

In the Matter of Evergy Metro, Inc. and Evergy Missouri West, Inc.

Hearing before:

Public Hearing Commission

September 08, 2022

Vol 12

PHIPPS REPORTING

Raising the Bar!

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

Thursday, September 8, 2022
8:30 a.m. - 2:21 p.m.

Missouri Public Service Commission
200 Madison Street, Room 310
Jefferson City, MO 65102
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In the Matter of Evergy Metro,)
Inc. d/b/a Evergy Missouri)
Metro's Request for Authority to) File No. ER-2022-0129
Implement a General Rate)
Increase for Electric Service)

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

CHARLES HATCHER, Presiding
SENIOR REGULATORY LAW JUDGE

JASON R. HOLSMAN, Commissioner
GLEN KOLKMEYER, Commissioner

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1 The following proceedings began at 8:35 a.m.

2 JUDGE HATCHER: Let's go on the record. Today
3 is September 8 and we are in the courtroom of the
4 Missouri Public Service Commission. We are in the
5 middle of our evidentiary hearing for the general rate
6 increase request by Evergy Missouri Metro file number
7 ending in 0129 and Evergy Missouri West file number
8 ending 0130.

9 For the record we are joined this morning by
10 Commissioners Holsman and Kolkmeyer. Welcome,
11 Commissioners. We have two issues for this morning.
12 And we are going to combine those issues as they have
13 limited witnesses and those witnesses generally have
14 testified in both of those with one exception.

15 The plan then is after that testimony
16 concludes we will recess until 1:00 p.m. There is a
17 10:15 agenda scheduled in there for the Commissioners,
18 and we will of course be breaking about 20 to 25 minutes
19 before that start time in order to allow everyone on the
20 staff's technical side to switch over the livestreams
21 and various things.

22 All right. Let us get into mini opening
23 statements, if any party would wish to give them. The
24 company.

25 MR. ZOBRIST: Thank you, Judge. Karl Zobrist

1 on behalf of the Evergy companies. Just very briefly.
2 We have one witness to present today on both the
3 resource planning issue, I understand that's been marked
4 as Issue III-B, and then on the analogous rate base
5 Issue XV.

6 That witness is Kayla Messamore,
7 M-e-s-s-a-m-o-r-e. Ms. Messamore will also stand for
8 cross-examination on the Sibley issues that we tried
9 last week because she was unavailable, if anyone,
10 Commission or parties, have questions of her.

11 With regard to the resource planning issue,
12 our position on this issue, which is whether the company
13 should be required to conduct a full retirement study of
14 its coal fleet using optimized capacity expansion
15 software, this is an IRP issue for the integrated
16 resource planning dockets and that's numbers
17 EO-2022-0201 and 0202. Those issues relate to software
18 mainly from our standpoint. There are other issues, of
19 course, in that case. The company is now using this
20 software. There is some debate about what they are
21 doing, why they are supposedly not doing something.
22 Those issues do not need to be covered in this rate
23 case. So we believe that the answer should be no, these
24 issues should be dealt with in those integrated resource
25 planning dockets. The company is prepared to respond to

1 the issues raised by staff and Sierra Club and others I
2 believe in about ten days.

3 As far as Issue XV, we have in this case, and
4 we've settled most of the resource planning issues, the
5 parties have, it's for the Commission to decide what to
6 do with those stipulations, but we had disallowances
7 proposed by the Office of the Public Counsel because in
8 part Evergy Missouri West did retire a coal plant early.
9 This is the flip side.

10 Sierra Club is saying you should accelerate
11 the retirement of your plants and they say although we
12 understand that you can't shut down coal plants just
13 immediately, they propose a disallowance of about a
14 hundred million dollars to deprive the company of
15 revenue for capital expenses and for operating and
16 maintenance expenses based upon the fact that there is a
17 disagreement in how retirements are modeled and how the
18 software is run.

19 We do not believe that this raises the serious
20 doubt as to the prudence of the operations of the
21 company and certainly it does not raise a serious doubt
22 in terms of the proposals that have been presented in
23 this case. We understand that the prudence standard
24 applies in this situation. We do not believe a serious
25 doubt has been raised, and we ask that their proposed

1 disallowances be rejected.

2 I would just also point out that there has
3 been very little discussion of system reliability in
4 light of what is going on in the country today and in
5 particular in light of the fact that Southwest Power
6 Pool has raised the reserve margins recently to account
7 for what they believe is reliability issue that we all
8 need to address.

9 So in light of that, that's all I have, Judge.
10 I'd be glad to answer any questions.

11 JUDGE HATCHER: Are there any Commissioner
12 questions for Mr. Zobrist?

13 COMMISSIONER HOLSMAN: No questions, Judge.
14 Thank you.

15 JUDGE HATCHER: Thank you, Commissioner
16 Holsman.

17 MR. ZOBRIST: Thanks, Judge.

18 JUDGE HATCHER: Thank you, sir. Let's move
19 on. Opening statements I have staff next. I'm going to
20 pause for a quick introduction first.

21 MR. CURTIS STOKES: May it please the
22 Commission. Good morning. It is again my privilege to
23 introduce a new attorney to the Commission. Don Cosper
24 joins us from the University of Arkansas-Little Rock
25 School of Law. He just began, and this is his first

1 opening statement.

2 JUDGE HATCHER: Mr. Cosper, welcome to the
3 Commission. Please go ahead.

4 MR. COSPER: Thank you. Good morning. May it
5 please the Commission. My name is Don Cosper,
6 C-o-s-p-e-r, and I represent staff. Although staff
7 takes no position on rate base or resource planning,
8 staff witness Jordan Hull has filed informational
9 testimony in this matter and we're here to answer
10 questions on that testimony.

11 Mr. Hull discusses generation unit classes,
12 how a diverse generation fleet improves grid stability
13 and reliability, and why generation types do matter when
14 planning retirement for units. Thank you.

15 JUDGE HATCHER: Thank you, Mr. Cosper. Are
16 there any Commissioner questions for one of our new
17 staff attorneys? Hearing none. Thank you very much,
18 Mr. Cosper, and welcome again.

19 Sierra Club, would you like to make a mini
20 opening?

21 MS. RUBENSTEIN: Good morning.

22 JUDGE HATCHER: Good morning. Go ahead.

23 MS. RUBENSTEIN: I just want to make sure you
24 all can hear me since I'm participating remotely. I
25 don't want to mess up your record.

1 Good morning. May it please the Commission.
2 My name is Sarah Rubenstein of Great Rivers
3 Environmental Law Center, and I'm appearing on behalf of
4 Sierra Club.

5 I would like to start by recapping the legal
6 and regulatory requirements that a utility must prove in
7 a rate case. First, in a rate case the utility has a
8 burden to prove that all its costs are reasonable. This
9 includes all costs associated with maintaining
10 generation assets that are included in the test year.
11 Second, it follows from these general principles that
12 the utility has a burden to prove its generation
13 planning decisions are reasonable in a rate case.

14 It's important to remember that integrated
15 resource plans or IRPs in Missouri are not reviewed in
16 contested proceedings. There's no formal approval of
17 the utility's decision making in an IRP docket. This
18 Commission does not rule on the substance of an IRP.
19 Rate cases are therefore a primary venue for protecting
20 regulated customers from imprudent power plant and other
21 resource planning decisions.

22 At a minimum, we're challenged a utility must
23 carry its burden to show that a particular generating
24 unit's test year costs were prudently incurred and that
25 it was prudent to operate the plant throughout the test

1 year. Because a generator would reduce spending as it
2 approaches a prudently selected retirement date, the
3 obligation to plan reasonably should extend beyond the
4 test year as well.

5 For example, a prudent utility would avoid
6 substantial upcoming environmental capital costs if a
7 particular plant was slated for near term retirement. I
8 would also like to point the Commission to a few facts
9 relevant to Evergy's request to include coal units
10 spending in its customers' rates in this case.

11 First, as a factual matter, Evergy has offered
12 little evidence to support maintaining its coal units
13 through its test year or beyond. Evergy Metro and West
14 seek approval of test year capital spending of 87.8
15 million at their coal units, and that figure is broken
16 out by utility in Sierra Club Witness Glick's direct
17 testimony at page 12, Table 5.

18 Evergy has asserted that the amount of O&M it
19 seeks to charge customers in the test year is
20 confidential though the O&M figure is also significant
21 and can be found in the confidential version of Sierra
22 Club Witness Glick's direct testimony again at page 12,
23 Table 5. Evergy did not file any direct testimony in
24 this case supporting or defending its test year spending
25 at its coal units.

1 The only rebuttal testimony that Evergy filed
2 in support of its coal spending is that of Witness
3 Messamore which offers no independent evidence of the
4 value of maintaining the coal units through the test
5 year. The Messamore testimony primarily points to the
6 company's IRP process to support its request to include
7 coal costs in customers' rates.

8 Second, the economics of Evergy's coal units
9 have been and continue to be marginal compared to
10 alternative and replacement resources. Existing
11 coal-fired power plants are increasingly uneconomic in
12 the U.S. and the Southwest Power Pool. They are poised
13 to become even more-so in the future because of both
14 economic and regulatory forces that will continue to
15 increase their costs to operate relative to
16 alternatives. Higher operational costs result in lower
17 utilization and capacity factors.

18 The historic and projected capacity factor
19 data for Evergy's coal units is provided in Figure 1 on
20 page 23 of the confidential version of the Glick
21 testimony. Sierra Club Witness Glick evaluated the
22 historic performance of Evergy's coal units between the
23 years 2017 and 2021. Ms. Glick used Evergy's actual
24 revenues and actual costs, including a capacity price
25 provided by Evergy to represent the unit's capacity

1 value and found that the company's coal units incurred
2 costs in excess of their market energy and capacity
3 value over the past five years.

4 Evergy has claimed that Ms. Glick's
5 calculations are confidential. The historic costs and
6 values of the coal units is provided at Table 7 which is
7 on page 26 of the Glick direct testimony. Ms. Glick
8 also evaluated the projected performance of Evergy's
9 coal plants looking forward.

10 Ms. Glick used Evergy's own unit cost
11 forecasts, market prices, and revenues. Ms. Glick again
12 used a capacity value set at the cost of one of Evergy's
13 contracts.

14 Ms. Glick's analysis shows that the coal units
15 are projected to incur costs in excess of their market
16 energy and capacity value during the 2020s. Evergy has
17 claimed that this calculation is confidential. The
18 forward-looking analysis is shown in confidential Table
19 11 which is on page 38 of the Glick direct testimony.

20 In rebuttal, Evergy Witness Messamore stated
21 that the Glick analysis did not account for the cost of
22 replacement capacity. That is false. Ms. Glick valued
23 the cost of replacement capacity at the cost of one of
24 the company's bilateral capacity contracts. Evergy
25 stated in response to Sierra Club Data Request 1-12A

1 that it also uses the value of its bilateral capacity
2 agreements to estimate the value of capacity. Ms.
3 Glick's historic and forward-looking projections
4 unrebutted by Evergy demonstrated that customers will
5 likely benefit from the retirement of a coal unit or
6 coal units in the near term.

7 Third, the company's IRP as constructed and
8 relied upon by Evergy does not support Evergy's coal
9 spending in this case. The company has neglected to
10 evaluate the reasonableness of continuing to invest in
11 its coal plants despite declining economics and
12 decreased utilization.

13 In its IRP Evergy studied a limited number of
14 retirement dates nearly a decade away, 2029 and later
15 for its coal plants, and evaluated no near-term
16 retirement dates.

