BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro's Request for Authority to Implement A General Rate Increase for Electric Service	))))	Case No. ER-2022-0129
In the Matter of Evergy Missouri West Inc. d/b/a Evergy Missouri West's Request for Authorization to Implement A General Rate Increase for Electric Service	))))	Case No. ER-2022-0130

EVERGY MISSOURI METRO'S AND EVERGY MISSOURI WEST'S INITIAL POST-HEARING BRIEF

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COMES NOW Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("EMM") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("EMW")("Evergy" or "Company"), and for their *Initial Post-Hearing Brief* ("Brief"), states as follows:

INTRODUCTION

On January 7, 2022, EMM and EMW filed for their first general rate case increases in five years. During those five years, Evergy has closed its merger with Westar, and it has fulfilled the commitments it made to the Commission and the parties. Evergy's focus over this period has been on affordability, reliability, and sustainability, and the Company has made significant strides on all fronts.

Darrin Ives, Evergy's Vice-President--Regulatory Affairs, discusses those commitments at length and how the successful merger of the companies has resulted in substantial savings for our customers. See Ex. 39 at 19-28 (Ives Direct); Ex. 113 at 20-28 (Ives Direct). As a result, the Company has been able to limit the increase in base rates. In fact, one of the settlements approved by Commission order in the EMW case has been demonstrated to be entirely driven by the rebasing of fuel and purchased power, as required by the Commission's FAC rules.[1] The FAC rules also mandate a general rate case every four years which has driven the timing of this case.[2]

Many of the issues originally raised in this case have been resolved by settlements among the parties which are memorialized by the stipulations and agreements discussed at the on-the-record proceeding held on September 9, 2022. Tr. Vol. 14 at 1035-48. On September 22, 2022, the Commission approved the terms of the four stipulations and agreements.[3]

[1] 20 CSR 4240-20.090(2) states in part: "An electric utility may only file a request with the commission to establish, continue, or modify a RAM in a general rate proceeding and must rebase base energy costs in each general rate proceeding in which the FAC is continued or modified.'"
[2] 20 CSR 4240-20.090(10).
[3] See Order Approving Four Partial Stipulations and Agreements, File Nos. ER-2022-0129/-0130 (issued Sept. 22, 2022).

The remaining issues not addressed in settlements include important policy decisions related to the retirement of the Sibley coal-fired plant, the upgrade of Advanced Metering Infrastructure ("AMI") to benefit consumers, a Rate Modernization Plan, including Time-of-Use ("TOU") Rates, and modernizing Evergy's residential, commercial and industrial rate structures. In addition, there are issues related to Central Nebraska Public Power and Irrigation District hydro power purchase agreement ("PPA") recovery, which is in its nineth contract year of ten; and City of St. Joseph developer-installed streetlighting issues.

Proposals made in this rate case continue Evergy's efforts in satisfying customer needs by expanding customer choice in rates for service. Building on its 3-period, opt-in TOU rate that Evergy began offering to its customers in October 2019, Evergy now proposes additional TOU rates, and a fixed bill (subscription pricing) pilot option for its customers. This package of proposals in this case addresses customers' desires for rates for service, payment options or programs that reflect their individual lifestyle and needs. The system investments that we have presented in prior cases and in this case continue to unlock opportunities for optional rates to meet customers' needs and desires. These proposals and investments will increase customer options, customer satisfaction and customer experience for our customers. See Ex. 19 at 4-5 (Caisley Direct).

This rate case filing also provides for consistency in rate design across Evergy's customer base (even though separate rate jurisdictions) aiding in ease of customer communication and understanding of Evergy offerings across our customer base.

Finally, the Commission needs to consider a critical issue related to the deferral of fuel and purchased power costs, as required by Section 393.1655 ("PISA Statute"). With regard to this issue, Evergy requests that the Commission consider the appropriate level of deferral of fuel and purchased power costs in File No. ER-2023-0011 after the Commission resolves the level of the rate increase in

this case. Evidentiary hearings were held in File No. ER-2023-0011 on September 30, 2022. After the conclusion of this case, the Commission will be in a position to determine the appropriate level of deferral of fuel and purchase power costs, as required by the PISA statute, in File No. ER-2023-0011.

ISSUE NO. II: SIBLEY AAO AND NET BOOK VALUE

A. Was Evergy Missouri West's decision to retire the Sibley generating facility before the end of its useful life prudent?

Based on the information available to Evergy Missouri West in late 2018, supported by Integrated Resource Plans (IRP) that had analyzed the Sibley Generating Station from June 2012 to June 2018, EMW decided to retire Units 3 and 2 (including common plant) on November 13, 2018 after Unit 3 had suffered a forced outage in early September. See Ex. 113 at 33 (Ives EMW Direct). The June 2017 IRP Annual Update had shown that retiring these plants was the preferred option, saving customers approximately $220 million. See Ex. 55(C)/55(6) at 10 (Messamore Rebuttal). The estimated cost to repair Unit 3 was $2.21 million. See Ex. 113 at 33 (Ives EMW Direct); Ex. 134 at 5 (2018 Evergy emails). The decision to retire Sibley was also consistent with the decisions of other U.S. utilities who began to retire coal plant retirements in record numbers beginning in 2010, particularly in 2015 and 2018. See Ex. 114 at 8-13, 29-31 (Kennedy Direct); Ex. 129 at 2-4 (Kennedy Rebuttal).

Considering these and other facts, Evergy Missouri West's decision to retire Sibley 3 and the rest of the station in late 2018 was prudent. Staff does not disagree.[4] Only Public Counsel claims that the decision was imprudent.

A finding by the Commission in this case that the retirement of Sibley was prudent would be consistent with its recent orders granting the securitization petitions of the Company and Empire District Electric Company.[5] In both orders the PSC cited its prudence standard that a utility's conduct

[4] See, Staff Position Statement at 2.
[5] Report & Order at 28-33, In re Evergy Mo. West, Inc. Petition for a Financing Order Authorizing the Issuance of Securitized Util. Tariff Bonds, No. EF-2022-0155 (Oct. 7, 2022) ("EMW Securitization Order"); Amended Report & Order at 28-29,

should be judged by asking whether the conduct was reasonable at the time, under all circumstances, considering that the utility had to solve its problems prospectively rather than rely on hindsight.[6]

As the Commission stated in adopting the prudence description offered by EMW witness John Reed who also testified in the Empire securitization case, "decisions being reviewed need to be compared to a range of reasonable behavior; prudence does not require perfection …. This standard recognizes that reasonable people can differ and that there is a range of reasonable actions and decisions that is consistent with prudence."[7]

In the EMW Securitization Order the Commission, finding that its analysis in the Empire securitization case "is equally applicable here," concluded that the Company "provided sufficient evidence to determine that its resource planning, including its decision to retire Sibley, was reasonable at the time those decisions were made."[8] Having found that the retirement of Sibley was reasonable and prudent in the Company's securitization case, the Commission should reach the same conclusion in this case.

1. Sibley Generating Station: 1960-2017

The three power plants at the Sibley Generating Station were built in the 1960s by Missouri Public Service Co., the predecessor of EMW. They were all coal-fired units, originally designed to burn high-sulfur midwestern coal. Unit 1 (48 MW) was built in 1960 and was retired in 2017. Its retirement is not an issue in this case. Unit 2 (51 MW) was built in 1962. Unit 3 (364 MW) was built in 1969. See Ex. 114 at 11-12 (Kennedy Direct).

31-33, In re Empire Dist. Elec. Co. Petition for Financing Order that Authorizes Securitized Util. Tariff Bonds, No. EO-2022-0020 (Sept. 22, 2022) ("Empire Amended Order").

[6] EMW Securitization Order at 31-32; Empire Amended Order at 28-29. See In re Union Elec. Co., No. EO-85-17, Mo. PSC LEXIS 54, *24-27, 27 Mo. P.S.C. (N.S.) 183, 192-93 (1985). Accord Associated Nat. Gas Co. v. PSC, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997).

[7] Empire Amended Order at 29.

[8] EMW Securitization Order at 32.

In the late 1980s and early 1990s, in response to increasing environmental regulation and the price of coal, the Sibley Station and these units underwent substantial life extension measures and a coal conversion project that would permit them to burn low-sulfur, low-ash Wyoming Powder River Basin coal. Id. at 12. These changes are well documented in Commission decisions issued in the early 1990s. See Ex. 135, In re Mo. Public Serv., No. ER-90-101, 1990 WL 4884941 at 11-15 (Oct. 5, 1990); Ex. 136, In re Mo. Public Serv., No. EO-91-358, 1991 WL 501955 at 1-2, 6-8 (Dec. 20, 1991), aff'd, State ex rel. Office of Public Counsel v. PSC, 858 S.W.2d 806 (Mo. App. W.D. 1993).

As these plants moved into the 21st century, it became clear that they would face more challenges, with additional environmental regulations regarding nitrogen oxide, mercury, ozone, and coal combustion residuals. Responding to these developments, EMW made environmental upgrades to Unit 3 between 2005 and 2009, and its expected life was projected to extend to 2040. See Ex. 114 at 12, 27-28 (Kennedy Direct); Ex. 129 at 13 (Kennedy Rebuttal).

However, in the context of these national trends, the way that electric utilities in Missouri and across the country did business began to change dramatically. With the advent of renewable energy resources, primarily wind and solar generation, utilities began to retire their old coal plants in record numbers. See Ex. 114 at 8-11 (Kennedy Direct); Ex. 129 at 2-5 (Kennedy Rebuttal).

Given these developments and the economic challenges that caused them, the depreciable lives of the 1960s Sibley units were rapidly becoming unrealistic. As EMW witness Larry Kennedy testified, when "economic, environmental, [and] operational" circumstances indicate "a plant should be retired before the end of its depreciable life," its early retirement "cannot be considered imprudent." Any position to the contrary "is simply not reasonable." See Ex. 129 at 9 (Kennedy Rebuttal).

Mr. Kennedy, a utility asset and depreciation expert with Concentric Energy Advisors, stated the Company's retiring Sibley "at an earlier date than its Life Span date" of 2040 "simply reflects the

realities of operating a coal plant in the face of technological, social, and economic changes, and increasingly strict federal legislation." See Ex. 114 at 29 (Kennedy Direct). The fact that the Sibley "units were retired prior to the Life Span date in depreciation studies based on 2014 data does not mean the decision to retire was imprudent." Id. at 28. The retirement of Unit 3 in 2018 "was the result of a number of factors including the economics of the plant, the changes in technology for the economic development of clean air generation …, national environmental requirements, and the changes in the social acceptance of coal fired generation." Id.

Because Sibley was retired "due to economic forces at a time different than forecast in the last depreciation study," regulatory commissions should "allow recovery of the investment from later customers" after the retirement occurs. Id. at 26-27. This is consistent with the cost principle that "a company should receive an opportunity to recover from later customers compensation for all capital outlays for which it has not yet received full compensation from earlier customers." Faced with a competing principle that would deny recovery, Dr. Bonbright concluded that "commissions have tended – wisely, in my opinion – to prefer the former alternative to the latter.[9] In 2012 the Company's Integrated Resource Plan showed that Units 1 and 2 should be retired in 2017 as part of its Preferred Plan. See Ex. 55(C)/56(P) at 3-9 (Messamore Rebuttal). See also Ex. 113 at 30-32 (Ives EMW Direct); Ex. 40(C)/41(P) at 12-14 (Ives Rebuttal). In 2015 GMO publicly announced that Sibley 1 and 2 would stop burning coal by the end of 2019, although operational issues would cause Sibley 1 (except for its boiler) to close in 2017. See Ex. 113 at 30-32 (Ives EMW Direct).

2. IRP 2017 Annual Update

On June 1, 2017 the Company filed its IRP Annual Update with the Commission. It showed Sibley 3, as well as Unit 2, retiring by 2019 because all of the modeled scenarios – including three levels

[9] James C. Bonbright, Principles of Public Utility Rates at 213 (1961).

of natural gas prices, three levels of load growth, and two levels of carbon pricing – indicated that retiring Sibley would benefit customers with significant savings of at least $220 million on a net present value of revenue requirement basis. See Ex. 55(C)/56(P) at 10 (Messamore Rebuttal); Ex. 138, § 6.3 (IRP 2017 Annual Update excerpts).[10]

Given the clear results of the 2017 IRP Annual Update, as well as Sibley's performance in the SPP energy markets, the Company announced in June 2017 that Sibley 3 and 2 (as well as the Unit 1 boiler) would be retired by December 31, 2018. See Ex. 113 at 31-32 & Sched. DRI-2 (Ives EMW Direct).

3. Events of Fall 2018

This was the Company's plan until Unit 3 was forced off-line by a turbine vibration on September 5, 2018. The Company made the required EFIS filings with the Commission on September 6 and September 12 regarding this event. See Ex. 40(C)/41(P) at 13 (Ives Rebuttal).

An investigation of the turbine vibration and the damage it caused concluded that it would cost $2.21 million to repair Unit 3. Because it was already scheduled to be retired by the end of 2018, the Company decided to retire Unit 3 and the rest of Sibley on November 13, 2018. See Ex. 113 at 33 (Ives EMW Direct).

4. OPC/MECG Petition: No. EC-2019-0200

In late December 2018 OPC and MECG filed a Petition for an Accounting Order, asking the Commission to: (1) Find that the retirement of Sibley was an "extraordinary event" under the Commission's historical application of General Instruction 7 of the Federal Energy Regulatory Commission's Uniform System of Accounts which the Commission follows, and (2) Issue an

[10] The $220 million of savings is shown on page 46. It is the difference between the plans ranked 2 and 3 ($58 million in savings from demand-side management programs) and the plans ranked 4 and 5 ($279 million in savings when Sibley Units 2 and 3 are retired).

Accounting Authority Order (AAO) that established a Regulatory Liability to record the revenue collected in rates for the return on the Sibley plant investments, its non-fuel operations and maintenance costs, and other costs. This was an accounting case, not a prudence case.[11]

Pursuant to the decision in that case, EMW established an AAO and accounted for the Sibley revenues collected in rates in a regulatory liability. That liability now consists of $39,020,260 in Non-Fuel O&M expenses (Account 254081), and $49,540,308 in revenues (Account 254080) as of November 30, 2022. See Ex. 46 at 9 (Klote Surrebuttal); Ex. 129 at 11 (Kennedy Rebuttal at 11).

The Commission's decision in the AAO case has no bearing on whether the Company's decision to retire Sibley was prudent. As the Report & Order R&O stated: "GMO chose to close the Sibley units, and the prudence of that decision is not at issue in this case. The question of prudence will be addressed in a future general rate case."[12]

5. Economics of Sibley

In evaluating the prudence of EMW's decision to retire Sibley 3, the operational and economic performance of the unit must be considered. As Evergy's Ms. Messamore testified: "Sibley was in no way profitable." See Ex. 55(C)/56(P) at 8 (Messamore Rebuttal).

There were some months when Sibley's energy revenues did not even cover its fuel costs, without even counting its O&M costs and its capital costs. In November 2018 when Sibley was retired, its energy revenues were $26 million, its fuel costs $23 million, and its non-fuel O&M costs were $29 million. That was a net loss of $26 million *before* any of its capital costs were considered. Id.

[11] See Report & Order at 3-4, 12-15, Office of Public Counsel v. KCP&L Greater Mo. Operations Co., No. EC-2019-0200 (Oct. 17, 2019).
[12] Id. at 13-14.

In November 2017 when Evergy met with Staff to discuss the Company's capacity planning, Sibley had revenue margins of $5 million YTD compared with O&M costs of $28 million per year. Id. Ex. 55(C)/55(P) at 8 (Messamore Rebuttal); Ex. 113 at 38 (Ives EMW Direct).

Sibley's average annual SPP margins over the 3-year period of 2015-2017 were only about $4 million. See Ex. 55(P)/56(C) at 6:18-20 (Messamore Rebuttal). However, the Company's forecasts showed that to keep the plant running, it would take future capital investment over the next four years (2018-2021) of $54 million and O&M costs of $111 million. That sums to a total of $165 million. See Ex. 55(P)/56(C) at 6-7 (Messamore Rebuttal); Ex. 40 at 38 (Ives Rebuttal).

Given Sibley's unprofitability as a 49 to 58 year old coal plant, its operational record, the cost to repair the turbine at Unit 3, and Evergy's commitment to renewable resources and a cleaner environment, the Company's decision to retire Sibley in 2018 was prudent. It was also consistent with national trends as electric utilities across the United States had been and were continuing to retire coal plants. Mr. Kennedy has provided testimony that confirms this. He noted that simply because Sibley had a depreciable life extending to 2040 didn't mean that the decision to retire was imprudent, in light of facts that existed in 2018. See Ex. 114 at 27-30 (Kennedy Direct); Ex. 129 at 9 (Kennedy Rebuttal).

The Company's decision reflected "changes resulting from social, scientific, and mechanical progress requiring the retirement of equipment … which must be covered by a depreciation allowance; …."[13] Under these circumstances "it is well settled that a utility is entitled to earn a return reasonably sufficient to keep it abreast of advancements affecting the business it conducts."[14]

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[13] State ex rel. City of St. Louis v. PSC, 110 S.W.2d 749, 775 (Mo. en banc 1937).
[14] Id. at 776.

6. Prudence Standard

The test that the Commission applies to determine whether a utility's decisions were prudent is simple and straightforward. It asks:

> Was the Company's conduct reasonable at the time, under all the circumstances, considering that the Company had to solve its problem prospectively, rather than in reliance on hindsight?[15]

By not using hindsight, and by not considering events that occurred after the retirement decision, the Commission does not place a utility in the impossible position of having to foresee the future and anticipate unusual and anomalous events.

In deciding whether the Company's decision to retire Sibley in November 2018 was prudent, the Commission does not consider what happened over two years later in February 2021 when Winter Storm Uri struck the Midwest. See Ex. 55(C)/56(P) at 6 (Messamore Rebuttal). Similarly, a prudence review does not consider post-decision events like the effect of Russia's invasion of Ukraine in February 2022 that has caused the price of natural gas and other fuel resources to increase, or that RTOs are now the considering the adoption of "reliability-must-run" tariff provisions to pay coal plants and other facilities to continue operating for reliability purposes.

As Concentric's John Reed testified, the retirement of Sibley was consistent with Evergy Missouri West's resource planning process and was prudent by any reasonable application of the prudence standard. See Ex. 124 at 15, 21, 24 (Reed Surrebuttal). Mr. Kennedy concluded: "To disallow the recovery of an undepreciated investment related to a prudently made retirement decision is, in effect, a retroactive review of the originally prudently made investment." Id. at 29-30.

[15] In re Union Elec. Co., No. EO-85-17, 1985 Mo. PSC LEXIS 54, *28 (1985). See Associated Nat. Gas Co. v. PSC, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997).

7. OPC's Arguments Fail to Show Imprudence and Rely on Hindsight

Public Counsel's arguments ignore EMW's economic analysis that showed it was prudent to retire Sibley in 2018 and present no credible evidence of imprudence.

Ms. Messamore explains why the points raised by OPC's Dr. Marke miss the mark. See Ex. 55(C)/55(P) at 4-10 (Messamore Rebuttal). The fact that Sibley was retired earlier than what had been assumed in setting depreciation rates is not relevant to a retirement decision. Sibley's unrecovered capital costs were "sunk" costs which are presumed to be eventually recovered, regardless of when the unit is retired. "What is important are the going forward costs which were evaluated in the IRP process." Id. at 4. That analysis in the 2017 IRP Annual Update clearly showed that retiring Sibley "would reduce the long-term net present value of revenue requirements ('NPVRR')" and "therefore reduce costs to customers." Id.; Ex. 138, § 6.3 at p. 46 (2017 IRP Annual Update).

Similarly, the fact that EMW's load is growing and that it owns less physical generating capacity does not make its decision to retire Sibley imprudent "if there is a more economic way to meet customer needs and capacity requirements" which is what the IRP studies showed. See Ex. 55(C)/55(P) at 5 (Messamore Rebuttal).

