

**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                        )        No. EO-2025-0154  
Evergy Missouri West for Approval of                    )  
Tariffs Related to Service of Large Loads                )

**EVERGY’S POST-HEARING REPLY BRIEF**

Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro” or “EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West” or “EMW”) (collectively “Evergy,” “Applicants,” or the “Company”) submit this *Post-Hearing Reply Brief* (“Brief”) to the Missouri Public Service Commission (“Commission” or “PSC”):

**INTRODUCTION**

As the Signatories’ initial post-hearing briefs confirm, Evergy, Union Electric Company d/b/a Ameren Missouri (“Ameren”), Google LLC (“Google”), Velvet Tech Services, LLC (“Velvet”), Nucor Steel Sedalia, LLC (“Nucor”), the Data Center Coalition (“DCC”), Sierra Club (“Sierra Club”), and Renew Missouri Advocates d/b/a Renew Missouri (“Renew Missouri”) (individually “Signatory” and collectively “Signatories”) are all urging the Commission to adopt the Non-Unanimous Global Stipulation & Agreement<sup>1</sup> and approve Evergy’s Large Load Power Service (“LLPS”) Rate Plan, Schedule LLPS, and accompanying riders (as modified by the Agreement), pursuant to Section 393.130.7.<sup>2</sup>

Unlike Staff of the Commission’s (“Staff”) and Office of the Public Counsel’s (“OPC”) indisputably outlier positions in this case, the Agreement represents a collective recognition by a diverse group of stakeholders that Evergy has developed and submitted a cohesive bundle of large load tariff schedules and riders that “provides for just and reasonable terms, prevents cost shifting

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<sup>1</sup> Non-Unanimous Global Stipulation & Agreement (filed Sept. 25, 2025) (“Agreement”).  
<sup>2</sup> All citations are to the Revised Statutes of Missouri (2016), as amended, unless otherwise noted.

and mitigates risk for existing”<sup>3</sup> and non-LLPS customers, in accordance with Section 393.130.1 and 393.130.7.<sup>4</sup> The Agreement’s “interdependent provisions represent a carefully negotiated compromise”<sup>5</sup> “that, taken together, provide a reasonable framework for addressing new large loads,”<sup>6</sup> which “is just and reasonable and in the public interest.”<sup>7</sup> By approving the Agreement, this Commission and Missouri “open the door for unprecedented economic development opportunities within the state,”<sup>8</sup> since LLPS customers “are poised to make massive investments ... which will increase the tax base, create good paying jobs, and generate significant new revenues for utilities, allowing them to spread the fixed costs of their systems across a larger base.”<sup>9</sup>

For these reasons and those stated in Evergy’s *Initial Post-Hearing Brief*, the Commission should outright reject Staff’s improperly proposed tariffs, as they are contrary to the explicit language of Section 393.130.7, as well as undisputed economic policy in the State of Missouri.<sup>10</sup> On top of these statutory and policy violations, Staff’s (and OPC’s) proposal would improperly insert the Commission into the Company’s lawful management and ownership decisions.<sup>11</sup>

Relatedly, the Commission should reject Staff’s last-minute alternative recommendation set forth for the first time in its initial post-hearing brief.<sup>12</sup> Staff newly recommends that if the Commission rejects Staff’s original tariff proposal to instead order a tariff developed pursuant to the Agreement, such tariff “should include conditions that: (1) require the tracking of revenues and expenses to a regulatory deferral account to be addressed in future general rate cases, (2) adopt

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<sup>3</sup> See DCC Initial Brief at 3.

<sup>4</sup> See Evergy Initial Brief at 4.

<sup>5</sup> See Velvet Initial Brief at 4.

<sup>6</sup> See Nucor Initial Brief at 3.

<sup>7</sup> See Google Initial Brief at 1.

<sup>8</sup> See DCC Initial Brief at 3.

<sup>9</sup> *Id.* at 1; Google Initial Brief at 18; Evergy Initial Brief at 2.

<sup>10</sup> See Evergy Initial Brief at 5-6; Google Initial Brief at 19.

<sup>11</sup> Evergy Initial Brief at 2; OPC Initial Brief at 78 (“Commission’s Staff is tasked simply and solely with advising the Commission.”)

<sup>12</sup> See Staff Initial Brief at 5. OPC likewise improperly advances new arguments by agreeing to certain provisions of the Stipulation but proposing modifications to them. See OPC Initial Brief at 29 (the “Commission should adopt the collateral requirement of the Stipulation but modified in accordance with the testimony of Dr. Marke.”).

Staff's approach with respect to the Fuel Adjustment Clause ("FAC"), and (3) do not approve the proposed riders at this time, as they can be developed and approved in separate dockets if needed."<sup>13</sup> Staff's and OPC's post-hearing attempts to hijack the Stipulation yet again violates the plain language of Section 393.130.7, along with the Commission's evidentiary Rules (20 CSR 4240-2.130(7) and (10)) and the Signatories' right to due process.<sup>14</sup> Staff's and OPC's recommendations that the Stipulation be approved with their own respective conditions were not addressed in pre-filed testimony, their Position Statements, or in hearing testimony. Tellingly, Staff and OPC are distancing themselves from Staff's unsupported tariff proposal from its Staff Report and Recommendation ("Staff Rec."), including Staff's misalignment with Missouri economic development policy and opinion that large load customers are simply not "worth the risk."<sup>15</sup> The Commission should ignore these never-before-presented arguments as procedurally improper and lacking competent evidence in support.

Moreover, as discussed herein and on pages 21-22 and 25-26 of Evergy's *Initial Post-Hearing Brief*, conditions (1) and (2) should be substantively rejected for the reasons discussed in Issues R and O, respectively. Regarding Staff's condition (3), the Commission should not order a separate workshop or other docket requiring Evergy and the Signatories to work with Staff and OPC "to finalize tariffs for EMM and EMW which reflect the general terms, rate structures, and pricing recommended by Staff."<sup>16</sup> A workshop "could take several months or more," which could "create

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<sup>13</sup> See Staff Initial Brief at 5.

<sup>14</sup> See 20 CSR 4240-2.130(10) ("No party shall be permitted to supplement pre-filed prepared direct, rebuttal, or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing."); *Mathews v. Eldridge*, 424 U.S. 319, 333 (Feb. 24, 1976) ("The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner.").

<sup>15</sup> See Ex. 200, J. Busch Rebuttal at 5.

<sup>16</sup> See Staff Initial Brief at 5-6; Evergy Initial Brief at 6.

delay and harmful [impact] to the state’s economic development efforts ... inconsistent with Senate Bill 4, codified at Section 393.130.7.”<sup>17</sup>

Similarly, Evergy opposes OPC’s new and unsupported recommendation that the Commission “open a new docket to allow collaborative discussion of the issues found here and in Ameren’s LLPS docket (ET-2025-0184).”<sup>18</sup> Such a process would inject undue delay, blur utility-specific records, and improperly enmesh the Commission in joint tariff design beyond its regulatory role and contrary to Section 393.130.7 (“each electrical corporation ... shall develop and submit to the commission schedules ...”) (emphasis added).<sup>19</sup> Necessarily, the Commission should also reject OPC’s recommendation for the Commission to align its report and orders for this proceeding and Ameren’s large load case ET-2025-0184, because doing so would unduly burden and interfere with Evergy’s lawful business management decisions and strategy, including Evergy’s strategic timing in filing its tariff to capture imminent economic development opportunities in its service territory. The Commission’s regulatory powers are comprehensive, but utilities retain the right to manage their own affairs so long as they meet legal duties, comply with lawful regulation, and protect the public interest.<sup>20</sup>

In addition, Moody’s Investor Service (“Moody’s”) has noted that “Missouri’s electric utilities have historically experienced substantial regulatory lag particularly during elevated investment periods.”<sup>21</sup> As discussed, there is an immense “elevated investment” opportunity from large load customers, so any further delay (regulatory lag) in the Commission’s issuance of its final

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<sup>17</sup> See Velvet Initial Brief at 16-17.

<sup>18</sup> See OPC Initial Brief at 80.

<sup>19</sup> See Google Initial Brief at 22-23.

<sup>20</sup> Id.

<sup>21</sup> See Moody’s Ratings, *Evergy, Inc. Update to credit analysis after rating affirmation*, Credit Opinion at 4 (May 21, 2025).

order would materially harm Evergy’s and Missouri’s competitiveness and credit investment, while prospective large-load customers actively “shop” jurisdictions.<sup>22</sup>

Evergy and the Signatories have provided substantial evidence on the record for the Commission to approve the Agreement, without modification, while simultaneously opposing Staff’s (and OPC’s) diametrically opposed tariffs.<sup>23</sup> As such, the Agreement resolved all issues regarding the terms and conditions of the tariff proposal, as set forth in issues C,<sup>24</sup> D,<sup>25</sup> E,<sup>26</sup> F,<sup>27</sup> G,<sup>28</sup> H,<sup>29</sup> I,<sup>30</sup> J,<sup>31</sup> Q,<sup>32</sup> S,<sup>33</sup> and T<sup>34</sup> of the *Jointly Proposed List of Issues*.<sup>35</sup> The Company’s position on these issues is unchanged from the Agreement, so the remainder of this brief will address Staff’s and OPC’s arguments as to the unresolved issues A, B, K, L, M, N, O, P, R., and U.

### **REMAINING ISSUES FOR THE COMMISSION’S RESOLUTION**

#### ***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?***

The Commission should adopt the Agreement, as it is a negotiated and “comprehensive agreement on the fundamental structure of Schedule LLPS, including applicability provisions, service terms, capacity provisions, pricing mechanisms, and optional riders.”<sup>36</sup>

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<sup>22</sup> See Evergy Initial Brief at 6-7; Ex. 102, J. Martin Direct (adopted by Jason Klindt) at 5. See also Moody’s Ratings, *Evergy Missouri West, Inc. Update following rating downgrade*, Credit Opinion at 2 (May 2, 2025) (“A downgrade could be considered if there are adverse regulatory or legislative developments in Missouri resulting in increased regulatory lag or lower returns.”).

<sup>23</sup> See Nucor Initial Brief at 2; Velvet Initial Brief at 3; Google Initial Brief at 1; Ameren Initial Brief at 1-2; DCC Initial Brief at 3; Renew Mo. Initial Brief at 2;

<sup>24</sup> See Agreement at 2.

<sup>25</sup> *Id.* at 11-12, 18-20.

