BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro's Request for Authority to Implement A General Rate Increase for Electric Service	))))	Case No. ER-2022-0129
In the Matter of Evergy Missouri West Inc. d/b/a Evergy Missouri West's Request for Authorization to Implement A General Rate Increase for Electric Service	))))	Case No. ER-2022-0130

EVERGY MISSOURI METRO'S AND EVERGY MISSOURI WEST'S REPLY BRIEF

Roger W. Steiner, MBN 39586
Evergy, Inc.
1200 Main – 16th Floor
Kansas City, Missouri 64105
Fax: (816) 556-2110
Phone: (816) 556-2314
E-mail: roger.steiner@evergy.com

Karl Zobrist, MBN 28325
Jacqueline M. Whipple, MBN 65270
Dentons US LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Phone: (816) 460-2400
Fax: (816) 531-7545
karl.zobrist@dentons.com
Jacqueline.whipple@dentons.com

James M. Fischer, MBN 27543
Fischer & Dority, P.C.
101 Madison—Suite 400
Jefferson City, Missouri 65101
Phone : (573) 353-8647
Email : jfischerpc@aol.com

Attorneys for Evergy Missouri Metro and Evergy Missouri West

TABLE OF CONTENTS

INTRODUCTION ... 1

ISSUE NO. II: SIBLEY AAO AND NET BOOK VALUE ... 2

A. Was Evergy Missouri West's decision to retire the Sibley plant prudent? ... 2

B. What is the appropriate value for the regulatory liability from Case No. EC-2019-0200? ... 6

C. What is the amount of unrecovered investment associated with the Sibley Unit Retirements? ... 7

D. What reserve balances should be used for purposes of determining depreciation expense for Evergy West steam production units, consistent with the Commission's determination of Sibley's unrecovered investment? ... 10

1. Sibley Net Book Value ... 10

2. Sibley Decommissioning Costs ... 12

E. What is the proper amortization period for the regulatory liability related to Sibley? ... 14

F. What is the proper amortization period for the unrecovered depreciation investment from the Sibley retirement? ... 15

G. Should the net book value be included in rate base? ... 15

H. Should the Regulatory liability for Sibley include a rate of return on the undepreciated balance from the time of retirement through the rates effective in this rate case? ... 17

I. Should the unrecovered investment in Sibley earn a weighted average cost of capital return on a going forward basis? ... 18

ISSUE NO. III: RESOURCE PLANNING ... 18

A. Has Evergy been imprudent in its resource planning process? ... 18

B. Should the Commission require Evergy to conduct a full retirement study of its coal fleet using optimized capacity expansion software which identifies the optimal retirement date for each of its coal-fired units? ... 21

ISSUE NO. IV: AMI ... 22

ISSUE NO. V: FUEL ADJUSTMENT CLAUSE ("FAC") ... 27

A. Central Nebraska Public Power and Irrigation District ("CNPPID") hydro purchased power agreement ("Hydro PPA") ... 27

B. The Commission should decide this rate case before it decides the FAR case (ER-2023-0011) ... 31

ISSUE NO. XV: RATE BASE ... 34

A. Has Evergy met its Burden of Proof to permit Recovery of Capital and Operating Costs for Iatan 1, Jeffrey 1-3, and LaCygne 1-2? ... 34

ISSUE NO. XVIII: RATE DESIGN/CLASS COST OF SERVICE ... 36

A. What are the appropriate rate schedules, rate structures, and rate designs for the non-residential customers of each company? ... 36

B. What are the appropriate rate schedules, rate structures, and rate designs for the Residential customers of each utility? What is the appropriate residential customer charge? ... 37

1. Customer Charge Issue ... 38

C. What measures are appropriate to facilitate implementation of the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule? 40

1. Mandatory v. Opt-In TOU Rates 40

D. Should the Commission order Evergy to meet with stakeholders related to its rate modernization plan within 180 days after the effective date of rates in this case? 47

E. Should Evergy work to improve the education of its customers regarding the billing options and rate plans it has currently? 48

ISSUE NO. XXIII. SUBSCRIPTION PRICING PILOT PROGRAM 49

A. The Major Difference Between the Average Payment Plan and Subscription Pricing Is the Lack of any True-Up Adjustments under Subscription Pricing. 50

B. Concerns about Staff's Ability to Audit the Subscription Pricing Pilot Are Overblown. 52

C. The Subscription Pricing Pilot Program Is Lawful. 54

D. The Subscription Pricing Pilot Program Is Not Contrary to the Goals of MEEIA. 56

ISSUE NO. XLIII: STREETLIGHTING [EMW] 58

COMES NOW Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("EMM") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("EMW")(collectively "Evergy" or "Company"), and for their *Initial Post-Hearing Brief* ("Brief"), states as follows:

INTRODUCTION

Evergy has thoroughly discussed the issues in its Initial Post-Hearing Brief ("Initial Brief"), and it is unnecessary to re-iterate those arguments herein. However, a few of the parties have raised points in their Initial Post-Hearing Briefs that require a response at this time. As explained in the Evergy Initial Brief, the issues remaining to be resolved by the Commission will have a very significant impact upon the Companies and their customers.

In particular, the remaining issues include important policy decisions related to the retirement of the Sibley coal fired plant, the upgrading of Automated Meter Infrastructure ("AMI") to benefit consumers, a Rate Modernization Plan, including Time-of-Use ("TOU") Rates, tariffs focused on transportation electrification, and modernizing Evergy's residential, commercial and industrial rate structures. In addition, there are issues related to Central Nebraska Public Power District hydro purchased power agreement ("PPA") recovery; and City of St. Joseph Streetlighting issues.

Proposals made in this rate case also continue Evergy's efforts in satisfying customer needs by expanding customer choice in rates for service. Building on its 3-period, opt-in TOU rate that Evergy began offering to its customers in October 2019, Evergy now proposes additional TOU rates and a fixed bill (subscription pricing) pilot option for its customers. The Companies request that the Commission carefully review the evidence presented, reach decisions which establish just and reasonable rates, and give customers more choice in rate options and payment plans. In the current environment, Evergy's customers are requiring such choices, and not more mandates.

Finally, as has been discussed in Evergy's initial brief in this case, and EMW's Initial Brief in File No. ER-2023-0011, the Commission needs to consider the critical issue related to the deferral of fuel and purchased power costs, as required by Section 393.1655 ("PISA Statute"). With regard to this issue, EMW requests that the Commission consider the appropriate level of deferral of fuel and purchased power costs in File No. ER-2023-0011 after the Commission resolves the level of the rate increase in this case. This approach will ensure that the legislative mandates of the PISA statute will be fulfilled.

ISSUE NO. II: SIBLEY AAO AND NET BOOK VALUE

A. Was Evergy Missouri West's decision to retire the Sibley plant prudent?

As the only party arguing that EMW's retirement of Sibley Unit 3 and the rest of the Sibley generating station in 2018 was imprudent, the Office of the Public Counsel ("OPC") has failed to present sufficient facts to support its claims. The unrebutted evidence presented by the Company showed that Sibley was an unprofitable and aging coal-fired plant that had just suffered a forced outage and needed to be retired.

Although Sibley's estimated useful life had been projected to be 2040, OPC fails to grasp that this estimate was based upon 2014 data provided to the Commission in February 2016. See Ex. 114 at 27-28 (Kennedy Direct). OPC seems to believe that if Sibley 3 had just been allowed to operate, it would have run without incident but for its retirement having been "accelerated twenty-two years from 2040 to 2018." See OPC Initial Brief at 15, citing Ex. 306 at 10 (Marke).

To the contrary, at the time of its retirement in November 2018 Sibley 3 was idle, given a turbine vibration incident that occurred on September 5, 2018, and damage that EMW estimated would cost $2.21 million to repair. See Ex. 113 at 33 (Ives). As utility asset and depreciation expert Larry Kennedy testified, the retirement of Sibley "was the result of a number of factors including the economics of the

plant, the changes in technology providing for the economic development of clean generation …, national environmental requirements, and the changes in the social acceptance of coal fired generation. All of these greatly accelerated in the time between the completion of the 2014 depreciation study … and late 2018." See Ex. 114 at 28 (Kennedy Direct).

These changes were reflected in Evergy Missouri West's Integrated Resource Plan ("IRP") 2017 Annual Update, as discussed at length in the Company's initial brief. In summary, the Annual Update showed that under all modeled scenarios retiring Sibley 3 by 2019 would benefit customers with significant savings of at least $220 million on a net present value of revenue requirement basis. See EMW Initial Brief at 6-7, 11-12; Ex. 138, § 6.3 at p. 46 (2017 IRP Annual Update). OPC offers nothing to rebut this comprehensive analysis except a series of memoranda that it filed in the Company's 2017 IRP case and in the Special Contemporary Resource Planning Issues proceeding. See OPC Initial Brief at 16-20.

The only new source that OPC cites is an odd reference to an article about a herdsman and his cattle entitled "The Tragedy of the Commons" that was published in 1968, the year before Sibley came online. It is apparently cited in support of OPC's argument that the Company should have conducted a massive study of every generator in Southwest Power Pool to determine what other SPP members were doing. Id. at 12-13 & n. 1.

What is remarkably absent from the OPC brief is a discussion of the Commission's recent Financing Order in EMW's Securitization Petition which soundly rejected Public Counsel's allegations of imprudent resource planning which included the retirement of Sibley.[1]

The Commission applied the regulatory prudence standard set forth by Evergy's utility regulatory expert John J. Reed which was presented in the securitization case of Empire District Electric

[1] Report & Order, In re Evergy Mo. West, Inc. Petition for a Financing Order, No. EF-2022-0155 (Oct. 7, 2022) ("EMW Financing Order").

Company and which the Commission adopted.[2] Consistent with the principles that the Commission has followed since 1985,[3] Mr. Reed's discussion of prudence is built on four principles:

(1) Prudence relates to actions and decisions which are "reviewed and assessed" based on "the quality of decision-making";

(2) There is a rebuttable presumption of prudence where the burden of "showing that a decision is outside of the reasonable bounds falls, at least initially, on the party challenging the utility's actions";

(3) Decisions "must be judged based upon what was known or reasonably knowable at the time the decision" was made, with "the total exclusion of hindsight" or reliance on "how things turned out"; and

(4) Decisions "need to be compared to a range of reasonable behavior" because "prudence does not require perfection" or "achieving the lowest possible cost."[4]

The Commission adopted Mr. Reed's conclusion that "reasonable people can differ and that there is a range of reasonable actions and decisions that is consistent with prudence. Simply put, a decision can only be labeled as imprudent if it can be shown that such a decision was outside the bounds of what a reasonable person would have done under those circumstances."[5]

The Commission also applied these prudence principles in the Company's securitization case where it found that EMW (a) "provided sufficient evidence to determine that its resource planning, *including its decision to retire Sibley,* was reasonable at the time those decisions were made, and (b) "presented evidence that it considered multiple scenarios when deciding whether to retire its Sibley

---

[2] Amended Report & Order at 29, In re Petition of Empire Dist. Elec. Co. for a Financing Order Authorizing Securitized Util. Tariff Bonds, No. EO-2022-0040 (Sept. 22, 2022) ("Empire Amended Order").
[3] In re Union Elec. Co., No. EO-85-17, 1985 Mo. PSC LEXIS 54, *28 (1985). See Associated Nat. Gas Co. v. PSC, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997).
[4] Amended Empire Order at 29.
[5] Id.

Generator, and from the results of that analysis determined that it was economically beneficial to ratepayers to do so."[6]

By finding in the Company's securitization case that the retirement of Sibley was reasonable and prudent, the Commission rejected the "crystal ball" approach of OPC that attacked EMW for its decision "to retire [Sibley] … without considering the impact that other, similar retirements would have on the overall generating needs of the SPP or the degree of risk that this requirement would pose to Evergy's customers …." See OPC Initial Brief at 25. As the Commission said in the Amended Empire Order which it incorporated into EMW's Financing Order: "Other than showing a bad result, Public Counsel has not demonstrated any imprudence …,"[7] given that "[i]t is not possible for an electric utility to accurately plan for all extreme circumstances."[8]

OPC also argues that the Company's decision to retire the uneconomic Sibley plant was like a business cancelling "a fire insurance policy in order to save costs" which "then burns down and is lost completely," causing a "massive loss in stock value." See OPC Initial Brief at 23-24. This silly hypothetical bears no similarity to the detailed analysis that supported EMW's retirement decision, let alone the fact that Evergy suffered no "massive loss in stock value."

In contrast to OPC's arm-chair suppositions, EMW based its decision to retire Sibley 3 on the operational and economic performance of the plant. As Evergy's Ms. Messamore testified: "Sibley was in no way profitable." See Ex. 55(C)/56(P) at 8 (Messamore Rebuttal). There were some months when Sibley's energy revenues failed to cover its fuel costs, without even counting its O&M costs and its capital costs. In November 2018 when Sibley was retired, its year-to-date energy revenues were $26

---

[6] EMW Financing Order at 32 (emphasis added).
[7] EMW Securitization Order at 32.
[8] Id. at 30.

million, its fuel costs were $23 million, and its non-fuel O&M costs were $29 million. That was a net loss of $26 million *before* any of its capital costs were considered. Id.

Although OPC's Initial Brief avoids a direct discussion of Winter Storm Uri, given the prudence standard's prohibition on the use of hindsight, it is one of the primary arguments that OPC asserts in its testimony. Public Counsel specifically cites Winter Storm Uri, the extreme blizzard that occurred in February 2021 – over two years after the retirement of Sibley in November 2018 – to justify its claim of imprudence. See Ex. 306 at 11 (Marke Direct); Ex. 308 at 72 (Marke Surrebuttal); Ex. 302 at 30 (Mantle Rebuttal). Although OPC concedes there "is no way to accurately plan for all extreme circumstances" and acknowledges that "in the short-term the fuel and purchased power costs that [EMW] incurs are out of its control," it argues that this is "one of the assumed risks for which the Commission has rewarded Evergy West for years." See Ex. 302 at 11, 13 (Mantle Rebuttal). This argument is the essence of judgment based on hindsight and "how the decisions turned out," and clearly violates the Commission's prudence standard. See Ex. 129 at 6-7 (Kennedy Rebuttal).

EMW's decision to retire the uneconomic coal-fired Sibley station and to rely on energy purchased from SPP and on capacity contracts with Evergy Metro, Inc. was prudent. It reflected least-cost planning based on a range of expected values and other information available at the time. EMW's decisions were "within the mainstream of electric utility conduct, consistent with industry norms, and in line with what a reasonable utility should do." See Ex. 124 at 22 (Reed Surrebuttal). OPC's arguments to the contrary must be rejected.

B. What is the appropriate value for the regulatory liability from Case No. EC-2019-0200?

As stated in EMW's Initial Post-Hearing Brief, still no party disputes that if the Commission agrees with the Company and Staff that Sibley's net book value is $145,657,225[9] at June 30, 2018, then

[9] If this net book value is approved by the Commission, the amount allocated to the Missouri jurisdiction rather than for FERC is $145,161,990. E.g., Ex. 261 at 7 (Cunigan Surrebuttal/True-Up Direct).

the value of the regulatory liability from Case No. EC-2019-0200 would be calculated as $39,020,260 in non-fuel operations and maintenance ("O&M") expenses and $49,540,308 in revenues. See Ex. 46 at 9 (Klote Surrebuttal); Tr. Vol. 8 at 195:16-196:25 (Majors); see also Staff Initial Brief at 12-13. For the reasons stated in the Company's initial brief and herein, the return on amount of $49,540,308 should not be included in the regulatory liability (i.e., should not be returned to customers) because the Company's investment in and retirement of Sibley were prudent and beneficial for customers. Accordingly, the appropriate value of the total regulatory liability is $39,020,260.

C. What is the amount of unrecovered investment associated with the Sibley Unit Retirements?

As discussed in Evergy's Initial Post-Hearing Brief, Staff and the Company agree that the competent evidence in these proceedings establishes Sibley's net book value ("NBV") at $145,657,225 as of June 30, 2018. See, e.g., Staff Initial Brief at 13.

MECG and OPC maintain that Sibley's NBV is $300 million as of June 2018, arguing this is somehow "proven" because Staff's true-up accounting schedules in the Company's 2018 rate case included the simple allocation methodology historically used in the Company's plant accounting system. See MECG Initial Brief at 4-6; OPC Initial Brief at 32. However, as stated in Evergy's and Staff's Initial Post-Hearing Briefs, Staff's accounting schedules are not used to determine depreciation rates, so cannot logically be relied upon to determine Sibley's NBV. See Tr. Vol. 8 at 187:16-25, 221:25-222:14, 231:7-232:20 (Majors); see also Staff Initial Brief at 14-15 ("It should be noted that Staff and EMW were the only parties to calculate, model, and produce depreciation rates and schedules. Regardless of what OPC and MECG say, the appropriate NBV is not a straightforward, obvious figure.").

Nor can MECG hamstring the Commission into relying on Staff's 2018 true-up accounting schedules simply due to the regulatory liability language the Commission used in establishing its Sibley

accounting authority order ("AAO"). Rather, Sibley's net book value was not required or determined in the Sibley AAO case, and it was not even at issue in the settled 2018 rate case. See Tr. Vol. 8 at 233:2-234:13 (Majors); see also Staff Initial Brief at 15-16 ("If the calculation was as clear as OPC and MECG claimed, it would have been simple for parties to produce so the Commission could order a number for the NBV during the complaint case"; "It's also an over-simplification to say the $300 million was what the 2018 rates were based upon and therefore is the correct figure. . . . The Stipulation and Agreement did not include a specific value for the NBV of Sibley.").

Further contrary to MECG's and OPC's re-imagining of prior proceedings, Mr. Spanos' unit- and location-level calculations also did not have a rate impact in the 2018 rate case because, consistent with treatment in prior years, they were "grouped together" into aggregate amounts of reserve balances that were used to set rates. Id. at 221:25-222:14; see also Staff Initial Brief at 16-17 ("Only aggregate amounts of reserve balances are used to set rates, so Mr. Spanos' calculations to determine individual unit plant balances and reserve balances would not have impact[ed] what rates were based upon in the last case."). As Staff witness Mr. Majors testified, "quite honestly, there wasn't a lot of questioning until this case on the reserve that we put in the accounting schedules" for the 2018 rate case, and determining Sibley's net book value is "just not as simple as going to the 2018 EMS run and pulling that figure." Id. at 231:7-232:20. MECG also appears to relatedly argue that Mr. Spanos could not point to how Sibley's NBV was built into customer rates, but this is MECG's same red herring—it is undisputed that Mr. Spanos is Evergy's depreciation expert and has never been responsible for Staff's accounting schedules or developing customer rates. See Tr. Vol. 8 at 187:16-25, 221:25-222:14, 231:7-232:20, 233:2-234:13 (Majors).

MECG's and OPC's argument is additionally misleading since neither has ever disputed that during the Company's last three rate cases in 2014, 2016, and 2018, the Commission's depreciation

practices were transitioning from the whole life method with no life spanning of generating facilities to the remaining life method including life spanning of generating facilities. See Tr. Vol. 8 at 132:24-133:20; 139:2-19 (Spanos). As a result, the Company informed the parties for many years that, except for the relatively new Iatan 2 unit, the Company's plant accounting system that tracked total accumulated depreciation did not maintain generation reserves on a unit or location basis other than by the simple allocation process. Id. (Spanos); Tr. Vol. 8 at 194:16-195:5 (Majors). Specifically, it is undisputed that the Company also informed the parties of the simple allocation process in response to Staff's data request 0027T in the 2018 rate case. See Tr. Vol. 8 at 191:4-192:1 (Majors); Ex. 132. This data request and response were issued well before the Commission's decisions approving stipulations in the 2018 rate case, as well as before OPC and MECG filed their petition case for an AAO related to Sibley. See Tr. Vol. 8 at 192:20-193:9 (Majors).

And again, as a result of the Stipulation in this proceeding, the parties have all agreed that "[t]he company will record and track depreciation reserve for generating facilities on an individual unit/location basis" in its fixed asset system. See Aug. 30, 2022 Stipulation and Agreement at 10, ¶ 11(c). The Stipulation is evidence itself that despite the hope of MECG and OPC that the Commission will establish a much higher net book value for Sibley (which would in turn lower depreciation rates), all parties understand that the Company's accounting system did not previously track generating facilities on an individual unit or location basis, and agree that the Company will implement such capability going forward to avoid any similar dispute in the future. In doing so, EMW will continue to be required to rely upon depreciation studies prepared by Mr. Spanos, its depreciation expert, due to the transition to remaining life and lifespan treatment for generating facilities.

Ultimately, MECG and OPC tellingly sidestep that it is nonsensical that after the Company's initial investment of about $400 million, Sibley Unit 3 would retain a net book value of $300 million

despite its operation for approximately 50 years. See Tr. Vol. 8 at 139:2-19; 143:22-144:22 (Spanos). Under that scenario, the Company would have recovered only about 25% of its original investment by the end of the Sibley Station's nearly six-decade lifespan. Id. This illogic is not eased by the fact that in the 1990s to early 2000s, the Company made improvements to Sibley to convert its use of high-sulfur to low-sulfur coal and to install selective catalytic reduction equipment for controlling nitrous oxide emissions. As Staff witness Mr. Majors testified, "even with those improvements, you're still faced with if you believe in the 300 million, it's still two-thirds undepreciated. That, on a high level, doesn't make all that much sense." Tr. Vol. 8 at 217:12-218:12 (Majors).

