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 File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	)))))	Case No. EO-2023-0369
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	)))))	Case No. EO-2023-0370

STATEMENT OF POSITIONS

Comes now the Office of the Public Counsel (the "OPC") and submits this Statement of Positions:

<u>Overview</u>

The Commission should wholly reject Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("Evergy Metro") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West's ("Evergy West" and collectively with Evergy Metro, "Evergy" or the "Company") Application to Approve DSIM Filing and Request for Variances (the "Application).[1] As explained throughout the Direct, Rebuttal, and Surrebuttal Testimony of the OPC's witnesses—Dr. Geoff Marke and Ms. Lena Mantle—with its Application Evergy requests approval of overly rich programs that will result in a large number of free riders, come at unnecessarily high costs to its ratepayers, and will achieve few to no verifiable benefits. Evergy makes this request at a time when its ratepayers already face significantly higher costs. (*See, e.g.*, Marke Direct Test. 7-8; Marke Rebuttal Test. 52-53).

[1] Evergy submitted a revised Missouri Energy Efficiency Investment Act ("MEEIA") Plan (the "Alternative Plan") with Mr. Kevin Gunn's Surrebuttal Testimony. (Gunn Surrebuttal Test., Schedule KG-1). Because the pre-filed testimony in this case addresses Evergy's originally filed Application, the positions taken in this Statement of Positions address the original Application. The OPC gives its position on Evergy's Alternative Plan specifically in response to Issue 9.

Evergy's Application fails to account for the promotion of energy efficiency that exists in the market today[2] and that is and will be promoted through other programs.[3] (*See generally* Marke Rebuttal Test.). Customers can take advantage of this changed market and utilize these other programs without paying the high costs that accompany a MEEIA program—through not only the program costs themselves, but also the throughput disincentive and the earnings opportunity. (*See, e.g.*, *id.* 52-53). Evergy's Application also negates much of the progress achieved over the previous extension years of its third MEEIA cycle. (*Id.*). For all of these reasons, those addressed below, and those addressed in the OPC's witnesses' testimonies, the OPC requests that the Commission deny Evergy's Application.[4]

1. **Benefits: Is the proposed Evergy's demand-side management portfolio plan 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 as required by § 393.1075.4 RSMo.?**

   No, Evergy's proposed MEEIA Cycle 4 plan, as proposed in the Application, should not be expected to meet the statutory requirement that the programs "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." § 393.1075.4 RSMo.

[2] This includes items such as (1) building energy codes and standards, including those that exist in the City of Kansas City (Marke Direct Test. 40); (2) standards for products, such as those established for lightbulbs in the Energy Independence and Security Act ("EISA") (Kiesling Direct Test. 2); and (3) the Commission's allowance for aggregators of retail choice ("ARCs") to participate in Missouri (Marke Direct Test. 30-33; Marke Rebuttal Test. 8-10) .

[3] Perhaps the best example of a program supporting energy efficiency is the federal Inflation Reduction Act ("IRA"), which includes both generous tax incentives and direct rebates for energy efficiency upgrades. (Marke Direct Test. 22-27). Similarly, the Low-Income Weatherization Assistance Program ("LIWAP") provides additional assistance for some customers. (*Id.* 26). Additional State programs also exist, including the low-interest loan program offered by the Missouri Department of Natural Resources. (Kiesling Direct Test. 2-4).

[4] In the event the Commission authorizes a MEEIA portfolio for Evergy, the OPC requests that the Commission include the modifications discussed throughout its witnesses' testimonies and in this Statement of Positions. Alternatively, the OPC requests that the Commission consider the proposal for a MEEIA portfolio put forward by Dr. Marke in his Surrebuttal Testimony. (*See* Marke Surrebuttal Test. 32-33). Finally, even if the Commission determines that Evergy should offer MEEIA programs, the OPC requests that the Commission make clear that the utilities should move toward a statewide MEEIA program. (*Id.* 33).

Initially, it should be noted that in determining whether its proposed programs are cost effective, Evergy excludes two large amounts from the equation: (1) the throughput disincentive and (2) the earnings opportunity. (Marke Rebuttal Test. 49-50 (estimating the Earnings Opportunity at approximately $39.98 million and the throughput disincentive at greater than $57 million)). Evergy excludes these amounts even though its ratepayers will pay both through the MEEIA surcharge if the Commission approves its Application. (*Id.*). This should cause the Commission great pause as it considers Evergy's cost-benefit analyses. (*See id.*).

Evergy's Application also fails to meet the statutory standard for other reasons. For instance, Evergy's proposed MEEIA Cycle 4 fails to account for the changed circumstances that have arisen, including the adoption of codes and standards that require equipment to be efficient. (*Id.* 2-3, 52-53). In fact, Evergy's own analysis shows a sharp decrease in the amount of "achievable" savings beginning in 2024 and continuing through 2026—the end of the studied period. (*Id.* 2-3).

The Application also fails to appropriately account for incentives and tax credits available through programs such as the Inflation Reduction Act ("IRA") and the Low-Income Weatherization Assistance Program ("LIWAP"). (*Id.* 4, 6-7, 52-53). Further, it does not include sufficient consideration of the introduction of time-based rates or free market alternatives, including aggregators of retail customers ("ARCs"). (*Id.* 4, 52-53). The existence of these alternatives will result in a high number of free riders who will participate in Evergy's proposed programs solely to achieve additional rewards, without inducing any additional energy efficiency upgrades. (*See, e.g.,* Marke Direct Test. 27-28; Marke Rebuttal Test. 4).

Further, as explained in the Rebuttal Testimony of Ms. Lena Mantle and the Direct Testimony of Mr. J Luebbert, it is important to account for the distribution of benefits that will occur through Evergy's fuel adjustment clauses ("FAC"). (*See generally* Mantle Rebuttal Test.; Luebbert Direct Test.). Ms. Mantle points out the importance of analyzing the market price of energy at the time that it is saved. (*See generally* Mantle Rebuttal Test.). She concludes that if Evergy's MEEIA programs induce savings at a time when the market price of energy is below the average price used in setting the FAC base factor it will result in a detriment to non-participants through a higher FAC rate. (*Id.* 20). This is in direct contravention of the MEEIA statute. § 393.1075.4 RSMo. (requiring that programs be "beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.").

