022-0129 and ER-2022-0130

DIRECT TESTIMONY

OF

ANGELA SCHABEN

Submitted on Behalf of the Office of the Public Counsel

EVERGY METRO, INC. D/B/A
EVERGY MISSOURI METRO
AND
EVERGY MISSOURI WEST, INC. D/B/A
EVERGY MISSOURI WEST

CASE NOS. ER-2022-0129 AND ER-2022-0130

** **
Denotes Confidential information that has been redacted

June 8, 2022

PUBLIC

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-2022-0129
In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement a General Rate Increase for Electric Service	))))	Case No. ER-2022-0130

AFFIDAVIT OF ANGELA SCHABEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Angela Schaben, of lawful age and being first duly sworn, deposes and states:

1. My name is Angela Schaben. I am a Utility Regulatory Auditor for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my direct testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Angela Schaben
Utility Regulatory Auditor

Subscribed and sworn to me this 8th day of June 2022.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI
TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121

Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.

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DIRECT TESTIMONY

OF

ANGELA SCHABEN

EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST AND EVERGY METRO, INC. D/B/A EVERGY MISSOURI METRO

CASE NOS. ER-2022-0129 AND ER-2022-0130

INTRODUCTION

Q. Please state your name, title, and business address.

A. Angela Schaben, Utility Regulatory Auditor, Office of the Public Counsel ("OPC" or "Public Counsel"), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. What are your qualifications and experience?

A. Please refer to the Schedule ADS-D-1 attached hereto.

Q. Have you testified previously before the Missouri Public Service Commission?

A. I have prepared and submitted pre-filed testimony, but I have not yet been called to testify before the Commission. Please refer to the Schedule ADS-D-2 attached hereto for a list of all cases wherein I have submitted pre-filed testimony.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to address four issues:

(1) The MEEIA Uplight contract,

(2) Incentive Compensation,

(3) Storm Reserve, and

(4) Property Tax Tracker

Q. Please summarize your recommendations as presented in the subsequent testimony.

A. I recommend disallowing the MEEIA Uplight contract from plant in service due to concerns regarding affiliate transaction issues, prudence issues, and allocation issues. I also recommend disallowing the $3,552,782 of incentive compensation Evergy Missouri West ("Missouri West") seeks to include in rates and the $10,008,354 of incentive compensation Evergy Missouri Metro ("Missouri Metro") seeks to include in rates due to reasons explained in greater detail later in this testimony. In regard to the storm reserve, I recommend against creating storm reserves for both Missouri Metro and Missouri West (collectively "Evergy" or "the

Company"), funded through liabilities incurred by each company and owed to ratepayers, and recommend instead that those liabilities be refunded to customers. Finally, even though Missouri legislation was recently introduced in favor of property tax trackers, I will provide details on why said trackers are unnecessary.

<u>THE MEEIA UPLIGHT CONTRACT</u>

Q. What is the MEEIA Uplight software?

A. Uplight is a software as a service ("SaaS") platform whose statement of work ("SOW") with Evergy Services, Inc. runs effectively through December 31, 2027. SaaS generally applies to cloud-based applications licensed on a subscription basis. According to Uplight's website, Uplight is a "unified platform to engage, activate, and orchestrate your customers and their energy usage."[1] Uplight's technology solutions reportedly mitigate the issues where "most utilities are working with a mess of inaccessible and siloed data, resulting in more manual coordination, fragmented customer experiences, and lower customer participation in critical programs."[2]

Q. What are your issues regarding the MEEIA Uplight software purchase?

A. My first issue involves the circumstance under which the MEEIA Uplight software contract was procured. My second issue is the fact that the upfront MEEIA Uplight software costs were allocated solely to Evergy Metro's Plant in Service totals.

Q. What issues do you have regarding the circumstance under which the MEEIA Uplight software contract was procured?

A. I have concerns regarding potential affiliate transaction issues and general prudence issues related to ** ______________________________ **.