OPC attempts to challenge the IRP's findings by wrongly claiming that Sibley was "more profitable" than EMW's Crossroads unit and that EMW did not model Sibley continuing to operate. However, the 2017 IRP evaluated eight plans, out of a total of 15 EMW plans, with Sibley continuing to operate, and they "demonstrated that retirement was the lower cost option." Id. at 7. Crossroads is a gas-peaking facility with significantly lower O&M and capital costs than Sibley. In 2018 when Sibley was retired, it had a net loss of $26 million before capital costs were considered. Crossroads, by contrast, had SPP margins of $881,000 and non-fuel O&M of $1.2 million, for a net loss of only $286,000. Id. at 8. OPC's claim that Sibley was more profitable than Crossroads, "particularly when

it was well known that Sibley's all-in costs were tens of millions of dollars more than its annual SPP margins, simply ignores the facts." Id.

Finally, OPC relies on Winter Storm Uri, an extreme and unusual event that occurred in February 2021 – over two years after the retirement of Sibley in November 2018 – to justify its claim of imprudence. See Ex. 306 at 11 (Marke Direct); Ex. 308 at 72 (Marke Surrebuttal); Ex. 302 at 30 (Mantle Rebuttal). While conceding there "is no way to accurately plan for all extreme circumstances" and acknowledging that "in the short-term the fuel and purchased power costs that [EMW] incurs are out of its control," OPC argues that this is "one of the assumed risks for which the Commission has rewarded Evergy West for years." See Ex. 302 at 11, 13 (Mantle Rebuttal).

This argument is the essence of judgment "based on hindsight; without the knowledge of how events actually turned out, this statement cannot be defended" as it clearly violates the Commission's prudence standard. See Ex. 124 at 21-22, 24-25 (Reed Surrebuttal).[16]

8. Conclusion

EMW's decision to retire the uneconomic coal-fired Sibley Units 3 and 2, and to rely on energy to be purchased from SPP and capacity-only contracts with Evergy Metro was prudent by any reasonable application of the prudence standard. These decisions reflected least-cost planning based on the range of expected values and other information available at that time. Ultimately, management selected its preferred plan from the range of reasonable options before it. Consistent with the Commission's recent EMW and Empire securitization orders, the retirement of Sibley was reasonable and prudent.[17]

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[16] Mr. Reed's description of the prudence standard was adopted by the Commission in its recent discussion of regulatory prudence decisions in Missouri. See Amended Report & Order at 28-29, In re Empire Dist. Elec. Co. Petition for a Financing Order that Authorizes Securitized Util. Tariff Bonds, No. EO-2022-0040 (Sept. 22, 2022).
[17] EMW Securitization Order at 28-33; Empire Amended Order at 28-33.

Contrary to OPC's view, EMW did not decide to "strand" an asset. Accepting such an argument would prevent the Company being able to recover the unrecovered costs of Sibley that served its customers for almost 60 years and would amount to a "taking" of EMW's property without just compensation. See Ex. 129 at 10-11 (Kennedy Rebuttal).

Evergy Missouri West's decisions were within the mainstream of electric utility conduct, consistent with industry norms, and in line with what a reasonable utility should do. The retirement of Sibley Unit 3 and the rest of the Sibley generating station in November 2018 was prudent.

B. What is the appropriate value for the regulatory liability from Case No. EC-2019-0200?

No party disputes that if the Commission agrees with the Company and Staff that Sibley's net book value is $145,657,225[18] at June 30, 2018, then the value of the regulatory liability from Case No. EC-2019-0200 would be $39,020,260 in non-fuel O&M expenses and $49,540,308 in revenues. See Ex. 46 at 9 (Klote Surrebuttal); Tr. Vol. 8 at 195:16-196:25 (Majors).

C. What is the amount of unrecovered investment associated with the Sibley Unit Retirements?

The net book value of Sibley, or the net amount of unrecovered investment associated with the Sibley Unit Retirements, is $145,657,225 as of June 30, 2018. See Ex. 72 at 25 (Spanos Rebuttal). MECG's alternative proposed amount of $299,947,216 as of June 30, 2018, with which OPC suddenly agreed at hearing despite no pre-filed testimony in support of such position, inappropriately fails to calculate and allocate the actual depreciation reserves associated with the Sibley units. Instead, MECG and OPC rely on Staff's true-up accounting schedules from the Company's 2018 rate case (ER-2018-0146), which included detailed reserve amounts only based off of a simple allocation methodology historically used in the Company's plant accounting system

[18] If this net book value is approved by the Commission, the amount allocated to the Missouri jurisdiction rather than for FERC is $145,161,990. E.g., Ex. 261 at 7 (Cunigan Surrebuttal/True-Up Direct).

which in turn are not used to determine depreciation rates so should not be relied upon to determine a net book value for the Sibley units. See Tr. Vol. 8 at 187:16-25 (Majors).

During the Company's last three rate cases in 2014, 2016, and 2018, the Commission's depreciation practices were transitioning from the whole life method with no life spanning of generating facilities to the remaining life method including life spanning of generating facilities. See Tr. Vol. 8 at 132:24-133:20; 139:2-19 (Spanos). The Company informed the parties for many years that, except for the relatively new Iatan 2 unit, the Company's plant accounting system that tracked total accumulated depreciation did not maintain generation reserves on a unit or location basis other than by a simple allocation process. Id. (Spanos); Tr. Vol. 8 at 194:16-195:5 (Majors).

Specifically, in response to Staff's data request 0027T served in the Company's 2018 rate case, the Company stated: "Production plant depreciation reserve is not maintained by individual generating unit except for Iatan unit 2. Depreciation reserve reported in data request 0027T has been allocated to each generating unit, except for Iatan unit 2." See Tr. Vol. 8 at 191:4-192:1 (Majors); Ex. 132. This data request and response were issued well before the Commission's decisions approving stipulations in the 2018 rate case, as well as before OPC and MECG filed their petition case for an accounting authority order ("AAO") in No. EC-2019-0200. See Tr. Vol. 8 at 192:20-193:9 (Majors).

Depreciation reserves by unit or location (i.e., net book values for particular generating facilities) were developed by Mr. Spanos and his firm based on methodologies that have been used and approved by the Commission for rates at the account level since the Company's 2014 rate case. See Tr. Vol. 8 at 132:24-133:20; 139:2-19 (Spanos). Once the lifespan and remaining life methods were approved by the Commission, Mr. Spanos continued to assign actual book reserves at the location/unit level based on all rates that have been in place (the actual amount of

accumulated depreciation incurred through rates for all steam assets), and the appropriate life parameters of each asset known at the time of the Company's rate cases. Id. at 325:9-326:1, 327:17-329:5, 332:1-6.

Notably, Sibley's net book value was not required or determined in the Sibley AAO case, and it was not at issue in the settled 2018 rate case. See Tr. Vol. 8 at 233:2-234:13 (Majors). Mr. Spanos' unit- and location-level calculations also did not have a rate impact in the 2018 rate case because, consistent with treatment in prior years, they were "grouped together" into aggregate amounts of reserve balances that were used to set rates. Id. at 221:25-222:14. As Staff witness Mr. Majors testified, "quite honestly, there wasn't a lot of questioning until this case on the reserve that we put in the accounting schedules" for the 2018 rate case, and determining Sibley's net book value is "just not as simple as going to the 2018 EMS run and pulling that figure." Id. at 231:7-232:20.

Now, as a result of the Stipulation in this proceeding, the parties have all agreed that "[t]he company will record and track depreciation reserve for generating facilities on an individual unit/location basis" in its fixed asset system. See Aug. 30, 2022 Stipulation and Agreement at 10, ¶ 11(c). Indeed, the Stipulation is evidence itself that despite the hope of MECG and OPC that the Commission will establish a much higher net book value for Sibley (which would in turn lower depreciation rates), all parties understand that the Company's accounting system did not previously track generating facilities on an individual unit or location basis, and agree that the Company will implement such capability and will do so going forward to avoid any similar dispute in the future. In doing so, EMW will continue to be required to rely upon depreciation studies prepared by Mr. Spanos, its depreciation expert, due to the transition to remaining life and lifespan treatment for generating facilities.

Therefore, MECG's and OPC's arguments that the Company's location- and unit-level calculations development process was an act of gamesmanship manufactured for this proceeding or an entirely random theoretical calculation are incorrect and misleading. See Tr. Vol. 8 at 136:5-20; 139:2-19 (Spanos). To the contrary, as far back as Mr. Spanos's 2014 depreciation study utilized in the Company's 2016 rate case (No. ER-2016-0156) when the Commission first adopted the remaining life and lifespan methodologies, along with his rebuttal testimony from the 2016 rate case describing the methodologies used, Mr. Spanos's methodologies have remained constant and Sibley's net book value was even then "much less than $300 million." Id. at 139:23-141:7, 143:22-144:22 (Spanos); Ex. 130 at 3-4 (Spanos Rebuttal in ER-2016-0156). Mr. Spanos's calculation of an accumulated reserve for only the vintage level was, again, due to the transition between the whole life and remaining life methods. However, as noted, Mr. Spanos assigned actual book reserves at the location/unit level. Id.; Tr. Vol. 8 at 201:8-19 (Majors).

Correspondingly, Staff witness Mr. Cunigan observed that he could not say Mr. Spanos's "method was different from what he presented in 2018. It was different from Staff's accounting schedules and what was present in Staff's accounting schedules" because in Staff's 2018 schedules "the accounts are all mingled for the locations, and so I can't say that [depreciation reserve] actually changed in accounts. It's just the way that it appears on our tracking of it." Tr. Vol. 8 at 251:13-252:7. And, Mr. Cunigan noted that "it is the timing of the reallocation that makes it seem if this was done back in 2019, it wouldn't have been as big of an issue." Id. at 253:20-254:6. While MECG witness Mr. Meyer's actual math can be checked and his calculations can be re-run to reach the same sums, as Staff witness Mr. Cunigan testified, "I would agree with the affect. I can't agree with the reasoning." Tr. Vol. 8 at 252:3-253:1 (Cunigan).

Perhaps most clearly, it is nonsensical that after the Company's initial investment of about $400 million, Sibley Unit 3 would retain a net book value of $300 million despite its operation for approximately 50 years. See Tr. Vol. 8 at 139:2-19; 143:22-144:22 (Spanos). Under that scenario, the Company would have recovered only about 25% of its original investment by the end of the Sibley Station's nearly six-decade lifespan. Id. This illogic is not eased by the fact that in the 1990s to early 2000s, the Company made improvements to Sibley to convert its use of high-sulfur to low-sulfur coal and to install selective catalytic reduction equipment for controlling nitrous oxide emissions. As Staff witness Mr. Majors testified, "even with those improvements, you're still faced with if you believe in the 300 million, it's still two-thirds undepreciated. That, on a high level, doesn't make all that much sense." Tr. Vol. 8 at 217:12-218:12 (Majors).

Nor does Sibley now have a hundreds-of-millions-of-dollars higher net book value simply because at the time of such improvements 15+ years ago, the Company followed then-industry practice in projecting that coal plants could thereby increase their remaining life, including Sibley potentially retiring in 2040. Id. at 218:23-220:12. As Mr. Majors explained, "in consultation with its own internal engineers and outside experts, [Evergy] determine[s] unit by unit when do we think we can operate this unit profitably, safely, and within laws and regulations. And that date is used to project out . . . the proper recovery period." Id. "[L]ike anything else, it's never going to be perfect. So I would suspect that every unit will have some net book value at the end of its life." Id. However, a sustained net book value of $300 million instead of less than half that amount at $145.6 million in 2018 just "doesn't make a whole lot of sense." Id. at 217:12-218:12.

Accordingly, Staff agrees that Mr. Spanos has reflected the appropriate unit and location reserves in his Depreciation Study filed in this case, and his study supports the $145.6 million net book value for Sibley's net unrecovered plant balance.

D. What reserve balances should be used for purposes of determining depreciation expense for Evergy West steam production units, consistent with the Commission's determination of Sibley's unrecovered investment?

1. Sibley Net Book Value

The Commission should approve the recovery of the net book value associated with the Sibley plant as presented in EMW's Depreciation Study (June 30, 2021), including the reserve balances calculated therein. As discussed in detail above, Mr. Spanos' study reflects the most appropriate calculation of the net book value of Sibley's assets which EMW should be able to recover. In addition, Mr. Spanos is the only expert witness in the case that has provided a full depreciation study supporting the calculations of the Sibley reserve in this proceeding. As further discussed above, and as Staff agrees, the proposals of MECG and OPC regarding an alternative recovery plan are not appropriate. See Ex. 72 at 25-26 (Spanos Rebuttal); Ex. 73 at 9-11 (Spanos Surrebuttal).

2. Sibley Decommissioning Costs

In addition, the Company incurred $37,186,380 to decommission and dismantle the Sibley station, which has been completed. See Ex. 46 at 6-8 (Klote Surrebuttal/True-Up Direct). These costs have been recorded to the steam production reserve accounts pursuant to the FERC Uniform System of Accounts ("USoA") requirements and are included by the Company and Staff in rate base. Id. at 7-8. The recovery of these costs from customers through inclusion in rate base and through prospective depreciation rates is reasonable and necessary given that the Commission has historically approved and continues to approve depreciation rates that do not include recovery for terminal net salvage value. Id.

However, OPC and MECG would have the Commission provide no return to Evergy on these expended costs. That would be both unjust and unreasonable as, again, these costs have not been provided for in depreciation rates and reflect the prudent and necessary costs of dismantling

the Sibley station. Id. at 6-7 (Klote Surrebuttal/True-Up Direct). Had there been adequate final retirement treatment provided for through depreciation rates when the plant was operating, there would not be as significant of an increase in rate base when recording the actual final retirement costs. Id. at 7. Since there was not, this increase in net plant has been included in rate base at the true-up in this rate case and ultimately should be recovered like all other capital expenditures, which includes both a return on amount and a return of amount included in depreciation expense. Id. at 7-8. As discussed herein, to deny the earlier opportunity to recover the final retirement costs and then to preclude a return on the final retirement investments would forego adequate recovery for almost $40 million in necessary costs incurred to safely and appropriately retire generating units, contrary to appropriate ratemaking treatment. Id. at 7.

E. What is the proper amortization period for the regulatory liability related to Sibley?

The only regulatory liability that it is appropriate to amortize back to customers is the $39,020,260 recorded to defer amounts in 2018 rates for the non-fuel O&M. The proper amortization period is four years, which is the same period in which the revenues were collected from customers. See Ex. 44 at 43 (Klote Direct); Ex. 129 at 13 (Kennedy Rebuttal). Staff did not explain in its pre-filed testimony or at hearing why it advocates for a five-year amortization period. Because its position is unsupported, it should be rejected.[19] OPC took no position on this issue in its pre-filed testimony or at hearing. MECG did not oppose Evergy's proposal of a four-year amortization period, but its witness Mr. Meyer advocated for a ten-year period to correspond with MECG's argument for a higher regulatory liability of approximately $142 million. As discussed above, that should be rejected because Sibley's net book value is $145.6 million at June 30, 2018 rather than the $300 million figure advanced by MECG.

[19] E.g., State ex rel. Public Counsel v. PSC, 274 S.W.3d 569, 575 (Mo. App. W.D. 2009) (Commission is "free to disbelieve" unsupported contentions).

F. What is the proper amortization period for the unrecovered depreciation investment from the Sibley retirement?

The proper amortization period for the unrecovered net investment is 20 years, which is consistent with the original planned life of Sibley Unit 3. See Ex. 44 at 44 (Klote Direct); Ex. 72 at 22 (Spanos Rebuttal); Ex. 129 at 14 (Kennedy Rebuttal). No party specifically disagrees with this period. MECG recommends 20 years as well, but its calculations incorrectly assume a $300 million net book value of Sibley. Staff recommends a five-year amortization period resulting from their proposed inappropriate treatment of the regulatory liabilities for revenues collected to recover O&M and return on Sibley unrecovered net investment as discussed herein. For the reasons discussed herein, Staff's treatment should likewise be rejected.

G. Should the net book value be included in rate base?

Yes, the Sibley net book value recommended by Staff and the Company should be included in rate base. See Ex. 129 at 13-14 (Kennedy Rebuttal); Ex. 72 at 21-22 (Spanos Rebuttal); Ex. 73 at 11 (Spanos Surrebuttal). Through the conclusory pre-filed testimony of its witnesses Robinette and Marke asserting that Sibley's retirement was imprudent, OPC declares that the Commission should disallow the remaining Sibley unrecovered investment balances and argues the Company should not receive a "return on" any remaining Sibley plant balances.

However, the Commission cannot adopt OPC's unsupported position based solely on the arguments of its witnesses. The only competent evidence in this proceeding establishes that Sibley's retirement was prudent. See Ex. 114 at 13-31 (Kennedy Direct); Ex. 129 at 3-5 (Kennedy Surrebuttal); Ex. 124 at 15, 21-22, 24 (Reed Surrebuttal); see also EMW Securitization Order at 28-33.

MECG and Staff also argued against the net book value being included in rate base, but not on the basis of any asserted imprudence. MECG argues for a significantly higher net book

value and asserts that no rate of return should be allowed over the 20-year amortization period because its witness Mr. Meyer sought to include the return on Sibley as a component of his proposed, higher regulatory liability balance. Mr. Meyer's calculations and reasoning are fundamentally flawed and should be rejected.

Staff does not agree with MECG, but suggests a "sharing of the responsibility for the unrecovered capital costs of the Sibley station as of its retirement date in rates between Evergy's shareholders and customers." See Ex. 254 at 2 (Majors Rebuttal). Staff would accomplish this by having rates include an amortization of the Sibley net book value at the time of retirement, but not include a "return on" unamortized amounts. Id. However, there is no basis for Staff's suggestion because Sibley's undepreciated book balances were prudently incurred and reflect investments in Sibley that were made on behalf of customers. In addition, as discussed earlier, EMW's decision to retire Sibley was also prudent and was made based on analyses that indicated significant benefits for EMW's customers. See Ex. 40 at 11 (Ives Rebuttal). Furthermore, customers are not penalized if the Sibley net book value is included in rate base. When it was no longer economic to run Sibley, it was retired. This created demonstrable savings in the IRP analyses for customers as compared to continuing to operate an expensive, uneconomic power plant whose costs greatly exceeded its revenues. See Ex. 42 at 5-6 (Ives Surrebuttal); Ex. 55(C)/56(P) at 6-8 (Messamore Rebuttal).

H. Should the Regulatory liability for Sibley include a rate of return on the undepreciated balance from the time of retirement through the rates effective in this rate case?

No. As described above, the investments in Sibley were prudent and were made for the benefit of customers. The retirement of Sibley was prudent and was made based on IRP analyses demonstrating significant benefits to customers would result from the retirement. The $49,540,308 regulatory liability tracked since the Commission's order in the AAO case was

appropriately collected as a return on prudently incurred investments made in a prudently retired generating facility that served Missouri customers for on average over 50 years. It would be inappropriate to return these tracked amounts to customers and inconsistent with what the Commission's determination must be on the net unrecovered Sibley investments in this case, which should be included in rate base to be recovered from customers over 20 years. See Ex. 129 at 11-14 (Kennedy Rebuttal). As discussed, OPC, MECG, and Staff argue against including the Sibley net book value in rate base and precluding a rate of return on the undepreciated balance under differing analyses, each of which fail for the reasons detailed above. However, the return on this investment is supported by the Company's demonstration that it considered and met the criteria of the well-established prudence standards, that such investment was made on behalf of customers, and that customers in fact benefitted from the Company retiring an uneconomic plant. See id.; Ex. 40 at 11 (Ives Rebuttal); Ex. 42 at 5-6 (Ives Surrebuttal).