Therefore, MECG's and OPC's arguments advancing an unsupported and illogical Sibley NBV should be rejected.

D. What reserve balances should be used for purposes of determining depreciation expense for Evergy West steam production units, consistent with the Commission's determination of Sibley's unrecovered investment?

1. Sibley Net Book Value

Per EMW's Initial Post-Hearing Brief and the discussion herein, the Commission should approve the recovery of the net book value associated with the Sibley plant as presented in EMW's Depreciation Study (June 30, 2021), including the reserve balances calculated therein. Mr. Spanos' study reflects the most appropriate calculation of the net book value of Sibley's assets which EMW should be able to recover. See Ex. 72 at 25-26 (Spanos Rebuttal); Ex. 73 at 9-11 (Spanos Surrebuttal).

MECG contends the Commission should use the reserve balances from the Company's 2018 rate case even though MECG acknowledges that "accumulated depreciation balances increase overtime," because MECG claims "Evergy has attempted to decrease the accumulated depreciation reserve balances for" its other "generating units to account for a portion of the undepreciated balance from the Sibley unit retirements." See MECG Initial Brief at 8-9. MECG offers nothing in support of

this assertion beyond the inadmissible speculation of its witness Mr. Meyer and whimsical citations to William Shakespeare's Romeo and Juliet. And again, Staff's true-up accounting schedules from the 2018 rate case do not include the actual "reserve balances" despite MECG's attempted mislabeling; rather, the schedules contain the simple allocation from the Company's plant accounting system.

As detailed in Evergy's Initial Post-Hearing Brief, depreciation reserves by unit or location (i.e., net book values for particular generating facilities) were developed by Mr. Spanos and his firm based on methodologies that have been used and approved by the Commission for rates at the account level since the Company's 2014 rate case. See Tr. Vol. 8 at 132:24-133:20; 139:2-19 (Spanos). Once the lifespan and remaining life methods were approved by the Commission, Mr. Spanos continued to assign actual book reserves at the location/unit level based on all rates that have been in place (the actual amount of accumulated depreciation incurred through rates for all steam production assets), and the appropriate life parameters of each asset known at the time of the Company's rate cases. Id. at 325:9-326:1, 327:17-329:5, 332:1-6. Mr. Spanos's methodologies have remained constant since 2014, and Sibley's net book value was even then "much less than $300 million." Id. at 139:23-141:7, 143:22-144:22 (Spanos); Ex. 130 at 3-4 (Spanos Rebuttal in ER-2016-0156).

Staff witness Mr. Cunigan agreed that he could not say Mr. Spanos's "method was different from what he presented in 2018. It was different from Staff's accounting schedules and what was present in Staff's accounting schedules" because in Staff's 2018 schedules "the accounts are all mingled for the locations, and so I can't say that [depreciation reserve] actually changed in accounts. It's just the way that it appears on our tracking of it." Tr. Vol. 8 at 251:13-252:7. And, Mr. Cunigan noted that "it is the timing of the reallocation that makes it seem if this was done back in 2019, it wouldn't have been as big of an issue." Id. at 253:20-254:6. Accordingly, while MECG witness Mr. Meyer's actual math regarding depreciation reserves can be checked and his calculations can be re-run to reach the

same sums, as Staff witness Mr. Cunigan testified, "I would agree with the [e]ffect. I can't agree with the reasoning." Tr. Vol. 8 at 252:3-253:1 (Cunigan). MECG's arguments should be rejected.

2. Sibley Decommissioning Costs

In addition, it is undisputed that the Company incurred $37,257,169 to decommission and dismantle the Sibley station, which has been completed. See Ex. 46 at 6-8 (Klote Surrebuttal/True-Up Direct). These costs have been recorded to the steam production reserve accounts pursuant to the FERC Uniform System of Accounts ("USoA") requirements and are included by the Company in rate base. Id. at 7-8. The recovery of these costs from customers through inclusion in rate base and through prospective depreciation rates is reasonable and necessary, given that the Commission has historically approved and continues to approve depreciation rates that do not include recovery for terminal net salvage value. Id.

However, while it appears undisputed that EMW should receive a return of these costs,[10] the other parties would have the Commission provide no return to Evergy on these expended costs, without any explanation beyond declaring that Sibley is no longer used and useful. But the Missouri "Supreme Court has long recognized that affording a utility's investors a reasonable return on their investments is among the Public Service Commission Act's fundamental purposes." State ex rel. Aquila, Inc. v. PSC, 326 S.W.3d 20, 31 (Mo. Ct. App. W.D. 2010) (affirming PSC order that allowed return on unamortized deferred Sibley assets, noting rate base treatment was appropriate in light of "the delay in recovery of those expenses due to a Commission-imposed 20-year amortization period"). The Missouri Supreme Court has so held for nearly 100 years:

---

[10] Missouri's and other jurisdictions' public utilities commissions allow a return of a utility's investment in retired plant. See, e.g., State ex rel. Office of Public Counsel v. PSC, 293 S.W.3d 63, 76 (Mo. App. S.D. 2009) (affirming PSC order allowing amortization to recover costs of retired software system); Application of Southwestern Elec. Power Co., 2018 Tex. PUC LEXIS 59, *34-*36 (Tex. P.U.C. 2018); Application of Southwestern Elec. Power Co., 2022 Tex. PUC LEXIS 308, *17-21 (Tex. P.U.C. 2022); In re Southwestern Elec. Power Co., 2022 Ark. PUC Lexis 131, *30-42 (Ark. P.S.C. 2022).

> The enactment of the Public Service Act marked a new era in the history of public utilities. Its purpose is to require the general public not only to pay rates which will keep public utility plants in proper repair for effective public service, but further to insure to the investors a reasonable return upon funds invested. The police power of the state demands as much. We can never have efficient service, unless there is a reasonable guaranty of fair returns for capital invested. The woof and warp of our Public Service Commission Act bespeaks these terms. The law would be a dead letter without them, and a commission under the law, that would not be the law in the proper spirit, would be breathing into it the flames of ultimate deterioration of public utilities. These instrumentalities are a part of the very life blood of the state, and of its people, and a fair administration of the act is mandatory. When we say "fair," we mean fair to the public, and fair to the investors.

State ex rel. Washington Univ. v. PSC, 272 S.W. 971, 973 (Mo. 1925); see also In re St. Joseph Railway, Light, Heat & Power Co., No. 8684 (Mo. P.S.C. 1934) ("property rendered obsolete … by reason of improvements made in the public interest" allowed a ten-year amortization); In re Missouri Cities Water Co., 1964 Mo. PSC Lexis 160, No. 15,325 (Mo. P.S.C. 1964) (PSC found "that, due to the unusual conditions with respect to the extraordinary requirements required at the Warrensburg system, the company's proposal to amortize the net loss over a 10-year period, or $2,754 per annum, is not unreasonable.").

Indeed, no party has disputed that any other result would be both unjust and unreasonable since, again, these costs have not been provided for in depreciation rates and reflect the prudent and necessary costs of dismantling the Sibley station. Id. at 6-7 (Klote Surrebuttal/True-Up Direct). Had there been adequate final retirement treatment provided for through depreciation rates when the plant was operating, there would not be as significant of an increase in rate base when recording the actual final retirement costs. Id. at 7. Because there was not, this increase in net plant has been included in rate base at the true-up in this rate case and ultimately should be recovered like all other capital expenditures, which includes both a return on amount and a return of amount included in depreciation expense. Id. at 7-8. As described in EMW's initial brief and herein, to deny the earlier opportunity to recover the

final retirement costs and then to preclude a return on the final retirement investments would forego adequate recovery for almost $40 million in necessary costs incurred to safely and appropriately retire generating units, contrary to appropriate ratemaking treatment. Id. at 7. The fact that the other parties do not even address this lopsided paradigm in arguing for exclusion of these costs in rate base underscores the unreasonableness of their conclusory recommendations—which should be rejected.

E. What is the proper amortization period for the regulatory liability related to Sibley?

As discussed in EMW's Initial Post-Hearing Brief, the only regulatory liability that it is appropriate to amortize back to customers is the $39,020,260 recorded to defer amounts in 2018 rates for the non-fuel O&M. The proper amortization period is four years, which is the same period in which the revenues were collected from customers. See Ex. 44 at 43 (Klote Direct); Ex. 129 at 13 (Kennedy Rebuttal). OPC takes no position on this specific issue regarding a four-year amortization. MECG still does not oppose the Company's proposal of a four-year amortization period, but MECG's calculations also still assume inappropriately that the regulatory liability should include the return on collected revenues in rates and also still utilize the incorrect $300 million NBV figure to calculate the return on regulatory liability, which should be rejected for the reasons stated in EMW's initial brief and herein. Staff maintains its position that the Commission should either offset the regulatory asset by the $49,540,308 rate of return portion of the regulatory liability or not include the Sibley NBV in rate base, while amortizing the residual regulatory asset over five years. See Staff Initial Brief at 11. Since Staff's reasoning behind the proposed offset or alternative non-inclusion in rate base is flawed as detailed in EMW's Initial Post-Hearing Brief and in this brief, and since Staff's five-year amortization period does not match the period in which revenues were collected from customers, it should likewise be rejected.

F. What is the proper amortization period for the unrecovered depreciation investment from the Sibley retirement?

As explained in the Company's Initial Post-Hearing Brief, the proper amortization period for the unrecovered net investment is 20 years, which is consistent with the original planned life of Sibley Unit 3. See Ex. 44 at 44 (Klote Direct); Ex. 72 at 22 (Spanos Rebuttal); Ex. 129 at 14 (Kennedy Rebuttal). OPC took no position on this issue in its pre-filed testimony or at hearing, but suddenly argued in its initial post-hearing brief that "the Sibley plant and/or the Sibley AAO should be amortized over a 17 year period." See OPC Initial Brief at 39-40. This argument was never made before in this case and is not supported by any evidence, so it should be discarded by the Commission. Again, no other party specifically disagrees with the proposed 20-year period. MECG recommends 20 years as well, but again, its calculations incorrectly assume a $300 million net book value of Sibley. Staff again recommends an arbitrary five-year amortization period resulting from its proposed inappropriate treatment of the regulatory liabilities for revenues collected to recover O&M and return on Sibley unrecovered net investment, as discussed above and in EMW's initial brief. For the reasons discussed initially and herein, MECG's and Staff's treatment should be rejected.

G. Should the net book value be included in rate base?

As detailed above and in EMW's initial brief, the Sibley net book value recommended by Staff and the Company should be included in rate base. See Ex. 129 at 13-14 (Kennedy Rebuttal); Ex. 72 at 21-22 (Spanos Rebuttal); Ex. 73 at 11 (Spanos Surrebuttal). OPC is still the only party asserting any imprudence in Sibley's retirement, and arguing that the Commission should thus disallow the remaining Sibley unrecovered investment balances and a "return on" any remaining Sibley plant balances. However, the Commission cannot adopt OPC's unsupported position. The only competent evidence in this proceeding establishes that Sibley's retirement was prudent, which no other party disputes. See Ex.

114 at 13-31 (Kennedy Direct); Ex. 129 at 3-5 (Kennedy Surrebuttal); Ex. 124 at 15, 21-22, 24 (Reed Surrebuttal); see also EMW Securitization Order at 28-33.

Once more, MECG only argues for a significantly higher net book value and asserts that no rate of return should be allowed over the 20-year amortization period because Sibley is not "used and useful." Mr. Meyer's calculations and reasoning are fundamentally flawed and should be rejected, as explained in the Company's Initial Post-Hearing Brief and herein.

Staff continues to recommend a "sharing of the risk" for the unrecovered capital costs of the Sibley station as of its retirement date in rates between EMW's shareholders and customers. See Ex. 254 at 2 (Majors Rebuttal). Staff would accomplish this by having rates include an amortization of the Sibley net book value at the time of retirement, but not include a "return on" unamortized amounts. Id. There is no basis for Staff's suggestion because Sibley's undepreciated book balances were prudently incurred and reflect investments in Sibley that were made on behalf of customers. In addition, as discussed earlier, EMW's decision to retire Sibley was also prudent and was made based on analyses that indicated significant benefits for EMW's customers. See Ex. 40 at 11 (Ives Rebuttal).

Staff ignores this reality, contending Sibley is not used and useful, so the Commission does not have to consider prudence. But again, the Missouri "Supreme Court has long recognized that affording a utility's investors a reasonable return on their investments is among the Public Service Commission Act's fundamental purposes." State ex rel. Aquila, Inc. v. PSC, 326 S.W.3d 20, 31 (Mo. Ct. App. W.D. 2010) ("[W]e believe that allowing recovery of a rate of return on expenses which are properly recoverable, during the delay in recovery of those expenses due to a Commission-imposed twenty-year amortization period, is a reasonable exercise of the Commission's ratemaking authority."). Furthermore, Staff inexplicably ignores that customers are not penalized if the Sibley net book value is included in rate base. When it was no longer economic to run Sibley, it was retired. This created

demonstrable savings in the IRP analyses for customers as compared to continuing to operate an expensive, uneconomic power plant whose costs greatly exceeded its revenues. See Ex. 42 at 5-6 (Ives Surrebuttal); Ex. 55(C)/56(P) at 6-8 (Messamore Rebuttal). Staff's arguments are defective and should not be adopted by the Commission.

H. Should the Regulatory liability for Sibley include a rate of return on the undepreciated balance from the time of retirement through the rates effective in this rate case?

No. As described in the Company's initial brief and above, the investments in Sibley were prudent and were made for the benefit of customers. The retirement of Sibley was prudent and was made based on IRP analyses demonstrating significant benefits to customers would result from the retirement. The $49,540,308 regulatory liability tracked since the Commission's order in the AAO case was appropriately collected as a return on prudently incurred investments made in a prudently retired generating facility that served Missouri customers for on average over 50 years. It would be inappropriate to return these tracked amounts to customers and inconsistent with what the Commission's determination must be on the net unrecovered Sibley investments in this case, which should be included in rate base to be recovered from customers over 20 years. See Ex. 129 at 11-14 (Kennedy Rebuttal). As discussed, OPC, MECG, and Staff argue against including the Sibley net book value in rate base thus precluding a rate of return on the undepreciated balance under differing analyses, each of which fail for the reasons detailed above. However, no party has disagreed that the return on this investment is supported by the Company's demonstration that it considered and met the criteria of the well-established prudence standards, that such investment was made on behalf of customers, and that customers benefitted from the Company retiring an uneconomic plant. See id.; Ex. 40 at 11 (Ives Rebuttal); Ex. 42 at 5-6 (Ives Surrebuttal).

I. Should the unrecovered investment in Sibley earn a weighted average cost of capital return on a going forward basis?

The unrecovered investment in Sibley should earn a weighted average cost of capital return on a going-forward basis. See Ex. 129 at 13-14 (Kennedy Rebuttal); Ex. 73 at 11 (Spanos Surrebuttal). Although unclear, OPC seems to present a new alternative in its initial brief based on Section § 393.1015 which applies only to gas corporations. See OPC Initial Brief at 30-31. EMW assumes this argument was erroneously included in OPC's brief as this statute does not apply to it or other electrical corporations, but, in any event, the Commission should reject OPC's argument. MECG and Staff do not address this specific issue in their initial briefs other than to generally recommend disallowance, which fails for the reasons discussed above.

ISSUE NO. III: RESOURCE PLANNING

A. Has Evergy been imprudent in its resource planning process?

In contrast to OPC's argument that the Evergy's resource planning and the retirement of EMW's Sibley plant was imprudent, Sierra Club comes to a different conclusion. Although it also criticizes Evergy's resource planning, Sierra Club alleges that the Company was imprudent because it has not retired *more* coal plants. See Sierra Club Initial Brief at 5-7, 10-12.

Sierra Club is the only party claiming that Evergy's resource planning was imprudent regarding six of its existing and fully operational coal plants: LaCygne 1 (873 MW), LaCygne 2 (685 MW), Jeffrey Units 1 through 3 (740 MW each), and Iatan 1 (726 MW). These plants represent over 4,500 MW of total capacity, of which approximately 1,700 MW is relied upon by Evergy Metro and Evergy Missouri West.

Sierra Club's radical proposal seeks the disallowance of over $100 million in expenses for these plants which represent 1,700 MW of capacity for EMM and EMW.[11] See Ex. 450 at 4-5 (Glick Direct); Ex. 55(C) & 56(P) at 12 (Messamore Rebuttal). Specifically, Sierra Club urges the Commission to disallow all capital and O&M costs incurred at the plants during the test year of these cases. Id. at 11 (Messamore Rebuttal).

Entirely lacking in Sierra Club's Initial Brief is a discussion of how its draconian proposal to gut Evergy's coal fleet would enhance system reliability and ensure the delivery of safe and reliable power to its customers. This is particularly disturbing given Southwest Power Pool's recent decision to raise its planning reserve margin from 12% to 15% for the 2023 summer season.[12] This was endorsed by the SPP Regional State Committee at its July 25, 2022 meeting.[13]

Kayla Messamore, Evergy's Vice President of Strategy and Long-Term Planning, testified that Sierra Club "simply compares costs to market values of energy, ancillary services, and capacity," concluding that "if costs are greater than total revenues, the continued operation of the plant must be imprudent." Id. The analysis "completely ignores the fact that" Evergy must "have sufficient economic capacity" to serve customers, as well as to "meet reserve margin requirements." Id. at 11-12. Ms. Messamore observed that Sierra Club's analysis contained no "assessment of costs for replacement capacity," especially over the long-term, and that "not including" such an assessment was "ridiculous." Id. at 12. In response, Sierra Club argued that it "valued capacity at Evergy's mid-point capacity contract," apparently concluding that this is sufficient. See Sierra Club Initial Brief at 13.

[11] Sierra Club's Initial Brief does not distinguish between its Issue III Resource Planning claims of imprudence and its Section XV Rate Base claims that the recovery of capital and operating costs for these coal plants is imprudent. To avoid making the same arguments twice, Evergy addresses general prudence issues in this section, making specific points regarding the coal plants in Section XV.

[12] "US Southwest Power Pool OKs plan to raise planning reserve margin to 15%," Megawatt Daily at 4-5 (July 26, 2022); Minutes of SPP Reg'l State Comm. (July 25, 2022), available at www.spp.org/spp-documents-filings.

[13] The SPP report is posted under Agendas/Minutes/Presentations as "8-31-2022 SPP Update" at www.psc.mo.gov/General/Agendas.

However, it is wholly insufficient and another example of Sierra Club's academic approach to resource planning. "This type of analysis completely ignores the fact that the Companies ultimately need to have sufficient economic capacity of some type to serve customers and meet reserve margin requirements." See Ex. 55(C) & 56(P) at 11-12 (Messamore Rebuttal).

Sierra Club's repetitive arguments regarding the Inflation Reduction Act, P.L. 117-169 (Aug. 16, 2022), cannot be used to criticize Evergy's past IRP reports or its resource planning decisions. See Sierra Club Initial Brief at 1, 3, 9, 14-16. Such arguments violate the Commission's prudence standard which forbids the use of hindsight. After-the-fact events and "subsequent information on 'how things turned out' cannot influence the evaluation of the prudence of a decision."[14] Evergy will analyze the Inflation Reduction Act in the current and upcoming IRP process, as it will consider any other legislative and policy developments that affect resource planning.

Sierra Club's complete reliance on market data in its analysis is also concerning. It criticizes the economics of Evergy's coal plant over the past five years, noting that except for "the anomalous year 2021, each of Evergy's coal plants incurred costs in excess of the value of its energy and capacity." See Sierra Club Initial Brief at 10. However, markets change. A recent report by the Energy Information Administration "forecast the U.S. residential price of electricity will average 14.9 cents per kilowatt hour in 2022, up 8% from 2021."[15] The report also "forecast that wholesale electricity prices at major power hubs will be about 20-60% higher on average this winter."[16]

This is why Evergy concluded that "none of the analyses" that Ms. Glick "presents come close to approximating an economic alternative resource plan when compared to the current IRP Preferred Plans of Evergy Metro and Evergy Missouri West." See Ex. 55(C)/56(P) at 12 (Messamore Rebuttal).

---

[14] Amended Empire Order at 29.
[15] See Short-Term Energy Outlook at 2, U.S. Energy Information Admin. (Oct. 2022).
[16] Id.

Other than raising concerns about the Companies' IRP process, Sierra Club's evidence fails to support any allegation of imprudence and its $100 million disallowance recommendation. Id.