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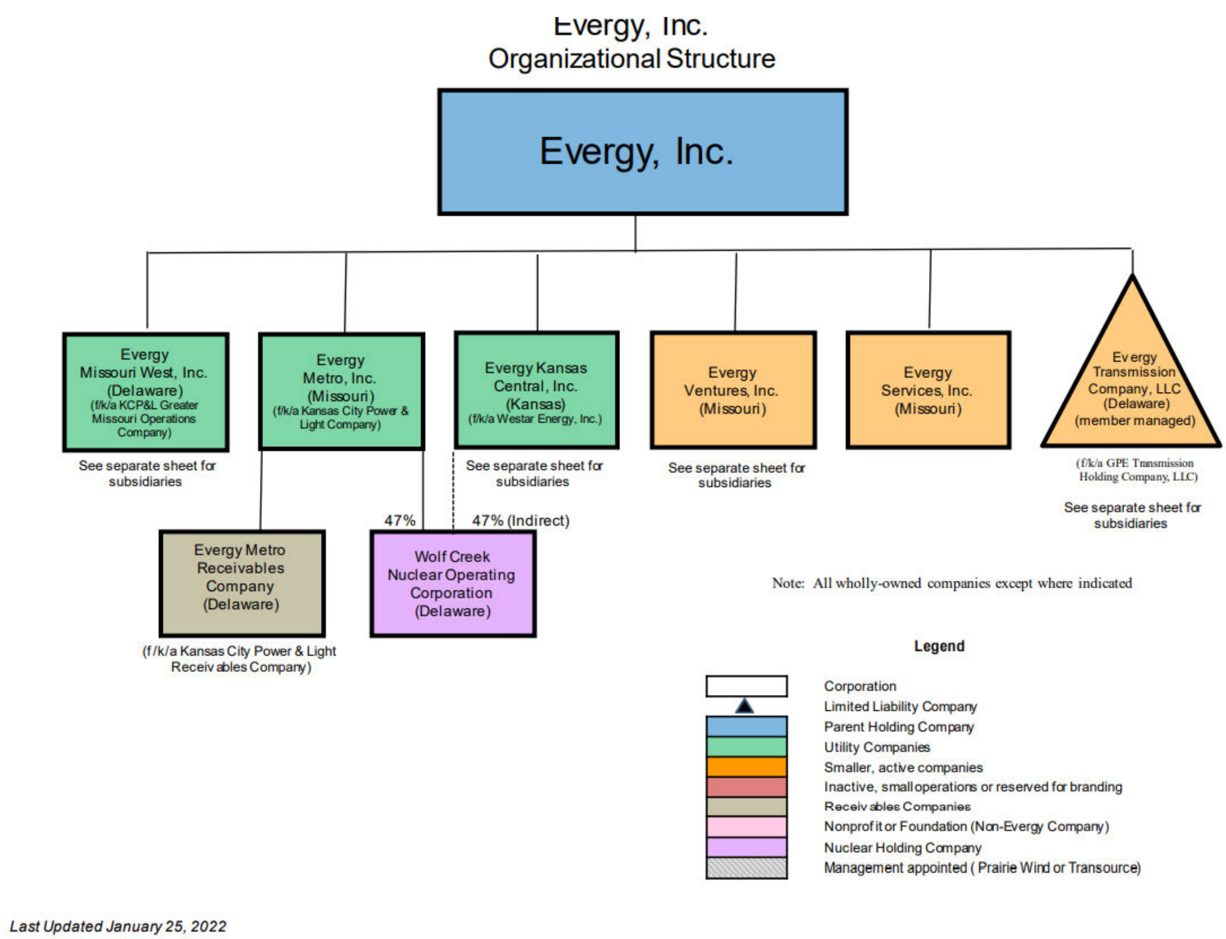
[1] https://uplight.com/solutions/
[2] https://uplight.com/technology/

Q. Why would the MEEIA Uplight software purchase present potential affiliate transaction issues?

A. Both Missouri Metro and Missouri West are owned by Evergy, Inc. which also owns Evergy Ventures, Inc. ("Evergy Ventures"). Evergy Ventures held ownership in Uplight, Inc. through its investment portfolio when the master service agreement for the MEEIA Uplight software purchase between Evergy Services, Inc. and Uplight, Inc. went into effect. The Company therefore had a vested interest in Uplight's success due to investment ownership through their shared parent company, Evergy, Inc. Please refer to Evergy, Inc.'s organization structure displayed below:



Public

Q. What was required of Evergy given the relationship you just described?

A. Per affiliate transaction rules under 20 CSR 4240-20.015(2)(A), a utility shall not provide a financial advantage to an affiliated entity. At face value it appears Evergy provided its affiliate Evergy Ventures a financial advantage by giving preferred treatment to a vendor in whom it owned equity.