I. Should the unrecovered investment in Sibley earn a weighted average cost of capital return on a going forward basis?

Yes, for all of the reasons detailed above. See Ex. 129 at 13-14 (Kennedy Rebuttal); Ex. 73 at 11 (Spanos Surrebuttal). MECG argues that if the Commission grants a weighted average cost of capital return on the unrecovered investment in Sibley, it will have somehow "de-incentivized" the Company from seeking securitization for the Sibley unrecovered investment. See Ex. 402 at 8-9 (Meyer Surrebuttal). However, as detailed above, the real disincentive is created by the parties who oppose a return on the unrecovered assets, despite prudently incurred investments made on behalf of customers and a prudent retirement based on IRP analyses demonstrating $220 million in benefits to customers. Utilities should not be encouraged to disregard IRPs or maintain uneconomic fossil fuels, slowing the transition to cleaner energy. And, setting aside the fact that Mr. Meyer's opinion (which no other party shares) is entirely speculative,

the Securitization Statute specifically states that the Commission cannot rely on a utility's decision not to file a securitization petition when it conducts proceedings regarding the utility's rates or its accounting, including in general rate cases, or indirectly require the utility to pursue securitization under Section 393.1700.3(3).[20]

ISSUE NO. III: RESOURCE PLANNING

A. Has Evergy Missouri West been imprudent in its resource planning process?

Sierra Club is the only party claiming that Evergy Metro and Evergy Missouri West's resource planning was imprudent regarding six of their existing and fully operational coal plants: LaCygne Units 1 and 2, Jeffrey Units 1 through 3, and Iatan 1. Based on an unreasonably narrow economic analysis, Sierra Club has expressed dissatisfaction with Evergy's integrated resource planning (IRP) process and has recommended the disallowance of over $100 million in expenses for these plants which represent 1,700 MW of capacity for EMM and EMW. See Ex. 450 at 4-5 (Glick Direct); Ex. 55(C) & 56(P) at 12 (Messamore Rebuttal). Specifically, Sierra Club urges the Commission to disallow all capital and O&M costs incurred at the plants during the test year of these cases. Id. at 11 (Messamore Rebuttal).

There is no basis to find that Evergy's IRP process is imprudent, and there is no credible evidence supporting the significant disallowances.[21]

If the Commission were to accept this irresponsible recommendation, it would significantly hinder the ability of Evergy to operate these plants and serve its customers. Approving such disallowances would be especially problematic, given that the Southwest Power Pool Board of Directors, concurring with the unanimous recommendation of the SPP Regional State Committee, determined in July to raise SPP's planning reserve margin from 12% to 15% for the 2023 summer

[20] See § 393.1700.3(3)-(4) and (7).
[21] Sierra Club asserts similar arguments related to Rate Base in Issue XV(C) which are equally without merit.

season.[22] This action was reported to the Commission at its August 31, 2022 Agenda Session in an SPP Update presentation.[23]

Kayla Messamore, Evergy's Vice President of Strategy and Long-Term Planning, testified that Sierra Club "simply compares costs to market values of energy, ancillary services, and capacity," concluding that "if costs are greater than total revenues, the continued operation of the plant must be imprudent." Id. The analysis "completely ignores the fact that" Evergy must "have sufficient economic capacity" to serve customers, as well as to "meet reserve margin requirements." Id. at 11-12.

Ms. Messamore also described a further glaring omission in Sierra Club's analysis which contained no "assessment of costs for replacement capacity," especially over the long-term. Id. at 12. Sierra Club witness Ms. Glick presented no evidence of what it would cost Evergy to replace the capacity of large plants like LaCygne 1 (873 MW), Iatan 1 (726 MW), or the other plants listed in Table 1 of her direct testimony. Ms. Messamore concluded that "not including" such an assessment was "ridiculous." Id.

As Staff pointed out, Ms. Glick failed to make "any mention of the generation types or discussion of any base load alternative in its discussion of the retirement of current base load units" like Iatan, LaCygne or Jeffrey. See Ex. 241 at 6:2-6 (J. Hull Rebuttal). Staff witness Jordan Hull, an engineer, noted that Serra Club's proposal to replace these base load units with wind and solar facilities raised concerns with Staff. Id. at 6:7-9. Utilities operating such intermittent resources "have no control

[22] "US Southwest Power Pool OKs plan to raise planning reserve margin to 15%," Megawatt Daily at 4-5 (July 26, 2022); Minutes of SPP Reg'l State Comm. (July 25, 2022), available at www.spp.org/spp-documents-filings.

[23] The SPP report is posted under Agendas/Minutes/Presentations as "8-31-2022 SPP Update" at www.psc.mo.gov/General/Agendas.

over how much output a solar [facility] or wind turbine is going to produce consistently" because they are "entirely reliant upon weather conditions to generate" power." Id. at 6:9-12.

Moreover, if such facilities were to replace the 1,700 MW of capacity at issue (or over 4,300 MW if the total capacity of the units is considered), Evergy would be required to acquire "an extremely large amount of solar and wind to even try to compete with the output of their current base load units." Id. at 6-7. Mr. Hull observed that if the coal generation of both EMM and EMW were to be replaced with wind and/or solar, they "would need to build approximately 5,400 MW – 18,000 MW of nameplate capacity." Id. at 7. He estimated that replacing this coal generation would take between 10,000 and 19,000 acres of land using solar resources, and between 5,400 and 108,500 acres of land using wind resources. Id. at 8.

Additionally, as Evergy witness Ms. Messamore testified, "the calculation of the land mass that would be required to replace Evergy's coal generation with wind or solar resources" must also "factor in the difference in accreditation between the different resources." See Ex. 57 at 18 (Messamore Surrebuttal). She concluded: "The amount of actual land that would be required for such a transformation would likely be a minimum of two to a maximum of ten times what Staff calculated on a nameplate capacity basis." Id.

None of these contingencies was considered by Sierra Club in its analysis. Although the IRP process in Chapter 20 of the Commission's Rules calls for a variety of economic studies to be conducted, "none of the analyses" that Ms. Glick "presents come close to approximating an economic alternative resource plan when compared to the current IRP Preferred Plans of Evergy Metro and Evergy Missouri West." See Ex. 55(C)/56(P) at 12 (Messamore Rebuttal). Other than raising concerns about the Companies' IRP process, Sierra Club's evidence fails to support any allegation of imprudence and its multi-million dollar disallowance recommendation. Id.

Because it relies upon a narrow and unrealistic economic analysis to support its view, Sierra Club fails to overcome the presumption under the Commission's prudence standard that a utility's costs were prudently incurred. Unless a "serious doubt" is raised regarding the utility's conduct and the expenses it has incurred, the presumption of prudence stands. State ex rel. Public Counsel v. PSC, 274 S.W.3d 569, 578 (Mo. App. W.D. 2009). Under the facts of this case, Sierra Club has not carried its burden to establish that the Commission should have "serious doubts" about Evergy's resource planning, its IRP Preferred Plans, and the operation of its coal plants.

This is particularly true, given that only seven years ago the Commission found that the environmental improvements made to the LaCygne plants were reasonable and prudent. In KCP&L's 2014 general rate case the Commission soundly rejected the arguments of Sierra Club, concluding that "prudently incurred costs" of over $292 million were properly included in Evergy Metro's rate base. See Report & Order at 59-64, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015).

Sierra Club has presented no credible evidence that Evergy's resource planning process is imprudent. Its arguments to the contrary must be rejected, consistent with the Commission's decision in EMW's securitization case that the Company's resource planning was reasonable and not imprudent.[24]

B. Should the Commission require Evergy to conduct a full retirement study of its coal fleet using optimized capacity expansion software which identifies the optimal retirement date for each of its coal-fired units?

Evergy is already using optimized capacity expansion software to analyze its generating units and will continue to do so. However, Evergy opposes Sierra Club's request that the Commission order resource planning requirements in these general rate cases when the appropriate forum for such

[24] EMW Securitization Order at 32-33

discussion is the Company's ongoing Integrated Resource Planning (IRP) process in which Sierra Club has been an active participant.

Issues related to using the PLEXOS capacity expansion model to evaluate Evergy's IRP alternative resource plans (ARPs) were recently addressed in the 2022 IRP Annual Update cases. Addressing matters raised in intervenor comments filed by Serra Club, Staff, and others, Evergy recently filed its response as directed by the Commission. See EMM and EMW Responses to Intervenor Comments, In re 2022 IRP Annual Update for Evergy Metro, Inc., No. EO-2022-0201 (Sept. 15, 2022) ("Evergy Responses to IRP Comments"). Evergy stated while it did not re-test in 2022 all the possibilities that were evaluated with the capacity expansion software in the 2021 Triennial IRP filings, it is in the process of completing a new study and "will test all portfolio levels arising from that study in the 2023 IRP Annual Update." Id. at 3. In future IRPs Evergy will better describe which options are selected through discrete testing compared with allowing the capacity expansion software to choose the options.

Responding to other concerns that Sierra Club raised in the IRP process, which it also raised in these pending rate cases, Evergy has explained how it assesses the performance of its coal units by comparing various combinations of retirements with demand-side and supply-side additions "to assess which is the lowest cost" and what "changes to the resource plan" may be appropriate. See Ex. 55(C) & 55(P) at 13 (Messamore Rebuttal); Evergy Responses to IRP Comments at 10 (addressing capacity shortfall and reliability issues if Sierra Club's coal plant retirement scenarios are adopted). Evergy agreed to assess other recent events in the 2023 IRP Annual Update, such as the Inflation Reduction Act, which only became law on August 16, 2022. Id. at 9.

The issues raised by Sierra Club regarding resource planning, retirement studies, and optimized capacity expansion software belong in the IRP cases, not in general rate cases. Given

the commitments that Evergy has made regarding these matters, both here and in the IRP dockets, the Commission should not order the Company to conduct retirement studies as requested by Sierra Club in these proceedings.

ISSUE NO. IV: AMI

A. Should the Commission approve a disallowance related to the premature replacement of AMI meters with AMI meters that have the capability to disconnect/reconnect service (AMI-SD)?

1. The Replacement of Older Technology Meters with AMI-SD Meters Was Prudent and Benefits Customers.

This issue involves a disallowance by Staff and Public Counsel of certain rate base costs associated with the deployment of AMI Meters with remote disconnect and reconnect capabilities. Staff witness Claire Eubanks. See Ex. 238 at 2-4 (Eubanks Rebuttal); Ex. 262 at 2-6 (Eubanks True-up Direct; Ex. 307 at 14-23 (Marke Direct); Ex. 308 at 29-41 (Marke Rebuttal). Staff witness Eubanks and OPC witness Geoff Marke express concerns that AMI meters installed without remote Disconnect and Reconnect capability in the 2014 to 2016 timeframe, are now being replaced by new AMI-SD meters that have disconnect and reconnect capabilities prior to the end of old technologies' design life. For the reasons stated herein, the proposed disallowances of the costs of AMI-SD meters should be rejected.

Mr. Charles Caisley, Evergy's Senior Vice-President of Public Affairs and Chief Customer Officer, addresses their concerns. Mr. Caisley explains that the Company has embarked on a thoughtful and prudent approach to deploy AMI technology over time to our customers. AMI meters have already unlocked many benefits that our customers are enjoying today. See Ex. 21 at 22 (Caisley Rebuttal). The Company based its decisions on which meter types to deploy and when to deploy them based on business cases developed at the time, both for the initial deployment of non-AMI SD meters as well as the subsequent decision to install AMI-SD meters. These are prudent investment decisions that benefit customers. See Ex. 21 at 10 (Caisley Rebuttal).

Evergy conducted two financial reviews to validate that the AMI meter changeout to AMI- SD meters were at minimum cost neutral to customers. The first financial review evaluated the cost to purchase and install AMI-SD meters based on the changeout schedule previously described and the short-term and on-going O&M savings that would be realized due to the additional capabilities the AMI-SD meters could provide to make operations more efficient. The results indicate that from a financial perspective, customers would be indifferent to the AMI-SD meter change.

The second financial review calculated the present value of the AMI meters installed in 2014 at $76 per meter plus the cost to install an AMI-SD meter in 2021 at $125 per meter. This was then compared to the cost of an AMI-SD meter in 2014 at $165 per meter. The present value comparison indicated that installing the AMI meter without SD capabilities in 2014 plus installing an AMI-SD meter in 2021 was less expensive than if the Company would have installed AMI-SD meters in 2014. Id. at 15-16 (Caisley Rebuttal).

During the hearings, Mr. Caisley explained that at the time of non-SD upgrade Evergy's CIS and billing systems were not capable of unlocking many of the benefits of AMI-SD technology. Tr. Vol. 9 at 374. With CIS and other system upgrades, the new AMI-SD technology made economic sense and would be fully utilized and bring additional benefits to the customers. (Id.)

Mr. Caisley summarized the Company's analysis as follows:

> So we made the decision at that point because of the fact that a lot of the value you get from deploying an AMI-SD meter is the value of not having to roll a truck to disconnect or to reconnect to start or to stop service at that time with the technology, the CIS, the meter data management and the other systems we had in place, there wasn't a differential for us.· In other words, the business case, we weren't going to -- because of Rule 13 or Chapter 13 rules, we weren't going to be able to knock-and-collect, and our systems at the time wouldn't have handled a lot of the other technology that was available.· So it just didn't make business sense to deploy $165 meter at that time.· Now as we go forward and several years later, a lot of that ·value was unlocked by our new systems that we installed beginning in the 2017 time period, so it's not just the knock-and-collect remote connect and disconnect, but there's a bevy of other things that the system can handle, and

> all of those -- we did a business case, and all of those, actually two analyses show that it was either neutral or beneficial to customers. (Id. at 374-75).

Replacing the older AMI meters with meters capable of remote disconnect and reconnect capability results in a material cost reduction of nearly 25% from 2014, coupled with significant additional functionality and use cases (all of which were detailed in the business case and provided to stakeholders). Not only is there a cost reduction component by reducing the number of truck rolls, there is also a significant improvement in the customer experience. However, to fully access the benefits of AMI-SD technology, it will be necessary to obtain a waiver of the Chapter 13 rules that require a premises visit for a disconnection.

By using the SD capability, customers can get service connected nearly 24 hours a day, seven days a week. Particularly, customers who have had their power shut off for non-payment find that their power is on within minutes of making the payment to restore service. In addition, the SD meters also provide internal temperature sensing to enhance customer safety by detecting meter socket issues such as loose meter clips and overload conditions. The SD meter also has enhanced outage notifications upon loss of power over the AL meters enabling Evergy to respond to outages more efficiently. The Focus AX-SD meters have the capability to bring back interval voltage data and can be utilized for future system upgrades and capacity planning. This data can also be used in troubleshooting for phase outs, voltage issues, and for storm restoration to find nested outages and improve response times. This also aids in customer driven power quality complaints for high and low voltage issues that are intermittent and provides more than a snapshot in time when the technician is at the premise.

AMI with disconnect and reconnect capabilities, in particular, allows the Company to utilize electronic communications and deploy remote procedures that eliminate the need for Company personnel to make physical contact. Id. at 38 (Lutz Direct). These changes result in lower costs,

better collections, fewer on-premise incidents and fewer collection errors. In addition, disconnection and reconnection fees can be drastically reduced for customers with this AMI meter capability.

Once disconnected, the customer no longer has to call back into the contact center to request service restoration if they are served by the newer AMI technology. When a minimum payment is received, a reconnection order is sent immediately, and the customer's service is typically back on within 15 minutes. This includes during after hours, weekends, and holidays. These are clear benefits to the customer if they have the newer AMI technology that allows remote reconnection.

For the Company, it also could reduce the number of truck rolls for disconnection and reconnection. Over the longer term, this will reduce the Company's costs and those savings will be passed along to customers in lower fees and rates.

There is also value to the Company in having one uniform metering system, rather than having to deal with two different AMI metering systems. Tr. Vol 9: 357. Another major benefit is that the new AMI technology reduces safety risks for employees since they can avoid hostile interactions with customers at the premise. See Ex. 49 at 39 (Lutz Direct); Tr. Vol. 9 at 391-92.

Also, the new technology AMI meters have on-board temperature sensing and alarm capability. This alerts the Company to issues on the premise which cause heating at the meter, reducing the potential for meter socket fires.

In answer to a question from Chairman Silvey, Staff witness Claire Eubanks pointed out that Evergy had deployed AMI meters without SD seven years before Ameren deployed the more advanced AMI-SD technology. Evergy therefore made it decision to deploy AMI without SD capability without the benefit of information that became available seven years later. At the time Evergy made the decision to deploy the AMI-SD technology, Evergy had available better information regarding the economics of the newer AMI-SD technology. Tr. Vol. 9 at 410-411.

Based upon the plethora of benefits of AMI-SD technology, it was a reasonable and prudent decision to upgrade to the newer AMI-SD technology when it became economic to do so.

2. Staff and Public Counsel's Criticisms of Evergy's Upgrade to AMI-SD Meters Are Misplaced.

Both OPC witness Marke and Staff witness Eubanks provide testimony regarding the AMI deployment schedule, along with a generalized concern raised related to AMI meters already installed which are being replaced with AMI-SD meters (i.e., service disconnect capable meter).

First, Public Counsel witness Geoff Marke has incorrectly argued that the primary benefit of AMI technology is the possibility of implementing TOU rates. Ex. 306, at 15 (Marke Direct). However, this is completely untrue. Both EMW witnesses Caisley and Bradley Lutz have completely rebutted this assertion. In fact, Mr. Lutz explained at length the multitude of benefits to the customers of AMI technology. Ex. 49 and 117 at 35-42 (Lutz Direct); Ex. 21 at 5 (Caisley Rebuttal).

Second, Dr. Marke improperly characterizes the deployment schedule as "erratic." As was pointed out in Direct testimony of Company witness Lutz. See Ex. 49 at 35 (Lutz Direct); Ex. 117 at 35 (Lutz Direct), the pause of meter exchanges in 2017 and 2018 was designed to not interfere with the data conversion and implementation of the One CIS project. This was not "erratic", but rather an intentional plan to avoid issues or perceived concerns of new meters around the same time as a new billing system was being implemented. In addition, Evergy regularly had meetings with Staff, OPC and other regulatory stakeholders throughout the time period the new CIS was being implemented. In those meetings, the impacts to meter deployment were discussed—clearly stating that there would be time periods during which meter installation would be paused to accommodate the CIS project. See Ex. 21 at 7 (Caisley Rebuttal).

These witnesses also raised general concerns about the economics of upgrading to the newer AMI-SD technology. These concerns have already been addressed above and will not be repeated in this section.

Staff witness Eubanks includes AMI meter exchanges that were categorized as “unknown” in her proposed disallowance. As Mr. Caisley explained, this includes $157,170 for Evergy Missouri Metro and $281,124 for Evergy Missouri West. The “unknown” meter exchange category comes from two different places - people entering an order without any comments, or, more commonly, Evergy’s field personnel making the decision to exchange the meter while at a customer location for a different reason. For the field employees, it’s a “pick-up” order in PCAD and there is no way to enter a reason why we exchanged it. The reasons for pick-up orders include such things as damage to the meter, a blank screen, damage due to meter can issues (loose clips), and a painted over meter. When Evergy personnel enter orders for proactive AL to AX-SD meters, the system always puts a reason in, so they would not fall in this category. Id. at 21 (Caisley Rebuttal).

None of the criticisms raised by Staff or Public Counsel support a disallowance of the costs of upgrading customers’ meters to a better and more efficient technology. For all the foregoing reasons, EMM and EMW respectfully request that the Commission decline to disallow any of the costs of upgrading the AMI service, as discussed herein.

B. Should the Commission order Evergy Metro to change its deployment strategy so that it no longer targets customers in arrearage?

The Company adamantly disagrees with the underlying premise of this statement of the issue that it targeted customers in the arrears. As discussed above, AMI-SD meters have already unlocked many benefits that our customers are enjoying today, including those facing possible disconnection. The decision to also change out non-AMI-SD meters with AMI-SD meters was based on a business case - both in the initial decision to not deploy the technology when price differences were significantly

higher than they are today, as well as the decision to later change out non-AMI-SD meters prior to the end of their design life for AMI-SD meters that bring additional cost savings and other benefits to customers. See Ex. 21 at 21 (Caisley Rebuttal).

Ms. Eubanks and Dr. Marke express concern that the Company has been systematically replacing meters on houses of customers in arrears. See Ex. 211 at 3-8 (Eubanks Direct); Ex. 306 at 7, 14-15 (Marke Direct). There is nothing unreasonable or improper about Evergy's prioritizing customers with balances in arrears to receive SD capable meters. In fact, at the time Evergy undertook its plan to prioritize installation of SD capable meters with customers facing disconnection for large balances in arrears, Evergy had referenced this plan in testimony before the commission regarding pandemic payment plans and had discussed the plan with both Staff and OPC in at least one meeting regarding pandemic payment plans and relief.

