

**BEFORE THE PUBLIC SERVICE COMMISSION
FOR THE STATE OF MISSOURI**

In the Matter of the Establishment of a)
Working Case Regarding FERC Order 2222) File No. EW-2021-0267
Regarding Participation of Distributed Energy)
Resource Aggregators in Markets Operated)
By Regional Transmission Organizations and)
Independent System Operators)

**EVERGY MISSOURI METRO’S AND EVERGY MISSOURI WEST’S
RESPONSE TO ORDER REGARDING AN OPPORTUNITY FOR ADDITIONAL
COMMENTS, ORDER SCHEDULING WORKSHOP,
AND NOTICE OF LBNL REPORT**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West”) (collectively, “Evergy”),¹ and, pursuant to the Missouri Public Service Commission’s (“Commission” or “MPSC”) Order issued in the above-captioned docket on May 24, 2023, responds as follows:

I. INTRODUCTION

Evergy appreciates the opportunity to provide comments in response to the Commission’s Order regarding modification of the Commission’s 2010 temporary ban on aggregators as applied to commercial and industrial (“C&I”) customers in Missouri for demand response. Evergy commends the Commission for engaging Lawrence Berkeley National Laboratory to perform comprehensive research on regulatory frameworks to govern third-party aggregations and proactively engaging stakeholders to discuss these matters.² The LBNL Report provides comprehensive research on a variety of regulatory frameworks applying to aggregators of retail customers (“ARCs”) participation in wholesale markets and illustrates the wide diversity in

¹ Effective October 7, 2019, Evergy Metro Inc. d/b/a Evergy Missouri Metro adopted the service territory and tariffs of Kansas City Power & Light Company (“KCP&L”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West adopted the service territory and tariffs of KCP&L Greater Missouri Operations Company (“GMO”).

² *Regulation of Third-Party Aggregation in the MISO and SPP Footprints* (“LBNL Report”), dated April 2023.

approaches in different states and RTOs/ISOs. Evergy believes that further dialogue and input from utilities is critical to ensure state regulatory authorities craft the most effective framework for ARCs, distribution utilities, and retail customers alike. Evergy also believes the diversity of the frameworks highlighted in the LBNL Report illustrates the value of conducting more comprehensive evaluations by the Commission in this proceeding.

Policies crafted by the Commission should protect the interests of all consumers and ratepayers, not just those of customers participating with ARCs, and preserve distribution utilities' obligations in maintaining the safety and reliability of the distribution grid.

FERC has long recognized the importance of the “relevant electric retail regulatory authority” (“RERRA”) in its landmark rulemakings on demand response (“DR”) and distributed energy resource (“DER”) wholesale market participation. In Order No. 719, FERC remarked that allowing demand response aggregators “to bid into the wholesale energy market without the relevant electric retail regulatory authority’s express permission may have unintended consequences, such as placing an undue burden on the relevant electric retail regulatory authority.”³ In Order No. 745, FERC observed that “demand response is a complex matter that lies at the confluence of state and federal jurisdiction.”⁴ These considerations remain relevant today. Driven in part by those reasons, FERC required in Order No. 2222 that “any such role for the RERRA in coordinating the participation of distributed energy resource aggregations in RTO/ISO markets be included in the RTO/ISO tariffs and developed in consultation with the relevant

³ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC 61,071 at P 155 (2008), *order on reh’g*, Order No. 719-A, 128 FERC ¶ 61,059 at P 60 (2009), *order on reh’g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

⁴ *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 134 FERC ¶ 61,187 at P 114 (2011).

RERRA.”⁵ Evergy believes the current regulatory and utility policy framework does not adequately consider the impacts of *third-party* ARCs in Missouri.

