MEMORANDUM

To: Missouri Public Service Commission Official Case File,
Case No. ET-2024-0061 Evergy Metro & Evergy West

From: Geoff Marke, Chief Economist
Lena Mantle, Senior Analyst
Lisa Kremer, Expert Consultant
Missouri Office of the Public Counsel

Re: Policy response to Evergy's suggestion to change the Time-of-Use ("TOU") Default Rate Structure following six months of marketing and education immediately before its implementation

Date: 9/25/2023

I. Introduction

The Missouri Office of the Public Counsel ("OPC") appreciates the opportunity to provide a response to Evergy Metro, Inc. d/b/a Evergy Missouri Metro's ("Evergy Metro") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West's ("Evergy West" and collectively with Evergy Metro, "Evergy" or the "Company") proposed change to the default TOU rate. In doing so, the OPC hopes to clear up some important misconceptions, including that under TOU pricing, customers have to pull the plug on major end-uses, live in the dark, or eliminate all peak usage in order to benefit. They simply have to reduce peak usage by some discretionary amount that does not compromise their lifestyle, threaten their well-being, or endanger their health. Clearly, the more they reduce, the more they will save. But, the choice is up to them. In fact, based on two empirical studies conducted in the past year the vast majority of customers will not even need to change their behavior at all to produce bill savings on an annual basis.

Before addressing the OPC's specific policy responses to Evergy's suggestion to change the TOU default rate as made in its Notice of Withdrawal of Proposals and Amendment to Application (the "Amended Application") filed in this case, the broader customer, Company and public interest goals and benefits of Time of Use Rates should be restated.

Such rates provide benefits to utility companies, their electric grids and ultimately their customers by encouraging, through price, the use of electricity during off-peak hours. This effort to shift the time when power is used has the worthy goals of relieving strain on the electrical grid while providing customers an opportunity to keep their bills for an essential service as low as possible.

It is necessary to examine the Company's recent filings in this case, including its *"Application For Approval Of Tariff Revisions To Time-Of-Use Program, Request For Waiver Of 60 Day Notice Requirement, And Motion For Expedited Treatment"* and its subsequent Amended Application from an Evergy Missouri customer perspective. It is the customer who will continue to pay many years into the future for the Company's substantial investments of Advanced Metering Infrastructure ("AMI"), and the Company's One CIS, which includes its billing system. Much has been filed in various dockets before the Missouri Public Service Commission (the "Commission") regarding the multi-millions of dollars of investment enabling Evergy to implement TOU Rates. AMI meters have been an unnecessary and costly expense for Missouri rate payers, void of value for customers, and will continue to be so absent a customer-comprehensive, TOU effort, such as that ordered by the Commission in Case Nos. ER-2022-0129 and ER-2022-0130, which initiated Company-wide TOU rates,

It cannot be emphasized enough that even though Missouri customers do not make the utility's managerial decisions for investments, they are responsible for paying for them. Missouri's Evergy customers are entitled to and deserve the extraction of all available benefits of such significant costs. It is the role of regulation to ensure that customers are well served by prudent utility expenditures, over which the regulated customer has no control, when those customers cannot seek another utility provider. This role is critical as the utility has significant financial incentive to invest in plant excessively as its shareholders receive a return on and of their invested dollars. This aspect of the utility regulatory model is not always well understood by those outside the investor-owned utility arena, and it ultimately is the rate payer, not the shareholder, who is responsible for paying for utility plant investments over time. Absent customer benefit and value, unnecessary investments may lead to rates that are neither just nor reasonable.

This memorandum will preview the OPC's policy arguments against Evergy's request to change the default TOU rate. It will begin with addressing the OPC's customer concerns with changing the default rate. It will then turn to a past, present, and future discussion regarding the TOU rates.

II. <u>Specific OPC Customer Concerns with Changing the Default Rate</u>

The OPC, as the state entity charged with "represent[ing] and protect[ing] the interests of the public in any proceeding before or appeal from the" Commission has several concerns regarding customer impacts and implications with the Company's Amended Application. § 386.710(2) RSMo. Those customer concerns are listed below, followed by additional discussion.

- The timing of the Company's request to change its default Time of Use Rate only days before the beginning of its ordered TOU transition is demonstrably unreasonable and unfair to the entire Missouri Evergy customer body and particularly so for those customers who have pre-selected their TOU rate of choice by the Commission's ordered October 1, 2023 date.
- The Company's September 22, 2023 "Weekly Update" filed in Case No. EW-2023-0199 provided a total TOU enrollment of 94,611 of which 42 more customers have pre-selectively enrolled in the ordered, high differential default rate of Standard Peak Saver.
- The Company's TOU pre-selection customer numbers have risen significantly from those reported to the Commission on August 10, 2023, to those reported September 22, 2023,

from 20,332[1], to 94,611, (inclusive of 7,620[2][3] customers in the TOU pilot) indicating that messaging is getting through. Removing the TOU pilot customers from both sets of enrollments results in a net 86,991 customer self-selected TOU enrollment increase during that period or approximately a six-fold increase.

> 94,611 - 7620 preselected TOU customers = 86,991 (as of 9/22/2023)
> 20,332 - 7620 preselected TOU customers = 12,712 (as of 8/10/2023)
> 86,991 – 12,712 = 74,279 enrollment increase between 8/10/2023 and 9/22/2023
> 74,279 / 12,712 = 5.84 x 100 = 584%

- The high-differential default rate, Standard Peak Saver, provides sufficient customer protection against higher bills as concluded by the Company's Oracle Study which presented findings that 89% of Evergy Metro and 91% of Evergy West customers will "either see little change or save annually by change to the default Standard Peak Saver rate."[4]

- Findings of the Oracle and Brattle studies can and should be used in the Company's continued educational efforts that go beyond the October 1, 2023, date for beginning rate implementation. These study results may serve to lessen customer concerns about Evergy's TOU rates.

- For those customers who will either (1) see a bill increase by being placed on the default, Standard Peak Saver rate as compared to the lower differential Peak Reward Saver rate, or (2) who could experience greater savings by being placed on the Peak Reward Saver rate,[5] the Company has the ability and responsibility as a regulated monopoly providing an essential service, to reaffirm and notify those customers that they have an opportunity to change rates to potentially reduce their bill. In addition, such circumstances create targeted customer educational opportunities for the Company. These include the opportunity to inform customers regarding ways to shift their electrical usage away from peak hours and/or to pursue energy efficiency actions generally.

- Maintaining the ability of customers to change their TOU rates at any time, as provided by the Commission's Amended Order in Case Nos. ER-2022-0129 and ER-2022-0130, provides customer protection and choice to opt into the low differential Peak Reward Saver plan or other plans, should they desire. This option amplifies the importance of effective company education and communication to customers regarding their rate choices.

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[1] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 17, filed in Case No. EW-2023-0199, on August 11, 2023.
[2] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 17, filed in Case No. EW-2023-0199, on August 11, 2023.
[3] Weekly Update filed by Evergy in Case No. EW-2023-0199, September 22, 2023, report entitled: Time of Use Rate Enrollments.
[4] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 7, filed in Case No. EW-2023-0199, on August 11, 2023.
[5] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 13, filed in Case No. EW-2023-0199, on August 11, 2023.

- Changing the default rate now and providing accompanying utility messaging may serve to further confuse those customers who are presently confused by the TOU rates. Likewise, such a shift so late in the process may confuse customers that have not previously been confused. If this fundamental change is ordered, it should be made known to customers and not difficult to discern.

- Regardless of the achieved success or performance of the Company's educational efforts, it has expended costs for months in a TOU educational campaign.[6] These costs have been ordered by the Commission to be tracked for consideration for potential inclusion in customer rates in the Company's next rate cases.[7] Such costs are 'sunk' costs and cannot be retrieved or undone. While some TOU messaging would remain the same, shifting the default rate from the current high differential rate to the low differential rate would require additional messaging. This creates additional opportunities for increased customer confusion.

- While the Company went on to express reservations, it acknowledged in an August 10, 2023 Agenda meeting that the results of the Oracle Study regarding the Standard Peak Saver Rate (high differential, current default rate) was a "positive result" in that 89% to 91% of customers will either experience little change or save annually.[8] [9]

In summary, the Company has presented compelling evidence that the existing Commission ordered[10] high differential default TOU rate, absent any behavioral use changes and weather impacts, will result in approximately 90% of all customers experiencing little change or bill savings.[11] Even assuming that customers may see higher bills during the summer months using the current default rate, by structuring the Company's TOU offerings to include customer ability to change rates at any time, the Commission has provided a "safety valve" to customers. This ability to change rates extends greater customer control as to which rate they may choose even if they are initially placed on the Standard Peak Saver, high differential default rate. In addition, if customers employ behavioral changes to reduce their electric usage during peak hours, which is one of the intentions of TOU rates, summer bill impacts could be lower.

Given the factors above and from a customer perspective, the Company should be required to adhere to the Commission's December 8, 2022, Amended Report and Order regarding its TOU Rates.

Finally, OPC recommends that the Commission consider requiring Evergy management to implement the following actions:

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[6] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 16, filed in Case No. EW-2023-0199, on August 11, 2023.
[7] Report and Order, page 72, Case Nos. ER-2022-0129 and ER-2022-0130.
[8] Missouri Public Service Commission August 10, 2023, Agenda Session, Presentation by Mr. Chuck Caisley, 52:06 Minutes.
[9] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, page 7 filed in Case No. EW-2023-0199, on August 11, 2023.
[10] Amended Report and Order, December 8, 2022, page 72, Case Nos. ER-2022-0129 and ER-2022-0130.
[11] Evergy Mandatory Residential Customer TOU Implementation Presentation before the Missouri Public Service Commission on August 10, 2023, pages 5 and 7 filed in Case No. EW-2023-0199, on August 11, 2023.

- Analyze Customer Bill Impacts for a Period of Time Post Implementation of Time Of Use Rates and Advise Customers as to Which Rate is Projected to Result in the Lowest Customer Bill. Upon Relaying Such Information, Aid Customers in the Changing of Rates, if they Desire.
- Inform Customers in the Company's Time Of Use Educational Materials that Approximately 90% of Customers are Anticipated to Experience Either a Constant Bill or Bill Savings.

III. Policy Considerations Regarding Evergy's TOU Rates Based on the Past, Present, and Future

Having discussed some of the customer concerns with Evergy's request to change the default TOU rate, the OPC now turns to its policy considerations based on the past, present, and future.

A. Historical Investment ($268,487,600 Ratepayer Investment)

Evergy first began implementing AMI in the 2010 Smart Grid Zone Demonstration Project in the City of Kansas City and fully concluded in 2022.

Since then, the Company has conducted at least fifteen ratepayer funded third-party studies. All of the studies concluded that meaningful savings for customers can be achieved through the AMI investment by utilizing TOU rates, which better reflect the marginal cost of providing electricity which varies by time of day.[12]

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[12] The third-party studies that OPC is aware of include the following (which does not include the many 3rd-party customer surveys Evergy has charged to ratepayers):

1. Electric Power Research Institute (EPRI)-Matching Electric Service Plans to KCP&L's Strategic Objectives (EPRI-ESP)—EPRI Supplemental Research Project, 2012-2014;

2. KCP&L SmartGrid Residential Time-of-Use Pilot (SGDP-TOU) – a component of the KCP&L Division of Energy SmartGrid Demonstration Project, 2010-2015;

3. EPRI-KCP&L Residential Time-of-Use Impact Study (EPRI-TOU) – EPRI Smart Grid Demonstration Project Analysis, 2010-2015;

4. ERPI-Measuring Customer Preferences for Alternative Electricity Service Plans (EPRI-ESP) – EPRI Supplemental Research Project, 2014-2015;

5. KCP&L 2016 Demand Side Management (DSM) Potential Study (DSM-TOU) –Applied Energy Group, 2016-2017;

6. BMcD-KCP&L and GMO Residential Rate Design Strategy Study (BMcD-TOU)-Burns & McDonnell Engineering Company, 201718

7. KCP&L Greater Missouri Operations Company Seasonal Rate Structure Study December 12, 2017 per Commission Report and Order in Case No. ER-2016-0156;

8. KCP&L Block Rate Study December 8, 2017 per Commission Report and Order in Case No. ER-2014-0370 and ER-2016-0156;

9. KCP&L Greater Missouri Operations Company Time of Use Rate Study Project No. 97119 Final Report 12/13/2017 per Commission Report and Order in Case No. ER-2016-0156

According to the Commission Staff ("Staff") True-Up Rebuttal Accounting Schedules filed in Case Nos. ER-2022-0129 and ER-2022-0130 the combined total AMI hardware and One CIS software totaled $268,487,600. As discussed above, this investment is being paid by customers in their rates while shareholders continue to earn a profit.[13]

Absent meaningful TOU rates, AMI investment is arguably not a prudent use of ratepayer money. This was highlighted in a white paper from the American Council for an Energy-Efficient Economy ("ACEEE") titled "Leveraging Advanced Metering Infrastructure to Save Energy."[14] In this white paper, the authors challenged regulators on the realization of the value-statements for AMI because too often utilities choose not to maximize the benefits available from AMI. This can further be shown by the actions of other commissions, including in 2019, when regulators in Virginia rejected Dominion Energy's proposed smart meter rollout. Additional utility commissions in New Mexico, Massachusetts and Kentucky all rejected utility proposals associated with pre-approval of AMI investments.[15]

An analogous situation occurred in Case No. EO-2020-0227 in which Staff alleged imprudence of Evergy Metro's and Evergy West's MEEIA demand response residential programmable thermostat programs. In that review period, Evergy Metro and Evergy West gave away 1,296 free programmable thermostats (Evergy Metro: 621; Evergy West 675) to customers who ultimately did not participate in any called events. Evergy paid for the thermostats through ratepayer funding. These thermostats were designed to be called on to reduce peak demand (not unlike TOU pricing), but failed to elicit any demand savings. The Commission in its Report and Order stated:

> To disallow an incurred cost on the basis of imprudence, the Commission must find both that (1) the utility acted imprudently and (2) the imprudence resulted in harm to the utility's ratepayers. The Commission finds that Evergy acted imprudently in giving away

10. KCP&L 2020 Demand Side Management (DSM) Potential Study (DSM-TOU) –Applied Energy Group,

11. Evergy Missouri Metro & Evergy Missouri West: Time of Use Rate (TOU) Rate Design Case Report, June 15, 2021 Case No: EO-2021-0349 & EO-2021-0350;

12. Guidehouse Evaluation, Measurement and Verification ("EM&V") of Evergy TOU Pilot December 31, 2021

13. Brattle: Transitioning to Default TOU: Observations from Other Jurisdictions March 28, 2023 in Case No. ET-2023-0290.

14. AEG: Evergy 2023 DSM Market Potential Study see pages 31-36 in Case No. EO-2023-0212

15. Oracle: Evergy TOU Rate Change Analysis July 2023. Results presented August 10, 2023 at MO PSC Agenda. Actual study obtained through discovery in Case No. ET-2023-0290.

[13] It is worth reminding the Commission that Evergy attempted to replace the largely undepreciated original AMI hardware investment with a second generation of AMI investment in its last rate case. That is, the Company wanted its ratepayers to pay for the full costs of two AMI meters and the accompanying software despite the fact that the Company had failed to enable TOU rates beyond approximately 1% of its customers in the preceding year during a pilot study.

[14] York, D. (2020) Smart meters gain popularity, but most utilities don't optimize their potential to save energy. ACEEE https://aceee.org/blog/2020/01/smart-meters-gain-popularity-most

[15] Walton R. (2020) Most utilities aren't getting full value from smart meters, report warns. *Utilitydive*. https://www.utilitydive.com/news/most-utilities-arent-getting-full-value-from-smart-meters-report-warns/570249/

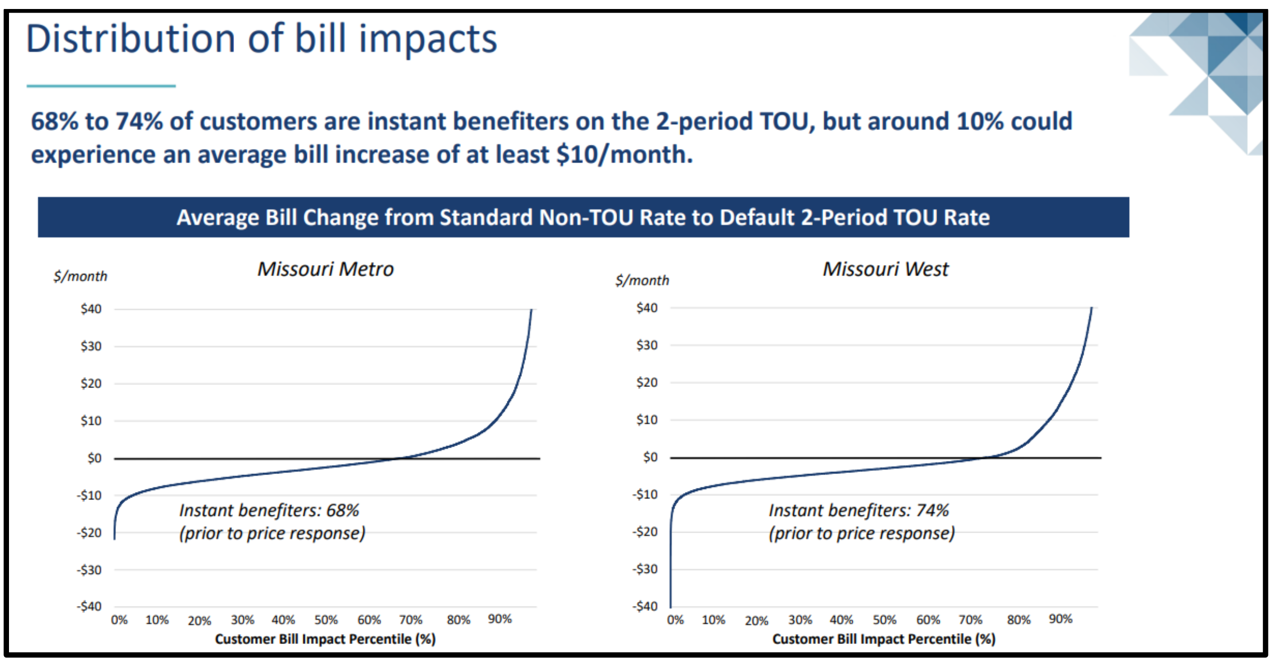
thermostats to customers who did not ultimately participate in the program. The Commission finds this imprudence had a detrimental financial impact to the ratepayers in having to pay for thermostats to be given free to non-Participants in the voluntary Residential Programmable Thermostat Program. The costs to the ratepayers of the voluntary Residential Programmable Thermostat Program were unjustifiably higher due to Evergy's giving away thermostats to non-Participants; those costs could have been lower had a different course of action been taken by Evergy. This harm is quantified as $108,080 for Evergy Metro and $116,665 for Evergy West.[16]

Like the residential programmable thermostats in the aforementioned MEEIA prudence review period. Evergy's current AMI investments are historically underutilized and have come at great cost to ratepayers both in immediate upfront investment and forgone savings opportunities. If the Commission reverses course on the default differentials, it will result in further forgone savings and non-authorized revenues to the Company.

B. __Current analysis suggests most ratepayers will save money or be no worse off without any changes__

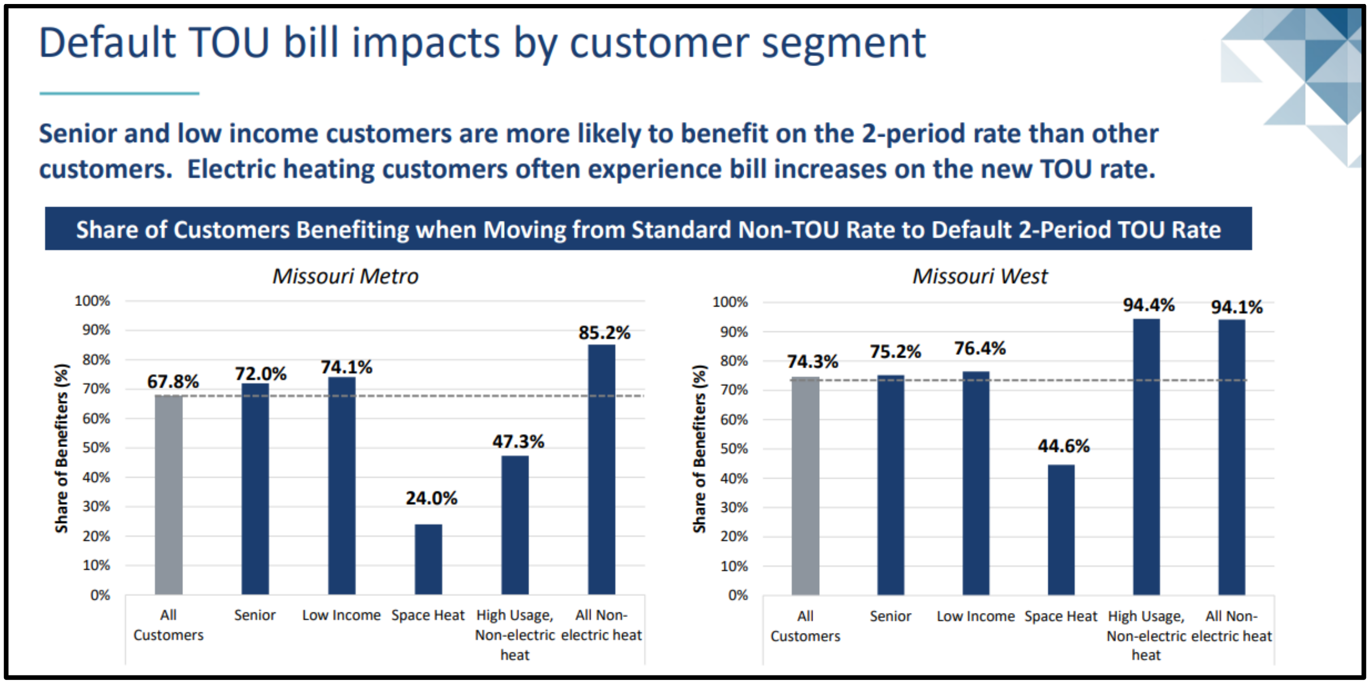
On March 28, 2023, Evergy presented the results of a third-party analysis undertaken by the Brattle Group concerning Evergy's new TOU rates. This study examined the overall distribution of bill impacts across both utilities and the impact of the default TOU by customer segment. The results are shown respectively in Figures 1 and 2 below.

Figure 1: Distribution of Bill Impacts[17]



[16] Case Nos. EO-2020-0227 & EO-2020-0228 Report and Order page 19.
[17] Case No. EW-2023-0199 Time-of-Use Workshop 1 Exhibit A – page 14 of 34

Figure 2: Default TOU bill impacts by customer segment[18]



Evergy had Oracle perform a second analysis, which Evergy presented to the Commission at an August 10th Agenda. The Oracle study updated the estimated number of "winners" to encompass 89% of Evergy Metro and 91% of Evergy West customers on an annual basis. Those numbers were further broken down as follows:

- 53% (Evergy Metro) and 56% (Evergy West) of customers will see little/no changes in their bills annually

- 26% (Evergy Metro) and 25% (Evergy West) of customers will see moderate savings (5-10%)

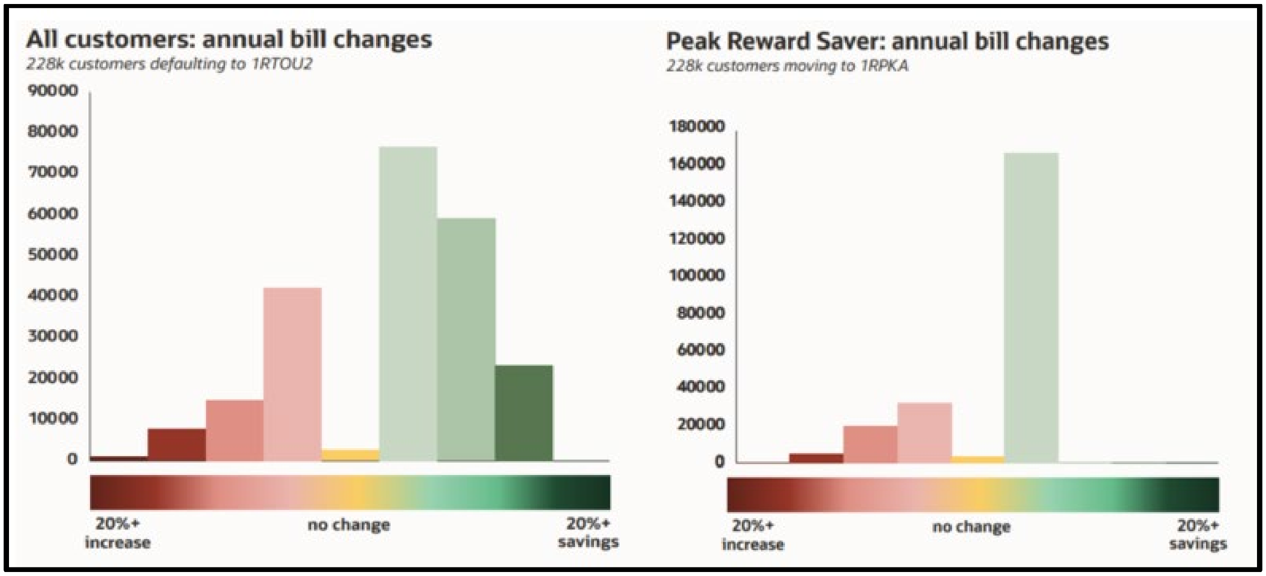
- 10% (Evergy Metro and Evergy West) of customers will experience significant savings (10%+)

Importantly, these results assume no behavioral modification.

The Oracle study also allowed for side-by-side comparison of the "winners" and "losers" at the Evergy Metro level under both the current default high differential rate and at the Evergy requested low differential rate. This comparison can be seen in Figure 3:

[18] *Ibid*, p. 16 of 34.

Figure 3: Assuming no behavioral change, original high-differential default rate compared to Evergy requested low-differential rate breakdown for Evergy Metro



C. <u>**Future costs will needlessly increase if the Commission departs from its original order**</u>

In Case Nos. EO-2023-0212 & EO-2023-0213 (Evergy Metro's and Evergy West's Annual Integrated Resources Plan ("IRP") update) a sensitivity analysis was conducted by third-party contractor AEG. This sensitivity analysis considered the impact of TOU rates on the Company's future summer demand baseline assumptions.

The analysis considered several factors including:

- Customers would be defaulted to the standard (high differential) rate but switch across rate design options;
- Peak savings would increase over time as customer became accustomed to the rates; and
- That modeling customers on the Peak Reward Saver rate (low differential) are negligible (<u>**no**</u> impact to demand savings).

AEG then ran a number of scenarios based on adoption assumptions across the rates. The range of peak demand savings relative to projected baselines range from a low of 5% in Evergy Metro in 2024 to a high of 10% in 2033 for Evergy West. Figure 4 shows the results of AEG's analysis for Evergy Metro and Figure 5 shows the results for Evergy West.

Figure 4: Evergy Metro TOU Summer Potential for Evergy Metro[19,20]

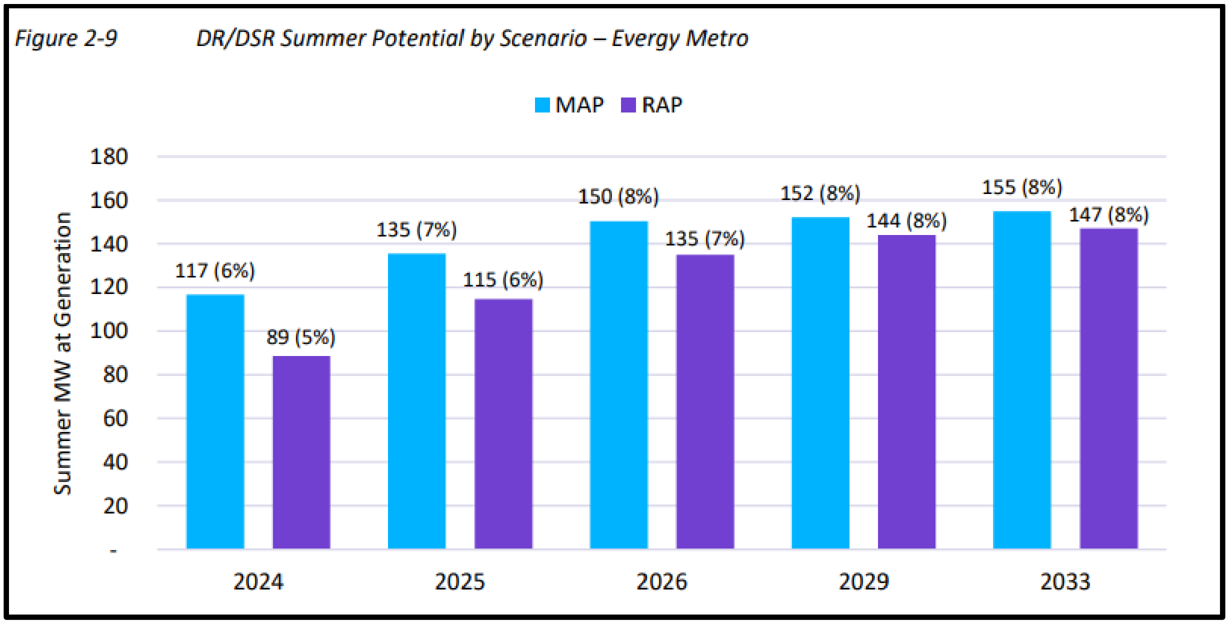
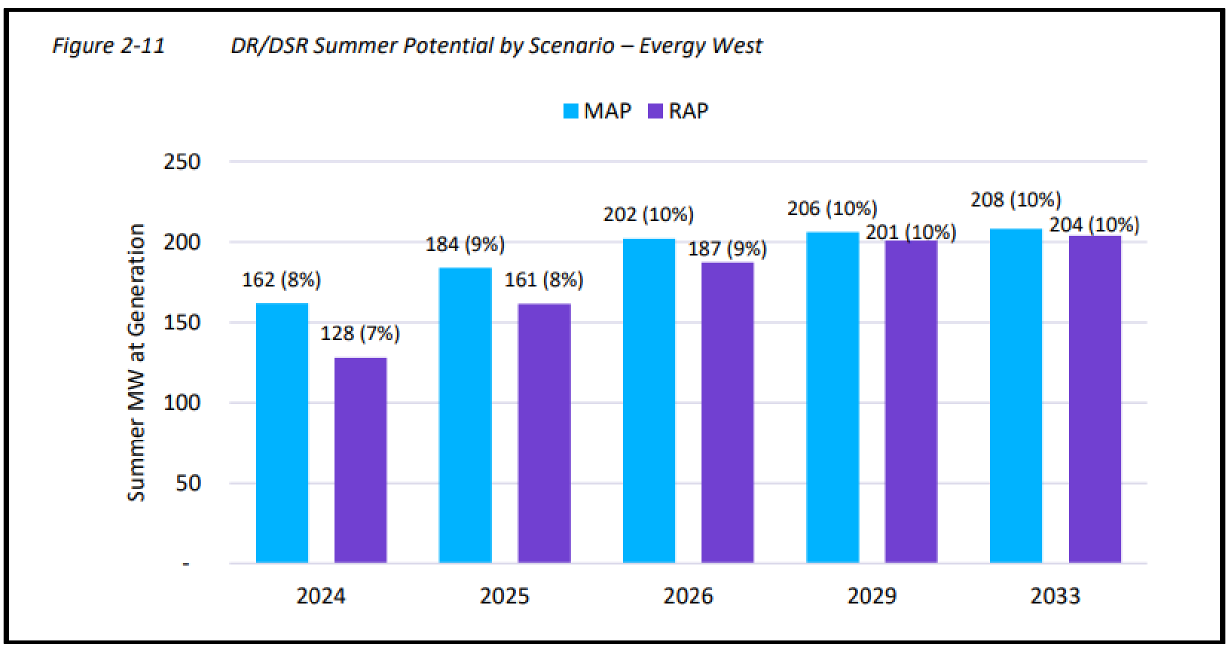


Figure 5: Evergy West TOU Summer Potential for Every West[21]



[19] Case Nos. EO-2023-0212 & EO-2023-0213 AEG: Evergy 2023 DSM Market Potential Study. p. 32

[20] "RAP" stands for Realistic Achievable Potential and ""MAP" stands for Maximum Achievable Potential. These acronyms are terms of art utilized in demand-side management planning to indicate various levels of potential. In this case, AEG assumed various levels of self-selection between the rate design offerings ranging from a conservative to an aggressive adoption level of price differentials.

[21] *Ibid*. p. 35

It is worth repeating that there are no modeled bar graphs for the Peak Rewards (low differential) rate because there are **no** demand savings.

Importantly, the modeled demand savings in Figures 4 and 5 come at no additional costs to consumers, unlike the Company's future MEEIA portfolios. This is so because, as discussed above, customers have already paid and will continue to pay for Evergy's AMI and One CIS investment.

Reducing peak demand by shifting use to times of low demand also puts less strain on utilities and will result in tangible cost savings to customers. These cost savings materialize in a variety of ways, including through a reduction in the amount of fuel that Evergy seeks to recover through its fuel adjustment clauses ("FAC") and through the avoidance of Evergy's need to build a dispatchable peaker plant.

Stated differently, the Commission can utilize the AMI investments ratepayers are already paying for or those ratepayers will be subject to further increased costs driven by Evergy's investment in things such as future dispatchable peaker plants to meet demand. The latter will merely drive costs up further than necessary on captive customers.

IV. Responses to the Implementation of TOU Rates

The OPC now turns to its responses to some of the feedback of which it is aware.

A. Response to "customers do not want to be told what to do"

This is a legitimate concern. On a whole, OPC's experience with engaged customers is that they do not support a paternalistic approach from the government, but rather value individuality, choice, and control.

This, of course, underscores why the Commission's original decision to support a menu of rate options coupled with the ability to switch at the customer's discretion is such a novel and positive approach to rate setting and ultimately supports what customers want.

Reasonable minds can differ as to whether the Commission introduced too many options and most parties agree (including OPC) that the names of the rates are far from perfect. But, that should not detract from the fact that the Commission's Amended Order in Case Nos. ER-2022-0129 and ER-2022-0130 is a meaningful departure from over one hundred years of government-mandated rates with no (or very little) customer choice, to a new era where customers have legitimate choice and control in their ability to induce lower bills.

Absent meaningful differentials, which encourage customers to shift their usage to off-peak hours, customers will pay more through increased fuel costs as a result of greater than necessary peak demand. They will also ultimately pay more for increased capital investment to meet those peaks (or be subject to the risk exposure from the SPP market).[22]

[22] The relationship between the temporal use of energy during demand peaks and the utility's fuel adjustment clause is largely lost on customers due to the prolonged muted price signal that results from our regulatory review process. Stated differently, in the aggregate, there is a six month delayed price signal telling customers that turning on

B. Response to "this is not fair to customers"

Opponents of TOU pricing have used the unfairness argument to present their case; however, the presumption of unfairness in TOU pricing rests on an assumption of fairness in the traditional rate structure. A flat rate that charges the same price around the clock essentially creates a cross-subsidy between consumers that have flatter-than-average load profiles and those that have peakier-than-average load profiles. The reality is that the cost of electricity does vary by time whether or not customers respond (or whether we give them incentives to respond) to it.

Moreover (and as referenced above), customers have been asked to pay approximately $268 million (and growing) in costs to enable meaningful price sensitive rates in the form of AMI capital investment. It is categorically unfair for ratepayers to be asked to foot the bill for these investments and then not be allowed to realize the benefits. Absent meaningful differentials, avoided energy and capacity costs will not be realized and societal costs will outweigh societal benefits.

Two independent studies in less than six months have suggested that under the high-differential current default rate the vast majority of Evergy customers will save money or be no worst off without any modifications. Those customers who do not fit this profile (namely certain space heating customers) can switch to the Peak Reward Saver rate (low differential) and/or modify their usage patterns and minimize their risk exposure. Regardless, so long as the current Commission default rates are in effect, all customers should save in the future from lower FAC costs tied to lower usage during high peak demand price periods when the FAC is rebased in future rate cases.

With this in mind, it is evidentially more "fair" to maintain the current ordered default rate, where up to approximately 90% of customers are better off or no worst off instantly and system-wide peaks can be minimized by more accurately reflecting the marginal cost of electricity, than to switch the default rate and minimize the impact on system-wide peaks that TOU rates can induce.

C. Response to "customers do not believe Evergy when they say they will save money"

This is admittedly a difficult barrier. Evergy has struggled with customer approval ratings for some time; however, the proper response to this argument is not to throw up our hands and dilute the rates to lower differentials or revert back to block rates. Instead, the Company should continue to educate customers and provide evidence of what customers would save and/or pay under all available plans moving forward so customers can make informed decisions based on their risk tolerance.

Evergy needs to convey the "why" of what we are doing better.

Specifically, they need to inform customers that, if the majority of people in a given area are all home at the same time and engaging in activities that require lots of electricity, the electricity grid

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everything at once during seasonal peaks results in increased fuel costs. The Commission's original default TOU differential provides a more direct price signal to customers of this fact.

will experience high demand. In response, the grid operators have to request more power from the generators than they need at low-demand times of the day.

That increased electricity usage usually leads to higher wholesale prices to meet higher demand. In the worst case scenario, blackouts occur if production cannot increase enough to meet the higher usage. Because of these overlapping factors (and others) customers will face increased costs by purchasing electricity at higher costs and/or building out unnecessary peaker plants to meet that demand.

The OPC has advocated and continues to recommend an "upfront and honest" approach to conveying this information to consumers. Perhaps the third-party marketing firm Evergy has obtained can better convey that information to the general public moving forward.

D. <u>Response to "this is government mandated behavioral modification"</u>

This is true only in the most general sense. That is, only insofar as everything surrounding the regulatory compact and the economic underpinnings behind regulating a natural monopoly and protecting a captive customer base is designed around government intercession due to a market failure. Absent "the government" Evergy could charge whatever price they wanted to. The "behavioral modification" element of TOU rates is merely free market principles at work. TOU pricing reflects the marginal cost of providing electricity, which varies by time of day. TOU is responsive pricing, and it is long overdue.[23]

E. <u>Response to "Evergy's approval ratings are dropping as result of TOU rates"</u>

Putting aside the methodology of Evergy's customer approval surveys for a moment, it would be difficult to attribute Evergy's drop in approval rating solely to its roll-out of TOU rates. Any fair assessment of what has contributed to Evergy's lower ratings needs to take into account the 240,000 customers that were negatively impacted by summer storms in July 2023. This was the

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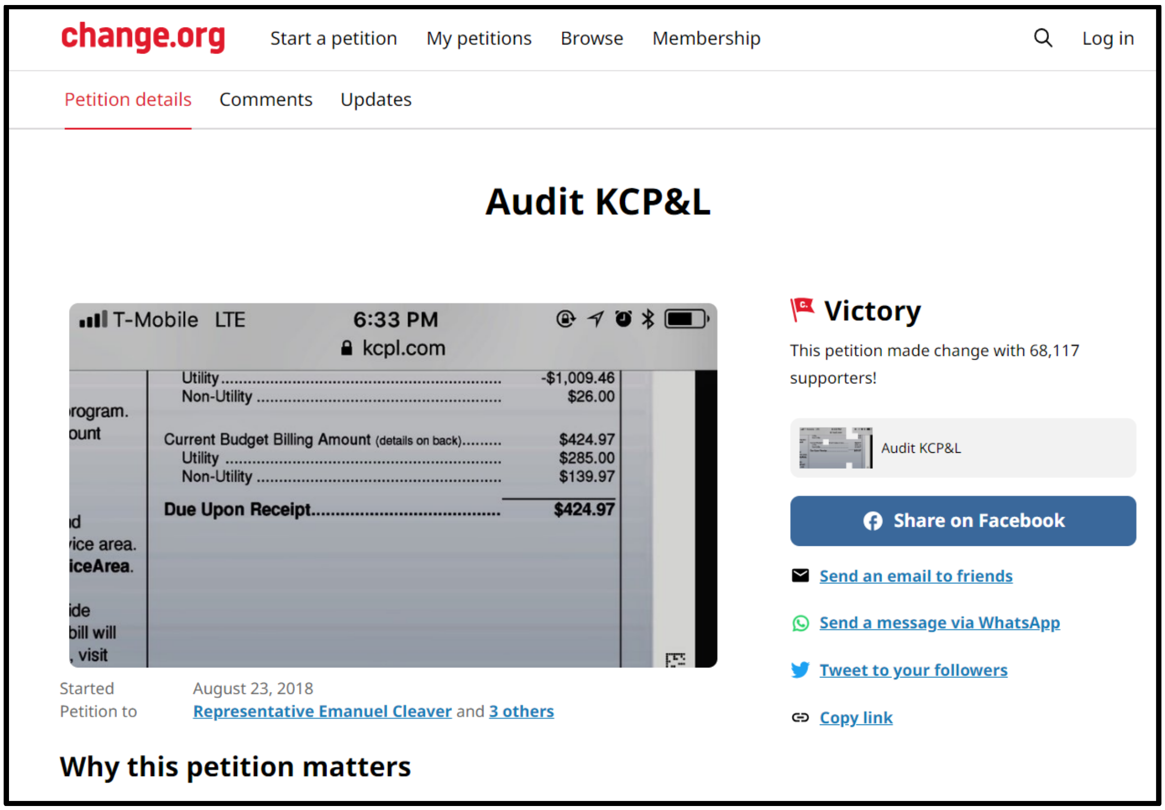
[23] In 1971, Professor William Vickrey of Columbia University wrote a path-breaking paper on "responsive pricing," his term for what would later be called dynamic pricing. Vickrey, who went on to earn the 1996 Nobel Prize in Economic Science, opined, "The main difficulty with responsive pricing is likely to be not just mechanical or economic but political." He felt that people shared the medieval notion of a just price as an ethical norm, and that prices that varied according to the circumstances of the moment were intrinsically evil: The free market has often enough been condemned as a snare and a delusion, but if indeed prices have to perform their function in the context of modern industrial society, it may be not because the free market will not work, but because it has not been effectively tried.

In 1987, building on many years of work on homeostatic control, Professor Fred Schweppe of MIT co-authored a book that laid out the theory and practice of spot pricing or real-time pricing, the ultimate form of dynamic pricing. Schweppe et al. believed that given the overwhelming efficiency benefits that would flow from dynamic pricing, it was inevitable that deployment of this optimal rate design would soon follow. But it did not.

In 2001, reviewing the slow progress toward dynamic pricing in restructured markets, Eric Hirst of the Oak Ridge National Laboratory commented, "The greatest barriers are legislative and regulatory, deriving from state efforts to protect retail customers from the vagaries of competitive markets." Qtd from Faruqui, A. (2010) The Ethics of Dynamic Pricing. *The Brattle Group*. Page 5. http://assets.fiercemarkets.net/public/smartgridnews/The_Ethics_of_Dynamic_Pricing__03-30-10_.pdf largest outage ever for the greater Kansas City area.[24] Other confounding variables such as the current rate increase request in Kansas would also need to be factored into why the Company's approval ratings are low.[25]

Moreover, with the implementation of TOU rates, there has been no outcry from the public like what was seen five years ago in Case Nos. ER-2018-0145 and ER-2018-0146. In that instance, customers experiencing intense levels of frustration from the substantive changes to the Company's billing and operations practices put a series of online petitions forward. Figure 6 shows an example of these online petitions.

Figure 6: Change.org petition to Audit KCP&L[26]



F. Response to "certain space heating customers are going to run the risk of larger than normal bills"

This is true, but not necessarily for reasons associated with TOU rates. Evergy's space heating customer class rates were previously priced under favorable terms that encouraged energy consumption. The space heating customers' rates were out-of-line with the rest of Evergy's customers and their historic subsidy has been targeted for change for some time. If TOU rates

[24] Gellman, M. (2023) 'A long road': Storm creates largest outage ever for Kansas City area Evergy company. *The Kansas City Star*. https://www.kansascity.com/news/local/article277352968.html

[25] To my knowledge, Evergy's approval ratings are considered on a company-wide basis.

[26] Miller, C. (2018) Audit KCP&L. *Change.org* https://www.change.org/p/audit-kcp-l

were to never have gone into effect, space heating customers would likely still be paying larger than normal bills as a result of the elimination of the space heating subsidy.

Further, Evergy's space heating customers have the option of selecting a "best fit" based on their historical consumption patterns. If these customers are actively targeted and educated (e.g., placed on a "best fit" plan) their risk exposure will be minimized.

G. **<u>Response to "vulnerable populations will be negatively impacted by TOU rates"</u>**

Pricing electricity more aligned with marginal cost pricing will minimize intra-customer subsidies that have existed for a century between customers with flatter-than-average load shapes and peakier-than average load shapes. Research by the Citizens Utility Board of Illinois over ComEd AMI interval data corroborates this assertion based on a 2019 segmentation study over Illinois residents' load shapes. In their study of 2.5 million customers, Zethmayr and Makiga concluded that flatter load shapes were more likely in urban and low-income areas, with high-volume, peak usage more likely in high income/suburban areas.[27]

Income based differences in the types of load shapes observed is likely a function of the types of technologies found in the home, as opposed to educational or preference differences. That is, low income populations are likely to have less energy intensive devices in their home.

