

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
vs.)	Case No. EC-2024-0092
Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West,)	
)	
Respondents.)	

**EVERGY MISSOURI METRO’S AND EVERGY MISSOURI WEST’S
ANSWER TO AMENDED STAFF COMPLAINT**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) (collectively, “Evergy” or the “Company” or “Respondent”) and for their *Answer* (“Answer”) to the *Staff Amended Complaint* (“Amended Complaint”) filed on November 20, 2023, states as follows:

BACKGROUND

1. On December 8, 2022, the Missouri Public Service Commission (“Commission”) issued its *Amended Report and Order* (“Order”) in File Nos. ER-2022-0129 and ER-2022-0130, with an effective date of December 18, 2022.

2. The Commission issued its *Order Approving Four Partial Stipulations and Agreements* in File Nos. ER-2022-0129 and ER-2022-0130 (“*Stipulation Order*”), on September 22, 2023. In the various stipulations, Evergy agreed, among other things, to file pleadings to open various dockets, hold informal meetings with parties, and file tariffs to address specific services.

3. On September 15, 2023, Staff filed its Complaint which alleges that Evergy has failed to comply with certain aspects of the stipulations and agreements approved in File Nos. ER-2022-0129 and ER-2022-0130.

4. On October 18, 2023, Evergy filed its Answer to Staff Complaint.

5. On November 16, 2023, the Commission convened a procedural conference at which time the Staff announced that it intended to file an amended complaint.

6. On November 20, 2023, Staff filed its Amended Complaint which re-alleges that Evergy has failed to comply with certain aspects of the stipulations and agreements approved in File Nos. ER-2022-0129 and ER-2022-0130.

7. On December 4, 2023, the Commission issued its *Notice of Amended Complaint and Order Directing Answer* (“December 4 Order”) that directed the Company to file its answer no later than January 3, 2024. This pleading is in response to the Commission’s December 4 Order.

8. Counts I (sic) 2, 3, 5 and 6 of the Staff’s Amended Complaint make allegations related to Evergy’s alleged failures to comply with certain aspects of the stipulations and agreements in File Nos. ER-2022-0129 and ER-2022-0130. Counts I, 3, 4, 5 and 6 have existing dockets and/or ongoing discussions with Staff and other parties that address the underlying substantive issues related to these allegations, and these counts should be addressed by the Commission in those dockets rather than in this Complaint proceeding. Count 2 also has pending informal discussions with stakeholders and should therefore be addressed therein. The following proceedings are directly related to each of these respective counts:

Count I (sic)— Re Requests from Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West for Customer Data Account Data Production, File No. EO-2024-0002;¹

¹ The Commission issued its Order Setting Procedural Schedule, File No. EO-2024-0002 on October 18, 2023, which directs the filing of testimony by the parties and evidentiary hearings in January, 2024.

Count 2 — Rate Modernization Discussions—discussion among Evergy, Staff and other parties were held on August 4 and 28, 2023.

Count 3 — Re Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request to Revise Its Solar Subscription Rider, File No. EO-2023-0423 and Re Evergy Missouri West d/b/a Evergy Missouri West’s Request To Revise Its Solar Subscription Rider, File No. EO-2023-0424 (filed on June 14, 2023).² On December 1, 2023, Evergy filed its revised solar subscription tariff in In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service, File Nos. ET-2024-0182. A procedural conference in this matter was held on January 3, 2024, the same date as the filing of this pleading.

Counts 4, 5, and 6—Re Collaborative Workshop for Customer Education and Outreach Regarding the Introduction of Default Time-of-Use Rates by Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West, File No. EW-2023-0199.³

9. If Staff has concerns about the substantive or procedural issues in these dockets or the quality or quantity of the on-the-record or informal presentations made by Evergy, then their concerns should be raised in the above-referenced proceedings, not by filing a formal Complaint

² On December 1, 2023 the Company filed tariffs in File No. ET-2024-0182. On December 7, 2023, the Commission closed File Nos. EO-2023-0423 and EO-2023-024 at the request of the Company and Staff since any issues with the Solar Subscription Rider may be handled File No. ET-2024-0182 and this proceeding.