Q. Why do you believe Evergy provided its affiliate Evergy Ventures a financial advantage?

A. As reported by Built in Colorado on March 3, 2021, an investment deal with Schneider Electric, Huck Capital, and AES, resulted in Uplight, Inc. achieving valuation of $1.5 billion, which vaulted Uplight, Inc. into unicorn status.[3] Evergy Ventures, Inc. did not exit its investment position in Uplight until ** ____________ ** at which point Uplight was purportedly still valued at $1.5 billion.[4] During this timeframe, Evergy assisted in contributing to Uplight's value by entering into a contractual agreement with Uplight for goods and services. Evergy Ventures, Inc. is an Evergy, Inc. affiliate, therefore both Evergy Ventures and the Evergy conglomerate as a whole benefited from the purchase of goods and services from one particularly lucrative vendor for which Evergy Venture retained equity ownership through investment.

Q. To what does the term 'unicorn' allude in the world of venture capitalism?

A. "Unicorn" is a term used in the venture capital industry to describe a privately held startup company with a value of over $1 billion.[5]

Q. What level of compensation will Uplight, Inc. receive as a result of the SOW with Evergy Services, Inc.?

A. Evergy Services, Inc. shall pay Uplight, Inc. an amount not to exceed ** ____________ ** for unlimited software as a service (SaaS) fees, implementation fees, variable costs, and professional service fees. Of the ** ____________ ** maximum contracted amount, **

[3] https://www.builtincolorado.com/2021/03/03/Uplight-funding-1b-valuation-hiring
[4] https://www.businesswire.com/news/home/20210728006113/en/Rubicon-Technology-Partners-Completes-Sale-of-Majority-Stake-in-Uplight-at-1.5-Billion-Valuation
[5] https://www.investopedia.com/terms/u/unicorn.asp

__________ ** for one time platform connection, application, and professional service fees were due upfront upon the SOW effective date.

Q. Is this potential affiliate transaction issue the only problem you have with the MEEIA Uplight software contract?

A. No. I also have issues with the means by which Evergy procured the software. In particular, I think that it was imprudent for Evergy to ** __________ ** related to the software.

Q. ** __________

A. __________

Q. __________

A. __________

[6] ADS-D-3

[7] ** __________ **

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

Q. [redacted]

A. [redacted]

> [redacted]

[8] ADS-D-4

[9] https://uplight.com/press/simple-energy-and-tendril-merge-to-accelerate-the-clean-energy-ecosystem/.

[10] See File No. EM-2018-0012, Exhibit A, page 74 of 108, excerpts from paragraphs 3 and 4.

Q. ______________________________

A. ______________________________ ______________________________ ______________________________ ____________ **

Q. Why is a competitive bid process important?

A. A competitive bid process establishes market price and ensures that captive rate payers aren't ultimately on the hook for paying inflated prices for goods and services. ** ______ ______________________________ ______________________________ ______________________________ ______ ** The Company expects to capitalize this amount through plant in service and earn a rate of return. ** ______________________________ ______________________________ ____________ **

Q. That's quite a lot of information to process. Can you summarize?

A. Absolutely. A summary table of dates and events is available below.

**

**

Q. You also mentioned issues regarding the proper allocation of the MEEIA Uplight software. Please explain those issues.

A. The statement of work entered into for the Uplight contract includes an Exhibit E, which outlines the following Enterprise Level Outcomes: **

-
-

[11] ADS-D-5

- ____
____
- ____

____ **

Q. Why does the Company seek to capitalize the entire Uplight contract under Missouri Metro plant in service?

A. That's a great question. Unfortunately, I do not know the answer. The MEEIA Uplight contract is 100% allocated for capitalization under Evergy Metro's plant in service. However, according to the Company's response to Staff DR 0181, ** ____ **

Q. Why is this noteworthy?

A. Evergy utilizes various allocation factors to determine billed services between its affiliates. The practice of only capitalizing a large item under Missouri Metro, who then determines how additional monthly O&M is shared between affiliates according to predetermined allocators that consider plant in service, appears to provide bias against Missouri Metro.

