



9. OPC claims the Commission’s decision is unreasonable and the Commission acted arbitrarily regarding what tariff change proposals and other matters it would consider – specifically OPC claims that parties and the Commission were essentially blindsided by Evergy’s hold harmless language and by Evergy’s RESRAM proposal, incorrectly claiming they were raised the day before hearing.

10. To the contrary, consideration of “benefits” when examining the hold harmless issue was raised by Evergy Witness Lutz in Surrebuttal Testimony:

As for calls for hold-harmless language, I would offer three considerations for the Commission

...

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

Exhibit 6, Lutz Surrebuttal, 10:12-13, 11:1-8.

11. Likewise, the RESRAM solution in the Evergy Stipulation was first raised by Velvet Witness Brubaker in Surrebuttal Testimony:

Alternatively, it would be acceptable to add to the tariff that any customer exempted from RESRAM demonstrate that they have offset their load with renewable generation by at a minimum the Missouri renewable energy standard requirement in effect at the time of the contract. If there was a concern about the customer meeting the 100% renewable requirement, then the tariff could state that the customer would be exempt from RESRAM to the extent that the renewable energy provided by the customer covers the customer’s load.

Exhibit 300, Brubaker Surrebuttal, 19:10-16.

12. This pre-filed testimony shows direct contrast with OPC’s arguments about the EDR issue, which were never raised in testimony prior to the hearing. Despite making numerous grammatical, wording, and other minor detail changes to the proposed tariff in its testimony, OPC made no mention of the EDR, PED in any filings until the night before the hearing. Not surprisingly, at the Hearing OPC explained there “are two [differences in competing tariffs] that are near and dear to the OPC’s heart...[a] hold harmless provision and a mechanism to deal with

