

**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)	
and Evergy Missouri West, Inc. d/b/a)	File No. EO-2025-0154
Evergy Missouri West for Approval of New)	
and Modified Tariffs for Service to Large)	
Load Customers)	

AMEREN MISSOURI’S POSITION STATEMENT

COMES NOW Union Electric Company d/b/a Ameren Missouri, and for its Position Statement on the issues submitted by the Staff¹ in accordance with the Procedural Schedule set by the Commission for the above-captioned proceeding, states as follows:

A. Should the Commission adopt Evergy’s or Staff’s conceptual tariff, rate structure, and pricing in order to comply with Mo. Rev. Stat. Section 393.130.7?

Evergy’s proposed tariff, rate structure, and pricing (collectively, Evergy’s Large Load Customer (“LLC”) tariff)² should be adopted for Evergy³ in this docket. Of the tariff proposals at issue in this docket, only Evergy’s LLC tariff is faithful to the state of Missouri’s economic development policies and priorities *and* to the Commission’s responsibilities under Section 393.170.7. Specifically, Evergy’s LLC tariff reflects an appropriate balance between establishing service terms and conditions for LLCs that are consistent with these policies and priorities while also supporting a Commission determination that Evergy’s LLC tariff, together with the Commission’s ongoing oversight and jurisdiction over Evergy’s rates and service terms

¹ As the Staff’s *Jointly Proposed List of Issues*, etc. indicates, the parties do not necessarily agree on the characterization of, or the listing of all of the issues contained in the list submitted by the Staff. However, the Company will address each listed issue, as stated, in the order in which they were presented.

² Consisting of Evergy’s proposed LLPS tariff and the related riders, schedules, and other changes proposed by Evergy to its electric service tariffs.

³ Unless otherwise specified, references in this Position Statement to “Evergy” are to Evergy Missouri Metro and Evergy Missouri West, collectively.

and conditions, will provide reasonable assurance that LLCs will pay their representative (a fair) share of costs and prevent unjust or unreasonable costs from being borne by other customers.

Staff's proposal should be summarily rejected.

An LLC tariff should:

- 1) reflect terms that are reasonably in line with, so as to be competitive with, terms being established in the industry across various jurisdictions with whom Missouri is competing,
- 2) meet the needs and preferences of potential customers where those can reasonably be accommodated, and
- 3) provide reasonable assurance that large load service under those terms will not result in unjust or unreasonable impacts on existing customers.⁴

Staff's proposal completely ignores 1) and 2), and with respect to 3), doesn't provide "reasonable assurance" but instead, seeks to overcharge LLCs by creating a hodgepodge of billing determinants and rates⁵ that are neither reflective of Evergy's costs nor designed to do what, at bottom, Section 393.170.7 requires: put into place LLC tariff terms that are fair to both LLCs and other customers.

Staff's proposal simply cannot be squared with the legislative and executive priorities established by the state. As Company witness Robert B. Dixon's Surrebuttal Testimony discusses, Staff's proposal is contrary to numerous state policies that strongly suggest that the state is supportive of the economic development benefits LLCs would bring to the state.⁶ In adopting Section 393.130.7, the state augmented prior legislative support for economic development by requiring that fair LLC tariffs be put into place but certainly did not, as Staff suggests, create a statutory scheme that would severely hamper economic development through

⁴ Wills Surrebuttal, p. 2.

⁵ Id., p. 7.

⁶ Dixon Surrebuttal, p. 6. Mr. Dixon discusses the state policies and priorities to attract LLCs at pages 10 – 14 of his Surrebuttal Testimony.

an overly complex, onerous, and unfair set of LLC tariff terms that if adopted would leave Missouri at a competitive disadvantage relative to the other jurisdictions with whom it is competing for economic development opportunities. As Governor Kehoe's office indicated when he signed the bill that includes Section 393.130.7: "Today, Governor Mike Kehoe signed Senate Bill (SB) 4 into law, taking a major step forward in strengthening Missouri's energy infrastructure and supporting long-term economic development."⁷

The evidence in this case shows that if adopted, Staff's proposal would indeed erect a Missouri "closed for business" sign, depriving the state of the tax base, investment and related economic activity and jobs LLCs would bring.⁸ As Mr. Dixon puts it, "[w]hat the Commission should be doing here is to decide, based on the record in this case, whether Evergy's proposal will support the state's goals in promoting economic development while providing the reasonable assurances from a regulatory standpoint SB 4 requires."⁹ Mr. Dixon was similarly clear about what the state should not be doing, that is, the state should not be "[c]hasing other states to see who can be the 'toughest' on the large load customers", as Staff's proposal would do.¹⁰

Those with actual knowledge and experience with attracting economic development to the state generally, with an understanding of what it will take to meet prospective LLCs needs such that Missouri can effectively compete with other states that are also seeking their substantial investments, all agree on one thing: if Staff's proposal is adopted, the odds of actually attracting these investments to Missouri are poor: "if Missouri were to adopt Staff's overall proposal in general, and more specifically, the provisions Mr. Wills discusses in his Surrebuttal Testimony,

⁷ Gunn Direct, p. 11, Surrebuttal, p. 3.