Q. Are there other concerns relating to Evergy's allocation factors?

A. Yes. However, those concerns will be addressed in the testimony submitted by other OPC witnesses.

Q. What is your position regarding the MEEIA Uplight software?

A. For all the reasons I have provided, I recommend disallowing the ** __________ ** for 'MEEIA Uplight' from rates.

INCENTIVE COMPENSATION

Q. What is your issue regarding incentive compensation?

A. Ratepayers should not pay for excessive incentive compensation in their rates. A proficiently designed incentive compensation plan will ultimately pay for itself by reducing operations and maintenance expenses (O&M).

Q. What amount of incentive compensation is currently included in Evergy's case?

A. Evergy calculated three year incentive compensation averages for both Missouri West and Missouri Metro. The Company then deducted test year incentive compensation for each utility to include in rates. Missouri Metro's three-year incentive compensation average was $10,008,354 and test year incentive compensation was $14,092,776. Therefore, the Company made an adjustment of ($4,084,422) and seeks the three-year average of $10,008,354 for inclusion in rates.

Missouri West's three-year incentive compensation average is $3,552,782 and the test year incentive compensation was $3,789,218. Therefore, the Company made an adjustment of ($236,436) and seeks the three-year average of $3,552,782 for inclusion in rates.

Q. **How have AIP incentive compensation plan scorecards changed since 2019?**

A. ** ____
____
____

____
____ **

Q. To what extent would the incentive compensation and the reduction in operations and maintenance expenses be reflected in the Company's revenue moving forward if incentive compensation is included in Evergy's rates?

A. Assessment of present and future efficiencies, along with the correlating incentive compensation related to these efficiencies, are only accurately reflected in a future rate case when customers should see benefits through a revenue requirement reduction. Between rate cases, any efficiency benefits derived on behalf of the customer will be absorbed by the company as revenue.

Q. Can you elaborate using a hypothetical example?

A. Absolutely. Let's consider ABC Utility Company. Years prior to a rate case filed in 2022, ABC Utility Company devised a plan to improve operational efficiencies. The Company then developed strategies to identify inefficiencies and solutions for improvement. A corresponding incentive compensation plan to reward employees for achieving these new efficiency goals was also implemented. As a result, ABC Utility Company has paid out an average of $10,000,000 in incentive compensation annually for each of the past three years leading up to the Company's new rates being set at the end of the 2022 rate case. ABC Utility Company made these incentive compensation payments to reward employees for achieving an average of $12,000,000 in O&M savings annually in each year prior to the incentive compensation payments being made. Based on these dollar amounts, the Commission orders new rates that allow ABC Utility Company to collect $10,000,000 from ratepayers annually to cover incentive compensation payouts on the assumption that the company will continue to generate an average of $12,000,000 in O&M savings annually. The result of this order is outlined in the table below:

	Year				
	2021 **Historic Rate Case Test Year**	**2022** **Rate Case Year**	**2023** **Between Rate Cases**	**2024** **Between Rate Cases**	**2025 & onward** **Between Rate Cases**
Incentive Compensation Payout based on prior year efficiencies	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
Amount collected by Utility in rates to cover Incentive Compensation Payouts	N/a	10,000,000	10,000,000	10,000,000	10,000,000
O&M Savings	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Reduction in Utility's revenue requirement resulting from O&M savings in the prior year	N/a	(12,000,000)	0	0	0
Net revenue gained by Utility	N/a	0	12,000,000	12,000,000	12,000,000

As you can see from the table above, ABC Utility Company only saw a reduction in its revenue requirement corresponding to the O&M savings that occurred in the prior year for the first year after the new rates went into effect. These reductions correspond to the O&M savings that were achieved during the test year on which the new rates were set. For each subsequent year, the revenue requirement remains unchanged because rates are not being reset. As a result, the O&M savings (*i.e.* efficiency benefits) are absorbed by the Company as revenue due to positive regulatory lag. Moreover, because the net O&M savings are larger than the amount being paid out in incentive compensation, the plan is more than paying for itself.

Q. How do employee incentive compensation plans generally operate within a non-regulated competitive corporate environment?

A. Within a non-regulated competitive corporate environment, "companies must implement robust risk management processes to ensure proper alignment of incentive compensation with both strategic objectives and company risk appetite"[12] Basically, a company must determine the level of risk it's willing to tolerate when developing an incentive compensation plan. An effectively designed plan should at least pay for itself while also contribute beneficially to the bottom line.