17 Evergy did not permit its resource planning
18 model to select optimal retirement dates but instead
19 hard wired a limited number of distant retirement dates
20 to study in its IRP. Evergy's IRP simply did not answer
21 the question of whether the coal units should be
22 maintained through the test year of this case.

23 I'll now turn to the relief we're requesting.
24 Sierra Club's requested findings of fact are provided at
25 page 4 of the Glick direct testimony. Our proposed

1 remedies are provided at pages 4 and 5 of the Glick
2 direct testimony. I'll summarize them here. Sierra
3 Club respectfully asks the Commission to make the
4 finding that Evergy has not engaged in reasonable
5 resource planning for its coal units by refusing to
6 study the economics of near-term retirement.

7 Without evaluating the cost of retiring and
8 replacing one or more of these units, there is no
9 reliable evidence of the value of maintaining all of
10 these units through the test year. Sierra Club
11 respectfully asks that the Commission make the further
12 finding that Evergy has not met its burden of proof to
13 demonstrate that continued investment in its coal fleet
14 is the prudent and least cost option to provide service
15 to its ratepayers. Sierra Club asks that the Commission
16 disallow Evergy's test year spending for its coal units
17 because the company has not met its burden of proof.

18 Further, the Commission should require Evergy
19 to conduct a full retirement study of its coal fleet
20 using optimized capacity expansion software. This
21 analysis should evaluate the economics of continuing to
22 operate its coal plants relative to retirement, identify
23 the optimal retirement date for each of its coal-burning
24 units, and design an optimal future resource mix to meet
25 the company's projected needs.

1 Last, given the poor to marginal economics of
2 Jeffrey Units 1 through 3, Iatan Units 1 and 2, and La
3 Cygne Units 1 and 2, the company should signal that in
4 future dockets it will not be inclined to approve cost
5 recovery by Evergy of any capital investments of more
6 than a million dollars at these plants without prior
7 Commission approval.

8 Finally, I have one brief area of policy to
9 address. During the last month, Congress has passed and
10 the President has signed the Inflation Reduction Act.
11 The Act has not been accounted for in either the Glick
12 present value calculations or in Evergy's IRP, but the
13 Inflation Reduction Act will fundamentally shift the
14 economics of Evergy's coal units in two general ways
15 that support the Commission applying close scrutiny to
16 coal spending in this case.

17 First, the Act will reduce the cost of
18 replacement energy and capacity by providing long
19 duration federal subsidies for solar, wind, batteries,
20 and hybrid resources. Second, and by further increasing
21 the deployment of zero fuel costs solar and wind
22 resources and by subsidizing batteries, the utilization
23 of Evergy's coal units in the Southwest Power Pool
24 energy market will continue to decline further
25 decreasing the revenue they can earn and their value to

1 Everygy's customers. Thank you.

2 JUDGE HATCHER: Thank you, Ms. Rubenstein.

3 Are there any Commissioner questions for Sierra Club?

4 COMMISSIONER HOLSMAN: No questions, Judge.

5 JUDGE HATCHER: Thank you, Commissioner
6 Holsman. The bench has no questions. Thank you, ma'am.
7 Let's move on to Office of the Public Counsel.

8 MR. CLIZER: The Office of the Public Counsel
9 does not have a mini opening for this issue. Thank you.

10 JUDGE HATCHER: Understood. Let's get into
11 our witnesses. The first on my list is Everygy's
12 witness.

13 MR. ZOBRIST: Everygy calls Kayla Messamore to
14 the stand.

15 JUDGE HATCHER: Thank you. If you would
16 please raise your right hand.

17 Do you solemnly swear or affirm that the
18 testimony you are about to give is the truth, the whole
19 truth, and nothing but the truth?

20 THE WITNESS: Yes.

21 JUDGE HATCHER: Thank you. Go ahead and have
22 a seat. Your witness, Mr. Zobrist.

23 MR. ZOBRIST: Thank you, Judge.

24 KAYLA MESSAMORE,
25 having been first duly sworn, was examined and testified

1 as follows:

2 DIRECT EXAMINATION

3 BY MR. ZOBRIST:

4 Q. Please state your name.

5 A. Kayla Messamore.

6 Q. By whom are you employed?

7 A. Evergy.

8 Q. And what is your position there?

9 A. Vice President Strategy and Long-Term
10 Planning.

11 Q. And did you prepare in this case rebuttal
12 testimony both a confidential version marked Exhibit 55
13 and a public version marked Exhibit 56 and surrebuttal
14 testimony that has been marked Exhibit 57?

15 A. I did.

16 Q. Do you have any changes or corrections to
17 those two pieces of testimony?

18 A. I do not.

19 Q. If I were to ask you those questions, would
20 your answers be as set forth in Exhibits 55, 56, and 57?

21 A. Yes.

22 Q. Were they given under oath?

23 A. Yes.

24 MR. ZOBRIST: Judge, at this time I move the
25 admission of Exhibit 55 confidential, Exhibit 56 public,

1 and Exhibit 57.

2 JUDGE HATCHER: Thank you, Mr. Zobrist.

3 You've heard the motion by counsel. I will not repeat
4 the exhibit numbers as they were expressed very clearly.
5 I will combine the question as is my habit are there any
6 objections to the admission of Exhibit 55, Exhibit 56,
7 and Exhibit 57? Hearing none, they are so admitted.

8 (COMPANY EXHIBITS 55, 56, AND 57 WERE RECEIVED
9 INTO EVIDENCE AND MADE A PART OF THIS RECORD.)

10 JUDGE HATCHER: Go ahead.

11 MR. ZOBRIST: Thank you, Judge. I tender Ms.
12 Messamore for cross-examination.

13 JUDGE HATCHER: Thank you. Sierra Club is
14 first for cross-examination.

15 MS. RUBENSTEIN: No cross. Thank you.

16 JUDGE HATCHER: Thank you. And also I'm going
17 to call on Sierra Club again. I did not make clear a
18 quick announcement for Ms. Messamore's testimony. The
19 parties have agreed that there will also include
20 cross-examination on Issue II, Sibley, and Issue V, FAC.
21 I apologize for not making that announcement earlier.
22 Sierra Club, with that information, any
23 cross-examination of Ms. Messamore?

24 MS. RUBENSTEIN: No, Your Honor. Thank you.

25 JUDGE HATCHER: Thank you. And that will go

1 to staff.

2 MR. COSPER: No cross, Your Honor.

3 JUDGE HATCHER: Thank you, Mr. Cosper. And
4 Mr. Clizer.

5 MR. CLIZER: No cross. Thank you, Your Honor.

6 JUDGE HATCHER: Thank you. That will come to
7 Commissioner questions. Are there any Commissioner
8 questions for Ms. Messamore?

9 COMMISSIONER HOLSMAN: No questions, Judge.

10 JUDGE HATCHER: Thank you, Commissioner
11 Holsman. The bench does have a couple, but we're going
12 to go back to those other tissues and I believe these
13 are both on Sibley.

14 THE WITNESS: Okay.

15 QUESTIONS

16 BY JUDGE HATCHER:

17 **Q. Would you define the, quote, expected value**
18 **basis, end quote, please?**

19 A. Sure. Is that from my testimony that you're
20 reading from or is it a general question about the IRP
21 and what expected value means there?

22 **Q. I would like both answers.**

23 A. I think the answers are the same. So it
24 should be fine. I just wanted to make sure.

25 **Q. We need it for the record so that we have**

1 **something to refer to.**

2 A. So in the IRP we have a range of scenarios
3 that are evaluated. They all produce different revenue
4 requirements at the end. So you're producing a net
5 present value revenue requirement in each of the
6 scenarios modeled. From there each scenario has a
7 probability assigned to it and then you use that
8 probability times the revenue requirement in a given
9 scenario and then add them all up to get to an expected
10 value. So it's essentially a probability weighted
11 average revenue requirement of a given resource plan.

12 Q. I want to walk through that. I think I can do
13 this without embarrassing myself. You set the net
14 present value for the utility and then you compute
15 several scenarios, how things might work out, one, two,
16 and three. You then figure out how much the utility,
17 the income of the utility based on each scenario, income
18 may not be the right word, and average those three
19 outcomes and that's your answer so that when the utility
20 is planning for its financial recompense it is looking
21 at any of those scenarios and getting an average instead
22 of having to pick one and be rather committed to it?

23 A. Sort of. So the clarifications that I'll make
24 are the revenue requirement is calculated in each of the
25 scenarios. So for the 2017 IRP as an example, there

1 were 18 different scenarios. Each scenario had a
2 different load forecast, a different market price
3 forecast. So those market price forecasts drive
4 ultimately different fuel and purchased power expenses
5 which in turn drives different revenue requirements in
6 each of those 18 scenarios. And then each of the 18
7 scenarios also has a probability. So for example, a
8 high load, high gas, high carbon tax would be a lower
9 probability than kind of a mid, mid, mid forecast. So
10 you use those probabilities to calculate an expected
11 value of revenue requirement.

12 The one other clarification. That's used to
13 assess the relative economics of different resource
14 plans. It's not necessarily -- doesn't determine our
15 financial compensation in the end. It's just used to
16 assess the economics against each other of different
17 resource options.

18 Q. Okay. Thank you. I have one other question.
19 What changed after the Sibley plant upgrade to give
20 them, I'm going to state for the record I'm using air
21 quotes, give them a life until 2040. We've heard
22 testimony about the depreciable life or the expected
23 life. 2040 seems to be that date. What changed? We
24 have a 50 or 60-year-old plant and then some repair was
25 made, I would assume, and then that was given a new life

1 **extension. Can you walk us through that?**

2 A. I can't speak to the specific upgrades. That
3 wasn't included in my testimony. But at Sibley there
4 were investments in environmental retrofits is a large
5 part of it. So that's really all I could cover for
6 that.

7 JUDGE HATCHER: Okay. Thank you. That will
8 take us to recross-examination. Let me check my list
9 and we go first to Sierra Club. Any recross-examination
10 based on the bench questions?

11 MS. RUBENSTEIN: No, Your Honor. Thank you.

12 JUDGE HATCHER: Thank you. And then that will
13 go to staff.

14 MR. COSPER: No, Your Honor. Thank you.

15 JUDGE HATCHER: Thank you. That will go to
16 Office of the Public Counsel.

17 MR. CLIZER: No questions. Thank you.

18 JUDGE HATCHER: And then we go back to
19 redirect from the company.

20 MR. ZOBRIST: I have a couple of questions,
21 Judge.

22 JUDGE HATCHER: Go ahead.

23 REDIRECT EXAMINATION

24 BY MR. ZOBRIST:

25 **Q. Ms. Messamore, Judge Hatcher asked you about**

1 the 2017 integrated resource plan update; is that
2 correct?

3 THE STENOGRAPHER: Did you answer?

4 THE WITNESS: Yes. Sorry. I nodded.

5 BY MR. ZOBRIST:

6 Q. I'm going to ask the court reporter to mark as
7 the next exhibit in order, and I'm sorry, Judge, I don't
8 have that number handy for Evergy.

9 JUDGE HATCHER: 138, Exhibit 138.

10 MR. ZOBRIST: I'm not sure how to deliver a
11 copy of this to Sierra Club. Since they didn't have any
12 questions, I'll simply describe and let me hand out
13 copies to counsel as well.

14 BY MR. ZOBRIST:

15 Q. Ms. Messamore, I've handed you what's been
16 marked as Exhibit 138. It is a portion of the
17 integrated resource plan annual update for 2017, but I
18 would like for you to describe this to the bench at this
19 time and then I would like to ask you some questions.

