

Exhibit No. 200

Exhibit No.: _____
Issue(s): Special High Load Factor Market Rate
For a Data Center Facility
Witness/Type of Exhibit: Marke/Rebuttal
Sponsoring Party: Public Counsel
Case No.: EO-2022-0061

REBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

**EVERGY MISSOURI WEST, INC. D/B/A
EVERGY MISSOURI WEST**

FILE NO. EO-2022-0061

**

**

**Denotes Confidential Information
that has been redacted**

December 23, 2021

PUBLIC

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

In the Matter of the Application of Evergy)
Missouri West, Inc. d/b/a Evergy Missouri)
West for Approval of a Special High Load) Case No.EO-2022-0061
Factor Market Rate for a Data)
Center Facility in Kansas City, Missouri)

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.




Geoff Marke
Chief Economist

Subscribed and sworn to me this 23th day of December 2021.



TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121


Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.

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REBUTTAL TESTIMONY
OF
GEOFF MARKE
EVERGY MISSOURI WEST, INC
d/b/a
EVERGY MISSOURI WEST
CASE NO. ER-2022-0061

1 **I. INTRODUCTION**

2 **Q. Please state your name, title, and business address**

3 A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel),
4 P.O. Box 2230, Jefferson City, Missouri 65102.

5 **Q. What are your qualifications and experience?**

6 A. I have been in my present position with OPC since 2014 where I am responsible for
7 economic analysis and policy research in electric, gas, water, and sewer utility operations.

8 **Q. Have you testified previously before the Missouri Public Service Commission?**

9 A. Yes. A listing of the Commission cases in which I have previously filed testimony and/or
10 comments is attached in Schedule GM-1.

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of this testimony is to respond to the testimony and tariff included in the Evergy
13 Missouri West (“Evergy West”, “West”, or “Company”) direct testimony of Darrin R. Ives,
14 Jill L. McCarthy (Kansas City Area Development (“KCADC”) filing on behalf of Evergy
15 West) and Mark Stombaugh (Missouri Department of Economic Development filing on
16 behalf of Evergy West).

17 My silence regarding any issue should not be construed as an endorsement of, agreement with,
18 or consent to any witness’ testimony or any party’s filed position.

1 **Q. Please summarize your position.**

2 A. I recommend the Commission reject Evergy's proffered tariff as presently submitted. My
3 recommendation is based on a number of factors that I will expand upon in this testimony,
4 but can primarily be summed up in two main issues: (1) a lack of transparency and certainty
5 regarding this request and (2) a failure to include sufficient safe-guards to ensure that
6 customers who choose to make use of this special rate do not induce additional costs that
7 will ultimately be borne by non-participating customers. The first of these two problems
8 may be resolved through greater input from Evergy and other interveners, and it is my hope
9 that Evergy will commit to providing more information to the OPC as this cases progresses.
10 As for the second concern, where applicable, I have attempted to provide modifications to
11 Evergy's proposed tariff that are designed to more fully ensure that non-participating
12 customers are held harmless. However, given the expedited nature of this filing, the timing
13 of feedback and the volume of regulatory activity at the close of the year I cannot confidently
14 state that this is an exhaustive list.

15 In addition to the aforementioned issues, there are two other points that I would like to
16 underscore: (1) applicants need to plan and communicate with regulators and the OPC well
17 ahead of what is being realized in this procedural schedule for future, special discounted
18 rates; and (2) A rate case proceeding is the best venue to consider this and any future contract
19 and economic development tariff offering as well as future renewal of said contracts. I am
20 not seeking to argue that these two points merit dismissal of Evergy's proposal *per se*, but
21 they do reflect unnecessary and frustrating complications that have arisen in this case. In
22 particular, the fact that the Company has publically disclosed they are going to file a rate
23 case at the first of the year should not be lost on the Commission.

24 Finally, I want to reiterate that my recommendations in this testimony are neither immutable
25 nor exhaustive. Further or different recommendations may be warranted based on
26 outstanding discovery that has not been responded and/or objected to and rebuttal feedback

1 from the Missouri Public Service Commission Staff (“Staff”), other intervening parties, or
2 circumstances that warrant modifications.

3 **II. LACK OF TRANSPARENCY AND UNCERTAINTY REGARDING**
4 **APPLICANT AND TERMS**

5 **Q. Who is the parent company of Velvet Tech Services, LLC’s (“Velvet Tech”)?**

6 A. I don’t know. Both the Company and Velvet Tech has rejected my inquiry on this topic. As
7 far as I can tell, no witness from Velvet Tech has filed testimony in this case and I am
8 unaware of any data centers being operated by Velvet Tech anywhere in the world.

9 The direct testimony of Jill L. McCarthy provides the following Q&A:

10 Q. Who is Velvet Tech Services, LLC?

11 A. Velvet Tech Services, LLC is a subsidiary of a company that owns and operates a
12 fleet of hyperscale data centers globally. In Kansas City, Missouri, Velvet Tech
13 Services has purchased 375 acres from Diode Ventures within the Golden Plains
14 Technology Park.¹

15 **Q. Does Velvet Tech itself own and or operate any other data centers?**

16 A. No.

17 **Q. Why does understanding who the parent company of Velvet Tech is matter?**

18 A. From my perspective, it matters, at a minimum, to ensure there are no affiliate transaction
19 violations with the regulated utility. Further reasons include various assertions made in the
20 direct testimony on behalf of the applying recipient that are presently incapable of being
21 verified. Moreover, Commission approval of this rate would be a drastic departure from
22 historical tariffed offerings. In examining the prudence of such tariffs I normally ask for
23 examples of similar tariffed offerings in other states to confirm the viability of what is being
24 requested. I cannot find any similar offerings outside of the municipal utility, Omaha Public

¹ Case No. EO-2022-0061 Direct Testimony of Jill L. McCarthy p. 15, 6-9.

1 Power District, rate referenced in Mr. Ives testimony (and that rate has noticeable
2 differences than what is being offered here, e.g., no ramp-up, etc...).

3 This is not to say that I am rejecting this application out-of-hand with no proposed
4 modifications, but I find it unsettling to support a special data center rate when neither the
5 Company nor prospective participant to the rate can provide examples of special data center
6 rates under an investor-owned utility that support such a special discounted rate to provide
7 service.

8 Finally, I do not see what reason Evergy and Velvet tech have for being secretive. While I
9 appreciate that there are competitive concerns that might discourage a prospective applicant
10 from **publicly** disclosing their identity, there is no reason why that same information cannot
11 be provided under the protection of the Commission's confidentiality rules. The whole
12 process is unusual, and the timing and speed of this case only amplify my frustrations. This
13 level of secrecy is not conducive to proper, prudent rate design and I would hope that the
14 Commission would be hesitant to grant approval of this application absent greater
15 transparency from Company and interested interveners.

16 **Q. Are there any other examples where a lack of transparency or certainty pose a**
17 **problem to Evergy's application?**

A18 Yes. One example is the testimony of Evergy witness Ms. McCarthy that claims Velvet
19 Tech has historically been an excellent corporate citizen to its community. Ms. McCarthy's
20 testimony states:

21 Velvet Tech Services has tremendous local impact through their
22 community engagement efforts which include direct grantmaking,
23 volunteer and other partnership activities. They will support funding
24 technology and equipment in elementary, middle, and high school and

1 funding for the arts, safety and health programs led by local nonprofits
2 and institutions.²

3 In response to this assertion, I sent a data request (OPC DR-2021) that asked the following
4 questions:

- 5 • [Question:] Where has Velvet Tech Services performed said activities
6 in the past? Please provide a name of the location(s) as well as the
7 specific activities of engagement, partners, and funding amounts in
8 which Velvet Tech Services had a tremendous local impact on the local
9 community.

10 However, the response from the Company suggests that no such activities have occurred
11 anywhere and it appears that Ms. McCarthy's statements are merely aspirational:

- 12 • [Response:] The testimony is incorrect and should be revised to say,
13 "Velvet Tech Services will have tremendous local impact through
14 community engagement efforts..."

15 Obviously, this generates a great deal of uncertainty as there is a wide gulf between saying
16 a Company has done something and claiming the company *hopes* to accomplish something.
17 These problems are only further exacerbated by the fact that additional discovery and
18 responses regarding this quote suggest that no activities are binding for the applicant:

- 19 • [Question:] Were said local impact community engagements an explicit
20 contractual term as a result of economic development subsidies
21 obtained?
- 22 • [Response:] No.
- 23 • [Question:] Will said local impact community engagements be an
24 explicit contractual term for its engagement in this project? If yes, what
25 explicitly will be required? If no, why not?

² Ibid. p. 15, 20-23 & p. 16, 1-2.

- [Response:] No. These engagements are independent of their electric service and the economic development requirements.³

Q. Are there yet more examples you can provide showing the lack of transparency surrounding Evergy's proposal?

A. There are. Ms. McCarthy claims not one but two third-party economic development studies were performed to verify Velvet Tech's benefits outweighed its costs. However, neither of these studies were included in Evergy's application.

OPC-DR 2011 asked and received the following information on the topic:

[Request:] Please provide a copy of the Data Center Impact study and the Missouri Department of Economic Development cost/benefit analysis

[Response:]**_____

_____ **

Q. That is one study. What about the other?

A. OPC DR-2010 asked and received the following information:

The Direct Testimony of Jill L. McCarthy p. 13, lines 5-9 states:

A third-party consultant, Research Triangle Institute, known as RTI International, in Research Triangle Park, North Carolina, prepared a Data Center Impact Student [sic]. The State of Missouri, via the Missouri Department of Economic Development, followed up with their own cost/benefit analysis. Both reports noted that this project's impact in terms of direct, indirect, and induced jobs is significantly positive.

- [Question:]Who commissioned the third-party consultant, Research Triangle Institute for the study?
- [Response] This response is subject to the Company's objection letter to OPC dated Nov. 29.

³ GM-2

⁴ GM-3

1 The study was commissioned by Velvet Technical Services⁵

2 I was later provided a nine-page PowerPoint Presentation that show the results of a model
3 on the economic impact of the data center. The model specifically looked at employment,
4 job years, labor, income, and GDP. The results were impressive, but void of much context.

5 **Q. Are there any other examples?**

6 **A.** Yes. Ms. McCarthy states that KDAC has been continuously passed up by other states for
7 data centers. In response, I sent OPC DR-2013 asking the following:

8 The Direct Testimony of Jill L. McCarthy p. 16, lines 21-22 & p. 17,
9 lines 1-2 states:

10 *We have years of historical data of being bypassed for hyperscale data*
11 *center development because we did not have a coordinated incentive*
12 *toolbox directly supporting data center development. Missouri would*
13 *not have been in the initial site search and would not have had any*
14 *opportunity to move forward without the special electric rate.*

15 [Question] Please provide said data referenced above where Kansas
16 City, Missouri was bypassed in the past as a result of failure to provide
17 a special electric rate.

18 [Response] This response is subject to the Company's objection letter to
19 OPC dated Nov. 29.

20 In Ms. McCarthy's many years in the field of economic development,
21 the KCADC has marketed to data center companies and consultants that
22 lead data center projects. Prior to the Nucor Steel project in 2017, and
23 the tariff resulting from HB1 to negotiate an electric rate, the KCADC
24 was unable to gain traction for any data center operation above 100 MW
25 in use. In contrast, Iowa, Illinois, Nebraska and Oklahoma all benefitted
26 from data center incentives for hyperscale operations. The Kansas City
27 area was consistently eliminated from consideration by multiple well-
28 known hyperscale data center operations.⁶

⁵ See GM-4

⁶ GM-5

1 At the forefront, there does not appear to be any actual “historical data” as Ms. McCarthy
2 claims. The Company’s response is nothing but vague allusions offered without support.
3 For example, she states that “Iowa, Illinois, Nebraska and Oklahoma all benefitted from
4 data center incentives for hyperscale operations” yet offers not indication of what those
5 incentives were and/or how they compare to Evergy’s proposal. I do not deny the validity
6 that KC has been passed up by other states, but I am unaware of any data center electric
7 tariff offerings in Iowa, Illinois, Nebraska or Oklahoma. Moreover, Ms. McCarthy states
8 “the Kansas City area was consistently eliminated from consideration by multiple well-
9 known hyperscale data center operations” yet gives no examples, does not cite to where
10 those data centers were ultimately located, does not indicate where Kansas City stood in the
11 running for those data centers, and fails to show how the electric rates for the locations
12 where those data centers were ultimately located compared to Evergy’s existing rates or the
13 rate proposed in this case. All of these factors present significant challenges to the assertion
14 that special wholesale electricity rates are the missing element to a successful economic
15 development acquisition. I would encourage the Company (or its various sponsored
16 witnesses) to supplement future testimony with any examples to illustrate the necessity of
17 the special electric tariffed rate as the impetus behind site selection.

18 **Q. Did you ask questions to Velvet Tech directly on these matters?**

19 A. Yes. A series of discovery was issued to Velvet Tech Services, LLC in an attempt to get an
20 understanding of the applicants historical energy tariffed services, community involvement,
21 and parent company. That discovery was as follows:

22 2020. Referencing the direct testimony of Jill L. McCarthy p. 15, lines
23 6-8:

24 Who is the parent company for Velvet Tech?

25 2021. Please list the U.S. or Canada addresses and the respective
26 annual energy consumption for each data center operated by
27 Velvet Tech and/or a subsidiary of Velvet Tech.

1 2022. Please provide a copy of the applicable energy service tariffed
2 rate for each location listed in OPC DR-2021.

3 2023. Referencing the direct testimony of Jill L. McCarthy p. 14, lines
4 20-23 & P. 16, lines 1-2:

5 Please provide a list of community engagements Velvet
6 Tech and/or Velvet Tech affiliates has undertaken in the
7 locations it has operated in including but not limited to
8 direct grant making, volunteer and other partnership
9 activities.

10 2024. Does Velvet Tech and or a Velvet Tech subsidiary currently
11 operate a data center that receives power from the Southwest
12 Power Pool? If yes, which center, where is the center located and
13 at what tariffed rate.

14 2025. Referencing the direct testimony of Jill L. McCarthy p. 13, lines
15 5-9: i. Please provide a copy of the full study and supporting
16 assumptions/work papers of the RTI International Data Center
17 Impact Study

18 Each discovery question was initially objected to with only cursory information published
19 about data centers from various state Economic Development agencies (i.e., Kentucky,
20 Illinois, etc...) being later provided. No information about Velvet Tech, no unique data
21 center tariffed rates, and only the economic impact analysis PowerPoint was provided.

22 **Q. It has been put forward that Velvet Tech (and/or similar data center operators) all**
23 **have green renewable corporate mandates. Will this tariff require such a condition?**

24 A. OPC DR 2014 asked and received the following information on this topic:

1 [Question:] Does Velvet Tech Services LLC. have a corporate
2 renewable energy mandate? If yes, please provide documentation to
3 substantiate this.

4 [Response:] See the Company's objection letter to OPC dated
5 November 29.

6 [Question:] Will the Evergy tariff exclusively consist of renewable
7 energy contracts, or will that be a term within the market contract for
8 Velvet Tech Services?

9 [Response:] This response is subject to the Company's objection letter
10 to OPC dated November 29.

11 Service under the Special High Load Factor Load tariff does not
12 include provisions for renewable energy. The Market Rate contract
13 with Velvet is not expected to have any provisions for renewable
14 energy.⁷

15 Based on this information, it does not appear as though renewables are a requirement for this
16 service and that the basis for suggesting that this tariffed rate will utilize renewable energy is
17 merely aspirational.

18 **Q. Does that matter?**

19 A. Maybe. I do believe this response is not consistent with the filed testimony, but putting that
20 aside for the moment, the details of the generation matter in terms of costs and risks. Not
21 only for the Company and applicant but also for non-participants as well. The Southwest
22 Power Pool ("SPP") is currently going through a fairly rapid change in terms of generation
23 make-up. As the SPP moves towards a cleaner market, reliability is increasingly becoming
24 a major concern which can result (at a minimum) in future cost build-out in transmission

⁷ GM-6

1 and supporting distribution. It would be essential that this tariffed offering hold non-
2 participants harmless if there are material costs incurred as a result of this additional load.

3 It is also not entirely clear whether or not Evergy or an affiliate would be involved in
4 providing new renewable (or other) generation. Again, in such a scenario, it is essential that
5 non-participants remain harmless under this tariffed rate especially if said participant were
6 to leave the system before the new generation was paid for and that the Commission's
7 affiliate transaction rules are complied with.

8 **Q. What should the Commission take away from the lack of transparency?**

9 A. The aforementioned information raises many questions and challenges many of the
10 assertions put forward. A healthy degree of skepticism is certainly warranted. That being
11 said, this is still an on-going case and the entire process is set on an expedited matter during
12 the holiday season in the middle of multiple rate cases. As such, I will update the
13 Commission with any pertinent new information in surrebuttal.

14 **III. MODIFICATIONS TO THE PROPOSED TARIFF**

15 **Q. Putting aside the uncertainty surrounding the applicant and the need for the service,**
16 **what concerns do you have with the tariff Evergy has proposed?**

17 A. Evergy's proffered tariff is predicated on the creation of a separate and distinct contractual
18 relationship between each customer who would take service under the tariff and the
19 Company. Ostensibly, the rates included in these separate contractual agreements would, or
20 at least should, cover all costs of providing service to that individual customer. In that
21 manner, the customer should bear all incidental cost increases occasioned by their addition
22 to Evergy's system and all non-participating customers should be held harmless. However,
23 my review of Evergy's proposed tariff leaves me concerned that there are several issues that
24 may prevent this desired outcome from occurring. As such, I would like to offer up the
25 following modifications to the proposed tariff in an attempt to find a path forward. These
26 modifications can also be found as "redline" changes to Evergy's offered tariff in schedule

1 GM-7. Given the brief amount of time, lack of available opportunity, and limitations in the
2 discovery process I cannot say that this is an exhaustive list and will most likely modify in
3 future testimony.

4 Any tariffed changes that include underlined words are recommended additions to the tariff.
5 Any words that have been crossed off are recommended deletions.

6 **Q. What recommendations do you have regarding the “Availability” section?**

7 A. I have three primary recommendations:

- 8 1. Add the word “annual” to the following sentence: “maintain an annual load factor
9 throughout the year of 0.85.”

10 This change is necessary to establish the measurement of the load factor.

- 11 2. Remove the sentence: “Company reserves the right to offer additional voltage levels.”
12 If the Company wants to add additional voltage levels not listed in the tariff, then it needs to
13 file a change to the tariff.

- 14 3. Later in the availability section I make the following recommendations:

15 *The Company will fully evaluate each Customer's operation and the expected impacts*
16 *to the Company and remaining retail customers ~~and reserves the right to determine a~~*
17 *~~Customer's ability to participate in this rate based on that evaluation.~~ Participation in*
18 *this rate will not be allowed if the Company or the Commission determines it to be*
19 *uneconomic for the Company or the Commission or the remaining retail customers.*

20 Everyg should not have the unilateral right to determine who can and cannot use the rate.
21 Anyone who meets the requirements should be allowed to use it. The inclusion of the phrase
22 “or the Commission” prevents the Company from exercising unrestrained discretion.

23 **Q. What recommendations do you have regarding the “Rates & Condition” section?**

24 A. I recommend the following edits:

- 25 1. Under “Rate for Energy Service” modify the following sentence (underlined =
26 addition):

1 *The Company will specify the load node to be used in the Special High-Load Factor*
2 *Market Rate Contract described below and that SPP node will be used to price the*
3 *hourly energy and all applicable SPP charges.*

4 This is to specify that the rate is set off of a load node and not a generation node.

- 5 2. Under “Rate for Capacity Service” modify the following changes (underlined =
6 additions, cross-out = deletion):

7 *The Company will use good utility practice to identify lowest cost capacity options*
8 *available at the time each customer requests service under this schedule. The*
9 *approach to identify these options may include, but is not limited to, pricing for*
10 *construction of physical resources to serve capacity or a distinct, request for*
11 *proposal for firm capacity offered in the SPP market. Customer shall bear all costs*
12 *incurred to acquire and maintain capacity necessary to meet SPP resource*
13 *adequacy requirements that may result from Customer’s addition to the Company’s*
14 *system. Recognizing that capacity may not be obtained in small increments to match*
15 *Customer need, all efforts will be made to maximize the benefit of the capacity*
16 *options for the Customer and the Company. As needed, ~~t~~The rate for capacity may*
17 *shall be inclusive of ~~other~~ all capacity-based costs, recovery of any infrastructure*
18 *investment made to meet capacity, ~~recovery~~ or Customer contributions. The rate and*
19 *all elements included in the rate will be individually specified in the Special High-*
20 *Load Factor Market Rate Contract described below.*

21 These modifications are necessary to ensure non-participants are held harmless. The added
22 language would ensure that participants would bear all costs incurred to serve them, which
23 would be included in rates and made easy to discern in the contract.

- 24 3. Under “Rate for Pricing for All other Service” modify the following changes
25 (underlined = additions, cross-out = deletion):

26 *Pricing for Customer Charges and any other applicable charges applicable under*
27 *this rate schedule are defined within the Special High-Load Factor Market Rate*

1 ~~Contract described below and are intended to reflect the cost of service present at~~
2 ~~the time the Customer receives service. All charges for service under this rate~~
3 ~~schedule, and shall include~~ing all applicable minimum demand and facilities
4 ~~charges, shall be limited to the charges set forth within this tariff and charged at the~~
5 ~~rates specified in the contract between the Company and the Customer~~

6 These modifications are necessary to ensure all proper costs were included in the contract
7 and prevent the inadvertent omission of other charges from the contract.

- 8 4. Under “Contract Determination” modify the following changes (underlined =
9 additions):

10 *At least 60 days prior to the effective date of the Special High-Load Factor Market*
11 *Rate Contract, the Company will file the individual Special High-Load Factor*
12 *Market Rate Contract with the Commission for approval. Customer will not be*
13 *eligible to take service under this rate until the Commission approves the individual*
14 *Special High-Load Factor Market Rate Contract. If the Commission does not*
15 *approve the individual Special High-Load Factor Market Rate Contract, Customer*
16 *may take service under another rate schedule for which they qualify.*

17 These changes are necessary to explain how the approval process will work and what
18 happens if the Commission does not approve the contract.

19 **Q. What recommendations do you have regarding in the “Terms” section?**

- 20 A. I recommend the following edits (underlined = additions, cross-out = deletion):

21 *The minimum term may vary for each customer served under this rate schedule but*
22 *in no instance, should the term be more than five (5) years. Regardless of the term*
23 *length, each contract made pursuant to this rate shall terminate thirty (30) days after*
24 *the Commission approves a change in the Company’s general rates for electrical*
25 *service unless a new Market Rate Contract for the relevant customer is submitted to*
26 *the Commission under a 60-day tariff review filing during that time, in which case,*
27 *the existing Market Rate Contract shall terminate when the new Market Rate*

1 Contract is either approved or denied by the Commission. Any Customers taking
2 service under this rate may receive service for additional five year terms subject to
3 updated pricing. If pricing is updated, the revised file a new Market Rate Contract
4 will be submitted to with the Commission under a 60-day tariff review filing at any
5 time during the pendency of an existing Market Rate Contract. Customers taking
6 service under this rate schedule must provide written notice ~~three months~~ sixty (60)
7 days before switching to any other Company rate schedule. If a Customer elects to
8 leave this rate schedule they will not be allowed to resume service under this schedule
9 for a period of one year.

10 The first added language in this section is necessary to ensure that the contracts do not
11 become vehicles used to avoid cost of service increases established in general rate cases.
12 Under this language, every contract would need to effectively be renegotiated after the end
13 of any Evergy general rate case. This would ensure that any cost of service increase that
14 was determined in the general rate case would be considered in the renegotiation of the
15 market rate contract.

16 The next modification is meant to allow for an effective extension of the five-year term
17 while still maintaining Commission oversight. I believe that any effort to renew the contract
18 should require Commission approval even if no pricing change has occurred.

19 Finally, the change from three months to sixty days is meant to bring the period in line with
20 the time for Commission review of the contract (sixty days) and the Company's obligation
21 to inform customers of a deficiency in meeting rate applicability requirements (sixty days).

22 **Q. What recommendations do you have regarding in the “Additional Provisions” section?**

23 A. I recommend the following edits (underlined = additions, cross-out = deletion):

- 24 1. The Special High-Load Factor Market Rate will be determined for each Customer
25 based on expected loads planned to serve the Customer. Details about the rate
26 including all terms and conditions related to the Special High-Load Factor Market
27 Rate and all assumptions, inputs, and calculations used to determine that rate will

1 be filed with the Commission and will be documented through a Special High-Load
2 Factor Market Rate Contract.

3 This modification is meant to ensure that all information underlying the contract are made
4 clearly and readily available for review by the Staff, OPC, and other relevant interveners.

- 5 3. Customers who fail to maintain the Availability provisions of this rate schedule
6 will have sixty (60) day from the day the Company provides notice of the failure to
7 rectify the failure. In the event that the failure is not rectified after sixty (60) days,
8 the Customer will be immediately be moved to another rate schedule for which
9 they qualify.

10 This modification is made to clarify the period for when a customer will be removed from
11 the rate due to failure to maintain availability requirements.

- 12 4. Service under this tariff shall be excluded from projected energy calculations used
13 to establish charges under Riders FAC and RESRAM, and Customer will not be
14 subject to any such charges, unless otherwise ordered by the Commission when
15 approving a contract for a service under this tariff. Customer may exercise the opt-
16 out provisions contained in Section 393.1075.7, RSMo.1075.7, RSMo. to avoid
17 being subject to Demand Side Investment Mechanism Rider charges. Customer will
18 be subject to any other charge or surcharge including without limitation, any
19 charge related to the securitization of Company assets and Rider RESRAM.

20 This modification is made to ensure that participating in the offering will still pay RESRAM
21 surcharges as well as any future surcharges including securitization. Requiring participants to
22 pay the RESRAM surcharge is necessary as the RES requirement is based on the utilities load
23 and the addition of the new participant would necessarily increase load. The added language
24 would ensure that participants would be directly responsible for the costs they cause that are
25 recovered through the RESRAM no matter what “energy calculations” are used to establish
26 the RESRAM.

27 **Q. Does this conclude your testimony?**

28 A. Yes.