Q. How could risk tolerance differ between a non-regulated competitive corporation vs. a regulated utility company?

A. One variable a competitive corporation should consider when crafting incentive compensation packages is the reception of key consumers and shareholders. An abundance of public company data exists for research purposes[13] and specific data relating to executive compensation must be reported to the SEC. Dissatisfied consumers and shareholders who find the executive compensation excessive can choose to support a competitor. Losing customers and shareholders lead to potential declining value of the company and increases risk. Regulated utilities do not share this risk.

Q. Why would regulated utilities not worry about losing customers due to excessive incentive compensation?

A. Regulated utilities serve captive ratepayers who do not have an option of switching providers, even if they are dissatisfied and their service is lacking.

Q. What is your opinion on incentive compensation plans?

A. The implementation of incentive compensation plans is standard practice within corporate environments. Strategically crafted incentive compensation plans should essentially pay for themselves through cost benefits and operational efficiencies. Regulated utilities have an

[12] As quoted from https://www.shrm.org/resourcesandtools/hr-topics/compensation/pages/incentiverisks.aspx
[13] https://hbr.org/2021/01/compensation-packages-that-actually-drive-performance

advantage over other publicly traded corporations. Non-regulatory corporations cannot count on potential additional revenue resulting from regulatory lag.

Q. Please elaborate.

Organizations should develop incentive compensation plans from a risk management perspective in order to maximize organizational benefits received in return for the compensation paid out. If an organization is not reaping rewards, it will not issue rewards. One method for mitigating risk includes placing a cap on the maximum incentive compensation plan payout[14]. This is how competitive corporations remain competitive. A competitive corporation will not pay out incentive compensation at the expense of its bottom line if it gains no value in return. In contrast, regulated utilities have options to recover incentive compensation program costs from captive ratepayers, regardless of gained efficiencies or if the programs already paid for themselves through said efficiencies. The risk management methodology is unnecessary since regulated utilities expect to recover incentive compensation costs regardless.

Q. Is there any other issue relating to incentive compensation that you believe the Commission should consider?

A. **____
____
______

- ______________________
- ________________________________
- ____
  ____
- ____

____
____

[14] https://www resolver.com/blog/incentive-compensation-risk-management/

Q.

A.

Q.

A.

[15] Uplight SaaS SOW Pursuant to MSA by and Between Evergy Services, Inc. and Uplight, Inc., page 5, section 8(1)

____

______________________________ **

Q. What is your ultimate recommendation relating to incentive compensation?

A. The Commission should remove the $10,008,354 of incentive compensation for Missouri Metro and remove the $3,552,782 of incentive compensation for Missouri West. Captive ratepayers should not be on the hook for high dollar payouts for incentive compensation plans that ought to be designed to pay for themselves through efficiencies and cost savings. If customers of non-regulated competitive companies are unsatisfied with goods and services, they have the option to switch providers. Captive ratepayers do not have that option. In addition, ratepayers should also not be required to pay for both a contract with Executive outcomes related to executive outcomes that are also outlined in the incentive compensation plan.

<u>**STORM RESERVE**</u>

Q. Please summarize the proposed Storm Reserved sought by both Evergy Metro and Evergy West.

A. The companies propose creating storm reserves based on the three-year average of storm costs (2018, 2019, and 2020) where the non-labor costs related to individual storms were greater than $200,000. They propose that the initial storm reserve balance shall be funded by a portion of the regulatory liabilities (CS-113) from Missouri Metro and the excess major maintenance reserve (CS-43) from Missouri West.

Q. What are your concerns with this proposal?

A. Storm costs are categorized under a utility's cost of doing business. For significant and extraordinary storms impacting operations, the company could still request an Accounting Authority Order (AAO). Per Evergy witness Klote's testimony, "The implementation of this reserve will be used to cover intermediate to large storms by using a $200,000 minimum storm level, but in the event a storm is very significant and impactful to Company operations this request does not preclude the company from requesting an Accounting Authority Order if the magnitude of the storm warrants the reserve as has been done historically."[16]

Q. What dollar amounts are the companies seeking to establish the storm reserves?

A. Evergy Missouri Metro is seeking a storm reserve with $3,700,152 from the $32,971,236 total regulatory liabilities currently accumulated (adjustment CS-113). Evergy Missouri West is seeking a storm reserve with $1,779,432 from the excess major maintenance reserve.