20 MR. CLIZER: Your Honor, I'm going to raise an
21 objection. I believe this is outside the scope of
22 redirect. Your only question regarding this was to
23 define a term which was defined.

24 MR. ZOBRIST: Judge, my response is she
25 responded to your question by relating it to the 2017

1 IRP, which I believe was your question, and she talked
2 about how Sibley was part of that analysis. And so I
3 believe that is within the scope of the questions asked
4 by the bench.

5 MR. CLIZER: Your Honor, if I may respond.
6 This raises a due process concern because they're
7 attempting to introduce new direct evidence that I've
8 not had an opportunity to cross on.

9 JUDGE HATCHER: I'm not going to allow it,
10 Mr. Zobrist, because I was not interested in the
11 integrated resource plan, just the term and then how the
12 formula for the different scenarios.

13 MR. ZOBRIST: Judge, that's exactly what I was
14 going to get into. That's just the portions that I
15 intend to ask the witness questions about. It's
16 actually page 46. If I could voir dire her or ask her a
17 preliminary question to look at that page, perhaps that
18 would address Mr. Clizer's concern, without going into
19 the numbers but just saying what does this page 46
20 depict and how does it relate to what she was explaining
21 to the bench.

22 JUDGE HATCHER: Yeah. I reverse myself. Go
23 ahead, please.

24 BY MR. ZOBRIST:

25 **Q. Ms. Messamore, first of all, just describe**

1 **this document in general without going into details and**
2 **then I'm going to ask you about page 46.**

3 A. Sure. This is at the time Greater Missouri
4 Operations Annual Update which was filed in 2017 as an
5 annual update to the 2015 triennial IRP.

6 **Q. Just for the record KCP&L Greater Missouri**
7 **Operations Company is the predecessor company of Evergy**
8 **Missouri West, correct?**

9 A. Yes.

10 **Q. Just turning to page 46, would you explain to**
11 **the Commission what that table there represents?**

12 A. Sure. So this is showing the expected value
13 revenue requirement which is what the bench asked about.
14 So each plan shown here from 1 to 15 represents a
15 distinct resource plan which was then modeled through 18
16 different scenarios to calculate a probability weighted
17 or expected value revenue requirement which is what's
18 shown in this table.

19 MR. ZOBRIST: Judge, with that foundation, I'd
20 like to offer Exhibit 136 -- pardon me -- Exhibit 138
21 into evidence.

22 MR. CLIZER: I would have an objection on the
23 fact that it's well over 20 pages. We've asked about
24 one. If he wants to offer the one page we've asked
25 about.

1 MR. ZOBRIST: Well, Judge, I believe that the
2 portions of this exhibit are all relevant. This is a
3 Commission filed document. We've talked about it today.
4 We talked about it last week. I don't see any reason
5 why it should not be admitted into evidence. I don't
6 think it's prejudicial. I don't think it's a due
7 process issue.

8 JUDGE HATCHER: How is it not in evidence?
9 The point of the Sibley issue as Sierra Club is bringing
10 up is, they or someone has pointed out issues with coal
11 and she is backing that up with numbers and scenarios
12 and furthering her testimony.

13 MR. ZOBRIST: So it has been discussed in
14 evidence. I believe it's evidence that is already in
15 the record. This is simply supplemental.

16 MR. CLIZER: If it's already in the record,
17 then it's not necessary to introduce this exhibit.

18 JUDGE HATCHER: No, no, no. I did not mean a
19 rhetorical question in order to start a discussion but a
20 serious how come this isn't attached to somebody's
21 testimony? Sierra Club? Ms. Messamore, you prepared
22 your testimony?

23 THE WITNESS: Yes, I did. And I think we're
24 conflating two issues. Sierra Club's issue was on
25 accelerated coal retirements which is not related to

1 this IRP. They didn't have a Sibley argument. That was
2 Office of the Public Counsel. So I think we're blending
3 two things. But I did include the relevant numbers from
4 this document in my testimony. I just didn't attach it.

5 JUDGE HATCHER: I don't see how I cannot admit
6 it, Mr. Clizer.

7 MR. CLIZER: I'm fine with the relevant
8 numbers coming in. I have a problem with the fact that
9 this is a very large document and I don't want the
10 company citing to things that weren't discussed today on
11 other pages that I haven't had a chance to cross anybody
12 on. If the numbers are already in the record, then
13 they're in, we don't need this document.

14 JUDGE HATCHER: Mr. Zobrist, you're an officer
15 of the court. Is your intention to only cite the
16 relevant numbers and page being discussed in the last 15
17 minutes give or take? Is that your intent?

18 MR. ZOBRIST: Well, the table set forth in,
19 it's Table 26 on page 46, is the product of a couple of
20 other previous tables and I think the witness could talk
21 about what those are. It essentially is that data
22 there. I mean, we've been discussing this IRP for parts
23 of the last two weeks. This is not an element of
24 surprise. This is a document that has been filed at
25 this Commission for over five years. I'm not going to

1 ask her any more questions today beyond page 46. But to
2 start chopping up the IRP even further I don't think
3 makes any sense, Judge.

4 JUDGE HATCHER: And the Commission also has a
5 strong preference for whole documents and not single
6 pages even when only a single page is being used.

7 MR. CLIZER: That's fine. For the purposes of
8 preserving this issue on appeal, I need to register that
9 I believe that there's a due process violation in as far
10 as I've not been allowed to cross this witness regarding
11 elements of this document which were not previously
12 discussed in testimony or which were not discussed here
13 on the stand.

14 JUDGE HATCHER: Would my --

15 MS. MERS: Judge, may I ask a question?

16 JUDGE HATCHER: Yes.

17 MS. MERS: If the preference is for whole
18 documents, may I clarify, is this the whole document
19 though or is it just a selection of the IRP, because my
20 understanding is IRPs are also very lengthy. I don't
21 know if that.

22 MR. ZOBRIST: This just relates to the section
23 6, the integrated resource plan and risk analysis
24 update. So I did not intend to offer all 250 pages or
25 whatever it is.

1 JUDGE HATCHER: I think the Commission would
2 distinguish a page from a whole document still as being
3 the shorter version. However, I'm getting a little
4 closer to understanding Mr. Clizer's argument.
5 Mr. Clizer, would it be a cure to allow everyone to go
6 through recross-examination?

7 MR. CLIZER: Would it be okay for me to ask
8 for a very brief recess before doing that? The simple
9 problem is, I believe that there's a concern that we
10 have raised in our briefing regarding the elements that
11 went into the company's resource plan. I need to go
12 discuss that with somebody just to make absolutely sure.
13 I may not, in fact, have any cross. I just need a
14 chance to go verify that.

15 MR. ZOBRIST: Judge, I think that's entirely
16 fair. I do not object to that.

17 JUDGE HATCHER: The bench has one question.
18 Ms. Messamore, what are your travel plans for today?

19 THE WITNESS: I'm here.

20 JUDGE HATCHER: I propose that we wait until
21 one o'clock. We just find out if anybody has any
22 questions, I will then ask for the admission of the
23 exhibit and we will then see where we are at.
24 Let's move on with what we can get through on rate base
25 and resource planning otherwise this morning and we'll

1 carve out this one little, tidbit is a term of art, for
2 later consideration.

3 MR. ZOBRIST: So to come back at one o'clock?

4 JUDGE HATCHER: We have to come back at one
5 o'clock anyway. That was our street lighting witness's
6 first availability.

7 MR. ZOBRIST: Okay. I would like to have Ms.
8 Messamore explain what page 46 is, because I don't
9 believe there's an objection to page 46.

10 JUDGE HATCHER: Yes, go ahead.

11 MR. CLIZER: I thought she already had.

12 THE WITNESS: I think I already explained it.

13 BY MR. ZOBRIST:

14 Q. You did. Let me ask you just one general
15 question about IRPs. Are they typically input to a rate
16 case like this proceeding?

17 A. No.

18 Q. Why not?

19 A. Because an IRP is a decision-making tool.
20 It's a process for long-term resource planning. So we
21 do it every year and triennially in full, but it doesn't
22 provide any direct input into the rate case other than
23 supporting decisions that the company makes on its
24 resources.

25 Q. And are the resources that are depicted in an

1 **IRP that exist, are these resources that are in the rate**
2 **base of the company?**

3 A. Yes.

4 MR. ZOBRIST: Nothing further, Judge.

5 JUDGE HATCHER: Thank you, Mr. Zobrist. Ms.
6 Messamore, you are temporarily excused, and we would ask
7 that you come back at one o'clock. You may step down
8 from the witness stand.

9 That was all the company witnesses I had, and
10 that should take us to Sierra Club's witness which I
11 believe is on WebEx.

12 MS. RUBENSTEIN: Yes, she is. Devi Glick.

13 THE WITNESS: Good morning.

14 JUDGE HATCHER: Thank you. If you would
15 please raise your right hand.

16 Do you solemnly swear or affirm that the
17 testimony you are about to give is the truth, the whole
18 truth, and nothing but the truth?

19 THE WITNESS: I do.

20 JUDGE HATCHER: Thank you, Ms. Glick. Your
21 witness. Go ahead.

22 DEVI GLICK,
23 having been first duly sworn, was examined and testified
24 as follows:

25 DIRECT EXAMINATION

1 BY MS. RUBENSTEIN:

2 Q. Please state your name for the record.

3 A. Devi Glick.

4 Q. Where are you currently employed?

5 A. Synapse Energy Economics.

6 Q. What is your current job title there?

7 A. Senior principal.

8 Q. Ms. Glick, did you prepare and cause to be
9 prepared in this case a public and confidential versions
10 of your direct and surrebuttal testimony which have been
11 marked as Exhibits 450, 451, 453, and 454?

12 A. Yes, I did.

13 Q. Is the resume which is attached as Exhibit 1
14 to your direct testimony and also marked as Exhibit 452
15 a true and correct copy of your resume?

16 A. Yes, it is.

17 Q. Do you have any changes or corrections to your
18 prefiled direct or surrebuttal testimony at this time?

19 A. No, I do not.

20 Q. If I asked you the questions in your direct
21 and surrebuttal testimony today, would your answers be
22 the same?

23 A. Yes, they would.

24 Q. Is the information in those answers true and
25 correct to the best of your knowledge?

1 A. Yes, it is.

2 MS. RUBENSTEIN: Your Honor, I move for the
3 admission of Exhibits 450 through 454 in this case.

4 JUDGE HATCHER: Thank you. You've heard the
5 motion by Ms. Rubenstein. Are there any objections to
6 the admission of those five exhibits of Ms. Glick?
7 Hearing no objections, they are so admitted.

8 (SIERRA CLUB'S EXHIBITS 450, 451, 452, 453,
9 AND 454 WERE RECEIVED INTO EVIDENCE AND MADE A PART OF
10 THIS RECORD.)

11 JUDGE HATCHER: Go ahead. Thank you.

12 MS. RUBENSTEIN: I have nothing further.

13 JUDGE HATCHER: Thank you. That will take us
14 to cross-examination, and the order that I have is staff
15 first.

16 MR. COSPER: No cross, Your Honor.

17 JUDGE HATCHER: Thank you. Office of the
18 Public Counsel.

19 MR. CLIZER: No cross. Thank you.

20 JUDGE HATCHER: And the company.

21 MR. ZOBRIST: No questions, Judge.

22 JUDGE HATCHER: Thank you. That will take us
23 to Commissioner questions. Are there any Commissioner
24 questions for Ms. Glick? Hearing none, the bench also
25 has no questions. So thank you, Ms. Glick, very much

1 for your prepared testimony. Sometimes this happens we
2 just don't have any further questions. Thank you. You
3 are excused.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 JUDGE HATCHER: That completes the witness
7 list. Staff I believe said you had a witness available,
8 and I was a little unsure of what available meant.