As explained in the Rebuttal Testimony of Mr. Brad Fortson, Evergy is also unlikely to defer the buildout of any generation with its proposed suite of MEEIA Programs. (*See* Fortson Rebuttal Test. 8-16).

For at least these reasons, Evergy's proposed MEEIA Cycle 4 should not be 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," as required by § 393.1075.4 RSMo.

A. Are the avoided cost assumptions in Evergy's MEEIA Cycle 4 Application reasonable estimations of ratepayer benefits of avoided energy and demand?

No. The avoided cost assumptions in Evergy's MEEIA Cycle 4 Application are not reasonable estimations of ratepayer benefits. (*See* Fortson Rebuttal Test. 6-8). As explained in Mr. Fortson's Rebuttal Testimony, "it is not reasonable to assume that absent incremental [demand side management ('DSM')] . . . that the Company would need new generation resources, especially if those new generation resources are not being avoided by the inclusion of DSM." (*Id.* 7). Throughout his Rebuttal Testimony, Mr. Fortson explains that his analysis showed Evergy's MEEIA Programs have failed to defer any generation resources and are unlikely to do so in the future. (*Id.* 8, 13-16). Without this deferral, Evergy's reliance on these allegedly deferred resources to calculate avoided costs is inappropriate. (*Id.* 7). Rather, "[i]f an avoided capacity cost is to be used when a capacity cost is not actually being avoided, it should not exceed the market-based equivalent of avoided costs as ordered by the Commission in the Company's MEEIA Cycle 3." (*Id.* 8).

i. If not, how should avoided costs be determined?

Avoided costs should be calculated in accordance with the processes outlined in Mr. Luebbert's Direct Testimony. (Luebbert Direct Test. 4-11). This includes separate calculations for avoided costs associated with avoided generation facilities, distribution facilities, and transmission facilities. (*See id.*). As Mr. Luebbert explains, "it is not possible to create generic avoided costs levels to use across programs." (*Id.* 10). Rather, these calculations are portfolio and type specific. (*Id.* 10-11).

Further, as Mr. Luebbert recognizes "[f]or the statutory analysis, avoided cost estimates serve as a proxy for the expected benefits of demand-side programs." (*Id.* 10). To accurately calculate the benefits to both participants and non-participants, as required by § 393.1075.4 RSMo., the Commission must consider the relationship between the MEEIA programs and Evergy's FACs. (*Id.* 5 n.3). As Ms. Mantle explains throughout her Rebuttal Testimony and as explained in response to Issue 1B below, it is possible that a reduction in energy will increase FAC costs to non-participants. (Mantle Rebuttal Test. 18-20).

B. Does Evergy's Fuel Adjustment Clause ("FAC") affect the distribution of potential benefits projected from its MEEIA Cycle 4 Application?

Yes, Evergy's FACs affect the distribution of potential benefits projected from its MEEIA Cycle 4 Amended Application as explained throughout the Rebuttal Testimony of Ms. Lena Mantle. The Commission must consider this distribution to meet its statutory duty of only allowing recovery for programs that "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." § 393.1075.4 RSMo.

The determination of how the FAC affects the distribution of benefits, requires one to consider the cost of energy at the time the participant saved the kWh. (*See, e.g.,* Mantle Rebuttal Test. 20). Specifically, was the cost of the kWh saved (1) equal to, (2) below, or (3) above the cost of energy used in setting the FAC base factor. (*Id.* 19). One must also conduct this analysis from at least two perspectives: (1) the participant and (2) non-participants. (*Id.*).

A MEEIA program-participant always benefits through the FAC from the MEEIA program "because he or she paid for less energy regardless of whether the kWh saved was at the time the market price was the same as the average, above the average, or below the average cost used in setting the base factor." (*Id.* 20).

Non-participants, however, "only saved when the kWh saved was at a time when the market price matched the price used in setting the base factor or at a time when the market price was above the price used in setting the base factor." (*Id.*). Any benefit that the non-participant might receive was also delayed "until they were charged the lower FAC rate," which begins in later accumulation periods. (*Id.*).

Importantly, as Ms. Mantle points out, if the price for the kWh saved was at a market price below what was included in the base factor, then the price for the non-participant increased. (*Id.*). In that scenario, "the MEEIA program was not cost-effective for non-participants," but "increased the FAC cost for the non-participants." (*Id.*). This situation fails the test required by § 393.1075.4 RSMo.

To meet its statutory duty of only allowing recovery for programs that "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," the Commission must consider the effects of Evergy's FACs. § 393.1075.4 RSMo.; (*see generally* Mantle Rebuttal Test.).

C. **Does Evergy's demand-side management ("DSM") portfolio plan value demand-side investments equal to traditional investments in supply and delivery infrastructure?**

No, Evergy's demand side plan does not value demand-side investments equal to traditional investments in supply and delivery infrastructure. Rather, Evergy's Application places greater emphasis on demand-side investments that come with only the *possibility* of producing the savings they assume. (*See* Marke Surrebuttal Test. 25-27).

As Dr. Marke asserts, Evergy "has a perverse incentive to have the lowest targets possible that result in the highest return in profit." (*Id.* 25). Their proposed programs are completely funded by ratepayers, who bear 100% of the risk of the programs failing to achieve the savings Evergy claims. (*Id.* 5, 25-27). Unlike supply-side resources, whose upfront costs are largely funded by shareholders who demand a "fair" return on their investment, ratepayers receive no guaranteed "return" on their investment. (*See id.* 5, 7, 25-27). Rather, Evergy's shareholders receive the earnings opportunity for spending its customer's money. (*Id.* 5).

Given at least these considerations, it cannot be said that Evergy's proposed MEEIA plan values demand-side investments equal to traditional investments in supply and delivery infrastructure.

D. **Do the programs in the demand-side management portfolio plan, and associated incremental energy and demand savings, demonstrate progress toward the goal of achieving all cost-effective demand-side savings?**

No, most of the programs in Evergy's proposed MEEIA Cycle 4 plan do not demonstrate progress toward the goal of achieving all cost-effective demand-side savings. The OPC addresses the many problems with Evergy's proposed programs in response to the questions included in Issue 8. For instance, many of the programs are duplicative of other available programs or market alternatives and many others will result in a large amount of free riders. (*See generally* Marke Rebuttal Test.). Therefore, these programs cannot be said to demonstrate progress toward the goal of achieving all cost-effective demand-side savings.