Q. **Why has the company established $200,000 as the baseline to determine if a major storm has occurred?**

A. Setting baseline storm costs at $200,000 before the use of a storm reserve was arbitrarily set by the Company. In Kansas, the storm reserve baseline is set at $250,000. Since the baseline for Missouri storm reserves was arbitrarily set to $200,000, the number really could be $300,000 or $400,000 or even $500,000. If a storm reserve was established, and few significantly large storm events occurred, the remaining storm reserve balance will just exist, without actually providing customer benefits.

Q. **What is your recommendation regarding the storm reserve?**

A. I recommend disallowing the storm reserve and refunding all of the $32,971,236 in Missouri Metro regulatory liabilities to the customers. I also recommend refunding the $1,779,432 in the Missouri West major maintenance reserve to the customers.

Q. **Why do you recommend disallowing the storm reserve?**

A. There is simply no need for this reserve to exist. The establishment of a storm reserve is just an attempt by the Company to keep money currently booked to regulatory liabilities from being refunded to the customers. Therefore, all of the regulatory liabilities currently on the books should be refunded.

[16] ER-2022-0129 Direct Testimony of Ronald A. Klote, Page 39

Q. **Would a storm reserve benefit customers in any way?**

A. No. It would actually result in higher customer bills. A storm reserve only benefits Evergy. Potential storm cost liabilities are a natural cost of utility company operations, for which it earns a rate of return. For extraordinary storms exceeding reasonable costs that cannot be absorbed within regular operations, the Company could request an AAO. Implementing a storm reserve essentially removes an additional layer of operational risk, for which the Company is already allowed a rate of return, at the expense of its customers.

PROPERTY TAX TRACKER

Q. **Please describe the Company's proposed property tax ratemaking mechanism.**

A. The Company proposes a property tax tracking mechanism in order to remedy the under-recovery of property taxes paid.[17]

Q. **Did the Company propose a similar mechanism for property taxes in prior cases?**

A. Yes. The Company also proposed mechanisms relating to property tax tracking in rate cases ER-2016-0285 and ER-2014-0370.

Q. **Did the Commission approve the property tax tracking mechanisms in these prior rate cases?**

A. No. In its Report and Order in Case No. ER-2014-0370, the Commission stated:

> KCPL has requested that the Commission approval the same type of deferral mechanism for property tax expenses that it requested for transmission fee expenses. For that reason, the Commission incorporates herein the analysis contained in the conclusions of law and decision section from the transmission fee expense issue discussed above. The Commission concludes that KCPL has not met its burden of proof to demonstrate that projected property tax increases are extraordinary, so its request for a property tax tracker will be denied.[18]

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[17] Direct Testimony of Melissa Hardesty, page 14

[18] File No. ER-2014-0370, Report and Order issued September 2, 2015, page 56.

Q. **Are annual changes in property taxes substantial enough to have a material impact upon revenue requirements and the financial performance of Evergy between rate cases?**

A. No.

Q. **Were the historical levels of Evergy Metro's and Evergy West's property taxes volatile from year to year?**

A. No. Between the 2018 and 2021 tax years, Evergy Metro's property taxes increased $10.79 million overall and Evergy West's property taxes increased only $3.9 million overall. In fact, Evergy Metro's property taxes decreased by $1,567,951 from 2018 to 2019, while Evergy West's property taxes decreased by $341,347 from 2018 to 2019.

Q. **Do you have any other thoughts regarding Evergy's request for a property tax tracker?**

A. Yes. A paper published by NRRI entitled "How Should Regulators View Cost Trackers?" points out that cost trackers potentially diminish efficient management of regulatory activities:

> Cost trackers can reduce utility efficiency. "Just and reasonable" rates require that customers do not pay for costs the utility could have avoided with efficient or prudent management. Regulation attempts to protect customer from excessive utility costs by scrutinizing a utility's costs in a rate case, conducting a retrospective review of costs, applying performance based incentives, and instituting regulatory lag. Cost trackers diminish one or more of these regulatory activities. In some cases, they diminish all of them. The consequence is the increased likelihood that customers will pay for excessive utility costs.[19]

Utility companies are not subjected to the whims of property tax assessors. The Company personnel work with State Assessors regarding property tax valuations and review logic and methods used by State Assessors to validate the appraisals are sound. If the Company is

[19] NRRI How Should Regulators View Cost Trackers, page 16

aware of property tax assessing methodology, it can plan for prudent management of said property.

Q. **Does this conclude your testimony?**

A. Yes.