9 MS. MERS: Staff does have Jordan Hull who did
10 file testimony, but my understanding is that parties did
11 not have cross. So unless the Commission or bench has
12 anything.

13 JUDGE HATCHER: No. Let's get Mr. Hull's
14 testimony. We want to admit his testimony?

15 MS. MERS: Yes, we do.

16 JUDGE HATCHER: I am ready for the numbers,
17 Mr. Cospers.

18 MR. COSPER: So Exhibit 215 public direct
19 testimony and then rebuttal testimony Exhibit 241
20 public.

21 JUDGE HATCHER: No surrebuttal?

22 MR. COSPER: No, Your Honor.

23 JUDGE HATCHER: Okay. You heard the motion by
24 Mr. Cospers. Are there any objections to the admission
25 of Exhibits 215 or 241? Hearing none, so admitted.

1 (STAFF EXHIBITS 215 AND 241 WERE RECEIVED INTO
2 EVIDENCE AND MADE A PART OF THIS RECORD.)

3 JUDGE HATCHER: I believe we are done for this
4 -- we are not. We have a couple of announcements.

5 MR. ZOBRIST: Judge, I was just going to say
6 could we have a recess for just five minutes and I can
7 confer with my client about the exhibit that I offered
8 and that Mr. Clizer wanted to have more time.

9 JUDGE HATCHER: I would rather not. If I may,
10 my plan is --

11 MR. ZOBRIST: Well, I may be able to resolve
12 the issue.

13 JUDGE HATCHER: I think you can resolve it
14 under my plan.

15 MR. ZOBRIST: I can resolve it a lot quicker,
16 I think, Judge, respectfully.

17 JUDGE HATCHER: We will take a break for five
18 minutes and come right back.

19 MR. ZOBRIST: Thank you, sir.

20 JUDGE HATCHER: Let's go off the record.

21 (Recess from 9:20 a.m. to 9:25 a.m.)

22 JUDGE HATCHER: Let's go back on the record.
23 We took just a few minutes for some quick client
24 conferences. My understanding is we have reached the
25 end of this morning's events. We will be taking a break

1 until 1:00 p.m. That is the first availability of a
2 witness necessary for our street lighting issue. Street
3 lighting issue will be the final issue discussed today.

4 A couple of announcements I missed earlier
5 this morning. Mr. Opitz and MECG have requested and
6 been granted to be excused from the proceedings today.
7 Also, Exhibits 135 and 136 have already been admitted.
8 They are copies of two appellate cases, and those have
9 been physically provided by Evergy this morning.

10 Again, those exhibits were already admitted on
11 Thursday. Last announcement is we have all the parties
12 agreed to have what the Commission calls an
13 on-the-record presentation. That will occur Friday upon
14 adjournment of the evidentiary hearing or 1:00 p.m.,
15 whichever is earlier. And just for our listening
16 audience, the purpose of an on-the-record presentation
17 is for the parties to present the high points of the
18 agreements that they have reached in resolving this
19 case.

20 Any other announcements?

21 We are recessed until 1:00 p.m. Thank you
22 all. Off the record.

23 (Thereupon, an agenda and lunch recess was
24 taken from 9:27 a.m. until 1:00 p.m., after which the
25 following proceedings were held:)

1 JUDGE HATCHER: Let's go on the record the
2 hour of recess having expired. For the record again,
3 today is Thursday, September 8. We are in the middle of
4 the Evergy Metro and Evergy West general rate cases.

5 On our agenda for this afternoon we will be
6 revisiting an issue raised this morning on the admission
7 of an exhibit and then we will be moving to street
8 lighting and that is Issue XLIII, which I believe is 43.
9 Mr. Clizer, would you lead us off.

10 MR. CLIZER: Yes. If I may. I'm going to
11 attempt to explain where I believe the situation
12 currently stands, and I invite other parties to correct
13 me if they take a different position. But my
14 understanding is you, Your Honor, offered a question
15 from the bench during the examination of Ms. Messamore
16 asking for a definition of the extended value basis.
17 Upon redirect, the company moved to introduce the
18 exhibit, I believe it's been premarked 137, which is the
19 2017 annual update excerpt. I objected on the basis
20 primarily that the 60-page document in my opinion does
21 not necessarily relate to the question that was posed
22 and that I hadn't had the ability to cross her on other
23 elements of the document.

24 It is my belief that there are portions of the
25 document that Evergy may rely on in support of its

1 underlying argument regarding the prudence of Sibley
2 that is unrelated to the question that was posed by the
3 bench. I have prepared cross-examination on that topic
4 related to the prudence of Sibley that might be gleaned
5 from this document if that was the nature for which it
6 was being offered. However, if the Commission accepts
7 the document solely and exclusively for the purposes of
8 defining extended value basis and not for any attempt to
9 address the prudence of the Sibley decision, then I have
10 no need for cross. If on the other hand the Commission
11 wishes to accept the document to address the prudence of
12 the Sibley decision, then I would like to be able to
13 cross Ms. Messamore briefly on that topic as it relates
14 to this document even though that was not the basis for
15 which the document was offered based on Commission
16 questions.

17 JUDGE HATCHER: If I'm hearing this correctly,
18 I'm going to look to Every counsel if they affirm that
19 they are only going to use it for the purpose laid out
20 by Mr. Clizer, then the exhibit is admitted and we'll
21 move on.

22 If they answer the negative that they might
23 use this report for other citation, we'll go ahead and
24 ask Ms. Messamore to re-enter the witness stand.

25 MR. ZOBRIST: Judge, I do have a response.

1 First of all, unless I gave Mr. Clizer something that I
2 didn't intend to, the Exhibit 138 is only 20 pages long.
3 It consists -- the first part is like -- it's the cover
4 page and then it goes through I think page 7 and then it
5 jumps to page 41 and then goes to 54. So it really is a
6 relatively brief document. I should also say, Judge,
7 it's marked highly confidential and apparently was back
8 in June of 2017. It no longer is.

9 I think that when you asked about the expected
10 value of Sibley, that was a broad enough question to
11 indicate its value as an existing and as a retired unit
12 and its value as either being operational or not part of
13 the system. And then you also asked a question about an
14 upgrade in 2040, which led to a brief discussion in
15 terms of why did it have a life as of 2040. I think
16 those questions are broad enough to allow this document
17 which was discussed in Ms. Messamore's testimony to come
18 into evidence. I'm certainly open to having Mr. Clizer
19 ask Ms. Messamore some questions. So respectfully I'm
20 not going to accept Mr. Clizer's offer of limiting the
21 use of this document because I think it is informative
22 to the issues that are before the Commission.

23 JUDGE HATCHER: Okay. Then we will call Ms.
24 Messamore back to the stand, please, as she has already
25 been sworn in.

1 MR. CLIZER: Just in case, in order to make
2 sure this is clean, my cross questions relate to the
3 discussion of the prudence of the decision to retire
4 Sibley which is the reason for which I believe this is
5 being offered. It will not directly relate to the
6 question posed by the bench regarding the definition of
7 an expected value basis.

8 JUDGE HATCHER: I'm fine with that.

9 MR. CLIZER: Thank you.

10 JUDGE HATCHER: That makes sense to me.
11 Explain for the parties that Ms. Messamore was
12 originally here for Sibley. Since my question seems to
13 have opened up a door for the company to walk through if
14 you want to follow them, I understand.

15 MR. ZOBORIST: Judge, may I just ask has the
16 exhibit been admitted at this point?

17 JUDGE HATCHER: It will be. Any objections to
18 the admission?

19 MR. CLIZER: Just for the sake of the record,
20 I'll renew my objection but I understand the
21 Commission's decision.

22 JUDGE HATCHER: No, not a problem. I want to
23 make sure that you have that opportunity. Overruled.
24 The Exhibit 138 is admitted. I will note for the
25 record, as Mr. Zobrist pointed out, the exhibit itself

1 says highly confidential and that was applicable in 2017
2 and is not currently applicable to this exhibit.

3 (COMPANY EXHIBIT 138 WAS RECEIVED INTO
4 EVIDENCE AND MADE A PART OF THIS RECORD.)

5 WITNESS MESSAMORE RESUMED THE STAND.

6 JUDGE HATCHER: Yes, Mr. Clizer, go ahead.

7 MR. CLIZER: Good afternoon, Ms. Messamore.
8 Did I pronounce your name correctly?

9 THE WITNESS: Yes.

10 MR. CLIZER: Thank you.

11 RECROSS-EXAMINATION

12 BY MR. CLIZER:

13 Q. To begin with, you began working for Evergy
14 after the creation of this document, correct?

15 A. That's correct.

16 Q. You were not directly involved in the creation
17 of this document, correct?

18 A. Correct.

19 Q. Have you reviewed the surrebuttal testimony of
20 Dr. Geoff Marke?

21 A. Yes, I have.

22 Q. I'd like to turn your attention to the
23 attachment to Dr. Marke's surrebuttal testimony marked
24 GM-6. I have courtesy copies for counsel and the bench
25 which I will hand out. And for the record I'm not

1 asking this to be premarked as an exhibit, because again
2 it is an attachment to Dr. Marke's surrebuttal testimony
3 which has already been offered and accepted.

4 Ms. Messamore, you would agree with me that
5 this document is the OPC's response to the 2017
6 integrated resource plan update, the document which this
7 small recross examination is concerning, correct?

8 A. Yes.

9 Q. If I could direct your attention to page 3.

10 JUDGE HATCHER: Mr. Clizer, is that number
11 page 3 or physical page 3?

12 MR. CLIZER: I am working off the numerals in
13 the document itself. The page should have Dynamic SPP
14 Market.

15 THE WITNESS: It's the second page 3.

16 JUDGE HATCHER: The second page 3.

17 MR. CLIZER: I see what the problem is. Page
18 3 of the attached memorandum. I apologize I was not
19 clear.

20 JUDGE HATCHER: No problem.

21 BY MR. CLIZER:

22 Q. You would agree with me that the OPC raised
23 concerns related to the 2017 IRP annual update filed by
24 the company, correct?

25 A. I would say they filed comments, which is the

1 language in the annual update proceeding.

2 Q. One of those comments concerned the dynamic
3 nature of the SPP market as outlined on page 3 of the
4 attached memorandum?

5 A. That's correct.

6 Q. And on page 4, if you'll permit me, beginning
7 at the first full paragraph it reads, in short, if GMO's
8 IRP modeling suggests retiring significant amounts of
9 base load generation prematurely --

10 THE STENOGRAPHER: I'm sorry. Just read a
11 little bit slower, please.

12 MR. CLIZER: Of course. I apologize.

13 BY MR. CLIZER:

14 Q. In short, if GMO's IRP modeling suggests
15 retiring significant amounts of base load generation
16 prematurely is prudent; won't other SPP member's
17 modeling show similar results? Under that scenario, a
18 near-term future where excess SPP reserve margins are
19 erased entirely appears plausible. You would agree with
20 me that the OPC was raising a concern that the modeling
21 performed by Evergy did not take into consideration the
22 fact that other entities in the SPP market would also
23 make similar retirements to those being proposed by
24 Evergy, correct?

