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)	

<u>VELVET'S RESPONSE TO STAFF'S MOTION FOR CLARIFICATION AND PUBLIC</u> COUNSEL'S SECOND MOTION FOR REHEARING AND RECONSIDERATION

Velvet Tech Services, LLC ("Velvet"), for its response to the Motion for Clarification filed by the Commission Staff ("Staff") and the Second Motion for Rehearing and Reconsideration filed by the Office of Public Counsel ("OPC"), states as follows:

- 1. The Commission issued its Report and Order in this case on March 2, 2022.
- 2. On March 11, 2022, OPC filed a Motion for Clarification, Rehearing and Reconsideration.
- 3. On March 24, 2022, the Commission issued an Amended Report and Order with an effective date of April 3, 2022.
 - 4. On March 31, 2022, the Staff filed a Motion for Clarification.
 - 5. On April 1, 2022, OPC filed a Second Motion for Rehearing and Reconsideration.
- 6. Because the Commission's Report and Order is clear, lawful, just, and reasonable, the Motions of Staff and OPC should be denied.
- 7. With respect to Staff's Issue for Clarification #1, Staff attempts to reargue the same arguments it made in its brief, which were already rejected by the Commission. Staff suggested to the Commission in its briefing that the Commission lacks authority to grant a variance from the statute. Staff attempts to reargue this point asking the Commission for "clarification as to whether the Commission intended to grant a variance from the statute." Staff asks this Commission to read particular words in the statute in isolation, ignoring not only the plain language of the entire statute but also the legislative intent. The Commission acted lawfully in exercising the broad discretion expressly granted to it by the legislature. The Commission has already addressed this issue and therefore no clarification is needed.
- 8. In its Motion, OPC attempts to reargue its original Motion for Rehearing and Reconsideration.

- 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. Undoubtably 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

RESRAM." Tr. 86:14 -87:7. OPC didn't even make an opening statement on the EDR issue, deferring entirely to MECG. Tr. 94: 14-21. The EDR issue is not the same as the RESRAM or Hold Harmless issues, and the Commission acted reasonably in approving the MKT tariff without any provisions limiting the applicability of the EDR. No reconsideration of or rehearing on the issue is necessary.

13. In the alternative and without waiving its positions above, Velvet supports the Commission clarifying that by approving Exhibit 8, as modified in the order, as exemplar wording for an MKT tariff (which does not include an EDR applicability provision), that the Commission has resolved the EDR issue in favor of Velvet and the Company.

Conclusion

Velvet respectfully requests that the Commission deny Staff's Motion for Clarification and OPC's Second Motion for Rehearing and Reconsideration.

Respectfully submitted,

ELLINGER AND ASSOCIATES, LLC

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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 11th day of April, 2022.

/s/ Stephanie S. Bell

Stephanie S. Bell