Exhibit No. 201

Public Counsel – Exhibit 201
Geoff Marke
Surrebuttal Testimony
File No. EO-2020-0227

Exhibit No.:	______________
Issue(s)	Demand Response Programs
Witness/Type of Exhibit:	Marke/Surrebuttal
Sponsoring Party:	Public Counsel
Case No.:	EO-2020-0227

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

EVERGY METRO, INC. D/B/A EVERGY METRO AND EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST

CASE NO. EO-2020-0227

October 14, 2020

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Second Prudence Review of the Missouri Energy Efficiency Investment Act (MEEIA) Cycle 2 Energy Efficiency Programs of Evergy Metro, Inc. d/b/a Evergy Missouri Metro	)))))	File No. EO-2020-0227

VERIFICATION OF GEOFF MARKE

Geoff Marke, under penalty of perjury, states:

1. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony in the above-captioned case.

2. My answer to each question in the attached surrebuttal testimony is true and correct to the best of my knowledge, information, and belief.

Geoff Marke
Chief Economist

TABLE OF CONTENTS

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

EVERGY METRO, INC. D/B/A EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST

CASE NO. EO-2020-0227

I. INTRODUCTION

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

A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Geoff Marke that filed rebuttal testimony on behalf of OPC?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. I will be responding to the rebuttal testimony of Evergy Missouri West and Evergy Missouri Metro ("Evergy") witnesses Brian A. File and John R. Carlson. My testimony provides a brief overview of the various positions of parties and includes some needed clarification on the programs and terms in question in response to Mr. File's testimony. I then respond to the following counter-arguments raised by the witnesses to Staff's report including:

- Programs adhered to the reasonable standard in prudence;
- Commission should not impose cost disallowances on cost effective programs;
- Programs were operated as designed; and
- Assuming capacity sales and fees from the Southwest Power Pool as a proxy for disallowance is inappropriate.

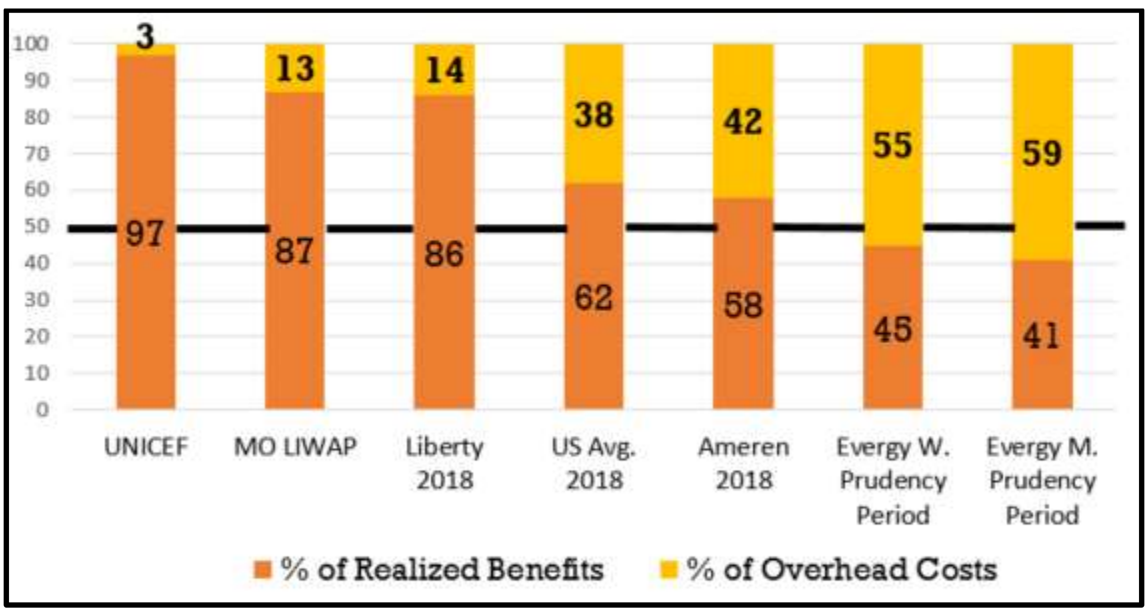
My silence regarding any issue should not be construed as an endorsement of, agreement with, or consent to any other party's filed position.