25 A. That is what the paragraph says, yes.

1 Q. And I'm not going to read this because it's
2 already in the record. If you would for yourself just
3 read the two italicized portions concerning the data
4 request sent by OPC and the company's response, you
5 would agree with me that the company did not in its 2017
6 integrated resource plan include the same coal
7 retirement in the SPP 2017 ITP10 report, correct, based
8 on the response by Evergy?

9 A. That's what that says, yes.

10 Q. Turning back to page 1 of the memorandum, you
11 would agree with me that the memorandum is dated July
12 30, 2017?

13 A. Yes.

14 Q. And while there's been certain disagreement as
15 to the exact date at which Sibley was retired, you would
16 agree with me that it did not occur until at least 2018?

17 A. That's correct.

18 Q. You would agree with me therefore that the
19 concerns raised by the OPC in this document occurred or
20 were raised rather before the retirement of Sibley,
21 correct?

22 A. Yes.

23 Q. If I were to proffer to you the definition of
24 hindsight being something akin to a decision made after
25 the fact, do you agree with me that that's at least a

1 **workable definition of hindsight?**

2 A. Could you say it again.

3 Q. I'll pull out my phone and give you a
4 **definition. Even better. Let's use the definition of**
5 **hindsight the following: Understanding of a situation**
6 **or event only after it has happened or developed. Can**
7 **you agree with me that that's a workable definition of**
8 **hindsight?**

9 A. According to the internet, yes.

10 Q. Would you agree with me that if the OPC raised
11 **its concerns prior to the retirement of Sibley, these**
12 **concerns cannot by definition be considered hindsight**
13 **analysis?**

14 MR. ZOBRIST: Objection. That calls for a
15 legal conclusion, Judge.

16 JUDGE HATCHER: Yeah. Can you rephrase it.

17 MR. CLIZER: What part of that was calling for
18 legal conclusion just to be clear?

19 JUDGE HATCHER: Tell me your question again.

20 MR. CLIZER: I'm not going to repeat the exact
21 question because I can't recall it. In an effort to
22 paraphrase, my question I believe was you would agree
23 with me that if the OPC raised its concerns prior to the
24 decision to retire Sibley it cannot qualify as hindsight
25 analysis?

1 JUDGE HATCHER: Here's my problem with it is
2 hindsight is a term of art that is used in a, I forget
3 the year case that describes the Commission's guidelines
4 on prudence finding. So it is a legal conclusion by
5 asking her if by definition the date on this report, and
6 I think there's some in between dots, but if that by
7 definition meets that term of hindsight.

8 MR. CLIZER: Let me try and rephrase and we'll
9 see if that resolves the issue.

10 BY MR. CLIZER:

11 **Q. You would agree with me that a party making a**
12 **decision based on this information before the decision**
13 **to retire Sibley occurred would not be making its**
14 **decision based on hindsight?**

15 MR. ZOBRIST: Judge, I'm going to object
16 because he not only is trying to have this witness
17 define an element of the prudence standard, which the
18 Commission adopted in I think the Union Electric case in
19 1983 or 1985. Plus, at this point it's argumentative
20 and I think Public Counsel can certainly argue this in
21 their brief. It's got the dates. This document is
22 already into evidence, and I think questioning the
23 witness on this point is objectionable.

24 MR. CLIZER: If I may respond. I believe that
25 several of Evergy's witnesses have already provided

1 testimony in this case that the OPC was operating on
2 hindsight analysis. So to the degree that there's a
3 question regarding legal analysis, it's already in the
4 testimony.

5 MR. ZOBRIST: That may be true, Your Honor,
6 but those witnesses were especially called to give
7 expert opinions with regard to the prudence test. This
8 witness is not. She is a factual witness.

9 MR. CLIZER: How is a witness providing
10 factual basis for a legal test?

11 JUDGE HATCHER: I'm going to go ahead and
12 rule. Mr. Clizer, I'm going to overrule you, but I
13 would gently point out that the bench is certainly aware
14 --

15 MR. CLIZER: The point has been made. Is that
16 what you're saying?

17 JUDGE HATCHER: I couldn't put that fine of a
18 point on it, but yes. I also would tend to agree with
19 Mr. Zobrist this may not be quite the right witness for
20 that. I understand we're running a little out of time,
21 but I certainly understand the point you're going after.
22 Go ahead. If you can rephrase, I think that is still an
23 open avenue.

24 BY MR. CLIZER:

25 Q. The information contained in this document was

1 filed before the Commission -- which was filed before
2 the Commission would be information that the company had
3 in its possession at the time it made the decision to
4 retire Sibley, correct?

5 A. Yes, as well as the parallel filing of a
6 special contemporary issue that the OPC made in the 2018
7 triennial case to the same effect.

8 MR. CLIZER: I think that's going to be
9 sufficient for me. Thank you.

10 JUDGE HATCHER: Excellent. Thank you,
11 Mr. Clizer. Let me check where we're at. We had
12 recalled Ms. Messamore for any questions. Given where
13 we're at, I'm certainly going to go back to redirect,
14 but I do want to offer up recross to anyone else before
15 we get to redirect. I would note for the record staff
16 declines their opportunity. Everyy.

17 MR. ZOBRIST: I don't have any more questions,
18 Judge.

19 JUDGE HATCHER: Ms. Messamore, thank you very
20 much. You are excused.

21 (Witness excused.)

22 JUDGE HATCHER: As Ms. Messamore takes her
23 leave, I'll make a quick announcement. We will now be
24 transitioning to the street lighting issue. By my
25 count, I have three witnesses, including one of staff

1 who is available or is going to be here.

2 MS. MERS: She is available and actually I
3 think in here so both. I apologize for any confusion in
4 how staff offered Ms. Lange to the parties and the
5 Commission, but Ms. Lange's overall testimony on rate
6 design and class cost of service kind of subsumed the
7 St. Joe street lighting issues. So she did not have any
8 separate testimony on it; but just in case the
9 Commissioners or the bench had any informational
10 questions or tariff-related questions, we thought we
11 would offer her for anything you might need from her,
12 but my understanding is that the parties may not have
13 questions for her.

14 JUDGE HATCHER: Understood. I will go through
15 our two street lighting witnesses and I will ask if any
16 Commissioners or parties would have questions for Ms.
17 Lange before we bring her up.

18 MS. MERS: Yes, that works for me. Thank you
19 very much.

20 JUDGE HATCHER: Every, I believe this is your
21 witness first. We need a minute?

22 MR. STEINER: Are we doing mini openings?
23 Judge, we don't have to.

24 JUDGE HATCHER: Let's go ahead and I'll offer
25 the opportunity. Any mini openings? We'll allow the

1 company to go first. Mr. Steiner, please go ahead.

2 MR. STEINER: Good afternoon. May it please
3 the Commission. In this issue, the City of St. Joseph
4 seeks to change Evergy Missouri West's existing tariffs.
5 They want the company to accept developer-installed
6 street lights as part of the company's street light
7 asset inventory. This kind of has a past to it.

8 In the olden days, St. Joseph was the only
9 area in the west system that permitted
10 developer-installed street lights to be included in the
11 company's rate base. They were included at a value of
12 zero cost. This exception for St. Joseph was
13 discontinued by the Commission-approved tariffs many
14 years ago.

15 Under the company's current tariffs, the city
16 can meet its street lighting needs by either utilizing
17 street lights installed by the company or receiving
18 energy service from the company and installing and
19 maintaining its own street lights system.

20 The city's proposed change to the existing
21 tariffs would require the company to add resources, add
22 personnel to determine if the developer-installed street
23 lights meet and continue to meet the company's standards
24 for street lights but also require the company to
25 account for the street light facilities in its

1 accounting system.

2 Mr. Brad Lutz will explain that under the
3 current system the company is responsible for
4 company-owned street lights but does not need to inspect
5 developer or city-installed street lights for adherence
6 to electrical standards or for maintenance as they are
7 part of the city-owned street light system.

8 This tariff arrangement has worked well for
9 all other municipalities in the company's territories
10 and should not be changed for the benefit of one city.
11 There's a separate related issue. The city also
12 questions the inclusion of street light maintenance
13 charges for company-owned street lights that since the
14 company's current tariff the company believes the
15 charges are appropriate. Since the purpose of these
16 charges is to cover the maintenance of the street
17 lights, if they get hit by a car, if the wiring goes
18 out. These things are long-lived assets. They do
19 require maintenance.

20 Again, as explained by Mr. Lutz in his
21 testimony, those costs are not accounted for anywhere
22 else in the tariffed rate paid by the city. So the
23 company asks that the tariffs remain as they are. Thank
24 you.

25 JUDGE HATCHER: Thank you, Mr. Steiner. Any

1 Commissioner questions? Hearing none, the bench doesn't
2 have any questions. Thank you, sir.

3 Mr. Steinmeier, please come on up, give us
4 your opening statement. And I would also like to note
5 for the record and ask Mr. Steinmeier to enter his
6 appearance so we have it official.

7 MR. STEINMEIER: Yes. Thank you, Your Honor.
8 Please let the record reflect the appearance of William
9 D. Steinmeier, William D. Steinmeier PC, 2031 Tower
10 Drive, Jefferson City, Missouri 65109, appearing on
11 behalf of the City of St. Joseph, Missouri.

12 JUDGE HATCHER: Excellent. The floor is
13 yours, sir.

14 MR. STEINMEIER: May it please the Commission.
15 Your Honor, Mr. Chairman, members of the Commission.
16 The City of St. Joseph brings a unique issue to the case
17 today in the hope of restoring a practice that it
18 employed successfully for at least two decades before it
19 quietly disappeared in the 2016 rate case of KCP&L
20 Greater Missouri Operations, which is now Everygy
21 Missouri West.

22 That practice was that the city in the
23 exercise of its authority as a charter city required
24 that developers and city contractors be responsible for
25 the construction of new infrastructure including street

1 lights. The developer or contractor would pay for all
2 that infrastructure and post a maintenance bond for any
3 work needed on street lights for two years.

4 These capital costs became costs of the
5 developer to recoup from the development project or of
6 the contractor being paid from a public funding
7 mechanism such as the capital improvements sales tax or
8 grant funding. If undergrounding of power lines to a
9 street light was required, the cost of undergrounding
10 was borne by the developer or contractor. This was true
11 of breakaway bases, rock removal or other trenching or
12 boring as well.

13 At the end of the project, Evergy would
14 inspect the street lights to ensure compliance with
15 appropriate standards and would accept ownership of the
16 street lights. When the company sought to consolidate
17 the tariffs of the former St. Joseph Light & Power,
18 SJLP, and the former Missouri Public Service Company, or
19 MPS, in its 2016 rate case it decided it would like to
20 simplify its street light practices.

21 It did so in that case by quietly eliminating
22 this long-standing practice with the City of St. Joseph.
23 Based on its Revised Sheet 150, which was approved in
24 that case, Evergy West now asserts that the company and
25 only the company may install street lights within its

1 service territory. This only became clear to the city
2 in 2018 when the company made an issue of it regarding a
3 development or two then in progress within the City of
4 St. Joseph.

5 The main reason this matter is so important to
6 the City of St. Joseph is that the company's application
7 of its Revised Tariff 150 shifts what used to be capital
8 costs of the city borne by developers or contractors to
9 operating costs of the city paid directly by the city's
10 taxpayers when the city pays its electric bill to
11 Evergy. This places new strain on the city's budget and
12 places a significant burden on city resources that would
13 otherwise be used for street maintenance, police
14 protection, fire protection, and other critical
15 operations the public relies on the city to perform.

