

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of Evergy )  
Metro, Inc. d/b/a Evergy Missouri Metro ) File No. ET-2021-0151,  
for Approval of a Transportation )  
Electrification Program. )

In the Matter of the Application of Evergy )  
Missouri West, Inc. d/b/a Evergy Missouri ) File No. ET-2021-0269  
West for Approval of a )  
Transportation Electrification Program. )

STAFF'S REPLY BRIEF

The purpose of a *Reply Brief* is to respond to the arguments made by parties' opponents. Rather than replying to every argument other parties make in their initial briefs, having presented and argued its positions in its initial brief, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro ("Metro") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("West") (collectively, "Evergy" or the "Company") spends the majority of its *Initial Brief* ("Evergy Brief") not refuting the issues or concerns that Staff and the Office of Public Counsel (OPC) point out, instead hand waves them away stating that the concerns aren't enough of a reason to deny its Application.<sup>1</sup> Evergy seems to not take the concerns raised seriously, blithely stating at one point, "Staff and OPC seem to be saying that the Commission should reject Evergy's

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<sup>1</sup> Evergy's *Initial Brief*, p. 23, 24, 29, 32, and 38.

Application in almost all respects, and Evergy should just try again.”<sup>2</sup> Staff has not obscurely implied this, this is exactly what Staff has suggested. Evergy should come back with a more detailed and factually supported application,<sup>3</sup> much like Union Electric Company d/b/a Ameren Missouri (“Ameren”) did after its first transportation electrification portfolio was mostly rejected,<sup>4</sup> and parties can work together on something that benefits EV drivers but protects non-participants. Staff has also implored Evergy come back in the context of the rate case so tariff sheets can be properly developed.<sup>5</sup> However, instead of taking in Staff and other stakeholder’s suggestions, Evergy would rather cast Staff and the Office of Public Counsel as naysayers, determined to say no matter what. Evergy opens its Initial Brief stating; “Staff and OPC’s rejection of the Company’s proposals stem from a policy argument – that a utility should not take an expanded role in the promotion of TE. OPC, and Staff to a lesser degree, assert that the utility (and the Commission) should stay on the sidelines and not be an active partner with our customers during this dynamic revolution that is occurring in TE.”<sup>6</sup> Evergy misstates Staff, and OPC’s positions<sup>7</sup> on the role of utilities in transportation electrification (TE), unwillingly to

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<sup>2</sup> *Id.* at p. 17-18.

<sup>3</sup> Tr. Vol. 2, at 403:9-404:11.

<sup>4</sup> See generally, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program*, File No. ET-2018-0132.

<sup>5</sup> Tr. Vol. 2, at 435:8-436:6.

<sup>6</sup> Evergy’s *Initial Brief*, p. 16.

<sup>7</sup> Cross Examination of OPC witness Dr. Marke:

Q: So the summary of that is that OPC fails to see how the proposed rebates, EV rates in the CCN are all interrelated to a customer understanding purchasing and owning an EV; is that fair?

A. It is.

Q. How did you reconcile that statement with OPC’s positions in the recent Ameren and Empire docket?  
A. I would say that that runs counter to both... dockets. We -- you know, I don’t know how much I can speak about the Empire study -- or the Empire docket, I’m definitely looking forward to speaking on the record to the Commission about, you know, how well Staff, OPC, and a willing utility that is reasonable could come together to work towards fruitful EV charging station portfolio. With Ameren Missouri we came to a stipulation and agreement with that utility to offer rebates in a much more reasonable manner from our perspective. Tr. Vol. 3, at 527:12-528:2.

acknowledge the supportive position Staff and OPC have taken in other utility dockets, perhaps afraid to admit that it's not policy that leads Staff to reject this application, but inadequacy. Evergy even tries to lambast Staff witnesses for not proposing a more adequate application on Evergy's behalf. Evergy, in reference to Staff witness Ms. Lange stated, "She also did not have any recommendations for the Commission to implement (or even consider) to create the infrastructure to serve the increasing number of customers who choose to purchase electric vehicles, except for the possible implementation of various rate design proposals."<sup>8</sup> The issue before the Commission is the application Evergy provided, not some hypothetical application. The Company has burden of proof. If Company is truly interested in Staff's thoughts on TE, reading the testimony filed in this case, the Ameren case, and reading the agreed upon Stipulation in In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program, File No. ET-2018-0132, should point to facets Staff finds terrible and facets Staff can agree to. Staff supported Ameren's recent application, and is finalizing a stipulation to support Empire's participating in EV. The difference in this case is the lack of analysis, detail, and parameters, as well as poor program design, which makes Staff unable to support Evergy's Application. Ms. Lange's exchange with counsel for Evergy makes that abundantly clear.

(Ms. Lange) A. I think that there are good ideas that are possible on this front. I think the tariffs before the Commission and the evidence before the Commission do not rise to a level where Staff can recommend their promulgation.