Prioritizing customers with balances in arrears is intended to IMPROVE their customer experience coming out of the pandemic disconnection moratorium, not target them in some negative fashion. Evergy knew that once the disconnection moratoriums were finished, an atypically high number of customers would have balances in arrears. Despite raising disconnection thresholds and having new and enhanced payment plans, Evergy was concerned that if a high number of customers were disconnected, many of them could end up waiting hours for reconnection once a payment was made or a plan established. As a result, Evergy prioritized those customers with balances in arrears to ensure that they could be immediately restored to service once a plan was established and a payment made. This is a benefit and not a problem as suggested by the Public Counsel. Id. at 18-19 (Marke Direct). As previously discussed, Evergy does not have remote disconnect capability in Missouri due to its adherence to knock and collect rules contained in Chapter 13 of the PSC rules. The change out of

meters for those customers in the arrears was a benefit to those customers in that they have quicker reconnection after payment of the overdue account.

In terms of prioritizing the general order and timing for the changeout of meters, Evergy prioritized exchanging meters that created the most benefit to the customer and the Company. Evergy assessed the service order volume requiring a physical truck roll. The service orders that drive the highest volume of truck rolls are Turn On, Turn Off, Succession/Back-to-Back/Move-In and Move-out, Non-Pay Turn Off, and restore after payment. In order to deploy this technology to gain the most efficient and significant reduction in service order volume that require truck rolls, Evergy focused efforts on multi-tenant locations along with customers who were in arrears. Multi-tenant and customer arrears are two known data points that allow Evergy to ensure that the technology is deployed in the most effective manner related to service orders that require a truck roll. While a truck roll was not saved on the collection order, the customer experience for those customers whose power was disconnected for non-pay was improved and a truck roll was saved on the reconnect.

Nothing changed in Evergy's account management and disconnection procedures as a result of installing meters capable of remote disconnection and reconnection. Evergy still complies with every aspect of Chapter 13 rules. Evergy still conducts an in person visit to knock and collect. The only change any customer with arrears would have seen as a result of these meter exchanges, was service reconnection took only minutes rather than hours.

C. Did Evergy exceed the 6% annual PISA spend limit on AMI meters? If yes, what actions, if any, should the Commission take in response?

This issue was raised for the first time in OPC witness Geoff Marke's surrebuttal testimony. Dr. Marke states that "This issue was discovered late in my review of this case and merits further discussion with the MO PSC Staff and the Company." See Ex. 308 at 42 (Marke Surrebuttal). He makes no further recommendations. Evergy did not exceed the spend limit and strongly disagrees with Dr. Marke's unsupported contention. Based upon Evergy's review of his surrebuttal testimony, there is absolutely no competent and substantial evidence in the record to support his assertion, and it should be rejected and ignored as improper surrebuttal testimony.[25]

ISSUE NO. V: FUEL ADJUSTMENT CLAUSE ("FAC")

A. FAC Base Factor and Tariff & Eligible Accounts - What is the base factor for EMM?

This is now a settled issue. In the Stipulation and Agreement filed by the parties on August 30, 2022, the signatory parties stated:

> a. Signatories agree that the following FAC Base factors will be utilized as a result of this Agreement
>
> (1) EMW: $0.02983
>
> (2) EMM: $0.01829 – EMM Base factor will be adjusted, if needed, based on Commission order in this case on the Central Nebraska Public Power and Irrigation District ("CNPPID") hydro issue as identified in the attached Exhibit 1.

If the CNPPID hydro issue is resolved in favor of EMM, it estimates the resulting FAC Base factor would be $0.01882.

[25] 20 CSR 4240-2.130(7)(C).

B. *Should the cost of the Central Nebraska Public Power and Irrigation District ("CNPPID") hydro purchased power agreement be included in the FAC base factor calculation for Evergy Metro? (EMM Only)*

Staff and OPC have removed the CNPPID PPA ("Hydro PPA") from the EMM base factor calculation of base rates. They removed the Hydro PPA even though it is used by EMM to serve Missouri customers. Tr, 917; lines 1-5 (Nunn) Tr. 955, lines 3-4 (Fortson). The 66 MW PPA began in 2014 and was fully included in the Company's cost of service in the 2014 and 2016 rate cases. See Petersen Rebuttal, Ex. 70, p. 4.

EMM, Staff and OPC agreed in a Stipulation in the 2018 EMM rate case ("0145 Stipulation") that the Hydro PPA would be removed from the Company's FAC calculations due to Staff and OPC concerns with the contract price. The 0145 Stipulation did not exclude the Hydro PPA from being included in base rates. Id.; Nunn Surrebuttal, Ex. 66, p. 8.

OPC argues that EMM agreed in the 0145 Stipulation that it would not pass any of the cost of the Hydro PPA to Missouri retail customers and therefore the cost of the Hydro PPA should not be included in EMM's revenue requirement in this case. Mantle Rebuttal, Ex. 306, p. 25. OPC is incorrect as EMM workpapers and EMM's existing tariff shows the inclusion of the Hydro PPA in base rates. Nunn Surrebuttal, Ex. 66, p. 7. The workpapers show the inclusion of the Hydro PPA in base rates as it relates to the types of costs included in the FAC. The Hydro PPA was included in base rates but portions were excluded from the ongoing FAC Fuel Adjustment Rate ("FAR") filings as indicated by the FAC tariff wording as well as the 0145 Stipulation. Id. The underlying workpapers that produce the FAC tariff and the FAR tariff calculation that happens every six months demonstrates the inclusion of the Hydro PPA in ·base rates. Tr. 924-925; lines 24-25,1-2. Staff witness Shawn Lange also indicated that the Hydro PPA was included in his fuel run workpapers in the 2018 EMM rate case. Tr. 980, lines 4-6.

The fact that the Hydro PPA was included in base rates as a result of the last rate case is also supported by EMM's existing tariffs which were a result of that rate case. The language in the current EMM FAC tariff sheet 50.23 (included in Ex. 1000) which applies to the Hydro PPA is under the identifier PP = and states, "... excluding … (2) the Missouri allocated portion of the difference between the amount of the bilateral contract for hydro energy purchased from CNPPID and the average monthly LMP value at the CNPPID nodes times the amount of energy sold to the SPP at the CNPPID nodes. The CNPPID nodes are defined as NPPD.KCPL.JFY1, NPPD.KCPL.JFY2, NPPD.KCPL.JHN1, NPPD.KCPL.JN11, NPPD.KCPL.JN12". This tariff language ensures that EMM is compensated for the market value of the Hydro PPA used to serve Missouri customers and not the actual contract value. As shown above, the Hydro PPA was included in base rates in the last EMM general rate case and, accordingly, it should continue to be included here. The inclusion in base rates along with the adjustment made in the semi-annual FAR filings ensure that EMM is compensated for the contract at market cost not the actual cost of the Hydro PPA contract. This language in the EMM FAC tariff sheet approved in the 2018 case clearly supports two conclusions. The language, and the FAC adjustment proposed by the language, would not have been necessary unless the Hydro PPA was considered to be in 2018 base rates and serving Missouri customers. The second conclusion is that the outcome of inclusion in 2018 base rates and adjusted in the FAC as provided in the FAC tariff accomplished what was intended by the 0145 Stipulation, that any differential of costs from the contracted price of the Hydro PPA and comparable market prices to serve Missouri customers would not be borne by Missouri customers. This second conclusion is relevant to the current case as it reflects EMM's request for continued recovery treatment for serving Missouri customers with the Hydro PPA in the current case.

Besides the existing tariff, Staff's own workpapers in the current EMM rate case show that EMM must be compensated for the Hydro PPA as it is used to serve load. Ex. 335, (surrebuttal fuel run

workpapers of Staff witness Shawn Lange) shows that Staff modeled the Hydro PPA at 324,323 MWhs of the total load of 15,317,047 MWhs. However, Staff took out both the costs and the revenues associated with the Hydro PPA MWhs and therefore EMM receives no compensation in base rates for any of the MWhs contributed by the Hydro PPA. The Staff's fuel run should include all costs and revenues needed to serve the total EMM load. By leaving the Hydro PPA costs out while retaining the MWhs to serve EMM customer load, the Staff has shortchanged EMM of net PPA costs used to set EMM rates. The Commission can fix this problem by including the net PPA costs in EMM's revenue requirement and increasing the EMM base factor as the Stipulation allows such an increase to be calculated and adjusted. Finally, adopting EMM's FAC tariff language, consistent with the 2018 approved tariff, to adjust in the FAC the Hydro PPA contracted price to the comparable market price to ensure that Missouri customers pay the market price for power provided under the Hydro PPA.

EMM is not contesting the exclusion of the difference of the Hydro PPA contracted price compared to the market price from the ongoing FAC Fuel Adjustment Rate ("FAR") or related FAC filings. It is contesting the removal of the Hydro PPA from its FAC base factor calculation as this removal does not compensate EMM for the use of the Hydro PPA to serve its customers. As the 2018 FAC tariff demonstrates, the Hydro PPA is currently in base rates at the contracted price level and appropriately adjusted in the FAC tariff to the market price and the same should occur in the new tariffs that come out this case.

As shown on EMM tariff sheet 50.23, in EMM's (Nunn Surrebuttal, Ex. 66, p. 7) and Staff's (Tr. 980, lines 4-6) workpapers, the Hydro PPA was included in base rates in the 2018 case and the excess of the cost of the contract over market rates were excluded under the language in the EMM FAC tariff sheet in order to reflect costs attributed to service provided by the Hydro PPA at market prices rather than the Hydro PPA contract price. Staff and OPC have removed the costs and revenues of the

Hydro PPA from EMM's cost of service but have not included any costs for the MWHs from the PPA that are available to serve load. This exclusion penalizes EMM unfairly and must be corrected by the Commission by including the Hydro PPA in EMM's base rates as has been included in the current base rate level and increasing the EMM base factor to reflect this inclusion.

C. *If the Commission allows deferment of the FAC costs in Case No. ER-2023-0011, should that deferral be recovered in this rate case? If yes, how would it be treated?*

This is an important issue that is directly related to, and intertwined with, the Commission's decision in Evergy's pending Fuel Adjustment Rate ("FAR") case, File No. ER-2023-0011. For reasons stated herein, the appropriate docket to authorize the deferral of the fuel and purchased power ("FPP") costs that exceed the PISA statutory cap is in File No. ER-2023-0011. The deferral should not be recovered in this rate case, as advocated by Public Counsel, but should be deferred to a regulatory asset and recovered, as specified in Section 393.1400.[26]

However, if the Commission decides not to authorize the deferral in File No. ER-2023-0011, then it should authorize the deferral of fuel and purchased power costs in this rate case to a regulatory asset. The second alternative (i.e., deferral in the rate case) is not a preferable solution for implementing the required deferral under Section 393.1655(5) because it will artificially lower the base energy cost in base rates which, pursuant to the operation of EMW's FAC, will result in higher fuel adjustment rates subsequent to the rate case and correspondingly higher fuel cost disallowances under the 95/5 mechanism in the Company's FAC. Deferral in the general rate case will therefore have an adverse impact on the Company by lowering the expected earnings, and as a result, it will be detrimental to the financial condition of the Company.

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[26] Section 393.1400(3) states in part: "(3) Parts of regulatory asset balances created under this section that are not yet being recovered through rates shall include carrying costs at the electrical corporation's weighted average cost of capital, plus applicable federal, state, and local income or excise taxes. Regulatory asset balances arising under this section and included in rate base shall be recovered in rates through a twenty-year amortization beginning on the date new rates reflecting such amortization take effect.

As explained below, the change in rates that are occurring in this rate case as well as in the pending FAR case, are "change[s] in . . . rates charged under a rate adjustment mechanism approved by the commission under sections 386.266. . ."[27] The change in rates due to fuel and purchased power costs that exceed the statutory cap are required by Section 393.1655(5) to "be deferred to and included in the regulatory asset arising under section 393.1400."[28]

It appears that OPC is likely to argue that the re-base of energy costs in this general rate case does not constitute a change in any rates charged a rate adjustment mechanism, but this OPC argument ignores the provision of the FAC Rule that requires a utility to re-base energy costs in any general rate case in which an FAC is continued or approved. 20 CSR 4240-20.090(2). Given this requirement, there is no plausible rationale to conclude, as OPC appears likely to argue, that the effect of re-basing energy costs in a general rate case, which re-basing is explicitly required by the FAC Rule itself, should be excluded from consideration as "any change in rates under a rate adjustment mechanism" as provided in the first sentence of section 393.1655.5.

The second sentence specifies that "[s]ums not recovered under any such mechanism … shall be deferred to and included in the regulatory asset arising under section 393.1400 …."

Giving effect to the "plain and ordinary meaning" of Subsection 5, and to avoid an "illogical or absurd result"[6] – such as equating wholesale commodity and power prices with a utility's construction of its electric plant – it is clear that FPP costs must be treated differently than other costs. That is what the Commission intended when it promulgated its FAC Rule pursuant to Section 386.266.10 which authorized it to promulgate rules, "as it deems necessary, to govern the structure, content and operation of such rate adjustments, and the procedure for the submission, frequency, examination, hearing and approval of such rate adjustments." The rebasing requirement of FAC Rule Section (2) is a valid

[27] Section 393.1655(5).
[28] Section 393.1655(5).

exercise of the Commission's broad authority explicitly granted by the General Assembly.[7]

It does not matter from a legal perspective what order the change in rates occurs in the general rate case or the FAR case. The changes in rates related to the fuel and purchased power costs are occurring in both cases "under the rate adjustment mechanism" (i.e., FAC) approved by the Commission under Section 393.266.[29] As a result, the fuel and purchased power costs must be deferred to a regulatory asset and recovered, as specified in Section 393.1400. Given the timing of this rate case and the pending FAR case (File No. ER-2023-0011), it is preferable to authorize the necessary deferral in the FAR case to avoid any negative financial consequences to EMW. Moreover, there is no reason the Commission cannot decide the rate case and then adjust the deferral amount in the FAR case as needed to minimize the total amount of fuel costs deferred by maximizing the amount of fuel costs included in the fuel adjustment rate while staying within the limits of the CAGR cap of section 393.1655.5.

Equally important, delaying a Commission decision until such time as it issues the report and order in the 2022 Rate Case will ensure that the Commission follows the statutory framework of the PISA law intended by the Legislature and is able to approve a specific amount of the deferral that can be calculated. Moreover, due to the timing of the two cases, there will be no undue delay of the decision in the FAR case by waiting until after the Commission issues its 2022 Rate Case report and order. The reply briefs in both cases are scheduled for October 21, 2022 and it is likely that the Commission will issue its Rate Case report and order approximately 30 days before the December 6, 2022 effective date of rates. This means that the Commission can know the outcome of the rate case and the specific amount of the deferral and still issue its order in this FAR filing in a timely manner.

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[29] Section 386.266 authorizes the adoption of the rate adjustment mechanism referred to as the Fuel Adjustment Clause mechanism.

1. Section 393.1655.5 Requires EMW to Defer Fuel and Purchase Power Costs to Avoid Exceeding the Statutory Cap.

EMW elected Plant-In-Service accounting ("PISA") on December 31, 2018, and is governed by Section 393.1655, among other sections of the PISA statute (section 393.1400 and other companion sections first enacted in 2018 as a part of Senate Bill 564).[30] Under the PISA statute, there is a requirement that the Company which elected PISA accounting must not increase its base rates by more than 3% annually (i.e., compound annual growth rate) (hereafter referred to a "statutory cap" or "CAGR").[31]

Section 393.1655.5 states:

> If a change in any rates charged under a rate adjustment mechanism approved by the commission under sections 386.266 and 393.1030 would cause an electrical corporation's average overall rate to exceed the compound annual growth rate limitation set forth in subsection 3 or 4 of this section, the electrical corporation shall reduce the rates charged under that rate adjustment mechanism in an amount sufficient to ensure that the compound annual growth rate limitation set forth in subsection 3 or 4 of this section is not exceeded due to the application of the rate charged under such mechanism and the performance penalties under such subsections are not triggered. Sums not recovered under any such mechanism because of any reduction in rates under such a mechanism pursuant to this subsection shall be deferred to and included in the regulatory asset arising under section 393.1400 or, if applicable, under the regulatory and ratemaking treatment ordered by the commission under section 393.1400, and recovered through an amortization in base rates in the same manner as deferrals under that section or order are recovered in base rates.

Section 393.1655 contemplates that the FAC rate adjustment process of Section 386.266 will continue to operate in tandem with its provisions. For example, Section 393.1655.2 states that a utility electing PISA treatment is subject to a 3-year freeze of base rates from its last general rate case, but the FAC continues to allow changes in rates related to fuel and purchased power costs during the rate freeze.

[30] See Notice, p. 1, Case No. EO-2019-0045, EFIS Item No. 4 (filed December 31, 2018).
[31] Section 393.1655(3).

In Evergy's case, the rate freeze began on December 6, 2018 when new rates became effective for both EMW and EMM (No. ER-2018-0145/-0146).

Section 393.1655.5 provides that if any rate changed under a rate adjustment mechanism would cause a utility to exceed the 3% CAGR limitation in Section 393.1655.3, then the utility "shall reduce rates charged" under that mechanism "in an amount to ensure" that the CAGR limitation is not exceeded and the "performance penalties … are not triggered." Any sums not recovered "shall be deferred" as a regulatory asset and amortized over 20 years under Section 393.1400.2(3).

With the timing of this general rate case, the statutory cap will be a cumulative compounded increase of 12.55% up to the effective date of new rates from this case. See Ex. 42 at 22 (Ives Surrebuttal).

As required by Section 393.1655(5), if a change in any rates under a rate adjustment mechanism approved by the Commission (such as EMW's fuel adjustment clause) would cause the Company's average overall rate to exceed the statutory cap, the electrical corporation shall reduce the rates in an amount sufficient to ensure that the compound annual growth rate limitation is not exceeded and the performance penalty is not triggered. Section 393.1655.5 also requires that any sums not recovered under such mechanism due to a reduction in rates as described above shall be deferred and recovered in a regulatory asset over a twenty-year period pursuant to the provisions of section 393.1400.

As Ms. Mantle noted in her rebuttal testimony in this case (Ex. 302, Mantle Rebuttal, p. 28), EMW has proposed, in the FAC case that was filed on July 1, 2022 in File No. ER-2022-0011, to defer $31 million in FAC-related costs to the Plant in Service Accounting ("PISA") regulatory asset for recovery in a subsequent rate case. See Ex. 302 at 28 (Mantle Rebuttal). In the pending FAR case, Evergy is proposing to adjust charges related its FAR for the accumulation period covering December 2021 through May 2022. The full amount of EMW's FAC-related costs during this accumulation period

was approximately $44.6 million. Including this amount in the FAR now would cause EMW to exceed the 3 percent Compound Annual Growth Rate ("CAGR") cap under Section 393.1655.5 when considering the impacts from the most recent FAC accumulation period, the immediately preceding FAC accumulation period and the effects of the overall rate increase (driven solely by the rebase of fuel and purchased power in base rates) resulting from this general rate proceeding. See Ex. 42 at 19 (Ives Surrebuttal). See Ex. 42 at 19 (Ives Surrebuttal).

The following table (See Ex. 42 at 22; (Ives Surrebuttal; adjusted for the proposed settlement of the fuel issues in this general rate case.) This table demonstrates that the statutory cap will be exceeded if the fuel and purchased power costs are not deferred:

MO West Fuel Impact on Overall Rates

	Rates Effective Dec 6, 2018	Settled Effective Dec 6, 2022	Fuel Increase Before Adj./Deferral	Percentage Increase
Base Retail Rates - Fuel	$ 189,453,834	$ 245,512,953	$ 56,059,119	7.5%
FAC Accumulation - Part 1	8,315,398	47,488,718	39,173,320	5.2%
FAC Accumulation - Part 2	11,366,822	44,604,020	33,237,198	4.4%
Total			$ 128,469,637	17.2%
		December 6, 2022 Average Overall Rate Cap		12.55%

This table shows the impact of the rebasing of fuel in this general rate case which is required by the FAC rules,[32] has an impact of 7.5% on rates, before further adjustment for settled non-FAC-related costs and the Commission's decision on the contested issues. The FAC Accumulation Period (Part 1) (June through November, 2021) fuel cost increase is 5.2%, and the FAC Accumulation Period (Part 2) (Dec. 2021-May 2022) fuel cost increase accounts for a 4.4% increase. It is clear that fuel and purchase power cost increases are causing the rates to increase a total of 17.2% which will exceed the 12.55%

[32] 20 CSR 4220-20.090(2).

statutory cap, and this is the reason why the Company is required to defer fuel and purchased power costs to avoid exceeding the statutory cap.