16 In addition, in its electric rates in Tariff
17 Sheet 150, Evergy also charges the city extra for
18 undergrounding service extensions, breakaway bases, rock
19 removal or other specialized trenching for the
20 installation of underground service and for metal poles
21 instead of wood poles. Those become ongoing monthly
22 charges to the city, whereas previously a developer or a
23 city contractor had paid for those items as a capital
24 cost of the project.

25 The City of St. Joseph believes it is unfair

1 for the city to have to pay for those capital costs in
2 its monthly electric rates simply because the company
3 requires that it build all new street lights.

4 Under the exercise of the city's proper legal
5 authority, it can require those capital costs to be
6 incurred by the developer or the city's contractor. And
7 for the many projects completed before Evergy's most
8 recent policy and practice where ownership of street
9 lights has been accepted by the company after being
10 built by the developer or contractor, it is unfair for
11 the city to then be paying for undergrounding and
12 breakaway bases again through its tariff rates.

13 The City of St. Joseph proposes that language
14 be added to the company's street lighting tariff that
15 allows the historic practice used by the city and the
16 company before the 2016 rate case. The city also
17 proposes that language be added to that tariff that
18 prohibits the company from charging an extra charges for
19 breakaway bases, undergrounding, metal poles and other
20 costs that were already absorbed by a city contractor or
21 city-approved developer.

22 The city urges the Commission to carefully
23 review all the testimony on this issue and thanks you
24 very much for your consideration of this issue of
25 significance to the City of St. Joseph. Thank you, Your

1 Honor.

2 JUDGE HATCHER: Thank you, Mr. Steinmeier.
3 Any Commissioner questions for Mr. Steinmeier? Hearing
4 none, thank you, sir.

5 Let's go ahead and move to our witnesses.
6 Mr. Lutz. As Mr. Lutz makes his way, I will remind him
7 he has already been sworn in and that is still
8 applicable. Everyy, your witness.

9 BRADLEY LUTZ,
10 having been previously sworn, was examined and testified
11 as follows:

12 MR. STEINER: Your Honor, all of Mr. Lutz's
13 testimony has previously been admitted. So I would
14 tender him for cross-examination.

15 JUDGE HATCHER: St. Joseph.

16 MR. STEINMEIER: Thank you, Your Honor. Just
17 a moment, please, Your Honor. I had thought the City
18 would be going first.

19 Good afternoon, Mr. Lutz.

20 THE WITNESS: Good afternoon, Mr. Steinmeier.

21 CROSS-EXAMINATION

22 BY MR. STEINMEIER:

23 Q. I hope you won't be offended if I remain
24 seated while I ask you some questions.

25 A. Not at all.

1 MR. STEINMEIER: Your Honor, we caused to be
2 emailed last evening three hearing exhibits. I'm about
3 to ask Mr. Lutz about one of those. Do I need to
4 present the reporter with a paper copy of that?

5 JUDGE HATCHER: No. If you could give
6 Mr. Lutz a copy to refer to and the other counsel in the
7 room. If you happen to have a copy for me, that would
8 be great, but the priority is Mr. Lutz and then counsel.

9 THE WITNESS: Thank you.

10 BY MR. STEINMEIER:

11 Q. So much for remaining seated. Okay. Mr.
12 Lutz, this has been premarked Exhibit 852. Ask if you
13 recognize this as the proposed tariff of Evergy in this
14 case on street lighting?

15 A. Yes. Actually there are two tariffs in this
16 packet, one being the Municipal Street Lighting Service
17 Sheet No. 150 and its subsequent pages and then
18 Municipal Off-Peak Lighting Sheet 151.

19 Q. Yes, exactly. Thank you. That is by design.
20 So as this tariff is applied to an individual street
21 light in the City of St. Joseph, first, you would look
22 at what type of light it is on the first page whether it
23 comes under 1.0, 2.0, or 3.0, and then the appropriate
24 size. So let's say it was a 2.1, it's a street
25 luminaire on a wood pole 5000 Lumen LED 16 kWh. You

1 would bill St. Joseph \$14.09 for that?

2 A. That is correct.

3 Q. Then turning to the next page, which is
4 actually 150.1. If any of the equipment 4.1 through 4.5
5 was attendant to that pole, you would add to that
6 monthly rate the appropriate dollar amount. So if it's
7 a metal pole, it would be the page 1 amount plus \$5.15?

8 A. That is correct.

9 Q. And if it took undergrounding to get there,
10 which I think it would with a metal pole, then it's
11 another \$4.84 for that pole?

12 A. That is correct.

13 Q. If rock had to be removed, it's another \$19.36
14 for that pole?

15 A. That is correct.

16 Q. Per month?

17 A. Correct.

18 Q. And if it was a light on a -- withdraw. Then
19 let me please refer you to the company's response to the
20 city's Data Request 2.2 which will be Exhibit 853. Mr.
21 Lutz, can you identify this document?

22 A. Yes, it is a Data Request Response to City of
23 St. Joseph Request No. 2-2 providing a listing of the
24 developer-installed lights in our records since 2017.

25 Q. And according to the information on this

1 response, on this exhibit, of these 61 street lights
2 that Everygy identified, would I be correct in saying
3 that 31 of them had breakaway bases, about or slightly
4 more than half?

5 A. I'll accept your math, yes.

6 Q. If you find it incorrect, please say so in the
7 brief. I'm pretty sure that's correct. And that all 61
8 required undergrounding?

9 A. Yes.

10 Q. So the City of St. Joseph is being charged
11 extra for undergrounding and breakaway bases under
12 Tariff 150 for these street lights?

13 MR. STEINER: I'm going to object to the form
14 of the question that extra. I'm not sure what he means
15 there.

16 BY MR. STEINMEIER:

17 Q. So in addition to the charges on Sheet 150,
18 the company charges the City of St. Joseph charges on
19 Tariff 150.1?

20 A. Yes, and I would say it would be our position
21 that these services are in place at those locations and
22 that that additional charge is justified for that
23 service received.

24 Q. And on Sheet 150.2 there's also an item 5.0
25 special mounting heights and if there are street lights

1 **that are on unusually tall poles --**

2 A. Yes.

3 **Q. -- they pay those additional amounts?**

4 A. Yes.

5 MR. STEINMEIER: Your Honor, I would offer
6 Exhibits 852 and 853 into evidence.

7 JUDGE HATCHER: You've heard the motion by
8 Mr. Steinmeier, the admission of Exhibits 852 and 853,
9 852 being the revised tariff sheets and 853 being the
10 Data Request and response. Any objections? No
11 objection. Hold on just a minute.

12 MR. CLIZER: I don't have an objection. I was
13 just curious to know what St. Joe's exhibit numbers were
14 and I didn't want them to be confused with Evergy
15 exhibits because of the numbering system.

16 JUDGE HATCHER: And I believe I forgot to
17 issue St. Joe's exhibit numbers and I believe
18 Mr. Steinmeier --

19 MR. STEINMEIER: In the first instance, that
20 is correct, the order that came out giving everybody
21 else exhibit numbers.

22 JUDGE HATCHER: And then we resolved that. I
23 issued an order.

24 MR. STEINMEIER: A special order. We got 850
25 through 899, I believe.

1 MR. CLIZER: I apologize for the confusion. I
2 have no objection.

3 JUDGE HATCHER: I divided the later ones into
4 50 brackets so I would always remain under a thousand.
5 A little behind-the-scenes baseball for how judges do
6 stuff. Okay. No objections, exhibits are admitted.
7 That was 852 and 853.

8 MR. STEINMEIER: Yes, Judge.

9 (ST. JOSEPH EXHIBITS 852 AND 853 WERE RECEIVED
10 INTO EVIDENCE AND MADE A PART OF THIS RECORD.)

11 JUDGE HATCHER: Mr. Steinmeier, go ahead.
12 BY MR. STEINMEIER:

13 Q. Mr. Lutz, let me refer you to your rebuttal
14 testimony on page 12.

15 A. I'm there.

16 Q. At line 3. Question. Mr. Carter questions
17 the inclusion of charges for undergrounding and
18 breakaway bases. Are these charges appropriate for
19 street lights installed by developers?

20 Answer. Yes, the purpose of including these
21 charges is to cover the ongoing maintenance of the
22 underground conductors and breakaway bases. These costs
23 are not accounted for elsewhere in the rate paid by the
24 city. Is that a correct reading?

25 A. It is.

1 Q. Returning to Exhibit 853, the data request.

2 A. Yes, sir.

3 Q. 2.2. No, I'm sorry. Back to the tariff
4 sheets, Exhibit 852.

5 A. Okay. I'm there.

6 Q. On Sheet 150.1 under the item Rate (Optional
7 Equipment) MOMLL 4.0, does it state Optional Equipment:
8 The following rates for Optional Equipment may be added
9 to the rate for basic installation.

10 A. Yes, sir.

11 Q. Under 4.1 metal pole instead of new pole, (New
12 installations are available with underground service
13 only). Correct reading?

14 A. Correct reading.

15 Q. 4.3 refers to Underground Service extension?

16 A. Yes.

17 Q. Under concrete?

18 A. Uh-huh.

19 Q. That would be an extension of someplace that
20 didn't have service to create something that had
21 service. 4.4 refers to rock removal or other
22 specialized trenching/boring for installation of
23 underground service, correct?

24 A. Correct.

25 Q. And 4.5 says that a breakaway base is,

1 (Available with underground service on metal poles
2 only). You're nodding affirmatively?

3 A. I was waiting for a question. I'm sorry.
4 Yes, I agree that that is the reading.

5 **Q. That's what it says?**

6 A. Yes, correct.

7 **Q. Section 5.0 on Sheet 150.2 refers to charges**
8 **that, quote, may be added to the rate for new, basic**
9 **installations listed in section 1.0 or 2.0, correct?**

10 A. Correct.

11 **Q. So isn't it correct that these charges are for**
12 **installation of new facilities, not for ongoing**
13 **maintenance?**

14 A. No, I would disagree with that reading.

15 **Q. Isn't it clear that at the very least those**
16 **charges include installation costs?**

17 A. Certainly include installation costs, yes, I
18 would agree with that. Let's see. The wording that
19 you're observing around new is more about establishing
20 the conditions where those terms would be applied. For
21 example, contrasting new versus retrofit like if you
22 were installing a light on an existing pole or in some
23 kind of an existing manner. So the words new, for
24 example, is used in contrast to existing, not
25 necessarily meant to limit it in some way or to isolate

1 those costs to installation only. I don't read these as
2 being installation only. The other factor I would offer
3 is that they're monthly rates, an ongoing monthly
4 charge. And in my reading if this were an installation
5 event or installation charge, it would be more of a
6 one-time cost or something of that nature as opposed to
7 something that would perpetuate monthly.

8 So in my reading there's a few signs that
9 indicate to me that this is beyond just installation
10 cost only.

11 **Q. What is the installation cost for a new street**
12 **light?**

13 A. For a new street light, it's difficult for me
14 to say offhand because of the number of conditions that
15 would go into that number, you know, where it's located.
16 You understand installation of equipment. But all of
17 those factors could change this number. As a rule of
18 thumb, I would offer it's about \$3,800 roughly to
19 install a street light pole, a metal street light pole.

20 By the company. I guess I should also qualify
21 that that that would be at our labor rates and our
22 equipment rates and all of those components.