2. **Does Evergy's Integrated Resource Plan ("IRP") support MEEIA Cycle 4, as proposed in the Application?**

No, Evergy's IRP does not support MEEIA Cycle 4, as proposed in the Application. In his Rebuttal Testimony, Mr. Fortson conducts an analysis that shows that Evergy has failed to avoid any supply-side buildout with its prior MEEIA cycles. (Fortson Rebuttal Test. 13-16). Mr. Fortson also explains that

> If new supply-side is actually avoided as far out as the mid- to late-2030's, it is not just from the proposed MEEIA Cycle 4, but would be from MEEIA Cycle 4 (maybe) coupled with many multiple-year future cycles. To assume that a MEEIA cycle implemented from 2025 – 2028 is solely responsible for avoiding new supply-side investments in the mid- to late-2030s is unreasonable, especially given that the Company has not demonstrated such (see DR responses above stating so).

(*Id.* 18). Given that no supply-side resource has yet to be deferred and any deferrals in the future will likely require additional multi-year cycles, the Commission must skeptically view Evergy's claim that its Integrated Resources Plan supports MEEIA Cycle 4 as proposed in the Application.

3. Inflation Reduction Act ("IRA")/Market Dynamics: Does Evergy's MEEIA Cycle 4 Application sufficiently address the interaction of the IRA and other market dynamics with MEEIA?

No, Evergy's MEEIA Cycle 4 Amended Application fails to sufficiently address the interaction of the IRA and other market dynamics with MEEIA. If the Commission allows Evergy to implement its MEEIA programs as proposed, ratepayers will needlessly spend millions of dollars to entice individuals to adopt energy efficient measures they likely would have adopted regardless of the MEEIA programs. (*See, e.g.*, Marke Surrebuttal Test. 4-7). Further, not only will ratepayers fund incentives that Evergy will directly pay to individuals, but they will also pay a throughput disincentive and earnings opportunity to Evergy directly. (*Id.* 6-7).

Energy efficiency is now well-known and many pieces of legislation and other market dynamics seek to drive consumers to adopt energy efficient measures. (*See generally, e.g.*, Kiesling Direct Test.; *see* Marke Direct Test. 22-33, 38-41). In addition to the IRA, these market dynamics include other funding-based programs, adoption of codes and standards, and changes to what type of entities can participate in the energy markets in Missouri. (*Id.*).

As to funding-based programs, perhaps the best known example is the IRA. It contains both generous tax credits and $150 million of Missouri-specific direct federal subsidies. (Marke Direct Test. 22-25). In fact, "[t]he maximum consumer rebate could be as high as $14,000 per eligible household." (*Id.* 24). Other programs also exist, such as the Low Income Weatherization Assistance Program ("LIWAP"), which provides funds to qualified individuals to "allow[] homes to be weatherized that would otherwise be 'passed over' due to health and safety concerns." (*Id.* 26). Another federal law allocates "an additional $77 million to Missouri" for the LIWAP. (*Id.*). This $77 million is "on top of the existing funding streams" that currently fund the LIWAP. (*Id.*). In addition to the IRA and LIWAP, other funding sources also exist. These include the low interest loan program offered by the Missouri Department of Natural Resources, which "provides an avenue of funds to municipalities, school districts, and other organizations to help upgrade particular areas to energy efficient products." (Kiesling Direct Test. 2-3).

In addition to funding sources, codes and standards have also changed to promote energy efficiency. For instance, the federal Energy Independence and Security Act ("EISA") "set baseline standards for production of energy efficient products," including light bulbs. (*Id.* 2). Municipalities such as the City of Kansas City have also adopted building codes and standards that promote energy efficiency. (Marke Direct Test. 40). As Dr. Marke points out, "[n]aturally occurring energy efficiency adoption has rapidly increased due to decades of marketing, increased federal appliance standards, and municipal building code requirements." (Marke Surrebuttal Test. 2).

Further, the Commission has partially lifted the ban on Aggregators of Retail Customers ("ARCs") participating in Missouri. (Marke Direct Test. 29-33). ARCs provide essentially the same service as Evergy's current Business Demand Response program, but at no cost to Evergy's ratepayers. (*See* Marke Rebuttal Test. 8-9).

Each of these seek to drive—and in some cases force—individuals and entities to adopt energy efficiency measures and come at low or no utility-related costs to Evergy's ratepayers.

Ratepayers have only a finite amount of capital and should not be forced to pay for programs to induce energy efficiency upgrades that would occur naturally without them. (*See* Marke Surrebuttal Test. 25-27). Evergy's proposed MEEIA programs will likely lead to a very high number of free riders. (*See, e.g.*, *id.* 31). Failing to account for these free riders will lead to not only increased program costs, but the payment of throughput disincentive and earnings opportunity as well. Should the Commission approve Evergy's Application, it will be necessary to accurately determine the impact of the IRA and other market dynamics on a customer's decision to make energy efficiency upgrades to accurately determine whether Evergy's programs induced the energy efficiency changes. Evergy has failed to accurately account for the IRA and these other market dynamics in its Application. (*See generally* Marke Rebuttal Test.). This failure supports why the Commission should reject Evergy's Application. (*See id.* 52-53).

4. **Administrative Costs: Should there be a cap on administrative costs?**

Yes, if the Commission allows Evergy to implement a fourth cycle of MEEIA programs, it should include a cap on administrative costs. (Marke Rebuttal Test. 5, 54-55; Marke Surrebuttal Test. 33). As Dr. Marke explains, "based on historical precedent, some programs will allocate more funding to administrative overhead than actual measures." (Marke Rebuttal Test. 49). Further, the IRA, which functions somewhat similarly to Evergy's proposed programs and encompasses many comparable programs, includes a 20% cap on administrative costs. (*Id.*). To ensure that Evergy efficiently uses the funds its ratepayers are forced to pay to support energy efficiency, the Commission should include a cap on administrative costs. (*Id.* 54-55).

i. If yes, what should the cap be?

If the Commission allows Evergy to implement a fourth cycle of MEEIA programs, it should include a 20% cap on administrative costs for all programs, except for PAYS. (Marke Rebuttal Test. 54; Marke Surrebuttal Test. 33). "[G]iven the complexity and long-term design" of the PAYS program, the Commission should set the cap on administrative costs for this program only at 35%. (*Id.*).

ii. What is the definition of administrative costs that should be applied to MEEIA programs?

Administrative costs include all program costs[5] other than those associated with actual energy efficiency measures. (*See* Marke Rebuttal Test. 5 n.3). This includes things such as marketing, third-party contractors, consumer safeguards, and EM&V. (*Id.* 49).

5. Earnings Opportunity ("EO"): If the Commission determines that Evergy may implement a MEEIA Cycle 4, should the Commission authorize an Earnings Opportunity?

Based on the language of the MEEIA statute, it appears that if the Commission determines that Evergy may implement a MEEIA Cycle 4, it must authorize an "earnings opportunit[y] associated with cost-effective measurable and verifiable efficiency savings." *See* § 393.1075.3(3) RSMo. However, in setting that earnings opportunity, the Commission must bear in mind that it is Evergy's ratepayers who bear 100% of the risk that Evergy will fail to meet its identified savings targets. (Marke Rebuttal Test. 5, 48-49). Unlike supply-side investments where shareholders receive a return on their investment to account for the risk they bear, with MEEIA Evergy's shareholders bear *no* risk and still receive a profit. (*See id.*). The Commission must be cognizant of this difference between demand and supply-side investment in setting Evergy's EO should it approve Evergy's Application in any form.

To the extent that the Commission authorizes a MEEIA Cycle 4, for the demand response programs, the Commission should set the earnings opportunity "[b]ased on [the] number and size of events called consistent with the one-year extension." (Marke Surrebuttal Test. 32). As for programs other than demand response, the Commission should set the earnings opportunity at half of the currently approved return on equity percentage based on *incentive* spend. (Marke Surrebuttal Test. 32-

[5] Administrative costs do not include costs associated with the earnings opportunity or throughput disincentive. (*See* Marke Surrebuttal Test. 29 (calculating administrative costs as a portion of program costs only)).

33). To ensure that the Commission meets the statutory directive to "value demand-side investments equal to traditional investments in supply and delivery infrastructure," it is critical that the Commission tie the EO to incentive spending only. § 393.1075.3 RSMo.; (Marke Surrebuttal Test. 26-27). As Dr. Marke explains, when it comes to building a natural gas plant Evergy "does not earn a return on the fuel or maintenance. Likewise, Evergy should not earn a return on administrative overhead" with MEEIA programs. (Marke Surrebuttal Test. 26-27).

A. In valuing demand-side investments equal to supply-side investment as required by § 393.1075.3 RSMo.:

i. Who bears the risk of Evergy not achieving its projected energy and demand targets?

Evergy's ratepayers bear 100% of the risk of Evergy not achieving its projected energy targets. (Marke Rebuttal Test. 5, 48-49; *see* Lange Direct Test. 19). To date, Evergy has invested $0 in MEEIA, yet it has been allowed to recover its program costs and "both Evergy utilities' MEEIA cycles have included real-time recovery of a forecast program cost level, which is subject to true-up, with carrying costs." (Lange Direct Test. 19).

ii. Is Evergy's proposed EO appropriate?

No. Evergy's proposed earnings opportunity is out-of-line with the risk that it bears and represents only windfall profits. (Marke Rebuttal Test. 48-49). Evergy bears no risk with regard to MEEIA as it will recover not only its program costs, but its lost revenues and an earnings opportunity as well. (*See id.* 48-49; *see* Lange Direct Test. 19). Evergy has failed to carry its burden to justify why the Commission should award it an approximately $40 million earnings opportunity, which amounts to an approximately 18.75% return on other peoples' money. (*See* Marke Rebuttal Test. 48-49; Marke Surrebuttal Test. 29).

B. Are any of the proposals regarding the Earnings Opportunity ((1) Evergy's proposal or (2) Dr. Marke's proposal in Surrebuttal Testimony) consistent with § 393.1075.3(3) RSMo.'s requirement that any earnings opportunity be "associated with cost-effective measurable and verifiable efficiency savings"?

Yes, Dr. Marke's proposal in Surrebuttal Testimony is consistent with § 393.1075.3(3) RSMo.'s requirement that any earnings opportunity be "associated with cost-effective measurable and verifiable efficiency savings." (*See* Marke Surrebuttal Test. 26-27, 32-33).

i. **If so, and if the Commission determines that Evergy may implement a MEEIA Cycle 4, which, if any, proposal should be used to calculate any earnings opportunity?**

The Commission should adopt Dr. Marke's proposal in Surrebuttal Testimony such that the earnings opportunity for the non-demand response programs be set at half of the currently approved return on equity percentage based on *incentive* spend. (Marke Surrebuttal Test. 26-27, 32-33). The earnings opportunity for the demand response programs should be "[b]ased on [the] number and size of events called consistent with the one-year extension." (*Id.* 32).

6. **Evaluation, Measurement, and Verification ("EM&V"): If the Commission approves Evergy's MEEIA Cycle 4 Application, should the Commission approve Evergy's EM&V plans?**

No, if the Commission approves Evergy's MEEIA Cycle 4 Plan it should not approve Evergy's EM&V plan . (Marke Rebuttal Test. 45-48).

If the Commission approves any suite of MEEIA programs, it should implement an EM&V process as discussed by Dr. Marke in his Rebuttal Testimony. (*Id.* 47-48). This includes:

1.) It should be conducted on a retrospective basis;
2.) All baseline shifts to energy efficiency measures should be applied immediately upon federal adoption;
3.) To minimize costs, only one EM&V contractor should be utilized, and the management of that contract should fall on the Missouri Public Service Commission Staff to ensure the creditability of the results;
4.) A random controlled trial evaluation/audit of randomly selected participants should occur to determine the impact of the principal-agent problem. The results of these evaluations/audits should be generalized across the program and applied to the NTG ratio and TRM saving assumptions;
5.) Incentive payments to free riders should be calculated in the TRC as an incentive payment;
6.) The technical resource manual should be adjusted both for operational inefficiencies and shorter useful life of measures; and
7.) AMI data should be utilized to determine appropriate rebound effect impact.

(*Id.*).

Alternatively, the Commission should mandate that the utilities work with stakeholders over the life of the Cycle 4 programs to move toward a statewide program. (Marke Rebuttal Test. 54-55; Marke Surrebuttal Test. 33). In doing so, the Commission should order *no* EM&V for this MEEIA cycle. (*Id.*).

A. In addressing this question, should the results of the EM&V of Evergy's MEEIA Cycle 4 be applied on a prospective or retrospective basis?

The results of the EM&V should be applied on a retrospective basis. (Marke Rebuttal Test. 47-48). Though even a retrospective EM&V process will likely be contentious for at least the many reasons addressed in Dr. Marke's Direct testimony, a prospective EM&V process would require stakeholders to agree on assumptions, which would likely be challenging given the amount of duplicative funding streams currently available to customers. (*See generally* Marke Direct Test.).

B. Should EM&V consider:

i. the rebound effect;

Yes, the EM&V should consider the rebound effect. (Marke Direct Test. 16-21; Poudel Direct Test. 4-7, Poudel Rebuttal Test. 5-7). The rebound effect occurs when "the expected energy savings from improvements in energy efficiency are partially—or sometimes entirely—offset by increased energy consumption." (Marke Direct Test. 16; *see* Poudel Rebuttal Test. 5). The existence of this phenomenon is uncontroversial and has been well documented since it was first articulated in 1865. (Marke Direct Test. 16, 18; Poudel Direct Test. 5-7).

To account for the rebound effect, the EM&V should include either "(1) an across-the-board 10% reduction in energy savings be applied to any future EM&V filings to account for the rebound effect or (2) that future EM&V studies specifically analyze the rebound effect for households participating in the EM&V report." (Marke Direct Test. 21; *see* Poudel Rebuttal Test. 6-7). Further, AMI data "should be utilized to determine appropriate rebound effect impact." (Marke Rebuttal Test. 48).

ii. interactive effects;

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

iii. the principal/agent issue;

Yes, the EM&V should consider the principal/agent issue described in Dr. Marke's Direct Testimony. (Marke Direct Test. 9-16). As Dr. Marke describes, this situation arises when "one person or entity (the 'principal') hires another person or entity (the 'agent') to act on their behalf." (*Id.* 9). "The problem arises due to potential conflicts of interest between the principal and the agent, usually stemming from differing goals or information access." (*Id.*). This issue arises most prominently in programs dealing with HVACs. (*Id.*). Specifically, two issues exist: (1) because HVAC contractors are paid based on the amount of the sale, they are incentivized to find a problem and to recommend a large unit; and (2) due to poor workmanship and/or ignorance of what actions are necessary to ensure efficient operation, the installed units may not achieve the efficiencies assumed. (*Id.* 9-10).

If the Commission were to authorize a fourth cycle of MEEIA programs, then as a part of the EM&V process it must include a "random controlled trial evaluation/audit of randomly selected participants . . . to determine the impact of the principal-agent problem. The results of these evaluations/audits should be generalized across the program and applied to the NTG ratio and TRM saving assumptions." (Marke Rebuttal Test. 47).

iv. the IRA;

Yes, any EM&V process must account for the IRA. (Marke Direct Test. 22-29). The IRA includes both generous direct incentive payments and tax credits that directly impact energy efficiency adoption. (*Id.* 22-25). For instance, the Energy Efficient Home Improvement Tax Credit "covers upgrades like insulation, windows, HVACs, and home energy audits." (*Id.* 22). Similarly, the Heat Pump Tax Credit is a "separate credit [that] applies specifically to qualified heat pumps like geothermal heat pumps and air-source heat pumps." (*Id.* 23). The Home Energy Rebates program also provides direct rebates to qualifying individuals, which could include a heat pump rebate of $8,000. (*Id.* 24 n. 23 (citing Sierra Club, Understanding the IRA Home Energy Rebates (2023) https://www.sierraclub.org/understanding-irahome-energy-rebates.)). The significant overlap between Evergy's proposed MEEIA Cycle 4 and the IRA requires that the EM&V process consider the impact of the IRA.

v. operational inefficiencies;

Yes, any EM&V process must account for operational inefficiencies such as customers' failure to change their HVAC air filters. (*See* Marke Rebuttal Test. 4, 20). "The U.S. Department of Energy estimates that dirty filters raise an air conditioner's energy consumption by 5% to 15%." (*Id.* 20 (citing U.S. Dep't of Energy, Maintaining Your Air Conditioner (2024), https://www.energy.gov/energysaver/maintaining-your-air-conditioner)). This additional energy usage must be considered in the EM&V process.

vi. free ridership;

Yes, any EM&V process must consider the significant free ridership that will exist throughout Evergy's MEEIA Cycle 4 programs. (Marke Rebuttal Test. 47). Free riders are customers that "would have adopted the measure/action regardless of the Evergy specific rebate." (*Id.*).

Significant free ridership concerns exist with many of Evergy's proposed programs. For instance, the single family and multi-family new construction programs, which Evergy proposes to include in the Whole Home Program, applies to projects typically undertaken "almost entirely by niche developers who would build to high standard levels regardless of rebates." (Marke Rebuttal Test. 18-19). Further, significant overlap exists between the IRA and the programs Evergy proposes to offer as part of its MEEIA Cycle 4. (*See, e.g.*, Marke Direct Test. 27). To the extent the Commission allows Evergy to implement any of the MEEIA programs, it must order that Evergy consider free ridership in any EM&V process, by at least, requiring "incentive payments to free riders [to] . . . be calculated in the TRC as an incentive payment," in accordance with the 2007 SPM Clarification Memo. (Marke Rebuttal Test. 47, Fortson Surrebuttal Test. 15-16).

vii. spillover;

No, if the Commission authorizes a MEEIA Cycle 4, it should not consider spillover when completing the EM&V. (Marke Rebuttal Test. 42-43). Spillover "functions as an 'adder' to the NTG ratio and is premised on the idea that the rebate that Evergy gave for a measure made the customer 'aware' of the potential for energy efficiency savings in other measures *and* said customer took tangible actions to reduce energy consumption as a result of that." (*Id.* 42). As Dr. Marke explains, to complete this calculation one must assume that if Evergy did not offer MEEIA programs, then the customer would have purchased inefficient equipment, and would not have purchased other efficient equipment. (*Id.*). Given the difficulty in making these assumptions, the Commission should not consider spillover in completing any EM&V process as a part of a MEEIA Cycle 4. (*Id.* 43).

viii. time-based rates; and

Yes, any EM&V process should account for time-based ("TOU") rates. (*See* Marke Direct Test. 33-38). "Pricing electricity to more accurately reflect the cost of its service would be the most direct, impactful, and cost-effective action this Commission could do to support a utility's demand-side management operations." (*Id.* 34). Further, as Dr. Marke opines "[i]n the next Evergy Missouri Metro/Evergy Missouri West rate case, the Commission could order TOU rates that would achieve demand savings that would dwarf any historical MEEIA portfolio." (*Id.* 35). Any EM&V process should account for the savings potentially attributable to time-based rates.

ix. any other issues.