II. OVERVIEW OF POSITIONS

Q. What is OPC's position?

A. I recommended in rebuttal that the Commission support Staff's position and disallow an additional $1,930,392 for Evergy Missouri West for a total disallowance across the two utilities of $6,429,139.74. The sum of these disallowances results in a 50/50 ratio of program overhead costs relative to actual energy efficiency measures during the prudence review period across both utilities. I consider 50% the minimum amount of acceptable management inefficiency for this prudency period even though it still results in more than a 12% inefficient ratio relative to the 2018 US average ratio. A breakdown in program overhead costs relative to realized benefits across organizations cited in my rebuttal testimony is summarized in Figure 1 with an emphasized line denoting the 50% threshold.

<u>Figure 1: Select program overhead to realized benefits across organizations cited in rebuttal testimony</u>



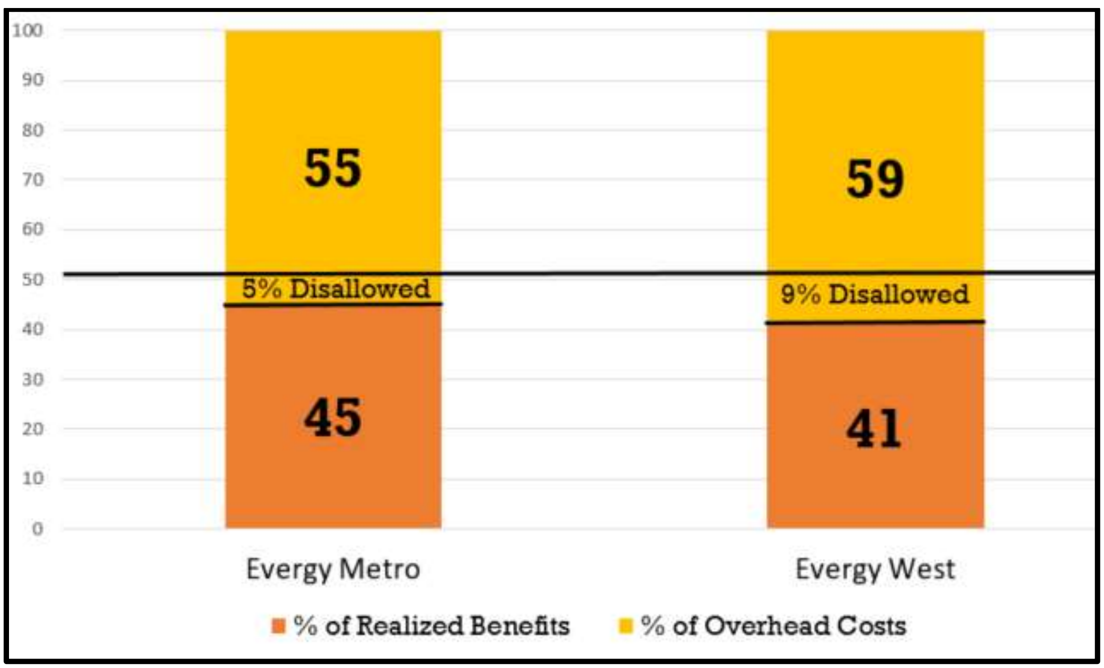
Staff's disallowance centers primarily on Evergy's managerial imprudence related to demand response programs; however, if Staff's recommended disallowance is completely adopted the expenditure ratio on non-energy efficiency measures would still be above 50% in total. Although I support Staff's recommendations, I do not believe this amount goes far enough because it fails to address the worst managerial inefficiencies of Evergy. In fact, according to

Energy Information Administration ("EIA") data out of 515 utilities reporting with energy efficiency programs in 2018, Evergy Metro had the 23rd worst ratio and Evergy West the 19th worst ratio in terms of non-incentive costs relative to incentive cost expenditures across the United States. That is, approximately 500 utilities' management did a better job of ensuring their energy efficiency budget resulted in tangible energy efficiency actions.

Q. Has OPC's position changed since rebuttal testimony?

A. No. I support Staff's position, and I believe Evergy's demand response programs are imprudent and resulted in financial harm to ratepayers. However, a disallowance to 50/50 ratio in realized measures to non-realized measures of total costs is my primary recommendation. This can be accomplished, in part, by the Commission supporting Staff's disallowance and an additional $1,930,392 disallowance for Evergy Missouri West. The 50/50 breakeven disallowance recommendation remains regardless of whether or not the specific cost disallowance is explicitly attributable to the demand response programs. Figure 2, provides an illustrative example of my disallowance.

Figure 2: OPC percentage of disallowance for 50/50 ratio of realized benefits to overhead costs



The emphasis of this prudence review pertains to Evergy's failure to utilize the demand response infrastructure resulting in financial harm to its captive ratepayers, but a larger and more disconcerting narrative is Evergy's managerial inefficiencies in handling its multi-million dollar budget relative to its peers and compared to utilities across the United States.

A failure to address these managerial inefficiencies will merely perpetuate the obvious lack of agency or responsibility the Company has in ensuring captive ratepayer dollars are prudently spent. Keep in mind during the prudency period, Evergy Metro was 17% and Evergy West 21% less efficient than the US average in 2018. My recommendation for cost disallowance does not even approach the US average. I am merely suggesting that a 50/50 ratio is reasonable at this point and should "hopefully" be enough to incentivize the Company to do a better job than what it has been doing.

Q. What is Staff's position?

A. Staff recommends a disallowance of $2,134,986.29 for Evergy Missouri Metro ("Metro") and $2,363,761.45 for Evergy Missouri West ("West") for a total of $4,498,747.74 ("Evergy" and the "Company"). Over ninety-nine percent (99.28%) of this amount (or $4,466,141) is related to its Missouri Energy Efficiency and Investment Act (MEEIA) demand response programs.

Q. What is the Company's position?

A. The Company disagrees with Staff and believes all of its costs are prudent and efficient.

III. CLARIFICATION ON PROGRAMS

Q. What are the two types of programs in question that Mr. File's rebuttal testimony responds to?

A. The residential and business programmable thermostat programs, and the business demand response program. Both are demand response programs but the financial mechanics and execution of savings behind them differ.

Q. Please clarify what the residential and business programmable thermostat programs are designed to do?

A. Evergy is supposed to use its residential and commercial thermostat demand response program to reduce load during peak periods to help defer future generation capacity additions and provide for improvement in energy supply. The programs are supposed to address the fact that traditional rate structures and/or lack of AMI meter technology does not provide customers appropriate incentives to reduce electricity usage during peak periods.

Q. Does it do that?

A. No. Not only are no future generation investments being deferred while AMI meter technology is in place and has been earning a return in base rates for a few years now, Evergy has largely ignored the program and placed it on minimal-use "autopilot."

Q. What are peak periods?

A. It is the highest electrical power demand that has occurred over a specific time. Peak load can be characterized annually, seasonally, quarterly, monthly, weekly, daily, etc…

Q. How does Mr. File characterize the "peak period."

A. It is not entirely clear. Judging from the number of events called I would say annually, but a more generous response may be two (maybe three more) pre-set dates seasonally. The Company's testimony goes to great lengths to emphasize that the program is only designed to curb peak load. However, "peak load" is dependent on the time in question. Energy prices fluctuate throughout the day but there will always be a peak period of energy usage for Evergy's customers and it is typically during the hottest time of day. Evergy retains data on its load shapes that should approximate daily, weekly, monthly, quarterly, seasonally and annual peak usage. Mr. File's suggestion that the Company needs some level of clairvoyance that does not currently exist to accurately forecast when it's going to be hot and when the Company should call an event on the infrastructure that ratepayers have already paid for is grossly misleading.

Q. How many programmable thermostat events were called during the prudence period?

A. Again, it is not clear. Staff's report differs from Evergy witness Brian File's numbers, which differ from my review of the third party EM&V contractor's numbers. I can confidently say more than one but less than six times in any given year for at least the past four years. In at least one year (2018) there were multiple thermostat programs, that is, an additional program for a very small subset of customers with programmable Ecobee thermostats was called as well. I do not have a sense of how many customers participated in said event or how many customers had been given a free thermostat or who had otherwise been rebated a thermostat from the Company over the years just that events have barely been called.

Q. Should the Company clarify these numbers in sur-surrebuttal testimony and provide evidence to verify these figures?

A. Yes.

The Company could simply provide that information in its sur-surrebuttal testimony for the Commission to consider. That is, how many events, per year, per program and with how many participants relative to the total number of actual programmable thermostats that have been rebated or given away for free to date for as many years as it has on record. It's important to note that Evergy's programmable thermostat programs pre-date MEEIA legislation.

Q. Are there any other additional items that need clarification based on Mr. File's testimony?

A. Yes, because Mr. File's testimony omits important context. Three things are worth pointing out about the thermostat programs.

First, Evergy Metro and West both have fully deployed AMI technology that it is receiving a return on and return of in rate base. Ratepayers have currently invested hundreds of millions of dollars on two sets of demand response infrastructure including: 1.) Tens of thousands of programmable thermostats[1] and 2.) Hundreds of thousands of AMI that are not being utilized

---

[1] On September 29, 2020 Evergy held its quarterly demand-side management meeting with stakeholders. At the meeting I asked how many ratepayer-funded programmable thermostats the Company estimates are currently in its

in any meaningful manner for customer benefits. It would be one thing if the programmable thermostats were being called frequently (beyond two times in a year) to induce benefits while customers continue to be "educated" on time-of-use ("TOU") rates, but that has not been the case. It also remains to be seen when customers will see TOU rates rolled out. Instead, both the programmable thermostats and AMI has resulted in almost totally under-utilized, and in part, duplicative investments.

Second, the programmable thermostat programs (there have been multiple variations over the years) are sunk costs and/or all "up front". <u>That is, there are no additional costs to calling events.</u> Participating customers have been given thermostats, additional financial incentives and have the power to override any called event.

Customers are given notice of pending events well in advance. They can then pre-cool their homes (if desired) and the Company then controls the thermostat to raise the temperature 3 degrees for two hours. That's it. Events called in 2018 and 2019 both occurred on June 28th and August 6th from 4:00 to 6:00 pm according to Evergy's EM&V.[2]

<u>There is literally no downside and only upside to calling events</u> as there is no further reconciliation for customers that participate as all costs are sunk. Not calling events is akin to leaving money on the table. Worst still, continuing to push out more and more thermostats in the current MEEIA cycle in the same manner (i.e., that won't get called beyond test events) will further waste ratepayer funds.

Finally, the energy savings attributable to the programmable thermostat by itself are not enough to justify the program. There have to be demand events called. There is also no reason that demand events could not be called every day. Again, customers can override the system and/or precool beforehand and the costs are already sunk. An event only results in participating customers experiencing three degrees hotter temperature for a couple of hours and there will,

---

Missouri territory for all programs to date. I was told that the Company estimates there are approximately 20,000 to 30,000 programmable thermostats attributable to its legacy programs and another 45,000 for its MEEIA programs.

[2] In 2019, according to the 3rd party EM&V report between 30% to 44% of participants adjusted their thermostat before (pre-cooled), during the event (overrode the control) or can't remember.

by definition, be a peak period every day. Each event called, regardless of the number of participants should result in measureable savings that are supposed to be passed on to all ratepayers.

Q. Please clarify what the Demand Response Incentive program is designed to do?

A. The Demand Response Incentive (DRI) program provides financial payments to commercial and industrial (C&I) customers for curtailing energy usage during system peak demand periods.

Q. What should the Commission know about these programs?

A. First, there have been a number of changes to the program throughout the prudence review period to present. Namely, customers were being paid for no service rendered—"just being on call" but the program now emphasizes a pay for performance.

Second, like the programmable thermostats, C&I demand response contracts predate MEEIA. Additionally, there are demand response programs in place above-and-beyond MEEIA already in both Company tariffs. These tariffs were approved in the last rate case to ensure the option for MEEIA opt-out customers to participate and/or if a new MEEIA portfolio was not approved.

Third, in the past, the Commission has devoted a considerable amount of time to demand response in various workshops to seemingly little avail. The number of events or activity has not increased. The Commission was clear in its Report and Order in EO-2019-0132 that cited the Company's surrebuttal report that "Additional savings from demand response reductions would increase SPP member fee savings."[3] Even though calling an event should result in immediate energy and demand savings for all customers every time. If the program is not doing what it is capable of doing, then ratepayers are financially harmed.

[3] Qtd in. EO-2019-0132 Amended Report and Order p. 13. Quoting Evergy Surrebuttal Report, Exhibit 4, page 24.

Q. How many events were called during the prudence period?

A. Again, it's not clear. The same recommendations I made regarding the transparent accounting for the Company's historical performance to date across utilities and time should be included in the Company's sur-surrebuttal testimony.

III. REASONABLE STANDARD FOR A PRUDENCE REVIEW

Q. What is the reasonable standard for a prudence review?

A. As cited in Staff's Report, in this case, a prudence review uses a "reasonableness standard: "[T]he company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company."[4]

Q. What is the Company's argument for meeting the reasonableness standard for its demand response programs?

A. On page of 9 and 10 of Mr. File's testimony he argues, "Staff assumes a level of clairvoyance not yet in existence" that prevents the Company from calling demand response events when the weather and load forecasts are uncertain. He then alleges that Staff's hypothetical capacity contract argument is invalid because it assumes there would be buyers, at a particular price and with transmission constraints.

Q. What is your response?

A. Mr. File, in part, just made Staff and OPC's argument when they opposed the Company's MEEIA 3 application. Amongst other things at the time, Staff and OPC argued that there was no guarantee that the Company could reduce its SPP fees, or realize other savings, through its programs. The Commission then approved MEEIA 3 based in large part on the argument of

[4] See, Direct Testimony of Brad Fortson, Schedule BJF-d3, Second Prudence Review of Cycle 2 Costs Related to the Missouri Energy Efficiency Investment Act for the Electric Operations of Evergy Metro, Inc., April 1 through December 31, 2019, File No. EO-2020-0227, Pg. 7-8 (Quoting State ex rel. Associated Natural Gas Co. v. Public Service Com'n of state of Mo., 954 S.W.2d 520, 528-29 (Mo. 1App. W.D., 1997).

lower SPP fees and overall savings that must necessarily exist, yet here Mr. File is claiming the opportunity for necessary savings and reduced SPP fees is not even possible.

For my part, the Company is imprudent because the prudency standard was not met, period. Ratepayers invested millions of dollars in demand response infrastructure (programmable thermostats) that continues to be underutilized year-over-year. Contracts are in place for the Company's demand response incentive (DRI) program yet only test events are called. Both programs neglected to capture benefits it was designed to capture.

Q. Can you think of an analogous situation to put this into perspective?

A. Yes. The Commission opened dockets EW-2020-0035, EW-2020-0034, EW-2020-0033, EW-2020-0032 and EW-2020-0034 to investigate Missouri jurisdictional generator self-commitments into SPP and MISO Day-Ahead Markets. The general concern was to determine whether ratepayers were paying excessive costs by utilities management decision to run uneconomical coal plants.

Evergy's demand response programs is an analogous situation. Ratepayers have spent millions of dollars to have demand response infrastructure (programmable thermostats) and demand response processes (i.e., the business demand response incentive programs) in place to lower the cost of service during peak usage. Both the infrastructure and processes were designed to be run more than what was agreed to or capable of. Ratepayers, in turn, paid excessive costs at peak prices because of utilities' management decision to forgo using demand response programs and instead buy power from expensive fossil fuel plants that should otherwise not have run at the same capacity they did.

IV. COST EFFECTIVENESS

Q. What does it mean if something is cost effective?

A. A working definition of cost effective is something that is a good value, where the benefits and usage are worth at least what is paid for them. The devil is in the details as to what constitutes a "good value" as a cost effective analysis is dependent on the perspectives, assumptions and inputs that can lead to reasonable disagreement to outright distortion in my experience.

Q. What is the Company's argument as it pertains to the cost effectiveness of the demand response programs?

A. Mr. File cites to the cost effective scores that were agreed to during the Company's initial application and the cost-effective scores within the past EM&V reports as evidence that the programs are prudent.

Q. Is the cost effectiveness ratio of a program relevant to a prudence review?

A. No. The cost effectiveness ratio, regardless of the test used, is only relevant for the Company's market potential study, the Company's MEEIA application and the Evaluation, Measurement and Verification ("EM&V") results. Just because a program was cost effective under some test, under certain conditions that may or may no longer reflect reality and taken at some previous point in time with certain inputs and not others does not nullify managerial inefficiencies and imprudent actions. Mr. File's arguments regarding cost effectiveness ratios are without merit as a prudence review is not an appropriate venue for this argument. Instead, actual program implementation, managerial competence, and reasonableness should be the emphasis.

Evergy had sunk costs and processes in place to lower rates and reduce emissions for customers. It elected not to. That is imprudent.

It might be cost-effective for me to buy an EnergyStar HVAC but if I keep it in its box and continue to run my inefficient HVAC I would be irrational and incurring self-financial harm. The fact that the HVAC was cost effective at the store is irrelevant if I don't use it as intended or as it is capable of being used.

V. TARIFF LANGUAGE

Q. What is the Company's argument as it pertains to tariff language?

A. The Company argues that the programs performed as designed in the tariff language.

Q. Do you agree?

A. I disagree. The tariff language (which evolved through this prudency period) does not excuse bad managerial practices related to inaction. The Company caused financial harm to ratepayers by neglecting or forgetting it had demand response programs in place that would immediately result in financial savings to ratepayers.

IV. SPP CAPACITY SALES AND FEE PROXY

Q. What is the Company's argument as it pertains to Staff's position on SPP capacity and sales and SPP fees?

A. That it is not appropriate, is unreasonable and could even result in harm to customers.

Q. Do you agree?

A. No. Again, I believe Evergy's argument is inconsistent with the rationale given by the Commission and utilized in Evergy's surrebuttal report in EO-2019-0132. Putting that aside, I interpret Staff's argument of the hypothetical capacity sales and foregone SPP fees as an appropriate proxy for the damages caused to ratepayers. Evergy left money on the table. Staff's methodology is both reasonable and appropriate given the information available at the time and the fact that Evergy's management decided not to call events despite the savings that could be obtained.

Q. Does this conclude your testimony?

A. Yes.