**Q. -I really didn't ask you that question. - I just asked you don't think these are very good ideas. - Right?**

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<sup>8</sup> Evergy's *Initial Brief*, p. 17.

A. - Well, it depends on what the "this" is.

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A. If the "this" is the concept of managing developing EV load, that's a wonderful idea. If the concept of "this" is Evergy's proposal as it exists in the record Evergy has provided, no, that's a terrible idea.

**Q. - So that's how you would characterize the Company's proposal in this case, a terrible idea?**

A. -As it is constituted, yes. We've tried to indicate those concerns to the Company. We've tried to resolve those concerns and those efforts have been fruitless. What is left is the idea of an idea and guide rails that may be developed and other things we've heard in surrebuttal testimony and at this hearing for the first time that could be the starting point of a reasonable program, but are just not found in the program as requested to be promulgated and are not yet developed to the point they need to be to move forward.<sup>9</sup>

Staff's *Rebuttal Report* and *Initial Brief* outline how each concern is a valid reason to reject this Application that is currently pending in front of the Commission. The Commission should reject the Application, except for the Kansas City Streetlight Project.<sup>10</sup>

Evergy's Application is not supported by the evidence, and is not cost-effective.

. The Company argued through the hearing and its Application that more electric vehicle (EV) charging stations will lead to more EV cars that will consume more energy, which provides more revenues to the benefit of all Evergy customers. The touting of this claim is less pronounced in Evergy's *Initial Brief*. That is because it's clear from the past five years of experience with Evergy's Clean Charge Network (CCN) that there is no discernible trend between utility spend in charging infrastructure and EV adoption rates. Evergy makes a feeble attempt to refute OPC witness Dr. Marke's verifiable, state agency

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<sup>9</sup> Tr. Vol. 2, at 403:9-404:6.

<sup>10</sup> See Ex. 1 *Staff Report* pages 26-27.

provided registration numbers,<sup>11</sup> but this attempt is not persuasive. Evergy states “Mr. Voris explained during cross-examination that EPRI get its data from car registrations, but also looks at the operation and movement of used vehicles in and out of the service territory.”<sup>12</sup> Evergy neglects to mention that EPRI is a utility funded think tank.<sup>13</sup> And the term “operation and movement of used vehicles in and out of the service territory” does not make this data more accurate, only more inflated. These figures include transit vehicles. This means that an EV registered in Texas, merely passing through Kansas City using a CCN station once, would be captured in the adoption rate. This is nonsensical to include, as the existence of Evergy’s infrastructure had no impact on whether the family in Texas did or did not purchase an EV, nor does that “induced” EV help Evergy customers as all the benefits of home charging would occur in a separate state and accrue to a separate utility.

Evergy itself seems to imply EV adoption is coming, even without the expansion of the CCN or approval of the Application. For instance, Evergy quotes its witness Mr. Caisley stating, “The TE train is leaving the station and as it unfolds it will change the demand placed upon Evergy’s system.”<sup>14</sup> If this wave is inevitable, why should ratepayers needlessly contribute funds? Moreover, if this inevitable wave is coming, it is more important than ever to include time of use (TOU) components to avoid repeating the load management mistakes made when air conditioning became a larger contributor to system load.<sup>15</sup>

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<sup>11</sup> Exhibit 204, *Rebuttal Errata Sheet of Dr. Geoff Marke*, pg. 1.

<sup>12</sup> Evergy’s *Initial Brief*, p. 9.

<sup>13</sup> Tr. Vol. 3, at 521:21-522:24.

<sup>14</sup> Evergy’s *Initial Brief*, p. 6.

<sup>15</sup> Tr. Vol. 2, at 420:22-421:2.

The very real potential of repeating the load management mistakes made during the peak increases due to air conditioning are present in Evergy's Application. Evergy's Application does nothing to incentivize cost-effective charging behavior, and has massive potential for non-participants to suffer double harm from paying for the portfolio and then paying for the cost increases due to unmanaged charging. Staff explains the unavoidable outcome of unmanaged charging in its *Rebuttal Report*.<sup>16</sup> Staff outlined the two potential results of managed vs unmanaged charging. If rebate program participants change their charging behavior to this "managed" load shape Evergy envisioned, then the best case result is the reduced SPP costs that will allow this program to "breakeven" in as far as non-participants will not be hit with double costs.<sup>17</sup> In the all but inevitable outcome without any incentive, if Evergy's customers do not change their charging behavior, the move from Level 1 to Level 2 charging results in a net increase in wholesale energy costs of approximately \$0.25 - \$0.61 per year – inclusive of the 10% reduction in total consumption.<sup>18</sup> In other words, if customers have the ability to charge at a higher level of demand, and continue to charge at the times they have found most convenient those customers will cause more wholesale energy costs, while consuming less energy (and paying a lower retail bill.).<sup>19</sup> In plain terms, if EV owners who participate in the residential rebate program do not change their charging patterns after transitioning from a L1 to L2 charger, the outcome will be an overall increase to all customers, which is a serious issue and undermines the entire justification for the program.<sup>20</sup>

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<sup>16</sup> P. 7-15.