<sup>26</sup> *Id.* at 2-3, 21.

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Id.* at 12-18.

<sup>29</sup> See Agreement at 6-7.

<sup>30</sup> Evergy, as a regulated investor-owned utility operating under the Missouri regulatory compact, may not reduce, restrict, or refuse service to customers within its certificated service territory because doing so would be contrary to Section 393.130.3. Therefore, limiting the amount of LLPS load that Evergy may serve violates Section 393.130.3.

<sup>31</sup> See Agreement at 21.

<sup>32</sup> See Ex. 106, K. Gunn Supporting Testimony at 17.

<sup>33</sup> *Id.* at 10-13.

<sup>34</sup> See Agreement at 11-12, 18-20.

<sup>35</sup> See Jointly Proposed List of Issues (Sep. 18, 2025).

<sup>36</sup> See Velvet Initial Brief at 4-5.

As discussed on pages 7-12 of Evergy’s *Initial Post-Hearing Brief* and throughout other Signatories’ initial post-hearing briefs, the Agreement “is consistent with the plain language of Senate Bill 4” (codified by Section 393.130.7), Missouri’s economic development policy, and “industry norms,” and “provides consistency across Evergy jurisdictions.”<sup>37</sup> OPC’s assertions that a handful of provisions in the Agreement expose Missouri ratepayers “to more risk than those in other states” are misguided.<sup>38</sup> Again, the Signatories represent a diverse group of stakeholders including “utilities, large industrial customers, data center operators, environmental advocates, and consumer representatives.”<sup>39</sup> Additionally, Evergy did not develop its tariffs “in a vacuum,” unlike Staff and OPC.<sup>40</sup> The “suite of customer protections” in the “Agreement reflect similar protections established by utilities in other states experiencing a surge in interest from large load customers.”<sup>41</sup> For example, as shown in Table 1: Comparison of Key Consumer Protection Terms Across Various Utility Jurisdictions on page 8 of DCC’s initial post-hearing brief, the “Agreement aligns with widely accepted standards and stakeholder expectations” “proposed or adopted in other jurisdictions.”<sup>42</sup> Of course, the Agreement is modeled after the parties’ proposed settlement in the parallel proceeding of Missouri’s direct competitor, Kansas.<sup>43</sup>

Conversely, Staff’s post-hearing claim that its tariffs “strike a balance in the treatment of potentially wildly diverse customers” is contradictory to former Staff Director Mr. Busch’s hearing testimony, where he explained that Staff did not receive any input from large load customers or other stakeholders when developing its “novel” tariffs.<sup>44</sup> By admission, Staff’s tariffs were

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<sup>37</sup> Id. at 4.

<sup>38</sup> See OPC Initial Brief at 20, 23, 28, 70.

<sup>39</sup> See Evergy Initial Brief at 6-7; Velvet Initial Brief at 3-5, Google Initial Brief at 18-19; DCC Initial Brief at 11; Renew Mo. Initial Brief at 1-2.

<sup>40</sup> See Ameren Initial Brief at 2.

<sup>41</sup> See DCC Initial Brief at 7-8.

<sup>42</sup> Id.; Google Initial Brief at 13-14.

<sup>43</sup> See Evergy Initial Brief at 1, 4; Google Initial Brief at 13.

<sup>44</sup> See Evergy Initial Brief at 8 (citing Tr. 215:7-22, 263:19:264:12 (J. Busch)); Staff Initial Brief at 7.

“developed in a silo”<sup>45</sup> “without a comprehensive stakeholder engagement process or a thorough analysis of comparable tariffs from other jurisdictions and lacks important cost of service study and rate-case modeling.”<sup>46</sup> Moreover, Staff has not provided testimony showing that it vetted the impacts on non-LLPS customers or existing customers, cross-subsidization risk, or simply any analysis that its approach is superior to the emerging industry standards exemplified in DCC’s Table 1.<sup>47</sup> Staff would not be able to know if its tariffs “strike a balance” for “diverse customers” “without going to customers and seeking input on what Staff was going to propose.”<sup>48</sup>

Regarding rates, as discussed in Evergy’s *Initial Post-Hearing Brief*, the Agreement provides clear billing transparency and near-term price certainty.<sup>49</sup> The Agreement’s rate structure, centered on energy sales, “includes carefully calibrated demand charges and a Cost Stabilization Rider designed to ensure that those new LLPS customers substantially cover the costs to serve them.”<sup>50</sup> See Section 393.130.7. As additional customers connect to Evergy’s system, total energy consumption will rise, allowing the Company’s fixed costs to be spread over a larger number of kilowatt-hours, thereby lowering average costs for all customers.<sup>51</sup>

In direct contrast, Staff’s claim that its rate structure “avoids reliance on complex and highly discretionary mechanisms” is unfounded, as Staff failed to demonstrate how its “charges better align cost causation with revenue responsibility, are more responsive to customer actions to manage bills, and are easier to understand and administer than” the Agreement’s rate structure.<sup>52</sup> As demonstrated throughout several Signatories’ initial post-hearing briefs,<sup>53</sup> Staff’s rate structure proposal is “overly

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<sup>45</sup> See DCC Initial Brief at 3.

<sup>46</sup> See Google Initial Brief at 19.

<sup>47</sup> Id.; DCC Initial Brief at 8; Velvet Initial Brief at 6.

<sup>48</sup> See Ameren Initial Brief at 3.

<sup>49</sup> See Evergy Initial Brief at 8-9.

<sup>50</sup> See Velvet Initial Brief at 5; Google Initial Brief at 8-10.

<sup>51</sup> See Evergy Initial Brief at 9.

<sup>52</sup> See Staff Initial Brief at 6-7.

<sup>53</sup> See Evergy’s Initial Brief at 9-12; Ameren’s Initial Brief at 11-27 (demonstrating the extreme complexity of Staff’s rate structure).

complex, onerous, and unfair”<sup>54</sup> when compared to “any other large load tariff nationwide.”<sup>55</sup> Staff proposes a wholesale overhaul, reliant on complex determinants and unproven departures, from the current trending methodology, without evidentiary support. Staff’s original design creates 25 pricing components, including a Load-Serving Energy Charge, Variable and Stable Fixed Revenue Contributions, Demand Deviation and Energy Imbalance Charges, and an SPP Capacity Shortfall Rate, many of which are dependent on tracking deviations to execute billing.<sup>56</sup>

As discussed by Google and DCC, the Fixed Revenue Contributions arbitrarily inflate customer bills by 24.77% to collect 120% of cost-of-service without a supporting cost study, risking over-recovery of fixed costs.<sup>57</sup> However, Staff’s pricing proposal bears no resemblance to the floor for economic development discounts pursuant to Section 393.1640 and therefore creates “an arbitrary mark up over Staff’s calculated variable and fixed costs.”<sup>58</sup> The Capacity Shortfall Rate improperly assigns systemwide capacity penalties to a single class even though shortfalls reflect aggregate system conditions.<sup>59</sup> The Load-Serving Entity Charge is merely a placeholder as Staff admits it lacks a defined cost basis and calculation.<sup>60</sup> Moreover, Staff double-counts labor expense and omits Accumulated Deferred Income Taxes (“ADIT”) from its production-related demand cost calculations.<sup>61</sup>

Further, as discussed in Evergy’s *Initial Post-Hearing Brief*, Staff appeared to abandon its original design mid-proceeding in favor of two late-stage options: (1) a fixed energy rate option;

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<sup>54</sup> See Google Initial Brief at 20.

<sup>55</sup> See DCC Initial Brief at 11.

<sup>56</sup> See Google Initial Brief at 20-21.

<sup>57</sup> Id.; DCC Initial Brief at 13.

<sup>58</sup> See DCC Initial Brief at 13.

<sup>59</sup> See Google Initial Brief at 20-21.

<sup>60</sup> Id.

<sup>61</sup> See DCC Initial Brief at 13; Ameren Initial Brief at 20.



and (2) an Optional Energy Agreement. Both are overly complex and unworkable, and neither meets LLPS customers' needs.<sup>62</sup>

First, the fixed energy rate option layers multiple adders and adjustments that materially inflate effective average dollars per kilowatt per hour and introduce substantial billing uncertainty. Staff's surrebuttal fixed-rate proposal would materially increase LLPS energy charges compared to both its original filing and Evergy's.<sup>63</sup> Although Staff initially quoted fixed charges of \$0.055/kWh (EMM) and \$0.053/kWh (EMW), the all-in averages under its original proposal were \$0.0789/kWh and \$0.0650/kWh.<sup>64</sup> As demonstrated, the average charges at a 100% load factor rise to \$0.1138/kWh and \$0.0958/kWh, roughly 42% (EMM) and 47% (EMW) above Staff's own original levels, and well above Evergy's \$0.0692/kWh (EMM) and \$0.0660/kWh (EMW).<sup>65</sup>

The Optional Energy Agreement is no real option for customers seeking certainty because it effectively exposes LLPS customers to wholesale market volatility for the term. Ameren explains that Staff's approach "is to use wholesale market prices to set the energy charge for large load customers," which "is simply wrong, and produced a Staff-recommended energy charge that is too high and not reflective of Evergy's cost of service."<sup>66</sup> As Ameren succinctly frames the Commission should ask: "If I were going to invest billions of dollars in a rate regulated state ... would I want a significant component of my bill exposed to market forces, over which I have little control, for 12 to 17 years or would I prefer ... prudently incurred costs? Logically, the answer is that they would prefer the latter."<sup>67</sup> Given these complexity and volatility concerns, both options are impractical, unworkable, and should be rejected.

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<sup>62</sup> See Evergy Initial Brief at 10-11.

<sup>63</sup> Id.

<sup>64</sup> Id.; Ameren Initial Brief at 13.

<sup>65</sup> See Evergy Initial Brief at 10-11.

<sup>66</sup> See Ameren Initial Brief at 24.

<sup>67</sup> See Ameren Initial Brief at 13.

Regarding the optional riders proposed in the Agreement, contrary to the unsupported positions of Staff and OPC, now is the time to approve them because “rejecting the riders without offering a viable near-term alternative, risks driving large load customers to other service territories that can meet their clean energy and speed-to-power needs.”<sup>68</sup> These riders position Missouri to compete effectively for economic development, as they are standard components of large-load tariff design nationwide.<sup>69</sup> In addition, the riders provide broader benefits, offsetting revenues and reducing capacity needs and system stress, which benefit all customers, not just large load customers.<sup>70</sup> Because Staff’s proposal disconnects charges from actual costs and omits clean-energy or renewable options, it will be unattractive to large load customers and deprive ratepayers and Missouri of the significant benefits those customers deliver.<sup>71</sup> The absence of avenues to meet corporate clean-energy goals in Staff’s proposal further erodes Missouri’s competitiveness for future investment.<sup>72</sup> Furthermore, Staff’s latest post-hearing position is even contradictory to its rider rejection argument, because the Agreement is an integrated settlement whose compromises depend on the riders.<sup>73</sup> Staff cannot promote its tariff proposal excluding riders, while also advocating for a new alternate proposal consisting of the Stipulation (including the riders) plus non-negotiated conditions.<sup>74</sup>

In sum, if the Commission were to adopt Staff’s (and OPC’s) proposals, Missouri would indeed erect a “closed for business” sign on its large load customer investment, thereby “depriving the state of tax base, investment and related economic activity and jobs” LLPS customers would bring to the state.<sup>75</sup> As stated by Governor Mike Kehoe when enacting Senate Bill 4, the economic

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<sup>68</sup> See Renew Mo. Initial Brief at 9; OPC Initial Brief at 51; Staff Initial Brief at 41-42; Google Initial Brief at 19.

<sup>69</sup> See Renew Mo. Initial Brief at 9.

<sup>70</sup> Id.

<sup>71</sup> See Google Initial Brief at 22.

<sup>72</sup> Id.

<sup>73</sup> See Staff Initial Brief at 5; Agreement at 11-12, 18-20.

<sup>74</sup> See Staff Initial Brief at 5.

<sup>75</sup> See Ameren Initial Brief at 9.

development policy regarding Section 393.130.7 is “to attract new industry, support job growth, and maintain affordable, reliable energy for our citizens.”<sup>76</sup> Notably, in announcing the State’s recent partnership with Lambda, a superintelligence computing developer, Governor Kehoe said the following: “Missouri is proud to welcome Lambda as they create new, high-quality jobs and strengthen our state’s technology and innovation ecosystem ... [t]heir decision to grow here demonstrates the confidence that leading companies have in our people, our infrastructure, and our pro-business environment. It’s been said that AI is the space race of our time, and we must win. Data centers are the future and critical to our continued ability to drive technological innovation, strengthen our economy, and safeguard our national security interests. Partnerships like this ensure Missouri remains at the forefront of America’s winning strategy.”<sup>77</sup>

Therefore, the Commission should disregard Staff’s (and OPC’s) proposals and instead approve the Agreement in this proceeding based upon the competent evidence presented in this record on the whole.

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

No. OPC and Staff contend that the Agreement’s Cost Stabilization Rider (“CSR”) simply charges back the economic development rider (“EDR”) discount to LLPS customers, yielding a net-zero effect while adding unnecessary complexity.<sup>78</sup> On that premise, those parties urge the Commission to reject the CSR altogether and instead categorically prohibit LLPS customers from accessing the EDR, asserting that Section 393.1640.1(2) grants the Commission broad discretion to approve “additional or alternative terms and conditions” to tariffs and, by extension, to bar LLPS customers from utilizing the discount.<sup>79</sup>

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<sup>76</sup> See Every Initial Brief at 2.

<sup>77</sup> See Missouri Dept. of Economic Development, “*Lambda To Establish AI Factory Facility In Kansas City*,” (Oct. 28, 2025).

<sup>78</sup> See Staff Initial Brief at 12-14; OPC Initial Brief at 8, 14, 61-62.

<sup>79</sup> Id.

However, as discussed in Evergy's *Initial Post-Hearing Brief* at 12-13, Staff and OPC improperly ignore Section 393.1640's obligatory language of "shall" when claiming that the Commission may exclude eligible customers from receiving EDR discounts.<sup>80</sup> Additionally, Evergy is implementing the approach Staff and OPC identify as legally permissible under Section 393.1640.1(2).<sup>81</sup> Evergy (the electrical corporation) is including in its Schedule LLPS (tariff) "additional or alternative terms and conditions" (the CSR) to an LLPS "customer's utilization of the [economic development rider] discount."<sup>82</sup> Specifically, Evergy conditions LLPS service with a non-bypassable CSR that prevents the LLPS customer from realizing the discount on its balance sheet and thereby eliminates any subsidization of LLPS customer costs by non-LLPS or existing customers.<sup>83</sup> Under the Agreement, the CSR is calculated by comparing estimated base rate revenue with estimated final bill revenue before applying other riders or discounts, adding a dollar-per-kW charge if the final bill would otherwise fall below base rate revenue, which ensures LLPS customers substantially cover their cost to serve.<sup>84</sup> Thus, the CSR constitutes the "additional or alternative terms and conditions" Staff and OPC reference and, by design, precludes LLPS customers from receiving any net benefit under the EDR, because such customers are guaranteed the discount pursuant to Section 393.1640.

Accordingly, the Commission is not statutorily permitted to exclude eligible customers from receiving an EDR discount but should approve Evergy's "additional or alternative terms and

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<sup>80</sup> Id.; Tr. 155:4-25 (K. Gunn – Chair Hahn).

<sup>81</sup> See OPC Initial Brief at 14 (citing 393.1640.1(2) "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.").

<sup>82</sup> See Agreement at 10.

<sup>83</sup> Id.

<sup>84</sup> Id.

conditions’ as to prohibit customers of the size necessary to take on LLPS tariff from receiving service under the EDR.”<sup>85</sup>

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

No. As discussed in Evergy’s *Initial Post-Hearing Brief* on pages 13-15, Staff’s and OPC’s proposal to modify Evergy’s Emergency Energy Conservation Plan to expressly include LLPS customers misreads Evergy’s Rules and Regulations.<sup>86</sup> The Emergency Energy Conservation Plans for EMW and EMM, Sections 8 and 17 of the entities’ Rules and Regulations, respectively, allow the Company to notify “customers” when the plan is implemented. And, “customer” is defined broadly to include any person taking a class of service under one rate schedule.<sup>87</sup> By default, all customers are treated alike for emergency curtailment unless designated as “essential services.”<sup>88</sup> The recommendation proposed by Staff and OPC ignores that many LLPS customers provide essential services, making any effort to single them out as a “first line of defense” for mandatory curtailment arbitrary and unduly discriminatory.<sup>89</sup> Therefore, because the existing tariff sheets adequately accommodate LLPS customers, no additional language or requirements are needed and any such proposed should be rejected.

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

As discussed in Evergy’s *Initial Post-Hearing Brief* on pages 15-17, OPC’s recommendation that the Commission order the evaluation of the total harmonic distortions, Power Usage Effectiveness (“PUE”), and Water Usage Effectiveness (“WUE”) for LLPS customers to

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<sup>85</sup> See OPC Initial Brief at 14.

<sup>86</sup> *Id.* at 68-70; Staff Initial Brief at 25.

<sup>87</sup> See Google Initial Brief at 24.

<sup>88</sup> *Id.* (“Staff and OPC’s recommendations ignore the fact that many LLPS customers provide essential services.”).

<sup>89</sup> See Velvet Initial Brief at 12 (The Agreement “does not include provisions subjecting LLPS customers to mandatory emergency curtailments, and Velvet Tech supports this outcome.”).

receive service under Evergy’s tariff is misguided.<sup>90</sup> The three studies/reporting mechanisms proposed by OPC are likely “what large load customers already publicly report.”<sup>91</sup> It “is common for large load customers to publish public reports regarding power usage and water usage.”<sup>92</sup> Moreover, the studies “have not been sufficiently vetted in this proceeding with respect to either their need, the standards to be applied, or the manner in which they be provided.”<sup>93</sup> The Commission should not order the studies proposed by OPC’s witness Marke, including that the Commission should not append them to the Stipulation as unagreed conditions, as discussed above.

Staff contends that “Evergy should conduct studies as contemplated by its proposed ‘Path to Power’ approach.”<sup>94</sup> Evergy agrees and plans to conduct the required studies, on an individualized basis, as necessary for an LLPS customer to integrate into Evergy’s electrical infrastructure, since such customers are not captured accurately in a one-size-fits-all template.<sup>95</sup>

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

No. Staff’s recommendation that Evergy adopt a “form” service agreement, contingent on Commission approval and modeled on Ameren’s proposal in ET-2025-0184, imposes unnecessary regulatory lag and oversight.<sup>96</sup> As Evergy, Velvet, and Google have explained in their initial post-hearing briefs, a form service agreement, as well as Staff’s minimum filing requirements, should not be required by Evergy because the Agreement already “requires customers receiving service under Schedule LLPS to enter into written LLPS Service Agreements” with comprehensive, standardized provisions that “provide substantial clarity on essential terms while preserving

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<sup>90</sup> See OPC Initial Brief at 40-43.

<sup>91</sup> See Velvet Initial Brief at 12.

<sup>92</sup> See Google Initial Brief at 24.

<sup>93</sup> Id.

<sup>94</sup> See Staff Initial Brief at 27.

<sup>95</sup> See Ex. 102, J. Martin Direct (adopted by Jason Klindt) at 11.

<sup>96</sup> See Staff Initial Brief at 28. OPC adopts Staff’s recommendation. See OPC Initial Brief at 36.

appropriate flexibility for customer-specific negotiations.”<sup>97</sup> The Agreement “ensures consistency across LLPS Service Agreements while allowing appropriate customization,” given that large-load customers vary markedly in operations, load profiles, facility needs, and business models, which cannot be captured in a one-size-fits-all form service agreement.<sup>98</sup>

Additionally, Staff’s recommendation that the Commission approve each individual service agreement is unwarranted and inconsistent with Section 393.130.7.<sup>99</sup> Requiring such *ad hoc* proceedings increases administrative burden and regulatory lag, which risk deterring prospective customers, thereby undermining Missouri’s economic development goals per Section 393.130.7.<sup>100</sup>

However, the Agreement provides that Evergy “and stakeholders, including OPC, Staff, and customers, will meet to determine the contents of an annual compliance report to be provided to the Commission.”<sup>101</sup> Therefore, the absence of Commission approval for service agreements does not limit the Commission’s authority to review or investigate those agreements when warranted.<sup>102</sup> Indeed, foregoing approval of each individual agreement enhances administrative efficiency by eliminating the need to relitigate issues already resolved in this proceeding and in subsequent rate cases.<sup>103</sup> As discussed, “Missouri’s electric utilities have historically experienced substantial regulatory lag particularly during elevated investment periods,” and requiring a form service agreement subject to Commission approval would exacerbate that.<sup>104</sup>

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<sup>97</sup> See Velvet Initial Brief at 12; Evergy Initial Brief at 17-18; Google Initial Brief at 24-25.

<sup>98</sup> See Velvet Initial Brief at 13.

<sup>99</sup> See Google Initial Brief at 25.

<sup>100</sup> See Evergy Initial Brief at 17-18.

<sup>101</sup> See Google Initial Brief at 24 (citing Agreement at 18).

<sup>102</sup> *Id.* at 25.

<sup>103</sup> *Id.* at 25.

<sup>104</sup> See Moody’s Ratings, *Evergy, Inc. Update to credit analysis after rating affirmation*, Credit Opinion at 4 (May 21, 2025).

***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?***

No, Evergy should not be required to disclose information about actual or prospective customers. As discussed in Evergy's *Initial Post-Hearing Brief* on pages 18-21, the Commission should decline Staff's and OPC's demand for actual and prospective customer-specific disclosures.<sup>105</sup> Instead, the Commission should adopt the Agreement's collaborative, annual, anonymized reporting, which provides transparency without undermining competitiveness or violating nondisclosure obligations.<sup>106</sup> Contrary to the position proposed by OPC, the Agreement's annual compliance report, which documents the number of new or expanded LLPS customers, as well as the Company's total estimated load enrolled under Schedule LLPS, decreases the risk of cross-subsidization of stranded assets or purchase power agreements by giving the Commission and stakeholders visibility, at least annually, into Evergy's LLPS customer enrollment and realized load.<sup>107</sup> This permits adequate long-term resource planning through Certificate of Convenience and Necessity ("CCN") filings and procurement strategies based on actual materialized load rather than prospective customers, thus decreasing cross-subsidization of costs by non-LLPS customers.

OPC's recommendation that the Commission reject the Company's "annual" reports and instead order "quarterly" reporting is not supported by any other party.<sup>108</sup> Even "Staff recommends the Commission order parties to collaborate on an annual reporting requirement for Evergy to report to the Commission and the public on its large load customers."<sup>109</sup> Staff's and OPC's arguments requiring annual reporting of Evergy's actual and prospective large load customers should be resolved by approving the Agreement.<sup>110</sup>

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<sup>105</sup> See OPC Initial Brief at 9, 34-35; Staff Initial Brief at 30-32

<sup>106</sup> Id.; Velvet Initial Brief at 13-14 (Velvet supports the annual compliance reports).

<sup>107</sup> See Evergy Initial Brief at 18-19.

<sup>108</sup> See OPC Initial Brief at 34-35.

<sup>109</sup> Staff Initial Brief at 27.

<sup>110</sup> See Agreement at 18.



***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?***

As Evergy, Ameren, and Google have explained in their initial post-hearing briefs, the Commission should reject Staff’s and OPC’s proposal regarding the FAC.<sup>111</sup> Staff’s proposal that FAC costs specific to LLPS customers be tracked and recorded as a regulatory asset or liability until the next general rate case is only permissible if such customers are registered with a separate SPP commercial pricing node.<sup>112</sup> However, this notion was recently voted down by SPP, and without a separate node, Staff admits “it is difficult to isolate the expenses caused by LLPS customers that would otherwise be flowed through the FAC.”<sup>113</sup>

OPC’s “simple, simple solution” to decrease cross-subsidization of costs by separating the FAC into two, one for LLPS customers and one for non-LLPS customers, is nothing short of complex and infeasible.<sup>114</sup> As discussed, OPC’s proposal would also require a separate commercial pricing node.<sup>115</sup> OPC concedes that “[a]bsent this treatment, it is difficult to isolate the expenses caused by LLPS customers.”<sup>116</sup> Additionally, OPC’s cross-subsidization analysis admittedly fails to consider fixed-cost contributions and other out-of-FAC benefits, including credits from new renewable/carbon-free riders that flow through the FAC.<sup>117</sup> And, requiring a second FAC in this case would run afoul of Section 386.266(5), because any approval, modification, or rejection of FAC adjustment mechanisms must occur only after a full hearing in a general rate proceeding.

Therefore, the Commission should reject Staff’s and OPC’s arguments regarding the FAC.

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<sup>111</sup> See Evergy Initial Brief at 21-22; Ameren Initial Brief at 27-26; Google Initial Brief at 26-27.

<sup>112</sup> See Evergy Initial Brief at 22; Google Initial Brief at 26.

<sup>113</sup> See Evergy Initial Brief at 22.

<sup>114</sup> See OPC Initial Brief at 14, 57.

<sup>115</sup> See Evergy Initial Brief at 22.

<sup>116</sup> See OPC Initial Brief at 58.

<sup>117</sup> See Evergy Initial Brief at 22. See also Ameren Initial Brief at 27-36.

***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?***

As discussed in Evergy’s *Initial Post-Hearing Brief*, the Commission should reject Staff’s proposal to require LLPS customers to register at separate SPP commercial pricing nodes, which conflicts with the SPP Market Working Group’s recent rejection of RR720 (SIR795).<sup>118</sup> SPP’s market is designed around aggregated utility load, not customer-level pricing nodes, and disaggregating to separate nodes would impose unjustified operational and settlement complexity, as well accounting “to the penny” that goes beyond the intent of Section 393.130.7.<sup>119</sup> Forcing a single customer into its own node wrongly assumes each kilowatt-hour is a nodal purchase, removes aggregation’s hedging benefits, and increases volatility relative to non-LLPS customers.<sup>120</sup> Separate nodes would undermine forecasting accuracy and portfolio diversification, drive larger imbalances and deviation charges, expand real-time exposure, and complicate prudent fuel cost allocation, threatening transparency and inviting cross-subsidization concerns.<sup>121</sup> As discussed by Ameren, Staff is attempting to target “energy market imbalance (or load forecast deviation) costs that are very small in the context of potentially billions of dollars of investment that may be accelerated to enable large load service.”<sup>122</sup> Creating separate pricing nodes for LLPS customers would also unduly discriminate against them contrary to 393.130.3, by potentially exposing them to “price volatility and unique charges not faced by any other embedded-cost customers.”<sup>123</sup>

In the absence of commercial pricing nodes, “Staff recommends that the Commission order each of the conditions included in Appendix 2 – Schedule 2 attached to the Staff

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<sup>118</sup> See Evergy Initial Brief at 22-24.

<sup>119</sup> *Id.*; Ameren Initial Brief at 15-16.

<sup>120</sup> See Evergy Initial Brief at 22-24.

<sup>121</sup> *Id.*

<sup>122</sup> See Ameren Initial Brief at 15-16.

<sup>123</sup> See Google Initial Brief at 21.

Recommendation.”<sup>124</sup> However, Staff provides no further analysis for its recommendation or why it proposed 17 conditions “for identifying the costs associated with the LLPS customers,”<sup>125</sup> and Staff admits this would unduly burden Evergy, Staff, the Commission, and other parties by creating additional work processes.<sup>126</sup>

The Commission should not require Evergy to register LLPS customers with separate pricing nodes or be subject to Staff’s conditions, for the reasons stated herein.

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

No special treatment is needed to address LLPS revenues between rate cases. The Commission should reject Staff’s and OPC’s recommendation of a one-way revenue tracker for LLPS customers between rate cases.<sup>127</sup> The recommendation is inappropriate and flawed because it upends a basic feature of rate-of-return regulation by confiscating positive regulatory lag while ignoring the systemic unfavorable (negative) regulatory lag.<sup>128</sup> The Commission should not permit asymmetry that absorbs declines but forbids enhancements.<sup>129</sup> Moreover, Staff’s and OPC’s quantifications are biased, assuming full-load arrival and lengthy intervals before rate resets while ignoring offsetting increases in revenue requirement and the interaction with the FAC.<sup>130</sup> The tracker would double-count revenues already returned via the FAC and, coupled with Staff’s N-Factor, strip protections against negative lag, rendering the proposal unjust and unreasonable.<sup>131</sup> Moreover, in No. EO-2019-0244, the Commission recognized it is inappropriate to establish a regulatory liability tracker when a large customer is added, stating that the implementation of a

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<sup>124</sup> See Staff Initial Brief at 34-35.

<sup>125</sup> See Ex. 201 (Staff Rec.) at Appex. 2, Sched. 2.

<sup>126</sup> See Staff Initial Brief at 34-35.

<sup>127</sup> See Evergy Initial Brief at 25-26; Google Initial Brief at 27; Ameren Initial Brief at 5, 37-41.

<sup>128</sup> Id.

<sup>129</sup> See Ameren Initial Brief at 5, 37-41.

<sup>130</sup> See Evergy Initial Brief at 25-26; Google Initial Brief at 27; Ameren Initial Brief at 5, 37-41.

<sup>131</sup> Id.

tracker designed to prevent EMW from increasing its net income between rate cases, as a result of serving Nucor under the special rate, is unnecessary and unfair to EMW. In doing so, the Company would incur substantial costs to construct new infrastructure to enable it to serve Nucor. See Report & Order at 13, In re KCP&L GMO Special Rate for Nucor, No. EO-2019-0244 (Nov. 13, 2019).

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

No. As discussed in Evergy’s *Initial Post-Hearing Brief*, contrary to OPC’s unsupported community benefits funding program recommendation, there is no demonstrable, immediate risk posed by LLPS customers, particularly data centers, that warrants such a program.<sup>132</sup> This recommendation and “program is a matter properly addressed by the Missouri legislature.”<sup>133</sup>

**CONCLUSION**

The Commission should approve Evergy’s Application, as modified by the Agreement, as well as the Agreement. The modified Application and Agreement are essential for Missouri to attract large load customers while that ensuring such customers’ rates reasonably reflect their representative share of the costs incurred to serve them, pursuant to Section 393.130.7. In doing so, the Commission should reject Staff’s (and OPC’s) tariff proposal, as it is both improper and radical, and would significantly discourage economic development in Missouri.

**WHEREFORE**, Evergy respectfully submits this Post-Hearing Reply Brief to the Commission, and requests all other relief as the Commission deems just and proper.

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<sup>132</sup> See Evergy Initial Brief at 26.

<sup>133</sup> See Google Initial Brief at 27.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 5<sup>th</sup> day of November 2025, by EFIS filing and notification, and/or e-mail.

*/s/ Roger W. Steiner* \_\_\_\_\_

Roger W. Steiner