

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

**In the Matter of the Establishment of a  
Working Case Regarding FERC Order  
2222 Regarding Participation of  
Distributed Energy Resource Aggregators  
in Markets Operated by Regional  
Transmission Organizations and  
Independent Systems Operators**

**FILE NO. EW-2021-0267**

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**CPOWER RESPONSE TO EVERGY’S MOTION FOR CLARIFICATION**

Pursuant to the Missouri Public Service Commission’s (“Commission”) Order in the above-captioned docket dated November 13, 2023,<sup>1</sup> Enerwise Global Technologies, LLC, d/b/a CPower (“CPower”), submits public comments in response to the Motion for Clarification filed on November 7, 2023,<sup>2</sup> by Evergy Metro, Inc. d/b/a as Evergy Missouri Metro (“Evergy Missouri Metro”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West”) (collectively, “Evergy”). Commission’s questions concerning demand response (“DR”) aggregation for the record of this proceeding.

**1. Introduction**

CPower is a leading provider of demand side energy solutions throughout North America. Although CPower is a Midcontinent Independent System Operator (“MISO”) market participant as an Aggregator of Retail Customers (“ARC”). CPower applauds the Commission for its Nov. 24 Order to partially modify its 2010 Order regarding ARCs and appreciates the opportunity to respond to Evergy’s Motion.

**2. Responses to Evergy’s Clarification Requests**

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<sup>1</sup> File No. EW-2021-0267, Order Setting Time For Responses, *Iss’d* November 13, 2023 (“Nov. 24 Order”).

<sup>2</sup> File No. EW-2021-0267, Motion for Clarification (November 7, 2023) (“Motion”).

The comments below are in response to the questions 8 (a) – (f) posed by Evergy in its Motion. The questions have been fully restated for context to the responses offered.

a) *Does the partial modification restrict a **unique customer** from dual participation in the wholesale market and retail utility programs, or is the partial modification restricting a **customer’s load** from dual participation?*

Dual participation does not appear to be allowed, as the Commission stated that, in addition to the minimum size requirement, that only customers, “that are not participating in a retail demand response program...”<sup>3</sup> may work with ARCs. However, CPower recommends that the Commission and jurisdictional utilities work to identify distribution level services that demand response resources can provide that do not conflict with wholesale services, and to develop new or revise existing demand response programs and tariffs to enable and allow for dual participation at both wholesale and retail.

b) *What is the definition of “same corporate umbrella?”*

CPower recommends that the Commission clarify that the definition of “same corporate umbrella” be as broad as possible to allow corporate entities that have one or more separate entities that have facilities operating within Missouri. CPower suggests Missouri follow an approach similarly to Michigan whereby an ARC can submit documentation as part of the registration process to demonstrate the nature of the corporate entity relationship of multiple customer accounts to satisfy the minimum threshold within a utility territory. Once the entity relationship and the minimum threshold has been met, any additional accounts owned by the same corporate entity shall be accepted without further documentation. This process will serve to ensure that companies with multiple entities operating under different business names under the same corporate umbrella and have facilities that, by themselves,

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<sup>3</sup> File No. EW-2021-0267, Order Partially Modifying the Commission’s 2010 Order Regarding ARCs, *Iss’d* October 12, 2023, pp. 8-9. (Oct. 12 Order).

cannot satisfy the minimum size threshold established by the Commission, are able to participate with ARCs.

- c) Does the “same utility service area” mean that Evergy Missouri West and Evergy Missouri Metro are treated separately, or as Evergy Missouri jointly?*

CPower recommends that the Commission define the “same utility service area” to be an entire utility’s footprint within the state, even if there are multiple operating company territories within the state. Limiting the definition to individual utility operating territories within Missouri may leave customers that have locations in more than one utility territory but may not have aggregate demand within each territory to work with an ARC to not be able to participate if it wishes to do so. By applying the definition of a utility’s service territory to the broadest area as possible, customers that otherwise may meet the Commission’s minimum threshold to participate with an ARC will not be prevented from participating in wholesale demand response programs.

- d) Does the partial modification provide market participation access to customers that may be on a special contract rate (specifically “SIL” tariff in Evergy territories) that prevents the customer from participation in demand response programs?*

Participation in wholesale demand response programs through an ARC by customers taking service under a special contract rate such as the Special Rate for Incremental Load Service (“SIL”) within Evergy’s territories should not be prohibited. The customer types that are eligible for the SIL rate are often great candidates to participate. While the applicable retail tariff under which a customer takes service may preclude participation in a retail demand response offering, these customers should not be precluded from opportunities to provide valuable services to the wholesale market if they are interested in doing so.

- e) Does the Order allow for the continuation of Evergy’s Market Based Demand Response tariff (“MBDR”) that allows for customers who participate in the retail Business*

*Demand Response (“BDR”) tariff program to also bid into the wholesale market for energy and ancillary services?*

The Commission, in its Oct. 12 Order, stated that customers participating in utility demand response programs are not able to also work with ARCs.<sup>4</sup> To the extent the MBDR tariff provides the same services through a retail tariff as are provided at wholesale, then dual participation should not be allowed. However, as noted in response to question 8 (a) (see section 2. a above), CPower recommends exploring designing new or modifying existing utility programs to address distribution level services that would not conflict with participation in the wholesale market.

*f) Does the Order allow for movement between retail and wholesale demand response programs at any time or is there only specific times or terms of either intended?*

Customers should have the option and opportunity to elect to participate with an ARC to provide services in the wholesale market or participate in a utility’s retail demand response program, or ideally, in a future state, be able to dually participate presuming issues such as double counting can adequately be addressed. The timing of a customer’s decision to opt in or out of participating with an ARC or in a utility demand response program should recognize the registration deadlines applicable to the respective wholesale markets’ rules to avoid scenarios where a customer who desires to participate in one option is not precluded from doing so due to the timing of a retail tariff, or vis versa. To the extent the existing utility tariffs do not clearly delineate the timeframe for a customer to opt out of participating in a particular program, CPower recommends that the utilities add clarifying language regarding the timeline of when a customer must indicate its election to terminate their participation.

### **3. Conclusion**

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<sup>4</sup> *Id.*

**WHEREFORE**, CPower respectfully requests that the Commission repeal the temporary ban and direct jurisdictional utilities to pursue discussions with DR aggregators about opportunities to work cooperatively for the benefit of customers and reliability and efficiency of the electric grid.

Respectfully submitted,

*/s/ Peter Dotson-Westphalen*

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## **Certificate of Service**

I hereby certify that a copy of the foregoing document was served on the parties listed on the official service list by email, this 27<sup>th</sup> day of November 2023.

*/s/ Peter Dotson-Westphalen*