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

C. Should MEEIA programs continue to be evaluated by an independent, third party EM&V consultant with a Staff auditor, or should the EM&V be completed by a single independent, Commission-approved consultant with no utility oversight?

To ensure credibility and reduce costs, the EM&V should be completed by a single independent, Commission-approved consultant with no utility oversight. (Marke Rebuttal Test. 47).

D. Should the TRM and deemed savings tables included in Evergy's MEEIA Cycle 4 Application be approved, approved with modifications, or rejected:

i. To what extent should AMI metered data be used in the EM&V?

In completing the EM&V, AMI data should at least "be utilized to determine appropriate rebound effect impact." (Marke Rebuttal Test. 48). The OPC reserves the right to expand on this position after the close of evidence.

ii. To what extent should AMI metered data be used to recover TD?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

iii. **Prior to approval, should the Commission require Evergy to submit a TRM and deemed savings table with serviceable links and page-specific citations of the assumptions underlying the TRM and deemed savings table themselves?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

a. **If not prior to approval, when must Evergy submit these items?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

7. **Throughput Disincentive Mechanism: If Evergy's MEEIA Cycle 4 Application is approved, should it include a Net Throughput Disincentive Mechanism as requested by Evergy, or a Net Variable Revenue Mechanism as proposed by Staff?**

If the Commission approves Evergy's MEEIA Cycle 4 Amended Application, it should include a Net Variable Revenue Mechanism as proposed by Staff. (Marke Surrebuttal Test. 33, Lange Direct Test. 37-40). Staff's proposed mechanism is easier to implement than the current net throughput disincentive mechanism. (*See* Lange Direct Test. 28).

A. **If a Net Throughput Disincentive Mechanism is authorized, what, if any, modifications are necessary for the residential and non-residential customer classes to address the changes in circumstances associated with the proliferation of time-based rates and the passage of the federal Inflation Reduction Act ("IRA")?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

B. **If a Net Throughput Disincentive Mechanism is authorized, is the proposed Technical Resource Manual and planned Evaluation, Measurement, and Verification reasonable for its administration?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

C. **Does § 386.266.3 RSMo., which authorizes Plant in Service Accounting ("PISA"), prohibit the Commission from authorizing a Net Throughput Disincentive Mechanism under § 393.1075, RSMo?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

8. **Programs: Should the Commission approve, approve with modifications, or reject Evergy's proposed tariff programs?**

The Commission should reject Evergy's MEEIA Cycle 4 Application, including its proposed tariff programs.

To the extent the Commission chooses to approve a MEEIA Cycle 4 for Evergy, it should modify the programs as explained throughout the Rebuttal Testimony of Dr. Marke. (*See generally* Marke Rebuttal Test.). The modifications the Commission should make are explained more fully below when addressing each individual program.

A. **In regards to programs, specifically:**
  i. **Residential DSM**
    a. **Whole Home Efficiency Program**

Evergy's Whole Home Efficiency Program appears to be a catch-all program that includes at least five separate programs: (1) Home Products; (2) Appliance Recycling; (3) Home Comfort; (4) Single Family New Construction; and (5) Multi-Family New Construction. (Marke Rebuttal Test. 18). If the Commission authorizes a MEEIA Cycle 4, it should exclude each of these programs, except potentially the Home Products program. (*Id.* 18, 20-21).

The Commission should exclude the Single Family New Construction and Multi-Family New Construction Programs due to concerns around the high level of free ridership. (*Id.* 18-19). As Dr. Marke explains, "Energy Star (or Energy Star-like) new construction builds, whether single or multi-family is undertaken almost entirely by niche developers who would build to high standard levels regardless of rebates." (*Id.*).

In his decade of experience with MEEIA programs, Dr. Marke has found the Appliance Recycling Program "to be largely cost ineffective." (*Id.* 19). As he explains, "[t]he act of picking up and transporting old refrigerators to recycling locations far away (often many states away), has historically proven to be a poor program." (*Id.*).

Further, the Home Comfort program raises concerns with the principal-agent problem. (*Id.* 20). To account for this, Dr. Marke recommends that the Commission "tie the program to [Evergy's] . . . existing PAYS program along with the modifications [Dr. Marke] . . . recommend[s] to PAYS." (*Id.*). This allows for stacking between the two programs, while utilizing the customer protections of PAYS that ensure a customer's new heating and cooling unit is operating efficiently and at full capacity. (*Id.* 20-21).

b. Home Demand Response Program

If the Commission authorizes a MEEIA Cycle 4 for Evergy it should not include a Home Demand Response Program. (Marke Rebuttal Test. 12). When considering whether to allow a Home Demand Response Program, the Commission should keep in mind what the program attempts to accomplish. As Dr. Marke describes, as a part of its Home Demand Response Program, Evergy "pays customers to allow . . . [it] to take control of their appliances and lower their electric usage during peak hours." (Marke Rebuttal Test. 11-12). Evergy "intends to rely on historically rebated thermostats, new rebated thermostats, and potential other devices as appropriate (e.g., water heaters and EV chargers)." (*Id.* 8). However, Evergy has also invested over $1 *billion* in AMI hardware, the attendant software, and an Evergy-specific private 4G network. (*Id.* 11). These investments allows Evergy to implement time-of-use rates, which allow customers "to save money by adjusting their energy usage to curb peak demand." (*Id.* 12). The effective implementation of time-of-use rates could "achieve demand savings that would dwarf any historical MEEIA portfolio." (Marke Direct Test. 34). To ensure that Evergy does not recover for two programs that provide essentially the same outcome, the Commission should not allow Evergy to implement a Home Demand Response Program. (Marke Rebuttal Test. 12).

Alternatively, if the Commission decides to allow Evergy to implement a Home Demand Response Program, it should modify Evergy's proposal so that the program applies only to existing investments and encourages customers to bring their own thermostats, such that other customers are not incentivizing new thermostats. (Marke Rebuttal Test. 12). This ensures that customers are not paying for two investments to reach the same goal. (*See id.*).

c. Home Energy Education Program

The Commission should remove the Home Energy Education Program and reallocate the money to a PAYS program. (Marke Rebuttal Test. 19). "The idea that some products are more efficient than others is no longer a new and novel idea to the public at large." (*Id.*). Abundant information also exists on this topic. (*Id.*). Therefore, ratepayers need not expend additional funds to support this program. (*Id.*).

However, to the extent the Commission approves a Home Energy Education Program, it should ensure that Evergy educates its customers on the importance of changing their air filters. (*Id.* 20). As Dr. Marke points out, a dirty air filter can significantly affect an air conditioner's performance. (*Id.*). The Commission should also direct Evergy to focus on the real estate market and new home buyers, who are the most likely to consider a large capital energy efficiency upgrade. (*Id.*).

d. Moderate Income Single Family On-Bill Financing Program

If the Commission authorizes a MEEIA Cycle 4, it should reject Evergy's Moderate Income Single Family On-Bill Financing Program because it "is a considerably inferior option to Evergy's existing PAYS program." (Marke Rebuttal Test. 28). Specifically, Evergy's proposed program "eliminates hard-fought consumer protections tying PAYS performance to actual realized bill savings." (*Id.*). Evergy also provides little detail about this proposed program. (*Id.*).

If the Commission chooses to authorize a MEEIA Cycle 4, it should include a PAYS Program with the modifications Dr. Marke suggests in his Rebuttal Testimony. (*Id.* 28-30). Though the PAYS Program may have encountered some struggles, "the program has shown improvements and modifications have been made based on lessons learned and Evergy's . . . persistence." (*Id.* 28). To ensure the program's success, the Commission should include a FastTrack HVAC PAYS option, which will assist customers at the point in time when their HVAC fails. (*Id.* 28-29). This option "eas[es] the financial impact and ensur[es] energy efficient options are prioritized for long-lasting energy and demand savings." (*Id.* 29). EEtility, the Missouri State PAYS implementor drafted a document discussing this option. (*See* Marke Rebuttal Test., Schedule GM-R-1).

Further, the Commission should encourage utilities to buy HVAC units in bulk to assist in bringing down the costs of the units. (Marke Rebuttal Test. 29). It should also encourage the utilities to target energy intensive users. (*Id.*).

ii. Hard-to-Reach

a. Hard-to-Reach Homes (EE)[6]

For its Income-Eligible Programs, Evergy seeks approval of six programs: (1) Single-family; (2) Multi-family; (3) Kits and assessments; (4) Home Products; (5) New Single Family; and (6) New Multi-Family.[7] (Marke Rebuttal Test. 23). If the Commission authorizes a MEEIA Cycle 4 for Evergy, it should exclude the Kits and assessments; Home Products; New Single Family; and New Multi-Family Programs. (*Id.* 21, 27-28, 30). It should also ensure that administrative costs are capped for the Single-family Program and include Dr. Marke's suggested revisions for the Multi-family Program. (*Id.* 25-27).

The Kits and Assessments and Home Products Programs suffer from free ridership concerns, redundancy with federal programs, and "are goodwill programs whose savings do not come close to justifying the costs." (*Id.* 21, 30). Therefore, the Commission should exclude them.

As to the New Single-family and New Multi-family programs, Dr. Marke explains that these are new programs and the application "is largely void of details on this subset of programs other than the Company's plans on not tying subsidies to a Home Energy Rating System." (*Id.* 27). Because this would "negate[] the ability to hold these new constructions to the energy efficiency standards the program presumably wants to achieve," they would "be too easy to

[6] Dr. Marke refers to Evergy's Hard-to-Reach programs as Income-Eligible.

[7] Dr. Marke also mentions a Moderate Single Family Program as part of the Income-Eligible programs. (Marke Rebuttal Test. 23). The OPC addresses this program in particular in response to the Moderate Income Single Family On-Bill Financing Program issue.

exploit by contractors and not accomplish the goals [they] aspire[] to achieve." (*Id.*). Therefore, the Commission should exclude them.

Finally, if the Commission authorizes a MEEIA Cycle 4, it should include a Single-family Program, as long as the administrative costs are capped at 20%. (*Id.* 25).

Further, a Multi-family program should be included if the Commission includes customer protections that will ensure that income-eligible renters are not displaced and/or priced out of their rental units as a result of the retrofits. (*Id.* 25-27).

b. Hard-to-Reach Home Energy Education Program

Though the Commission should reject Evergy's MEEIA Cycle 4 Application for the reasons addressed throughout Dr. Marke and Ms. Mantle's pre-filed testimony, to the extent that it approves a MEEIA Cycle 4 for Evergy, the OPC does not oppose Evergy's proposal to educate customers about the KC-LILAC program. (Marke Rebuttal Test. 40). However, to the extent that the Commission approves this program, it should ensure that it does not include mass giveaways. (*Id.*).

c. Hard-to-Reach Businesses Program

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

iii. Business DSM

a. Whole Business Efficiency Program (EE)

If the Commission authorizes a MEEIA Cycle 4 for Evergy, it should not include a Whole Business Efficiency Program. (Marke Rebuttal Test. 13-16).

Evergy did not include a cap on the amount of incentives that can be allocated for lighting. (*Id.* 14). The stakeholders involved in Evergy's MEEIA Programs have negotiated increasing caps on Evergy's business lighting programs in recognition of the changing standards and market that has become inundated with efficient lighting. (*See id.*). To the extent the Commission approves any lighting measure expenditure it should limit those expenditures to "25% of the business budget in year 1; 20% in year 2; 10% in year 3; and, finally, none in year 4." (*Id.* 15).

Further, the principal-agent problem and increased codes and standards discussed in Dr. Marke's Direct Testimony also apply to Evergy's business programs. (*Id.* 15-16). This will impact attribution by increasing free riders and will likely lead to contentious EM&V dockets. (*Id.*). To the extent the Commission approves these programs, it should ensure that it adopts Dr. Marke's EM&V recommendations. (Marke Rebuttal Test. 47-48).

b. Business Demand Response Program

As Dr. Marke explains in his Rebuttal Testimony, a free market alternative exists for the Business Demand Response Program: Aggregators of Retail Choice ("ARCs"). (Marke Rebuttal Test. 8-11). The Commission's decision to partially lift the ban on ARC participation in Missouri became effective on January 1, 2024, one year prior to when Evergy seeks to begin offering its MEEIA 4 programs. (*Id.* 8). If ARCs were to participate in Missouri and offer programs like the Business Demand Response program, customers would save significant amounts of money because they would not be forced to pay MEEIA program costs, a throughput disincentive, or an earnings opportunity to Evergy. (*See* Marke Direct Test. 32). While enjoying these savings, ratepayers "would still receive the benefit of a lower clearing price (in theory)." (*Id.*). However, because no ARC chose to intervene in this matter, one cannot know whether they would participate in Missouri. (*See* Marke Rebuttal Test. 10). As Dr. Marke points out though, "if the Commission supports a ratepayer-subsidized business demand response program there is no incentive for ARCs to participate in Missouri." (*Id.* 11).

Keeping this in mind, if the Commission authorizes a MEEIA Cycle 4 for Evergy, it should include a Business Demand Response Program as it is the "most cost-effective program in the proposed portfolio." (Marke Rebuttal Test. 12).

c. Business Energy Education Program

Evergy has not clearly identified what ratepayers will receive from the Business Energy Education Program, yet it requests the Commission authorize it to spend approximately $6 million on this program. (Marke Rebuttal Test. 16). Because Evergy has not identified the purpose of this program, to the extent that the Commission authorizes a MEEIA Cycle 4, it should exclude this program. (*Id.*).

iv. Urban Heat Island Program

If the Commission approves a MEEIA Cycle 4 for Evergy, it should require Evergy to adhere to the agreement regarding the Urban Heat Island ("UHI") Program set forth in the Program Year 2024 Stipulation and Agreement filed in Case Number EO-2019-0132. (Marke Rebuttal Test. 39). In that case, Evergy agreed to provide funding for the UHI Program through 2027. (*Id.* 35, 39). In its Application filed in this case, Evergy has made changes to that agreement both by increasing the amount of money for this program and extending its funding for an additional year, to 2028. (*Id.* 39). The Commission should reject those modifications and require Evergy to adhere to its prior agreement. (*Id.*). Alternatively, if the Commission approves a MEEIA with modifications to the UHI Program, it should allocate $1 million in annual funding "with an opportunity to provide requests for further funding/initiatives to the stakeholders in this case as appropriate within the cycle itself." (*Id.* 40). It could accomplish this goal "by holding annual check-ups where further funding could be redirected from poor performing programs or increased if warranted." (*Id.*).

v. Research and Pilot

Though the Commission should reject Evergy's MEEIA Cycle 4 Application for the reasons addressed throughout Dr. Marke and Ms. Mantle's pre-filed testimony, to the extent that it approves a MEEIA Cycle 4 for Evergy, the OPC does not oppose Evergy's proposed pilot process. (Marke Rebuttal Test. 31-32).

B. If the Commission approves the demand-side management portfolio program plan, should the Commission adopt or modify the form of Evergy's DSM programs' exemplar tariff sheets which were attached as Appendices 8.6 and 8.7?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

9. Should the Commission approve, approve with modifications, or reject an Alternative Plan for MEEIA Cycle 4?

Evergy provided very little support for the Alternative Plan submitted with Mr. Gunn's Surrebuttal Testimony. Parties have also had no opportunity to provide a response to this alternative proposal in pre-filed testimony. With that in mind, the Commission should reject Evergy's Application for a MEEIA Cycle 4, including its Alternative Plan, for all the reasons addressed throughout the pre-filed testimony and in this Statement of Positions. This includes failure to account for phenomena such as the principal-agent problem, rebound effect, operational inefficiencies, and free ridership. (*See, generally* Marke Rebuttal Test., Marke Surrebuttal Test.). Rejection also recognizes that Evergy's proposed programs, even those in the Alternative Plan, suffer from an overabundance of administrative costs, such that a large percentage of the MEEIA funds recovered from ratepayers go to administrative costs rather than to incentives that will promote energy efficiency. (*See* Gunn Surrebuttal Test., Schedule KG-1 p. 3). It also recognizes that the MEEIA programs are likely not cost effective and have not and likely will not defer any supply-side investment. (*See, e.g.*, Fortson Rebuttal Test. 8). Further, rejection recognizes the earnings opportunity imbalance present, which results because Evergy proposes to handsomely reward its shareholders by providing an earnings opportunity tied presumably to total spend as opposed to incentive spend. (*See* KG-1 p. 1; Marke Surrebuttal Test. 26-27 (explaining the importance of tying an earnings opportunity to the amount spent on incentives only)). Put simply, even though Evergy's proposed Alternative Plan is significantly smaller than its original Application, it is plagued by many of the same problems as its original Application.

Given that Parties have not yet had an opportunity to address Evergy's Alternative Plan, the OPC reserves the right to take additional positions with regard to this Alternative Plan following the close of evidence.

If the Commission authorizes a MEEIA Cycle 4 for Evergy it should authorize the Alternative Plan put forward by Dr. Marke in Surrebuttal Testimony. (Marke Surrebuttal Test. 31-33). This alternative plan includes modifications to the types of programs offered, the length of the programs, the earnings opportunity, and includes a cap on administrative costs. (*Id.*). This alternative plan addresses the many problems identified throughout the pre-filed testimony in this matter, while allowing the parties time to work toward a statewide program. (*Id.* 33).

WHEREFORE, the Office of the Public Counsel respectfully submits its Statement of Positions.

Respectfully submitted,

/s/ Lindsay VanGerpen

Lindsay VanGerpen (#71213)
Senior Counsel
Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5565
Facsimile: (573) 751-5562
E-mail: Lindsay.VanGerpen@opc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 27th day of August 2024.

/s/ Lindsay VanGerpen