

Exhibit No.:

Issues: Time-Of-Use Rates for  
Distributed Generation  
Customers

Witness: Emily Piontek

Sponsoring Party: Renew Missouri Advocates

Type of Exhibit: Rebuttal Testimony

Case No.: ER-2024-0189

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**MISSOURI PUBLIC SERVICE COMMISSION**

**ER-2024-0189**

**REBUTTAL TESTIMONY**

**OF**

**EMILY PIONTEK**

**ON BEHALF OF**

**RENEW MISSOURI ADVOCATES**

July 12, 2024

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1 **I. INTRODUCTION**

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

3 A: My name is Emily Piontek and I am the Managing Director and Policy Coordinator of  
4 Renew Missouri, which is headquartered at 915 East Ash St., Columbia, MO, 65201.

5 **Q: Have you submitted testimony previously in proceedings before the Commission?**

6 A: Yes. I have submitted testimony on behalf of Renew Missouri for matters related to utility-  
7 scale solar deployment, integrated resource planning, and energy efficiency in Case Nos.  
8 EA-2023-0286, ER-2019-0374, EO-2023-0136, and EO-2023-0369/0370.

9 **Q: What is the purpose of your testimony?**

10 A: The purpose of my testimony is to make the case for the company offering all residential  
11 customers the opportunity to enroll in any of its time-based rate programs.

12 **Q: Could you please briefly summarize your testimony?**

13 A: I begin by briefly summarizing the history of this issue by highlighting relevant cases,  
14 reports, and previous statements from the Commission on the topic of time-based rates and  
15 distributed generation. I then discuss the benefits of time-based rates from a public policy  
16 perspective, closing my testimony with a recommendation to the Commission.

17 **Q: What is your recommendation to the Commission in this case?**

18 A: My recommendation is that the Commission should order Evergy to reform netting and  
19 allow all customers, including distributed generation (DG) customers, to participate in any  
20 Time-Of-Use (“TOU”) rate option that is currently being offered. By Evergy’s own  
21 admission there are no billing or technical constraints to permitting customers with on-site  
22 net metered solar to participate in the Company’s time-based rate options.<sup>1</sup> However, the

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<sup>1</sup> Case No. ER-2022-0129, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request for Authority to Implement A General Rate Increase for Electric Service* and Case No. ER-2022-0130, *In the Matter of*

1 Company has previously alleged that changes to the net metering statute are required before  
2 DG customers can be allowed to participate in any of the time-based rate options offered  
3 by the Company.<sup>2</sup> I am not an attorney, however, I have been advised by counsel that  
4 changes to the net metering statute are not required to allow DG customers access to TOU  
5 rates. My understanding of the legal analysis conducted by Missouri Public Service  
6 Commission Staff (“Staff”) in *In the Matter of a Collaborative Workshop for Customer*  
7 *Education and Outreach Regarding the Introduction of Default Time-of-Use Rates by*  
8 *Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a*  
9 *Evergy Missouri West*<sup>3</sup> and *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri*  
10 *Metro’s and Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Solar Subscription*  
11 *Rider Tariff Filings*<sup>4</sup> is that they also believe Evergy can legally do this. Therefore, it is  
12 Renew Missouri’s belief that the Commission has the authority to order the Company to  
13 adopt rate structures or implement billing practices to open access to TOU rates to all  
14 customers. I also recommend that Evergy be directed to continue in the quarterly TOU  
15 reporting required by Commission order in ER-2022-0129 and ER-2022-0130 in this case,  
16 and include information about (a) how TOU plan eligibility is being communicated to DG  
17 customers, and (b) DG customer enrollment and participation in any of the TOU plans.

18 **II. CASE HISTORY & BACKGROUND**

19 **Q: Can you provide a brief overview of the history of the issue of Evergy’s Time-Of-Use**  
20 **(“TOU”) rates and distributed generation (“DG”) customers?**

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*Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service, “Barriers to Net Metering Time of Use Rate Structures: Final Report”.* (February 1, 2024). See Part II, “Examination of Barriers”, pp. 2-3.

<sup>2</sup> *Id.*

<sup>3</sup> File No. EW-2023-0199.

<sup>4</sup> File No. ET-2024-0182.