³ The Commission opened this docket on December 19, 2022. Subsequently, there have been 2 workshops, an Agenda presentation on August 10, 2023, and an on-the-record presentation on November 28, 2023 regarding the progress of Evergy TOU Implementation Plan. This docket includes numerous pleadings addressing concerns and questions raised by Staff and Public Counsel. In addition, the docket includes the filing numerous quarterly and weekly operational metric reports.

which will only distract from the actual proceedings in which the substantive issues are being addressed.

10. With regard to Count 4, this Staff allegation is related to alleged failure of Evergy to file a mandatory, or default TOU, rate option in File Nos. ER-2022-0129 and ER-2022-0130. Staff's underlying premise that Evergy was obligated to file a mandatory TOU rate plan in the last general rate case is clearly incorrect. It is not in dispute that Evergy filed a number of optional TOU rate plans in that docket. It was not required to file a mandatory, default TOU rate, as asserted by Staff. Putting aside this legal dispute, Staff has already raised this concern in File Nos. ER-2022-0129 and ER-2022-0130,⁴ and Staff should not be permitted to re-litigate its allegation in this proceeding. In fact, the Commission has adopted a mandatory, TOU default rate as a result of its various orders in those dockets and Evergy has completed its transition to mandatory TOU rates. Staff's allegations in Counts 4, 5, and 6 are moot issues and should be dismissed.

11. Evergy does not know Staff's motivations for filing of this Amended Complaint at this juncture of Evergy's TOU Implementation Plan. However, it is apparent that this Amended Complaint was totally unnecessary and duplicative of the efforts of Evergy and other parties to effectively implement the Commission-ordered mandatory TOU rate and other optional TOU rates. For all the reasons stated below, this Amended Complaint should be dismissed, or alternatively, held in abeyance while the underlying dockets discussed above are resolved by the Commission.

⁴ See Ex. 216, Lange Direct, pp. 14-16; Staff Post-Hearing Brief, pp. 35-36 in File Nos. ER-2022-0129 and ER-2022-0130.

ANSWER

12. The Company denies that it has failed to “[...] comply with the Commission’s *Amended Report and Order* issued December 8, 2022, and prepare their ratepayers for the Time-of-Use (“TOU”) rate structure approved by the Commission.”⁵ as stated in Paragraph 1.

13. Evergy admits that the Complainant in this proceeding is the Staff of the Missouri Public Service Commission. As explained by 20 CSR 4240-2.070(1), “[a]ny person who feels aggrieved by an alleged violation of any tariff, statute, rule, order, or decision within the Commission’s jurisdiction may file a complaint.” In addition, formal complaints must be made “by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person, corporation or public utility, in violation or claimed to be in violation of any provision of law or of any rule order or decision of the commission.” 20 CSR 4240-2.070(4). See also Sections 386.390 and 386.400, RSMo. The Company admits that EMM is an electrical corporation engaged in the generation, transmission, and sale of electricity within portions of eastern Kansas and western Missouri as alleged in Paragraph 3.

14. The Company admits that EMW is an electrical corporation engaged in the generation, transmission, and sale of electricity within portions of western Missouri as alleged in Paragraph 4. The Company denies that EMW is primarily engaged in the business of generating, transmitting, distributing, and selling electric energy in portions of Kansas.

15. The Company admits the statements in Paragraph 5.

16. The Company admits the jurisdictional statements in Paragraph 6.

⁵ See, Complaint, p. 1, ¶1.

17. The Company admits that the Commission has jurisdiction over the subject matter of this Amended Complaint as stated in Paragraph 7.

18. With regard to Paragraphs 8, 9, and 10, Section 386.390, 386.570.1, 4 CSR 240-2.070(1) and 386.590 RSMo. speak for themselves, and no response is required.

19. The Company admits that the Commission issued its Amended Report and Order on December 8, 2022 with an effective date of December 18, 2022, as stated in Paragraph 11, and otherwise denies the allegations in Paragraph 11.

RESPONSE TO COUNT ONE

20. Paragraph 12 of the Amended Complaint does not appear to contain any allegations, however, to the extent that a response is required, the Company denies.

21. In reference to Paragraph 13, the Company admits the Commission issued its Order Approving Four Partial Stipulations and Agreements and the Order speaks for itself, and otherwise denies the allegations contained in Paragraph 13.

22. In reference to Paragraph 14, the Company admits that the Commission issued its Order Approving Four Partial Stipulations and Agreement which included the provision on page 12 contained in Paragraph 14.

23. In reference to Paragraph 15, the Company admits the direct testimony of Sarah Lange made the statements contained in Paragraph 15.

24. The Company denies the allegations contained in Paragraph 16 of the Amended Complaint.

25. The Company denies the allegations contained in Paragraph 17 of the Amended Complaint.

26. The Company denies the allegations contained in Paragraph 18 of the Amended Complaint.

27. The Company denies the allegations contained in Paragraph 19 of the Amended Complaint.

28. The Company denies the allegations contained in Paragraph 20 of the Amended Complaint. With regard specifically to Paragraph 20(C), Evergy retains all data necessary for reliable and accurate billing of its customers. Operationally, the Meter Data Management (“MDM”) system manages the interval meter data for all AMI meters, including 15-minute data for all capable meters. The data is retained in the MDM in accordance with the billing standards for the purposes of billing customers. As disclosed in the Direct Testimony of Brad Lutz in File No. EO-2024-0002, this 15-minute meter reading data is retained in the operational system (MDM) but not available for analysis within that operational system. Also explained in the Direct testimony of Brad Lutz in File No. EO-2024-0002, making the 15-minute data available for analysis would require new tools/systems to create the summarization of the 15-minute data across multiple customers for a given rate, day, month, etc. Staff has apparently confused this data availability with data retention. The Company is retaining 15-minute interval data and there is no risk of data being deleted in the foreseeable future.

29. The Company denies the allegations contained in Paragraph 21.

30. The Stipulation states, “Prior to July 1, 2023, the Company will identify and provide the data requested in the direct testimony of Sarah Lange. If the requested data is not available or cost-prohibitive to produce, the Company will file a motion to establish an EO docket. In that docket the Company will provide the reason why it cannot provide the requested

data and its individual estimate of the cost to provide each set of requested data, for the further consideration of the parties and the Commission.” On June 30, 2023, Evergy filed to open File No. EO-2024-0002. The Company did not agree in the Stipulation to file direct testimony by July 1, 2023, as asserted by Staff. Nor is there any requirement in the Commission’s rules to file direct testimony with a motion to open an EO- docket. File No. EO-2024-0002 is currently pending⁶ and that case is the proper forum for any of the allegations asserted by Staff in Count I of its Amended Complaint. On November 1, 2023, Evergy filed direct testimony in File No. EO-2024-0002 which explained the reasons why it cannot provide the requested data and its individual estimate of the cost to provide each set of requested data. The allegations contained in Count I have been rendered moot, and Count I should be dismissed.

RESPONSE TO COUNT TWO

31. Paragraph 22 of the Amended Complaint does not appear to contain any allegations; however, to the extent that a response is required, the Company denies.

32. With regard to Paragraph 23, Evergy admits that it did not meet with stakeholders to discuss rate modernization within 180 days of its tariff effective date, due to the unavailability of all stakeholders to meet as requested by Evergy.

33. With regard to Paragraph 24, the Amended Report and Order speaks for itself and no response is necessary.

34. With regard to Paragraph 25, the Amended Report and Order speaks for itself. Otherwise, the Company denies the allegations contained in Paragraph 25.

⁶ On October 5, 2023, the parties file a Joint Proposed Procedural Schedule which includes the requirement for Evergy to file direct testimony addressing the issues in this case on November 1, 2023. On October 18, 2023, the Commission issued its order approving the joint procedural schedule.

35. The Company admits the allegations in Paragraph 26 of the Amended Complaint.

36. With regard to Paragraph 27, the Company admits that the rate modernization discussion was scheduled at 3:00 p.m. on August 9, 2023 after receiving input on available meeting dates/times from stakeholders.

37. With regard to Paragraph 28, the Company admits that it sent a presentation to stakeholders on August 9, 2023 which referenced the *Amended Report and Order's* meeting requirement.

38. The Company admits the allegations contained in Paragraph 29 of the Amended Complaint.

39. The Company denies the allegations contained in Paragraph 30 of the Amended Complaint.

40. The Company denies the allegations contained in Paragraph 31 of the Amended Complaint.

41. The effective date of tariffs is January 9, 2023 with 180 days after being July 8, 2023. The Company sent an email requesting a meeting on July 7. MECG and MIEC replied on July 7, Google and Velvet replied by July 11. Staff replied on July 12, providing dates in July and August for a meeting. OPC replied on August 8, changing the meeting time to the afternoon.

42. The Company does not agree that the Commission order specified that non-residential rate modernization plans were the intended purpose of the Rate Modernization Meeting stipulation. Instead, given that this stipulation was approved before the final order in the rate case and the resulting implementations of TOU for the Residential class, the Company viewed this stipulation more broadly, expecting that it was intended to address all Rate Modernization topics.

43. The Company held meetings with interested parties on August 9 and August 28, 2023. At the second meeting Staff presented on non-residential rate design and other stakeholders presented feedback. Additional meetings are expected to continue this dialogue. Again, Count 2 has been rendered moot and should be dismissed.

RESPONSE TO COUNT THREE

44. Paragraph 32 of the Amended Complaint does not appear to contain any allegations, however, to the extent that a response is required, the Company denies.

45. The Company denies the allegations contained in Paragraph 33. On December 1, 2023, Evergy filed its proposed solar subscription tariffs in In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement A General Rate Increase for Electric Service File Nos. ET-2024-0182.

46. The Company admits the allegations contained in Paragraph 34.

47. The Company admits that the Staff filed its response to the tariff sheet filings, but denies the remaining allegations in Paragraph 35.

48. The Company admits the allegations contained in Paragraph 36 of the Amended Complaint.

49. The Company admits the allegations contained in Paragraph 37 of the Amended Complaint.

50. The Company admits the allegations contained in Paragraph 38 of the Amended Complaint.

51. The Company denies that the ET- docket filing has not been made and denies all allegations contained in Paragraph 39 of the Amended Complaint.

52. The Company denies the allegations contained in Paragraph 40.

53. There is no reference to a Solar Subscription Rider filing in the *Amended Report and Order*.

54. In the Response to Staff's Recommendation in ER-2022-0129/0130 on June 7, 2023, the Company did commit to file an ET- docket to address TOU and Service and Access charge issues. This filing was made on December 1, 2023 in In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement A General Rate Increase for Electric Service, File No. ET-2024-0182.

55. In the same Recommendation, Staff introduced new approaches meant to adjust the Solar Subscription Rider to align with TOU rates.

56. Prior to this Recommendation, but also related to the SSP tariff, the Company was working with Staff to explore concerns about program participation and the residential TOU rates. The Company processes the billing under the SSP tariff similarly to the processing of billing for Net Metering. Given the Commission support for limiting Net Metering under TOU, the Company believed the same restriction should apply here. Staff believed that the situation was different and that alternate billing methods could be utilized.

57. Subsequent discussions with Staff to understand the proposed Service and Access charge approaches and determine availability for residential TOU subscribers extended well past the June date but failed to produce any final agreement on an approach.

58. The Company states that it held phone calls and email exchanges with Staff during the months before and after June 30 in a good faith effort on the part of Evergy to resolve the issues related to the SSP tariff on an amicable basis before filing a tariff revision with the Commission.

These efforts continued until the point that Evergy was surprised to be served with the Complaint in this matter.

RESPONSE TO COUNT FOUR

59. Paragraph 41 of the Amended Complaint does not appear to contain any allegations, however, to the extent that a response is required, the Company denies.

60. The Company denies the allegations contained in Paragraph 42.

61. The Non-Unanimous Stipulation and Agreement Concerning Rate Design Issues in Case Nos. ER-2018-0145 and ER-2018-0146 speaks for itself. Otherwise, Paragraph 43 of the Amended Complaint does not appear to contain any allegations. However, to the extent that a response is required, the Company denies.

62. The Company denies the allegations contained in Paragraph 44 of the Amended Complaint.

63. The Company denies the allegations contained in Paragraph 45 of the Amended Complaint.’

64. The Company does not agree that the Commission ordered the Company to file a proposed plan for mandatory, default TOU rates.

65. The Company submitted an expansion of its optional TOU rates, modifying the 3-period, adding a 2-period, adding a high differential 3-period, and adding a separately metered EV TOU rate in the 2022 rate cases. The Company leveraged everything shared in its TOU rate design report offered under EO-2021-0349/0350 that resulted from the 2018 Order.

66. The Commission has now adopted a mandatory, default TOU rate for Evergy's customers.⁷ The Commission's Orders to adopt a mandatory, default TOU rate has rendered Staff's allegations in Count 4 moot, and Count 4 should be dismissed.

RESPONSE TO COUNT FIVE

67. Paragraph 46 of the Amended Complaint does not appear to contain any allegations, however, to the extent that a response is required, the Company denies.

68. The Company denies the allegations contained in Paragraph 47.

69. The Amended Report and Order speaks for itself and requires no response. Otherwise, Paragraph 48 of the Amended Complaint does not appear to contain any allegations. However, to the extent that a response is required, the Company denies.

70. The Amended Report and Order speaks for itself and requires no response. Otherwise, Paragraph 49 of the Amended Complaint does not appear to contain any allegations. However, to the extent that a response is required, the Company denies.

71. In reference to Paragraph 50, the Company admits that it filed an Application of Tariff Revisions to Time-of-Use Program, Request for Waiver of 60 Day Notice Requirement and Motion for Expedited Treatment in Case No. ET-2024-0061 on September 8, 2023, and otherwise denies the allegations contained in Paragraph 50 of the Amended Complaint.

72. The Company denies the allegations contained in Paragraph 51 of the Amended Complaint.

⁷ See *Amended Report and Order*, pp. 70-74, File Nos. ER-2022-0129 and ER-2022-0130 (issued December 8, 2023) and superseded by *Order Approving Amended Application and Tariff*, File No ET-2024-0061 (issued September 27, 2023).

73. The Company denies the allegations contained in Paragraph 52 of the Amended Complaint.

RESPONSE TO COUNT SIX

74. Paragraph 53 of the Amended Complaint does not appear to contain any allegations. However, to the extent that a response is required, the Company denies.

75. The Company denies the allegations contained in Paragraph 54 of the Amended Complaint.

76. The Company admits that Evergy customers received information contained in Paragraph 55. The Company has insufficient information to know if this information was the first information Evergy customers received regarding the TOU rates.

77. The Company denies the allegations contained in Paragraph 56.

78. The Company denies the allegations contained in Paragraph 57.

79. The Company denies the allegations contained in Paragraph 58.

80. The Company denies the allegations contained in Paragraph 59.

81. The Company denies the allegations contained in Paragraph 60.

82. The Company denies the allegations contained in Paragraph 61.

83. The Company admits that Staff has propounded to Evergy requests for discovery. However, the Company has no knowledge of Staff's intent to file yet another amended complaint in this matter. The Company denies all other allegations contained in Paragraph 62.

84. The Company is aware of customer comments and informal complaints regarding the bill length issue and denies the remaining allegations in Paragraph 63. The Company admits

that certain customers have experienced bill length issues due to changing rates in the middle of the billing cycle.

85. The Company has had discussions with Staff on the bill length issue including the drivers and recommendations and has plans to make changes to its billing system to only allow customers rate to change at the time of their next billing (i.e. with the bill cycle).

86. The Company denies the allegations contained in Paragraph 65.

87. Staff largely ignores the extensive educational and outreach efforts disclosed in the Collaborative Workshop, EW-2023-0199.

88. The allegations in Count 4, 5 and 6 are ludicrous and patently false. Staff is well aware of the Company's comprehensive campaign to engage and educate customers and the Company detailed the process and timeline in the three workshops and on-the-record presentation that Staff attended and participated in. Additionally, there have been many filings updating the performance of the campaign, all tactics have been shared, and many data requests have been answered.

89. After receiving the Commission's order in December, the Company began developing a comprehensive plan and program to engage and educate customers about the TOU transition. The Company's original position was to begin the outreach and education campaign in August 2023, once the digital tools were ready and the contact center was trained to support customer calls. However, after receiving feedback from Staff in the first workshop and a recommendation to begin the communication with customers sooner than August, the Company moved up the timeline and began communication and outreach in June 2023, a full 2.5 months sooner than originally planned.

90. Developing a comprehensive education and outreach plan takes time. In December, the Company developed the plan process and began our due diligence to identify potential agency partners with TOU experience. In order to be in a position to launch the Company's education and outreach plan in August, and ultimately in June, the Company took the following steps in January through May as part of the communications campaign planning process:

- Managed an RFP process and ultimately hired an agency partner with TOU expertise. Leveraged our existing advertising agency for media buying to ensure cost efficiencies.
- Developed and implemented customer research to define rate names, descriptions and key messages. Designed three-part research studies to track attitudes and understanding. Designed and launched monthly survey to track customer perceptions through phases of the campaign.
- Developed media strategy and tactical plan for the 2023 portion of the campaign.
- Developed overarching communications strategy, including five phases spanning 18 months.
- Developed campaign creative strategy for the first three of the five phases of the campaign.
- Developed communications and community outreach plan to reach non-digital and vulnerable customer groups.
- Determined Key Performance Indicators for the comprehensive outreach and education program and set up performance reporting based on

conversations in the Workshop about a desire to monitor the campaign performance.

91. Evergy also wishes to express its deep disappointment and surprise that the Commission Staff would use this Complaint proceeding as a tactic utilized in an apparent attempt to solely blame or otherwise make the Company responsible for any confusion and misinformation that has been associated with the roll-out of the TOU Implementation Plan. Evergy has in good faith engaged in a collaborative effort to solicit the participation of the Staff, Public Counsel, and the Commission itself in the development of the engagement and education program associated with the mandatory TOU rates ordered by the Commission. Evergy generally believes that its plan to engage and educate its customers about the Commission-mandated TOU rate plan has been largely successful. However, many factors, including the mandatory nature of the TOU rate plan, has contributed to the confusion and opposition to the approved TOU Implementation Plan.

92. As the Commission knows, Evergy itself requested the establishment of a working docket for this purpose.⁸ The Commission adopted the Company's recommendation and opened a working docket, File No. EW-2023-0199, to allow "anyone with an interest in this matter may view documents and may submit any pertinent responsive comments or documents."⁹ The Order also directed "Evergy to file a status report addressing the operations, communications, and expectations of the workshop. The status report may include any other pertinent details."¹⁰

⁸ See Evergy Missouri Metro's And Evergy Missouri West's Motion For Reconsideration, Or In The Alternative, Application For Rehearing, p. 10, para. 17, File Nos. ER-2022-0129/0130 (filed Dec. 5, 2022).

⁹ *Order Opening a Working Case*, Re A Collaborative Workshop for Customer Education and Outreach Regarding the Introduction of Default Time-of-Use Rates by Evergy Metro, Inc. D/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. D/b/a Evergy Missouri West (Dec. 21, 2023); See also Amended Report and Order, p. 99, para. 12, File Nos. ER-2022-0129/0130 (Dec. 8, 2022).

¹⁰ See *Order Opening a Working Case*, Re A Collaborative Workshop for Customer Education and Outreach Regarding the Introduction of Default Time-of-Use Rates by Evergy Metro, Inc. D/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. D/b/a Evergy Missouri West (Dec. 21, 2023).

93. Pursuant to the Commission's *Order Opening A Workshop Case* and subsequent orders, Evergy conducted three workshop presentations,¹¹ made a presentation on August 10, 2023 to the Commissioners at its Agenda Meeting,¹² and filed Quarterly Reports and Weekly Operational Updates¹³, and made an on-the-record presentation to the Commission on November 28, 2023.¹⁴

94. Following the August 10, 2023, Agenda presentation by Chuck Caisley, Evergy's Senior Vice President, Public Affairs and Chief Customer Officer, and Katie McDonald, Evergy's Senior Director, Public Affairs, the Commission also issued its *Order Directing Time-Of-Use Customer Choice Transition Reporting* which ordered that the Company file monthly updates to a list of items set forth in the order and directed that the Company make a progress report presentation regarding TOU education and implementation process at an on-the-record presentation to be scheduled in November, 2023, January 2024, and April, 2024.¹⁵ On November 28, 2023, Mr. Caisley and Ms. McDonald made an on-the-record presentation which updated the Commission and the stakeholders of the significant progress the Company has made in completing the Commission-approved TOU Implementation Plan. The Commission has also scheduled a follow-up on-the-record presentation for January 22, 2024.

¹¹ See Notice of Presentations, File No. EW-2023-0199 (filed on March 29, 2023 for March 28th Workshop, and May 25, 2023 for May 23rd Workshop, and December __ for the December 18 Workshop).

¹² Notice of Filing Agenda Presentation, File No. EW-2023-0199 (filed on Aug. 11, 2023 for August 10th Agenda Presentation).

¹³ Weekly Operational Metrics Updates, File No. EW-2023-0199 (filed on Aug. 8, and 25, Sept. 8, 15, 22, 29, and Oct. 6, 13, 20, 27, and Nov. 3, 9, 17, 27, and December 4, 2023). On December 11, 2023, the Company filed a Response to Order Directing Time-of-Use Customer Choice Transition Reporting which included updates on previous dashboard information and marketing and educational information.

¹⁴ Notice of Presentation to Commission, File No. EW-2023-0199 (filed on Nov. 11, 2023). An on-the-record presentation has also been scheduled for January 22, 2024. (See Order Scheduling Second On-The-Record Presentation by Evergy Regarding Time-Of-Use Rate Implementation (issued December 18, 2023).

¹⁵ *Order Directing Time-Of-Use Customer Choice Transition Reporting*, File No. EW-2023-0199 (Aug. 8, 2023).

95. Pursuant to the August 30, 2023 Order, the Company filed Weekly Operations Metrics Updates on September 1, 8, 15, 22, 29, and October 6, 13, 20, 27, and November 3, 9, 17 and 27, 2023 which detailed the progress of the TOU Implementation Program.¹⁶ The Company also filed monthly education and outreach PowerPoint decks that provided all the tactics and execution updates related to the outreach and education plan.¹⁷

96. On October 10, 2023, Evergy filed its *Response to Order Directing Time-of-Use Customer Choice Transition Reporting*. The Response and its attachments contain extensive evidence of the overall success of the Company's efforts to engage and educate Evergy's customers regarding the existence of the TOU rate program and the details of its plans. In particular, the TOU Dashboard for November 2023, indicates that **98% of Evergy's customers are aware that there are new TOU rate options, and 155,922 customers have pre-selected a TOU rate option, as of November, 2023.**¹⁸

97. Based upon the results shown on the TOU Education and Outreach Dashboard, the benchmarks and goals associated with nearly every communication channel, including Bill Message/Inserts, Billboards, Digital Display, Direct Mail, Email, Events, Media Relations, and Newspaper and Church Ads, have been met and exceeded.¹⁹

98. Based upon the evidence available, there is no basis for Staff's allegation that "Evergy has not complied with the Commission's order in the Amended Report and Order in Case Nos. ER-2022-0129 and ER-2022-0130 to implement a program to engage and educate customers

¹⁶ Weekly Operational Metrics Updates, File No. EW-2023-0199 (filed on Sept. 8, 22, 29, and Oct. 6 and 13, 2023).

¹⁷ See *Notice of Filing* (Sep. 8, 2023) and *Response to Order Directing Transition Reporting* (Oct. 10, 2023 and December 11, 2023), File No. EW-2023-0199.

¹⁸ See Notice of Presentation, Ex. A, p. 4 of 27 (filed November 27, 2023).

¹⁹ See Notice of Presentation, Ex. A, p. 17 of 27 (filed November 27, 2023).

in the approximately ten-month lead-in time until its tariff provisions regarding the 2-period TOU rate as the default rate for residential customers becomes effective.” (Amended Complaint, p. 17, para. 47)

AFFIRMATIVE DEFENSES

FIRST DEFENSE

1. The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

2. EMM and EMW have performed their obligations under the Stipulations.

THIRD DEFENSE

3. The Amended Complaint should be dismissed as moot.

FOURTH DEFENSE

4. The Amended Complaint should be dismissed because any issues raised in the Amended Complaint are being considered in other pending dockets.

5. Unless affirmatively admitted herein in its responses above, Respondent denies the allegations contained in the Amended Complaint. Additionally, Respondent reserves the right to supplement this pleading to add additional defenses and claims in connection with this Amended Complaint.

WHEREFORE, the Company submits its answer to the Amended Complaint, and requests that the Commission dismiss the Amended Complaint, or in the alternative, hold the Amended Complaint proceeding in abeyance until the Commission has resolved the following dockets: File Nos. EO-2024-0002, EO-2023-0423, EO-2023-0424, ET-2024-0182 and EW-2023-0199.

Respectfully submitted,

/s/ Roger W. Steiner

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**COUNSEL FOR EVERGY MISSOURI
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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed to counsel of record for all parties this 3rd day of January 2024.

/s/ Roger W. Steiner

Roger W. Steiner