In addition to its comments on the specific questions raised in the Commission’s Order, Evergy urges the Commission to carefully consider the potential challenges outlined below regarding ARC participation in wholesale markets before it moves forward with a modification to its temporary prohibition on ARCs for C&I customers. Evergy recommends that the Commission develop a comprehensive framework governing ARC participation in wholesale markets that can be harmonized with the future implementation of Order No. 2222. As suggested in the LBNL Report, while investing in a gradual approach may involve a longer process and higher levels of coordination among stakeholders, it can also produce more comprehensive, tailored rules and more clarity on important ARC participation issues that will be beneficial for customers, utilities and the Commission in the long run.⁶

Key Regulatory Developments Are Still Pending Before FERC

FERC has not yet approved the draft tariffs of the Southwest Power Pool (“SPP”) and Midcontinent Independent System Operator’s (“MISO”) to comply with FERC Order 2222 (“Order No. 2222”),⁷ which will have a transformative impact on the electric industry. The policies under discussion in this proceeding must consider that the SPP and MISO compliance tariffs for Order No. 2222 are still evolving as both grid operators are still awaiting responses from FERC to their respective draft compliance tariffs. Any revisions by FERC to SPP’s and MISO’s tariffs prior to final approval may have implications for ARCs, distribution utilities, and the Commission on important topics such as dual participation, aggregations across single or multiple p-nodes, and

⁵ *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 2222, 172 FERC ¶ 61,247 at P 324 (2020).

⁶ See LBNL Report at 23.

⁷ See SPP Draft tariffs filed in ER22-1697-001 and MISO Draft tariffs filed in ER22-1640.

metering configurations. It is important for the Commission to consider the potential for such changes to avoid unintentional misalignment or inefficiencies between any new and future regulatory frameworks.

The Commission Should Consider the Unique Aspects of MISO and SPP

From the questions presented to stakeholders for comments, it is clear that the Commission appreciates that broad distinctions between utilities and markets exist that may influence policymaking. Evergy agrees that assuming a “one-size-fits-all” approach to ARC participation will not sufficiently account for those distinctions. As one example, the responsibility for ensuring resource adequacy is delegated by SPP to Load Responsible Entities (“LRE”) such as Evergy. In contrast, other FERC-jurisdictional RTO/ISOs utilize an RTO/ISO-administered competitive capacity auction to ensure resource adequacy. Thus, Evergy’s qualified demand response resources under MEEIA can be submitted for accreditation to SPP to meet Evergy’s resource adequacy requirements, while demand response resources under the control of third-party ARCs are used by SPP only as alternative “supply” resources in the wholesale market.

The Commission Must Address Implementation Risks Before Modifying the Temporary Ban of Third-Party Aggregators

Evergy’s experience outside of Missouri demonstrates the need for the Commission to address challenges to third-party aggregator participation before modifying its temporary ban. Those challenges involve complex technological, regulatory, and procedural issues that should be subject to further evaluation by the Commission with the assistance of other Missouri stakeholders. Current utility technology and communication systems needed to coordinate operational activities and provide Evergy with the necessary visibility into ARC operations have not yet been created, for example. SPP, which has no jurisdiction over distribution system operations, also lacks visibility into the operation of resources connected to the distribution system. Without new

technology, and communication systems, there are few existing ‘guardrails’ that govern operational coordination. Manual “audits” occurring after market activity has already occurred, should not be the sole remedy to provide assurance that impermissible double-counting and double compensation has not occurred.

Evergy is currently grappling with these challenges in its Kansas service territory, as further outlined in Evergy’s testimony in KCC Docket No. 23-EKCE-588-TAR. While that proposal, if approved, will address certain elements of consumer and utility protections, it is only intended as a partial “stopgap.” Evergy notes that other states, such as California where there is a more mature experience with significant third party aggregation activity, have deployed broader regulatory frameworks that have more robust protections in matters that are best suited for state commissions to address (including, for example, creditworthiness requirements for ARCs, dispute resolution programs geared specifically to customers, business registration at the commission level, and requirements to ensure that ARCs communicate certain contract terms and conditions to customers,).

Questions Regarding Costs and Cost Recovery Must Be Considered Before Modifying the Temporary Ban of Third-Party Aggregators

Modifications to enhance operational visibility, to streamline the processing of market registrations, and the design of systems to support new communications with ARCs and SPP regarding the operation of ARC-controlled resources will require additional investments in technology systems and staffing by grid operators and utilities. Important questions such as who should bear costs resulting primarily from ARC activities need to be addressed prior to modifying the temporary prohibition on ARCs. Such costs should not be borne by all ratepayers when only participating customers and ARCs profit and are the primary beneficiaries of such activities.