1 A: Certainly. My overview is organized by three relevant cases from 2022 to the present.  
2 **ER-2022-0129 and ER-2022-0130**. The matter of the inclusion of DG customers in  
3 Evergy’s TOU rates first emerged in Case No. ER-2022-0129 and ER-2022-0130, the  
4 Company’s 2022 rate cases (“2022 rate cases”). In their application, Evergy proposed that  
5 DG customers be excluded from TOU rates entirely, given the Company’s claim that they  
6 could not account for a DG customer’s excess generation in a manner compliant with the  
7 statute. Ultimately, DG customers with on-site solar or participating in the Solar  
8 Subscription Program were only made eligible to participate in what is now the Default  
9 Time Based Plan (formerly the Peak Reward Saver plan), which has the lowest price  
10 differential of any of the Company’s TOU plans.<sup>5</sup> However, Evergy also offers the Summer  
11 Peak Time Based Plan, the Nights &Weekends Plan, the Nights & Weekends Max Plan,  
12 and an EV Only Plan.<sup>6</sup> Each of these plans offers different incentives via price differentials  
13 and other attributes, allowing only non-DG customers to choose the plan that best suits  
14 their lifestyle. In the 2022 rate case, Renew Missouri Witness Mr. James Owen  
15 recommended that Evergy be directed by the Commission to:

16 *“... conduct a comprehensive study to determine how to integrate its TOU rates*  
17 *with customers that operate distributed resources (including net metered solar PV,*  
18 *battery storage, electric vehicles, and others). The Commission should direct*  
19 *Evergy to deliver the results of the study by the time of its next rate case or its next*  
20 *triennial Integrated Resource Plan.”<sup>7</sup>*

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<sup>5</sup> Case No. ER-2022-0129, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request for Authority to Implement A General Rate Increase for Electric Service* and Case No. ER-2022-0130, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service*, Amended Report and Order. (December 8, 2022). See also Evergy, Rate Information, Plan Options: Default Time Based Plans. (2024). Accessed at: <https://www.evergy.com/manage-account/rate-information-link/plan-options/default-time-based-plan#:~:text=The%20Default%20Time%20Based%20Plan,seasonal%20and%20applies%20all%20year>.

<sup>6</sup> Evergy. Rate Information, Plan Options. (2024). Accessed at: <https://www.evergy.com/manage-account/rate-information-link/plan-options>

<sup>7</sup> Case No. ER-2022-0129, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request for Authority to Implement A General Rate Increase for Electric Service* and Case No. ER-2022-0130, *In the Matter of Evergy*

1 Subsequently, Evergy did complete such a study, which resulted in the report titled  
2 “Barriers to Net Metering and Time of Use Rate Structures”, which was published in  
3 February 2024.<sup>8</sup> As noted above, Evergy indicated that no technical or billing constraints  
4 to DG customer participation in TOU rates existed, but the Company alleged that legal  
5 constraints remain.

6 **ET-2024-0182**. However, in the matter of the Company’s recent Solar Subscription  
7 Program Rider, Case No. ET-2024-0182, the Commission noted its continued interest in  
8 seeing all customers, including those with on-site DG or subscribing to the solar program,  
9 being allowed to access all TOU rates (emphasis added):

10 *“The Commission encourages Evergy, Staff, and any other party to bring a solution*  
11 *for all customers being able to access all TOU rates in Evergy’s next rate cases*  
12 *and/or when Evergy expands the SSP. All participants should be able to have*  
13 *access to all TOU rates and Evergy should be moving forward and making progress*  
14 *in this regard.”*

15 **ER-2024-0189** This brings us to the case at hand, the Company’s 2024 rate case.

16 **Q: Have other parties brought forth potential solutions to allow DG customers to**  
17 **participate in any of the company’s TOU plans? If so, please describe them.**

18 **A:** Yes. For example, the Staff believes “straightforward tariff revisions would eliminate any  
19 conflicts and make any reconfigured TOU rate plan available to net metering customers.”  
20 Staff gives the example of changing the tariff so the on-peak rate is \$0.40 and the off-peak  
21 rate is \$0.04; all energy could then be tariffed at a rate of \$0.04 but an an on-peak adder of  
22 \$0.36 could then be applied.<sup>9</sup>

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*Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service, Rebuttal Testimony of Mr. James Owen. (July 13, 2022). See p.13.*

<sup>8</sup> *Id.* “Barriers to Net Metering Time of Use Rate Structures: Final Report”. (February 1, 2024).

<sup>9</sup> *In the Matter of a Collaborative Workshop for Customer Education and Outreach Regarding the Introduction of Default Time-of-Use Rates by Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West, File No. EW-2023-0199, “Staff Response to April 2, 2024, Presentation, Barriers to Net*

1 **Q: What is Renew Missouri’s opinion of this recommendation?**

2 A: Critically, Staff points out via this recommendation that a simple tariff change is really all  
3 that is needed to accomplish the end goal of opening the same TOU plans to both DG and  
4 non-DG customers. We appreciate that Staff has done the heavy lifting for Evergy by  
5 developing a simple solution to the problem and agree that it has potential. However, we  
6 are concerned this particular recommendation may raise a legal issue, given that the  
7 statute only contemplates netting the kWh and does not contemplate valuing customer  
8 generation at any rate other than one-to-one, which Staff’s proposal appears to do.<sup>10</sup>

9 **Q: Are there any other potential solutions that should be considered?**

10 A: Yes. Renew Missouri would like to propose the following arrangement for the parties to  
11 consider: that Evergy simply account for the time of day when excess solar production is  
12 sent by the DG customer back onto the Company’ system. When excess solar generation  
13 is sent back during an on-peak period, the customer would receive an "On-Phase Credit";  
14 when excess generation is sent back during the off-peak period, the customer would receive  
15 an "Off-Phase Credit". If this simple arrangement were adopted, the Company would  
16 always offset the DG customer’s kilowatt-hour contribution rather than the price per watt.  
17 To put this into concrete terms, I will apply our proposal to Evergy’s Residential TOU –  
18 Two Period Schedule, pictured in the figure below.

19 Figure 1. Residential Time of Use – Two Period Schedule (RTOU-2)<sup>11</sup>

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Metering and Time Of Use Rate Structures Final Report, and Requests for Additional Information.” (April 19, 2024). P.7.

<sup>10</sup> See § 386.890.5(2) and (3), RSMo.

<sup>11</sup> Evergy Missouri Metro. "Detailed Tariffs: Residential Time of Use – Two Period”. (2024). Accessed at: <https://www.evergy.com/manage-account/rate-information-link/how-rates-are-set/rate-overviews/detailed-tariffs>

A. Customer Charge (Per month)	\$12.00
B. Energy Charge per Pricing Period (Per kWh)	
	<u>Summer Season</u>
On-Peak	\$0.38328
Off-Peak	\$0.09582
	<u>Winter Season</u>
Off-Peak	\$0.11311
Super Off-Peak	\$0.05656

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In the Summer Season, for example, a DG customer sending excess power to the Company during the On-Peak period (4-8 p.m.) would receive an “On-Phase Credit” of roughly \$0.38 per kWh, equivalent to the On-Peak per kWh price; a DG customer sending excess solar power to the Company during the Off-Peak period (all other hours) would receive an “Off-Phase Credit” of roughly \$0.10 per kWh, equivalent in turn to the Off-Peak per kWh price. In the Winter Season, excess power generated by the DG customer during the Super Off-Peak period (midnight to 6 a.m.) and the Off-Peak period (all other hours) would be compensated by On-Phase Credits of about \$0.06 and \$0.11/kWh, respectively. These credits correspond to the Off-Peak and Super Off-Peak price/kWh. The necessary changes to the tariff would involve amending the rate availability to include DG customers and writing up the On-Phase and Off-Phase Credits scheme. If the Company were to pursue our proposal, then each TOU tariff would need to be amended accordingly.

Ultimately, however, we are more concerned that the Commission order Evergy to reform netting so that DG customers can participate in any of the Company’s TOU rates, while directing the parties to work together to fine-tune how the tariff will work.

**Q: What is your understanding of the legal basis that grounds your position?**



1 A: Although I am not a lawyer, my understanding is that (a) Evergy can legally make DG  
2 customers eligible for any of the company’s TOU options, and (b) the Commission has the  
3 authority to order the company to do so, as I previously noted.

4 **Q: Is there any precedent for time-based rates for net metering customers?**

5 A: Yes, Renew Missouri is aware of at least 13 utility companies that make their TOU rate  
6 options available to all residential customers, including customers with an on-site  
7 distributed generation system. In 2016, the state of California even mandated TOU rates  
8 for DG customers after successful programs had already been implemented. Particularly  
9 pertinent here is that California-based companies Pacific Gas & Electric, Southern  
10 California Edison, and San Diego Gas & Electric offer the same TOU plans to customers  
11 with or without DG. Since noting these and other opportunities for DG customers to enroll  
12 in TOU plans in 2022 rate cases at other regulated utilities (in Illinois, Massachusetts, New  
13 York, Pennsylvania, South Carolina, and Virginia) Renew Missouri has become aware of  
14 two additional utilities that offer the same TOU rate options to customers with and without  
15 DG.<sup>12</sup> Arizona Public Service (“APS”) offers the same residential TOU rates to all  
16 residential customers, including those with solar.<sup>13</sup> Likewise, Florida Power and Light  
17 (“FPL”) does not exclude net metering customers from its TOU rate options. The net  
18 metering customers are charged “in accordance with the Company’s normal billing  
19 practices.” Electric use exceeding that generated by the customer’s equipment is charged

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<sup>12</sup> Case No. ER-2022-0129, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request for Authority to Implement A General Rate Increase for Electric Service* and Case No. ER-2022-0130, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service*, Rebuttal Testimony of Mr. Owen. (July 13, 2022). See pp.8-11.

<sup>13</sup> Arizona Public Service. “Rates, Schedules and Adjustors”. (2024). Note that APS offers net billing instead of net metering (e.g., compensates DG customers for only a portion of the excess solar energy produced by the customer) so it is not a perfect comparison. Accessed at: <https://www.aps.com/en/Utility/Regulatory-and-Legal/Rates-Schedules-and-Adjustors>

1 to the customer, while excess generation is credited to that customer according to FPL’s  
2 usual billing practices.<sup>14</sup>

3 **III. BENEFITS OF TIME OF USE RATES**

4 **Q: What is the public policy argument favoring TOU rates?**

5 A: There are several reasons why TOU rates are beneficial from a public policy perspective.  
6 Such rates have the potential to naturally incentivize efficiency, leading to demand  
7 savings.<sup>15</sup> System-wide demand savings ultimately protect ratepayers from subsidizing a  
8 utility’s investments in new generating facilities or at least help to delay that investment.  
9 TOU can help utilities achieve demand response goals by encouraging customers to  
10 moderate their usage so that less electricity is used during the on-peak period, thereby  
11 reducing coincident peak demand and lowering the risk of grid congestion, which also  
12 improves the overall function of the system. If Evergy is serious about reducing demand  
13 (as the Company’s 2024 Integrated Resource Plan and MEEIA Cycle IV applications  
14 indicate), the utility should *also* be serious about enabling every customer to support that  
15 goal.<sup>16</sup> There is also a strong argument for why customer-owned distributed energy  
16 resources (“DERs”) are a complement to TOU programs. On-peak and off-peak pricing  
17 differentials can encourage such customers to adapt their energy usage to times of the day

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<sup>14</sup> Florida Power & Light. “Electric Tariff, Sixty-Fifth Revised Sheet No. 8.010.” (May 1, 2024). Accessed at: <https://www.fpl.com/content/dam/fplgp/us/en/rates/pdf/electric-tariff-section8.pdf>

<sup>15</sup> National Bureau of Economic Research. “Electricity Retail Rate Design in a Decarbonized Economy: An Analysis of Time-Of-Use and Critical Peak Pricing.” (October 2022). Accessed at: <https://www.nber.org/papers/w30560>

<sup>16</sup> See In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s 2024 Triennial Compliance Filing Pursuant to 20 CSR 4240-22, File No. EO-2024-0153 and In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s 2024 Triennial Compliance Filing Pursuant to 20 CSR 4240-22, File No. EO-2024-0154, and In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism, File No. EO-2023-0369 and In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism, File No. EO-2023-0370.

1 that is most cost-effective for them. Pairing the rate with a variety of customer owned DERs  
2 (e.g., solar, battery energy storage, electric vehicles paired with EV charging equipment,  
3 smart meters) is a comprehensive approach for full utilization of the best available  
4 technology to achieve demand savings at both the household and system levels.

5 Our reasoning for encouraging Evergy to include DG customers in all TOU rate plans is  
6 the same as when Renew Missouri advocated for this program design in the 2022 rate cases:

7 *Participation in TOU rate plans encourages DG customers to consume electricity*  
8 *from the grid during the off-peak period. At the same time, it encourages DG*  
9 *customers to use their generated electricity during the on-peak period, to avoid*  
10 *paying higher rates. Also, the time variable compensation could incentivize DG*  
11 *customers to use less power in the on-peak period and send the electricity saved to*  
12 *the grid to achieve greater financial returns.<sup>17</sup>*

13 Not fully committing to a robust and inclusive TOU program hinders the demand  
14 savings goals put forward by Evergy in its MEEIA application and 2024 IRP and prevents  
15 the Company from realizing the full value of customer-owned DG. As a final note of  
16 caution to Evergy, preventing DG customers from participating in any of the TOU rates is  
17 discriminatory to those customers, who should be given equal opportunity to benefit from  
18 cost savings. From my understanding from counsel, this is where the actual threat of legal  
19 action against the Company lies, given that the Net Metering and Easy Connection Act  
20 requires that DG customers be given the same rates and rate structures as other customers.<sup>18</sup>

#### 21 **IV. CONCLUSION**

22 **Q: What is Renew Missouri’s request in this case?**

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<sup>17</sup> Case No. ER-2022-0129, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro’s Request for Authority to Implement A General Rate Increase for Electric Service* and Case No. ER-2022-0130, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West’s Request for Authority to Implement A General Rate Increase for Electric Service*, Rebuttal Testimony of Mr. James Owen. (July 13, 2022). See p.11:7-12.

<sup>18</sup> § 386.890.3 RSMo.: “A retail electric supplier shall: ... (2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator ...”

1 A: Renew Missouri urges the Commission to order Evergy to include all DG and net-metering  
2 customers in its proposed framework for all TOU rates. The Commission should also order  
3 Evergy continue the quarterly TOU reporting the Company is already doing and include  
4 additional information about (a) how TOU plan eligibility is being communicated to DG  
5 customers, and (b) DG customer enrollment and participation in any of the TOU plans.

6 **Q: Does this conclude your testimony?**

7 A: Yes, thank you.