The 17.2% increase depicted on this table exceeds the aggregate 12.55% statutory cap applicable to EMW under section 393.1655.3 (i.e., 3 percent per annum) before consideration of any non-FAC-related cost increases or decreases experienced by EMW since its last general rate proceeding in 2018.

Importantly, the rate increase resulting from the Company's general rate proceeding would be a non-issue – in fact, the revenue requirement attributable to non-FAC-related costs would decline, as discussed further below – and this brief would not be discussing the PISA statutory caps at all but for the impact of the two FAC Accumulation Periods and fuel and purchase power (FAC-related) costs which are required to be re-based in each general rate proceeding by the FAC rules.[33] In other words, the requirement of the FAC rule that requires the re-basing of fuel and purchased power costs in this rate case is the entire reason for the change in rates in this general rate proceeding.

As explained in more detail below, the Company's FAC-related costs are significantly impacted by external factors outside of the Company's control and have been subject to inflationary pressures not seen for many years due to the extraordinary events of the pandemic and Russia's war on Ukraine.

Under these circumstances, EMW is following the PISA statute and has appropriately requested the deferral of fuel and purchased power costs in File No. ER-2023-0011. The reason for this deferral is to apply the rate adjustment mechanism deferral provisions of the PISA statute. This is necessary since the increased fuel and purchased power costs driven by market conditions beyond the Company's control are causing the rates to exceed the statutory cap. Therefore, the Company is required to defer the amounts necessary to keep the rates under the statutory cap.

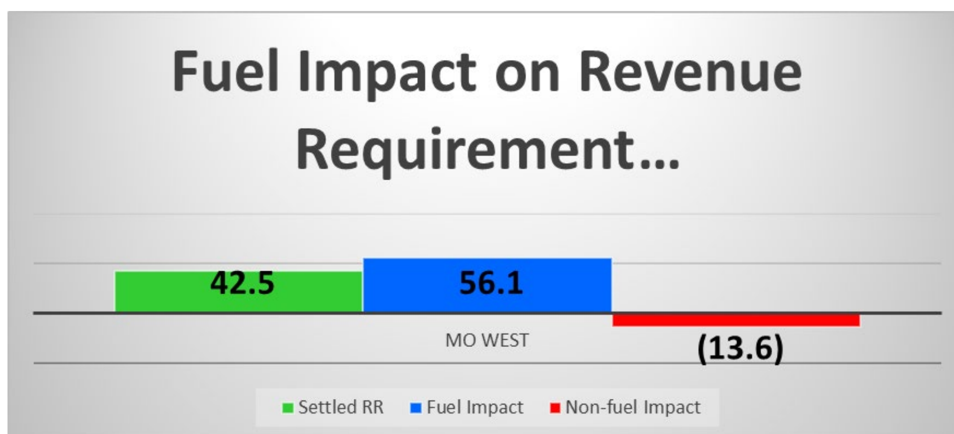
[33] 20 CSR 4240-20.090(2) states in part: "An electric utility may only file a request with the commission to establish, continue, or modify a RAM in a general rate proceeding and must rebase base energy costs in each general rate proceeding in which the FAC is continued or modified.'"

As explained in EMW's opening statement and in the surrebuttal testimony of Darrin Ives, the entire amount of the increase in the EMW's case is driven by increases in fuel and purchased power. Tr. Vol. 12 at 1005; Ex. 42 at 22-23 (Ives Surrebuttal).

For EMW, the Company is rebasing an incremental $56.1 million of fuel and purchased power, as required by the FAC rules.[34] The overall revenue requirement increase is $42.5 million, based upon the current settlement document.

The exceedance of the aggregate 12.55% cap (based on a 3 percent statutory cap) is due to the inflationary pressures on fuel and purchased power and the resultant impact on customers' prices. It is also important to remember that FAC-related costs are recovered via both base rates (which are adjusted in general rate proceedings) and fuel adjustment rates (which are adjusted in fuel adjustment proceedings). Both rate processes are "under the rate adjustment mechanism" and FAC rules approved by the Commission.

The following table illustrates the impact of the fuel and purchase power re-basing in this rate case:



[34] 20 CSR 4240-20.090(2).

To emphasize, this means that all other components of the revenue requirement due to the settled issues in this case, besides the rebased FAC costs result in a $13.6 million reduction in revenue requirement in this case.

Evergy is following the mandate of Section 393.1655.5 and requesting that an appropriate amount of fuel costs in File No. ER-2023-0011 shall be deferred to ensure that the rate adjustment mechanism does not cause the Company to exceed the compound annual growth rate limitation set forth in Section 393.1655.

Including this $31 million amount in the pending FAC in Case No. ER-2023-0011 would cause EMW to exceed the statutory cap under section 393.1655.5 when considering the impacts from the most recent FAC accumulation period, the immediately preceding FAC accumulation period, and the effects of the overall rate increase in this case which is driven entirely by the rebasing of fuel and purchased power into base rates as required under the FAC rules.

All of the rate increases in both the rate case and the FAR cases are resulting from and "are under" the Commission approved rate adjustment mechanism, the FAC. When EMW exceeds the statutory cap as a result of either the general rate case which is driven entirely by increases in fuel and purchased power or the FAR case, it is required by Section 393.1655.5 to defer the fuel and purchased power costs to a regulatory asset to avoid exceeding the statutory cap and ensure that "the performance penalties. . . are not triggered".[35]

2. Deferral of the Extraordinary Fuel and Purchased Power Costs Is Consistent with the PSC's FAC Rule.

The proposed deferral in the FAR case is also consistent with paragraph XI of the Commission's FAC rule[36] given the extraordinary circumstances surrounding the Company's fuel cost increases.

[35] Section 393.1655(5).
[36] 20 CSR 4240-20(8)(A)2.A(XI).

The FAC Rule allows the utility to request a deferral of "extraordinary costs" that would otherwise flow through the FAC and cause it to exceed the statutory cap. The PSC can defer extraordinary costs "not to be passed through" the FAC under Paragraph XI of the FAC Rule's Section (8)(A)2.A "due to such costs being an insured loss, or subject to reduction due to litigation or *for any other reason*; …" Id. [emphasis added]. Under its usual practice, the PSC determines how the deferred costs will be treated in a future rate case.

There are a variety of causes for the fuel and purchased power increases, all of which were extraordinary and were significantly impacted by external factors beyond the Company's control.[37] A leading economist noted that after the recession caused by COVID-19, "the abrupt reopening of the economy after lockdowns caught the global manufacturing sector unprepared. This has created widespread supply-chain bottlenecks and scarcity in global goods and commodities markets that have affected multiple items in the consumer-price indexes (CPI) basket of goods and services. The Russian invasion of Ukraine provided a further shock to energy prices, with widespread effects across all commodities."[38] Other causes outside EMW's control include recent episodes of volatile weather and high temperatures.

In 2021, the Commission permitted EMW to defer $297 million in extraordinary costs resulting from "the effects of the cold weather event of February 2021" where its "actual total energy costs eligible for recovery through its FAC were significantly higher than the base energy costs included in rates."[39] Staff recommended the deferral under Paragraph XI because, "due to Winter Storm Uri,

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[37] See generally "U.S., European Economies Slow Sharply as Recession Risks Grow," The Wall Street Journal (June 23, 2022) ("… surging prices of energy and food weakened demand for other goods and services"; "Russia's war in Ukraine has hit global growth as high inflation spread across the globe"; "Economies also face continuing supply-chain disruptions and the prospect of rising interest rates ...").

[38] "Angel Ubide [Economist and Managing Director, Citadel, LLC] expects inflation to subside if supply shocks fade," The Economist (May 19, 2022).

[39] See *Order Approving Tariff to Change Fuel Adjustment Rates* at 2, n.1, In re Evergy Mo. West for Auth. to Implement Rate Adjustments, No. EO-2022-0005 (Aug. 18, 2021).

EMW's actual total energy costs eligible for the FAC were significantly higher than the base energy costs included in its rates."[40]

In the recent EMW case involving the securitization of the Storm Uri costs, all parties, including EMW, Staff, and Public Counsel agreed that increases in fuel and purchased power costs experienced during the Storm Uri were extraordinary and qualified to be securitized under Section 393.1700.[41] In its *Report And Order*, the Commission also found that the fuel and purchased power costs during the Storm Uri were "extraordinary" and should be securitized.[42]

If the Commission accepts the Company's position and defers the extraordinary fuel and purchased power costs, it would not penalize the Company for events outside of its control, it would follow the intent of the State to not penalize companies electing PISA for fuel and purchased power increases under the FAC or Rate Adjustment Mechanism, and it will enable resolution of this rate case without exceeding the statutory cap as a result of extraordinary fuel price increases.

For these reasons, the Commission should accept the Company's proposal to defer the appropriate amount of extraordinary fuel costs to a regulatory asset to ensure that the statutory cap is not exceeded.

3. The Commission Should Grant the Deferral Requested by EMW in the FAR Case Rather Than This General Rate Case.

OPC witness Mantle has disputed the need for a deferral of fuel and purchased power costs in either the FAR case or the rate case, but if there is a deferral, Ms. Mantle recommends that the "deferral should be dealt with in this [rate] case because the costs that are the subject of this FAC rate change

[40] See Staff Recommendation for Approval of Tariff Sheet at 3, id. (Aug. 2, 2021).
[41] See Non-unanimous Stipulation and Agreement, File No. EF-2022-0155 (filed Aug. 1, 2022).
[42] *Report and Order*, pp. 15, 23, In re Application of Evergy Missouri West, Inc. D/b/a Evergy Missouri West for a Financing Order Authorizing the Financing of Extraordinary Storm Costs Through an Issuance of Securitized Utility Tariff Bonds, File No. EF-2022-0155 (Oct. 7, 2022).

were incurred in December 1, 2021 through May 31, 2022." See Ex. 302 at 29 (Mantle Rebuttal). For the reasons stated herein, Public Counsel' recommendation should be rejected.

A deferral of fuel and purchased power costs in this general rate case instead of the ongoing FAR case would lower the revenue requirement resulting from the rate request due to including an artificially low level of base energy costs in base rates. For example, if the Commission approved a $42.5 million rate increase (this amount represents the settled issues only and does not consider the impact of litigated issues), the effect of a deferral of $31 Million would effectively reduce the rate increase to $11.5 Million. This effect would provide for less annual revenues to the Company than should be provided were the deferral addressed in the FAR case. See Ex. 42 at 23-24 (Ives Surrebuttal). It would also necessarily lead to higher FAR filings subsequent to the general rate case because the difference between actual energy costs and the artificially low level of base energy costs included in base rates due to the deferral of such costs in the rate case will be greater than if base energy costs in the rate case are set at the higher level that will result if the deferral is made in the FAR case and not the rate case.

The Company would be inappropriately penalized under this approach for fuel increases that would flow through subsequent FAR accumulation periods that are outside of its control and would be inconsistent with the State's intent to remove the effect of FAC rate adjustment mechanism impacts from statutory exceedances of the statutory cap through a deferral. This is exactly what the PISA statute attempts to avoid by allowing the deferral of fuel costs in an FAR case.

It is the policy of the State that the public utility companies that elect Plant In Service Accounting should not be penalized by fuel increases that are outside their control, but instead the company is required by the PISA statute to defer fuel costs without a financial detriment to the Company. The negative financial consequences of a deferral in the rate case will be avoided if the Commission

authorizes the deferral of extraordinary fuel and purchased power costs in the context of the pending FAR case.

4. Status of the FAR Case (File No. ER-2023-0011)

On July 1, 2022, EMW filed proposed rate schedules to adjust charges related to the Company's approved Fuel Adjustment Clause ("FAC"), Case No. ER-2023-0011. In the Company's proposed Fuel Adjustment Rate ("FAR") filing on July 1, 2022, the Company proposed that $31.0 million of extraordinary fuel costs not pass through its FAC. As described in the direct testimony of Lisa Starkebaum and Darrin Ives, including $44.6 million in the fuel adjustment rate now will cause the overall rate increase resulting from the current 2022 EMW general rate proceeding to exceed the 3 percent Compound Annual Growth Rate ("CAGR") cap under section 393.1655.5. EMW proposed to include $13.6 million of FAR-related costs in the fuel adjustment rate effective September 1, 2022 and defer the balance of $31 million for further treatment in a subsequent general rate case.

In Staff's Recommendation filed on July 28, 2022, Staff recommended the Commission issue an order rejecting the proposed tariff and direct EMW to file a substituted tariff sheet that included the $31 million fuel costs that Evergy has proposed to defer to the Plant in Service Accounting ("PISA") regulatory asset. Further, if the Commission supports Staff's position that the $31 million in fuel costs must be included in the FAR filing, but timing prevents inclusion in the current FAR, Staff recommends including the $31 million in the next FAR filing.

EMW filed its Response to Staff Recommendation and Request for Hearing on August 8, 2022. On August 15, 2022, Staff filed its Response to EMW reaffirming its position that the proposed tariff sheet be rejected and a substituted tariff be filed including the $31 million in fuel costs.

On August 24, 2022, the Commission issued its *Order Rejecting Tariff to Change Fuel Adjustment Rates*. Parties were directed to file a proposed procedural schedule by September 12, 2022.

In addition, Evergy Missouri West was authorized to file any revised tariff sheets necessary to implement interim fuel adjustment rates consistent with uncontested components of Evergy Missouri West's proposed fuel adjustment rates.

On August 31, 2022, EMW filed interim tariff revision that reflected recovery of the $13.6 million of FAC-related costs in the fuel adjustment rate, after removal of the $31 million deferral amount now in dispute.

On September 14, 2022, the Commission issued its *Order Approving Interim Tariffs To Change Fuel Adjustment Rate* which approved the interim tariffs to be effective October 1, 2022. Evidentiary hearings were held in the FAR case on September 30, 2022.

5. <u>The Commission Should Reject Public Counsel's Flawed Legal Theory to Subject EMW to an Unlawful "Performance Penalty".</u>

Public Counsel has filed pleadings in Case No. ER-2023-0011 which explains to some degree the Public Counsel's theory for its recommended approach in this case and the FAR case, and demonstrates OPC's approach is unreasonable and unlawful.

Public Counsel is arguing that the timing of the decisions and the effective date of the changing rates in the general rate case and the pending FAR case will determine if the Commission may authorize the deferral of the fuel and purchased power costs under Section 393.1655.5.

While EMW disagrees with Public Counsel's legal theory related to the deferral of fuel and purchased power costs, EMW has cooperated with Public Counsel to recommend an expedited procedural schedule in File No. ER-2023-0011, as requested by Public Counsel. This schedule has now been largely adopted by the Commission.[43]

[43] Order Approving Procedural Schedule, File No. ER-2023-0011 (issued Sept. 16, 2022)(The Commission accelerated the briefing schedule by one week from the dates proposed by the parties.

Public Counsel is arguing that if the Commission decides the pending FAR case (ER-2023-011) before it decides the general rate case (and the new FARs become effective a few days before the rates in the general rate case), then the Commission cannot defer the fuel cost increases that come from the general rate case. Instead, under this flawed theory, any increase above the statutory cap would be treated as a "performance penalty", and Evergy would be denied recovery of the fuel and purchased power costs which are outside of its control.[44] However, the Company recommends that the Commission should decide this general rate case first, and then decide the pending FAR case, Case No. ER-2023-0011. After the Commission decides the rate case, then the Commission should request that the parties in the pending FAR case quantify the exact amount of the deferral necessary to ensure that the statutory cap is not exceeded. If the Commission follows this recommendation, then the Commission will know the exact amount of the general rate increase and therefore the amount of the deferral needed to avoid exceeding the statutory cap.

The Commission has clear statutory authority and obligation to defer enough fuel costs to keep the Company from exceeding the statutory cap, and the issues related to the lawfulness of the deferral in the FAR case would become moot.[45]

As previously discussed, Public Counsel's legal theory is a flawed, an incorrect interpretation of the PISA statute, and should be rejected by the Commission. OPC's interpretation is flawed and incorrect since the changing rates in both the general rate case and in the pending FAR case are driven entirely by fuel and purchase power cost increases. As explained above, the Company is rebasing an

[44] Id. at 10 ("... if the FAC rate increase goes into effect before the general rate case has concluded, the addition of the PISA investments in the general rate case would potentially push Evergy's average rate over the 3% compound annual growth rate cap imposed by § 393.1655.3 RSMo., thereby exposing Evergy to the statutory performance penalty.")

[45] Id. at 11 ("For the reasons set forth, if the Commission's final determination of the issue now presented in this case is delayed until after the conclusion of Evergy's current general rate case, then the issue in dispute in this case will be rendered moot and ratepayers will be denied the benefit of the statutory rate caps imposed by RSMo. § 393.1655.3.")

incremental $56.1 million of fuel and purchased power, as required by the FAC rules.[46] The overall revenue requirement increase is $42.5 million, based upon the current settlement document.

In the general rate case, the base rate increase is "under a rate adjustment mechanism approved by the commission under sections 386.266"[47] since EMW is required to change its base rates to reflect the rebasing of the fuel and purchased power costs, as mandated by the FAC rules.[48] In the pending FAR case, the rates are also increasing because of the increased fuel and purchased power costs that are being charged under the FAC rate adjustment mechanism approved by the Commission under section 386.266.

In both cases, the changing rates are a direct result of the provisions of the FAC rules. If fuel and purchased power costs in either case cause EMW to exceed the statutory cap, then the statute requires that the fuel and purchased power costs must be deferred to a regulatory asset for future recovery. As explained previously, EMW requests that the deferral be done in the context of the pending FAR case to avoid adverse impacts upon EMW's financial health. Nevertheless, deferral is required under the circumstances of these cases, no matter which docket is decided and implemented first when the statutory cap is exceeded by fuel and purchased power costs.

Under the FAC rule, fuel and purchased power costs must be recovered through base rates and the FAR (Fuel Adjustment Rate), subject to a 95/5% sharing mechanism.[49] Because fuel and purchased power costs are recovered in both places, the rate elements and the associated costs cannot be artificially isolated from one another. If the base energy cost in base rates is too low, then the FAR will be correspondingly higher and, conversely, if the base energy cost in base rates is too high, then the FAR

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[46] 20 CSR 4240-20.090(2).

[47] Public Counsel has conceded that "Specifically, the phrase "under a rate adjustment mechanism approved by the commission under sections 386.266 and 393.1030" can be translated to "through the FAC or RESRAM riders" when discussing Evergy.

[48] 20 CSR 4240-20.090(2).

[49] EMW Tariff, P.S.C. Mo. No. 1, 3rd Revised Sheet No. 125.

will be correspondingly lower. EMW's FAC is a "rate adjustment mechanism" under 393.1655.5. Any attempt by OPC or Staff to state that the FAR itself is the "rate adjustment mechanism" is wrong because it would exclude base energy costs which inarguably are a part of the mechanism and affect the level of the FAR.

Even under OPC's view, Public Counsel admits that if the Commission decides Evergy's current general rate case before deciding the FAR case, File No. ER-2023-0011, then the issue related to deferral of fuel and purchased power costs in File No. ER-2023-0011 will be rendered moot.[50]

During the hearings on September 30, 2022 in File No. ER-2023-0011, EMW witness Darrin Ives estimated that now, taking into account the settlements in this case and the possible outcomes of the contested issues in this case, that the needed deferral will be in the range of $11 million and $19 million.[51]

6. Conclusion.

For all the foregoing reasons, the Commission should reject Public Counsel's recommendation in this case that if a deferral of fuel and purchased power costs occurs in File No. ER-2023-0011, then the recovery should occur in this rate case. Instead, EMW respectfully requests that the Commission authorize a deferral of fuel and purchased power costs in the pending FAR case, File No. ER-2023-0011, anticipating that these fuel and purchased power costs will cause EMW's rates to exceed the statutory cap. Under these circumstances, it would be just and reasonable to defer those costs to avoid exceeding the statutory cap on rates, and ensure that the performance penalty provisions of Section 393.1655(3) are not triggered as a result of increasing fuel and purchased power costs, which are

[50] OPC Motion For Summary Determination, p. 12 of 14, File No. ER-2023-0011.
[51] Tr. Vol. 1 at 69-72, File No. ER-2023-0023.

addressed in the FAC, both the rebase in a general rate case and the subsequent FAR adjustments – all considered to be part of the rate adjustment mechanism under the Commission's FAC rules.

