BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of KCP&L Greater Missouri Operations Company For Approval of a Special Rate for a Facility Whose Primary Industry is the Production or Fabrication of Steel in or Around Sedalia, Missouri.	)))))	File No. EO-2019-0244

POSITION STATEMENT OF EVERGY MISSOURI WEST, INC.
<u>D/B/A EVERGY MISSOURI WEST</u>

COMES NOW Evergy Missouri West, Inc. d/b/a Evergy Missouri West (f/k/a KCP&L Greater Missouri Operations Company)("Company") and for its Position Statements states as follows:

On July 12, 2019, the Company filed its Application requesting authority from the Missouri Public Service Commission for a special incremental load rate for a steel production facility in Sedalia, Missouri. The Company requested that the Commission enter an appropriate Order by December 1, 2019, approving the Schedule SIL (Special Incremental Load) Tariff so that it is effective no later than January 1, 2020 and authorizing the Company to serve Nucor Steel Sedalia LLC ("Nucor") under the terms of a Special Incremental Load Rate Contract between the Company and Nucor dated July 11, 2019. ("Nucor Agreement")

<u>LIST OF ISSUES</u>

1. Should the Commission approve the Special Incremental Load ("SIL") tariff proposed by GMO and the Special Incremental Load Rate proposed for Nucor subject to the customer protections and monitoring and reporting requirements recommended by Staff, Nucor, and GMO?

<u>Company Position</u>: Yes. The Commission should approve the SIL tariff proposed by GMO and the special contract rate proposed for Nucor subject to the customer protections and monitoring and reporting requirements recommended by Staff, Nucor and the Company.

BACKGROUND OF CONTRACT

Attracting Nucor to Missouri was a significant economic development "win" for the State. Missouri had a statewide team working with Nucor, including the Missouri Governor's office; the Missouri Departments of Economic Development, Natural Resources, Revenue and Transportation; Sedalia-Pettis County Economic Development; City of Sedalia; Pettis County; KCP&L; Liberty Utilities; Union Pacific Railroad; and Missouri Partnership. This statewide team crafted an aggressive and innovative incentive package for Nucor, using Missouri State Programs such as Missouri Works Training, Private Activity Bonds as well as sales tax exemptions (for building materials, machinery and equipment used in manufacturing and energy used in manufacturing processes). The City of Sedalia and Pettis County also partnered with the use of Chapter 100 Bond financing to obtain significant property tax savings to show Nucor why Missouri is the place for them to invest and grow their company. The local community also is offering Nucor Fast-Track Permitting and waiver of some permitting fees as well as an executive relocation package. Union Pacific Railroad worked diligently to ensure Nucor had the correct track configurations and best possible rates for their many rail cars that will service this new modern mini mill.

The ability of Missouri and Sedalia to win the project over the competition from multiple other aggressive states exemplifies the public-private partnership approach to economic development taken in Missouri. This success is expected to have ripple effects for other projects considering locations in the Midwest. Finally, the Nucor expansion to

Sedalia will create a local opportunity for many businesses because retail business tends to follow jobs.

Nucor will invest approximately $250 million to build a steel bar micro mill in Sedalia, Missouri, a substantial portion of which is already complete. This is a new project to the State of Missouri. When completed and commercially operational, it is expected that the new Nucor facility will create more than 250 well-paying jobs. These jobs are permanent full-time positions with an average annual wage of over $65,000, which is twice the current county average of Pettis County. Nucor broke ground on the Sedalia facility in late April 2018 and is expected to be ready to begin operations in the first quarter of 2020.

The Company participated in a competitive bidding process that included multiple other states to attract Nucor to the State of Missouri. The final bids were evaluated from proposals in Missouri, Kansas, and Nebraska. As part of that process, the Company prepared indicative pricing and revenue justification to serve Nucor. When the Company representatives met with Nucor representatives after clearing an early round of the competitive bidding process, Nucor made the Company aware that Nucor had competitive alternatives necessitating the pricing reflected in the Special Incremental Load rate in order for Nucor to locate its facility in Sedalia.

The price of electricity comprises a substantial component of a steel manufacturer's operating and expense cost. Therefore, a competitive electricity rate is very important to a steel manufacturer like Nucor and represented a primary factor in their decision to locate in Sedalia.

PROPOSED CONTRACT RATE AND CUSTOMER PROTECTIONS

The average incremental cost for GMO to serve Nucor over the 10-year life of the agreement is approximately **[redacted]** and the special contract rate for that period is fixed at an average rate of **[redacted].** Over the 10-year term of the special contract, the Company expects to yield a profit, on average, of **[redacted],** or approximately **[redacted]** per year.

In addition to the level of profitability discussed herein that will contribute to recovery of the Company's fixed costs and therefore reduce rates paid by all other customers below the level that would exist if the Company did not serve Nucor, the Company's service to Nucor will produce additional benefits for other customers. These additional benefits include an increase in the number of residential customers that will result from the addition of approximately 250 new jobs at Nucor and the addition of other new jobs that will be created in the Sedalia area by businesses that provide service and supplies to Nucor. If one were to conservatively assume half of the new, Nucor jobs plus half of the other 150 jobs created by area businesses, all represent new residential customers to the area, the Company estimates these additional benefits to be approximately $261,000 in revenue to GMO annually.

On September 19, 2019, the Company, Nucor and the Commission Staff entered into a Non-Unanimous Stipulation And Agreement ("Stipulation") that recommends the approval of the Nucor Contract and the Special Incremental Load Tariff. The Office of the Public Counsel did not object to the Stipulation. MECG is the only objecting party.

Under the terms of the Stipulation, there will be extensive cost and revenue accounting which will ensure that other Non-Nucor customers are not adversely affected by the Nucor contract and its operation. The specifics of these protections are contained in Paragraphs 7 and 8 of the Stipulation. The Commission Staff and other parties will be kept informed through detailed and regular reporting commitments. The anticipated reporting format is included in Exhibit 1 to the Stipulation and will include the following:

1. The Company will identify and isolate the plant costs to provide service to Nucor;

2. The Company will also identify and isolate the supply costs attributable to Nucor. These are expected to include energy as obtained through the SPP integrated marketplace and all transactions associated with the renewable supply source which will be a designated Wind Facility. As a result, this special contract promotes the State's policy in favor of renewable energy as reflected in the Renewable Energy Statute, Section 393.1030.

The Company will monitor Nucor's operations and will identify additional SPP-related costs resulting from unexpected operational events. If these unexpected operational events would increase costs to Non-Nucor customers, then the amount of the increased costs will be identified and reflected in a subsequent FAC rate change filing and removed from the Actual Net Energy Cost prior to the calculation of the FAC rates, thereby holding harmless Non-Nucor customers from such increased costs.

At the time of a general rate case, the portion of the Company's revenue requirement associated with the incremental costs net of the Wind PPA revenues to serve Nucor will be assigned to Nucor, and the amount by which Nucor's rate revenues exceed the incremental cost to serve Nucor will be reflected in the Company's net revenue requirement reducing the overall revenue requirement borne by the Company's other non-Nucor customers.

If Nucor's revenues do not exceed the incremental cost to serve Nucor, then the Company will make an additional revenue adjustment covering the shortfall to the revenue requirement. This will ensure that non-Nucor customers will be held harmless from the effects of serving Nucor. In other words, the Company expects the Nucor Contract to be a profitable contract that will benefit all customers. But, in no event will any revenue deficiency from, or incremental cost necessary for, GMO's service to the Nucor operations be reflected in the rates of other customers.

There will also be communications between Nucor and the Company related to planned outages, maintenance outages, and similar operational details so that the Company will be in a position to carefully monitor the effects of Nucor's operations on the Company's electric system.

LEGAL AUTHORITY FOR TARIFF AND CONTRACT APPROVAL

The Commission has often exercised its ratemaking authority to approve special contracts and related tariffs under Section 393.140(11), 393.150(1) RSMo., and its general ratemaking authority under Section 393.130. Many special contracts have been approved by the Commission utilizing such authority over the Commission's regulatory history.[1] The Company respectfully requests that it do so again.

Contrary to the arguments of MECG, the Company is not required to utilize the provisions of Section 393.355 RSMo., a recently passed statute regarding special rate contracts for aluminum and steel producers or facilities resulting in incremental monthly load increases over 50 megawatts, outside a general rate proceeding. While this statutory tool is evidence of a regulatory and pricing climate that gave Missouri a distinct competitive advantage in attracting Nucor to Missouri, this statute is not required to be utilized and does not serve the needs of Nucor and the Company under the circumstances of this case. It is not the exclusive authority for approving special contracts.

[1] *See e.g.*, State ex rel. GS Technologies Operating Co. v. Public Service Comm'n, 116 S.W.3d 680, 685 (Mo.App.W.D. 2003); See also *Report and Order*, In the Matter of a Demand Curtailment Agreement Between Kansas City Power & Light Company and Armco Steel Corporation, Case No. EO-78-227, 22 Mo.P.S.C.(N.S.) 260 (August 22, 1978); *Report and Order*, Re Special Contract filed by Kansas City Power & Light Company, Case No. EO-95-181, 4 Mo.P.S.C.3d 233, 235-39 (November 22, 1995); *Order Approving Proposed Rate Schedule And Special Contract*, In the Matter of the Application of Kansas City Power & Light Company for Approval of a Rate Schedule Authorizing the Use of Special Contracts and Approval of a Specific Special Contract between KCPL and an Existing Customer, Case No. EO-2006-0193, 2006 WL 1134423 (March 16, 2006).

According to Section 393.355(2), this statute is designed for situations in which the special rate "is not based on the electrical corporation's cost of service for a facility. . ." In the case of the Nucor special contract, the rate is based upon the cost of serving the Nucor facility. Therefore, Section 393.355 would not be appropriate in this case.

Significant elements of the Section 393.355 also appear to be contradictory when applied to a special rate for a new facility requiring incremental investment to serve customers such as Nucor (and unlike the situation of a company moving into the former Noranda Aluminum facility which would not need significant new investment to serve the facility). Section 393.355.3 describes a tracking mechanism to track changes in the net margin experienced by the utility serving the facility so that the utility's net income is neither increased or decreased. In a scenario with a pre-existing customer facility, such as Noranda Aluminum in 2016, there is no need for extensive investment to serve the customer. Therefore, it is realistic to assume that the utility's net income would not change as a result of providing a special rate to the facility. This tracking mechanism therefore serves to protect the interests of both the utility and the utility's other customers in a scenario where no new investment is required to serve the new customer or increase in load.

However, in providing service to a new facility with new load that has never before been served by the utility, incremental cost would be necessary to connect that facility to the utility grid and provide electric service. In the case of Nucor, GMO expended approximately $18 Million to build the infrastructure need to serve Nucor's specialized load. Under this scenario it would be reasonable to expect the utility would be able to recover its cost to install poles, wires, and equipment and earn a return on its rate base investment. In this situation, involving new incremental load, the utility would need to increase its net income in order to recover the incremental cost of the investment, including a return on that investment, necessary to serve the new load. Therefore, the section of the statute requiring the use of a tracker to ensure that net income neither increases nor decreases (Section 393.355.3) appears to be contradictory to the statute's emphasis on incremental cost (Section 393.355.2(1)).

It is for these reasons that the Company did not request approval of the Nucor Agreement under Section 393.355, given the fact that the rate is based upon the cost of serving Nucor and the other apparent contradiction in the statute in a situation where incremental investment is required of the utility to serve the new customer. The Commission should instead utilize its traditional ratemaking authority to approve the SIL tariff proposed by GMO and the special contract rate proposed for Nucor subject to the customer protections and monitoring and reporting requirements recommended by Staff, Nucor and the Company.

WHEREFORE, Evergy Missouri West, Inc. d/b/a Evergy Missouri West respectfully requests that the Commission accept this Position Statement and grant the relief requested in its Application as modified by the *Non-Unanimous Stipulation and Agreement* filed on September 19, 2019, by the Company, Nucor and the Commission Staff.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 15th day of October 2019, to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner