WD83828

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Missouri Metro and Evergy Missouri West's Notice of Intent to File Applications for Authority to Establish a Demand-Side Programs Investment Mechanism	)))))	**File No. EO-2019-0132**

AMENDED REPORT AND ORDER

Issue Date: **March 11, 2020**

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TABLE OF CONTENTS

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AMENDED REPORT AND ORDER

APPEARANCES

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Regulatory Law Judge: **John T. Clark**

Procedural History

On November 29, 2018, Evergy Missouri Metro[1] and Evergy Missouri West[2] (collectively, "Evergy or the Companies") each applied to the Commission for approval of certain demand-side programs, a Technical Resource Manual (TRM), variances from five Commission rules, and a Demand-Side Investment Mechanism (DSIM) (collectively, "MEEIA Cycle 3") as contemplated by the Missouri Energy Efficiency Investment Act (MEEIA) and the Commission's implementing regulations. Those applications resulted in the opening of File Nos. EO-2019-0132 and EO-2019-0133. The Commission provided notice and set a deadline for applications to intervene in both files.

The Missouri Division of Energy; Midwest Energy Consumers Group; Renew Missouri Advocates d/b/a Renew Missouri; Natural Resources Defense Council; the City of St. Joseph; Spire; The National Housing Trust; and the West Side Housing Organization (collectively "Intervening Parties") timely filed intervention requests in each file. The Commission granted those requests.

On December 27, 2018, the Commission granted an unopposed motion to consolidate EO-2019-0133, Evergy Missouri West's MEEIA application, into EO-2019-0132, Evergy Missouri Metro's MEEIA application, as the two cases involve related questions of law and fact.

Commission Rule 20 CSR 4240-20.094(4)(H) states that the Commission shall approve, approve with modification acceptable to the company, or reject MEEIA applications within 120 days of their filing. The parties were unable to reach an agreement

[1] At that time, known as Kansas City Power & Light Company.
[2] At that time, known as KCP&L Greater Missouri Operations Company.

regarding the applications within the Commission's allotted period and on February 27, 2019, sought to suspend the procedural schedule to allow discussions to continue and consider pursuing an agreement to extend MEEIA Cycle 2 programs for an additional year.[3] The Commission approved the motion to suspend the procedural schedule until February 13, 2019[4] and a subsequent motion to extend the deadline to allow adequate time for parties to file a stipulation.[5] On February 15, 2019, the parties filed an unopposed stipulation and agreement requesting an extension of the Companies' MEEIA Cycle 2 programs which would allow the Companies to continue offering demand-side programs for an additional year and provide continuity between cycles while parties continued to conduct additional discussions regarding a potential MEEIA Cycle 3.[6] The Commission issued an order approving a stipulation and agreement between the parties extending MEEIA Cycle 2 until December 31, 2019, and rejecting the tariffs filed concurrently with the Companies' application.

On August 7, 2019, the Commission issued an order setting a procedural schedule. That order also granted Evergy a variance from filing a 2019 Integrated Resource Plan (IRP) annual update as required by Commission Rule 20 CSR 4240-22.080(3), because of uncertainty regarding the status of the MEEIA Cycle 2 and 3 programs. The Staff of the Commission (Staff) and the Office of the Public Counsel (OPC) supported the variance. Evergy will next file an Integrated Resource Plan update in 2020.

[3] *Motion to Suspend Procedural Schedule,* page 1, File No. EO-2019-0132, filed January 28, 2019.
[4] *Order Granting Motion to Suspend Procedural Schedule,* page 2, filed January 28, 2019.
[5] *Order Extending Time to File Stipulation or Pleading,* page 1, filed February 14, 2019.
[6] *Stipulation and Agreement Regarding Extension of MEEIA 2 Programs During Pendency of MEEIA 3 Case,* page 2, filed February 15, 2019.

On September 23 and 24, 2019, the Commission held an evidentiary hearing. During the hearing, the parties presented evidence relating to the following unresolved issues previously identified by the parties:

1. When it developed MEEIA Cycle 3, did the Companies value demand-side investments equal to traditional investments in supply and delivery infrastructure?

2. Is the proposed MEEIA Cycle 3, as designed by the Companies, expected to provide benefits to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers?

3. Should the Commission approve, reject, or modify the Companies' MEEIA Cycle 3, along with the waivers in the Companies' application intended to enable its implementation?

    a. If MEEIA Cycle 3 should be modified, how should the plans be modified?

4. If the Commission approves or modifies MEEIA 3, what DSIM provisions should be approved to align recovery with the MEEIA statute?

5. Should Opt-Out Customers be eligible to participate in Business Demand Response programs?

    a. Should Evergy Missouri West be required to publish in its tariff the participation payment to customers that participate in the Business Demand Response programs?

The Staff and OPC contested Evergy's MEEIA applications. The Intervening Parties supported Evergy's MEEIA Cycle 3 applications.

Initial post-hearing briefs were filed on October 11, 2019. Reply briefs were filed on October 21, 2019, and the case was deemed submitted for the Commission's decision on that date and the record closed.[7]

[7] "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 20 CSR 4240-2.150(1).

The Commission issued a Report and Order on December 11, 2019. On December 31, 2019, Evergy filed an application for clarification or rehearing, and OPC filed an application for rehearing

The Commission is amending this Report and Order to clarify how the Pay As You Save Program is configured, and to clarify and revise the Report and Order regarding avoided costs, benefits to all customers, and the business respond opt-out.

I. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. Evergy Missouri Metro is a Missouri corporation with its principal office located in Kansas City, Missouri. Evergy Missouri Metro is engaged in the generation, transmission, distribution, and sale of electricity in western Missouri, operating primarily in the Kansas City metropolitan area.[8]

2. Evergy Missouri West is a Delaware corporation with its principal office located in Kansas City, Missouri. Evergy Missouri West is engaged in the business of providing electric utility service in Missouri to the public in its certificated areas.[9]

3. Evergy Missouri Metro and Evergy Missouri West are in the Southwest Power Pool (SPP), a Regional Transmission Organization, and the Companies have an

[8] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0132, filed November 29, 2018.
[9] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0133, filed November 29, 2018.

Joint Network Integrated Transmission Service Agreement with the SPP.[10] The SPP treats them as a single load serving entity.[11]

4. Staff is a party in all Commission investigations, contested cases, and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.[12] Staff participated in this proceeding.

5. OPC is a party to this case pursuant to Section 386.710(2), RSMo,[13] and by Commission Rule 20 CSR 4240-2.010(10).

6. In 2009, the Missouri general assembly passed MEEIA. Participation under MEEIA is voluntary and companies do not have to offer demand side programs.[14] Utilities participate in MEEIA because it authorizes cost recovery that allows utilities to value demand-side efficiency equal to traditional investments as an incentive to participate in energy efficiency programs.[15]

7. On November 29, 2018, the Companies filed applications and accompanying tariffs with the Commission requesting approval of demand side programs, TRMs, and DSIMs under the MEEIA statute.[16]

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[10] Dietrich Rebuttal, Exhibit 100, page 6.
[11] Transcript, pages 388.
[12] Commission Rules 20 CSR 4240-2.010(10) and (21) and 2.040(1).
[13] All statutory references are to the 2016 Missouri Revised Statutes, as supplemented, unless otherwise indicated.
[14] Section 393.1075, RSMo.
[15] Evergy Surrebuttal Report, Exhibit 4, page 1.
[16] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0132 and EO-2019-0133, filed November 29, 2018.

8. Evergy Missouri Metro and Evergy Missouri West have proposed separate demand side portfolios that contain the same programs, with the exception that only Evergy Missouri Metro's portfolio has an Income Eligible Home Energy Report.[17]

9. The applications indicate that the Companies are planning to invest $96.3 million with the anticipation of achieving 185.9 megawatts of capacity reduction in the first year of MEEIA Cycle 3's implementation.[18]

10. A successful MEEIA application is dependent on multiple program offerings in the categories of energy efficiency, demand response, low-income, and pilot programs.[19] Evergy has program offerings in all of those categories, including both business and residential programs.[20]

11. Evergy's MEEIA Cycle 3 programs are similar to the ones approved by the Commission in its MEEIA Cycle 1 and MEEIA Cycle 2.[21]

12. Evergy's portfolio of MEEIA Cycle 3 programs consists of a three-year plan for specific demand-side programs and a six-year plan for the income-eligible multi-family program, recovery of program costs and an offset of the throughput disincentive at the same time energy efficiency investments are made, and an opportunity to earn an incentive amount based upon demand and energy savings achieved.[22]

13. Evergy asks the Commission to approve MEEIA Cycle 3 for a three year period from the date of approval.[23]

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[17] Dietrich Rebuttal, Exhibit 100, page 3.
[18] Staff Rebuttal Report, Exhibit 101, page 3.
[19] Marke Rebuttal, Exhibit 200, page 21.
[20] MEEIA Cycle 3, Exhibit 2, pages 16 and 17.
[21] Caisley Surrebuttal, Exhibit 5, page 3.
[22] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 5, File No. EO-2019-0132 and EO-2019-0133, filed November 29, 2018.
[23] Transcript, page 167.

Avoided Costs

14. Avoided costs are the cost savings obtained by substituting demand side programs for existing and new supply side resources.[24] The importance of avoided costs is that they are used to calculate whether a demand side program is cost-effective as part of the Total Resource Cost test (TRC test).[25]

15. The TRC test compares the costs to deliver the program (including incentives paid to customers, administrative costs, the costs to do the evaluation, measurement and verification, and any out of pocket expenses paid by the customer) to the value of the program benefits (calculated as any energy savings in kWh, times the avoided cost of energy plus any capacity savings times the avoided costs of capacity equals the present value of the benefits). If the TRC results for a program are greater than one, the benefits are greater than the costs and the program is determined to be cost-effective.[26]

16. The TRC test is a preferred cost-effectiveness test under MEEIA. The Commission allows recovery under MEEIA for cost-effective programs as determined utilizing the TRC test.[27]

17. The Commission's IRP rule requires that Evergy analyze combinations of demand-side management programs and supply side resources to look for the lowest net present value of revenue requirement.[28]

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[24] Commission Rule 20 CSR 4240-20.092(1)(C).
[25] Transcript, pages 393-394
[26] Transcript, pages 393-394.
[27] Section 393.1075.4 RSMo.
[28] Transcript, pages 141-142. See also: Commission Rule 20 CSR 4240-22.050.

18. Evergy used the levelized cost of a hypothetical Combustion Turbine (CT) to calculate avoided costs because of how it interprets the term “traditional investment” and because the SPP uses the avoided cost of a CT to value capacity.[29]

19. Using Evergy’s proposed avoided costs based upon a hypothetical CT, the programs are cost-effective as a whole,[30] but those avoided costs overstate the benefits as calculated using the TRC test.[31]

20. Using Evergy’s proposed avoided costs overstates the avoided costs of generation transmission and distribution facilities.[32]

21. Evergy’s avoided costs calculations utilize dated information from 2015, which the Companies’ 2018 IRP filing relied upon.[33]

22. Evergy did not file a 2019 IRP update, and will not file another IRP update until 2020, because of the variance granted by the Commission on August 7, 2019. The granting of that variance was supported by Staff and OPC.[34]

23. Evergy’s capacity exceeds the needs of its customers and the resource adequacy requirements of SPP. Evergy will not need to build a CT to meet capacity needs until 2033, and it will need to build a CT in 2033 regardless of the implementation of its proposed MEEIA Cycle 3.[35]

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[29] Evergy Surrebuttal Report, Exhibit 4, page 11.
[30] Evergy Surrebuttal Report, Exhibit 4, page 30.
[31] Transcript, page 381.
[32] Transcript, page 380.
[33] Marke Rebuttal, Exhibit 200, pages 9.
[34] Joint Motion to Establish Procedural Schedule and Grant Variance From Requirement to File 2019 Integrated Resource Plan Annual Update, filed July 24, 2019, and Order Granting Variance Setting Procedural Schedule And Other Procedural Requirements, issued August 7, 2019.
[35] Staff Rebuttal Report, Exhibit 101, page 17.

24. Using the levelized cost of a hypothetical CT to value avoided costs in this instance is not appropriate because Evergy is not actually avoiding the cost of building a CT.[36]

25. Evergy's demand-side programs do not defer the construction, or hasten the retirement of any specific identifiable supply-side resource.[37]

26. Staff's position on valuing avoided costs has changed from prior MEEIA cycles, to when it evaluated the Evergy's MEEIA Cycle 3 in this case. Staff's new position focuses on avoided costs as related to postponement of new supply-side resources and early retirement of existing supply-side resources.[38]

27. Staff proposes using an avoided cost of zero.[39]

28. OPC supports Staff's position that avoided costs of Evergy's MEEIA Cycle 3 should be valued at zero because no supply-side investment would be deferred.[40]

29. Staff's use of zero for avoided costs is inappropriate because the MEEIA statute does not limit avoided costs to those associated with the deferral of capacity or require deferral of capacity.[41]

30. SPP member costs are a source of potential cost avoidance. SPP member fees could be reduced through average monthly reductions in energy and demand.[42] Staff calculated a dollar amount per year that SPP fees would be affected by Evergy's proposed energy efficiency programs.[43] Staff's values for avoided demand costs exceeds

[36] Transcript, pages 303-304.
[37] Staff Rebuttal Report, Exhibit 101, page 25.
[38] Transcript, page 272.
[39] Dietrich Rebuttal, Exhibit 100, page 6.
[40] Marke Rebuttal, Exhibit 200, pages 5-10, and Transcript 487-488.
[41] Section 393.1075, RSMo., and Evergy Surrebuttal Report, Exhibit 4, pages 10-11.
[42] Evergy Surrebuttal Report, Exhibit 4, page 22.
[43] Staff Rebuttal Report, Exhibit 101, page 24, and Schedule JRL-1 (The amounts contained in Schedule JRL-1 are highly confidential.)

$0 per kilowatt per year over the 2019-2027 timeframe.[44] Additional savings from demand response reductions would increase SPP member fees savings.[45]

31. Evergy has the ability to create additional revenue by selling its excess capacity through bi-lateral contracts or requests for proposals.[46] The ability to sell excess capacity only increases as Evergy's demand-side programs are substituted for its customers need for its supply-side resources.

32. The substitution of a demand-side program for an existing supply-side resource occurs automatically when a demand-side program is implemented. Every kWh of energy saved offsets a kWh that would have otherwise been generated by a supply-side resource.[47]

33. Demand-side programs that produce capacity savings have an avoided cost greater than zero even if the subject utility is long on capacity. Valuing avoided costs at zero, as Staff suggests, would unreasonably block the implementation of otherwise cost-effective demand-side programs. This would reduce the number of cost-effective programs offered by companies that have excess capacity.[48]

34. MEEIA is not a program for managing generation and providing supply-side power. MEEIA is designed to compensate the utility for promoting energy efficiency as it encourages its customers to save money by using less of the product the utility sells.[49]

35. In 2017, Evergy Missouri West issued a Request for Proposal (RFP) for generating capacity. The company received seven offers to supply capacity, with terms

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[44] Evergy Surrebuttal Report, Exhibit 4, page 24.
[45] Evergy Surrebuttal Report, Exhibit 4, page 24.
[46] Staff Rebuttal Report, Exhibit 101, page 26.
[47] Evergy Surrebuttal Report, Exhibit 4, page 11.
[48] Caisley Surrebuttal, Exhibit 5, page 6.
[49] Owen Surrebuttal, Exhibit 452, page 4.

ranging from four to ten years. As an alternative to its CT analysis, Evergy proposes to use the average price of those bids as an alternative market-based equivalent with which to value avoided costs.[50]

36. The Commission's IRP rules permit the use of a market-based equivalent for calculating avoided demand costs.[51]

37. Staff chose not to analyze Evergy's market-based alternative avoided costs.[52]

38. If a market approach using the average of bids for capacity received in regard to an Evergy Missouri West's RFP is used to calculate avoided costs, the Business Smart Thermostat program is the only non-exempt Evergy MEEIA Cycle 3 program that would not be cost-effective.[53]

39. The Home Energy Report program, and the Heating, Cooling, and Weatherization program, which requires an audit from an authorized energy auditor, are general education campaigns in the public interest, and exempt from having to be cost-effective.[54]

Benefit All Customers

40. MEEIA requires that all customers in the class for which MEEIA programs are offered benefit, regardless of whether they participate in the programs.[55]

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[50] Transcript, pages 423-425.
[51] Commission Rule 20 CSR 4240-22.050(5)(A)1.
[52] Transcript, pages 404 and 422.
[53] Transcript, pages 424-425.
[54] MEEIA Cycle 3, Exhibit 1, page 31, and Section 393.1075.4 RSMo.
[55] Transcript, page 307, and Section 393.1075.4 RSMo.

41. Under Evergy's market-based approach calculations, the only program that would not be cost-effective is the business thermostat program.[56] Evergy is willing to make changes to that program so that it is cost-effective.[57]

42. Valuing avoided generation as the means to show benefits to all customers overlooks the purpose of MEEIA, which is to encourage energy efficiency. Utilities should be endeavoring to increase customer participation in energy efficiency programs. While participating customers save money on their bills and experience direct benefits, non-participating customers will benefit from Evergy's MEEIA Cycle 3 because the programs will be cost-effective. Non participating customers benefit from cost-effective programs, because cost-effective programs save more money than they cost. Simply put, all customers benefit, but participating customers benefit more.[58]

43. Customers participating in MEEIA energy efficiency programs will get the benefit of a lower bill because they will have less usage than non-participants.[59]

44. Benefits from a reduction in a customer's bill is not the only benefit to customers. There are also indirect societal benefits, such as improved health and safety, investment in local economies, and local job creation.[60]

45. If all utilities in SPP were to work toward energy efficiency there would be benefits for all customers in the SPP area, including Missouri. There would be a reduction in the number of hours that fossil fuel plants would run, a decrease in the amount of time that higher margin units would run, and fewer emissions.[61]

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[56] Transcript, pages 424-425.
[57] Evergy Missouri Surrebuttal Report, Exhibit 4, page 18
[58] Owen Surrebuttal, Exhibit 452, page 7.
[59] Transcript, page 349.
[60] Staff Rebuttal Report, Exhibit 101, Page 10.
[61] Transcript, pages 328-330.

46. The Heating, Cooling, and Weatherization program is designed to reduce heating and cooling consumption through the use of audits to gather information about energy usage and rebates.[62]

47. The Home Energy Report is an information gathering program that provides the customer with information about their average energy usage, and comparing their usage against similar households.[63]

Pay As You Save Program

48. Pay As You Save (PAYS) is a system that allows utilities to invest in efficiency upgrades on the customer's side of the meter and recover their costs through a tariffed charge on the participant's bill. It is not a consumer loan or individual debt.[64] As a tariffed program, it is tied to the meter.[65] PAYS enables deeper energy efficiency and demand savings by customers who do not have thousands of dollars of disposable income to make energy-related investments, including many residential customers.[66]

49. Under PAYS, the utility collects payments through a tariff to recover its investments from customers at the locations where the upgrades were installed. If any money needs to be borrowed, it is borrowed by the utility. Payment obligations are tied to the location, so whoever is a customer at a location where upgrades are installed makes the payments for only as long as they are a customer there, or until the upgrade costs are recovered.[67]

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[62] Marke Rebuttal, Exhibit 200, page 23.
[63] Marke Rebuttal, exhibit 200, page 22.
[64] Marke Rebuttal, attachment GM-10, PAYS Questions for KCPL MEEIA, Exhibit 200, page 1.
[65] Marke Rebuttal, attachment GM-9, Response to PAYS Feasibility Study, Exhibit 200, page 3.
[66] Marke Rebuttal, exhibit 200, page 45.
[67] Marke Rebuttal, attachment GM-9, Response to PAYS Feasibility Study, Exhibit 200, page 3.

50. In ER-2016-0285, the Commission ordered Evergy Missouri Metro to consider incorporating the Pay As You Save (PAYS) program into its next MEEIA filing.[68]

51. Evergy complied with that order by hiring the Cadmus Group to complete a feasibility study, which was completed on September 28, 2018.[69] The Cadmus Group is a consulting firm based in Waltham, Massachusetts.[70]

52. The Cadmus Group's feasibility study recommended that Evergy consider a PAYS program that targets low-income and multifamily populations.[71]

53. OPC recommends that Evergy offer a PAYS program as part of its MEEIA Cycle 3 program portfolio. While OPC would like to see a full PAYS program, it is agreeable to a one-year pilot program to show that the program is feasible.[72]

54. Renew Missouri also recommends inclusion of a PAYS program in Evergy's MEEIA Cycle 3 as a way to increase customer participation and expand the scope of benefits.[73]

55. The position of Evergy has not changed from the position it expressed in ER-2016-0285. Evergy is not interested in being a financial institution that holds loans or liens on equipment on the customer's side of the meter.[74]

56. PAYS starts with an analysis of the property to determine what energy efficiency measures would pay for themselves.[75] Any upgrade that is a proven technology

[68] File No. ER-2016-0285, Report and Order, May 3, 2017, page 14.
[69] Marke Rebuttal, attachment GM-9, Response to Pay As You Save Feasibility Study, Exhibit 200.
[70] Owens Rebuttal, Exhibit, page 451.
[71] Marke Rebuttal, attachment GM-9, Response to Pay As You Save Feasibility Study, Exhibit 200.
[72] Marke Rebuttal, Exhibit 200, page 43.
[73] Owen Surrebuttal, Exhibit 452, page 8.
[74] Evergy Surrebuttal Report, Exhibit 4, page 74.
[75] Transcript, page 188

and can provide immediate net savings to the customer after it has been installed will pay for itself.[76]

57. PAYS does not require credit checks because it is not a loan program.[77] The payback of the costs of the upgrades are tied to the structure that receives the improvement. The funding for each project is capped at a level that is no more than 80% of the savings from the energy efficiency measures being installed. The customer's bill will be less, even though the customer is paying back the costs of the upgrades because the energy efficiency savings are higher than the fixed monthly charge for the upgrades.[78]

58. PAYS is also available to renters with the building owner's consent.[79]

59. PAYS allows customers without the necessary upfront capital to make energy-related investments to take part in energy efficiency projects they could not otherwise afford.[80]

60. Mark Cacye, the general manager for Ouachita Electric Cooperative in Camden Arkansas, testified that the cooperative is averaging 15 percent lower bills for every house participating in the PAYS program.[81]

61. It is appropriate to fund the PAYS program through MEEIA and provide an earnings opportunity for Evergy for successful implementation of the PAYS program.[82]

[76] Marke Rebuttal, attachment GM-10, PAYS Questions for KCPL MEEIA, Exhibit 200, page 2.
[77] Transcript, page 188
[78] Cayce Rebuttal, Exhibit 450, page 2.
[79] Transcript, page 198.
[80] Marke Rebuttal, Exhibit 200, page 45.
[81] Transcript, page 191.
[82] Transcript, page 502.

Business Demand Response Opt-Out Customers

62. The Business Demand Response program is primarily intended to build potential capacity for use in peak reduction to meet SPP capacity margin requirements.[83] One of the advantages of the business response program is that during peak demand periods the Companies can ask those customers in the Business Demand Response program to curtail or interrupt their load to take pressure off the system. Those customers are paid a financial incentive for allowing this interruption. The main benefit to Evergy is the ability to interrupt load to avoid paying higher SPP prices for electricity during peak demand.[84]

63. Interruptible or curtailable rates are voluntary on behalf of the customer.[85]

64. Evergy's largest interruptible customer is willing to interrupt approximately six megawatts of load.[86]

65. The business demand response program is an interruptible or curtailable program.[87]

II. Conclusions of Law

A. Evergy Missouri Metro is an electrical corporation and a public utility, as those terms are defined by Section 386.020(15) and (43), RSMo. As such, the Commission has jurisdiction over Evergy Missouri Metro pursuant to Sections 386.250(1), RSMo, and 393.140, RSMo.

B. Evergy Missouri West is an electrical corporation and a public utility, as those terms are defined by Section 386.020(15) and (43), RSMo. As such, the

83 Staff Rebuttal Report, Exhibit 101, page 65.
84 Transcript, page 219-220.
85 Transcript, page 496.
86 Transcript., page 220.
87 Transcript, page 173.

Commission has jurisdiction over Evergy Missouri West pursuant to Sections 386.250(1), RSMo, and 393.140, RSMo.

C. In making its determination, the Commission may adopt or reject any or all of any witnesses' testimony.[88] Testimony need not be refuted or controverted to be disbelieved by the Commission.[89] The Commission determines what weight to accord to the evidence adduced.[90] "It may disregard evidence which in its judgment is not credible, even though there is no countervailing evidence to dispute or contradict it."[91] The Commission may evaluate the expert testimony presented to it and choose between the various experts.[92]

D. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. Where the evidence conflicts, the Commission determines which evidence is most credible.

E. Commission Rule 20 CSR 4240-20.094(3) requires that the Commission must approve Evergy Missouri Metro's and Evergy Missouri West's MEEIA Cycle 3 plans, approve the plans with modifications acceptable to Evergy Missouri Metro and Evergy Missouri West, or reject the plans.

F. Under Section 393.1075.4 RSMo, the Commission permits electric corporations to implement commission-approved demand-side programs with a goal of achieving all cost-effective demand-side savings.

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[88] *State ex rel. Associated Natural Gas Co. v. Public Service Commission,* 706 S.W.2d 870, 880 (Mo. App., W.D. 1985).
[89] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[90] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[91] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[92] *Associated Natural Gas, supra,* 706 S.W.2d at 882.

G. A demand-side program is any program conducted by a utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including but not limited to energy efficiency measures, rate management, demand response, and interruptible or curtailable load.[93]

H. Energy efficiency measures are measures that reduce the amount of electricity required to achieve a given use.[94]

I. Recovery for demand-side programs is not permitted unless the programs are approved by the Commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.[95] Evergy's MEEIA programs result in energy and demand savings by substituting energy saved through demand-side programs for energy that otherwise would have been generated by a supply-side resource.

J. The TRC test is a preferred cost-effectiveness test to evaluate demand side programs.[96] The TRC test shows whether a program's savings outweigh its costs. It compares the sum of avoided utility costs and avoided probable environmental compliance costs associated with a program to the sum of all incremental costs of end-use measures that are implemented due to the program.[97] The TRC test, in part, determines whether all customers in a customer class receive benefits from a program. If a program scores one or greater, the program's economic savings outweigh its costs

[93] Section 393.1075.2(3) RSMo.
[94] Section 393.1075.2(4) RSMo.
[95] Section 393.1075.4 RSMo.
[96] Section 393.1075.4 RSMo.
[97] Section 393.1075.2(6) RSMo.

and the program is cost-effective, because money is saved economic benefits flow to all customers regardless of participation

K. Avoided costs or avoided utility costs means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources.[98] Avoided costs are the foundation of whether a MEEIA program is cost-effective under the TRC test. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities.[99] Nowhere does the MEEIA statute say that a supply-side resource must be avoided or deferred.

L. A Missouri regulated electric utility seeking to utilize demand-side programs and demand-side programs investment mechanisms is required to use the IRP and risk analysis used in its most recently adopted preferred resource plan to calculate its avoided costs,[100] unless the Commission grants it a variance from the request for good cause shown.[101]

M. In its IRP and associated risk analysis an electric utility must calculate the three types of savings projected to be avoided by the demand-side programs, avoided demand cost, avoided energy cost, and avoided probable environmental costs.[102]

N. In calculating the avoided demand cost associated with the demand-side programs included in its IRP risk analysis, an electric utility must include the resulting forgone capacity cost of generation, transmission, and distribution facilities, adjusted to

[98] Commission Rule 20 CSR 4240-20.092(1)(C)
[99] Commission Rule 20 CSR 4240-20.092(1)(C)
[100] Commission Rule 20 CSR 4240-20.092(1)(C)
[101] Commission Rule 20 CSR 4240-20.092(2)
[102] Commission Rule 20 CSR 4240-22(5)(A)1.

reflect reliability reserve margins and capacity losses on the transmission and distribution systems, or the corresponding market-based equivalents of those costs.[103]

O. The best method, in this case, to calculate avoided demand costs is set out in the Commission's IRP rules. The Commission's IRP Demand-Side Resource Analysis rule allows for the calculation of avoided demand costs using a market based equivalent.[104]

P. A variance of Commission Rule 20 CSR 4240-20.92(1)(C) is necessary to apply a different method of calculating avoided costs than the combustion turbine used in by Evergy in its most recent IRP filing.

Q. Section 393.1075.4 RSMo says that recovery for demand-side programs will only be allowed if the programs result in energy or demand savings and benefit all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

R. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest.[105]

S. The Home Energy Report program is a general education campaign and is in the public interest.

T. The Heating, Cooling, and Weatherization program is a program of audits and rebates. Those audits make it a general education campaign, and it is in the public interest.

[103] Commission Rule 20 CSR 4240-22 (5)(A)1.
[104] Commission Rule 20 CSR 4240-22(5)(A)1.
[105] Section 393.1075.4 RSMo.

U. The MEEIA statute does not indicate the level of benefits non-participants are to receive.

V. Participation in MEEIA is voluntary and no company is required to offer demand-side programs under MEEIA. As stated above the Commission can approve the applications with modifications so long as those modifications are acceptable to Evergy.[106]

W. Demand response measures are measures that decrease peak demand or shift demand to off-peak periods.[107]

X. Section 393.1075.10 RSMo states that customers opting not to participate in funding MEEIA programs shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs.

Y. The Company has testified that the program is in fact a curtailable or interruptible program. This section of the MEEIA statute applies to the tariff or schedule. The Commission rejected Evergy's MEEIA Cycle 3 tariffs when it approved a stipulation and agreement between the parties extending MEEIA Cycle 2. Thus, there are no schedules or tariffs for the Commission to examine.

[106] Commission Rule 20 CSR 4240-20.094(4)(H)
[107] Section 393.1075.2(2) RSMo.

Variances

Evergy has requested variances be granted from five Commission rules:

1. Variances related to the incentive to be implemented and based on prospective analysis rather than achieved performance verified by EM&V, and the proposed utilization of a Technical Resource Manual for purposes of calculating Throughput Disincentive: 20.092(1)(HH);20.092(1)(M); 20.092(1)(R); 20.093(2)(I) 20.093(2)(I)3; 20.092(1)(N)

2. Variances related to allowing adjustments to Demand-Side Investment Mechanism (DSIM) rates for the Throughput Disincentive DSIM utility incentive revenue requirement as well as the DSIM cost recovery: 20.093(4); 20.093(4)(C)

3. Variances related to "revenue requirement" where the Throughput Disincentive is excluded from the cost recovery revenue requirement: 20.092(1)(Q); 20.092(1)(UU); 20.092(1)(P); 20.092(1)(R); 20.093(2)(J); 20.092(1)(F)

4. Variances related to allowing flexibility in setting the incentives and changing measures within a program: 14.030.

5. Variances related to the methodology for calculating avoided costs, 20.092(1)(C).

All of the Intervening Parties support granting Evergy's MEEIA Cycle 3 applications and associated variances. Staff opposes only the granting of a variance of Commission Rule 20 CSR 4240-20.092(1)(C), which defines avoided costs. Evergy requests the variance of the avoided cost definition because it say that the Companies have interpreted the rule to mean that the methodology for calculating avoided costs would be consistent with the most recently filed IRP at the time of the MEEIA application filing.

III. Decision and Discussion

The Commission will consolidate Evergy Missouri Metro's and Evergy Missouri West's applications, because the SPP treats Evergy Missouri Metro and Evergy Missouri West as a single load serving entity, and the parties who addressed that question in post-hearing briefs all encouraged the Commission to take the applications together. Furthermore, consolidation will ultimately make it easier for customers who might otherwise be confused if MEEIA programs were only available for one company.

The combustion turbine mechanism for calculating avoided costs is not appropriate in this case because the data relied on is from 2015. A market based equivalent using capacity bids from late 2017 yields more current data to calculate avoided costs. Using a market based equivalency for avoided costs, Evergy calculates that all but one of its MEEIA Cycle 3 programs is cost-effective, and Evergy is willing to modify that program so it becomes cost-effective. Once that is done, the projected costs will be outweighed by the savings benefits and all customers will monetarily benefit from the programs within the class the programs are offered. Customers who participate in energy efficiency programs will receive most of the benefits of those programs. However, all customers will receive some benefit.

The Commission will approve Evergy's MEEIA Cycle 3 subject to certain conditions. The Commission determines that a market-based approach is the most appropriate way to calculate avoided costs for this MEEIA application and that a market-based approach best values demand-side investments equal to traditional investments in supply and delivery infrastructure. Therefore, the Commission will direct the parties to use the average of bids Evergy Missouri West received for capacity in 2017 for purposes of calculating avoided costs.

The Commission determines that Evergy's MEEIA Cycle 3 programs are beneficial to all customers in the customer class in which the programs are proposed.

Evergy has stated that it has no interest in having a PAYS program as part of its MEEIA Cycle 3 portfolio. However, the Commission finds that the PAYS program offers unique opportunities to broaden participation in MEEIA programs to customers who might not otherwise engage in energy efficiency programs. The PAYS pilot program appropriately belongs in MEEIA Cycle 3 because the Commission wants to give Evergy an appropriate earnings opportunity for offering the program, as proposed by Dr. Marke in rebuttal testimony. Evergy may not find offering a PAYS program to be an acceptable condition for approval of the Companies' MEEIA Cycle 3 applications, and Evergy may exercise its prerogative and not offer a MEEIA Cycle 3 portfolio if it does not find this addition acceptable.

The Commission determines that if Evergy implements a MEEIA Cycle 3, it shall offer a PAYS pilot program as described in the rebuttal testimony of Dr. Marke, with the exception that, the budget for the pilot program shall be reduced to no less than $10 million, and no more than $15 million. Evergy Missouri Metro and Evergy Missouri West may administer the pilot program themselves or may employ a third-party operator with experience to operate the Pay As You Save program. The program should be appropriately scaled down to accommodate the reduced budget, as the purpose of the one-year pilot program is to determine the feasibility and desirability of the PAYS program.

Testimony supports the Business Demand Response program as being interruptible or curtailable. The Commission determines from the description of the program that it is an interruptible or curtailable program and that opt-out customers shall be allowed to participate in the Business Demand Response program. If Evergy files tariffs to implement the approved revised MEEIA Cycle 3, those tariffs will appropriately represent the Commission's determination that the programs are interruptible or curtailable within the meaning of the statute.

The Commission will grant the four unopposed variance requests, because the variances are necessary to successfully implement Evergy's MEEIA Cycle 3, and gain at-will participation. The Commission will grant the fifth variance even though the Commission is not approving Evergy's avoided costs. The Commission is approving the Companies MEEIA Cycle 3 applications with a market-based approach to calculating avoided costs. As modified, the variance is still needed. For this reason the Commission is granting a variance of Commission Rule 20 CSR 4240-20.092(1)(C).

The Commission will make this order effective in 30 days. This is a new order and consequentially all applications for rehearing of the December 11, 2019, Report and Order are now moot. Anyone seeking rehearing of this Amended Report and Order must file a new application for rehearing before the effective date of this order.

THE COMMISSION ORDERS THAT:

1. The MEEIA Cycle 3 Plans, as put forth by Evergy Missouri Metro and Evergy Missouri West, and modified by the Commission, are approved for a period of three years from the effective date of this order. Avoided costs shall be calculated using the average cost of the seven bids to supply capacity which Evergy Missouri West received in response to a 2017 Request for proposal as described in testimony.

2. If Evergy Missouri Metro and Evergy Missouri West offer a MEEIA Cycle 3 plan, the companies shall modify their respective MEEIA Cycle 3 portfolios to include a one-year Pay As You Save pilot program. The Companies, after consulting with the

parties, shall file a one-year Pay As You Save pilot program at least 60 days before such pilot program go into effect. The Pay As You Save pilot program shall include the following:

a. The budget for the pilot program shall be no less than 10 million dollars, and no more than 15 million dollars.

b. Evergy Missouri Metro and Evergy Missouri West may administer the pilot program themselves or may employ a third party operator with experience to operate the pilot program.

c. The pilot program shall identify a goal for the number of participants living in neighborhoods designated by the parties as predominately low or moderate-income customers or renters in multifamily housing with five or more units where the renter is responsible for paying their energy bills. The pilot program shall allow owners of multifamily units in participating buildings to use the program to install upgrades in common areas.

d. The pilot program shall have an appropriate earnings opportunity component for the Companies to be agreed upon by the parties.

e. The pilot program shall include customer protections by capping administrative costs (including total advertising costs as allocated to the total number of projects) for each individual customer project to a percentage of the total loan costs. Energy audit costs are a separate project Component and will not be included with administrative costs.

f. Participants in the Pay As You Save program shall be responsible for the capital provided for the energy efficiency measures minus any rebate.

g. Pay As You Save costs recovered through MEEIA from all ratepayers shall include: the rebate amount, administrative costs, the throughput disincentive, and an earnings opportunity (as agreed upon by the parties).

h. Any savings (kWh or kW) determined through the evaluation of the Pay As You Save program shall not be double counted with savings from other MEEIA programs at that same customer's premise.

i. Evergy Missouri Metro and Evergy Missouri West will notify the Commission of the pilot program's expected starting date, as selected by the Companies.

j. Evergy Missouri Metro and Evergy Missouri West shall submit progress reports both six months and one year after the Pay As You Save pilot program begins. The reports shall provide information based on benchmarks established by the parties to help identify the long-term feasibility and desirability of a Pay As You Save program, including participation rates.

3. Opt-out customers shall be allowed to participate in Evergy Missouri Metro's and Evergy Missouri West's business response program. The Companies are not required to publish compensation in their tariffs.

4. Evergy Missouri Metro and Evergy Missouri West are granted variances from the following Commission rules for the purpose of facilitating their MEEIA Cycle 3 Plans:

- 20 CSR 4240-20.092(1)(HH)
- 20 CSR 4240-20.092(1)(M)
- 20 CSR 4240-20.092(1)(R)
- 20 CSR 4240-20.093(2)(I)3

- 20 CSR 4240-20.092(1)(N)
- 20 CSR 4240-20.093(4)(C)
- 20 CSR 4240-20. 20.092(1)(Q)
- 20 CSR 4240-20.092(1)(UU)
- 20 CSR 4240-20.092(1)(P)
- 20 CSR 4240-20.092(1)(R)
- 20 CSR 4240-20.093(2)(J)
- 20 CSR 4240-20.092(1)(F)
- 20 CSR 4240-14.030
- 20 CSR 4240-20.092(1)(C)

5. This Report and Order shall become effective on April 10, 2020.

BY THE COMMISSION

Morris L Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Clark, Senior Regulatory Law Judge