Unless a "serious doubt" is raised regarding the utility's conduct and the expenses it has incurred, the presumption of prudence stands. State ex rel. Public Counsel v. PSC, 274 S.W.3d 569, 578 (Mo. App. W.D. 2009). Under the facts of this case, SC has not carried its burden to establish that the Commission should have "serious doubts" about Evergy's resource planning, its IRP Preferred Plans, and the operation of its coal plants. Just a few years ago the Commission rejected similar Sierra Club arguments that attacked environmental improvements to LaCygne and concluded that "prudently incurred costs" of over $292 million should be included in rate base. See Report & Order at 59-64, In re Kansas City Power & Light Co., No. ER-2014-0370 (2015).

Sierra Club has presented no credible evidence that Evergy's resource planning process is imprudent, and its arguments to the contrary must be rejected.

B. Should the Commission require Evergy to conduct a full retirement study of its coal fleet using optimized capacity expansion software which identifies the optimal retirement date for each of its coal-fired units?

Sierra Club does not discuss this issue in any detail in its Initial Brief. Given that Evergy is already using optimized capacity expansion software to analyze its generating units and will continue to do so, it appears that Sierra Club has decided not to pursue this point.

As previously stated, Evergy opposes requests that the Commission order resource planning requirements in its general rate cases when the appropriate forum for such discussion is the ongoing Integrated Resource Planning (IRP) process in which Sierra Club has been an active participant. See Evergy Initial Brief at 26-28.

Issues regarding resource planning, retirement studies, and optimized capacity expansion software belong in the IRP cases. Given the commitments that Evergy has made regarding these

matters, both here and in the IRP dockets, the Commission should not order the Company to conduct retirement studies in these proceedings.

ISSUE NO. IV: AMI

First, Staff argues that the Company has not met its burden of proof on this issue, but completely mischaracterizes the evidence when it asserts that "Evergy's own witness, Mr. Caisley, testified that customer would be financially indifferent to the AMI-SD change." (Staff Brief at 25). This is not an accurate recitation of Mr. Caisley's testimony. Mr. Caisley's testimony explained that Evergy conducted two financial reviews to validate that the AMI meter changeout to AMI-SD meters were at minimum cost neutral to customers. The first financial review evaluated the cost to purchase and install AMI-SD meters based on the changeout schedule previously described and the short-term and on-going O&M savings that would be realized due to the additional capabilities the AMI-SD meters could provide to make operations more efficient. See Ex. 21 at 10 (Caisley Rebuttal). The results indicate that from the first financial perspective, customers would be indifferent to the AMI-SD meter change. In other words, there is no financial harm to customers. However, the second financial review calculated the present value of the AMI meters installed in 2014 at $76 per meter plus the cost to install an AMI-SD meter in 2021 at $125 11 per meter. This was then compared to the cost of an AMI-SD meter in 2014 at $165 per meter. The present value comparison indicated that installing the AMI meter without SD capabilities in 2014 plus installing an AMI-SD meter in 2021 was less expensive on a comparable net present value basis than if the Company would have installed AMI-SD meters in 2014. Id.

In answer to a question from Commissioner Holsman, Mr. Caisley also explained the Company's financial analysis at length during the hearings. Tr. Vol. 9 at 373-75. During the hearings, Mr. Caisley explained that at the time of non-SD upgrade, Evergy's CIS and billing systems were not capable of unlocking many of the benefits of AMI-SD technology. Tr. Vol. 9 at 374. However, with

CIS and other system upgrades, the new AMI-SD technology made economic sense and would be fully utilized and bring additional benefits to the customers. Id.

Staff also suggests that Evergy witness Brad Lutz contradicted Mr. Caisley when he answered Data Request No. 0284 when he answered that Evergy had not quantified the benefits of AMI technology. (Staff Brief at 25). However, the data request was in reference to the multitude of benefits of AMI technology for consumers discussed in Mr. Lutz's direct testimony, and listed below. See Ex. 238, Schedule CME-r1, p. 1 (Eubanks Rebuttal). This data request did not request information that was specifically related to the financial analysis performed by Evergy for supporting the upgrade to AMI-SD technology.

OPC argues that there is a lack of benefits from either the first or the second generation of AMI meters, and that "The primary benefit of AMI meters is '[t]he ability to price electricity closer to the true cost of service through time-of-use rates ("TOU").'" (OPC Brief at 45-47) This argument demonstrates a fundamental lack of understanding of the myriad of benefits of AMI technology.

Contrary to the assertion of Public Counsel that the primary benefit of AMI technology is the ability to bill Time of Use rates, AMI meters provide many more benefits to the consumer, the Company and its employees. Brad Lutz goes into these benefits in detail. Ex. 49 and 117 at 35-42 (Lutz Direct). The new meters not only came with remote disconnect and reconnect capabilities, but a host of other technological advances that coupled with Evergy's new CIS system provide a host of customer benefits. Some of those benefits are being realized today and others are planned for the future. Many of these benefits have been summarized at a high-level in the table below:

AMI Benefits	CURRENT STATE	FUTURE STATE
Remote Meter Reading Capabilities Provides Data & Additional Data Opportunities	✓	
Reduces Labor for Manual Meter Reading Activities	✓	
Reduces Safety Risks for Employees Conducting Manual Reading Activities – Hostile Customers or Dogs	✓	
Remote Meters Create Smaller Percentage of Estimated Bills	✓	
Increases Customer Satisfaction and Reduces Customers Wait Times with Automated Turn-On/Reconnect/Disconnect	✓	
Automates Debt Collection Disconnection – Reduces Truck Rolls for Collection Orders	✓	
Temperature Alarms Reduce Potential for Meter Socket Fires	✓	
Supports Outage Notifications with Estimated Restoration Times and Restoration Alerts for Customers Electing this Feature	✓	
Proactive Notices & Alerts Reduce Contact Center Call Volumes	✓	
Voltage Load Profile Data Promotes Better Energy Delivery Options	✓	
Increases Safety with Visibility of Line & Load Side Voltage	✓	
Sag/Swell Alarms Support Systems Operations with Delivering Energy to Customers	✓	
Over the Air Programming for Automated Meter Changes for Alarms or Rate Changes	✓	
Analytics for Revenue Protection, Condition-Based Meter Maintenance, and Distribution Operation Insights	✓	
Enables Offerings for New Pricing Options for Customers – Time of Use Rates & Real Time Pricing	✓	
Supports Load Research & Forecasting	✓	
MEEIA Programs	✓	
Allows Customers to Download Usage to Perform Their Own Analysis	✓	
Provides Current State & Predictive State of Distribution Transformers		✓
Promotes Validation of GIS Connectivity Models		✓
EV Detection Promotes Understanding of Impact of EV on System and Supports Creating New Rate Options		✓
Increases Accuracy for Phase Mappings in GIS Systems		✓
Identifies Overloaded Transformers		✓
Supports Prepay and/or Pay-As-You-Go Options		✓
Home Energy Calculator Assists Customers with Evaluating Private Solar Options Insights		✓

Usage Alert Tools Provide Customers with Opportunity to Monitor and Minimize Bill Impacts	✓	
Home Energy Calculator Assists Customers with Evaluating Private Solar Options Insights		✓
Usage Alert Tools Provide Customers with Opportunity to Monitor and Minimize Bill Impacts	✓	

Ex. 21, pp. 31-32 (Caisley Rebuttal).

OPC also asserts that customers are not receiving benefits from the One CIS billing system. This assertion is absolutely untrue. The new billing system has been providing many benefits which the Commission and parties fully reviewed and evaluated in KCP&L and GMO's 2018 rate case. While the 2018 rates cases ultimately settled,[17] the investments were added to rate base without any disallowances. This is not an issue in this case.

Evergy has discussed many of the benefits of AMI technology in its Initial Brief and it is not necessary to repeat them here. However, it is important to recognize that AMI with disconnect and reconnect capabilities, in particular, allows the Company to utilize electronic communications and deploy remote procedures that eliminate the need for Company personnel to make physical contact. Id. at 38. It allows for faster reconnection of customer's service when an arrears bill has been paid. These changes result in lower costs, better collections, fewer on-premise incidents and fewer collection errors. In addition, disconnection and reconnection fees can be drastically reduced for customers with this AMI meter capability. Id.

Once disconnected, the customer no longer has to call back into the contact center to request service restoration if they are served by the newer AMI technology. When a minimum payment is received, a reconnection order is sent immediately, and the customer's service is typically back on

[17] *Order Approving Stipulations*, Re KCP&L and GMO rate cases, File Nos. ER-2018-0145 and ER-2018-0146 (issued Sept. 18, 2018).

within 15 minutes. This includes during after hours, weekends, and holidays. These are clear benefits to the customer if they have the newer AMI technology that allows remote reconnection.

OPC also makes the unsupported claim that Evergy "is gold plating their distribution investments in meters." (OPC Brief at 47) The Commission should reject this claim out of hand. It is true that Evergy has been at the forefront in introducing AMI technology in Missouri. Tr. Vol. 9 at 384-85. As discussed above, the AMI technology has produced and will produce in the future many benefits for the customer Evergy's employees, and other stakeholders. Evergy has been encouraged by the Commission and other stakeholders to introduce TOU rates which require AMI technology. But to claim that Evergy has been making unnecessary investments merely to expand rate base is not supported by the record, is sensationalism without support and should be dismissed by the Commission.

OPC also makes the outrageous accusation that Evergy has attempted "to hide the [AMI-SD] investments from regulators. (OPC Brief at 49) Evergy fully explained the benefits of AMI technology in its rate case filing (See Ex. 49 and 117 at 35-42, Lutz Direct; Ex. 19 and 107 at 8-12 (Caisley Direct), More importantly, the Company makes investments every day that it does not necessarily address in testimony in rate cases. This accusation is untrue and should be rejected out of hand.

OPC also raises an allegation that Dr. Marke first included in his surrebuttal testimony in a manner that left it impossible for the Company to address in pre-filed testimony that Evergy had potentially exceeded the annual PISA spend limits on AMI meters. (OPC Brief at 53-54) Dr. Marke's referenced tables are misleading and contain significant errors. First, certain of the data contained in the table are estimated instead of actual amounts. Next some of the denominators in OPC's tables contain the capital expenditure totals for grid modernization only not the total capital expenditure spend amount. An example of this is in 2020 the $228 million amount for EMM in 2020 should instead be $277 million. This larger denominator reduces the impact of meters to total capital expenditures.

Finally, OPC's tables do not reflect how meters are purchased and installed. Meters are typically purchased in large lots and then installed over several months to years. This is consistent with the PISA statute (393.1400.4 RSMo.) which provides that the purchase **and** installation of smart meters shall constitute no more than six percent of the electrical corporations total capital expenditures during any given year. Because the OPC chart lists the amount of meters purchased but not necessarily installed in a calendar year, it does not reflect the purchase and installation timeline that the Company experienced and can't be used to support the assertion that the six percent cap was exceeded.

