

Exhibit:
Issues: Special High Load Factor
Market Rate
Witness: Bradley D.Lutz
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Evergy Missouri West, Inc.
Case No. EO-2022-0061
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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: EO-2022-0061

SURREBUTTAL TESTIMONY

OF

BRADLEY D. LUTZ

ON BEHALF OF

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

**Kansas City, Missouri
January 14, 2022**

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **BRADLEY D. LUTZ**

4 **Case No. EO-2022-0061**

5
6 **Q: Please state your name and business address.**

7 A: My name is Bradley D. Lutz. My business address is 1200 Main, Kansas City, Missouri
8 64105.

9 **Q: By whom and in what capacity are you employed?**

10 A: I am employed by Evergy Metro, Inc. and serve as Director, Regulatory Affairs for Evergy
11 Metro, Inc. d/b/a Evergy Kansas Metro (“EKM”), Evergy Kansas Central, Inc. and Evergy
12 South, Inc., collectively d/b/a as Evergy Kansas Central (“EKC”), Evergy Metro, Inc. d/b/a
13 as Evergy Missouri Metro (“EMM”), Evergy Missouri West, Inc. d/b/a Evergy Missouri
14 West (“EMW” or “Company”), the operating utilities of Evergy, Inc.

15 **Q: On whose behalf are you testifying?**

16 A: I am testifying on behalf of Evergy Missouri West.

17 **Q: What are your responsibilities?**

18 A: My current responsibilities are focused on rates, regulatory operations and customer issues,
19 providing support and oversight for a wide range of regulatory work including
20 determination of retail revenues, load analysis, rate design, class cost of service, tariff
21 administration, compliance reporting, response to customer complaints, docket
22 management system administration, general tariff administration, and relationship

1 development for the Company's regulatory activities in the Missouri and Kansas
2 jurisdictions.

3 **Q: Please describe your education, experience and employment history.**

4 A: I hold a Master of Business Administration from Northwest Missouri State University and
5 a Bachelor of Science degree in Engineering Technology from Missouri Western State
6 University.

7 I joined Evergy, then Kansas City Power & Light, in August 2002 as an Auditor in
8 the Audit Services Department. I moved to the Company's Regulatory Affairs group in
9 September 2005 as a Regulatory Analyst where my primary responsibilities included
10 support of our rate design and class cost of service efforts. I was promoted to Manager in
11 November 2010 and was promoted to my current position in March 2020.

12 Prior to joining Evergy, I was employed by the St. Joseph Frontier Casino for two
13 years as Information Technology Manager. Prior to St. Joseph Frontier Casino, I was
14 employed by St. Joseph Light and Power Company for nearly 14 years. I held various
15 technical positions at St. Joseph Light and Power Company, including Engineering
16 Technician-Distribution, Automated Mapping/Facilities Management Coordinator, and
17 my final position as Senior Client Support Specialist-Information Technology.

18 **Q: Have you previously testified in a proceeding before the Missouri Public Service
19 Commission ("Commission" or "MPSC") or before any other utility regulatory
20 agency?**

21 A: Yes, I have testified multiple times before the Commission concerning tariff, class cost of
22 service and rate design topics as part of various recent proceedings. Additionally, I have
23 testified multiple times before the Kansas Corporation Commission.

1 **Q: What is the purpose of your surrebuttal testimony?**

2 I will respond to the rebuttal testimony filed on December 23, 2021, by Staff witnesses
3 Brad Fortson and OPC witness Dr. Geoff Marke in this proceeding concerning the Special
4 High Load Factor Market rate tariff (“Schedule MKT”). Evergy witness Darrin Ives also
5 provides surrebuttal testimony in response to Staff and OPC rebuttal testimony, responding
6 to tariff recommendations, establishing a rate schedule outside of a general rate proceeding,
7 Commission authority of the rate, proposed industry requirement and the applicability of
8 other rate options.

9 Between the surrebuttal testimony of Mr. Ives and myself, we address the major
10 concerns with the Staff and OPC testimonies, but the fact that Evergy may not address a
11 particular point made or position taken by these witnesses should not be construed as an
12 endorsement of that statement or position.

13 **Q: Please provide a brief overview of your surrebuttal testimony.**

14 A: My testimony will address Mr. Fortson’s recommendations that the Commission order the
15 Company to modify its FAC accounting to ensure Schedule MKT-related costs are not
16 included in the FAC charge recovered from other customers, and track Schedule MKT-
17 related costs separately from other costs specifically identified in the FAC monthly reports
18 submitted to the Commission.

