

Exhibit No.:
Issue(s): Proposed tariff deficiencies
Witness: J Luebbert
Sponsoring Party: MoPSC Staff
Type of Exhibit: Direct Testimony
Case Nos.: EO-2023-0369 and
EO-2023-0370
Date Testimony Prepared: July 9, 2024

MISSOURI PUBLIC SERVICE COMMISSION
INDUSTRY ANALYSIS DIVISION
TARIFF/RATE DESIGN DEPARTMENT

REBUTTAL TESTIMONY

OF

J LUEBBERT

EVERGY METRO, INC.
d/b/a Evergy Missouri Metro
CASE NO. EO-2023-0369

EVERGY MISSOURI WEST, INC.
d/b/a Evergy Missouri West
CASE NO. EO-2023-0370

Jefferson City, Missouri
July 9, 2024

1 **TESTIMONY OF**

2 **J LUEBBERT**

3 **EVERGY METRO, INC.**
4 **d/b/a Evergy Missouri Metro**
5 **Case No. EO-2023-0369**

6 **EVERGY MISSOURI WEST, INC.**
7 **d/b/a Evergy Missouri West**
8 **Case No. EO-2023-0370**

9 Q. Please state your name and business address.

10 A. My name is J Luebbert. My business address is P.O. Box 360, Suite 700,
11 Jefferson City, MO 65102.

12 Q. Are you the same J Luebbert that filed direct testimony in this case?

13 A. Yes.

14 Q. What is the purpose of your rebuttal testimony.

15 A. My testimony addresses some of the deficiencies included in Evergy's proposed
16 tariff sheets. I also provide recommendations regarding tariff improvements if the Commission
17 approves any of the Evergy's Missouri Energy Efficiency Investment Act (MEEIA) programs.

18 **EXECUTIVE SUMMARY**

19 Q. Are the exemplar tariff sheets attached to Evergy's "MEEIA Cycle 4 2025-2028
20 Filing" as Appendices 8.6 and 8.7 reasonable, and should they be approved in this case?

21 A. No. The tariff sheets included in Appendices 8.6 and 8.7 of Evergy's MEEIA
22 Cycle 4 2025-2028 Filing should be rejected along with the remainder of the application.
23 However, if the Commission does approve the application, I provide brief explanations of some
24 of the issues contained within those tariff sheets and why the lack of specificity is problematic
25 and would need to be modified prior to being allowed to go into effect.

26 Q. What is the primary concern regarding the proposed tariff sheets?

1 A. The tariff sheets are vague and lack the specificity that is necessary to reasonably
2 audit or determine whether the programs are prudently implemented. If approved, at some point
3 in the future Staff will be tasked with conducting a prudence review of the programs. Including
4 detailed requirements within the tariff provides a clear and legally binding framework for
5 reviewing compliance with the approved portfolio. If information is included within the tariff,
6 the review for imprudent actions and expenditures within the context of a prudence review can
7 be more efficiently administered due to the detailed requirements leaving less room for
8 interpretation of appropriateness after the fact. That is not the case for the Appendix 8.6 and
9 Appendix 8.7 tariff sheets, which consist of broad language that provides the utility nearly
10 unfettered discretion.

11 Q. Does your testimony include any recommendations for Commission
12 consideration?

13 A. Yes. Staff's primary recommendation in this case is that the Commission reject
14 Evergy's request for MEEIA Cycle 4 and the associated program tariff sheets. However, if the
15 Commission approves any of the programs included in Evergy's request, Staff recommends
16 that the Commission order Evergy to file tariff sheets that:

- 17 1. include program specific budgets by year;
- 18 2. include specific measures available for each program, and the specific
19 incentive amount(s) that will be offered for those measures;
- 20 3. that the terms of each program, and for each involved entity, be well defined
21 within the tariff sheets without reliance on non-tariff language from the Evergy
22 website for details governing the implementation of each program; and
- 23 4. include the level of detail included on pages 33-35 of my direct testimony.

1 **VAGUE TARIFF LANGUAGE IS PROBLEMATIC**

2 Q. Which of Evergy's proposed tariff sheets include vague and ambiguous
3 references?

4 A. Unfortunately, the tariff sheets proposed by Evergy include vague references
5 and ambiguous references throughout, impacting nearly all aspects of Evergy's MEEIA
6 portfolio implementation, costs and cost recovery.

7 Q. Has Staff attempted to clarify some of the language that Evergy has included
8 within its proposed tariff sheets?

9 A. Yes. Staff sent a series of data requests to Evergy in an attempt to clarify some
10 of the vague and ambiguous language. I have attached several of these responses to my
11 testimony as Confidential Schedule JL-r1. While some of the responses included in JL-r1
12 provide additional information, many of the responses are also vague, and some are not
13 responsive. To the extent that the data request responses do provide additional details, those
14 data request responses are not binding on the utility, ratepayers, and the Commission unless the
15 information is included in approved tariff.

16 Q. Did Evergy's responses resolve Staff's concerns?

17 A. Unfortunately, no. Many of the responses indicate a desire to provide an
18 unreasonable amount of discretion to Evergy, hindering the ability of Staff, intervenors, and
19 ultimately the Commission from successfully challenging the prudence of decisions that may
20 result in ratepayer harm. In some instances, Evergy provided some clarification on its intent
21 for implementation or interpretation of ambiguous language, but such clarifications need to be
22 included in the tariff to: 1) avoid inconsistent treatment of ratepayers; 2) set ratepayer, Evergy,

1 Staff, and Commission expectations for implementation; 3) restrict adverse outcomes; 4) ensure
2 compliance with the tariff; 5) and to ensure enforceability of the tariff.

3 Q. Based on Evergy's testimony, application, and report filed in this case, Evergy
4 is requesting approval to spend massive amounts of ratepayer dollars on various components
5 related to energy efficiency programs. Are the details that are necessary to fully consider the
6 ramifications of those costs on ratepayers and the potential benefit impacts on ratepayers
7 included within the support provided by Evergy?

8 A. No. Evergy's request for approval, at a high level, is a request for approval to
9 spend ratepayer dollars based upon conceptual ideas of programs that are not fully developed,
10 with Evergy retaining the ability to create and modify details of those programs after receiving
11 approval from the Commission.

12 Q. Is the level of utility discretion included in Evergy's proposed MEEIA tariff
13 sheets reasonable?

14 A. No. The level of utility discretion offered by the proposed tariff sheets is
15 unreasonable, especially considering the magnitude of costs related to the MEEIA 4 Plan and
16 Evergy's disincentive to implement programs that meaningfully benefit ratepayers.

17 Q. Has Evergy fully developed the efficiency programs for which the company
18 requests approval?

19 A. Evidently not. Evergy has not yet selected the Program Administrators for each
20 program, but "[t]he Program Administrator acts as an expert in the subject matter, aiding
21 Evergy's internal team in crafting programs."¹

¹ Evergy response to Staff Data Request No. 0003 in Case Number EO-2023-0369.

1 Q. Are the functions and responsibilities of Evergy employees, Program
2 Administrators, Program partners, and program evaluators well delineated in Evergy's
3 application, report, testimony, or proposed tariff sheets?

4 A. No.²

5 Q. Based upon Evergy's proposed tariff sheets, is it clear who will participate in
6 which programs, which measures are available for each proposed program, who will receive
7 incentives for those measures, or the level of incentives that will be offered to program
8 participants?

9 A. No. Without this level of detail, it is difficult to fully evaluate Evergy's proposed
10 MEEIA programs for several reasons. Evergy's report and testimony provide charts and figures
11 of energy and demand reductions, program costs, expected benefits, and ratepayer impact of
12 funding the programs. Those estimates are based upon very specific assumptions for several
13 variables utilized in the Evergy workpapers, including, but not limited to, measure installations
14 by year, measure costs, incentives per measure, and expected benefits.

15 Q. Who will be able to participate in Evergy's proposed MEEIA programs,
16 according to Evergy's proposed tariff sheets?

17 A. Evergy's proposed tariff sheets include participation channels that are not well
18 defined, many of which will result in program participation by non-Evergy ratepayers.
19 For example, Evergy's proposed tariff sheets define "Participant" as follows: "End-use
20 customer and/or manufacturer, installer, or retailer providing qualifying products or services to
21 end-use customers."³

² See Evergy's response to Staff Data Request Nos. 0003 and 0004 in Case No. EO-2023-0369, attached as Confidential Schedule JL-r1.

³ Definition of "Participant" included on page 3 of 109, Appendices 8.6 and 8.7 of the Application in this case labeled P.S.C. MO. No. 1, 1st Revised Sheet No. R-74.

1 Q. Are the terms “End-use customer, manufacturer, installer, retailer, qualifying
2 products or services” defined within Evergy’s proposed tariff sheets?

3 A. No. Staff requested specific definitions for various terms included within
4 Evergy’s proposed tariff sheets through data requests and Evergy’s responses were consistently
5 vague including phrases such as: “may include”, “a non-exclusive list ... could include”, and
6 explanations that “there could be a possibility that the incentive could be provided to...”⁴

7 Q. How does Evergy account for differences in the incentive recipient within its
8 modeled costs and benefits for MEEIA Cycle 4?

9 A. My understanding is that Evergy does not account for any differences. Instead,
10 Evergy assumes that various participation channels will result in a complete pass through of all
11 incentives to the end-user. This assumption is not reasonable because there are not sufficient
12 safeguards to ensure that the incentive amounts are realized entirely by the ratepayers subject
13 to Evergy’s demand-side investment mechanism. Furthermore, Evergy acknowledges that
14 non-Evergy ratepayers will receive discounted energy efficiency measures that Evergy has not
15 accounted for in its workpapers supporting the application and Evergy’s report.⁵

16 Q. What measures will be available for each program?

17 A. This information is unclear based upon Evergy’s proposed tariff sheets. The
18 tariff sheets reference Evergy’s Technical Resource Manual (“TRM”)⁶ as well as a generic
19 Evergy website for additional information.