Research results from Opinion Dynamics from the 2019 Smart Energy Consumer Collaborative, a national sample of 1,138 residential customers on various dynamic pricing models supports this hypothesis:

> One of the primary arguments against defaulting low-income customers onto TOU rates is that their schedules or personal situations do not allow them to shift or reduce their use. This pilot suggests that not only is this not the case, but their natural load shape (e.g., fewer appliances in the home) tends to result in bill savings even without load shifting. . . . As this case study demonstrates, the vast majority of low-income customers can save money on TOU rate; most of which need not change their behavior to do so. Comparisons of reported load shifting behaviors and bill impacts corroborate this assertion, as over half (53%) of low income customers that ultimately saved money after their first year on the rate did not report adjusting their behavior in response to the rate. However, this year-end net benefit may require paying more attention in the summer months and then making the losses back in the winter months.[28]

As indicated earlier, the 2023 Brattle study of Evergy's rates also suggest that approximately 3 out of 4 low-income households (those making less than $40K) and seniors (those over the age of 66) will save money or be no worse off without *any* behavioral modification on an annual basis.

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[27] Zethmayr, J. & R.S. Makhija (2019) Six unique load shapes. A segmentation analysis of Illinois residential electricity consumers. *The Electricity Journal* 32.9. https://www.sciencedirect.com/science/article/abs/pii/S1040619019301800

[28] Folks J. & Z. Hathaway (2020) Assessing Equity in TOU: How Low-Income Customers Fare on Time of Use Rates. https://opiniondynamics.com/wp-content/uploads/2021/06/2020_ACEEE-Summer-Study_Assessing-Equity-How-Low-Income-Customers-Fare-on-TOU_Rates_Folks.pdf

To address seasonal fluctuations in bills during the summer months a combination of activities can be utilized to mitigate volatility including budget billing (which averages out payments) and the creation of a program similar to Ameren Missouri's Keeping Cool program that targets seniors, and low-income households with children and/or disabilities.

Customers with health related complications will also be well served by the newly formed Evergy Critical Needs Program that should be operational by next summer. The Critical Needs Program is designed to help vulnerable customers keep their electric service on by leveraging help from the United Way's network of hospital, non-profit, and government support services.

OPC has had an extremely productive working relationship with Evergy and the network of social service providers in the greater Kansas City metropolitan area to get the Critical Needs Program operational in 2024. Moving forward, the introduction of a Keeping Cool-like program would also be an appropriate safety net to further mitigate any seasonal fluctuations that may be introduced in the summer with a higher differential TOU rate design.

Furthermore, to the extent that Evergy has not already done this, we would encourage proactive outreach to local community action agencies that administer the Low-Income Home Energy Assistance Program ("LIHEAP") where training and education can be prioritized.

OPC supports active education of vulnerable populations including: low-income, seniors, customers with disabilities, medical liabilities, and families with young children. Partnerships with the medical community and other institutions/agencies that specialize in these cohorts is highly recommended.

H. Response to "concerns around net metering customers"

Changing the default differentials will have no impact on net metering customers one way or the other. It is our understanding that legislative changes will be necessary for this small subset of customers to take advantage of the TOU rates.

I. Response to "adopting a low differential as the default accomplishes the same policy objectives as a high differential"

Evergy does not believe this. Per the rebuttal testimony of Evergy witness Kimberly H. Winslow in Case Nos. ER-2022-0129 & ER-2022-0130:

> I am aware of at least one well-known 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.
>
> The Commission should consider the risk of selling customers on the benefits of TOU rates when Staff's ultra-low differential TOU design provides virtually no

> opportunity for bill savings. 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 easily 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, we have concerns over customers experiencing 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.[29]

If Ms. Winslow is to be believed (and I am inclined to now agree), a Commission switch to the "ultra-low differential" could induce a negative pushback from customers who do make behavioral modifications in their energy usage only to experience little financial savings as a result.

J. Response to "the rest of the US regulatory community is watching Missouri"

This is true. A last second reversal in policy implementation will likely further stall meaningful TOU rate design in Missouri indefinitely, and will most certainly impact implementation from occurring in other states as well. The net result will be wasted money, wasted opportunity, and an overall step-back in reforming rates to reflect cost causative principles. In sum, all parties (minus the utility) will be worse off as a result.

VI. Conclusion

The OPC recognizes the perceived volatility associated with introducing TOU with pronounced differentials and we support further outreach and education efforts by the Company. We do not, however, support changing the default rate at the zero-hour, especially when it will most assuredly result in an over collection in revenues to Evergy in the near term.

Simply put, it is rare that the consumer advocate finds itself in a position to advocate for a policy change that will result in the realized benefits of a largely doormat $268 million investment and which should result in approximately 90% of customers being better off (or at least no worse off) with no behavioral changes. Ignoring these facts would run counter to OPC's stated statutory directive to represents consumers before this Commission.

For at least the reasons discussed in this memorandum and the accompanying pleading, the OPC asks that the Commission reject Evergy's Amended Application.

[29] Case No. ER-2022-0129 & ER-2022-0130 Rebuttal Testimony of Kimberly H. Winslow p. 6, 17-21 & p. 7, 1-11.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

AFFIDAVIT OF LISA KREMER

STATE OF MISSOURI	)	
	)	SS.
COUNTY OF COLE	)	

COMES NOW LISA KREMER and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Memorandum* and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Lisa Kremer
Lisa Kremer
Consultant

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 25th day of September, 2023.

TIFFANY HILDEBRAND
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES AUGUST 8, 2027
COLE COUNTY
COMMISSION #15637121

Tiffany Hildebrand
Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI	)	
	)	SS.
COUNTY OF COLE	)	

COMES NOW GEOFF MARKE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Memorandum* and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

Geoff Marke
Geoff Marke
Chief Economist

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 25th day of September, 2023.

TIFFANY HILDEBRAND
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES AUGUST 8, 2027
COLE COUNTY
COMMISSION #15637121

Tiffany Hildebrand
Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

AFFIDAVIT OF LENA M. MANTLE

STATE OF MISSOURI	)	
	)	SS.
COUNTY OF COLE	)	

COMES NOW LENA M. MANTLE and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Memorandum* and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Lena M. Mantle
Lena M. Mantle
Senior Analyst

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 25th day of September, 2023.

TIFFANY HILDEBRAND
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES AUGUST 8, 2027
COLE COUNTY
COMMISSION #15637121

Tiffany Hildebrand
Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.