

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Evergy)
Missouri West, Inc. d/b/a Evergy Missouri for) File No. EO-2022-0061
Approval of a Special High Load Factor Market Rate)

POSITION STATEMENT OF VELVET TECH SERVICES, LLC

COMES NOW Velvet Tech Services, LLC ("Velvet"), and states its position regarding the issues identified in the *List of Issues, List and order of Witnesses, Order of Opening Statements, and Order of Cross-Examination* filed in this proceeding on January 18, 2022.

**(1) Should the Commission approve the Special High Load Factor Market Rate
 ("Schedule MKT") tariff proposed by EMW?**

Yes. Approval of the Schedule MKT is in the best interest of all EMW customers and is in the best interest for the State of Missouri. Not only does the proposed MKT Tariff further economic development initiatives undertaken by the Kansas City region and the State of Missouri, but also the MKT Tariff is consistent with the policy of the state as it relates to incentivizing data centers and encouraging renewable energy.¹ Furthermore, Schedule MKT provides direct and indirect benefits to EMW's other customers, while mitigating any risk to them.

Schedule MKT, Generally

On November 2, 2021, Evergy Missouri West GMO ("EMW") filed an application seeking approval of a Special High Load Factor Market Rate Tariff. Schedule MKT would allow EMW to provide qualifying customers with high load factors access to a special contract rate designed to recover no less than the incremental cost of serving the load. Schedule MKT will provide a tool for large, high load factor, transmission and substation level customers such as Velvet to take electric service from Evergy while independently achieving their renewable goals. Velvet would be the largest single EMW customer – the uniqueness of the opportunity presented by a customer

¹ *State ex rel. St. Louis v. Pub. Serv. Comm'n of Mo.*, 73 S.W.2d 393, 400 (Mo. banc 1934) (internal citations omitted) ("public policy of the state must be derived legislation"). It is the policy of the state to incentivize the location of data centers in Missouri (see Section 144.810, RSMo) and to encourage the use of renewable energy (see Section 393.1030, RSMo).

like Velvet necessitates a unique solution. If Velvet is able to secure a suitable energy rate structure like Schedule MKT, Velvet's investment will promote and increase economic development in Kansas City and Missouri more broadly, not only as a result of the direct impacts of their economic investment in the region, but also through Velvet's independent actions to increase renewable development on the SPP grid.

Schedule MKT also allows the Commission significant and continued oversight as to the initial approval and renewal of the contract. The initial term of the Market Rate Contract is five years, which allows for predictability for the customer and gives the customer the ability to plan for future operation and investment in the state. The tariff approval will establish an incremental capacity and market cost-based energy framework with the Commission retaining final approval of customer specific MKT contracts prior to customer taking service under the tariff. An exemplar Market Rate Contract is attached to the Direct Testimony of witness Darrin R. Ives as Schedule DRI-2. Renewal of the contract is also subject to Commission review.

The Commission should not wait until a rate case to approve Schedule MKT. Velvet needs to have assurance now that the Schedule MKT rate will be available so that Velvet may move forward with investments in the Kansas City project. Brubaker Surrebuttal, p. 5. If the rate approval request were moved to a rate case and its 11-month timeline, the decision will be too late and could jeopardize investment and the development itself (Ives Surrebuttal, pp. 6-7).

Schedule MKT Furthers the State's Economic Development Goals

Velvet conducted a multi-state search for a location to build a new \$800 million enterprise data center. Velvet worked with Evergy to explore rate options that were competitive and that would facilitate Velvet's 100% renewable goals. Important to Velvet's decision making was finding a solution that provided competitive pricing and were compatible with Velvet's renewable goals.

There are many competitive alternatives for electricity pricing in other states. Brubaker Surrebuttal, MEB-2. With Missouri's current limited toolbox of options, Missouri has thus far been bypassed by developers of hyperscale data centers. McCarthy Direct, p. 7. Electricity is one of the biggest inputs to the cost of operating a data center. Therefore, the electricity rate and rate structure are very important to Velvet's decision whether to locate in Kansas City. McCarthy Direct, p. 8.

Economic Development projects of this scale are like putting together an intricate puzzle.

It takes many different people, partners, and entities to ensure the success of a project for both a developer/company and the region/state. Velvet has been engaging with local and state partners in Missouri since 2018 in an attempt to bring this project to fruition. Since then, Velvet has undertaken significant efforts to develop the project through a team of experts tasked with: confirming availability of reliable and redundant electric power; confirming availability of high quality and redundant fiber optic communications; selecting a suitable tract of land for the project located within range of KCI airport and a highly-skilled labor force; engaging and collaborating with state and local economic development agencies; and negotiating a suitable energy rate structure with Evergy. McCarthy Direct, p. 9. It has been said that Nucor's decision to locate its facility in Sedalia, Missouri was Missouri's single largest economic development success in over 10 years, relative to capital investment. Velvet's proposed capital investment is triple that of Nucor.

If Velvet is able to proceed with the project, Velvet would commit to investing at least \$800 million capital, with the potential to exceed \$1 billion. Velvet's data center will provide more than 50 direct, full-time jobs at an average annual salary of approximately \$77,000. The capital investment and new jobs created by the project will yield increases in state and local tax revenue. An RTI International study shows that each \$1 million dollars of capital investment in the region will support six jobs in the Kansas City, Missouri regional economy, and that every direct data center job supports an additional 2.5 jobs within the local economy. This, in turn, results in additional capital investment and jobs in the state, thereby further increasing the tax base and providing additional economic benefits. The construction phase of the project is expected to result in the multi-year (5-6 years) employment of approximately 1,000 construction workers. Construction employees utilize lodging, eating and hospitality venues resulting in increased tax base and indirect jobs.

In addition, Velvet will serve as the anchor tenant for the new Golden Plains Technology Park, an innovative 882-acre data center campus development in Kansas City, Missouri. The combined project plan calls for construction of 5.5 million square feet of new facilities – with an investment of \$4.3 billion in real estate (three times the size of the new KCI Airport terminal). Platte county stands to benefit substantially from PILOTs, real property taxes and business personal property taxes. McCarthy Direct, pp.12-13. Velvet's initial investment will thereby help establish the Golden Plains Technology Park as an industry focused location for future

growth for Kansas City. The additional technical and primary job growth will create many opportunities for supporting commercial and retail businesses to thrive and grow in the Kansas City region. The positive economic impact of data centers is well documented. See Brubaker Surrebuttal, MEB-4. A vibrant economy is in the best interest of the state of Missouri and in the best interest of all EMW customers.

Schedule MKT Furthers the State's Renewable Energy Goals

The Commission should also approve the Schedule MKT because it is consistent with the state's goals with respect to renewable energy. Velvet's commitment to renewable far exceeds the state's goals. The proposed Schedule MKT presents a unique opportunity that facilitates a *customer's* independent actions to support renewable energy growth in the region. Here, Velvet has committed to support 100% of the new data center load with independently sourced, new renewable energy generation facilities within the SPP grid. This 100% percent commitment far exceeds the state's standard of 15% renewable energy in Missouri and should therefore be embraced and encouraged by those who support renewable energy and by those who are interested in attracting similar customers to Missouri. In addition, Velvet has proposed a "Renewable Energy Support Charge" solely for the "benefit of all retail customers to support the recovery of new renewable resources." It is in the best interest of the state and consistent with the state's renewable energy goals to have tools like Schedule MKT to attract customers like Velvet.

Furthermore, it is appropriate to exempt a customer who can demonstrate that its load is supported by 100% renewable attributes from RESRAM. This demonstration by the customer is not only consistent with but goes well beyond the state's existing renewable energy standards. It is neither just nor reasonable for a customer to pay to "green" a load which is already 100% supported with renewable attributes. Alternatively, Velvet should be exempted from RESRAM as the addition of Velvet's load would not necessarily cause any additional incremental costs related to RES compliance. See Eubanks Surrebuttal, p. 3.

Schedule MKT Provides Direct & Indirect Benefits to Other Ratepayers while Mitigating Any Risk to Them

Finally, the Commission should approve Schedule MKT because not only is it designed to mitigate risk to EMW's other ratepayers, but the other ratepayers will also enjoy direct and indirect benefits from Velvet's development. The Market Rate Contract includes a direct benefit for Evergy's other customers. Velvet has proposed a significant "Renewable Energy Support

Charge.” This charge is a charge paid for by Velvet, over and above the energy price, service charge, and capacity charge, solely for the “benefit of all retail customers to support the recovery of new renewable resources.” Ives Direct, DRI-2. Not only will these funds further the expansion of renewable energy for Evergy customers, but also it will directly reduce costs paid by Evergy’s other ratepayers. Beyond this direct benefit to EMW ratepayers, a project of this size and scope means other indirect benefits that are in the best interest of all EMW customers – a larger retail customer base (both from new employees and new businesses) within the Evergy service area. Brubaker Surrebuttal, p. 4.

Further, Schedule MKT is designed to mitigate any risk to other customers. EMW expects that revenues generated from service under the Schedule MKT will exceed the incremental cost to serve Velvet over the 5-year contract term. Ives, p. 10. The tariff sets forth a three-part rate: (1) an energy price set by the SPP day-ahead hourly price (2) the customer service charge and (3) the capacity charge. The customer service charge and the capacity charge are calculated and based on the incremental cost to serve Velvet. Ives Direct, p. 7. EMW expects to collect infrastructure costs associated with serving a customer under Schedule MKT from that customer either through (1) up-front charges or (2) through the MKT rate design. Ives Direct, p. 9. In addition, the five-year term significantly reduces risks to EMW other’s customers. Although the Commission has approved contracts in excess of ten years previously (*Case No. WT-2004-0192*), here, Schedule MKT’s five-year term provides the Commission the ability to regularly review the contract and pricing to ensure that Market Rate Contract remains in the best interest of all EMW’s customers.

(1a) Is the Schedule MKT tariff lawful?

The Schedule MKT tariff is lawful. The Commission is authorized to take up, consider and approve the proposed MKT Tariff under its general ratemaking authority. *See* 393.130, 393.140(11) and 393.150.1, RSMo. The Commission has long held that it has the authority to review and approve special contracts and tariffs related to special contracts. As this Commission has previously determined, Section 393.355, RSMo, is not the exclusive means by which the Commission can consider special contract tariff schedules and contracts.² Further, as a new service offering, the proposed MKT Tariff need not be introduced in a general rate case. *State ex rel. Sprint*

² Report and Order, EO-2019-0244 (November 13, 2019).

Spectrum L.P. v. Missouri Public Service Commission, 112 S.W.3d 20, 28-29 (Mo. App. W.D. 2003). The lawfulness of the tariff will be fully addressed in Velvet's briefing.

(2) If yes, what if any modifications to the Schedule MKT tariff proposed by EMW or other conditions should the Commission order?

Both EMW and Velvet agreed with certain modifications suggested by OPC as set forth in the Surrebuttal testimony of EMW and Velvet. Those modifications are appropriate. No other modifications to the MKT tariff or conditions are warranted.

Conclusion

Velvet respectfully requests an Order by the Commission approving EMW's Application and Schedule MKT, with the modifications described herein under Issue (2).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was serve upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission, on this 20th day of January, 2022.

 /s/ Stephanie S. Bell
Stephanie S. Bell