

# Exhibit No. 850

St. Joseph – Exhibit 850  
Bryan E. Carter  
Direct Testimony  
File Nos. ER-2022-0129 & ER-2022-0130

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Streetlighting Tariffs  
Carter/Direct  
City of St. Joseph  
ER-2022-0130

**DIRECT TESTIMONY**  
  
**OF**  
  
**BRYAN E. CARTER**

Submitted on Behalf of  
the City of St. Joseph, Missouri

**EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST**

**Case No. ER-2022-0130**

June 8, 2022

**DIRECT TESTIMONY**

**OF**

**BRYAN E. CARTER**

**EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST**

**CASE NO. ER-2022-0130**

1 **I. INTRODUCTION**

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

3 A. I am Bryan E. Carter. I am the City Manager of the City of St. Joseph, Missouri. My  
4 business address is: City Hall, Room 305, 1100 Frederick Avenue, St. Joseph,  
5 Missouri 64501.

6  
7 **Q. What are your qualifications and experience?**

8 A. I have served as City Manager of the City of St. Joseph since early in 2021. I was the  
9 City Attorney of St. Joseph from late 2015 until my appointment as City Manager. Prior  
10 to that, I served as Assistant, and then Deputy, City Attorney from 2011 through 2015.  
11 I earned my Bachelor of Science degree in Business Administration from the  
12 University of Central Missouri in 2001, and my J.D. from Creighton University School  
13 of Law in 2011.

14 **Q. Have you testified previously before the Missouri Public Service  
15 Commission?**

16 A. No, I have not.

17 **Q. What is the purpose of your direct testimony?**

18 **A.** The purpose of this testimony is to propose certain changes to Evergy's streetlighting  
19 tariff to allow the City to construct new streetlights itself, or through contractors and  
20 developers, and for Evergy to accept ownership of those streetlights, as had been the  
21 established procedure for many years. The current tariff (Revised Sheet 150) provides  
22 for the Company to own streetlights served under Sheet 150. However, the Company  
23 now insists that only the Company can *build* new streetlights under that tariff. This

1 burdens the City's budget and taxpayers by shifting what were capital costs, borne by  
2 the City or by developers, onto taxpayers by making those costs part of the electric  
3 bills paid by the City to Evergy.  
4

5 **II. STREETLIGHT ISSUE**

6 **Q. What had the process been historically?**

7 A. For many years, real estate developments and City expansion projects requiring  
8 infrastructure, including streetlights, were constructed in accordance with St. Joseph's  
9 City Code. Projects were bid out competitively and constructed. The streets, sewer  
10 and storm-water facilities became City property at the end of construction. Once the  
11 electric utility approved the new streetlight installation, ensuring its compliance with  
12 applicable safety standards, that streetlight was deemed part of the streetlighting  
13 system and owned by the utility. If the City did not approve the streets, sewers and  
14 storm-water facilities, or if the utility did not approve the streetlighting infrastructure,  
15 the developer bore the cost of bringing the infrastructure into compliance.

16 **Q. What has changed?**

17 A. In 2018, Evergy took a new approach, requiring that it alone was entitled to  
18 construct all new streetlights within the City and then adding those costs to the  
19 City's electric bills.

20 **Q. What does the tariff say?**

21 A. Evergy's tariff, beginning with Revised Sheet No. 150, is entitled: "Municipal Street  
22 Lighting Service Electric." In the first paragraph, under "Availability," it refers to "a  
23 Company-owned Street Lighting system" offered "to municipalities and other  
24 governmental entities." This language appears in both the existing tariff and the  
25 revised tariff proposed in this case.

26 **Q. Does the City object to Evergy owning the streetlights?**

1 A. No. The City of St. Joseph does not object to Evergy owning all streetlights in the  
2 City, as has been the case for many years since the City sold all its streetlights to  
3 St. Joseph Light & Power years ago. The issue is that the City believes it has a right  
4 to build streetlights on public projects, and to provide for developers to build  
5 streetlights as part of City-approved development plans, and then deem those lights  
6 to be part of the streetlighting system and owned by Evergy, rather than having  
7 Evergy build all new streetlights itself and recouping their cost from the City through  
8 its electric rates.

9 **Q. Does Tariff Sheet 150 require that Evergy build all new streetlights?**

10 A. No. It refers to Company ownership of streetlights, but does not provide that the  
11 Company must build them.

12 **Q. Has Evergy offered an alternative to the City of St. Joseph?**

13 A. On or about April 16, 2020, Evergy advised the City of St. Joseph in writing that it  
14 had two alternatives: (1) let Evergy build all new streetlights and take service under  
15 Revised Tariff No. 150, or (2) build new streetlights itself, own and maintain them  
16 and take service under Revised Tariff No. 151.

17 **Q. What is Tariff Sheet No. 151?**

18 A. Evergy's Revised Sheet No. 151 is called, "Municipal Off-Peak Lighting Service  
19 Electric." It says it is available "[f]or metered, secondary voltage, electric outdoor  
20 lighting service solely to a municipality or governmental entities for purposes of  
21 enhancing security and/or illuminating streets, parks, athletic fields, parking lots, or  
22 other outdoor facilities."

23 **Q. Couldn't St. Joseph build its own streetlights and take service under Tariff  
24 Sheet 151?**

25 A. Yes. However, that would require adding to the City budget for liability insurance, and  
26 for maintenance costs (personnel and materials), associated with streetlights. Having  
27 separate lighting systems with some being owned by Evergy and others being owned

1 by the City would add complexity and require the City to create a new maintenance  
2 program for a relatively small number of newly-added streetlights..

3 **Q. How does Evergy’s application of its Tariff Sheet 150 hurt the City of St.  
4 Joseph?**

5 A. By shifting the capital costs of streetlights into the operating budget of the City, the  
6 cost of new streetlights is borne by the City’s operating budget rather than by  
7 developers who are causing the system expansion. Also, we believe the costs  
8 included in Evergy’s rates are higher than those paid in St. Joseph for public works  
9 projects or by developers. So, not only are St. Joseph taxpayers paying for capital  
10 costs (formerly paid for by the contractor or the public funding source) through the  
11 City’s electric bills, but they are paying *higher* capital costs than necessary.

12 **Q. Please explain how City of St. Joseph streetlight installation costs used to be  
13 handled?**

14 A. As a charter city, and under land use laws in Missouri, local governments are  
15 authorized to set the ground rules for the development of property within their  
16 jurisdiction. They have the authority to manage the right-of-way for utilities within their  
17 jurisdiction, including the authority to set the standards for streets, sewers, storm-  
18 water facilities and streetlights.

19  
20 Further, local governments have the flexibility to allocate development costs between  
21 developers and taxpayers. For example, a city can require a development impact fee,  
22 sewer connection charges, etc. The St. Joseph City Code establishes that a developer  
23 is responsible to pay for the construction of new infrastructure, including streetlights.<sup>1</sup>  
24 Under the St. Joseph City Code, a developer presents plans to the City’s Department  
25 of Public Works and Transportation for approval. Those plans must meet City Code  
26 standards for streets, sewers, storm-water facilities and streetlights. The developer

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<sup>1</sup> St. Joseph City Code, Chapter 26 – Subdivisions.

1 must pay for all that infrastructure and post a maintenance bond for any work needed  
2 on streetlights for two years. These capital costs become costs of the developer to  
3 recoup from the project. If undergrounding of power lines to a streetlight is required,  
4 the cost of undergrounding is borne by the developer. This is true of breakaway bases,  
5 rock removal or other trenching or boring, as well. The installation includes bases,  
6 poles, wiring, fixtures and bulbs.

7  
8 The streets, sewers and storm-water facilities become City property at the end of  
9 construction. In the past, once Evergy approved the new streetlight installation, that  
10 streetlight was deemed part of the streetlighting system and owned by the utility. If the  
11 City did not approve the streets, sewers and stormwater facilities, or if Evergy did not  
12 approve the streetlighting infrastructure, the developer bore the cost of bringing the  
13 infrastructure into compliance.

14  
15 City projects for new roads or road expansions are funded through some form of public  
16 funding, such as the capital improvements sales tax or grant funding, which covers  
17 the cost of constructing the project and meeting all elements of required roadway  
18 standards, including streetlighting. The City performs the engineering for the  
19 installation, hires the contractor, and everything is installed as outlined above. The  
20 capital cost of new streetlights for the project is borne 100% by the project, from the  
21 public funding source. This includes the cost of undergrounding, breakaway bases,  
22 rock removal, trenching, etc. Again, in the past, once Evergy approved the new  
23 streetlight installation, that streetlight became the property of Evergy. If Evergy did not  
24 approve the streetlighting infrastructure, the City's project bore the cost of bringing the  
25 infrastructure into compliance. When the City installs this infrastructure, it is able to do  
26 so using a bidding process that ensures a competitive environment that conserves  
27 the City's limited financial resources.  
28

1 For many years, the accepted practice in St. Joseph was as just described. In addition,  
2 the rates for electricity to the streetlights installed by the City, or by developers within  
3 the City, were discounted to reflect that the utility received economic value from the  
4 gift of the streetlight asset. Those rate discounts were lost when Evergy modified its  
5 new installation requirement, unnoticed by the City at the time, although the rationale  
6 for them remains. According to the Company, that practice ended with the  
7 implementation of LED streetlighting and the consolidation of L&P and MPS  
8 streetlighting tariffs effective May 19, 2017.  
9

10 **Q. Does the City of St. Joseph have a contract with Evergy for streetlighting**  
11 **service?**

12 A. Not that either the City or the Company is aware of. Revised Sheet No. 150 includes  
13 a “Term of Contract” which provides: “Contracts under this schedule shall be for a  
14 period of not less than ten years from the effective date thereof.” However, the City  
15 of St. Joseph is not aware of such a current contract with Evergy or its  
16 predecessors. Evergy says, in a Data Request Response, that it “cannot be  
17 determined if a specific contract exists with the City.” But Evergy adds that the rate  
18 schedules and Rules and Regulations “define the terms of the agreement.”<sup>2</sup> So,  
19 this contract requirement in Tariff Sheet 150 appears to be superfluous.

20 **Q. Does the City of St. Joseph have any other problems with Tariff Sheet 150 as**  
21 **applied by Evergy?**

22 A. Yes. In its electric rates in Tariff Sheet 150, Evergy charges extra for undergrounding  
23 service extensions, breakaway bases, rock removal “or other specialized  
24 trenching/boring for installation of underground service,” and for metal poles instead  
25 of wood poles.<sup>3</sup> Those become ongoing monthly charges to the City, whereas

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<sup>2</sup> Evergy Responses to St. Joseph Data Requests 2.10 and 2.11.

<sup>3</sup> Revised Sheet 150.1, under “RATE (Optional Equipment) MOMLL, Sections 4.1 through 4.5.



1           previously a developer or City contractor paid for those items as a capital cost of the  
2           project.

3           I believe it is unfair for the City to have to pay for those capital costs in its monthly  
4           electric rates simply because the Company requires that it build all new streetlights.  
5           Under the exercise of the City's proper legal authority, it can require those capital  
6           costs to be incurred by the developer or the City's contractor. And for the many  
7           projects completed before Evergy's most recent policy and practice, where streetlights  
8           have been conveyed to the Company after being built by the developer or contractor,  
9           it is unfair for the City to then be paying for undergrounding and breakaway bases  
10          *again* through the tariff rates. It should also be noted that Evergy already gets the  
11          advantage of new streetlights for which a developer or City contractor has posted  
12          bond for any needed repairs for two years without paying for that protection, while  
13          presumably also including the costs associated with that risk in its rates.

14          **Q.    Is the City being charged these extra monthly charges for streetlights that have**  
15          **been constructed by developers or contractors?**

16          A.    Yes. The City of St. Joseph is currently being billed for undergrounding and  
17          breakaway bases on 61 streetlights identified by Evergy as being transferred by the  
18          City to Evergy in 2017. Company states that its "[a]vailable records are limited to 2017"  
19          with no explanation of why that would be true.<sup>4</sup> It may be assumed that numerous  
20          streetlights prior to 2017 are also being charged monthly for undergrounding and  
21          breakaway bases, even though those costs were already borne by developers or City  
22          contractors.

23          **Q.    What does the City of St. Joseph propose as a remedy to these concerns?**

24          A.    We propose that language be added to Revised Sheet 150 to address these issues.  
25          This language could be added under "Special Rules and Regulations" on Sheet 150.2,

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<sup>4</sup> Evergy Responses to St. Joseph Data Requests 2.2 through 2.5.

1 or as a new section on Sheet 150.2 which could be called "City or Contractor Built  
2 Streetlights." The language would be: "If new streetlights are built by a city as part of  
3 a city-funded project, or by a contractor as part of a city-approved development or  
4 project, those streetlights may be deemed to be owned by Company, after inspection  
5 and approval by Company for compliance with applicable safety standards, and shall  
6 not be subject to additional installation or structure charges."

7 The tariff should also state that, "No RATE (Optional Equipment) MOMLL" charges in  
8 Section 4 of this tariff will be charged to streetlight facilities which are deemed to be  
9 owned by the Company and installed by a city or its contractor, or by a developer of  
10 a city-approved development."

11 **Q. Please summarize your testimony.**

12 A. Under Evergy's current application of its tariff (Revised Sheet Nos. 150 to 150.2),  
13 capital costs of new streetlights, which used to be paid for by developers, or out of a  
14 dedicated capital project public funding source for City projects, are now added to the  
15 energy costs of the City in Evergy's monthly electric bills. This changes those costs  
16 from capital costs to operating costs which, ultimately, are paid by taxpayers of the  
17 City. This puts new and unacceptable strain on the City's budget and places a  
18 significant burden on City resources that would otherwise be used for street  
19 maintenance, police protection, fire protection, public health efforts, and other critical  
20 operations the public relies on the City to perform. Language should be added to  
21 Revised Sheet 150 to permit a municipality to build streetlights as part of a public  
22 works project, or have them built by a contractor as part of a city-approved  
23 development, and deem ownership of the streetlights to be in Evergy, as was done  
24 successfully for many years. Such streetlights should also be exempt from extra  
25 monthly charges for any "Optional Equipment" charges for such things as  
26 undergrounding and breakaway bases.

27 **Q. Does this conclude your testimony?**

28 A. Yes.