EMM and EMW have provided two different financial analyses supporting its AMI replacement decisions and have provided significant testimony describing the myriad of benefits to customers from the AMI-SD meter deployment. As such the companies respectfully renew their request that the Commission decline to disallow any of the costs of upgrading the AMI service, as discussed herein.

ISSUE NO. V: FUEL ADJUSTMENT CLAUSE ("FAC")

A. Central Nebraska Public Power and Irrigation District ("CNPPID") hydro purchased power agreement ("Hydro PPA")

Staff claims at p. 32 of its initial brief that the Hydro PPA is not used and useful to Missouri customers as Missouri customers are not receiving a service or benefit from it. OPC makes similar claim at p. 59 of its initial brief. However, Staff witness Fortson admitted that the Hydro PPA has been serving EMM's Missouri customers from the inception of the PPA in 2014. Tr. 955, lines 10-11 and Company witness Nunn testified that it is used to serve Missouri load. (Tr. 917, lines 1-3) Moreover, Staff's fuel run lists the Hydro PPA as contributing to the total load of EMM. Ex. 335, (surrebuttal fuel run workpapers of Staff witness Shawn Lange) shows that Staff modeled the Hydro PPA as part of the EMM's total load. Staff and OPC's unsubstantiated and clearly inaccurate assertions in their initial briefs of the Hydro PPA not being used and useful should be dismissed out of hand. The Hydro PPA can be demonstrated to be in Missouri customer rates and utilized in providing service to Missouri

customers over the first nine years of the ten-year contract. Staff and OPC's argument of not being used and useful heading into the tenth and final year of the contract is arbitrary and capricious and should be denied.

Both Staff and OPC attempt to make much of the fact the Hydro PPA meets certain Kansas regulatory requirements. But just because the Hydro PPA had its origins in meeting a Kansas requirement does not mean that EMM customers should not pay for the service they receive under the PPA. The Hydro PPA was entered into in a prudent manner and has been serving both Missouri and Kansas customers for many years. In a previous settlement with Staff and OPC, EMM agreed to reduce the level recovered in Missouri to the market level through the FAC calculation, the exact same position that EMM has advocated in this proceeding, however it is inappropriate, nonsensical and would likely be a taking for this Commission to remove the net costs completely and expect Kansas to pay for the entirety of the Hydro PPA when Missouri customers are benefitting from the MWhs produced.

OPC even argues at p. 62 of its initial brief, that because EMM can attempt to recover the costs solely from Kansas customers under a specific Kansas statute, EMM won't be harmed by any disallowance of the Hydro PPA imposed by this Commission. Section 66-1259 K.S.A. does provide that the Kansas Corporation Commission (KCC) shall allow affected utilities to recover reasonable costs incurred or committed to be incurred as a result of compliance with the renewable energy resource requirements, OPC's argument unfairly assumes it knows the outcome of a future KCC proceeding. Other parties to any KCC proceeding under section 66-1259 will likely argue that the full amount of the recovery should be limited since the Hydro PPA has been and is currently being used to serve EMM's Missouri customers as has been shown in this proceeding. The argument might very well be that such a recovery would not be reasonable under the statute since Missouri customers received the benefit and therefore should be paying for the resource. OPC's speculative arguments on how the KCC would

interpret a statute and decide a case cannot be relied on by this Commission to make its decision on OPC's and Staff's removal of the Hydro PPA costs.

Both Staff and OPC state that the energy and capacity from the Hydro PPA are not needed to meet SPP load requirements. While this may be the case at a point in time, the Hydro PPA is still dispatched by SPP and Staff's fuel run (Ex. 335) recognizes this fact by listing it as part of EMM's load. For example, Staff recognized that there can be times when other EMM units may not be able to be dispatched by SPP due to transmission outages and transmission congestion. Tr. 981, lines 6-10. When these instances occur, the Hydro PPA can be called upon to serve EMM customers. Since the Hydro PPA is used to meet the needs of EMM's customers, the Company is requesting that these customers pay for the market portion of it. Moreover, just because a generating unit is currently not used 100% of the time to serve load does not mean it should be disallowed from base rates. This is a hindsight analysis and requires perfect resource planning years in advance- which is an impossible standard to meet. The Hydro PPA is in year nine of a ten year contract term and has been included in base rates since 2014. Tr. 918, lines 12-19.

OPC surmises at p. 60 that the Hydro PPA will end before EMM files its next rate case and therefore the costs of the Hydro PPA should be removed from the cost of service. First, OPC does not know when the Company will file its next rate case and it ignores the true- up methodology adopted in this case by making this "expiration" argument. The Hydro PPA was in existence during the true- up period established in this case and as such it should be included in EMM's cost of service. When the Hydro PPA does expire the cost of the Hydro PPA will no longer be paid for by EMM ratepayers as it will no longer be dispatched by the Company. Once the Hydro PPA expires it will be replaced by some other supply source to meet the EMM load. This is how the FAC works- when resources are added or removed, the costs of the removed and/or new resources are appropriately addressed in the FAC. Thus,

OPC's argument that the Hydro PPA needs to be removed in the rate case because it may not be used to serve customers before EMM files its next rate case does not make sense given the operation of the FAC. Finally, even if the Hydro PPA expires before EMM files its next rate case, OPC's argument amounts to saying that regulatory lag should only work to the detriment of the utility. Regulatory lag should work both ways since EMM operates in a regulatory environment that relies on historical test years and periodic rate cases.

OPC argues at p. 61 of its initial brief that when the Hydro PPA expires it will cost EMM ratepayers due to 5% sharing for reduced purchased power costs in a future FAC accumulation period. OPC's cost calculation assumes that it knows what the energy market will do in the future. EMM asserts that market prices change over time and have been moving higher as of late. This means that there is no way to know the impact of moving from the Hydro PPA contract price to market price for future months. It could be that market prices begin to exceed the contract price of the Hydro PPA which would provide a benefit to the customer. To make a decision in this rate case based on future market outcomes as OPC suggests would be pure market speculation. This uncertainty is precisely why Missouri has a FAC.

OPC also argues at p. 61 that the Hydro PPA is uneconomic- that the contract price is above the market price and therefore should not be included in base rates. However this doesn't recognize that there are times when the Hydro PPA must be dispatched due to transmission issues or problems at other generation units. This argument also doesn't recognize that the Company is not seeking recovery of the contract rate of the PPA only the market rate. While EMM requests the full Hydro PPA contract costs be included in base rates in this case, the FAC tariff adjustment language effectively adjusts the costs for the Missouri customer load supported by the Hydro PPA to the market cost. This is the exact treatment afforded from the 2018 case as is demonstrated and supported by that FAC tariff Hydro PPA

adjustment language that has been in effect since that case. The Company is not seeking recovery from Missouri customers of any of the costs of the PPA that are above the market cost.

OPC argues that the Commission should rely on cost causation principles when deciding this issue. While the Hydro PPA may have been entered into to meet Kansas regulatory requirements, the Hydro PPA has been used to serve EMM's Missouri customers for many years and is currently used to provide service. One could argue that the EMM customers load is "causing" the PPA to continue to be dispatched by SPP. EMM has clearly demonstrated that Staff and OPC have inexplicably removed the costs and revenues of the Hydro PPA from EMM's cost of service but have not included any costs for the MWHs from the PPA that were included in Staff's fuel run and are available to serve EMM load. The MWHs produced by the Hydro PPA are still included in the Staff's fuel run which shows that the facility will continue to serve Missouri customers. Therefore, EMM's Missouri customers must appropriately pay for the service they are receiving.

This is all that EMM is seeking from the Commission. It is not seeking recovery at the PPA contract level or in the FAC. Like it currently happens under the existing tariff (Ex. 1000), EMM should continue to be compensated at the market rate for the Hydro PPA MWHs that are used to provide service to EMM customers.

B. The Commission should decide this rate case before it decides the FAR case (ER-2023-0011)

There is no reason why the FAR case needs to be decided before this rate case. Unlike the rate case, the FAR case does not have an operation of law date. Moreover, due to the timing of the two cases, there will be no undue delay of the decision in the FAR case by waiting until after the Commission issues its 2022 Rate Case report and order. The reply briefs in both cases have been filed on the same day (October 21, 2022) and it is likely that the Commission will issue its Rate Case report and order approximately 30 days before the December 6, 2022 effective date of rates. This means that the

Commission can know the outcome of the rate case and the specific amount of the deferral and still issue its order in this FAR filing in a timely manner.

EMW recommends that the Commission decide this rate case before deciding the FAR proceeding. This sequence will give the Commission the information it needs to quantify the amount of the deferral to the penny so that the 3% compound annual growth rate (CAGR) limit is not breached and the magnitude of the deferral is minimized. The Commission can direct the parties to calculate the deferral after it has decided the rate case which will ensure no costs are deferred beyond the amount call for in 393.1655.5 (Subsection 5). This action will also protect the Company from a confiscatory penalty under 393.1655.3 (Subsection 3) and fulfill the purpose of Subsection 5.

Although the Commission could order the deferral in this rate case , such a deferral would require the inclusion in base rates of an artificially low level of rebased fuel and purchased power (FPP) costs. Ex. 42, p. 23-24 (Ives Surrebuttal) Deferral in the rate case will understate the rebased fuel costs and result in much higher accumulation impacts moving forward out of the rate case which will create FAR volatility for customers compared to what it would be if the base is set appropriately. Id.. It would also require EMW to absorb a greater amount of FPP costs because of the 95%/5% sharing mechanism. Id. EMW does not support this approach.

Therefore, EMW recommends that the Commission decide the revenue requirement of this rate case before issuing a decision in the FAR proceeding so that it can order the precise amount of the deferral necessary to avoid breaching the CAGR cap under Subsection 5. The deferral must include the consideration of the base energy costs that will be rebased in the rate case.

As indicated on p. 66 of its initial brief, OPC wants the Commission to deny EMW's requested deferral in the FAR case. It wants the requested deferral denied so that the performance penalties under Subsection 3 will be imposed against EMW in this rate case. EMW asserts that the performance

penalties are not intended to punish a utility for increased FPP that affect rates charged under the FAC (both the FAR itself and the change in base retail rates driven by increases in base FPP/energy costs that must be rebased in base rates under the FAC Rule).

The utility performance penalty provision of Subsection 3 is unique to the PISA Law, but its purpose is clear. Given the favorable treatment that PISA afforded investments in "qualifying electric plant"[18] projects by allowing the deferral to a regulatory asset of 85% of all associated depreciable expense and return,[19] the General Assembly was concerned with the potential growth in electric utility rates. Because of this, Subsection 3 provided:

> If the difference between (a) the electrical corporation's average overall rate at any point in time while this section applies to the [EC], and (b) the [EC's] average overall rate as of the date new base rates are set in the [EC's] most recent general rate proceeding concluded prior to the date the [EC] gave notice under section 393.1400, reflects a [CAGR] of more than three percent, the [EC] shall not recover any amount in excess of such three percent as a performance penalty.

This potential penalty was intended to prevent undue increases in rates caused by the investments that PISA encourages. However, mindful of the express authority it granted to the Commission in Section 386.266 to design and authorize "rate adjustment mechanisms" related to "fuel and purchased power costs," the Legislature created an exception to the performance penalty in Subsection 5.

If the CAGR cap is exceeded due to any change in rates resulting from costs that were subject to rate adjustment mechanisms that the Commission had approved under Section 386.266, those costs will be deferred to a regulatory asset under Section 393.1400.2(1) so that the cap is not exceeded. Under Subsection 5 FPP costs would be "recovered through an amortization in base rates in the same manner as deferrals" under Section 393.1400 are recovered in base rates.

---

[18] Section 393.1655.5 requires the deferral of amounts "charged under a rate adjustment mechanism approved by the commission" under both § 386.266 (fuel and purchased power costs) and § 393.1030 (renewable energy standard costs). In this FAR case, only FPP costs are at issue and only they will be discussed in the context of the PISA statutes.

[19] See § 393.1400.2(1).

Subsection 5 was designed to be a safety valve so that costs which were properly charged and collected under such a rate adjustment mechanism would not cause the CAGR cap to be breached and would not trigger a performance penalty.

Yet, this is precisely what OPC wants to do. It wants to use FPP costs that the Commission's FAC Rule requires to be rebased in the 2022 Rate Case to trigger a penalty, despite the statute's intent and despite Missouri's clear public policy that such expenses are to be handled differently from other costs.

ISSUE NO. XV: RATE BASE

A. Has Evergy met its Burden of Proof to permit Recovery of Capital and Operating Costs for Iatan 1, Jeffrey 1-3, and LaCygne 1-2?

Sierra Club's Initial Brief combined its allegation of imprudent resource planning in Issue III(A) with its claim under Issue XV that Evergy failed to meet its burden of proof that the recovery of capital and operating costs related to Iatan 1, LaCygne, and Jeffrey was prudent. In reply, Evergy explained below in Issue III how its conduct of the resource planning process and its operation of these plants were prudent under the Commission's prudence standard.

However, because Sierra Club seeks disallowances exceeding $100 million, Evergy must stress that a series of mathematical computer runs in an arm-chair analysis that reflects little if any understanding of the reliability demands on the system cannot be the basis of a disallowance. Under any reasonable analysis Sierra Club has failed to present evidence that supports its proposed disallowances.

As explained in Evergy's Initial Brief, Sierra Club provided no evidence beyond its analysis of "a variety of historical and forward-looking costs" which were narrow and incomplete. They "simply compare costs to market values of energy, ancillary services, and capacity," and conclude "that if costs

are greater than total revenues," operating the plants "must be imprudent." See Ex. 55(C) & 56(P) at 11 (Messamore Rebuttal).

Sierra Club's position must also be viewed in the reliability context, given SPP's decision on July 25, 2022 to raise its planning reserve margin requirements from 12% to 15% in 2023.[20] Because reliable capacity must be maintained in these uncertain times, there is no reasonable basis to grant Sierra Club's request to disallow over $100 million in capital and O&M costs for these valuable plants.

In the past ten years the Commission has reviewed the operations and expenditures of the Jeffrey, LaCygne and Iatan units in multiple rate cases and has approved rates that reflect their prudent costs.[21] Environmental improvements made to LaCygne in 2015 were found to be reasonable and prudent as the Commission rejected Sierra Club's arguments that low natural gas prices at the time should have caused Evergy Metro (then KCP&L) to retire the plants.[22] The Commission concluded Evergy Metro "met its burden of proof to demonstrate that, based on the circumstances that existed at the time," it "was prudent in choosing to proceed with the LaCygne environmental retrofit project." This was clearly the right decision, particularly given the level of natural gas prices today.[23]

As Ms. Messamore concluded, there is "nothing [in the record] to support Sierra Club's allegation of imprudence or recommended disallowance." See Ex. 55(C) & 56(P) at 12 (Messamore Rebuttal). Evergy has met its burden of proof, and the proposed disallowances must be denied.

---

[20] See SPP Update (page 26), presented to Mo. Public Serv. Comm'n (Aug. 31, 2022), available at www.psc.mo.gov/General/Agendas ; "US Southwest Power Pool OKs plan to raise planning reserve margin to 15%," Megawatt Daily at 4-5 (July 26, 2022).

[21] See Order Approving Stips. & Agmts., In re Kansas City Power & Light Co., No. ER-2018-0145 & In re KCP&L Greater Mo. Operations Co., No. ER-2018-0146 (Oct. 31, 2018) (approving revenue requirement Stip. & Agmt. of Sept. 19, 2018 and the return of benefits related to Iatan units); Order Approving Stip. & Agmt. regarding Certain Issues, In re Kansas City Power & Light Co., No. ER-2016-0285 (Mar. 8, 2017) (Iatan 1 and LaCygne assets cited in Ex. A to Non-Unan. Partial Stip. & Agmt.); Order Approving Stips. & Agmts., In re KCP&L Greater Mo. Operations Co., No. ER-2016-0156 (Sept. 28, 2016) (Iatan 1 and Jeffrey depreciation rates cited in Sched. A to Non-Unan. Stip. & Agmt. filed Sept. 20, 2016).

[22] Report & Order at 59-64, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015).

[23] See Short-Term Energy Outlook at 2, U.S. Energy Information Admin. (October 2022) ("We forecast the U.S. residential price of electricity will average 14.9¢/KWh in 2022, up 8% from 2021. Higher retail electricity prices largely reflect an increase in wholesale power prices which are driven by higher natural gas prices.").

ISSUE NO. XVIII: RATE DESIGN/CLASS COST OF SERVICE

A. What are the appropriate rate schedules, rate structures, and rate designs for the non-residential customers of each company?

Staff states that this case is an opportunity to begin the modernization of Evergy's rate structures. (Staff Brief at 32). The Company agrees with Staff and urges the Commission to adopt the various rate modernization proposals it has recommended in this case. The Commission should approve the rate schedules, rate structures and rate designs proposed by Evergy for non-residential class. See Ex. 58 at 45-47 (Miller Direct); Ex. 118 at 34-39 (Miller Direct), and EMM and EMW's proposed tariffs.)

As explained in Evergy's initial brief, the Company's Rate Modernization Plan strives towards key rate design objectives which include, but are not limited to, cross jurisdictional alignment, rate simplification, and developing meaningful price signals. The Rate Modernization Plan is part of a broader strategy by the Company that considers customer choice, customer satisfaction, simplification, efficiency, and a number of other goals. The Rate Modernization Plan serves as the framework by which the Company is basing its rate proposals.

To provide meaningful data and analysis to support rate proposals, the Company has also performed a number of studies that support all recommendations made in the Company's Direct filing. The Rate Modernization Plan and the studies considered the customer, the industry, and full customer rate impacts in its design, to make sure that the collective changes in total harmonized in a manner to minimize customer disruption by allowing full understanding of not just customer billing impacts, but operational and implementation impacts to the Company to ensure it could all actually be done efficiently and effectively. Id. at 16 (Miller Rebuttal). No party has raised significant concerns with these supporting studies, and the Company will not discuss them further in this brief. However, OPC criticizes the Company for focusing "on performing numerous studies on the benefits of TOU rates." (OPC Brief at 72) This is inappropriate criticism since many of the studies were specifically requested

by OPC and other stakeholders, were much broader than merely studying the benefits of TOU rates, and other studies ordered by the Commission were not relevant to TOU rates at all. Brad Lutz discusses at length the multitude of studies that have been performed over the years, many of which were ordered by the Commission. (Ex. 49 and 117 at 3-19 (Lutz Direct).

B. What are the appropriate rate schedules, rate structures, and rate designs for the Residential customers of each utility? What is the appropriate residential customer charge?

Staff recommends that all non-lighting rate schedules should be transitioned to simple time-based TOU rate structures in this case. (Staff Brief at 32). While the Company believes that its optional TOU proposals should be adopted to give customers new TOU options, it is opposed to any rate structures that force customers onto to mandatory TOU rates. (See discussion below).

Staff recommends that duplicative rate codes should be eliminated, and distinctive rate codes should be defined within the tariff and utilized in the billing and/or metering systems. (Staff Brief at 34). Evergy generally agrees with this recommendation, and believes it has largely accomplished this goal in its proposed tariffs.

Staff criticizes Evergy's retention of the end-use rates that include restrictions for permanently installed electric spacing heating. (Staff Brief at 34) Staff goes on to state, however, that if such restrictions are not eliminated in this case, it is reasonable to lessen the winter decline in place for Residential Space Heating customers. Id. at 35.

While Evergy appreciates Staff's recommendation, the Company believes that it is premature to make any changes to the decline or incline of the residential rate structure. In this case, Evergy included a proposal to eliminate 2 meter/separately metered space heat rates and move these customers to a single

meter heat rate. In a future rate case, the Company plans to eliminate the remaining all electric rates/heat rates in Evergy Missouri Metro and Evergy Missouri West.

As explained in Evergy's initial brief, it is critical for the Company to understand the full effects of all proposals to ensure that customer impact is known and managed. The Company's ongoing plan and supporting analysis will be comprehensive, so that the bill/revenue impacts are fully known and understood and data to support those recommendations will include the collective reflection of all proposals/recommendations rather than a partial view offered by Staff. See Ex. 61 at 16-17 (Miller Surrebuttal). Said differently, too many and too dramatic of changes at one time, without adequate analysis and study, can have unintended and detrimental impacts to customers. Evergy's rate modernization plan and implementation approach mitigates these potential impacts to customers.

1. *<u>Customer Charge Issue</u>*

OPC quotes the testimony of its witness Dr. Marke for the proposition that "To state the obvious, customer-related costs should be recovered through the customer charge. These should be costs sensitive to connecting a customer irrespective of the customer's load. . ." (OPC Brief at 69). But then OPC ignores the cost information available, and recommends that "the Commission should not order a change in the customer charge." (OPC Brief at 71). Dr. Marke attempts to say the right thing but fails to follow their own guidance in making a recommendation for no change in the customer charge. If the Commission desires to make progress toward establishing a customer charge that recovers the customer-related costs (and it should), then it should reject this recommendation.