23 **Q. Very well. We've had a conversation in the**
24 **last week and in response to a data request Evergy**
25 **informed the city that the street lights listed -- the**

1 **61 street lights listed in this Exhibit 853 are in rate**
2 **base?**

3 A. Correct. We received a data request asking
4 that and we simply responded with almost like a yes/no
5 answer. And then the conversation you're referring to
6 was in my witness preparation for this hearing I
7 discovered or was made aware that the rate base was
8 valued at zero dollars when it went into the books and I
9 wanted to make sure that you were aware of that.

10 **Q. I want to make sure that the record reflects**
11 **that accurately, which is why I'm asking, and thank you**
12 **for saving me from having to mark that data request**
13 **response.**

14 A. Okay.

15 **Q. So those street lights are in rate base, if**
16 **you look at the list, but they're actually valued at**
17 **zero?**

18 A. Yes. And maybe another nuance to that is that
19 the phrase rate base in a way is referring also to just
20 our plant account records and so they are truly in the
21 plant account records that are used to generate the rate
22 base data that's used for the rate proceeding. So maybe
23 that's a little bit of a clarification of the
24 relationship between the entry in our books and how it
25 applies to rate base in this case.

1 Q. Thank you. I have one more exhibit that I
2 just thought we ought to enter into the record because
3 both you and Mr. Carter have referred to it in
4 testimony.

5 A. Uh-huh. Thank you, sir.

6 Q. Can you please explain for the record, Mr.
7 Lutz, what this Exhibit 854 is?

8 A. Yes. It is a letter from Dan Hegeman
9 representing Everygy to Andy Clements, the Director of
10 Public Works for the City of St. Joseph on April 16,
11 2020, and this letter is detailing the current tariff
12 options available to the city with respect to some
13 development at the Mitchell Woods Businesses Park and
14 the shops of the North Village.

15 MR. STEINMEIER: Thank you. Your Honor, I
16 offer Exhibit 854 into evidence.

17 JUDGE HATCHER: You've heard the motion. Are
18 there any objections to the admission of the letter
19 response by Everygy dated April 16, 2020, as Exhibit 854?
20 Hearing none, it is so admitted.

21 (ST. JOSEPH EXHIBIT 854 WAS RECEIVED INTO
22 EVIDENCE AND MADE A PART OF THIS RECORD.)

23 JUDGE HATCHER: Go ahead.

24 BY MR. STEINMEIER:

25 Q. Mr. Lutz, let me refer -- I'm getting close to

1 the end if anybody wonders and is checking their clocks.
2 Let me refer to your rebuttal testimony starting on page
3 12, line 8.

4 A. I'm there.

5 Q. Is it fair to summarize your testimony here as
6 suggesting that if Evergy were to restore the
7 arrangement that St. Joseph previously had with the
8 company it would have to offer that arrangement to all
9 of Evergy West, all of Evergy and probably in Kansas as
10 well?

11 A. In short, yes. I mean, to begin, to have a
12 provision limited to one customer is preferential and we
13 would probably want to avoid that. So at a minimum we
14 would have to open it up to certain descriptions of
15 customers. I think the city has offered some ideas
16 there. But to be fair, I think that, you know, you were
17 going to find that there are other people that will try
18 to fit into that or will in subsequent proceedings try
19 to open that up more broadly. In the company's opinion,
20 going and restoring this service will just be the first
21 step in many that will happen over time for other cities
22 to get this same kind of treatment simply because of the
23 economics that you've described.

24 Q. But it is your testimony that the City of St.
25 Joseph was the only customer of Evergy West that

1 employed that practice of having contractors or
2 developers install street lights at their expense and
3 then turning them over to the company, correct?

4 A. Correct. I believe it to be borne out of the
5 relationship between the city and the St. Joseph Light &
6 Power Company that predates Evergy, and it in a sense
7 was pulled forward in time from that point.

8 Q. And it is your testimony that no other
9 municipality in any of Evergy's service areas used that
10 practice previously?

11 A. Yes, I would further say they may not have
12 been aware of it either. I'm of the impression that
13 this was handled somewhat through a special arrangement,
14 special agreement type approach that would possibly not
15 have been overtly detailed in the tariffs. I believe
16 that the St. Joseph Light & Power tariffs may have
17 included provisions that allow these kind of agreements.

18 Q. Wouldn't your concern about expansionism be
19 diminished greatly if the city's proposal was limited to
20 say a charter city which before 2016 had a program in
21 which street lights installed by city contractors or
22 city approved developers at their expense became
23 property of the company upon inspection and acceptance
24 by the company?

25 A. I believe that that would help us in this

1 proceeding, but I think that it would create an opening,
2 it would create a justification for other cities of
3 other classifications to approach the Commission and
4 find if they can expand that availability. Instead I
5 looked at the impact on the utility in our processes and
6 we've assessed that there are a couple options available
7 to the city that have worked well for other
8 municipalities and we choose that that is the approach
9 that we would prefer as opposed to trying to navigate a
10 way of constraining future customers away from this
11 developer-installed treatment.

12 **Q. Understood. But if the city's proposal were**
13 **accepted by the Commission and limited in the way I just**
14 **described, any other changes would have to be brought in**
15 **a different rate case by other people?**

16 A. Correct, correct, and I must offer too that I
17 think that the company would have to take a pretty hard
18 look at what it would take to re-establish that process,
19 that infrastructure if you will. The company is not the
20 same company it was when St. Joseph Light & Power was
21 interacting with the city, you know. A lot has changed
22 in that time and we have to make sure that the pricing
23 and the approaches would remain equitable to all
24 customers, you know, that there was not some level of
25 subsidy built into that proposal. Yeah, if the

1 Commission ordered us to do that, we would go through
2 those steps for this proceeding.

3 MR. STEINMEIER: Thank you, Mr. Lutz. No
4 further questions, Your Honor.

5 JUDGE HATCHER: Thank you. And we are on
6 cross-examination of Mr. Lutz. That will take us to
7 staff.

8 MS. MERS: No questions. Thank you.

9 JUDGE HATCHER: Mr. Clizer for Public Counsel.

10 MR. CLIZER: Originally I didn't have
11 anything, but sitting here I had a question come to my
12 mind. I'd like a little bit of clarification. By the
13 way, good afternoon, Mr. Lutz.

14 THE WITNESS: Good afternoon.

15 CROSS-EXAMINATION

16 BY MR. CLIZER:

17 Q. I think I heard you testify that the street
18 lights that were, I'm going to use gifted by the
19 company, were booked at zero dollars. I'm not sure if
20 you want to use that term gifted or not.

21 A. It's been used in testimony so it's fair.

22 Q. You testified they're at zero dollars in
23 plant?

24 A. Yes.

25 Q. Do you know whether they're booked at an

1 original cost of zero dollars or are they booked at
2 original cost with a corresponding offset due to
3 contributions and date of construction that reduces net
4 plant base to zero?

5 A. No, sir, I do not. My questioning was limited
6 in determining if there was any kind of double
7 collection within the ratemaking process. I did not
8 explore further.

9 Q. Okay. I had a sneaking suspicion that was
10 probably not going to be the right person to ask.

11 A. Yes.

12 MR. CLIZER: Honestly it's not so important.
13 So I have no further questions. Thank you.

14 JUDGE HATCHER: Thank you, Mr. Clizer. That
15 will bring us to Commissioner questions. Are there any
16 Commissioner questions for Mr. Lutz?

17 COMMISSIONER HOLSMAN: No questions, Judge.

18 JUDGE HATCHER: Thank you, Commissioner
19 Holsman. The bench does have a couple questions.

20 THE WITNESS: Okay.

21 QUESTIONS

22 BY JUDGE HATCHER:

23 Q. I just -- I want to make sure that I am
24 following.

25 A. Uh-huh.

1 **Q. All of the different tariff charges and fees**
2 **that you were just discussing with Mr. Steinmeier, are**
3 **those any different than any charges and fees applicable**
4 **to any other of the company's customers?**

5 A. No. The charges on 150 and 151 are applicable
6 to all of Evergy Missouri West customers.

7 **Q. You mentioned St. Joe Lighting Company?**

8 A. Light & Power Company, yes, sir.

9 **Q. That predates my time. I want to draw the**
10 **conclusion that that was a city-owned utility?**

11 A. No. It was an investor-owned utility, served
12 about ten counties in northwest Missouri with St. Joseph
13 being the primary city of its service territory. It
14 served all the way up into the Iowa border kind of in
15 that northwest corner. It was purchased by UtiliCorp
16 United that became Aquila and that became GMO, Greater
17 Missouri Operations Company and then that became Evergy
18 Missouri West.

19 **Q. I see. You testified to \$3,800 to install a**
20 **pole?**

21 A. Correct.

22 **Q. Does that include the actual cost, Evergy went**
23 **out and purchased a pole?**

24 A. Yes, I believe that to be the full cost of
25 installing a metal pole with an LED fixture and the

1 breakaway bases and things that we're talking about
2 here.

3 Q. You said installing again though. How much
4 does the pole cost?

5 A. I don't have a breakdown of that.

6 Q. But it is a separate thing?

7 A. No, it's in that \$3,800. The \$3,000 --

8 Q. A street light pole, I could out and buy one
9 for less than \$3,800 and possibly have it installed?

10 A. Remember, we're buying as a utility. So that
11 would be much different pricing than you might pay at
12 Home Depot, for example.

13 Q. I was expecting a much higher price tag for
14 the pole. Okay. Is the submitted tariffs that you're
15 discussing with Mr. Steinmeier addressing municipal
16 street lighting service and off-peak lighting service,
17 are those based on a cost of service approach?

18 A. I would say yes.

19 Q. How many street lights are in St. Joseph and
20 that might -- that will certainly be a question for
21 Mr. Carter. Just in case.

22 A. Let me see if I can -- They're itemized by
23 type. So I can at least give you -- allow me a moment
24 unless, Mr. Carter, do you have that? Okay. Allow me a
25 moment.

1 Q. Please.

2 A. I have for the LED lighting type 6,503 lights.
3 So we can say approximately 6,500.

4 Q. Thank you. I wanted to get a sense of that
5 compared to the 61 that were referenced in the letter.

6 A. Now, there are -- Just to be aware, that there
7 are a few older light types that are not in this segment
8 of the bill that are on another bill. They might be of
9 high pressure sodium or mercury vapor type or not of
10 street lighting type.

11 Q. I was more interested to get a scale of the 61
12 out of. Perhaps over 10,000. Mr. Steinmeier, and I
13 don't recall if it was in a question or his opening
14 statement, he said that Evergy was the only company
15 allowed to install street lights. By my reading of the
16 tariff, it seems that the company does allow third
17 parties or even cities to do their own and then they
18 have a separate rate and that's that off-peak rate.

19 A. Correct. 151 would allow others to do that
20 installation, that is correct.

21 Q. Is there anything stopping -- It seems to boil
22 down to finances, who's paying for the street lights,
23 the developers or the company and how does that monthly
24 bill shake out. Is there anything stopping the city
25 from passing on any of those charges, I'm just now

1 **thinking this out loud and these are monthly charges?**

2 A. Correct, they're monthly charges. No, I don't
3 think so. But if I recall the opening statements and
4 the testimony of the city, it has also to do with the
5 category of the cost and their own budgeting processes,
6 capital versus maintenance I think where they have some
7 concerns.

8 Q. Accounting?

9 A. Yes.

10 Q. My last question. I'm referring to Exhibit
11 853 -- 854, which is the letter asking identify all
12 street lights gifted by the city.

13 A. Correct.

14 Q. Under the bold response about the middle of
15 the page it reads, quote, available records are limited
16 to 2017, end quote. Here's my question. The paragraph
17 ends with -- I'm sorry. The paragraph ends with a
18 citation with reading that those street lights are
19 transferred from the city to Everygy, quote, in exchange
20 for a maintenance only rate, end quote. Mr. Steinmeier
21 is stating that the tariff changed after 2016 and there
22 wasn't any more of the deal that was available for St.
23 Joseph. How are you granting a maintenance only rate in
24 2017 and after? I'm sorry. This letter seems to imply
25 to me that as of 2016 rates changed in the case but

1 Everygy's records only go back to 2017 and whoever wrote
2 the letter checked and said hey, those 61 street lights,
3 they were given to us in exchange for a maintenance only
4 rate. Is there a maintenance only rate in your tariff?

5 A. No.

6 Q. What is a maintenance only rate?

7 A. It attempts to strip out the equipment aspects
8 of this all in rate and provide only the maintenance and
9 energy cost elements.

10 Q. So without the tariff explicitly stating a
11 grandfather clause which I believe is what we were
12 referencing earlier, the company, if my interpretation
13 is right, the company is saying as to these 61, and
14 granted out of the 6,000 plus, but those 61 we're not
15 going to charge you for the installation and all of that
16 because those were gifted to us, we're just going to
17 charge you and then you started cutting off the stuff
18 that was just the maintenance?

19 A. Yes.

20 JUDGE HATCHER: Thank you. I don't have any
21 other questions, but we've got to go through it.

22 THE WITNESS: You bet.

23 JUDGE HATCHER: Okay. Let's go back to
24 recross-examination. Mr. Steinmeier. We did direct,
25 cross, Commission, bench, and now we go back to recross

1 and I believe it goes St. Joe, staff, OPC.

2 MR. STEINMEIER: No further questions, Your
3 Honor. Thank you.

4 JUDGE HATCHER: Staff.

5 MS. MERS: Just very briefly. Good afternoon,
6 Mr. Lutz. How are you doing?

7 THE WITNESS: I'm good. Good afternoon.

8 RE-CROSS-EXAMINATION

9 BY MS. MERS:

10 Q. Just to clarify, you were asked a question
11 from the bench about if these are cost-based rates. Do
12 you recall?

13 A. Yes.

14 Q. Is it your understanding that based on the
15 outcome of the remaining issues that have revenue
16 requirement impact and pending Commission approval of
17 the stipulations that these tariffs would be adjusted to
18 reflect the Commission-approved revenue requirement?

19 A. Certainly. Whatever that might be ultimately,
20 yes.

21 MS. MERS: Okay. Thank you for that
22 clarification.

23 THE WITNESS: Yes.

24 JUDGE HATCHER: Okay. We'll move on. Public
25 counsel.

1 MR. CLIZER: No questions, thank you.

2 JUDGE HATCHER: Redirect.

3 MR. STEINER: Thank you. Just a few.

4 REDIRECT EXAMINATION

5 BY MR. STEINER:

6 Q. Mr. Lutz, let's start with the tariff what was
7 marked by the city as Exhibit 852. Do you have that?

8 A. I do.

9 Q. I believe you were asked some questions about
10 Sheet 150.1 under the term Rate (Optional Equipment),
11 MOMLL. Do you see that?

12 A. I do.

13 Q. What company costs are these charges designed
14 to cover?

15 A. They are designed to cover the additional
16 costs associated with the installation of these elements
17 listed in 4.1 and 4.5 as they might be considered add-on
18 or say premium type features on top of the rates on
19 Sheet 150. What we do in designing the rates is we have
20 a standard approach that we model and then come up with
21 that pricing. And then there are additional
22 circumstances, if you will, or features that we have to
23 account for, and those are covered in the section 4
24 pricing.

25 Q. So these charges apply to company-owned street

1 lights only, correct?

2 A. Correct.

3 Q. They would not apply to the street lights that
4 were installed by a developer and owned by the city,
5 correct?

6 A. Yeah. Any city-owned equipment would not be
7 subject to the 150 pricing.

8 Q. So let's take an example 4.3 Underground
9 Service extension under concrete. How would that come
10 to be for an existing pole? What would make the company
11 have to do underground service for an existing pole say
12 ten years after this street light was installed?

13 A. Right. You know, it's not uncommon for
14 overhead facilities to be preferred to be underground
15 and that would be the example here is that we maybe had
16 a street light that was served with an overhead
17 conductor that was later put either new or retrofit to
18 your example underground.

19 Q. Okay. Let's go to Exhibit 853 which is the
20 Data Request response.

21 A. I have it.

22 Q. Just want to make sure it's clear it's your
23 understanding that this is a listing of city-owned
24 street lights -- excuse me, street lights that were
25 built by developers and gifted to Evergy?

1 A. Correct.

2 Q. And it's your understanding that they are in
3 the company's rate base but at a value of zero; is that
4 correct?

5 A. Yes.

6 Q. And you would believe that the company is not
7 earning a return on those street lights; is that
8 correct?

9 A. That is my understanding, yes.

10 Q. Let's move on to the letter I think has been
11 marked as 854.

12 A. I have it.

13 Q. And you identified the letter sent to the city
14 and the letter explains that having the developer
15 install lights, transfer ownership, and then transfer it
16 over to a different company, that is no longer available
17 under the company's tariffs. Do you agree that that's
18 part of what the letter says?

19 A. Correct.

20 Q. Do you believe that the company notified the
21 city of this change in policy as set forth in its
22 tariffs earlier than the date of this letter?

23 A. I do. And we covered some of that in the
24 testimony and laid that out and definitely during some
25 data request discovery I was unable to provide some of

1 those copies, but I do feel very comfortable that
2 representatives of the company were in contact with
3 representatives of the city at the time when we were
4 doing these changes.

5 **Q. That would have been what year approximately?**

6 A. Going back to about 2018, I think was one of
7 the more formal and then there would have been events
8 associated with the rate case in 2016. It's our normal
9 practice that our representatives to the municipalities
10 have exchanges with the cities during rate cases to
11 discuss matters like this.

12 MR. STEINER: I think that's all I have.

13 Thank you.

14 JUDGE HATCHER: Thank you, Mr. Steiner. Mr.
15 Lutz, you are excused. Thank you, sir.

16 (Witness excused.)

17 JUDGE HATCHER: We will move on to our next
18 witness. Mr. Steinmeier, please call your witness.

19 MR. STEINMEIER: The City of St. Joseph calls
20 Brian Carter to the stand.

21 JUDGE HATCHER: Thank you, sir. If you would
22 please raise your right hand.

23 Do you solemnly swear or affirm that the
24 testimony you about to give will be the truth, the whole
25 truth, and nothing but the truth?

1 THE WITNESS: Yes.

2 JUDGE HATCHER: Thank you. Your witness. Go
3 ahead.

4 MR. STEINMEIER: Thank you, Your Honor.
5 Before I move on, may I confirm that I offered Exhibit
6 854 and it was received in evidence?

7 JUDGE HATCHER: Yes, confirmed. I will need a
8 motion for 850 and 851, which is Mr. Carter's testimony,
9 but that will come in time.

10 MR. STEINMEIER: Coming soon.

11 BRIAN CARTER,
12 having been first duly sworn, was examined and testified
13 as follows:

14 DIRECT EXAMINATION

15 BY MR. STEINMEIER:

16 Q. Please state your name and business address
17 for the record.

18 A. Brian Carter. My office address is City Hall,
19 1100 Frederick Avenue in St. Joseph, Missouri 64501.

20 Q. You are the City Manager of the City of St.
21 Joseph, Missouri?

22 A. Yes, I am.

23 Q. Are you the same Brian A. Carter who caused to
24 be filed in this case direct testimony which has been
25 premarked as Exhibit 850 and surrebuttal testimony which

1 has been premarked Exhibit No. 851?

2 A. Yes, I am.

3 Q. If I were to ask you the same questions today
4 as are asked in those exhibits, would your answers be
5 the same?

6 A. Yes, they would.

7 Q. And the information contained therein is true
8 and correct, to the best of your knowledge, information,
9 and belief?

10 A. Yes.

11 MR. STEINMEIER: Your Honor, I offer Exhibits
12 850 and 851 into evidence and proffer the witness for
13 cross-examination.

14 JUDGE HATCHER: Thank you. You've heard the
15 motion by counsel for the admission of those two
16 exhibits. Are there any objections? Hearing none,
17 Exhibit 850 and 851 are admitted onto the hearing
18 record.

19 (ST. JOSEPH EXHIBITS 850 AND 851 WERE RECEIVED
20 INTO EVIDENCE AND MADE A PART OF THIS RECORD.)

21 JUDGE HATCHER: The witness has been tendered.
22 According to the presiding officer's cheat sheet, that
23 takes us to Mr. Clizer.

24 MR. CLIZER: No cross. Thank you, Your Honor.

25 JUDGE HATCHER: Staff.

1 MS. MERS: No questions. Thank you.

2 JUDGE HATCHER: And the company.

3 MR. STEINER: No questions, Your Honor.

4 JUDGE HATCHER: That will take us to
5 Commissioner questions. Are there any Commissioner
6 questions for Mr. Carter?

7 COMMISSIONER HOLSMAN: Not at this time,
8 Judge.

9 JUDGE HATCHER: Thank you, Commissioner
10 Holsman. And the bench has no questions. Thank you,
11 Mr. Carter. You are excused. I appreciate you
12 traveling all the way and supplying your testimony and
13 being here. Sometimes that happens and there's just no
14 questions.

15 THE WITNESS: I appreciate the Commission's
16 and Your Honor's time.

17 (Witness excused.)

18 JUDGE HATCHER: We are at the end of our day
19 and we have one optional witness. Are any Commissioners
20 interested in any questions for Ms. Sarah Lange of
21 staff? She's being offered as a witness.

22 COMMISSIONER HOLSMAN: No questions at this
23 time, Judge.

24 JUDGE HATCHER: Thank you, Commissioner
25 Holsman. The bench also has no questions. I'll go

1 ahead and ask the parties just to make sure. Any
2 questions by the parties? I'm only seeing shakes back
3 and forth of the head indicating a negative.

4 Let's move on. We are done for the day.
5 Before we go off the record, the only announcement I can
6 think of is that we start tomorrow at 8:30 and we will
7 be followed -- After the conclusion of testimony and the
8 evidentiary hearing portion, we will then proceed after
9 or at one o'clock, the sooner of, going to the
10 on-the-record presentation regarding the four
11 stipulations that we have received so far.

12 MR. CLIZER: I believe this might have been
13 mentioned earlier; but to the extent that people need to
14 join the WebEx, it's the same WebEx?

15 JUDGE HATCHER: It will be the same WebEx
16 obviously for the hearing and yes, excellent point, same
17 exact WebEx. It will remain open throughout the entire
18 day as it has been. So we in the room will really be
19 the only ones kind of transitioning from one thing to
20 the next. Okay. We are adjourned. Off the record.

21 (Thereupon, the proceedings adjourned for the
22 day at 2:21 p.m., and will continue in Volume 13.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
COUNTY OF COLE)

I, Beverly Jean Bentsch, RPR, CCR No. 640, do hereby certify that I was authorized to and did stenographically report the foregoing Public Service Commission evidentiary hearing and that the transcript, pages 808 through 894, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or counsel connected with the action, nor am I financially interested in the action.

Dated this 26th day of September, 2022.

Beverly Jean Bentsch
Beverly Jean Bentsch, RPR, CCR No. 640

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