<sup>17</sup> *Id.*, at p. 10, l. 10- p. 12, l 8.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Evergy itself acknowledges the importance of load management by stating “broad recognition that TE and grid management are inextricably linked and that the utility is the entity responsible for and able to manage its grid.”<sup>21</sup> However, Evergy refuses to actually manage the grid. The Company also touts this important opportunity to educate its customers.<sup>22</sup> However, absolutely no education plans are detailed or proposed.<sup>23</sup> Furthermore, only one pilot could be said to “educate” customers on charging behavior, the rest are rebates for commercial customers, highway charging stations, transit tariffs, none of which educate customers on managed charging. Not to mention, the “pilot” programs goals of supporting EV adoption, enabling off-peak charging, educating customers and other key stakeholders, and informing Evergy's future efforts to maximize the benefits of Transportation Electrification (TE) for all customers,<sup>24</sup> can all be done currently, without pilots, since Evergy already has a TOU pilot for off-peak charging.<sup>25</sup>

Unsupported assumptions about load shapes are not the only unreasonable assumptions made. Evergy's *Initial Brief* references the ICF study, which is not reliable, nor truly a cost-effective study. Evergy claims “all Evergy customers benefit from increased EV adoption, whether or not they are an EV driver.”<sup>26</sup> Evergy further claims an estimated net present value (NPV) of approximately \$42.5 million in benefits to Missouri Metro customers over the next 10 years (2021- 2031), assuming a medium EV adoption scenario. On a per vehicle basis, this benefit translates to approximately \$1,112 per EV in the Missouri Metro service territory. The result for Missouri West customers is a net

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<sup>21</sup> Evergy's *Initial Brief* p. 10.

<sup>22</sup> *Id.* p. 12

<sup>23</sup> Tr. Vol. 2, at 429:9-15.

<sup>24</sup> Evergy's *Initial Brief*, p. 11.

<sup>25</sup> Tr. Vol. 3, at 509:1-5.

<sup>26</sup> Evergy's *Initial Brief*, p. 14.

present value of \$22.6 million, or \$900 per EV.<sup>27</sup> Staff has already provided detailed descriptions of the inaccuracies underpinning Evergy's calculations in its *Rebuttal Report* and *Initial Brief*. Briefly, Staff again notes that for customers to benefit under an electrification case is through increased electrical consumption by participants, to spread costs over more billing determinants,<sup>28</sup> or more efficient grid management by customers. As more efficient grid utilization and/or the spreading of fixed costs over a greater number of billing determinants can lower the rates for all customers, well designed programs that accomplish these goals can have cost recovery in customer rates.<sup>29</sup> Yet Evergy proposes to do the exact opposite, and reduce energy consumption. Staff calculated that retail revenues from the customers eligible for this rebate will be reduced by \$17.10 - \$26.25 per year, net of the fuel adjustment clause (FAC) Base factor.<sup>30</sup> With this reduction in revenue, non-participants will necessarily have to pay more to cover the difference. Further, because the program is only eligible for individuals who own an EV, any person who does not own an EV will be excluded from participating and thus end up having increased rates in addition to funding the \$1 million cost of the program itself.<sup>31</sup> OPC witness Dr. Marke how such a program can be considered regressive:

Customers are paying a lot more for energy on the west side of the state than they are on the east side of the state. And I have every reason to believe with their upcoming STP outline, with the Storm Yuri cost this is just going to be exacerbated. - That absolutely will have an impact on EV adoption.- The -- and it's regressive.- I can't stress this enough that the vast majority of customers that have taken advantage of this -- and this is my testimony -- that take advantage of the EV tax

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<sup>27</sup> *Id.*

<sup>28</sup> "All ratepayers ultimately will receive those benefits from the spreading of fixed costs over a greater amount of usage creating rates that are lower than if there was less usage." Exhibit 14, Report and Order, p. 17, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program*, File No. ET-2018-0132.

<sup>29</sup> *Id.*

<sup>30</sup> Exhibit 100 – *Staff Rebuttal Report*, p. 11.

<sup>31</sup> Exhibit 1, *Evergy Transportation Electrification Portfolio Filing Report*, Appendix A.

credits are affluent. They make more money than the average household makes in this state.<sup>32</sup>

In essence, Evergy's program asks for non-EV-owners to pay money so the Company can lower the energy bills of EV-owners, even though this increases the non-EV owner's own bills. As the current pricing of EVs is beyond the reaches of many lower income families, the Commission should be concerned about the impacts on non-participants. This concern should be further raised when Evergy makes statements such as. "Left to market forces, there is the potential for robust charging infrastructure expansion in urban areas by third-parties while rural and traditionally underserved communities, which is Evergy's focus for the CCN expansion, get left behind. Such an outcome would not be good for Missouri and Evergy's customers."<sup>33</sup> Because who bears risks if chargers are underutilized or become obsolete? It's not the Company.<sup>34</sup> As noted, EVs are typically owned by wealthier people in metropolitan areas, leaving chargers in rural and underserved communities extremely likely to become stranded, adding to the regressive aspect.<sup>35</sup>

To summarize Staff's analysis, even before looking at potential capacity cost increases, and free-ridership impacts, Evergy is requesting to give certain customers \$500, with the possibility of reducing revenue by around \$20 a year, and in a best-case scenario, reducing the wholesale energy costs passed through the FAC by around \$20, to maybe breakeven, but without any requirement that the customer takes action to result in that wholesale cost decrease or that the customer absorbs the cost of that wholesale

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<sup>32</sup> Tr. Vol. 3, at 614:12-21.

<sup>33</sup> Evergy's *Initial Brief*, p. 15.

<sup>34</sup> Tr. Vol. 3, at 616:12-22.

<sup>35</sup> *Id.* at 561:9-25.

cost increase.<sup>36</sup> Even then, this “breakeven” outcome is still a problem because non-participants are still paying the cost of the program itself and this outcome depends on program participants changing their charging behavior, which they currently have no incentive to do so.

Upcoming Federal Funding eliminates the need for ratepayers cost recovery.

Recently passed federal funding has rendered much of Evergy’s request unnecessary.<sup>37</sup> As OPC witness Dr. Marke explains “The fact that the federal government is coming in and throwing a hundred million dollars on top of this to go ahead and ease range anxiety concerns just nullifies the whole rationale behind this -- this portfolio.”<sup>38</sup> As OPC notes in its *Initial Brief*, Evergy ratepayers will be none to please to be told they will be paying in rates what everyone else in Missouri and across the Country will be receiving for free due to the estimated 99 million dollars in federal funding for Missouri EV charging infrastructure.<sup>39</sup>

Dr. Marke goes on to explain what that level of federal investment would mean for Missouri.

There’s about 3,500 gas stations roughly in this state. If we just put a DCFC fast charging station at a 50 kW, you know, current, voltage, we can effectively put a DC FC fast charger in just about every gas station in the state. And that’s all federal dollars. If that existed, I think that pretty much nullifies any argument for range anxiety. That is not borne by ratepayers.<sup>40</sup>

In conclusion, the record does not support Evergy’s Application moving forward at this point, under these designs.<sup>41</sup>

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<sup>36</sup> Exhibit 100, *Staff Rebuttal Report*, pg. 12, l. 3 – 8.

<sup>37</sup> Ex. 200 *Rebuttal Testimony of Dr. Geoff Marke*, p. 12, l. 1-16.

<sup>38</sup> Tr. Vol.3 at 531:20 – 23.

<sup>39</sup> OPC *Initial Brief* at 45, and Ex. 200 *Rebuttal Testimony of Dr. Geoff Marke*, p. 12, l. 1-16.

<sup>40</sup> Tr. Vol. 3 at 534:3-16.

<sup>41</sup> As stated elsewhere, Staff does support the limited Kansas City Streetlight Pilot.

The Rebate Programs are ill-conceived, and will not result in the benefits claimed by Evergy.

After protesting the entire hearing against it, Evergy meekly acquiesce to a lesser rebate for customers that will not sign up for Evergy's optional TOU rates.<sup>42</sup> However, mandatory TOU should be the price of admission to receiving free ratepayer provided funds. Without it, the program offers no "stick" to participants who do not change their charging behavior, and therefore impose increased system costs on all other customers.<sup>43</sup> Evergy naively assumes that program participants "will charge their EV in a manner that would be beneficial to both Evergy's system and all of its customers, without a managed charging program or participation in the Company's Residential time of use rate schedule."<sup>44</sup> Evergy tries to claim that Staff's fears of unmanaged charging are overblown, but in doing so contradicts the entire rationale behind the program. If the amount of charging that could occur on-peak, due to the size of the program, is not large enough to raise a serious concern in this regard,<sup>45</sup> how can the same program, with the same number of participants and same level of charging, cause meaningful savings if the charging occurs off-peak? OPC witness Dr. Marke could not reconcile how Evergy could reconcile both statements.<sup>46</sup> Staff witness Ms. Lange further explained that it is much easier to add system costs than it is to reduce system costs.

**Q: And you were also asked by counsel for OPC about Mr. Caisley's testimony on the record yesterday. He asked if you had heard Mr. Caisley statement about -- a question about concerns about additions to peak that his response was the amount of charging induced would be too small that there wasn't a large probability of it causing negative cost impacts.- Do you**

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<sup>42</sup> Evergy's *Initial Brief*, p. 4.

<sup>43</sup> Exhibit 100, *Staff Rebuttal Report*, p. 15 l. 14 – 16.

<sup>44</sup> *Id.* at p. 6, l. 2-6.

<sup>45</sup> Evergy's *Initial Brief*, p. 24.

<sup>46</sup> Tr. Vol. 3, at 528:16-24.

**recall that testimony and that line of questioning?**

A. Generally, yes.

**Q. Okay. Can you explain how the same small amount of charging that if added to peak would not cause negative cost impacts, if subtracted from peak conversely would cause the large benefit as Evergy is claiming?**

A. I don't understand that assertion to the extent it appears that Evergy is making that assertion. In fact, I would expect it to be the opposite. Generally, adding demand is going to give you the potential for additional distribution facility, additional transmission facilities, and additional generation requirements whereas removing that demand will not necessarily cause you to go out and dig up distribution lines or do other things to peel down that invested cost.<sup>47</sup>

Currently, all Evergy has to avoid those cost increases is grab bag of buzzwords posing as education. Evergy lists a litany of corporate speak masquerading as education on pages 23 and 24 of its *Initial Brief*. However, no actual materials provided anywhere, in Application, in the testimony, in the hearing, or in the *Initial Brief*. In the Application, all Evergy states in the one brief page devoted to the topic, “Evergy will use several methods to notify and educate developers about the residential developer rebate availability and benefits” and “Evergy may create educational materials for developers, certified electricians, and related trade associations to support education about rebate availability.”<sup>48</sup> No information on frequency of communications, how information will be communicated (emails, bill inserts, website). There’s not even a catchy slogan, like Wait Till 8 proposed. Evergy also mentions for the first time “the possibility of new incentives (bill credits, etc.)” to induce desired charging behavior.<sup>49</sup> TOU is free, why should ratepayers pay money on top of money to incentivize behavioral changes in the form of

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<sup>47</sup> Tr. Vol. 2, at 428:11-429:5.

<sup>48</sup> Exhibit 1, *Evergy Transportation Electrification Portfolio Filing Report*, p. 30 – 31

<sup>49</sup> Evergy's *Initial Brief*, p. 23-24.

these newly mentioned incentives, just adding to the burden non-participants will carry.

As Dr. Marke stated,

The most direct and influential incentive to customers is provided by pricing the service appropriately with TOU rates. Efficient energy consumption requires that prices charged to consumers reflect the social cost of producing and delivering energy. The most clear-cut and efficient way to induce energy consumers to charge at socially desirable levels comes from correct pricing. Most industries rely exclusively on prices to achieve optimal levels of consumption. Consequently, the Commission should place primary importance on eliminating pricing distortions and creating easily understood and transparent price signals to ratepayers.<sup>50</sup>

Furthermore, it is unknown how much these newly detailed incentives will cost, if it's additional to or part of current budget, and how it would affect the cost effectiveness of the portfolio, not that what Evergy did in consultation with ICF is a real cost-effective test.

Evergy also points to Exhibit 8, which is a summary of Evergy's Education and Marketing plans in the Kansas TE proceeding, awaiting approval at the Kansas Corporation Commission.<sup>51</sup>This was introduced late in the process, is not applicable to this Application, as it is based on agreements made within the Kansas Stipulation and Agreement, and is still a high-level draft without concrete details. As counsel for OPC voiced at trial,

Your Honor, the OPC did had a tentative objection to this exhibit and it's premised on the fact that both OPC and Staff, to my knowledge, have criticized the Company for failing to provide additional detail regarding its education program. I didn't -- the OPC objects to the extent that this program -- this exhibit is offered to supplement the Company's initial application in this regard. If the Commission will note for the record that this exhibit is not part of the official application in Missouri and was never presented to the stakeholders in Missouri prior to this hearing I don't know that this issue necessarily would prohibit taking up the exhibit. I wanted to state for the record that concern.

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<sup>50</sup> Exhibit 200, *Rebuttal Testimony of Dr. Geoff Marke*, p. 15, l. 1 – 9.

<sup>51</sup> Evergy's *Initial Brief*, p. 53.

Staff wholeheartedly echoes OPC's comment and concern, especially in light of Evergy's attempt in its *Initial Brief* to supplement its paltry record with references to this Exhibit.

There are also no controls against free ridership. In fact, Evergy seems to not understand what a free rider is. Evergy states in its *Initial Brief*, "As Mr. Voris explained, Evergy designed the program with numerous facets to minimize the likelihood of free riders. For example, only EV owners are eligible."<sup>52</sup> Making it available to only EV owners doesn't prevent free ridership, as EV owners would need to install home charging regardless of the rebate or not.<sup>53</sup> Nor does this spur new adoption, which is the entire premise of the benefits touted in the ICF study (although Evergy waffles between increasing EV adoption or minute energy savings due to a more efficient charger as reason for this program.).

The Developer Outlet should be rejected.

For this rebate, the builder only has to provide proof the outlet was installed, with no restriction on the outlet's placement or use.<sup>54</sup> There is no guarantee that anyone who buys a house with one of the outlets installed under this rebate program will actually own an EV, therefore it is not reasonable to assume the plug will ever be used for charging.<sup>55</sup> Evergy claims "As part of the installation, Evergy will require the developer to place a branded sticker on the outlet to communicate to the homeowner that the 240V outlet is available specifically for EV charging. Additionally, new homeowners will receive information about the purpose of the installed outlet, benefits of Level 2 EV charging, and

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<sup>52</sup> P. 22.

<sup>53</sup> Tr. Vol. 3, at 586:8-12.

<sup>54</sup> Exhibit 100, *Staff Rebuttal Report*, p. 5, l. 16 – 17.

<sup>55</sup> *Id.*

optional TOU rates.”<sup>56</sup> However, this is nowhere in the tariff. So, in the minuscule happenstance the future homeowner does own an EV, there is no apparent way for Evergy’s intended eventual ‘education’ component to reach the future homeowners.<sup>57</sup> This means that there is no way for Evergy to properly “encourage” the EV owners to charge at non-peak hours, which is essential for the program to be at all cost effective.<sup>58</sup> Instead, the only hope for nonparticipants is that a homeowner stumbles into a ‘managed’ charging pattern without incentive or encouragement.<sup>59</sup> If a homeowner somehow lucks into such a charging pattern, it is illogical to accredit any action taken by Evergy for this stroke of luck.

Evergy expects that the Developer Rebate pilot program will “advance the electrical corporation's operational knowledge of deploying such technologies” as it relates to residential developers, “including to gain operating efficiencies that result in customer savings and benefits as the technology is scaled across the grid or network”.<sup>60</sup> It is unclear what technology Evergy is referring to here. A dryer electric outlet? A NEMA outlet? None of these are new technology, and it escapes comprehension what Evergy hopes to learn from this program, which explains why any such learning goals are absent from the Application. This is a completely befuddling program. The Company’s settlement of the Kansas electrification portfolio docket drops this program entirely, unsurprisingly.<sup>61</sup> All rebates, residential, developer, and commercial, should be rejected.

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<sup>56</sup> Evergy’s *Initial Brief*, p. 30.

<sup>57</sup> Exhibit 100, *Staff Rebuttal Report*, p. 5, l. 16 – 17.

<sup>58</sup> *Id.* at p. 1, l. 14-20.

<sup>59</sup> *Id.* at p. 16, l. 2-3.

<sup>60</sup> Evergy’s *Initial Brief*, p. 30.

<sup>61</sup> Exhibit 203, *Non-Unanimous Stipulation Filed in Kansas Case 21- EKME-320-TAR*, pg. 4.

CCN expansion should be denied, as the existing CCN has failed to cover costs or produce benefits for customers.

The existing CCN demonstrates that the program is already not cost effective, so an expansion would make matters worse. During the last 6 years, the EV chargers currently served under the CCN tariff have not generating revenues that are sufficient to cover the revenue requirement caused by infrastructure and related costs.<sup>62</sup> Evergy tries to hand wave Staff's concerns about the under-utilization of the CCN.<sup>63</sup> As Staff noted in its *Initial Brief*, Evergy itself acknowledges the lack of success the CCN has had in terms of cost recovery. Stating, "this is probably **not** a network or a **subsidy** that our shareholders are ...willing to pay forever. And so we would look for other alternative ways to operate that system and/or to make that available and **recoup some of those costs**,"<sup>64</sup> and "we have **more shareholder risk and more shareholder subsidy in the original Clean Charge Network**."<sup>65</sup> [emphasis added]

Although Evergy discusses subsidy and under recovery, it tries to game the goal posts to improve the optics around the CCN. Utilization rates are not a proper metric of success according to Evergy. Nor are adoption rates, though those inflated rates provided by EPRI are oft touted, even if not a real measure of success in Evergy's eyes. According to Evergy, there is no discrete, quantifiable objective measure of success for these programs.<sup>66</sup>

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<sup>62</sup> Exhibit 100, *Staff Rebuttal Report*, p. 21, l. 5 – 7.

<sup>63</sup> Evergy's *Initial Brief*, p. 18.

<sup>64</sup> Tr. Vol. 1, at 89:21-25.

<sup>65</sup> *Id.* at 120:6-11.

<sup>66</sup> Tr. Vol. 2, at 307:3-13.

This belief is handy, as it allows Evergy to ignore the inescapable fact that there is no possible logical justification for attributing the energy used by an EV in a residential home as a “benefit” created by the CCN unless it can be shown that the EV in question would not have been acquired absent the CCN. This connection cannot be proven. As OPC notes in testimony, the rate of EV adoptions in Evergy’s service territory is dwarfed by the adoption rate in other parts of Missouri, despite Evergy owning many more charging stations. Even the ICF report Evergy commissioned to support its Application does not even attempt to prove how many EVs the CCN has induced.<sup>67</sup> As discussed above, the estimates Evergy relies upon are quickly shown to be inflated when compared to the actual data provided by the Missouri Department of Revenue and the Federal Department of Energy.<sup>68</sup>

Without adoption rates to fall back on, Evergy tries to reposition the expansion as a pilot of sorts, stating, “The proposed CCN expansion will allow Evergy to continue to collect and analyze charger utilization data for various use cases, better understand where EV charging is occurring on the system and enable further load analysis to support grid management activities. Evergy will build upon its award-winning customer outreach approach to spread awareness of the CCN, maintain up-to-date information about EV model availability, and hold events to engage customers.”<sup>69</sup> What new insights could this expansion possibly provide that 900 stations and 5 years of experience hasn’t already? As OPC witness Dr. Marke stated “Everything that you’re seeing here, effectively what you’re talking about is a pilot study that’s already been done. We already

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<sup>67</sup> . Exhibit 6, *Surrebuttal Testimony of Timothy M. Nelson*, p. 7 l. 18 – 20.

<sup>68</sup> Exhibit 204, *Rebuttal Errata Sheet of Dr. Geoff Marke*, pg. 1 and Exhibit 200, *Rebuttal Testimony of Dr. Geoff Marke*, p. 9 fn. 14.

<sup>69</sup> Evergy’s *Initial Brief*, p. 45.

have a pilot study. What this application is just an additional--we're throwing money at an answer we already know.”

To conclude, Evergy may just try to misstate Staff’s objection to the expansion of the CCN due to the “possibility of federal funds for EV chargers under the Bipartisan Infrastructure Deal,”<sup>70</sup> Staff’s primary contention remains as it has through the hearing, that the CCN expansion is ill defined, ill-supported, and the evidence from the existing CCN network should warn against continuing the wasteful spend.

If the Commission approves the Application, Staff does not oppose a regulatory asset, however it should capture revenues, and the amortization should not be set until the rate case.

Staff is recommending rejection of the Application, thus a deferral mechanism is not needed. If the Commission approves the Application, Staff is not opposed to the creation of a deferral mechanism for the costs. However, determination of the amortization period for the deferred costs should be determined in a future rate case, not in this proceeding.<sup>71</sup> Furthermore, if the Commission approves the Company’s BEVCS and ETS rate schedules, Staff recommends the Company use the revenue received from the rate schedules to offset the costs Evergy is requesting to defer to a regulatory asset account.<sup>72</sup> Evergy’s attempts to have it both ways, and to consider the revenues when it benefits Evergy or “justifies” a program, but not acknowledge revenues when they could potential offset some harm to customers should be rejected. For example, compare, “First, it is not reasonably possible to identify whether the *revenue from a particular*

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<sup>70</sup> *Id.* p. 50.

<sup>71</sup> Exhibit 100 – *Staff Rebuttal Report*, p. 31-32.

<sup>72</sup> *Id.* p. 5, l. 4-6.

*charging station is new, incremental revenue*<sup>73</sup> with “Continuing to reduce range anxiety, increase EV adoption and, moreover, *increase electric sales* to put downward pressure on rates for all Evergy customers over the long-term.”<sup>74</sup> And “the Company has no incentive to pay program rebates to charging station owners unless the *resulting charging stations will create more widespread EV adoption and, in turn, produce incremental electricity sales.*”<sup>75</sup>

The Commission should deny Evergy’s attempts to promulgate tariffed rates in violation of the prohibition on single issue ratemaking.

It is well established under Missouri law that the Commission must consider “all relevant factors” when setting rates for a utility.<sup>76</sup> Under § 393.270.4, Missouri courts have traditionally held “that the Commission’s ‘determination of the proper rate for [utilities] is to be based on all relevant factors rather than on consideration of just a single factor.’” Further stated, “When a utility’s rate is adjusted on the basis of a single factor, without consideration of all relevant factors, it is known as single-issue ratemaking.” Single issue ratemaking is generally prohibited in Missouri ‘because it might cause the [Commission] to allow [a] company to raise rates to cover increased costs in one area without realizing that there were counterbalancing savings in another area.’<sup>77</sup> Because Evergy is proposing changed rates for service outside the context of a general rate proceeding, these rates are being developed without consideration of “all relevant factors.” Without the context of a general rate proceeding, where factors like billing determinants, plant

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<sup>73</sup> Evergy’s *initial Brief*, p. 42.

<sup>74</sup> *Id.* at p. 46.

<sup>75</sup> *Id.* at p. 56

<sup>76</sup> *State of Mo. ex rel. Pub. Counsel v. PSC of Mo.*, 397 S.W.3d 441, 448 (Mo. App. WD 2012)

<sup>77</sup> *Id.*

balances, return of equity, and expenses, among others, are considered, it is improbable that rates will be designed to accurately reflect the cost of service.<sup>78</sup> Therefore approval of these rates would be prohibited “single issue ratemaking.”

The Supreme Court has stated that Section 393.270(4) requires consideration of “all relevant factors.” [The] phrase ‘among other things’ clearly denotes that ‘proper determination’ of such charges is based upon all relevant factors, and that however difficult may be the ascertainment of relevant and material factors in the establishment of just and reasonable rates, neither impulse nor expediency can be substituted for the requirement that such rates be ‘authorized by law’ and ‘supported by competent and substantial evidence upon the whole record.’<sup>79</sup> As the Supreme Court later stated, this evidence includes “all operating expenses and the utility’s rate of return.”<sup>80</sup> Evergy’s Application contains no support for the billing determinants, rates established, countervailing revenues from the programs to offset the costs, or reductions in other cost of service arenas that could be used to offset increased expenses here.

Evergy relies upon a Sprint decision to justify its position on the legality of promulgating these rates outside of a rate case.<sup>81</sup> However, the Sprint case is not analogous to the case at hand. The litigation involved a dispute concerning how small rural telephone companies in western Missouri can be compensated for delivering calls that originate from wireless phones. As the Court explained

Currently, the wireless companies direct their originated calls to a large interexchange carrier for transport to the destination telephone within the network

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<sup>78</sup> Section 393.270(4) provides: In determining the price to be charged for . . . electricity . . . the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard, among other things, to a reasonable average return .

<sup>79</sup> *State ex rel. Midwest Gas Users' Ass'n v. PSC*, 976 S.W.2d 470, 479 (Mo. App. WD 1998).

<sup>80</sup> *Id.*

<sup>81</sup> *State ex rel. Sprint Spectrum L.P. v. Mo. PSC*, 112 S.W.3d 20, 22 (Mo. App. WD 2003).

of one of the rural local exchange companies. Although the wireless customers pay the wireless companies for originating such calls, and the wireless companies compensate the large interexchange carrier for transporting the traffic, *this dispute arose because no one compensates the rural carriers for the use of their networks in completing these calls.* The rural carriers initiated this proceeding by filing tariffs, with the Missouri Public Service Commission, to establish rates, terms, and conditions for delivering the wireless originated traffic to their local customers.<sup>82</sup>

The crux of the conflict was that this was a “new” service offered by the rural phone company, and, absent the rate, there was no compensation for the service being performed. This is not all the same situation for Evergy, because the services in question are existing services for which Evergy already charges an existing rate. Evergy seeks to offer through its Electric Transit Service and Business EV Charging Service “electric service”.<sup>83</sup> This is the exact same service offered through each of the class rate schedules Evergy currently has. (Small General Service; Medium General Service; Large General Service; and Large Power)<sup>84</sup> Staff witness Ms. Kliethermes clearly explains that existing EVs in Evergy’s service territory are being charged off of Evergy’s existing rates currently.<sup>85</sup> None of the rates Evergy proposes are not a “new services” as Evergy claims. OPC witness Dr. Marke also noted during the hearing the Kansas City Metro transit vehicles are currently being serviced under one of the current general service rate schedules.<sup>86</sup> The Sprint case does not apply. The Commission should be wary of accepting Evergy’s reasoning, as statements such “A favorable rate enables transit companies to calculate and compare their fuel costs, a major input into building the business case to purchase BEBs. The proposed transit rate will significantly improve the

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<sup>82</sup> *Id.*

<sup>83</sup> Tr. Vol. 3, at 547:1-549:26.

<sup>84</sup> Tr. Vol. 3, at 544:20-545:25.

<sup>85</sup> Tr. Vol. 3, at 485:4-10.

<sup>86</sup> Tr. Vol. 3, at 549:7-21.

economics of transit fleet electrification” found in Evergy’s *Initial Brief*,<sup>87</sup> include language like “favorable,” which seems to imply that not all relevant factors were considered, just what would make the rate most attractive to companies, regardless of impact on other classes.

Nor are the programs truly pilot programs, as claimed by Evergy.<sup>88</sup> These rate schedules would be permanent, and are not pilots. As Ms. Kliethermes explained,

the rate tariff, the business EV charging service tariff and the electric transit service tariff are not part of the transportation electrification pilot program. They are separate tariffs. They do not -- one thing to clarify is that the transportation electrification pilot tariff has a recommended start after a certain date. And the business EV charging service tariff and the transit service tariff, those tariffs are not identified as pilots and they do not have a start after a certain period date within that tariff sheet.<sup>89</sup>

This argument should be rejected, as should Evergy’s last ditch attempt to claim Evergy’s rates are new rates “since Evergy does not currently have an end use TOU rate for EV services”<sup>90</sup> All Evergy is doing is shifting existing load from one rate structure is capable of serving that end use, and for which a full CCROSS was conducted in the last rate case, which is not a new service.

**WHEREFORE**, on the basis of all the foregoing, Staff prays that the Commission will resolve all contested issues as recommended herein by Staff by rejecting the Application, with the exception of the Kansas Streetlight Program, and grant such other and further relief as the Commission deems just in the circumstances.

**/s/Nicole Mers**  
Missouri Bar Number 66766

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<sup>87</sup> Evergy’s *Initial Brief*, p. 36.

<sup>88</sup> Evergy’s *Initial Brief*, p. 38.

<sup>89</sup> Tr. Vol. 3, at 485:11-22.

<sup>90</sup> Evergy’s *Initial Brief*, p. 41.

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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission, on this 29th day of November 2021.

/s/ Nicole Mers