⁸ Dixon Surrebuttal, p. 4

⁹ Id, p. 6.

¹⁰ Id.

our state would be among the last to be considered... [by LLCs”];¹¹ “With fair terms (which can vary between different utilities as discussed above and in my rebuttal testimony) Missouri can compete for these loads, and the economic development benefits they can bring and that the state of Missouri clearly seeks . . . Staff’s Tariff is not fair and it is not competitive.”;¹² adoption of Staff’s proposal “could effectively close the Missouri market to large load customers.”¹³ That this is true is aptly demonstrated by the following statement by Evergy witness Brad Lutz: “I cannot foresee how a large load customer or the Company on behalf of the large load customer would confidently model the expected rate [under Staff’s tariff proposal] to inform their site selection efforts. If Staff wishes to drive away all large load customers from the State, [Staff’s] design is tailor-made to achieve that goal.”¹⁴ Put another way, why would LLCs invest tens or hundreds of millions, or even billions of dollars in the state of Missouri if they cannot reasonably forecast or understand what a key component of their cost structure (electric service) would actually cost them? Common sense provides the answer: they probably won’t.

That Staff’s proposal is onerous, overly risk-averse, and not even designed to be competitive with LLC tariff offerings in other jurisdictions is confirmed by Staff’s own testimony, specifically, the testimony of Staff Industry Analysis Director James A. Busch. Specifically, it is Mr. Busch’s opinion that the economic advantages of attracting LLC (specifically data center) investment to Missouri are simply not “worth the risk.”¹⁵ Against the backdrop of that opinion, those who work for Mr. Busch have concocted Staff’s proposal in an apparent effort to eliminate all possible risk by either deterring LLCs from locating in the state in

¹¹ Id., p. 4

¹² Arora Surrebuttal, p. 5.

¹³ Gunn Surrebuttal, p. 15.

¹⁴ Lutz Surrebuttal, p. 30.

¹⁵ Busch Rebuttal, p. 5.

the first place,¹⁶ or by overcharging and discriminating against them if they would happen to locate here, despite Staff's tariff terms (which, as earlier discussed, is not likely). While Staff never actually provides a cogent interpretation of Section 393.130.7, its repeated (and conclusory) citation to it as purported support for numerous details of Staff's proposal reveals what Staff's interpretation must be. Specifically, it is clear that Staff's view is not that LLC tariffs should "reasonably" ensure LLC's pay their fair share, or that other customers be shielded from unjust or unreasonable costs, but rather, that LLC tariffs must provide an ironclad, airtight *guaranty* that LLCs are in effect ring-fenced such that other customers practically don't know, from a tariff perspective, that they are even on the system, never mind the utility's obligation to serve all within its service territory. If Staff's view accurately reflected the standard, then by its adoption of one sentence in Section 393.130.7, the General Assembly will have undone all the economic development-related statutes it also put into place, and Governor Kehoe's signing of SB 4 will not support long-term economic development but instead, will severely hamper it.

While Ameren Missouri will not burden this Position Statement with a blow-by-blow recitation of all of the problems with Staff's proposal (including its 27 billing determinants and numerous administrative complications and hurdles¹⁷), it will summarize some of the fatal flaws in Staff's proposal here, as discussed by Mr. Wills in his Surrebuttal Testimony:¹⁸

- The rate structure is extremely complex for little, if any, benefit, which will reduce the transparency of the rate structure to prospective customers;

¹⁶ Arora Surrebuttal, p. 2.

¹⁷ Staff's proposal is a moving target as well, given that Staff apparently chose to abandon some of these billing determinants in its surrebuttal testimony, although doing so did nothing to improve the proposal.

¹⁸ Pages 3-4.

- Staff adds administrative burdens of separately registering large loads in energy markets to chase an unnecessary level of precision in tracking of very minor categories of cost;
- Staff's rate calculations are not reflective of Evergy's cost of service for a number of reasons, including:
 - The Generation Demand Charge is overstated due to the inappropriate omission of Accumulated Deferred Income Taxes and capacity sale revenues;
 - The energy charge is set to a market-based benchmark – not to the costs that will be included in Evergy's actual revenue requirement – and therefore overstates energy-related costs; and
 - The "Stable Fixed Revenue Contribution" and "Variable Fixed Revenue Contribution" charges are completely arbitrary and are also overstated due to Staff's gross up for non-existent "phantom" income taxes.
- Staff's method for triggering exit fees is wholly unreasonable and unfair to prospective customers;
- Staff's regulatory lag proposals are contrary to good regulatory policy and skew outcomes to be biased against the utility's financial interest;
- Staff's regulatory lag proposals are so mechanically flawed that they severely double-count the potential favorable regulatory lag a utility could temporarily benefit from and turn them into significant detriments; and

- The totality of Staff's rate proposal and accompanying regulatory treatment is unjust and unreasonable and will not result in a competitive environment whereby Missouri will obtain the benefit from large load customer investment in the state.

B. Can the Commission establish terms and conditions to exclude otherwise eligible customers from receiving EDR discounts?

Yes. Section 393.1640, which establishes EDR discounts, specifically allows the Commission to condition the availability of the discount: "The electrical corporation may include in its tariff additional or alternative terms and conditions to a customer's utilization of the discount, subject to approval of such terms and conditions by the commission."

C. What should be the threshold demand load in megawatts ("MW")/criteria for a large load power service ("LLPS") customer to receive service under a Commission approved LLPS tariff?

a. To the extent the threshold captures existing customers, should a grandfathering provision for such customers be adopted?

Absent evidence of a compelling need to vary from the General Assembly's determination that a 100-megawatt ("MW") threshold should apply for utilities of Evergy's size, the threshold should be 100 MW. Substantial evidence to justify a lower threshold has not been presented in this docket. Hypothetically, if the threshold captured existing customers, Ameren Missouri would support grandfathering them.

D. What other existing programs and riders should or should not be available to LLPS customers, if any?

In general, LLPS customers should be subject to other riders that are in place to cover various aspects of Evergy's cost of service, such as riders relating to the fuel and energy costs, energy efficiency costs, and renewable energy standard costs, and other similar riders. Subject to the discussion in response to Issue T below, Ameren Missouri takes no position on certain other aspects of Evergy's existing programs or riders and their application to LLPS customers.

E. Should the LLPS customer bear reasonability for its interconnection and related non-FERC transmission infrastructure costs?

a. How should such interconnection and related non-FERC transmission infrastructure costs be accounted for or tracked, if at all?

The LLPS customer should pay for the costs needed to interconnect it to the Company's transmission system. There should be no need to specially account for or track such costs. Good utility practice, which Ameren Missouri believes Evergy follows, will mean that there will be specific work orders/projects for such interconnection costs that would be available for verification that the LLPS customer was charged for such costs.

F. What minimum term of service should be required for an LLPS customer to receive service under the Commission approved LLPS tariffs?

Evergy's proposed minimum term reflects a reasonable balance of setting a term that meets LLPS customer needs while providing a long-term commitment from the LLPS customers to reasonably ensure that the Commission can conclude that the standard in Section 393.130.7 is met.

G. What collateral or other security requirements should be required for a LLPS customer to receive service under the Commission approved LLPS tariffs?

Evergy's proposed collateral terms appear to reflect a reasonable balance between reasonably ensuring that LLPS customers will meet their obligations (supporting compliance with the standard in Section 393.130.7) while also meeting the needs of LLCs.

H. What termination fee (exit fee) provision should a LLPS customer be subject to under the Commission approved LLPS tariffs?

Given Evergy's specific circumstances and the regional transmission and energy market that Evergy operates in, the termination fee (exit fee) provisions in Evergy's proposed LLC tariff appear to reflect a reasonable balance between setting termination terms that meet LLPS customer needs while providing a long-term revenue commitment from the LLPS customers to reasonably ensure that the Commission can conclude that the standard in Section 393.130.7.

I. Should any limit be placed on Evergy concerning the amount of LLPS load that it may serve?

No. Any such limit would be arbitrary. The limit proposed by Staff in this case has no basis in any evidence that suggests that limit, or any other, should be imposed. Given Missouri's

status as an integrated electric service state with defined exclusive service territories, any such limit may discriminate against LLCs who would desire service in the state in a given location and who would have no choice relating to their electric service provider in that location. Such a limit would also be contrary to the state's economic development policies and priorities.

J. Should the Commission approve Evergy's "Path to Power" approach?

a. What components of the proposed "Path to Power," if any, should be included in the Commission's approved tariff sheets?

Evergy's Path to Power approach is reasonable. The components Evergy reflected in its tariff proposal in this case are the appropriate components to include in its published tariffs.

K. Are changes needed for the Emergency Energy Conservation Plan tariff sheet and related tariff sheets to accommodate LLPS customers?

While Ameren Missouri has not carefully studied Evergy's Emergency Energy Conservation Plan and is not familiar with the details of SPP's emergency operations, the plan appears to be similar to Ameren Missouri's plan. There does not appear to be a need to make changes to Evergy's tariff in this regard because, as Ameren Missouri understands it (which would be the case for Ameren Missouri), LLPS customers would be subject to curtailment in an emergency just as any other non-essential customer would be.

L. What studies should be required for customers to take service under the LLPS tariff?

None. Ameren Missouri agrees with the Evergy's position as discussed in Evergy witness Kevin Gunn's Surrebuttal Testimony.

M. Should a form customer service agreement be included in the Commission approved LLPS tariffs resulting from this case?

Ameren Missouri believes a Large Load Tariff that is designed to be fair and reasonable to all customers does not then further require a form customer service agreement to be approved by the Commission.

N. Should Evergy be required to disclose information about prospective customers?

- a. If so, what review should the Commission have of prospective customers and terms applicable to specific customers?**
- b. In what case should said review occur?**

Ameren Missouri cannot speak to Evergy's situation specifically, but as a general proposition, the Commission's Staff and the Commission should have reasonable access to information about prospective customers so long as appropriate and enhanced confidentiality provisions are in place to ensure that sensitive and competitive business information is not disclosed or used in a way that would be detrimental to the utility or the prospective customers. Terms such as those contained in the Protective Order in place in Ameren Missouri's LLC tariff case, File No. ET-2025-0184, would generally be appropriate.

O. Should LLPS customers be included in the FAC?

- a. What, if any, changes should be made to Evergy's existing FAC tariff sheet?**
- b. When/in what case should these changes be made?**
- c. What if any FAC related costs should the Commission order tracked?**

Yes. The changes proposed by Evergy to flow revenues from voluntary clean energy riders through the FAC is a reasonable means by which to provide that benefit to all customers. Changes should be made in Evergy's next general rate case following a Commission order in this case. OPC's proposal to have separate FACs for large load customers and all other customers, which it only brought forward in surrebuttal testimony and which the other parties to the case therefore have had no opportunity to present evidence about,¹⁹ must be rejected. OPC's surrebuttal testimony proposal is based on flawed analysis that suggests problems that

¹⁹ Under the Commission's rules governing pre-filed testimony, OPC was required, in *rebuttal* testimony, to state all reasons why it "disagrees or proposes an alternative to" Evergy's direct case." 20 CSR 4240-2.130(7)(c).

do not exist, and further, does not sufficiently address the incredible complexity that would result from the adoption and interaction of multiple FACs. Staff's proposal to adopt an "N-Factor"-like provision in the FAC should similarly be rejected based on the regulatory lag policy considerations discussed in response to Issue R below.

P. Should LLPS customers be registered with a separate Southwest Power Pool ("SPP") commercial pricing node (subject to SPP support) or alternatively should Evergy be required to provide the Staff-recommended data (Appendix 2, Schedule 2) node?

No. Staff's proposals in this regard are a reflection of Staff's improper reading of Section 393.130.7 and its attempt to require "to the penny" accounting when there is no requirement to do so.²⁰ The costs at issue that Staff is targeting with this overly complex and administratively burdensome proposal should be quite small in the context of Evergy's revenue requirement, just as they are for Ameren Missouri.²¹ Moreover, there is no likelihood that LLCs level of imbalance costs (which Staff's proposal targets) would be systematically different than the rest of the system load, indeed it is more likely that LLCs will drive down the cost of imbalances.²² This was indeed the case when Ameren Missouri provided service to a very large customer, the nearly 500 MW Noranda Aluminum, Inc. smelter.²³ Moreover, for certain market charges, it is a mathematical certainty that such charges will be lower for all customers if there are *not* separate commercial pricing nodes.²⁴ Finally, based upon extensive experience with load forecasting, for the kinds of LLCs that are most likely to come onto to Missouri utilities' systems (including data centers), such loads should not be a cause for any increase in forecast deviations.²⁵

²⁰ See generally, Wills' Surrebuttal, pp. 14-15. 19.

²¹ Id., p. 15

²² Id., pp. 16-17

²³ Id, p. 17.

²⁴ Id.

²⁵ Id., p. 18.

Q. Should LLPS customers be a subclass of Evergy's Large Power Service ("LPS") or be a stand-alone class?

Evergy's proposal to create a new class for large load customers is reasonable and should be adopted.

R. What treatment is needed to address revenues from LLPS customers occurring between general rate cases?

There is no need for the Commission to order any specific treatment of revenues from LLPS customers that occurs during general rate proceedings. This case is about service terms for large load customers and need not be complicated with issues that are not ripe for resolution at this time. Moreover, Staff's one-side and mechanically flawed proposal is both poorly designed and unfair to the utility.²⁶

As has been admitted by Staff multiple times, there can be in certain conditions regulatory lag which is favorable to the utility and, much more commonly, regulatory lag that is unfavorable to the utility. Staff member Keith Majors has said, regulatory lag "can be beneficial to customers, as well as to utilities."²⁷ Yet Staff's proposal fails to acknowledge the regulatory lag that utilities face on a daily basis.²⁸ The proposed tracker is intentionally one sided.²⁹ The recommendation is designed to take revenues away from the utility without regard to any loss from regulatory lag that the utility may be **simultaneously** experiencing from lost depreciation expense or the ending of AFUDC from investment in its system.³⁰

²⁶ See generally, Wills Surrebuttal, pp. 37-57.

²⁷ Id., pp. 42 – 43. OPC has admitted the same. Id, p. 43.

²⁸ Id, p. 40.

²⁹ Id., p. 37.

³⁰ Id, p. 40.

Adoption of this proposal would represent a major shift in Commission policy.³¹ As OPC has stated in the past, "traditional regulatory ratemaking is predicated on the idea that over a sufficient period of time the benefits and detriments of regulatory lag balance for both the utility and the consumer; sometimes a utility will over-recover, sometimes it will under-recover."³² Here Staff sees potential for the utility to benefit and attempts to fashion a mechanism to deprive the utility of positive regulatory lag while ignoring the systemic regulatory lag utilities generally experience.³³

Staff also drastically overstates the positive regulatory lag Evergy might experience for a hypothetical 384 MW LLP customer. Staff's quantification is flawed and extremely biased on the high side for numerous reasons, including because it ignores that new large loads are likely to ramp up to their ultimate peak demand over several years and because Staff's assumed rate case timing is unrealistic.³⁴

There is no justification for this change in regulatory policy and the Commission should reject this recommendation.

S. Should the Commission approve the Evergy System Support Rider or take other steps to address cost impacts to non-LLPS customers?

Yes. For Evergy, the proposed System Support Rider appears to provide reasonable assurance that LLCs will pay a fair share and prevent unjust and unreasonable rate impacts on other customers.

T. Should the proposed additional riders be authorized by the Commission at this time

a. The Customer Capacity Rider?

b. The Demand Response & Local Generation Rider?

³¹ Id.

³² Id., p 42.

³³ Id., pp. 44-47.

³⁴ Id., pp. 47-48.

- c. The Renewable Energy Program Rider?**
- d. The Green Solution Connections Rider?**
- e. The Alternative Energy Credits Rider?**
- f. The Clean Energy Choice Rider?**

Ameren Missouri takes no position on the proposed Customer Capacity Rider, Demand Response & Local Generation Rider or the Renewable Energy Program Rider. Ameren Missouri is generally supportive of riders that will assist LLCs of meeting their real and important needs related to their clean energy goals and requirements, such as the Green Solution Connections, Alternative Energy Credits, and Clean Energy Choice Riders. With respect to the Clean Energy Choice Rider, Staff's criticisms are not well taken given that there can be no implementation of resources under such a rider without the Commission's approval, which would occur after a detailed, proposed alternative resource is proposed by an LLC, agreed to by Evergy, analyzed in the context of Evergy's integrated resource plan, and ultimately presented to the Commission for approval. Programs like the Clean Energy Choice Rider are important to LLCs and Evergy should have the discretion to pursue such arrangements, again subject to the Commission's ultimate oversight.

U. Should the Commission order a community benefits program as described in the testimony of Dr. Geoff Marke?

No. The community benefits rider is not reasonably necessary for and is completely unrelated to large load service and should not be a condition for large loads to invest in the state of Missouri. In addition, a community benefits program, if one were to be developed for a given LLC, would best be determined by the specific communities in which the customer locates.

WHEREFORE, Ameren Missouri hereby submits its positions on the listed issues in this case.

Respectfully submitted,

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**ATTORNEYS FOR UNION ELECTRIC
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff of the Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 22nd day of September 2025.

/s/ James Lowery
James Lowery