19 My testimony will also respond to OPC witness Marke’s testimony that asserts that
20 there is:

- 21 • a failure to include sufficient safeguards to ensure that customers who choose to
22 make use of this special rate do not induce additional costs that will ultimately be
23 borne by non-participating customers.

1 A: Yes. First, I appreciate the willingness to offer specific language. Several of Dr. Marke’s
2 suggested changes to the tariff are generally acceptable to EMW.

3 **Q: Would you address Dr. Marke’ suggested change related to the “Availability” section**
4 **of the proposed tariff?**

5 A: Dr. Marke proposes three recommendations for this section:

- 6 1. Add the word “annual” to the following sentence: *“maintain an annual load factor*
7 *throughout the year of 0.85.”*
- 8 2. Remove the sentence: *“Company reserves the right to offer additional voltage*
9 *levels.”*
- 10 3. Revise a paragraph to remove the unilateral right to determine who can and cannot
11 use the rate.

12
13 I accept recommendation #2 as offered but the other two require additional modification to
14 make these acceptable to the Company. For recommendation #1, I accept adding “annual”,
15 but with further language added to provide flexibility for customers during limited periods
16 of startup or commissioning. During initial startup and commissioning customer loads
17 could have unplanned fluctuations, causing the customer load factor to fall out of range.
18 We propose using an average annual load factor during these introductory periods. EMW
19 wishes to avoid creating a situation where customers are excluded from the rate due to
20 short term events. If the Commission accepts adding “annual”, I recommend it be added
21 as *“At full load, Customer must be able to demonstrate and maintain an annual load factor*
22 *throughout the year of 0.85 or greater. During initial startup or commissioning, not to*
23 *exceed five years, the Customer must be able to demonstrate and maintain an average*
24 *annual load factor throughout the year of 0.85 or greater.”*

25 On recommendation #3 the proposal that the Company determine a Customer’s
26 ability to participate in the rate is based on the expectation that beyond the load and load
27 factor requirements, EMW is measuring the expected impacts to the Company and

1 remaining retail customers. This analysis may have subjective elements and the language
2 identifying the Company as the decision maker was for clarification of the process, not to
3 undermine the role of the Commission. Instead of Dr. Marke’s language, I recommend the
4 following change, “*The Company will fully evaluate each Customer's operation and the
5 expected impacts to the Company and remaining retail customers and ~~reserves the right to~~
6 will determine a Customer’s ability to participate in this rate based on that evaluation.
7 The Company will notify the Commission if participation is not allowed. Participation in
8 this rate will not be allowed if the Company or the Commission determines it to be
9 uneconomic for the Company or the remaining retail customers.”*

10 **Q: Please address Dr. Marke’s suggested changes to the “Rates & Conditions” section.**

11 A: Dr. Marke proposes four recommendations for this section:

- 12 1. Add the word “load” to the following sentence: “*The Company will specify the load*
13 *node to be used in the Special High-Load Factor Market Rate Contract described*
14 *below and that SPP node will be used to price the hourly energy and all applicable*
15 *SPP charges.*”
- 16 2. Under “Rate for Capacity Service” modify the paragraph to ensure non-participants
17 are held harmless.
- 18 3. Under “Rate for Pricing for All other Service” modify the paragraph to ensure all
19 proper costs were included in the contract and prevent the inadvertent omission of
20 other charges from the contract.
- 21 4. Under “Contract Determination” modify the paragraph to explain how the approval
22 process will work and what happens if the Commission does not approve the
23 contract.

24
25 I accept recommendations #1, #3, and #4 for this section. On recommendation #2, the
26 concept of hold-harmless language appears again in the recommendations and it my
27 opinion that these provisions would be better addressed elsewhere in the tariff and changes
28 for that purpose are not needed in this paragraph.

29 **Q: Please address Dr. Marke’s suggested changes to the “Terms” section.**

30 A: Dr. Marke proposes one recommendation for this section:

- 1 1. Add language to require every contract would need to effectively be renegotiated
2 after the end of any Evergy general rate case, require Commission approval even if
3 no pricing change has occurred in the Market Rate Contract, and reducing the
4 customer notification for switching rates to 60 days.
5

6 I accept the recommendation for changing the notification to 60 days but otherwise reject
7 the recommendations offered for this section. Linking the Market Rate Contract term to
8 the rate cases would subject customers under this rate to an unreasonable level of
9 uncertainty about their rates, particularly since the customer would have no control over
10 the timing of rate cases filed by the Company. One of the primary features of the rate
11 design is to set out a predefined term for the rate so that data center customers may execute
12 large infrastructure investments with a reasonable assurance to their cost. Dr. Marke notes
13 his recommendation is to “ensure that any cost of service increase that was determined in
14 the general rate case would be considered in the renegotiation of the market rate contract.”¹
15 Under the design of this rate, only the Customer Charge would be subject to a cost of
16 service increase and the approach set out in the design case is to negotiate a Customer
17 Charge sufficient to cover potential increases occurring during the Market Rate Contract
18 term. The capacity and energy charges are set by SPP hourly pricing or customer specific
19 agreements. I contend this concern can be addressed in a different manner discussed later
20 in my testimony.

21 **Q: Please address Dr. Marke’s suggested changes to the “Additional Provisions” section.**

22 **A:** Dr. Marke proposes three recommendations for this section:

- 23 1. Modify the sentence in paragraph 1, “*Details about the rate including all terms and*
24 *conditions related to the Special High-Load Factor Market Rate and all*
25 *assumptions, inputs, and calculations used to determine that rate will be filed with*
26 *the Commission and ~~will be~~ documented through a Special High-Load Factor*
27 *Market Rate Contract.*”

¹ Marke Rebuttal, page 15, line 13 – 15.

- 1 2. Modify paragraph 3, “*Customers who fail to maintain the Availability provisions*
2 *of this rate schedule will have sixty (60) day from the day the Company provides*
3 *notice of the failure to rectify the failure. In the event that the failure is not rectified*
4 *after sixty (60) days, the Customer will be immediately ~~be~~ moved to another rate*
5 *schedule for which they qualify.*”
- 6 3. Modify paragraph 4, “*Service under this tariff shall be excluded from projected*
7 *energy calculations used to establish charges under Riders FAC ~~and RESRAM, and~~*
8 *Customer will not be subject to any such charges, unless otherwise ordered by the*
9 *Commission when approving a contract for a service under this tariff. Customer*
10 *may exercise the opt-out provisions contained in Section 393.1075.7,*
11 *RSMo.1075.7, RSMo. to avoid being subject to Demand Side Investment*
12 *Mechanism Rider charges. Customer will be subject to any other charge or*
13 *surcharge including without limitation, any charge related to the securitization of*
14 *Company assets and Rider RESRAM.*”

15
16 I accept recommendations #1, accept recommendation #2 with a revision, but reject
17 recommendation #3. For recommendation #2 we also recommend allowing 90 days to
18 rectify the failure for the reasons stated above around short-term events. To begin, it is
19 premature to add language specific to securitization as that mechanism is not yet been
20 requested or approved for EMW. It would be reasonable to wait until a filing is before the
21 Commission so that representation on all tariffs could be decided. As for RESRAM, this
22 is a recovery charge for RES compliance costs. Velvet Technical Services, the design case
23 customer for the rate is expected to provide their own renewables to offset their load under
24 the proposed rate. The Company does not believe it is consistent with cost causation
25 principles to ask a customer willing to provide their own renewables to cover the cost of
26 RES compliance. This Commission has approved special contracts exempting customers
27 from certain riders when it has deemed just and reasonable to do so. That certainly applies
28 here. It would be acceptable to add language to the tariff that any customer exempted from
29 RESRAM demonstrate that they have offset their load with renewable generation at a level
30 greater than or equal to the current renewable requirement in the Renewable Energy
31 Standard requirement.

1 **Q: Earlier you mentioned addressing concerns about covering cost. What is your**
2 **recommendation?**

3 A: The Company recommends adding the following paragraph to the Additional Provisions
4 section:

5 *“The Special High-Load Factor Market Rate will be designed to recover no less*
6 *than the incremental cost to serve the Customer over the term of the Special*
7 *Incremental Load Rate Contract.”*

8 Although certainly the original intention of the Company, this addition would formalize
9 the expectation of covering cost. With this, recommendations to terminate contracts in
10 conjunction with rate case would be unnecessary. The goal of the EMW is to establish a
11 defined price for the five-year term, subject to normal Commission oversight.

12 As for calls for hold-harmless language, I would offer three considerations for the
13 Commission that adequately address the need for such measures under the Schedule MKT
14 rate design. First, the Commission is provided an opportunity to examine the customer-
15 specific pricing with the Market Rate Contract filing. In that review the Commission will
16 have full view of the costs and revenues expected for the term of the contract. Second,
17 the Company will be deploying dedicated cost tracking, similar to that used for the Special
18 Rate for Incremental Load tariff. This tracking will provide the Commission and other
19 parties visibility to the costs and revenues associated with the Schedule MKT rate. During
20 a rate case, this may be used to evaluate the effectiveness and continued just and
21 reasonableness of the rate. Third, the Schedule MKT rate is for a limited time, five years.
22 At the end of that period EMW will file a new Market Rate Contract and the Commission
23 and other parties will receive another opportunity to evaluate the costs and revenues

1 expected for the subsequent term of the contract. Finally, in addition to these
2 considerations, there is substantial testimony in this proceeding, as well as studies that have
3 been provided, that outline the overall benefits to the region from economic development
4 wins such as a new customer like Velvet Tech Services. Undoubtedly many of these
5 benefits inure to all Evergy retail customers and should be a consideration of the
6 Commission in considering the just and reasonableness of a Market Rate contract under
7 Schedule MKT as proposed by the Company. With this design there is significant
8 opportunity for the Commission to review and to monitor the rate and to limit impacts.

9 For a customer making a significant investment in the region and being reliant on
10 the price of electricity as Velvet Tech Services, the ability to have in place the construct of
11 Schedule MKT and the ability for them to rely upon the Commission's assessment of just
12 and reasonable rates at the time of its review of a Market Rate Contract for a five-year term
13 is more than reasonable and is consistent with other forms of Special Contracts approved
14 by the Commission. That certainty will be bolstered by Evergy's specific cost tracking
15 which will be available and reviewable at the time of a general rate case, coupled with the
16 specifics of the design in capturing the incremental cost to serve customers under the tariff
17 should be sufficient to establish the five-year term contract and not need to end and restart
18 the Market Rate Contract at each Company rate case cycle. Any concerns with the just and
19 reasonableness of contracts under Schedule MKT will be able to be adequately addressed
20 in any general rate case.

21 **Q: On pages 4-9, Dr. Marke questions testimony offered by Jill McCarthy, on behalf of**
22 **EMW and casts doubts on that testimony. Do you have a response to his assertions?**

1 A: Yes. Dr. Marke uses the testimony and discovery around that testimony to further support
2 “concerns” about transparency. I disagree with this approach and believe it does little to
3 inform the Commission about the important issues within this filing. Ms. McCarthy is the
4 Senior Vice President of Corporate Attraction for the Kansas City Area Development
5 Council (“KCADC”) an important regional economic development agency in the greater
6 KC area. Her testimony and data request responses reflect her over 30 years of economic
7 development experience and despite the lack of documentation, does not undermine the
8 fact that economic development is a competitive process, and the State of Missouri misses
9 out on opportunities when it cannot compete with other states for new customers. Her
10 observations and experience at the KCADC are relevant to support the need for a broad set
11 of measures to respond to economic development opportunities. These observations are
12 relevant also because they are consistent with the testimony offered by Mr. Mark
13 Stombaugh, Director of the Regional Engagement Division at the State of Missouri’s
14 Department of Economic Development an agency of the state charged with executing state
15 economic development policies.

16 **Q: Do you still believe the Special High Load Factor Market rate tariff is appropriate**
17 **and should be approved by the Commission as filed?**

18 A: Yes, I do. The Special High Load Factor Market rate provides EMW with an important
19 additional option to serve large data center loads, incorporate customer-sourced renewable
20 generation resources, and secure economic benefit to the State. Further, when combined
21 with the subsequent Market Rate Contract filing, provides the Commission with ample
22 visibility to costs and the reasonable recovery of those costs from customers receiving
23 service under the rate. With this tariff filing, EMW has the benefit of a prospective

1 customer who can serve as the design case and allow EMW to provide further information
2 as to the expected detail and form of the overall application of the proposed rate. EMW
3 reiterates its request that the Commission approve this tariff as proposed.

4 **Q: Does this conclude your testimony?**

5 A: Yes.