ISSUE NO. VI: FUEL AND PURCHASED POWER

A. How should the net cost of the CNPPID hydro purchased power agreement ("PPA") be treated?

See discussion in Issue V.B above.

1. Should a normalized cost be included in the calculation of the fuel and purchased power costs of Evergy Metro's revenue requirement?

   Yes. See discussion in Issue V.B above.

2. Should a normalized cost be included in the Evergy Metro FAC base factor calculation?

   Yes, See discussion in Issue V.B. above.

3. Should the actual CNPPID hydro PPA costs be included in Evergy Metro's actual accumulation period FAC costs?

No, the EMM FAC tariff sheet 50.23 (part of Ex. 1000) indicates that it is currently adjusted to market level and should be done in this case as well as discussed in Issue V.B above.

ISSUE NO. XV: RATE BASE

A. *Has Evergy met its Burden of Proof to permit Recovery of Capital and Operating Costs for Iatan 1, Jeffrey 1-3, and LaCygne 1-2?*

Evergy has met its burden of proof to recovery capital and O&M costs related to Iatan 1, LaCygne Units 1 and 2, and the Jeffrey Units because Sierra Club has failed to raise any "serious doubt" that these expenses proposed in the test year are imprudent.[52] Such a level of doubt must be supported by evidence which points to serious inefficiency and improvidence. Because Sierra Club has failed to demonstrate such serious doubt, the presumption that Evergy's capital and O&M costs to maintain these

[52] Similar arguments by Sierra Club were addressed in Issue III regarding Resource Planning.

plants is prudent stands. Even if Sierra Club's allegations are viewed as meeting this significant threshold, they do not support the proposed disallowances exceeding $100 million.

Sierra Club's claim of imprudence rests entirely on its complaints about Evergy's IRP plans and its alleged failure "to demonstrate that continued investment in its coal fleet is the prudent and least-cost option to provide" service to customers. See Ex. 450 at 4 (Glick Rebuttal). However, Sierra Club witness Ms. Glick provided no basis for this claim, beyond her analyses of "a variety of historical and forward-looking costs" which were narrow and incomplete. They "simply compare costs to market values of energy, ancillary services, and capacity," and conclude "that if costs are greater than total revenues," operating the plants "must be imprudent." See Ex. 55(C) & 56(P) at 11 (Messamore Rebuttal).

This type of analysis "completely ignores" that Evergy must "have sufficient economic capacity of some type to serve customers and meet reserve margin requirements" set by Southwest Power Pool. Id. at 11-12. Sierra Club's recommendation must be considered in light of SPP's decision on July 25, 2022 to raise its planning reserve margin requirements from 12% to 15% in 2023.[53] This action was unanimously supported by the SPP Regional State Committee. Given the need to maintain reliable capacity in these uncertain times, there is no reasonable basis to grant Sierra Club's request to disallow over $100 million in capital and O&M costs for these valuable plants.

The prudence standard adopted by the Commission recognizes that a utility's costs are presumed to be prudently incurred and that a utility is not required to demonstrate in its case-in-chief that all expenditures were prudent.[54] "However, where some other participant in the proceeding creates a

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[53] See SPP Update (page 26), presented to Mo. Public Serv. Comm'n (Aug. 31, 2022), available at www.psc.mo.gov/General/Agendas ; "US Southwest Power Pool OKs plan to raise planning reserve margin to 15%," Megawatt Daily at 4-5 (July 26, 2022).
[54] In re Union Elec. Co., No. EO-85-17, 1985 Mo. PSC LEXIS 54, *25, 27 Mo. P.S.C. (N.S.) 183, 193 (1985).

serious doubt as to the prudence of an expenditure," the utility "has the burden of dispelling those doubts and proving the questioned expenditures to have been prudent." Id.

When such a serious doubt is raised, the utility's conduct is judged under a reasonableness standard, "under all the circumstances, considering that the company had to resolve its problem prospectively rather than in reliance on hindsight." The Commission's responsibility "is to determine how reasonable people would have performed the tasks that confronted the company." Id. at *26-28.[55]

Sierra Club has not raised a serious doubt in these cases. This is particularly true, given that the Commission has reviewed the operations and expenditures of both Evergy Metro and Evergy Missouri West in multiple rate cases over the past decade, and has approved rates that reflect the prudent costs of their ownership in the Jeffrey, LaCygne, and Iatan generating units.[56]

For example, the Commission found that the environmental improvements made to the LaCygne plants in 2014-15 were reasonable and prudent, rejecting the arguments of Sierra Club that the decline in natural gas prices that occurred earlier in the decade should have caused Evergy Metro (then KCP&L) to retire the plants.[57] While the PSC stated that sufficient doubt existed to analyze Sierra Club's claims, it concluded that the planning and analysis conducted by KCP&L was appropriate, that it "met its burden of proof to demonstrate that, based on the circumstances that existed at the time," and that KCP&L "was prudent in choosing to proceed with the LaCygne environmental retrofit project. The correct and

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[55] State ex rel. Assoc. Natural Gas Co. v. PSC, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997); Report & Order at 19, In re Eighth Prudence Review of Costs of KCP&L Greater Mo. Operations Co., No. EO-2019-0067 (Nov. 6, 2019).

[56] See Order Approving Stips. & Agmts., In re Kansas City Power & Light Co., No. ER-2018-0145 & In re KCP&L Greater Mo. Operations Co., No. ER-2018-0146 (Oct. 31, 2018) (approving revenue requirement Stip. & Agmt. of Sept. 19, 2018 and the return of benefits related to Iatan units); Order Approving Stip. & Agmt. regarding Certain Issues, In re Kansas City Power & Light Co., No. ER-2016-0285 (Mar. 8, 2017) (Iatan 1 and LaCygne assets cited in Ex. A to Non-Unan. Partial Stip. & Agmt.); Order Approving Stips. & Agmts., In re KCP&L Greater Mo. Operations Co., No. ER-2016-0156 (Sept. 28, 2016) (Iatan 1 and Jeffrey depreciation rates cited in Sched. A to Non-Unan. Stip. & Agmt. filed Sept. 20, 2016).

[57] Report & Order at 59-64, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015).

prudently incurred costs to include in KCPL's Missouri rate base for the LaCygne project are $292,610.121."[58]

Sierra Club's criticism of LaCygne, Jeffrey and Iatan 1 are based on a limited analysis which failed to estimate the real-life costs of replacing these units with renewable resources of sufficient capacity. As Ms. Messamore testified, Sierra Club "not including any assessment of costs for replacement capacity is ridiculous." See Ex. 55(P)/56(C) at 12 (Messamore Rebuttal).[59] Sierra Club also failed to assess the value of these plants when system reliability and customer needs are severely challenged. During the extreme weather caused by Winter Storm Uri in February 2021 these generating units were critical to maintaining electrical and heating systems, and to keeping customers safe. In its report to the Commission, Staff reported that Evergy placed its coal units into "self-commit" status "in order to help prevent potential problems … during very cold conditions. By keeping the coal fleet online throughout the event, Evergy sought to maximize its available generation capacity … during times of peak demand."[60]

As Ms. Messamore concluded, "none of the analyses it presents come close to approximating an economic alternative resource plan when compared to the current IRP Preferred Plans" of Evergy and "do nothing to support Sierra Club's allegation of imprudence or recommended disallowance." See Ex. 55(C) & 56(P) at 12 (Messamore Rebuttal).

Evergy has met its burden of proof, and the proposed disallowance must be denied.

[58] Id. at 64.
[59] OPC witness Dr. Marke agreed that a "prudent electric utility's analysis … to retire a generating plant should include an assessment of the cost to replace its capacity." Tr. Vol. 8 at 272.
[60] Staff Report at 67, In re Cause of the February 2021 Cold Weather Event and its Impact on Investor-Owned Utilities, No. AO-2021-0264 (April 30, 2021).

ISSUE NO. XVIII: RATE DESIGN/CLASS COST OF SERVICE

A. *What are the appropriate rate schedules, rate structures, and rate designs for the non-residential customers of each company?*

The Commission should approve the rate schedules, rate structures and rate designs proposed by Evergy for non-residential class. See Ex. 58 at 45-47 (Miller Direct); Ex. 118 at 34-39 (Miller Direct), and EMM and EMW's proposed tariffs.) The Company has completed a consolidation study, rate modernization plan, jurisdictional alignment review, and collected customer feedback to propose and support the following changes. These changes include:

- A new Time-Related Pricing ("TRP") Rate
- Seasonal Alignment (Changing EMM to match EMW)
- Consolidation of rates/codes
- Elimination of select end use rates
- Future plan for a redesign of the Commercial & Industrial ("C&I") Hours Use energy charge and fixed boundaries referred to as "Bright Lines" to better define rate classes.

1. Evergy Has Established A Comprehensive Framework Which Should Guide Rate Design Changes in This Case and Future Rate Cases.

The Company's Rate Modernization Plan strives towards key rate design objectives which include, but are not limited to, cross jurisdictional alignment, rate simplification, and developing meaningful price signals. The Rate Modernization Plan is part of a broader strategy by the Company that considers customer choice, customer satisfaction, simplification, efficiency, and a number of other goals. The Rate Modernization Plan serves as the framework by which the Company is basing all rate proposals.

To provide meaningful data and analysis to support rate proposals, the Company has also performed a number of studies that support all recommendations made in the Company's Direct filing. The Rate Modernization Plan and the studies considered the customer, the industry, and full customer rate impacts in its design, to make sure that the collective changes in total harmonized in a manner to minimize customer disruption by allowing full understanding of not just customer billing impacts, but operational and implementation impacts to the Company to ensure it could all actually be done efficiently and effectively. Id. at 16 (Miller Rebuttal). The studies include:

2. A Consolidation Study.

As explained in the Direct Testimony of Company witness, Bradley D. Lutz, the Company completed a Consolidation Study to evaluate consolidating the Evergy Missouri Metro and Evergy Missouri West rates. See Ex. 49 and 117 at 19-35 (Lutz Direct); Ex. 60 at 14 (Miller Rebuttal). The objective of the study was to outline the current state of operations, costs, and rates, as well as the potential obstacles with immediate rate consolidation given the current state, and finally, the steps recommended to consolidate rates properly (leveraging past learnings) with a possible execution timeline. Given the broad reaching impact to all customers, the results included a plan that outlined important considerations to the consolidation of rates, including specific steps that would need to be performed (and in what sequence/timing) to provide the most seamless transition possible. Id. at 15 (Miller Rebuttal.)

Several recommendations outlined were proposed and included in the Company's Direct filing including: the elimination of outdated/frozen rates and the elimination of most end-use rates. Additionally, in consideration of cross jurisdictional alignment, the Company included in Direct Testimony an Hours Use plan to redesign the energy charge calculation, a plan to incorporate demand thresholds for all C&I customers (referred to as Bright Lines), and a TRP proposal that is responsive to

customer feedback and incorporates time related elements to the energy charge calculation. The Consolidation study and plan is important because it considers the cross jurisdictional impacts and implementation considerations, where the Company has included cross functional experts in the Company to determine ideal timing and what's feasible to minimize operational impact/costs. The Consolidation was filed on October 30, 2020 and no stakeholder comments were offered or filed.

The Company worked with consultant, Concentric Energy Advisors to review the current calculation of the hours use energy charge for C&I customers and propose a conversion to per-kWh pricing. Since the proposed per-kWh rates are guided by cost causation as evaluated in the CCOS and differences in current energy and demand rates vary across companies the potential bill impacts for the proposed changes could be excessive for some customers. As such, the Company plans to adopt a multi-step implementation plan to help mitigate those potential impacts over time. The Company hopes to collect feedback in this rate case to help refine the plan. Time elements like those included in the TRP rate are also a consideration, once the Company sees how customers react (participate) in the TRP rate and what feedback they might offer. <u>See</u> Ex. 60 at (Miller Rebuttal) Confidential Schedule MEM-4, pp. 1-55. For the complete study, "Missouri West and Missouri Metro: Real Time Pricing Alternative Rate Design" (Concentric Energy Advisors) (Dec. 2021).

3. <u>Bright Lines Study</u>

With cross jurisdictional alignment in mind, the Company is planning to establish demand thresholds to better define each C&I class in a future case. Bright Lines will have the benefit of minimizing rate switchers and better group similarly situated customers based on demands. With customers better delineated into their appropriate classes, stability in the rate classes will allow for better class analysis (and impacts) so as the Company makes greater progress in implementing different components of their overall plan, we can provide greater certainty regarding impacts.

4. TRP Study

With the explicit purpose to replace the Company's existing Real Time Pricing rate, the Company worked with consulting firm, Concentric Energy Advisors, to design a time-based rate option that leveraged rate design examples in use elsewhere the industry, offered price signals that aligned with market pricing (time-based energy charges), and that worked with Evergy's billing system. The result of that effort is the Time Related Pricing rate ("TRP") rate filed in the Direct filing. The TRP rate achieves the goals set and provides a suitable replacement for the Real Time Pricing rate.

5. Rate Consolidation and Elimination of End Use Rates

Like the Company, Staff also supports rate consolidation and the elimination of end use rates. However, Staff's recommendations are far too prescriptive to be manageable with rigid suggestions for specific rate code use. Additionally, all of the Company recommendations are supported by full bill impacts, meaning every single customer's bill was pulled for the test year and modeled to understand the impact of every single change being recommended.

6. The Company does not support any rates that remove customer choice. (e.g. default TOU rates).

While Company witness Kimberly Winslow offers extensive testimony on Residential TOU rates, including testimony countering Staff's proposals, Ms. Miller discusses specifically the Non-Residential TOU rate suggested by Staff. (Ex. 61, Miller Surrebuttal, pp. 30) Staff has demonstrated no basis of need for such a proposal for these non-residential customers and given the broad set of customers and the unique rate structures that exist across jurisdictions, much more support and analysis would be needed for the Commission to realistically consider such a proposal. For these reasons, Staff's mandatory TOU proposal for non-residential customers should not be adopted.

B. What are the appropriate rate schedules, rate structures, and rate designs for the Residential customers of each utility? What is the appropriate residential customer charge?

The Company recommends the following for the residential rate design:

- The Company recommends an increase to the Residential customer charge in both EMM and EMW to $16.00. This recommendation is based on cost causation and supported by the Evergy's CCOS study and customer classified costs.
- The Company does not recommend further change or incline to the summer inclining block rate due to the likely negative billing impact to customers and the potential harmful effect to the Company's ability to cover its fixed costs and ROE risk. See Ex. 61 at 29 (Miller Surrebuttal).

1. The Commission Should Adopt Evergy's Proposed Customer Charge of $16.

The Company recommends that the Commission approve the Company's recommendation for a customer charge of $16 that aligns with historical methods to recover customer-related costs of service and consider cross jurisdictional alignment. The Company utilized the results of the only full Class Cost of Service ("CCOS") study performed in this rate case to inform recommended adjustment to the customer charge. The Company calculated this proposed customer charge using the same customer cost accounts as used in previous rate cases. Given a continued interest in alignment across its Missouri jurisdictions, the Company opted to propose a consistent customer charge for customers in both EMW and EMM. Evergy's CCOS study, based on an equalized rate of return, would support an increase in the customer charge for EMM to $28.39, and for EMW to $35.94. See Ex. 61 at 15-16 (Miller Surrebuttal).

Staff, on the other hand, abandoned cost-based determination and instead recommends that the residential customer charge for both utilities be established by increasing the current EMM residential

customer charge by the percentage adjustment to the Metro Residential class revenue requirement, rounded to the nearest quarter. Staff estimates that value at $12.00. See Ex. 265 at 30-31 (Lange Surrebuttal) Unlike Evergy, Staff did not do a full CCOS nor rely on the Company CCOS to support its recommendation. Id. at 4 (Lange Surrebuttal). Instead, Staff created a new allocator to allocate customer costs. See Ex. 60 at 16 (Miller Rebuttal).

The Company did a cursory review of recent rate cases and confirmed that Staff utilized and relied on allocated costs to recommend a customer charge in at least the last 5 rate cases alone. Given this long history acknowledging full customer costs (even allocated ones), the approach used by the Company and resulting customer charge amount are more reasonable than the newly created approach used by Staff in this case.

The Company respectfully requests that the Commission approve Evergy's $16 customer charge as it more accurately represents the cost to serve customers and provides a step toward full recovery of customer-related costs for serving EMM and EMW's customers.

2. The Commission Should Maintain The Existing Residential Rate Structure.

As explained above, Evergy does not recommend further change or incline to the summer inclining block rate due to the likely negative billing impact to customers and the potential harmful effect to the Company's ability to cover its fixed costs and ROE risk. See Ex. 61 at 29 (Miller Surrebuttal).

It is critical for the Company to understand the full effects of all proposals to ensure that customer impact is known and managed. The Company's ongoing plan and supporting analysis will be comprehensive, so that the bill/revenue impacts are fully known and understood and data to support those recommendations will include the collective reflection of all proposals and recommendations rather than a partial view offered by Staff. As such, premature change without knowing the full effects

would not be prudent. For these reasons, the Commission should reject further changes in the residential rate structure until the full impact upon customers and the Company is fully evaluated.

3. The Commission Should Support Clean Up and Consolidation of the Existing Rates.

Evergy is recommending several changes to the residential class rate design which are in the nature of "clean-up" of the residential tariffs, including:

- Eliminate frozen 2 Meter Heat Rate (1RS2A) and transition customers to 1 Meter Heat Rate (1RS6A).
- Eliminate Residential Other Rate (1RO1A) and transition customers to Residential Standard (1RS1A).
- Eliminate frozen Time of Day (TOD) Rate (1TE1A) and transition customers to Residential Standard (1RS1A).
- Remove frozen Multi-occupancy provision from the Residential Standard and Residential Meter heat rate calculation (subset of 16 1RS1A and 1RS6A) and transition customers to the standard commercial rate based on best fit (1SGSE or 1MGSE). See Ex. 58 at 3 (Miller Direct); Ex. 118 at 3 (Miller Direct).

Staff offers testimony regarding lessening the winter declines in the Residential General Use Rate codes and Residential Space Heating Rate Codes. See Ex. 243 at 53 (Lange Rebuttal). In this case, Evergy has included a proposal to eliminate meter/separately metered space heat rates and move these customers to a single meter heat rate. In a future rate case, the Company plans to eliminate the remaining all electric rates/heat rates in EMM and EMW. As it did in this rate case, the Company will perform extensive bill impact analysis to understand the full impact of moving these remaining approximately 160,000 Residential customers to the Residential General Use Rates. At that time, the

Company will evaluate the changes appropriate to manage the impact to these customers, while maintaining the appropriate pricing/signal to recognize seasonal differences. See Ex. 61 at 16-17 (Miller Surrebuttal).

C. What measures are appropriate to facilitate implementation of the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule?

For all the reasons stated herein, there should be no changes to the default rates used by the Company or mandatory rates be established, particularly the low-differential TOU proposed by Staff. As will be noted in the following section, there are numerous reasons for the Commission to reject Staff's proposal. The Company should otherwise maintain its existing rate structures, rate designs, and tariff language for each rate schedule, except where the Company has proposed changes, as discussed herein.

D. Should the Company's proposed Time of Use rate schedules be implemented on an opt-in basis?

Yes.

1. Customers Should Have the Choice to Realize the Benefits of Time-of-Use Rates.

Evergy believes that optional TOU rates for residential customers are an important choice for utilities to offer its customers. Evergy's 3-period rate offer was foundational to Evergy's development of tools and education that customers used to understand pricing and cost-causation. As a result of those efforts Evergy currently has over 7,200 customers on its optional TOU rate – doubling its enrollment target of 3,500 customers as agreed upon in its 2018 Rate Design S&A.

The Commission should fully consider the voice of the customer in considering this matter. In June of 2022, Evergy conducted a survey of its online panel of customers to update Evergy's rate choice research. This survey is attached to Ex. 19 and 107, Direct Testimony of Charles Caisley- Confidential Schedule CAC-5. This was an online panel of nearly one thousand Missouri residential customers. Results show that customers are interested in more rate options. 90% said Evergy should offer more

rate plans (just 9% said no), and 52% said if more rate options were available, they would very likely consider changing rate plans. See Ex. 22 at 6-7, (Caisley Surrebuttal). In addition, this survey also gauged residential customer perspectives of the possibility of mandating TOU for all Missouri customers by the Commission. Nearly three-quarters of all respondents said they did not support this move toward a mandatory TOU rate, and fully 95% said they preferred that customers have the ability to choose the rate plan that is best for them.

Evergy's TOU rate proposals being made in this rate case build on the success of the 3-period TOU offer that launched in October of 2019. The Company took the learnings from that experience, customer feedback, and implementation success to develop a revised 3-period TOU rate, as well as a new 2-period TOU rate. These new rate offerings are discussed in the direct testimonies of Bradley D. Lutz and Kimberly H. Winslow.

Evergy's proposed TOU rates are designed with a price differential to incent behavior change and to improve efficiency of resources. Additionally, the TOU rates are designed for various customer lifestyles, improving the acceptability of the rate. Evergy is proposing to expand its TOU offer from its existing, 3-period TOU rate with the addition of a 2-period TOU rate and two options designed for the electric vehicle ("EV") driver in mind that include a 3-period high differential TOU rate that can be offered as a whole-house rate or as a separately metered rate. See Ex. 49 at 21-22 (Lutz Direct); Ex. 112 at 21-22 (Lutz Direct). The latter rates provide options for the EV driver/customer to install a separate meter to measure EV charging so that they may choose a different rate offer that is more suitable for their whole-house usage.

2. TOU Rates For Residential customers.

Refine the existing 3-Period TOU rate - Although the majority of customers on the existing TOU rate are satisfied with the rate and on average have seen an overall decrease in their electric bills, the

Company's analysis indicates that some refinement in the rate design is warranted. Evergy is proposing to adjust the summer and winter seasons to reflect a full, four-month period and to adjust the pricing differentials for the non-summer TOU periods. The pricing differential change is to better reflect the strong summer price observed by the Company's cost studies. The Company's on-peak to super off-peak price differential for the 3-Period TOU rate is 6 times in both summer and winter seasons (6:1). The on-peak to off-peak price differential is 3 times (3:1) and 2.5 (2.5:1) in the summer and winter seasons, respectively

Add a 2-Period TOU rate – This is a new rate proposed to provide customers an additional TOU rate option that have less ability to shift usage throughout the year and will address the bill impact observed with the 3-Period TOU rate for space heating customers. The seasons and on-peak period definition will match the 3-period TOU rate. The Company's on-peak to super off-peak price differential for the 2-Period TOU rate is 4 times in the summer season (4:1) and 2 times during the winter season (2:1).

Add a High Differential TOU rate – This is a new rate designed to appeal to EV drivers. This 3-period rate will offer a high price differential between super off-peak (night) and on-peak time periods (12 times for EMM and 10 times for EMW) to better accommodate the charging patterns of EV drivers.

Add a Separately Metered EV TOU Rate – This 3-period rate allows a customer to use a TOU rate solely for the charging of their electric vehicle with the same pricing structure as the High Differential TOU Rate but allows the customer the option to choose from a different rate in Evergy's portfolio for its home usage, better aligning with their lifestyle. This is accomplished by requiring the customer to have a separate meter for the EV usage. See Ex. 49 at 21-22 (Lutz Direct); Ex. 117 at 21-22 (Lutz Direct).

Evergy also proposed that the Commission authorize deferral for prudently incurred program costs (marketing, education and administration) for these proposed residential TOU rates at a not-to-exceed net customer acquisition cost of $150 per customer. In addition, to allow for the development and customer offers of the two additional high differential TOU rates targeted to EV customers, Evergy proposes that the Commission approve its request to offer these rates on or after April 1, 2023. See Ex. 82 and 128 at 23 (Winslow Direct).

The Company has embraced offering the TOU opt-in rate option and created a comprehensive research, education and marketing plan to support the rate. Through customer research and surveys, Evergy has concluded that the current design is a good option that residential customers, who choose to participate, enjoy because it allows more control to manage their energy usage versus a standard block rate structure. Most TOU participants were highly successful in changing behaviors to shift energy off-peak and to lower their bill. The Company has demonstrated success against all defined metrics with the TOU rate, which was designed with significant price differentials across three periods (on-peak, off-peak and super off-peak) and seasons (summer and winter).

The Company's TOU on-peak to super off-peak price differential is the most notable with the on-peak price being approximately 6 times higher than the super off-peak in both seasons (6:1). The on-peak to off-peak price differential is also notable with the on-peak price being 3 (3:1) and 2.5 (2.5:1) higher in the summer and winter seasons, respectively.

Evergy believes that its approach to give customers a choice of TOU rate options is much better than mandating an ultra-low differential that will fail to deliver on the potential of TOU plans used around the country on an opt-in basis. For these reasons, the Commission should approve Evergy's proposed optional TOU rate proposals.

E. Should the Staff's proposed Time of Use rate schedules be implemented on a mandatory basis?

No.

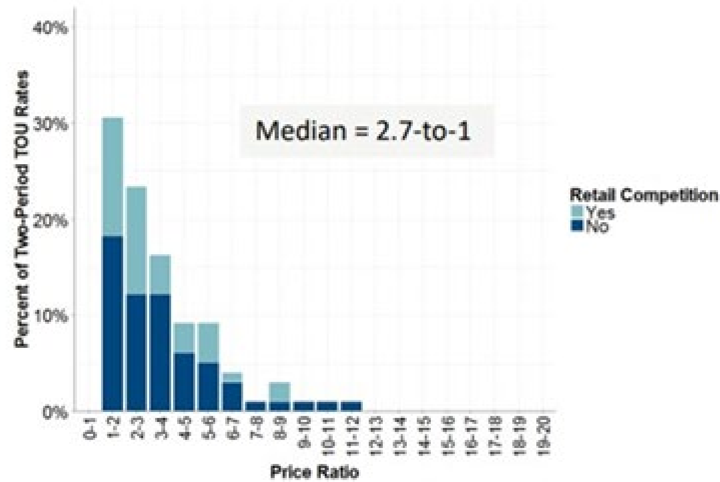
1. Staff's Proposed Ultra-Low Differential TOU Rates For All Customers Do Not Provide Meaningful Price Signals And Should Not Be Adopted On A Mandatory Basis.

Staff witness Sarah Lange recommends that Evergy's 3-period opt-in TOU rate be modified to a low-differential mandatory default TOU rate. See Ex. 229 at 41-45 (Lange Direct). The Company finds Staff's proposal to be highly undesirable for any TOU rate, especially in comparison with the existing, higher differential, optional rate structure that is offered to Evergy's residential customers, launched in October 2019. See Ex. 83 at 2 (Winslow Rebuttal). Staff's on-peak price relative to the off-peak price (pricing differential) for its proposed TOU rate is only slightly above 1.

As Evergy witness Kimberly Winslow testifies, ultimately, an "ultra-low" differential (essentially non-existent differential) TOU rate, as proposed by Staff, defeats the fundamental purpose of a TOU rate. A $0.01/kWh change proposed by Staff would not send any meaningful price signal to a customer such that they would be motivated to affect their usage through behavioral change. See Ex. 83 at 4 (Winslow Rebuttal).

A $0.01/kWh change, as proposed by Staff, is slightly greater than a 1:1 differential. Staff's proposed ultra-low differential is contrary to industry accepted TOU rate design. Industry research shows that half of TOU rates have a price differential of at least 10 cents per kWh. In fact, Evergy's research indicates that Missouri's ultra-low differentials (offered by Ameren Missouri and Empire) are extreme outliers to other utilities across the country that have implemented TOU rates. (Id.) The following survey performed by The Brattle Group supports this statement:

Price Ratio in Two-Period Rates



Price Differential in Two-Period Rates

Sources and notes: Brattle analysis of OpenEI Utility Rates Database. Data shown for IOUs only.

- Among two-period TOU rates, 71% have a price ratio of at least 2-to-1
- Price ratios shown are for the volumetric charge only
- The strength of the price signal will be diluted to some degree by fixed charges and/or additional flat volumetric charges

Id. at 5.

Ms. Winslow also testifies about one well-known mandatory default TOU rate that was offered by Puget Sound Energy in 2001, which had a slight peak to off-peak differential. Following a backlash

related to limited customer bill savings because of this low differential, the result was an immediate opt out by 10% of its 300,000 customers and Puget terminated its program in 2002. Id. at 6-7.

In conclusion, the purpose of the TOU rate is to provide a price signal to create behavior change to move certain activities off-peak. Staff is designing a default TOU rate that does not provide any price signal to effect behavioral change and that will not minimize grid impacts. Id. at 9.

As explained above, the Staff's ultra-low differential (only a penny differential) TOU rate is not really a TOU rate at all, judged by industry standards. While it is implemented through a time element, a single penny differential is not likely to change any consumer behavior to move usage from on-peak to off-peak periods.

But as explained by Ms. Lange, incenting consumers to change their behavior is not the goal of the Staff's proposal. Tr. Vol. 9 at 762-63. Staff's goal is to establish a rate schedule which is "cost-based." Tr. Vol. 9 at 746-47. However, since Staff concludes the cost between on-peak and off-peak periods is only a penny, Tr. Vol. 9 at 747, 759-60, the Commission should question the validity of Staff's view of "cost-based", or wonder why TOU rates should be a priority, if that is the case. Evergy does not believe Staff's approach adequately reflects the cost of peak and off-peak periods, and certainly will not significantly affect consumer behavior. If anything, such an ultra-low differential TOU rate is more likely to confuse or disappoint customers who have been educated to expect savings from moving their usage to off-peak periods.

The Commission should consider the risk of selling customers on the benefits of TOU rates through the use of Staff's ultra-low differential TOU design when it provides virtually no opportunity for bill savings or peak demand shift. Evergy has educated customers about the benefits of load shifting and ways that they can reduce their bills on the TOU rate. If customers take actions and they do not see

that their bill changes, they will be dissatisfied and that can snowball very quickly into negative customer experiences and customer complaints.

Evergy reinforces its TOU design with the tagline "Switch, Shift and Save" to engage the customer in a simple manner. While Ms. Lange states that her plan and time periods will leverage Evergy's Wait 'til 8 campaign, Evergy has concerns over customers experiencing what would amount to a bait and switch with Staff's ultra-low differential as they will not see the results that we have educated them on for the past several years under the Company TOU rate. See Ex. 83 at 7 (Winslow Rebuttal).

Without an effective price signal, it has been proven to be harder to motivate customers to change behavior and create elasticity of demand for energy at different times of the day. Studies, such as EPRI's *Price Elasticity of Demand for Electricity: A Primer and Synthesis,* researches in depth a consumer's price response to electricity – how consumers adjust their behavior and level of energy consumption when the price changes. Results of TOU programs demonstrate that as the price differential increases, customers shift usage in greater amounts. Id. at 5.

It is highly doubtful that Staff's ultra-low differential rate would provide any incentive for customers who may be increasing load, like charging an electric vehicle, to charge their vehicles during period of the day that are least impactful to the grid, which is increasingly important to mitigate.

For commercial and industrial customers, a mandatory TOU rate is not expected to have any real effect at all. As Mr. Caisley testified, Commercial and Industrial customers are much more likely to use electricity on their own production schedules regardless of a penny differential in the cost. Tr. Vol. 9 at 711-13. For the foregoing reasons, Evergy respectfully requests that the Commission reject Staff's proposed mandatory, low-differential TOU rates for residential, commercial and industrial customers.

In summary, the TOU issue in this case presents a policy choice between one-size fits all, which is just a new variation on what we have done for 100 years in electric rate design or giving consumers additional choice of rate structures. Every mandatory rate has a negative impact on some customers. This is a policy choice between one-size fits all / mandating the state's judgment for all customers, or allowing multiple rate options for customers to enroll into and to pick what fits them best.

F. Should the Commission order Evergy to meet with stakeholders related to its rate modernization plan within 180 days after the effective date of rates in this case?

This is not an issue that needs to be resolved by the Commission. Evergy has agreed in its Position Statement that "Evergy meets with stakeholders on a periodic basis and is not opposed to discussing the Rate Modernization Plan with interested parties."[61] Further, the Company is not opposed to any requested meeting from stakeholders. No party has disputed this position, and there is nothing in the record that would require the Commission to address this issue. However, it is important to recognize that such meetings are helpful only if stakeholders are fully engaged and provide constructive feedback to the Company.

G. Should Evergy work to improve the education of its customers regarding the billing options and rate plans it has currently?

This is not an issue that needs to be resolved by the Commission. Evergy has stated in its Position Statement that "Evergy strives to continually improve the education of its customers regarding the billing options and rate plans that it has currently."[62] No party has disputed this position, and there is nothing in the record that would require the Commission to address this issue.

[61] Evergy Position Statement, p. 31.
[62] Evergy Position Statement, p. 32.

ISSUE NO. XXIII. SUBSCRIPTION PRICING PILOT PROGRAM

A. Should the Commission approve the proposed Subscription Pricing Pilot Program?

Yes. Subscription pricing provides customers with a tailored and entirely fixed bill for their electricity service. Customers are offered a monthly fixed bill amount that is based on their historical usage and that monthly bill remains unchanged for a one-year term. At the end of the one-year term, customers do not face any true-ups or adjustment charges for that year. In this sense, it is similar to the simple form of billing that consumers have become familiar with for services such as television and music streaming, gym memberships, and cell phone data plans. It should be approved on a pilot program basis, as proposed by Evergy.

1. Evergy's Proposed Subscription Pricing Pilot Program Should Be Approved.

a. Subscription Pricing Is Widespread in the World Economy and Preferred by Customers

Today, the world and national marketplaces have many examples of flat-rate, subscription plans for the internet, television streaming services, gym memberships, and many other services. Customers like the certainty of flat-rate subscription plans. In fact, studies have indicated that about 78% of U.S. consumers have one or more subscription services for products and services that they subscribe to.[63] One recent survey, indicated that 49% of consumers prefer a subscription pricing for their services, with the majority (67%) of U.S. consumers preferring to pay for subscription services on a monthly basis.[64]

The abundance of subscription-based pricing for services from other industries is a common form of pricing that consumers regularly encounter in their everyday lives. In this sense, Evergy's customers will have familiarity with the concept of paying a fixed fee for a service that they use

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[63] https://www.zuora.com/resource/the-end-of-ownership/; The End of Ownership Report, p. 4, International Survey of Twelve Countries On Change Consumer Preferences In the Subscription Economy, Subscribed Institute; https://whatsnewinpublishing.com/the-subscription-economy-has-grown-over-435-in-9-years-and-the-uptick-is-expected-to-continue/

[64] https://recurly.com/press/subscription-service-survey-2022/

regularly. For all industries, subscription economy retail sales growth has been 435% between 2012 and 2021. This is compared to the overall retail economy which saw retail sales growth of 130% in the same time periods.[65] According to one study, revenues from products and services paid for by subscriptions in the United States is expected to be $1.5 trillion in 2025, and grow to $3 trillion by 2028, just six years from now.[66]

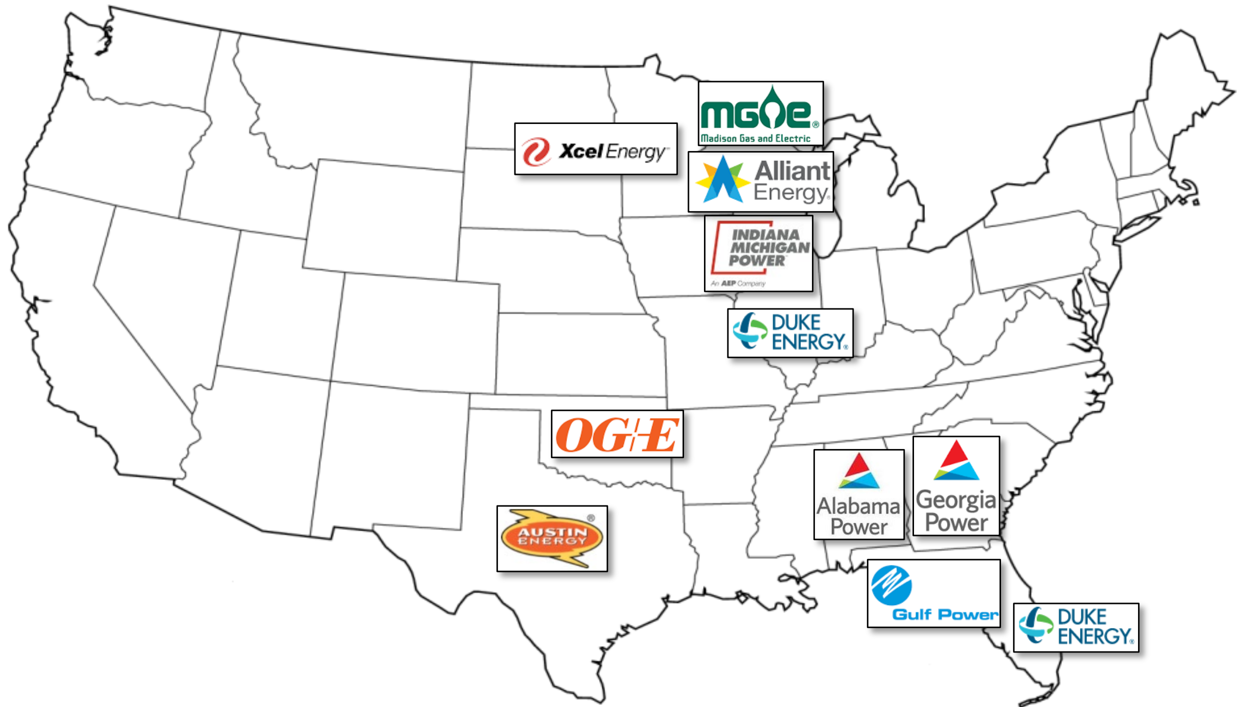
b. Subscription Pricing Is Becoming More Widespread in the Electric Industry

As Evergy witness Hledik explained, there is a rising trend toward the introduction of subscription pricing offerings across the electricity industry. Evergy's proposal positions the company and Missouri to advance a progressive and innovative development in residential customer offering. He discussed 11 electric utilities in the United States that offer subscription pricing on a full-scale or pilot basis. See Ex. 37 at 7-8; and Ex. 112 at 7-8, (Hledik Direct). Figure 1 and Schedule RH-2 of his direct testimony summarize these subscription pricing offers. Several competitive electricity retailers offer subscription pricing as well.

The following table illustrates the locations of such electric companies that offer versions of subscription pricing to their customers.

[65] https://whatsnewinpublishing.com/the-subscription-economy-has-grown-over-435-in-9-years-and-the-uptick-is-expected-to-continue/

[66] https://www.washingtonpost.com/business/2021/06/01/subscription-boom-pandemic/



2. Evergy's Subscription Pricing Pilot Program

Evergy's subscription pricing pilot will provide residential customers with an entirely fixed monthly electricity bill. Based on the experience of electric utilities in other jurisdictions with similar offers, Evergy expects the simplicity, transparency, and predictability of this design to appeal to a subset of Evergy's customers. Again, this is an example of Evergy wanting to give customers a choice on how they pay for their electric services.

Under the pilot program, Evergy first will determine each customer's expected usage under normal weather conditions based on the customer's previous 12 months usage history. The Residential General Service rate then will be applied to calculate the customer's annual bill based on that expected weather normalized usage. The annual bill is divided by 12 months to arrive at a monthly fixed bill amount.

Weather adjustments to customer usage will be based on Evergy's established class-level weather normalization methodology. Based on analysis of historical weather and usage data, the

weather normalization methodology produces factors that can be used to remove the usage effects of temperatures that are hotter or colder than normal. These factors will be applied when estimating the usage of all customers for the purposes of calculating the fixed bill offer as well as their eligibility for an "efficiency incentive" which is discussed further below.

Adders will be applied to the base fixed bill to mitigate the increased financial risks to Evergy shareholders and to recover program costs from participants. The customer's subscription pricing offer will include a behavioral usage adder, a risk premium adder, and a program cost adder. The behavioral usage adder is five percent, the risk premium adder is estimated to be five percent but would not-to-exceed 10 percent, and the program cost adder is up to $2.50 per month. These values are stipulated in the tariff. The adders will be evaluated by Evergy on an ongoing basis.

The risk premium adder is incorporated as an increase in each customer's fixed bill amount, and it is the same on a percentage basis for all participants. Evergy has estimated that the risk premium will be 5%. In any event, it is proposed to not exceed 10 percent. The risk premium is determined by identifying the historical conditions under which annual revenue shortfall due to subscription pricing would be the largest relative to the standard rate, and then setting the risk premium to limit this single-year loss to a level that is acceptable to Evergy.

The program cost adder is designed to collect at least a portion of program costs from participants. Those program costs include measurement and verification ("M&V"), marketing, and general program administration and overhead. The purpose of the program cost adder is to limit the extent to which the rates of non-participants would be impacted by the introduction of subscription pricing. The program cost adder will be set at a level that fully recovers program costs from participants once subscription pricing is available to all customers and participation has reached the anticipated steady state level. Initially, the program cost adder will be up to $2.50 per participant per month.

Several elements of the subscription pricing pilot protect both participating and non-participating customers. Initially, it will be introduced as a pilot with an enrollment cap so that the initial experience with subscription pricing can be understood by Evergy and stakeholders before extending its availability to all customers. Additionally, subscription pricing will be offered to customers on a voluntary, opt-in basis. The fixed bill amount will be known in advance to all participants, meaning there is no risk to participants of an unexpected bill increase. Further, non-participants will be virtually unaffected by the subscription pricing pilot because any net changes in revenues (positive or negative) resulting from the subscription pricing pilot will be borne by Evergy's shareholders. Ex. 38 at 4 (Hledik Direct).

Perhaps most importantly, subscription pricing will be introduced as a pilot with an enrollment cap (20,000 customers per company) so that the initial experience with subscription pricing can be understood by Evergy and stakeholders before extending its availability to all customers. Additionally, subscription pricing will be offered to customers on a voluntary, opt-in basis.

To be eligible for participation in the subscription pricing pilot, customers must be in good financial standing with Evergy. Subscription pricing will not be available to customers that receive service under Evergy's Net Energy Metering tariff, or have multiple meters on one account. Commissioner Kolkmeyer inquired during the hearings about the need for a usage track record to participate in the pilot program. Tr. Vol. 10 at 480. For the purposes of the subscription pricing pilot, participants must have lived in their current residence for at least the previous 12 months and have at least 12 months of actual meter readings. Given the frequency of move-in/move-outs and new customers to its territory, Evergy is exploring ways to allow customers to participate that have less than 12 months of usage history at the residence. This would be proposed in a future rate case and could be

achieved by utilizing residence usage history from prior occupants, or using data analytics to predict the customer's usage based on factors other than historical usage. Id. at 18.

The fixed bill amount will be known in advance to all participants and set for one year, meaning there is no risk to participants of an unexpected bill increase. Further, non-participants will be virtually unaffected by the subscription pricing pilot because any net changes in revenues (positive or negative) resulting from the subscription pricing pilot will be borne by Evergy's shareholders.

Evergy anticipates that this offer will require similar levels of customer research and evaluation of customer education, marketing and tools that Evergy also undertook with its 3-period TOU rate. Upon approval, Evergy will develop a customer research plan for the Subscription Pricing offer and will leverage customer feedback to help the decision-making process related to all aspects of marketing, program design and continuous improvement opportunities. As Mr. Hledik explains in his testimony, Evergy will develop a plan to recruit the target number of customers into the pilot, but it will also not "turn away" any customers who opt to participate. To allow for this additional time for full development of the pilot given the complexity of developing and creating the offer, Evergy proposes that the Commission approve its request to offer this program to customers on or after October 1, 2023. See Ex. 82, 128 at 23 (Winslow Direct).

3. Evergy's Subscription Pricing Pilot Program May Facilitate Energy Efficiency and Sustainability Goals.

Subscription pricing can facilitate achievement of energy efficiency goals and sustainability goals by packaging the fixed bill offer with other customer offers, such as energy efficiency and demand response incentives, green pricing offers, or EV charging services. The attractiveness of the fixed bill can be used to draw customers to these other beneficial offerings. This concept of coupling fixed bills with other offers is receiving increasing attention by other electric utilities.

Evergy's proposed design also provides for additional offers for the customer to choose, including the purchase of a smart thermostat, and in the future, the potential for enrollment in various other green programs. Subscription pricing will be an attractive incentive to encourage customers to use energy efficiently by coupling the incentives with other energy efficiency programs.

The primary incentive for efficient energy use is an "efficiency incentive". As noted above, Evergy's estimate of each customer's expected usage will include a five percent "behavioral usage adder" to the customer's weather-normalized historical usage. That five percent adjustment accounts for a potential increase in usage that may result from the change in rate design (i.e., no longer being billed on a volumetric rate that charges per kilowatt-hour of consumption). If the customer's weather-normalized usage does not increase, the behavioral usage adder will be paid back to the customer as the efficiency incentive. For an average-sized customer, the efficiency incentive would amount to around $70 per year. Ex. 37, 112 at 15 (Hledik Direct). This feature will also serve as an incentive to conserve energy so that the next year's rate will not increase or perhaps decline based upon additional usage history.

The design of the efficiency incentive is attractive from a customer satisfaction standpoint because it is a risk-free opportunity. The incentive rewards customers if they are able to limit their usage, without penalizing them if they fail to do so. In this sense, the efficiency incentive is consistent with subscription pricing's central theme of containing no hidden charges or surprises. See Ex. 37, 128 at 10 (Hledik Direct).

The efficiency incentive will be both understandable and actionable from the customer's standpoint. The simple message to the customer is that continuing to consume energy at least as efficiently as they have in the past will position them to earn the incentive. Additionally, the design of the efficiency incentive means that it can be earned by any participant. It does not require investment in

new technology, home ownership, or other factors that may limit customers from participating in other programs.

Finally, the potential for the customer's fixed bill offer to increase after the 12-month term if their usage increased is an additional distinct reason for customers to manage their usage. This feature is another incentive for customers to conserve their usage so that there is not an increase in their flat bill in a subsequent year.

4. Subscription Pricing Fits into Evergy's Suite of Rate Choices in its Rate Modernization Plan.

The Direct Testimony of Kimberly Winslow further discusses how subscription pricing fits into the suite of rate choices included in Evergy's Rate Modernization Plan. See Ex. 82, 128 at 21-24 (Winslow Direct). She also explains that the Company has completed customer research to conclude that subscription pricing will be attractive to a subset of Evergy's customers. Evergy performed both qualitative and quantitative research to reach this conclusion. Qualitative research is most appropriately used to identify perceptions, experiences, and issues; and to explore them in-depth. It is the process of collecting, analyzing, and interpreting non-numerical data. Quantitative research involves the process of objectively collecting and analyzing numerical data to describe, predict, or control variables of interest. The goals of quantitative research are to test causal relationships between variables, make predictions, and generalize results to wider populations. The qualitative research was based on 39 individual customer interviews and the quantitative research was fielded using Evergy's Customer Advisory Panel of nearly 2,000 customers.

The qualitative research showed that most customers appreciate rate plan options. The Subscription Pricing plan was well received by moderate-income households that seek a stable electric bill with no true-up and that they are willing to pay a premium for this stability. However, other

customers, such as renters or low-income customers, did not find the subscription pricing plan to fit their lifestyle. Id. at 22-23 (Winslow Direct).

Within the quantitative research, nearly half of the surveyed customers wanted to learn more about a plan that allowed for a fixed monthly bill. The research reiterates that customers want options and not one plan to fit all.

5. Subscription Pricing Is Different Than Evergy's Average Payment Plan.

It should also be noted that subscription pricing is different than Evergy's existing Average Payment Plans. While the Average Payment Plan does reduce monthly bill volatility relative to the standard rate, its participants are still exposed to the financial risk associated with any weather-related changes in usage, and any fluctuations in the standard rate. In contrast, subscription pricing insulates customers from this risk for the full 12-month term of the offer. Additionally, under the Average Payment Plan, bill volatility still occurs in the form of adjustments to the customer's monthly payment amount. According to Evergy analysis of Average Payment Plan data, more than 70% of Average Payment Plan participants experienced a bill change during the recent one-year period between early August 2021 and early August 2022. At least 20% of participants experienced three or more bill changes during that period. The magnitude of the bill change is 10% at a minimum, and could be greater than that. Additionally, Average Payment Plan participants must pay a reconciliation payment when they exit the plan, if it has resulted in under-collection of billed revenue. In contrast, subscription pricing locks in a monthly payment for a full year and decouples the customer's bill from fluctuations in usage and cost in that year. There are no true-ups and no increases in the customer's bill for the full 12-month term of the subscription pricing offer. See Ex 38 at 8 (Hledik Surrebuttal).

6. The Criticisms of Staff and Public Counsel Should Not Keep the Commission from Authorizing a Pilot Program.

Staff and Public Counsel witnesses have opposed giving customers the option of a fixed bill under Subscription Pricing. See Ex. 242, King Rebuttal, pp. 9-14; Ex. 307, Marke Rebuttal, pp. 16-20. Their criticisms have included:

> a. *"Customers will be overcharged" under subscription pricing (See, Ex. 38, Hledik Surrebuttal, pp. 4-5.);*

Contrary to the criticisms of these stakeholders, participants will not be overcharged with subscription pricing. Participants will be billed based on expectations about their future usage, with additional charges to balance the risk that Evergy is assuming by offering a completely fixed bill. The amount of the bill will be fully transparent to the customers. It will not be marketed as the least expensive option, but will provide the customer with reliable service at a fixed rate which will be viewed as another choice that is convenient to participants in the pilot program.

All the subscription plans of other electric companies that Mr. Hledik discusses in his testimony have such risk premium caps ranging from 5% to 10% with more than half having risk premium caps of 10% to recover the additional risks on the public utility related to such fixed price plans. See Ex. 3, 112, Hledik Direct, pp. 16.

> b. *Staff has noted that "Given the unpredictability of COVID-19, inflation, and economic uncertainty, Staff cannot in good conscience support a pilot program that removes protections and disclosures mandated in 13.020 Billing and Payment Standards." Ex. 242 at 11 (King Rebuttal).*

As Mr. Hledik explains in his surrebuttal, the unpredictability of factors such as Covid and inflation are exactly what will make subscription pricing an attractive offer to customers. If anything, these recent developments should enhance the appeal of subscription pricing. See Ex. 38 at 9 (Hledik Surrebuttal)

c. *Staff witness Contessa King asserts that it would be too complicated to explain every charge underlying the subscription pricing offer to customers.* *See* *Ex. 242 at 12-13 (King Rebuttal).*

The Company agrees. Very few customers would have the appetite for a detailed explanation of how the Company projects the expected usage and how the weather normalization process works. Each subscription pricing charge will be documented in the tariff, but it is not necessary to explain these nuanced details of how the fixed bill is determined in customer outreach materials.

d. *OPC witness Marke opposes subscription pricing on the basis that it does not leverage AMI.* *See* *Ex. 307 Marke Rebuttal, pp. 19-20*

Dr. Marke ignores the fact that the Company's AMI meters and CIS systems as well as its other analytics software will be a critical part of the Subscription Pricing Pilot Program. The AMI data will be analyzed to determine how customers in the Pilot are using the electric system and how their behaviors may be changing. With that AMI data, the Company can more comprehensively evaluate the Subscription Pricing pilot program. Mr. Hledik addresses other criticisms from Staff and Public Counsel in his surrebuttal testimony. See Ex. 38 at 2-3 (Hledik Surrebuttal) OPC's and Staff's comments ignore the value of subscription pricing to consumers, and overlook several risk-minimizing features of the proposal that are important for the Commission to consider.

7. Summary

In summary, Evergy has proposed to test subscription pricing as a pilot, so that the Company, stakeholders, and the Commission can become better informed about its benefits and use cases. The initial scope of the pilot includes innovative features, such an energy efficiency incentive and an add-on to promote smart thermostat adoption. These features are intended to be an initial demonstration of

the potential of using subscription pricing not only to provide customers with stability and bill transparency, but also to advance the state's energy goals.

Over time, as Evergy and the Commission collectively gain experience with the initial subscription pricing offering, the program's design can continue to be optimized to maximize these benefits for consumers. The first step is for the Commission to approve Evergy's proposal, so that the Company can deploy a pilot and begin to develop on-the-ground experience with the subscription pricing concept.

For all the foregoing reasons, Evergy respectfully requests that the Commission authorize the implementation of a limited pilot program for EMM and EMW to test the voluntary subscription pricing plan. Evergy is confident that there will be a subset of Evergy's customers that will find this new choice very attractive.

B. Should the Commission grant Evergy's request for variances to Chapter 13.020 Billing and Payment Standards, which the Company states is needed to implement Evergy's proposed Subscription Pricing Pilot Program?

Yes. The Commission should approve the Chapter 13 and tariff variances requested by the Company. See Ex. 82 at 23 (Winslow Direct). A more detailed list of the waivers can be found in the cover letter to this case and provided in Ex. 82, Winslow Direct, Schedule KHW-1.

Since the Company has withdrawn its request for approval of the Advanced Easy Pay Program, many of the variances requested in the Company's direct case are no longer applicable. However, the following table includes the variances that are needed to offer the Subscription Pricing Pilot Program:

	Variance Requested[1,2]	Rationale[3]	Justification[4]
20 CSR 4240-13.020 **Billing and Payment Standards**	(1) A utility shall normally render a bill for each billing period to every residential customer in accordance with commission rules and its approved tariff.	SP: Bills will be rendered according to the approved Residential Subscription Pricing tariff with appropriate waivers below.	SP: The program is unique in the nature of the charge being agreed to from the start and only changes rates annually therefore no need for monthly actual information on a standard bill.
	(2) Each billing statement rendered by a utility shall be computed on the actual usage during the billing period except as follows:*... *Full text omitted to conserve space.	SP: Customers will receive a monthly bill in accordance with their agreed upon monthly rate at the start of joining the rate.	SP: As the program will be set up with an agreed upon monthly rate at the start, there is not a need to bill based on actual usage monthly. Customers will still have options available to find out their actual usage other than the actual bill.
	(9) Every bill for residential utility service shall clearly state— * *Full text omitted to conserve space.	SP: Customers will no longer have bills that are reliant on monthly usage reads as they will receive a prior agreed upon bill amount monthly.	SP: (9)(A) Based on a set monthly bill amount, the customer will not need beginning and ending meter readings on their bill
20 CSR 4240-13.020 **Billing and Payment Standards (Con't)**	(12) During the billing period prior to any tariffed seasonal rate change, a utility shall notify each affected customer, on the bill or on a notice accompanying the bill, of the expected effect of the upcoming seasonal rate change on the customer's bill and the months during which the forthcoming seasonal rate will be in effect.	SP: Customers will receive a monthly bill in accordance with their agreed upon monthly rate at the start of joining the rate.	SP: The agreed upon fixed monthly Subscription pricing bill amount took into account seasonal rate changes but will not be laid out on the SP bill to minimize confusion of any rates changing.

1 20 CSR 4240-2.060(4)(A) – The regulation from which the Company requests a waiver and/or variance in order to implement the pilots.
2 20 CSR 4240-2.060(4)(C) – Evergy Missouri is the only public utility affected by this variance request.
3 20 CSR 4240-2.060(4)(B) – The reason the waiver and/or variance is requested to accommodate the pilots.
4 20 CSR 4240-2.060(4)(B) – The justification for the waiver/and or variance, e.g., why no one will be harmed, and may even benefit, from its waiver for the purposes of the pilots.

C. Should the Commission disallow costs related to consultant fees associated with Evergy's Subscription offering?

No. The consultant fees associated with Evergy's Subscription offering were prudently incurred expenses and should be recovered in rates. There is no competent and substantial evidence in the record to support such a disallowance of consultant fees associated with Evergy's subscription pricing pilot

plan proposal. Ryan Hledik has performed a valuable service to the Company, Commission and other stakeholders to bring a national perspective to the innovative subscription pricing option for consumers. See Ex. 37, (Hledik Direct); Ex. 38 (Hledik Surrebuttal); Tr. Vol. 10 at 496-524. His consultant fees associated with Evergy's subscription offering should not be disallowed.

ISSUE NO. XLIII: STREETLIGHTING [EMW]

A. Should language be added to Evergy West's Municipal Street Lighting Service Tariff providing that streetlights installed by a city contractor or a city-approved developer shall be deemed to be owned by Evergy, after inspection and approval by the Company, and shall not be subject to additional installation or structure charges?

No. This tariff language that The City of St. Joseph ("City') wants to add to EMW's tariffs would be counter to steps to update and consolidate the Company streetlight tariffs to the benefit of all municipal streetlight customers. In its 2016 rate case (ER-2016-0156) EMW filed tariffs to deploy common lighting options and to end practices not consistent with current operations and Evergy standards. Lutz Rebuttal, Ex. 50. p. 10. Before the 2016 rate case order, the City had operated under an exception to Evergy common practices, originally implemented by a predecessor Company to Evergy, whereby real estate developer installed streetlights were "gifted" to EMW after installation by the developer. Id. This practice is not optimal for EMW as it has to inspect each of the streetlights to ensure they meet Evergy material and construction standards. Id. at 12. The Commission should not order the City's language be added to EMW's tariffs as it is not consistent with how all of the other municipality's streetlights are handled by EMW. Lutz Rebuttal, Ex. 50, p. 12. If the City's additional language was made part of EMW's tariffs, EMW would need to be prepared to support this approach for all EMW municipal customers wishing to have developers install streetlights. Tr, 875, lines 11-23. EMW does not have the personnel available to inspect and approve compliance with applicable material and construction standards, potentially across its entire service territory. Lutz Rebuttal, Ex. 50, p. 12.

EMW is not opposed to the City's practice of requiring developers to install streetlights. Should the City wish for developers to continue to install streetlights, it can continue to do so under EMW's existing tariffs. Id at 13. The City is then responsible for the on- going maintenance of these streetlights and EMW provides the energy under its existing tariff.

B. Should language be added to Evergy West's Municipal Street Lighting Service Tariff providing that no "Optional Equipment" charges in Section 4.0 or 5.0 of Municipal Street Lighting Service Tariff will be charged to streetlight facilities which are deemed to be owned by the Company and installed by a city or its contractor, or by a developer of a city-approved development?

No. The Company is opposed to owning developer installed street lighting, but if the Commission were to approve such ownership, no additional tariff language should be added to limit the use of Optional Equipment. The Optional Equipment provisions of the tariff are meant to adjust the standard streetlighting charges to account for conditions found in the field or special customer requests. Further, these types of charges are included in EMW's tariffs to cover the cost of on-going maintenance and repair for streetlights that are owned and operated by the City. Tr. 869, lns. 16-14. There is no other tariffed charge that the City is paying which covers these costs. Lutz Rebuttal, Ex. 50 p. 12. The Optional Equipment rates would be applicable if any form of developer installed lighting were approved.

C. Should the Company be required to remove from its rate base streetlights that were installed by city contractors or city-approved developers?

No. There is no reason to remove the developer installed streetlights (these had been gifted to the Company in past years under the previous tariff) from EMW's rate base. These streetlights are part of EMW's rate base only for record keeping purposes. Tr. 888, lines 2-9. The streetlights are set at a zero value which means EMW is not earning a return on the streetlights or recovering depreciation expense. Id. These streetlights should remain in rate base so that EMW can continue to track these assets.

D. Should the Company be required not to charge the City of St. Joseph for breakaway bases, undergrounding and other "Optional Equipment" charges under Sections 4.0 and 5.0 of the tariff for streetlights that were installed by city contractors or city-approved developers?

No. These types of charges are included in EMW's tariffs to cover the cost of on-going maintenance and repair for streetlights that are owned and operated by the City. Tr. 869, lns. 16-14. There is no other tariffed charge that the City is paying which covers these costs. Lutz Rebuttal, Ex. 50 p. 12. Therefore, since the tariffed charges are billed by EMW to the City to recover costs that EMW incurs to serve the City's streetlights, the charges are appropriate to recover EMW's costs expended to maintain streetlighting systems and are properly part of EMW's streetlight tariff.

WHEREFORE, the Company submits its Initial Post-Hearing Brief to the Commission.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 14th day of October 2022, with notification of the same being sent to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner