

**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) File No. EO-2022-0061
West For Approval of a Special High Load Factor)
Market Rate)

POSITION STATEMENT OF EVERGY MISSOURI WEST

COMES NOW Evergy Missouri West, Inc. d/b/a Missouri West (“EMW” or “Company”) and for its *Position Statement* states as follows:

On November 2, 2021, the Company filed its Application requesting approval from the Missouri Public Service Commission (“Commission”) for a Special High Load Factor Rate (Schedule MKT) tariff. The Company requested that the Commission enter an appropriate Order by March 1, 2022, approving the Schedule MKT tariff so that it is effective no later than March 31, 2022.

LIST OF ISSUES

1. Should the Commission approve the Special High Load Factor Market Rate (“Schedule MKT”) tariff proposed by EMW?
 - a. Is the Schedule MKT tariff lawful?
2. If yes, what if any modifications to the Schedule MKT tariff proposed by EMW or other conditions should the Commission order?

Company Position: Yes. The Commission should approve the Schedule MKT tariff, as modified by the Company’s surrebuttal testimony. Schedule MKT tariff is otherwise lawful, just and reasonable.

BACKGROUND OF SCHEDULE MKT TARIFF

Over the past two or three years, EMW has been approached by multiple potential customers seeking to locate data centers in the Company's Missouri jurisdictions. The projects planned by these potential customers are similar in timing and energy needs. Generally, the customers are seeking to locate large data centers in the Midwest to take advantage of regional benefits (e.g., land availability, security, resiliency, energy grid connectivity, etc.) and to improve the response time and capabilities of the services hosted by these companies. These customers expect loads at or around 150MW to 200MW for each data center. The loads will be consistent, having a high load factor due to the "always on" aspect of computer/internet technology. When first built, these loads tend to increase over a period of years as the data center equipment is installed, tested and commissioned in phases. These customers plan to invest hundreds of millions of dollars into the area, supporting their construction and operations. Each customer is operating under an internal development timetable and are seeking solutions to fit those timing needs. All have corporate renewable energy mandates and seek to partner with local utilities and municipalities to ensure success of these installations. These customers are scouring the region looking for the best combination of factors to support their investment decisions. Given the load size and load factor, these potential customers are distinct from other customers served by EMW. (Ives, Direct Testimony, p. 3)

PROPOSED SCHEDULE MKT AND CUSTOMER PROTECTIONS

As explained in the Application, the Company has developed and requests Commission approval of a proposed Special High Load Factor Market Rate tariff. This tariff is designed to meet the needs of these special, high load factor customers by providing an energy rate based on the day-ahead hourly price of energy observed from the Southwest Power Pool ("SPP") Integrated Marketplace. All other elements of the proposed rate are determined based on the incremental cost to serve the customers. (Application, pp. 2-3)

High load factor loads represent desirable loads for the Company. When added to the system, this consistent, incremental load minimizes any need for additional generation resources while expanding the sale of energy by the Company. Further, these loads are expected to provide desired economic development within the greater Kansas City area. EMW has been working closely with a particular potential data center customer (Velvet Tech Services, Inc.) (“Velvet”) that has served as the design case for the tariff and the processes proposed in this filing. (Application, p. 3)

The design case customer has purchased land and received approval from the Kansas City City Council for the construction of a data center at a cost of approximately \$800 million. This data center is expected to employ more than 50 direct, full-time employees at an average salary of more than \$80,000/year. Approximately 1,000 construction workers will be onsite during the build over multiple years. (McCarthy Direct, p. 15) Construction and operation of the data center will make a significant economic contribution to the Kansas City area. Witnesses Jill L. McCarthy and Michelle Hataway¹, presented by Evergy, provide important background information about the economic development issues. (McCarty Direct pp. 5-17; Hataway Direct, pp. 3-5) Current plans call for the data center to be in-service by the end of 2023. Installation and commissioning of data center equipment will follow and load will increase as the data center builds out, with the customer moving to the Special High Load Factor Market Rate in late 2025. (Application, pp. 3-4)

Each customer receiving service under the Schedule MKT rate will have unique pricing for all non-energy components of the rate. These individual rate elements as well as all specific terms and conditions for the rate will be based on the individual customer project and memorialized in an associated Market Rate contract. If the Schedule MKT tariff is approved, all subsequent Market Rate contracts will be filed for review and approval prior to the time each customer receives service under Schedule MKT. An example of this Market Rate contract, based on the design case customer,

¹ Michelle Hataway is adopting the pre-filed testimony of Mark Stombaugh in this proceeding.

is attached to the testimony of Mr. Ives as Confidential Schedule DRI-2, although each future Market Rate contract will be unique to capture the details of the respective load.

EMW chose to design a simple, three-part rate for providing service to these large, high load factor customers. The key element is the energy pricing. Energy price is set by the SPP day-ahead hourly price at the EMW node. The customer service charge and the capacity charge are set based on the incremental cost to serve and negotiated amounts to address design risks. Specific to providing capacity to support the tariff, the Company expects options may include, but are not limited to construction of physical resources or a distinct, request for proposal for firm capacity offered in the SPP market. All efforts will be made to maximize the benefit of the capacity options for the Customer and the Company. Availability of this service will be limited to customers who are able to meet and maintain load and load factor minimums. The Company proposes that customers have a monthly demand equal to or in excess of 100 megawatts (“MW”) or is reasonably projected to be at least 150 MW within five (5) years of the new customer first receiving service from Company, and is able to demonstrate and maintain an average annual load factor throughout the year of 0.85 or greater. Customers receiving service under this tariff will be served at substation or transmission voltages. Terms of service under the Special High Load Factor tariff will be five years with the opportunity for renewal, subject to pricing change to reflect then current conditions. Billing under the proposed tariff will be excluded from charges from the Company’s Fuel Adjustment Clause and other embedded cost recovery riders. (Application, pp. 3-4)

LEGAL AUTHORITY FOR TARIFF AND CONTRACT APPROVAL

The Commission has often exercised its ratemaking authority to approve special contracts and related tariffs under Sections 393.130, 393.140(11), and 393.150(1) RSMo. and its general ratemaking authority. Many special contracts have been approved by the Commission utilizing

such authority over the Commission’s regulatory history.² These special contract tariffs and special contracts have been approved outside the context of general rate cases.³

Contrary to the arguments of Staff, EMW did not file its Application and tariffs pursuant to the terms of Section 393.355, RSMo., a statute regarding special rate contracts for aluminum and steel producers or facilities resulting in incremental monthly load increases over 50 megawatts. While this statutory tool is evidence of a regulatory and pricing climate that gave Missouri a distinct competitive advantage in attracting certain types of customers to Missouri, this statute is not required to be utilized and does not serve the needs of High Load Factor customers and the Company under the circumstances of this case. The Commission has held that Section 393.355 is not the exclusive statutory authority for approving special contracts.⁴

**EMW IS REQUESTING APPROVAL OF THE SCHEDULE MKT
TARIFF ONLY AT THIS TIME**

The Company is seeking Commission approval of the tariff only with this filing. This filing will also inform the Commission about the future Market Rate contract. The tariff is designed to meet the needs of these special, high load factor customers by providing an energy rate based on the day-ahead hourly price of energy observed from the SPP Integrated Marketplace. All other elements of the proposed rate are determined based on the incremental cost to serve the customers.

² See e.g., *Report and Order, In the Matter of a Demand Curtailment Agreement Between Kansas City Power & Light Company and Armco Steel Corporation*, Case No. EO-78-227 (August 22, 1978); *Order Approving Proposed Rate Schedule And Special Contract, In the Matter of the Application of Kansas City Power & Light Company for Approval of a Rate Schedule Authorizing the Use of Special Contracts and Approval of a Specific Special Contract between KCPL and an Existing Customer*, Case No. EO-2006-0193 (March 16, 2006); *Order Approving Agreement and Tariff, In the Matter of a Special Contract filed by Kansas City Power & Light Company*, Case No. EO-95-67 (issued October 26, 1994); *Report and Order, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval of a Special Rate for a Facility Whose Primary Industry Is the Production or Fabrication of Steel in or) Around Sedalia, Missouri*, File No. EO-2019-0244 (issued November 13, 2019)(Ives Surrebuttal, pp. 6-11)

³ *Id.*

⁴ *Report and Order*, pp. 12-15, *In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval of a Special Rate for a Facility Whose Primary Industry Is the Production or Fabrication of Steel in or) Around Sedalia, Missouri*, File No. EO-2019-0244 (issued November 13, 2019).

The combination of the tariff and the special contract form will provide EMW's design case customer certainty that the Special High Load Factor Market rate will be available to them when they are ready to receive service and allow the customer to continue investment at the site. If the tariff is approved by the Commission, the Company plans to file a Market Rate contract under the terms of the tariff at a future date, currently expected to be in early 2025. At the time of the Market Rate contract filing, the Company will offer customer-specific details including pricing, terms and customer agreements. To inform the Commission more fully now and support approval of the tariff, the Company has included an example of the Market Rate contract as an exhibit to this testimony. The Market Rate contract will be submitted for approval at a future date and will provide the necessary detail for the Commission to review costs to serve the customer requesting service under the tariff. In the filing of the Market Rate contract, the Commission will be provided all data and supporting information and contracts necessary for a determination that the rate requested under the Market Rate contract is just and reasonable before the customer can begin taking service under the Special High Load Factor Market rate tariff. (Ives Surrebuttal, p. 12)

At this juncture in the regulatory process and in the decision-making process of Velvet, it is premature to disclose specific details of the owner of the possible data center that may locate in the Kansas City area if the proposed tariff is approved. EMW has steadfastly met the needs of and its commitments to the prospective customer by not disclosing its identity. In the event the proposed tariff is approved by the Commission, and Velvet, or any other customer, enters into a Market Rate agreement with EMW that will be subject to approval by the Commission, then EMW believes that the prospective customer will agree that would be the appropriate time to identify on a confidential basis the identity of the customer. This treatment is consistent with previous practice before the Commission in some of the special contract cases. (Ives Surrebuttal, pp. 14-15)

Until that time, EMW is seeking approval of a tariff that will facilitate the next step in securing this large, high load factor customer to EMW's service area to the benefit of Missouri, EMW, and its other customers.⁵

**THE SCHEDULE MKT IS A MORE APPROPRIATE APPROACH
FOR SERVING LARGE HIGH LOAD FACTOR CUSTOMERS
SUCH AS VELVET THAN EXISTING TARIFFS**

While Velvet or other data center customers might qualify under the Company's general large power rates, the Special Rate for Incremental Load tariff, or the Special Contract tariff, given the sheer size of the data center customer load, the need to make the rate competitive, and the need to facilitate customer renewable energy goals, the Company requires another option for serving such high load factor customers, and the proposed tariff meets that need. (Ives Surrebuttal, p. 13)

Unlike the general large power rate and Special Contract tariff which were found to be uncompetitive based on price, and the Special Rate for Incremental Load tariff that requires Company owned renewable resources to meet customers' corporate sustainability goals, the Schedule MKT rate offers pricing tied to the Southwest Power Pool ("SPP") market, minimizing cost and allowing customers to synchronize output from customer-owned renewable generation to their local consumption, providing green attributes for that local consumption and providing an offset to market price fluctuations. The role of the renewable resource ownership is a key factor behind the Schedule MKT rate being proposed. EMW's plans to transition to cleaner energy resources and rating agency assessments of off-balance sheet impacts associated with power purchase agreement arrangements create for EMW a situation where it is much more price competitive to serve customers with characteristics such as Velvet under the proposed Schedule MKT rate and allow them to manage their corporate sustainability goals through their own renewables portfolio than for EMW to provide

⁵ As to OPC witness Marke's concern about affiliation of such customer to Evergy, Evergy confirms that neither Velvet Tech Services, nor any other prospective customer that would be interested in or could qualify under this tariff is affiliated to Evergy, Inc. or any of its subsidiaries.

renewable energy resources specific to serve the load requirements of such large customers with such specific corporate sustainability requirements. Having the Schedule MKT rate available for this type of customer is important for EMW, the Kansas City region, and EMW's other customers to enable EMW to compete in attracting large, high load factor customers to EMW's service area. (Ives Surrebuttal, p. 14)

Velvet needs to have assurance that the Schedule MKT rate will be available to them so that they may continue to make investments in the Kansas City project. Receiving approval under timing set by the procedural schedule set for this case will give the customer this indication. If the rate approval request were moved to a rate case and its 11-month timeline, the decision will come too late to inform the customer, causing them to potentially reconsider the investment or at minimum, to suspend development in response. (Ives Surrebuttal, pp. 6-7)

Significant economic development customer negotiations are complex, involve a significant number of stakeholders with which a customer such as Velvet must reach agreement with and can take significant time. Customers of this scale and potential impact to the region are very experienced in such work and execute under timelines that not only can achieve these negotiated outcomes but do so in line with their business needs for development in the region. An expectation by Missouri for these customers to align their development schedule around the rate case timing for the serving utility and the Commission timeline to process a general rate case would be unreasonable and likely remove Missouri from the list of possible locations considered by such customers as Velvet. (Ives Surrebuttal, p. 7)

Evergy appreciates the interest of the Staff, Public Counsel, MECG, Google and Velvet in reviewing and considering this important matter on an expedited basis. The parties have been constructive in proposing improvements to the Schedule MKT tariff. Evergy witness Lutz describes modifications acceptable to Evergy based upon comments received from parties in their rebuttal

testimony. (Lutz Surrebuttal, pp. 5-11) With those modifications, the Special High Load Factor Market rate tariff provides EMW with an important additional option to serve large load, high load factor customers such as Velvet, incorporates customer-owned renewable generation resources, and secure economic benefits to the State. Further, when combined with the subsequent Market Rate contract filing, the proposal by Evergy provides the Commission with ample visibility to costs and the reasonable recovery of those costs from customers receiving service under the tariff. With this tariff filing, EMW, the Commission and interested parties have the benefit of a prospective customer who can serve as the design case and this has allowed EMW to provide further detail as the expected detail and form of the overall application of the proposed rate.

WHEREFORE, Evergy Missouri West, Inc. d/b/a Evergy Missouri West respectfully requests that the Commission accept this Position Statement and grant the relief requested in its Application as modified in its surrebuttal testimony.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 20th day of January, 2022, to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner