

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

In the Matter of Requests from Evergy Metro, )  
Inc. d/b/a Evergy Missouri Metro and Evergy ) **File No. EO-2024-0002**  
Missouri West, Inc. d/b/a Evergy Missouri West )  
for Customer Account Data Production )

**POST – HEARING BRIEF**

**COMES NOW**, the Staff of the Missouri Public Service Commission (“Staff”), through counsel, and files its *Post-Hearing Brief*:

**INTRODUCTION**

In July 2022, Staff filed testimony in Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (hereafter “Evergy” or the “Company”) rate cases, ER-2022-0129 and ER-2022-0130 outlining Evergy’s inability to provide data needed to support Evergy’s existing rate designs,<sup>1</sup> and Evergy’s inability to provide accurate billing data in a timely manner.<sup>2</sup> On August 30, 2022, Evergy, along with various other signatories,<sup>3</sup> signed onto a *Stipulation and Agreement*<sup>4</sup> agreeing it would provide the information that had been set out in Staff witness Sarah Lange’s direct testimony<sup>5</sup> in that rate case by July 1, 2023. If that specific requested data was not available or “cost-prohibitive” to produce, Evergy agreed it would file a motion to open an EO docket to explain “the reason why it cannot provide the requested data” and give

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<sup>1</sup> Sarah Lange testimony in ER-2022-0129 and ER-2022-0130, ex 206.

<sup>2</sup> Kim Cox’s testimony in ER-2022-0129 and ER-2022-0130, attached as schedule KC-r2 to her rebuttal testimony in this case, Exhibit 200.

<sup>3</sup> The other signatories included the Office of the Public Counsel (OPC), Nucor Steel Sedalia, LLC, the City of St. Joseph, Missouri, Midwest Energy Consumers Group (MECG), and Renew Missouri Advocates. Evergy was the only electric utility corporation that was a party to the *Stipulation and Agreement*

<sup>4</sup> That *Stipulation and Agreement* was approved by the Commission by its September 22, 2022 *Order Approving Four Partial Stipulations and Agreements* in ER-2022-0129 and ER-2022-0130, effective October 2, 2022.

<sup>5</sup> ER-2022-0129 and ER-2022-0130, Sarah Lange, Direct testimony, pp. 61-64, June 22, 2022. See also, Exhibit 204.

“its individual estimate of the cost to provide each set of requested data” for the Staff and the Commission’s consideration.<sup>6</sup>

Prior to entering the *Stipulation and Agreement*, Evergy witness Brad Lutz filed testimony addressing the portions of Ms. Lange’s Direct testimony which ultimately became the subject of the *Stipulation and Agreement*.<sup>7</sup> At the hearing in this case, EO-2024-0002, Mr. Lutz testified that “the meetings between [Evergy and] Staff primarily happened before the stipulation, I think, subject to check, that we tried to meet during the case during the discovery phases, maybe even during the settlement phases of the rate case to determine if there was some way we could find some common ground on the data requests.”<sup>8</sup> Mr. Lutz conceded that, to the extent the Company failed to understand what it had committed to do in the *Stipulation and Agreement*, or believed alternative information was more appropriate, it did not bring these concerns to Staff’s attention.<sup>9</sup> Shortly after Evergy filed its Direct testimony in this case, Staff asked Evergy what alternative data it had in mind, and Evergy declined to discuss the issue further. Similarly, Staff’s attempts to explore alternative data through discovery in this docket were not productive.”<sup>10</sup>

At the hearing, Mr. Lutz diverted his answer to a “good solution,” to the case as a whole, testifying, “I guess what I'm trying to move outside of is the discovery process has

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<sup>6</sup> The specific language of the *Stipulation and Agreement* at issue stated, as follows: “(4) Data Retention. (a) 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 a 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.” See also, Staff Exhibit 204.

<sup>7</sup> Exhibit #211c.

<sup>8</sup> Tr. 186:17-23.

<sup>9</sup> Lange Rebuttal 19:17-20; Lutz Cross, Tr. 187:1-5.

<sup>10</sup> Lange Rebuttal, 20:1-4.

often been a constraint to this dialogue between us because so much of it has occurred within the data request process and its timing and that just is a constraint that's difficult for us collectively to navigate. So if we can do things outside of discovery, I think then there's much more opportunity to reach some kind of a good solution.”<sup>11</sup> Mr. Lutz continued, “I do agree we need some means, some method. I accept that that the only way we're going to resolve this is for us to continue to talk through it and work it out. It's just a matter of getting the right guidance and the right information to help lead us to an answer.... But I think Staff would support me in this that the solution is not in these ten data requests or data sets. The solution is something additional, something different that we've maybe collectively now have new understanding about each other and what we can do and what we can deliver.”<sup>12</sup>

While Mr. Lutz insisted that this pending EO docket be closed and some other docket be opened, the relief he suggests is essentially Staff's recommendation in this case, to keep a docket open to facilitate resolution of acquisition of this needed data in a timely manner. These recommendations are set forth in Staffs' testimony as follows.

“The Commission should leave this docket open as a repository for discovery and for resolution of potential discovery disputes, as Staff proceeds to request information to complete a distribution system study” and to use this docket “as a means to resolve areas where Evergy asserts it cannot provide requested data because production of this data would require it to perform additional analysis.”<sup>13</sup> “Staff further recommends this docket remain open for resolution of discovery disputes related to data provision.

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<sup>11</sup> Tr. 109:24 to 110:6.

<sup>12</sup> Tr. 110:16 to 111:8.

<sup>13</sup> Lange Rebuttal 17:18-20 and 18:2-4.

Specifically, Staff recommends this docket be used as a means to resolve areas where Evergy asserts that it cannot provide requested data because production of this data would require Evergy to perform additional analysis to provide required data in a usable format.”<sup>14</sup>

Additional recommendations were provided regarding production of customer and usage data. With regard to data needed to properly weather normalize revenues and determine system peaks, and how that is changing, Evergy should provide any usable hourly customer usage information by rate code along with the customer count information, create the load information as necessary to produce fuel and purchased power modeling, and estimate class-level demands for cost allocation methods used by all parties to rate cases.<sup>15</sup> As to the need for data for rate case billing determinants and the revenues derived from them, Staff recommends the Commission order Evergy to provide the data requested dealing with customer count and customer usage information, or at least retain that information so that it is available for use in future general rate cases.<sup>16</sup> Evergy must “ensure access to actual hourly customer load data by rate code to ensure access to accurate customer counts by rate code. This access must be provided in a timely manner to avoid months of regulatory lag when processing rate cases.”<sup>17</sup>

### **DISCUSSION AND ARGUMENT**

Section 393.140(1), RSMo grants the commission “general supervision” authority over electric corporations doing business in Missouri and enumerates the various powers

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<sup>14</sup> Luebbert Rebuttal 4:8-12.

<sup>15</sup> See, Michael Stahlman Rebuttal 8:9-14.

<sup>16</sup> See Kim Cox Rebuttal 11:4-10

<sup>17</sup> Luebbert Rebuttal 4:5-12.

it may exercise over utilities operating under its authority, including the power to investigate and examine its methods of operation,<sup>18</sup> “prescribe uniform methods of keeping accounts, records and books,” and the forms of those records the companies must maintain.”<sup>19</sup> Section 393.140(8) specifically gives the commission the “power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person.”

Not only does Evergy have a statutory obligation to allow Commission Staff to examine its books and records, but it created a contractual duty when it entered into the *2022 Stipulation and Agreement*. Furthermore, it was ordered by the Commission to “comply with the terms” of that agreement, thus creating a legal obligation to the Commission to comply with its lawful orders.<sup>20</sup>

1. “Evergy agreed to provide customer and usage information to be used in weather normalization, revenue calculation, billing determinant calculation, net system input calculation, (including information for calculating the fuel adjustment clause (FAC) base factor), and also to be used in [class cost of service] CCOS studies.”<sup>21</sup>

2. “Evergy agreed to provide distribution plant and expense information to calculate the discount provided through its current rate structures to customers served at voltage other than secondary and information to improve the accuracy of rate design.”<sup>22</sup>

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<sup>18</sup> § 393.140(2), RSMo.

<sup>19</sup> § 393.140(4), RSMo.

<sup>20</sup> *Order Approving Four Partial Stipulations and Agreements*, file nos. ER-2022-0129 and ER-2022-0130, dated September 22, 2022, effective October 2, 2022. See also, §§ 386.386.240 and .270, and 393.140, RSMo.

<sup>21</sup> Lange Rebuttal, 5:24-27.

<sup>22</sup> Lange Rebuttal, 5:27 to 6:3.

3. “Evergy agreed to provide information to study implementation of an on-peak demand charge,”<sup>23</sup> as well as information related to reactive demand, and customer samples to study the impacts of rate change proposals on customers.<sup>24</sup>

4. “Evergy committed to provide certain information upon Staff request, and to retain information so that it would be available for future use.”<sup>25</sup> It further agreed to “provide a reason why it cannot provide the requested data and its *individual estimate of the cost to provide each set of requested data* (emphasis added).”<sup>26</sup> However, rather than continuing discussions with Staff to determine the best path forward to providing usable data at a reasonable cost, Evergy chose not to arrange any meetings with Staff prior to July 1, 2023, (or thereafter, until the settlement discussions contained in the procedural schedule)<sup>27</sup> and refused to consider alternative data suggested by Staff through discovery in this case.<sup>28</sup>

Concerning customer and usage information, as mentioned above in Point #1, Evergy’s cost estimates and caveats introduced through its testimony render it unclear to Staff what its cost estimate is relative to what would actually be produced and when it would be provided to Staff for use in rate cases. The commitments, clouded by Evergy’s caveats, include Evergy’s commitments to: provide for each rate code, the total number of customers served on that rate code on the first day of the month and the last day of the month,<sup>29</sup> the count of customers on the first and last day of each calendar month by

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<sup>23</sup> Lange Rebuttal, 6:3-4.

<sup>24</sup> Lange Rebuttal, 17:3-12.

<sup>25</sup> Lange Rebuttal 6:4-5.

<sup>26</sup> Lange Rebuttal, 26:1-5; See also, Staff’s Exhibit 204.

<sup>27</sup> Tr. 191:20 to 192:4; 290:22-25.

<sup>28</sup> Lange Rebuttal 19:19-20 to 20:4 and Schedule SLKL-r2.

<sup>29</sup> See, Staff Statement of Positions, Issue 7.

rate code and voltage,<sup>30</sup> to provide hourly loads by rate code and voltage,<sup>31</sup> and to include in any programming changes future-proofing for special studies the Commission may order from time to time.<sup>32</sup> Evergy also failed to provide meaningful cost estimates for ongoing access to this information as needed in rate cases and other proceedings, in which the timing of information provision is incredibly important.<sup>33</sup>

Concerning distribution plant and expense information, as set forth in Point #2, Evergy failed to provide a cost estimate for the provision of line transformer costs and expenses by rate code.<sup>34</sup> Evergy failed to provide a cost estimate for the provision of primary distribution costs and expenses by voltage<sup>35</sup> and failed to provide a cost estimate for the provision of secondary distribution costs and expenses by voltage.<sup>36</sup> Evergy also failed to provide a cost estimate for the provision of primary voltage service drop costs and expenses,<sup>37</sup> did not provide a cost estimate for the provision of line extension costs, expenses, and contributions by rate code and voltage,<sup>38</sup> and failed to provide a cost estimate for the meter costs by voltage and rate code.<sup>39</sup>

Despite committing to its study during the rate case,<sup>40</sup> Evergy also failed to provide cost estimates associated with coincident peak demand charges, as set out in Point #3.<sup>41</sup> Similarly, Evergy provided no estimate of the costs to continue to study

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<sup>30</sup> See, Staff Statement of Positions, Issue 8.

<sup>31</sup> See, Staff Statement of Positions, Issue 9.

<sup>32</sup> See, Staff Statement of Positions, Issue 10.

<sup>33</sup> See, Staff Statement of Positions, issues 15 and 18.

<sup>34</sup> See, Staff Statement of Positions, Issue 1.

<sup>35</sup> See, Staff Statement of Positions, Issue 2.

<sup>36</sup> See, Staff Statement of Positions, Issue 3.

<sup>37</sup> See, Staff Statement of Positions, Issue 4.

<sup>38</sup> See, Staff Statement of Positions, Issue 5.

<sup>39</sup> See, Staff Statement of Positions, Issue 6.

<sup>40</sup> Case Nos. ER-2022-0129 and ER-2022-0130

<sup>41</sup> See, Staff Statement of Positions, Issues 13 and 19.

reactive demand charges and allocations, despite its apparent willingness to do so in its prior rate case.<sup>42</sup> Although it outlined a “brightlines” rate restructuring concept,<sup>43</sup> Evergy included significant caveats in the information it was willing to provide for its estimate of the cost to comply with its commitment to provide sample customer data to review the impacts of changes in rate structures and rate designs on customers in rate cases.<sup>44</sup> According to Evergy’s calculations, providing the data outlined in Item 8.c.3. and 8.c.4. of the list of requested data Ms. Lange outlined in her testimony<sup>45</sup> would cost an estimated \$40,000 and \$42,000, respectively, or up to \$82,000 total.<sup>46</sup> Evergy’s proposal to restructure its rates without preparing sample customer information with which to evaluate the customer impact of that restructuring, or to inform that restructuring, is not a reasonable approach to rate modernization for a multi-billion dollar utility in today’s regulatory environment. Without any of the discrete distribution system cost estimates, and without clarity as to the customer and usage information cost estimates, additional information is needed for Staff and other parties, including the Commission, to have a reasonable understanding of the information Evergy can provide and at what price. This was, after all, the intended origin of this docket as set forth in the *Stipulation and Agreement*.<sup>47</sup>

### **IMPORTANCE OF CUSTOMER AND USAGE INFORMATION**

Evergy committed to providing hourly customer usage data by rate code and the customer count information needed to calculate average hourly usage for the customers

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<sup>42</sup> See, Staff Statement of Positions, issue 20.

<sup>43</sup> Tr. 288:19-24.

<sup>44</sup> See, Staff Statement of Positions, issues 16 and 17

<sup>45</sup> See Staff Exhibit 204.

<sup>46</sup> See Lutz Direct, Schedule BDL-1, page 2.

<sup>47</sup> See, Staff Statement of Positions, Issues 11 and 12.



on each rate code. Without hourly data at the rate code level, Staff is unable to reasonably normalize the responses of Evergy's residential customers to weather given the rate structures authorized in Evergy's most recent rate cases. In the *Stipulation and Agreement*, Evergy not only agreed to provide this customer and usage data, but it also agreed to make the information available to Staff upon request.

This information goes to the heart of all rate cases. As Ms. Cox explained in her Rebuttal testimony, if Evergy is unable to provide information relied upon to calculate revenues, billing determinants, and related items "by collecting the actual usage and customer counts billed in each month of the test year and applied them to the existing rate structure," then "it is unclear how or if Evergy is able to apply the correct rates to the correct billing determinants in revenue calculations for general rate cases."<sup>48</sup>

Staff witness J Luebbert further elaborated in his Rebuttal testimony as follows,

Not only will it be imperative that this information is available to ensure that any tweaks or changes to peak periods, off-peak periods differentials, etc. will not lead to unintended consequences in future cases, this information is needed to simply calculate revenues and billing determinants applicable to rate structures authorized in the most recent rate cases. If rates are developed with bad or missing information, then the chances of rates being developed that can lead to customers paying too much or the utility underperforming increase.<sup>49</sup>

Additionally, because of Evergy's highly-differentiated time of use (TOU) rate schedules, weather normalization of customer usage on those plans requires hourly customer usage and customer count information by rate code.<sup>50</sup> Staff expects Evergy to possess this data, "due to its use of AMI meters and presumptively providing its customers with

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<sup>48</sup> Cox Rebuttal, 5:18-23.

<sup>49</sup> J Luebbert Rebuttal, 8: 3-11.

<sup>50</sup> Michael Stahlman Rebuttal, 7:1-6.

accurate bills, which could improve both Evergy's and Staff's estimate of weather normalized load and peaks. This information will also improve the quality of studies of CCOS and rate design."

Evergy's evidence regarding its ability and willingness to gather and provide the customer count and usage data, presented in attachment BDL-1 of Mr. Lutz's Direct testimony is that a minimum of \$21,000 would need to be expended in addition to Evergy's existing investment in billing systems, data hubs, and AMI metering in order to provide the total number of customers served on each rate code on the first day of the month and the last day of the month.<sup>51</sup> However, the Company fails to clarify whether or not this amount is inclusive of, or in addition to, amounts included for provision of other customer and usage information. As summarized by Ms. Lange at the hearing, "So, Mr. Lutz's testimony, Evergy's direct filing in this case, did not appear, I'll say it does not clearly state, what Evergy has to do to get information and what it will cost. There's nothing in Evergy's direct testimony in this case that wasn't known by everybody in the fall of 2022. And then to address the lack of work papers or really any, I mean, the only testimony in the case that addresses what's it going to cost is BDL-1."<sup>52</sup>

The only evidence Evergy presented showing the cost to provide this information was in its BDL-1, which showed that a minimum of \$54,000 would need to be expended in addition to Evergy's existing investment in billing systems, data hubs, and AMI metering to provide the total number of customers served on each rate code on the first day of the month and the last day of the month. Again, Evergy submitted no other workpapers in response to Staff's data requests or with any of the Company's witnesses' testimony and

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<sup>51</sup> See Lutz Direct, Schedule BDL-1, page 1.

<sup>52</sup> Tr. 359:18-21 and 360:18-20.

no further detail was provided during the hearing. Therefore, it is unclear whether or not this amount is inclusive of, or in addition to, amounts included for provision of other customer and usage information.

Evergy gave no estimated cost to comply with the sixth provision or request for data outlined in the *Stipulation and Agreement*<sup>53</sup>, reflecting Evergy's commitment to provide customer and usage data at levels requested by the Commission in future proceedings, such as "customers who receive LIHEAP<sup>54</sup> or customers in a particular zip code, that sort of thing."<sup>55</sup> Evergy dismissed this commitment as being "open ended,"<sup>56</sup> and Mr. Lutz's surrebuttal testimony asked Staff to "affirm that this is a prospective request and cannot be appropriately addressed at this time."<sup>57</sup> Nevertheless, these issues had been raised in the previous rate case, and were, therefore, known to the Company.<sup>58</sup> Staff recommends that changes made to access the billing system information as a result of this case be future-proofed to the extent possible to refine the scope of the information obtained.

### **IMPORTANCE OF DISTRIBUTION-RELATED INFORMATION**

The information included in the *Stipulation and Agreement* serve to provide better informed CCOS studies consistent with the 1992 NARUC manual. Considering the inclusion of AMI meter investment, multiple data management systems, and the substantial increase in distribution system investment included in Evergy Missouri Metro's and Evergy Missouri West's respective rate bases, it is not reasonable to fail to

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<sup>53</sup> See Staff Exhibit 204; See also, Lutz Direct - Schedule BDL-1 p.1.

<sup>54</sup> Low-Income Heating Energy Assistance Program.

<sup>55</sup> Tr. 259:11-14.

<sup>56</sup> Tr. 177:15-19; See, Lutz Direct - Schedule BDL-1 p.1.

<sup>57</sup> Lutz surrebuttal 26:4-5.

<sup>58</sup> Tr. 259:11-23.

adequately study the cost allocation of the distribution system.<sup>59</sup> The last such study was performed in the early 1990's, prior to ice storms, customer additions, and Plant in Service Accounting (PISA) that have dramatically reshaped the distribution systems of Evergy Metro and Evergy West.<sup>60</sup>

As Ms. Lange explained, the information in the first stipulation commitment would have provided all parties "information to calculate the discount provided through [Evergy's] current rate structures to customers served at voltages other than secondary." Despite Evergy witness Julie Dragoo alleging that the distribution and accounting support teams were involved in this estimate, Staff received little to no evidence of this work through data request (DR) responses or workpapers, and Evergy filed nothing to support such an estimate in this docket.<sup>61</sup> Ms. Dragoo stated she was unable to respond to any questions related to this area when asked by the regulatory law judge.<sup>62</sup> So long as Evergy does not work with Staff to come to a reasonable and cost-effective alternative to providing the primary distribution costs and expenses by voltage, the costs passed on to ratepayers remain unchecked and unverified.<sup>63</sup>

Staff does not intend for Evergy to pay upwards of \$100 million to provide this information.<sup>64</sup> However, some analysis of distribution system costs must occur.<sup>65</sup> In fact, Ms. Lange explained what Staff anticipated Evergy would have provided instead of responding with a blanket lump sum cost estimate.<sup>66</sup>

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<sup>59</sup> Lange Rebuttal 59:6-11.

<sup>60</sup> Lange Rebuttal 54:1-10.

<sup>61</sup> Tr. 80:3-16; 462:11-18.

<sup>62</sup> Tr. 70:13 to 71:23.

<sup>63</sup> Tr. 191:20 to 192:4.

<sup>64</sup> Tr. 296:5-11.

<sup>65</sup> Lange Rebuttal 18:2-4.

<sup>66</sup> Tr. 317:15-25

## **IMPORTANCE OF CONTINUED DEMAND STUDIES AND SAMPLE CUSTOMERS**

In Evergy's most recent rate cases, Kavita Maini, on behalf of the Midwest Energy Consumers Group (MECG) recommended introduction of "an on-peak provision whereby the maximum demand set in the specified on peak hours is the billing demand for the month," to both Large Power Service (LPS) and Large General Service (LGS) rate structures. She also recommended work to develop time differentiated energy rates, and that a working group of interested parties evaluate these alternatives and assess rate impacts of these proposals. Staff generally agreed, as did Evergy.<sup>67</sup>

At hearing, Mr. Lutz conceded that his rebuttal testimony in ER-2022-0129/0130 supported further study of on-peak demand charges, and further study of reactive demand determinants. Ultimately, the Commission determined that "given the unique make-up of non-residential customers, including small business, such as gas stations and restaurants, whose power consumption is customer driven, the Commission does not find Staff's proposed default TOU rate for non-residential customers appropriate without further study."<sup>68</sup> Availability of sample customers is necessary for further study of any rate structure modification or any non-uniform rate design modifications.

## **CONCLUSION AND RECOMMENDATION**

Staff is open to alternatives and moving forward, but a forum to address issues as they arise is needed.

"The Commission should leave this docket open as a repository for discovery and for resolution of potential discovery disputes, as Staff proceeds to request information to complete a distribution system study" and to use this docket "as a means to resolve areas

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<sup>67</sup> Lange Rebuttal 14:3-22

<sup>68</sup> Report and Order in ER-2022-0129 & 130 at page 76

where Evergy asserts it cannot provide requested data because production of this data would require it to perform additional analysis.”<sup>69</sup> “Staff further recommends this docket remain open for resolution of discovery disputes related to data provision. Specifically, Staff recommends this docket be used as a means to resolve areas where Evergy asserts that it cannot provide requested data because production of this data would require Evergy to perform additional analysis to provide required data in a usable format.”<sup>70</sup>

**WHEREFORE**, Staff hereby submits this *Post-Hearing Brief* for the Commission’s consideration and information.

Respectfully submitted,

**/s/ Carolyn H. Kerr**

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 22<sup>nd</sup> day of March, 2024, to all parties and counsel of record.

**/s/ Carolyn H. Kerr**

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<sup>69</sup> Lange Rebuttal 17:18-20 and 18:2-4.

<sup>70</sup> Luebbert Rebuttal 4:8-12.