Evergy Recommendation

Evergy cautions the Commission against modifying its temporary ban before developing an appropriate regulatory framework for third party aggregation, which will require further developing the record in this proceeding. A better understanding of the treatment of ARCs by the wholesale markets, each of which have their own unique constructs, and consideration for limitations in SPP and MISO wholesale market tariffs, which may not fully address distribution-level impacts or such matters as customer protections, will avoid policies which, in the long run, may present conflicting, confusing, or unworkable standards for ARC participation. Many of these same issues also need to be addressed with the implementation of FERC 2222. It will be inefficient and unconstructive for all parties if decision for DR aggregations are made now that later needs to be reversed to ensure consistency with final FERC 2222 tariffs and market rules. . In the meantime, Evergy's retail customers still have the option to participate in DR through Evergy's programs promulgated under the Missouri Energy Efficiency Investment Act ("MEEIA") and the Market Based Demand Response tariff ("MBDR"), which enables DR participation in the SPP wholesale market through Evergy.

A better approach is for the Commission to continue its measured approach to evaluating ARC participation in wholesale markets by (1) carefully weighing the issues raised in this response; (2) crafting a participation framework that protects ratepayers and distribution utilities and is adaptable to ISO/RTO implementation of Order No. 2222; and (3) determining the appropriate oversight role for the Commission, all before completely modifying the temporary ban on third-party aggregators. Evergy looks forward to continued engagement with the Commission as these discussions evolve.

II. EVERGY RESPONSE TO COMMISSION QUESTIONS

A. SIZE LIMITATIONS FOR DEMAND RESPONSE (DR) ELIGIBILITY

1. *What impact could any of these limits have on implementation of a modified opt-out as applied to C&I customers in terms of reliability, participation or the need for additional regulations??*

RESPONSE: SPP has established a minimum threshold of 100 kW for demand response resources to be registered in the SPP Integrated Marketplace (“IM”). Evergy recommends Commission establish thresholds consistent with the RTOs within the state to avoid potential confusion for both participants and host utilities and to mitigate the need for additional regulations. The 100 kW threshold is also consistent with the current minimum Contract Curtailment Amount in Evergy’s Market Based Demand Response (“MBDR”) tariffs.

The establishment of a reasonable minimum threshold of 100 kW will also minimize the administrative burden that will result from the potential registration of a high volume of individual applications such as thermostat controls or rooftop solar installations. The above recommendations are predicated on the assumption that the regulatory framework in Missouri is strengthened to ensure additional oversight of ARC activities (such as those proposed in Evergy’s Kansas proceeding) and that aggregations are limited to a single p-node.

2. *Should the Commission establish different size limits for different utilities based on customer classes?*

RESPONSE: Evergy does not see benefits in establishing different size limits based on customer classes for different utilities but may consider different size limits based on SPP and MISO registration rules (if applicable).

3. *Should these size limits apply to a single location, or should a single customer be permitted to aggregate multiple locations to meet the threshold?*

RESPONSE: In its Order No. 2222 compliance filing, SPP proposed to limit resource aggregations to a single pricing node to allow SPP to properly and effectively minimize system congestion and also to provide greater visibility to SPP into which resources are meeting their obligations. Evergy is still in the process of understanding how distribution systems operations and settlement processes will be affected by the lack of visibility into aggregations. Without greater visibility, technology, or operational coordination for aggregations, the current size limits should apply to a single location.

4. *How many in terms of numerical value and as a percentage of the C&I customer classes and any specific sub-classes and what types of customers (with and without aggregated load) would be included within the proposed thresholds?*

RESPONSE: All customer classes and sub-classes should be governed by the same thresholds.

5. *Should there be a maximum aggregated size limit?*

RESPONSE: Evergy continues to evaluate whether a maximum aggregated (or individual resource) size limit is needed for demand response resources and notes that SPP has not included a maximum aggregation size limit in their market registration requirements. Operational concerns may be created with large demand response resources operating in response to market signals. While the distribution system is planned and constructed to handle changes in load, large fluctuations in load which are unpredictable can impact voltage protection settings and have the potential to impact distribution reliability. In order to ensure system reliability, Evergy reserves the right to modify its position on limits to the size of an aggregation if operation of the resource(s) creates operational issues or otherwise raises reliability issues for distribution system operations.

B. DISPUTE RESOLUTION

1. *As to utilities with affiliates in states that allow ARCs:*
 - a. *How are relationships between utilities and ARCs managed?*
 - b. *What types of disputes arise, and how frequently?*
 - c. *How are disputes resolved?*

RESPONSE: Evergy has affiliates that operate in the State of Kansas, which currently allows ARCs to participate in wholesale markets. Informed by the experience of its affiliates in Kansas (Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., and Evergy Metro, Inc. (collectively, “Evergy Kansas”)), Evergy believes there are a variety of issues that could lead to disputes between aggregators and utilities.

As a preliminary matter, the relationship between the utility and ARC in Kansas, and the relationship between the ARC and retail customers, is currently not managed or subject to any state commission oversight. Disputes can arise with respect to an ARC’s registration on behalf of, or wholesale market participation with, Evergy Kansas retail customers. In those instances, Evergy Kansas has the ability under SPP’s rules to contest a registration or raise concerns about the ongoing validity of a demand response resource’s participation in SPP’s wholesale markets. In such instances, SPP would be responsible for adjudicating the dispute under the terms of SPP’s tariff and market protocols. However, there is currently no comparable dispute resolution process at the state level to address ARC registration issues, disputes which may arise between retail customers and the ARC, or matters which may fall outside the boundaries of SPP’s jurisdiction.

Evergy Kansas has recently proposed a new framework which, if approved, would introduce a role for the Kansas Corporation Commission in dispute resolution. Evergy Kansas’ proposal is considered a partial stopgap mechanism to address current activities in KS with ARCs. The proceeding proposes, among other things, that the Distribution Utility and Aggregator would execute an agreement (“DU-Aggregator Agreement”) which would establish the respective

obligations and rights of ARCs and Evergy Kansas with respect to ARC's active in registering and participating in SPP's wholesale markets using Evergy retail customers' loads as demand response resources. The DU-Aggregator Agreement also establishes dispute resolution procedures should Evergy Kansas and the ARC have an unresolved dispute on issues that do not fall under SPP's jurisdictional authority. The dispute resolution procedures provide that the parties will seek to informally resolve the dispute, but if informal resolution is impossible, the parties shall proceed under the informal or formal complaint procedures set forth under KCC rules.

Although the Commission seeks input regarding how often ARC-related disputes occur in other jurisdictions, Evergy respectfully submits that the frequency of disputes is not a determinative data point because ARC activity is expected to increase as time goes on and a responsible, well-crafted regulatory framework should anticipate, and seek to avoid, the potential for disputes.

C. DOUBLE-COUNTING/DUAL-PARTICIPATION

1. *Should the Commission clarify whether a C&I customer can participate only in the wholesale market or only in the retail market? How should this clarification be made?*

RESPONSE: Before issuing any determinative statements or policy guidance regarding dual participation, Evergy recommends that the Commission carefully weigh the implementation issues raised in this response and develop a participation framework that protects ratepayers and distribution utilities—and that is adaptable to Order No. 2222— in order to avoid double counting and/or double compensation concerns and/or other conflicts between resources enrolled in a retail program while also being registered for wholesale market participation.. Once the appropriate framework is in place, Evergy then recommends the Commission review its rules related to terms and conditions, interconnection standards and relevant tariffs to determine what changes are needed- to provide necessary clarity. This analysis will require the Commission to evaluate

potential dual participation scenarios to determine if the utility's program and the "services" being offered by the ARC present conflicts. ~~OBJ~~The Commission must also evaluate the potential adverse effects of that dual participation, including operational and reliability risks to the distribution system and inappropriate double compensation or double counting. As stated above, Evergy believes this analysis will require the Commission to first develop a regulatory framework governing third-party aggregator participation. Evaluations of acceptable scenarios for dual participation can then be completed on a case-by-case basis.

2. *If dual participation in the wholesale and retail markets for different services is allowed, how would improper double counting be identified and avoided?*

RESPONSE: To effectively preclude improper double counting and/or double compensation, the Commission should first develop a participation framework and then define undesirable scenarios, and ensure that technology and communication systems are configured to support any prohibitions. Although FERC recognized the risk of double counting of load and supply, and concerns with the potential for customers to receive double compensation for the same service in Order No. 2222, it declined to define the circumstances in which that could occur given the diversity of services across wholesale and retail markets.⁸ Indeed, there are myriad retail programs and tariffs, each of which can raise different and complex concerns, depending on the specific utility, the applicable market service, and regional market structure. Evergy believes a case-by-case analysis is important to identify potential concerns and that the Commission should focus on avoiding the aspects of dual participation that create undesirable rate and operational reliability impacts or cause utilities to incur costs for additional technology systems.

⁸ Order No. 2222 at P 164 ("the record does not include a consistent or practical method for the Commission to universally define "same services" across wholesale and retail markets, and we therefore do not believe that it is appropriate to prescribe an approach across all RTOs/ISOs.").

Evergy Kansas' tariff for Generation Substitution Service ("GSS") provides a concrete example of potential conflicts raised by dual participation. Evergy customers participating under the GSS tariff receive a meaningfully reduced rate in every hour of every day that they receive utility service. In exchange for their reduced rates, the GSS customers agree to—upon 60 minutes' notice—use their on-site back-up generation to serve their entire load for a period of up to eight hours; they also otherwise agree to use their back-up generation for only limited purposes. GSS customers are not separately compensated when they are called upon by Evergy to perform; rather, these customers are compensated solely through their reduced rate for both their availability to be called upon and their performance if called. Since Evergy has the right to ask customers to curtail load under the terms of the tariff, the GSS load can be used to offset Evergy's resource adequacy requirements.

During extreme system conditions, Evergy relies upon capability of GSS customers to reduce Evergy's load-serving requirements and thus reduce demand in Evergy's footprint or address distribution constraints. If that GSS customer had already reduced its "double booked" load under a wholesale program, it would not be able to support Evergy's dispatch instructions, which could create significant operational concerns during critical system events. Indeed, during Winter Storm Uri, GSS resources were essential to Evergy's ability to manage grid reliability and avoid load shedding. If SPP also considers these resources to serve the wholesale market, double counting would occur.

Evergy also utilizes GSS resources to reduce Evergy's calculated peak demand needs for the purpose of meeting SPP's resource adequacy requirements. Under the year-round GSS resource adequacy structure, where a resource's capabilities are fully committed to supporting

retail performance, any additional compensation a GSS customer were to receive in the wholesale market for its load-reducing capability would represent a clear case of double compensation.

As the discussion of the Evergy's GSS tariff demonstrates, avoiding improper double counting and/or double compensation scenarios requires a program-specific analysis that considers the specific structure of the regional market and the utility's program. That analysis must be driven at the state level, enabled by the Commission and implemented by distribution utilities. Only the distribution utility is equipped with the information necessary to affirm that a resource has the potential to engage in double counting and/or double compensation. That approach is consistent with SPP's proposed tariff revisions to comply with Order No. 2222. As SPP has observed, it "has *no* visibility into retail programs" and lacks an "actual 'mechanism' to 'confirm that double counting is occurring' because SPP does not have access to retail customer data."⁹

3. *What specific internal processes and procedures would utilities need to implement to address double counting under the requirements and procedures imposed by MISO or SPP?*

RESPONSE: The requirements and procedures that will be imposed by MISO and SPP pursuant to Order No. 2222 are still evolving. Even so, there are steps the Commission and distribution utilities in Missouri can take to address the risks of double counting and/or double compensation.

The Commission should work with distribution utilities and ISO/RTO stakeholder processes to assess where double counting and/or double compensation may occur within Missouri and the information needed to identify and avoid such cases. Distribution utilities are in the best position to make those determinations based on their access to customer data. Based on the distribution utilities' responses, the Commission should determine whether the distribution utility

⁹ *Sw. Power Pool, Inc.*, Submission of Response to Request for Additional Information, Docket No. ER22-1697-000, Attachment 1 at 33 (filed Oct. 12, 2022) (emphasis in original)

and/or the ISO/RTO has structures in place to mitigate the risks of double counting and/or double compensation. It is not appropriate to assume that manual tracking or audits by utilities performed after market operation has occurred should be the appropriate remedy to address this risk.

D. DATA GOVERNANCE

1. *Do existing utility tariffs include provisions related to customer data privacy?*

RESPONSE: No. Missouri utilities manage customer personal information in compliance with Mo. Rev. Stat. § 407.1500. The law applies to individuals, businesses, governmental entities, and other entities that own, license or maintain personal information of residents of Missouri.

a. *What revisions related to third-party demand response aggregation, if any, would be necessary?*

RESPONSE: No tariff revisions are necessary since there are no provisions of the tariff that deal with customer data privacy.

2. *What customer information is generally shared between the utility and the ARC?*

RESPONSE: ARCs may request access to customer meter data from Evergy prior to or after registering the customer with SPP for participation as a demand response resource in SPP's wholesale market. Such information may be used for the purpose of assessing the customer's historic load profile and/or supporting the identification of potential cost savings for demand response activity.

Evergy considers such data to be the customer's 'private' data. While customers may choose to share their usage data with third-parties, Evergy only does so with written authorization from the customer. To facilitate such exchanges, Evergy recently created a Customer Data Authorization ("CDA") form, attached hereto as **Exhibit A**. The CDA ensures that customers who wish for Evergy to share their non-personal customer data with a designated third-party have

provided Evergy explicit authorization to do so. The form also requires customer name, address, account information, and meter number-since some customers have multiple accounts or tariffs registered at the same customer address) and signatures from an authorized representative of both the customer and their third-party designated aggregator. Evergy currently does not assess a fee for providing such data.

The form advises the customer that the authorization for data sharing is for an indefinite period and that customers are responsible for submitting a revised form to revoke such authorization.

In addition, when SPP receives a registration package from an aggregator to represent a customer in the wholesale market, SPP requests information from Evergy to provide information (such as substation name, breaker number, etc.) to SPP to help SPP identify the location of the resource in SPP's network (as SPP network does not map distribution systems not under SPP's control).

a. *What information, if any, is public information?*

RESPONSE: The information mentioned above is not considered to be public information.

3. *How do ARCs protect customer information?*

RESPONSE: ARCs would be required to manage customer personal information in compliance with Mo. Rev. Stat. § 407.1500.

As noted above, Evergy shares customer data with third parties, like ARCs, but only after the customer expressly acknowledges that Evergy has no control over how a third-party may use such information. Evergy is not a party to any agreements between an ARC and customer and is unaware of how ARCs utilize customer information or the data protections they may offer to subscribed customers.

4. *How do ARCs protect their systems from cybersecurity threats?*

RESPONSE: Evergy cannot speak directly to how ARCs protect their systems from cybersecurity threats. Evergy believes that systems which interface with the electrical grid and contain customer's data should adhere to minimum cybersecurity protections commensurate with generally accepted industry standards, best practices, and any applicable data privacy requirements. To Evergy's knowledge, a comprehensive industry-standard framework or a standardized cybersecurity oversight framework has not been completed or implemented with respect to ARC activities. Evergy suggests there are also large gaps in the current regulatory framework regarding communications, security, measurement and validation (as well as customer protection) and are all worthy of concern.

Evergy notes that EPRI issued a report entitled "DER Aggregation Participation in Electricity Markets" (10) which assesses the broad impacts of Order No. 2222 in the electric industry. In the report, EPRI stated that "Order 2222 presents a major paradigm shift in which expanded use of public networks and third-party systems is required to fulfill expected interoperability functions. It also requires the pervasive use and exchange of data. This results in expanded attack surfaces on the grid, in energy markets, and on customer privacy. In addition to those risks identified in the EPRI Report, there should be a process for vetting participation that will be exchanging or receiving data to ensure the validity of need and identity of the parties involved. These risks must be addressed through clear definitions of cyber security responsibilities across a multi-party grid. Currently, there is no framework or specific regulatory standard that clearly defines cyber security responsibilities among grid participants in the context of Order No. 2222, resulting in cyber security trust challenges within interfacing party interactions." EPRI goes

¹⁰ <https://www.epri.com/research/products/000000003002020599>; dated March 29, 2022.

on to further recommend additional research recommendations to "support development of needed security controls procedures, and an overall trust and security responsibility framework in support of Order No. 2222."

5. *Would adoption of Green Button or similar alternative facilitate timely and accurate demand response registration? A. Are there any implementation constraints related to adopting Green Button or similar alternative?*

RESPONSE: As a result of the Evergy's 2018 rate review cases (Docket No. ER-2018-0145 and ER-2018-0146) the Company adopted Green Button and the platform went live in November of 2020. The capabilities are available for Evergy's residential and small and medium business customers. Green Button is based on the Energy Services Provider Interface ("ESPI") data standard released by the North American Energy Standards Board. The ESPI standard consists of two components:

- 1) Green Button Download My Data ("DMD"), a common XML format for energy usage information and
- 2) Green Button Connect My Data ("GBC"), a data exchange protocol that allows for the automatic transfer of data from a utility to a third party based on customer authorization.

As with most utilities who have implemented Green Button, Evergy's system is configured and responsive to DMD, which requires Evergy customers to login to their online account and download their own data. The data provided is 15-minute interval data. Following the download, customers, at their discretion, are able to share their data with a third-party.

E. REGULATORY GAPS

- 1. If the Commission modifies its opt-out to permit third-party demand response for C&I customers, what regulatory gaps, if any, exist under MISO and SPP rules governing demand response?*

RESPONSE: At a high level, Evergy believes the primary regulatory gaps that exist under the current regulatory framework in Missouri are the lack of protections for retail customers under the SPP tariff, the limited role for RERRAs, the uncertain regulatory boundaries between FERC and RERRAs, and limited ability to address potential impacts to distribution operations. Some ARCs might imply that no oversight other than the RTO/ISO tariff is needed. Yet it should be noted that the ARCs are the counterparty with either SPP (or MISO) and recognize only the ARC as the market participants to which the SPP tariff will apply. Retail customers, therefore, are currently protected only by the terms of their bargain with the ARCs. Another significant regulatory gap concerns notice and information-sharing associated with wholesale participation through a demand response aggregator. In addition a gap exists with respect to the information provided to the utility. For example, Evergy Kansas has encountered instances where the registration information submitted to SPP does not accurately reflect the customer account, such as the registration of demand response potential for a customer account that does not appear to be supported by the customer's historic load profile. Evergy Kansas has also encountered instances where it is unclear that a retail customer has consented to SPP participation prior to SPP receiving a registration packet to begin the SPP registration process for the customer, or where it appears a customer may still have a valid registration with SPP even though the customer has communicated to Evergy Kansas that they have elected not to continue participating in the wholesale market with a demand response aggregation. SPP's market rules also provide no mechanism to require aggregators to provide access to demand response performance data or provide distribution utilities

with the same. In Kansas, Evergy Kansas has attempted to address that gap by requiring demand response aggregators to provide to Evergy, on a quarterly basis, a summary-level operational performance report to provide Evergy with visibility into the aggregator's activities—and any changes in its activities. Evergy recommends the Commission address these regulatory gaps prior to any modification to the opt-out for third-party demand response.

F. CONCLUSION

Evergy urges the Commission to further evaluate the impact of third-party ARC participation and to develop a comprehensive framework governing ARC participation in wholesale markets before modifying the temporary ban. The SPP and MISO compliance tariffs for Order No. 2222 are still evolving. Both grid operators, in fact, are still awaiting responses from FERC to their respective draft compliance tariff. Any revisions by FERC to SPP's and MISO's tariffs prior to final approval may have critical implications for ARCs, distribution utilities, and the Commission utilities.

Evergy believes it is important for the Commission to consider the potential for such changes to avoid unintentional misalignment or inefficiencies. The Commission also should consider the unique aspects of the MISO and SPP markets, as well as the potential implementation risks, as it contemplates potential approaches to ARC participation. Moreover, important questions regarding who should bear the costs of ARC activities must also be addressed. In the meantime, Evergy's retail customers continue to have the option to participate in robust DR initiatives through Evergy's programs promulgated under MEEIA and the MBDR tariff.

Before completely modifying the temporary ban on third-party aggregators, the Commission should (1) weigh the issues raised in this response; (2) craft a participation framework

that protects ratepayers and distribution utilities and is adaptable to ISO/RTO implementation of Order No. 2222; and (3) determine the appropriate oversight role for the Commission.

WHEREFORE, Evergy Missouri Metro and Evergy Missouri West respectfully submit the attached responses pursuant to the Commission's Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon all counsel for Staff and the Office of the Public Counsel on this 22nd day of June 2023 via e-mail.

/s/ Roger W. Steiner

Customer Data Authorization Form for Demand Response Aggregators

Evergy's privacy policies generally do not allow for the disclosure of customers' information to third-parties that, for example, are not affiliates, subsidiaries, or utility service providers unless the customer expressly authorizes the disclosure. This form allows you, the customer ("Customer"), to authorize Evergy to disclose your energy-related customer data ("Customer Data") to a third-party Demand Response Aggregator ("DRA"). Evergy will not disclose personally identifiable information, such as your Social Security Number or any financial account number, to the data recipient through this consent form.