20 Q. What incentive will be offered for the measures through various programs?

⁴ See data request responses attached to this testimony as Confidential Schedule JL-r1.

⁵ Evergy response to Staff Data Request No. 0026 in Case No. EO-2023-0369. See Confidential Schedule JL-r1.

⁶ Staff witness Mark Kiesling discusses issues related to Evergy’s proposed TRM.

1 A. Based on Evergy's response to Staff data requests, this information is unknown
2 at this time, despite all of Evergy's cost and benefit estimates including a specific incentive
3 value for an assumed mix of installed efficiency measures in each year. The proposed tariff
4 sheets refer to the Evergy website for additional information on the availability of incentives.

5 Q. Are program specific budgets by year included within Evergy's proposed tariff
6 sheets?

7 A. No. Evergy's proposed program tariff sheets do not include any program
8 specific budgets.

9 Q. Should the program tariff sheets include program budgets by year?

10 A. Yes. Currently the tariff sheets do not include program specific budgets, either
11 in total or by year. Evergy's MEEIA 4 Plan is premised on a series of assumptions, including,
12 but not limited to, the budgets that will be included for each program and how those budgets
13 will be utilized. However, as has been the case for all previous MEEIA cycles, how the budget
14 is actually expended will differ from those used in support of the application. Adding program
15 specific budgets, either by program or by program and year, would potentially limit some of
16 this uncertainty while still providing a level of flexibility to the utility. Staff recommends that
17 if the Commission approves Evergy programs for Cycle 4, that the tariff sheets include program
18 specific budgets by year.

19 Q. Should the tariff sheets include the specific measures that are eligible for each
20 program?

21 A. Yes. Currently, most of the program tariff sheets make references to the TRM
22 and the list of incentive ranges for measures that may be offered at some point during the
23 MEEIA 4 Plan. However, the TRM includes hundreds of measures and many of the

1 assumptions that feed into the calculations of energy and demand savings are either poorly cited
2 or lack citations completely. Allowing this level of flexibility for each program is unnecessary,
3 and more importantly, is unclear to the ratepayer, the Commission, and Staff what incentive
4 and measures are actually being offered at a given point in time. All measures included in the
5 TRM are not appropriate for all of the proposed programs. Furthermore, Evergy's analysis
6 provided in support of its MEEIA Cycle 4 programs do not account for the range of incentives
7 for which Evergy has requested approval. Staff recommends that if the Commission approves
8 Evergy programs for Cycle 4, that the tariff sheets include specific measures available for each
9 program and the specific incentive amount that will be offered for those measures be included
10 as well.

11 Q. The tariff sheets included in Appendices 8.6 and 8.7 frequently references the
12 Evergy website for details that should be included in the tariff sheets. Are website references
13 a reasonable replacement for the specificity that should be included within the tariff sheets?

14 A. No. Including detailed requirements within the tariff provides a clear and legally
15 binding framework for reviewing compliance with the approved portfolio. Doing so provides
16 clear expectations for ratepayers, Evergy, implementers, the Commission, and Staff.
17 Furthermore, tariff sheets provide a clear timeframe when conditions should be applied. Staff
18 recommends that if the Commission approves Evergy programs for Cycle 4, that the terms of
19 each program, and for each involved entity, be well defined within the tariff sheets without
20 reliance on the Evergy website for details that will govern the implementation of each program.

21 Q. What level of detail should be included in Evergy's MEEIA tariff sheets, if the
22 Commission approves programs for MEEIA Cycle 4?

Rebuttal Testimony of
J Luebbert

1 A. Staff recommends that if the Commission approves any program associated with
2 the MEEIA 4 Plan, that the Commission, at minimum, order Evergy to file tariff sheets that
3 include the level of detail included on pages 33-35 of my direct testimony.

4 Q. Would the recommended tariff improvements included in your testimony
5 resolve Staff's concerns with Evergy's proposed MEEIA programs and tariff sheets?

6 A. No, but the recommendations would be an improvement from the currently
7 proposed tariff sheets.

8 Q. Does this conclude your rebuttal testimony?

9 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Evergy Metro, Inc. d/b/a)
Evergy Missouri Metro's Notice of Intent to) Case No. EO-2023-0369
File an Application for Authority to Establish)
a Demand-Side Programs Investment)
Mechanism)

In the Matter of Evergy Missouri West, Inc.)
d/b/a Evergy Missouri West's Notice of) Case No. EO-2023-0370
Intent to File an Application for Authority to)
Establish a Demand-Side Programs)
Investment Mechanism)

AFFIDAVIT OF J LUEBBERT

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW J LUEBBERT and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of J Luebbert*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



J LUEBBERT

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8th day of July 2024.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public