A DRA is a third-party non-utility company that may offer to help a customer provide the customer's demand response services to the Southwest Power Pool ("SPP") wholesale electricity market. The third-party DRA listed below is not regulated by the Kansas Corporation Commission ("KCC"), and is not affiliated with, or acting as a business partner of, Evergy. If you choose to work with a DRA to manage your demand response services, you may no longer remain eligible to participate in some of Evergy's retail programs.

Once you submit this form authorizing Evergy to disclose your Customer Data to the below-designated DRA, Evergy does not have the ability or responsibility to ensure that the designated DRA maintains the confidentiality of the data or uses the data as authorized by you. Please be advised that you may not be able to control the use or misuse of your data once it has been released.

Please contact your Customer Solutions Manager if you have additional questions. You may also contact the Products Team at (316) 299-7426 or renewables@evergy.com.

Customer Contact Information

Customer Name (As shown on Evergy Account)	
Customer Contact Name/Title	
Contact Email Address	
Contact Phone Number	

Demand Response Aggregator Contact Information

Business Name	
Federal Tax ID	
Contact Name/Title	
Email Address	
Phone Number	

Access to Information for the following Service Accounts *(Required Information)*

Service Address	City	Account Number	Meter Number	Demand Response (MW)

(You can include additional Service Addresses or Accounts by attaching a list to this form.)

- Check this box if you have attached a list of additional Service Accounts.

Period of Authorization

(Check only one option below)

- I, Customer, authorize Evergy to disclose my Customer Data to the above-designated DRA beginning today and continuing indefinitely until revoked by the Customer in writing through the submission of this form.
- I, Customer, revoke my authorization to Evergy to disclose my Customer Data to the above-designated DRA effective today, subject to Section B below.

Authorizations and Agreement

A. Customer Authorization

I, Customer, authorize Evergy to disclose my Customer Data to the above-designated DRA for the Service Account(s) listed above and/or attached to this form including: 1) customer energy-related information (e.g., name, service address, account number, meter number, invoice data), 2) up to 24 months of historical as well as interval meter data (as requested) and/or monthly usage data, 3) information regarding the current Evergy demand response programs or other Evergy non-demand response programs, pilots and tariffs in which the Customer is known to participate.

B. Customer Agreement

I, Customer, agree to Evergy's disclosure of Customer Data as specified in this Authorization. I understand that Customer Data can provide insight into activities within the premises receiving utility service.

I understand that I may revoke this Authorization at any time by submitting a revocation request using this same form. I further understand that my Customer Data may be transmitted to the above-designated DRA even after I have revoked this Authorization, to enable Evergy to correct or update the data for the time period during which the Authorization was effective. In all cases, the Authorization for a Service Account will be automatically revoked when the Service Account is closed.

I understand that I am not required to authorize Evergy to disclose my Customer Data, and that not authorizing disclosure will not affect my utility service.

I declare that I am authorized to execute this agreement on behalf of the Customer of Record identified at the top of this form in the field for "Customer Name (on Evergy Account)."

I understand that Evergy reserves the right to verify this Authorization request before releasing any Customer Data or taking any other action pursuant to this Authorization.

I understand that this Authorization and Evergy's actions and obligations hereunder remain subject to, and may be subject to change or modification as required by, governing laws, regulations, KCC orders, and the General Terms and Conditions of Evergy's Tariffs as approved by the KCC.

I understand that the above-designated DRA is not affiliated with Evergy or acting as an agent, provider, or business partner of Evergy, and hereby release, hold harmless, and indemnify Evergy from any liability, claims, demands, causes of action, damages, or expenses resulting from this Authorization including but not limited to: 1) any release of Customer Data to the above-designated DRA pursuant to this Authorization; 2) the unauthorized disclosure or use of my Customer Data by the above-designated DRA or any other third-party; and 3) any actions taken by the above-designated DRA pursuant to this Authorization.

I hereby indicate my consent to execute and submit this Authorization.

Name (Signature of Authorized Customer)

Date Signed

Name/Title (Printed)

C. DRA Agreement *(To be completed by the DRA)*

I, DRA, hereby agree to comply with this Authorization, and to release, hold harmless, and indemnify Evergy from any liability, claims, demand, causes of action, damages, or expenses resulting from the release or use of Customer Data obtained pursuant to this Authorization.

Name (Signature of Authorized Representative)

Date Signed

Name/Title (Printed)