As explained in Evergy's initial brief, the Company utilized the results of the only full Class Cost of Service ("CCOS") study performed in this rate case to inform recommended adjustment to the customer charge. The Company calculated this proposed customer charge using the same customer cost accounts as used in previous rate cases. Given a continued interest in alignment across its Missouri

jurisdictions, the Company opted to propose a consistent customer charge for customers in both EMW and EMM. Evergy's CCOS study, based on an equalized rate of return, would support an increase in the customer charge for EMM to $28.39, and for EMW to $35.94. See Ex. 61 at 15-16 (Miller Surrebuttal).

The Company recommends that the Commission approve the Company's recommendation for a customer charge of $16 that aligns with historical methods to recover customer-related costs of service and consider cross jurisdictional alignment. This recommendation is considerably less than the full customer-related costs, but is well grounded in the well utilized concept of gradualism and it is a step toward recovering the customer-related costs of $28.39 for EMM and $35.94 for EMW.

OPC justifies its position on this issue by pointing out how customer charges can impact different customers differently. The Company's proposal recognizes that low usage customers are impacted more by the customer charge than high usage customers (as a percentage of bill). The proposed $16 customer charge only recovers 56% and 44.5% of the full customer costs for EMM and EMW, respectively. The Company's approach to recovering customer costs sufficiently reflects the concerns raised by OPC.

Staff, on the other hand, merely recommended that the residential customer charge for both EMM and EMW should be established by increasing the current EMM residential customer charge by the percentage adjustment to the EMM residential class revenue requirement, rounded to the nearest quarter. (Staff Brief at 36.) Staff estimates that value at $12.00. See Ex. 265 at 30-31 (Lange Surrebuttal). In making this recommendation, Staff has abandoned cost-based determination. This

proposal should be rejected since it makes little progress toward recovering the full customer costs associated with residential electric service.

The Company respectfully requests that the Commission approve Evergy's $16 customer charge as it is the only recommendation in this case developed from a cost-based analysis appropriately adjusted for consideration of rate gradualism and more accurately represents the cost to serve customers and provides a step toward full recovery of customer-related costs for serving EMM and EMW's customers.

C. What measures are appropriate to facilitate implementation of the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule?

While Staff and OPC recommend the implementation of mandatory, ultra-low TOU rates on a default basis, Evergy recommends that these recommendations should be rejected. (Staff Brief at 35-36; OPC Brief at 71-78) For all the reasons stated herein, there should be no changes to the default rates used by the Company or mandatory rates be established, particularly the low-differential TOU proposed by Staff. As will be noted in the following section, there are numerous reasons for the Commission to reject Staff's proposal. The Company should otherwise maintain its existing rate structures, rate designs, and tariff language for each rate schedule, except where the Company has proposed changes, as discussed herein.

1. Mandatory v. Opt-In TOU Rates

Notwithstanding the fact that (1) Evergy's opt-in TOU rates have been admittedly a "major success." (OPC Brief at 73); (2) Evergy's residential, commercial and industrial customers have expressed the view that they do not want mandated TOU rates; and (3) Staff's proposed mandatory ultra-low differential time-based rates are not expected to change customers' behavior, Staff and OPC continue to recommend that the Commission force customers onto a default TOU rate—whether they

want it or not. Staff and OPC apparently think that they know better than the customers they represent what is the best rate for those customers. Such an approach is destined for failure, and likely to result in a backlash from customers who expect real savings opportunities from the TOU rates. Ex. 83 at 6-7 (Winslow Rebuttal).

Evergy respectfully requests that the Commission give customers a choice on whether to opt-into TOU rates, and adopt the real TOU rates proposed by Evergy on an opt-in basis that provide customers with the incentive to change their behavior and save on their electric bills, rather than an ultra-low differential time-based rate that will confuse and disappoint Evergy's customers and not incent a change in usage or behavior. In addition, Evergy's proposed TOU rates provide significant peak demand shift as evidenced by the evaluation, measurement and verification analysis performed by a third-party evaluator.

Evergy continues to believe that optional TOU rates for residential customers are an important choice for utilities to offer its customers. Evergy's 3-period rate offer was foundational to Evergy's development of tools and education that customers used to understand pricing and cost-causation. As a result of those efforts, Evergy currently has over 7,200 customers on its optional TOU rate – doubling its enrollment target of 3,500 customers as agreed upon in its 2018 Rate Design S&A. Evergy wants to build upon this success and move toward a future where more consumers will find TOU rates to be beneficial to them.

a. Public Counsel Has Recognized that Evergy's Opt-in TOU Program Has Been A Major Success.

OPC recognized that Evergy has run a successful TOU program in which "[p]articipating customers lowered their demand peak by 4 to 9% at the system coincidence peak' with general residential customers seeing a 5 to 10% lowered demand peak and spacing heating residential customers

seeing a 3 to 6% reduction to their peak demand. . . Based on these results, the short campaign has been a major success." (OPC Brief at 73).

Evergy agrees with OPC that its TOU program has been a major success, and shows that real TOU rates have a promising future. But, OPC fails to recognize, or intentionally ignores the fact that Evergy's successful TOU program was not based upon an ultra-low differential time-based rate, as is being proposed on a mandatory basis by OPC and Staff. Under Evergy's successful TOU program, customers had a real incentive to change their usage and behavior to save money on their monthly bill. Under the ultra-low differential time-based rate being forced on customers under the approach recommended by Staff and OPC, there will be no real incentive for customers to change their behavior. Ex. 83 at 7 (Winslow Rebuttal). As a result, there is no real expectation that customers will save on their electric bills. The Staff and OPC's approach is destined to disappoint consumers that have been educated to expect savings from their agreement to use TOU rates. Id. For this reason, Evergy is opposed to the implementation of an ultra-low differential TOU rate, as proposed by Staff and OPC.

Evergy's TOU rates offered by the Company in its TOU program has been very well communicated and successful, as discussed in Ms. Winslow's Direct testimony. Ex. 82 and 128 at 7-9 (Winslow Direct). Evergy (1) collaborated with stakeholders in depth every step of the way as defined in the 2018 S&A; (2) presented its innovative marketing campaign and its customer education and tools to the Commission; and (3) completed third-party interim and final Evaluation, Measurement and Verification ("EM&V") Reports in collaboration with stakeholders. In terms of key successes, Evergy exceeded its enrollment goal by over 200 percent and the EM&V indicates that participating customers reduced their energy consumption and their summer coincident peak demand, and participating customers, on average, saved annually. In addition, 82 percent of participating customers were highly satisfied and 79% thought that the TOU rates met their expectations very well. All of these factors

indicate a very successful program, as conceded by OPC. The conclusion that the Commission should draw is that Evergy's customers will change their behavior if given a real incentive to do so through a TOU rate that has a higher peak to off-peak differential like what Evergy has proposed in this case

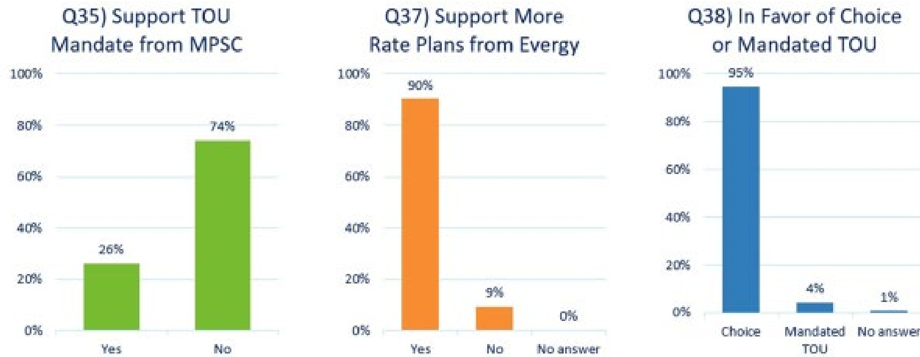
b. Evergy's Customers Have Expressed Their Opposition to Mandatory TOU Rates.

OPC asks the question, "why then is Evergy choosing to resist the Staff's default TOU rates?" (OPC Brief at 75) The answer is that Evergy has a concern for the desires and opinions of Evergy's customers, and the current marketplace that wants choice in rate structures and payment options rather than mandates from the public utility and the State.

Staff and OPC ignore the fact that Evergy's surveyed customers do not want a <u>mandatory</u> TOU rate. In June of 2022, Evergy conducted a survey of its online panel of customers to update Evergy's rate choice research. This survey is attached to Ex. 22, Surrebuttal Testimony of Charles Caisley-Confidential Schedule CAC-5. The Commission should carefully review the results of this customer survey before it mandates a rate structure that is opposed by a vast majority of Evergy's surveyed customers.

This was an online panel of nearly one thousand Missouri residential customers. Results show that customers are interested in more rate options. 90% said Evergy should offer more rate plans (just 9% said no), and 52% said if more rate options were available, they would very likely consider changing rate plans. <u>See</u> Ex. 22 at 6-7 (Caisley Surrebuttal). In addition, this survey also gauged residential customer perspectives of the possibility of mandating TOU for all Missouri customers by the Commission. Nearly three-quarters of all respondents said they did not support this move toward a

mandatory TOU rate, and fully 95% said they preferred that customers have the ability to choose the rate plan that is best for them. The following table graphically portrays these customer responses:



2

Evergy's TOU rate proposals being made in this rate case build on the success of the 3-period TOU offer that launched in October of 2019. The Company took the learnings from that experience, customer feedback, and implementation success to develop a revised 3-period TOU rate, as well as a new 2-period TOU rate.

The Midwest Energy Consumers' Group ("MECG) which represents some of Evergy's Commercial and Industrial ("C&I") customers has also strongly opposed Staff and OPC's mandatory TOU rate proposal:

> For LPS and LGS customer classes, the Commission should reject Staff's proposed mandatory time of use rates. This approach is not tested and Commercial and Industrial customers in the LGS and LPS classes have not been presented with impact analysis or information on the TOU proposal by Staff. Evergy's witness Mr. Caisley testified that, as a part of its rate modernization plan, it has conducted outreach to customers to educate and receive input on different rate designs – but there has been no information sent to Commercial

> and Industrial customers about staff's TOU adder for LGS and LPS classes. MECG supports a more systematic and measured approach to considering rate design changes that will evaluate rate impacts, ensure proper pricing signals, and avoid unintended consequences prior to changing the structure of default rates. If the Commission does want to see time differentiated rates for commercial and industrial customers it should not order Staff's time based adder but should order Evergy to meet with stakeholders after this case in order to work towards quantifying the impacts of alternative rate design proposals on customers. Evaluating the rate impacts on customers is a vital step in being able to educate and inform them about what they can expect their utility bills to look like in future rate cases. It is unreasonable to impose this change in this case without doing that evaluation. (MECG Brief at 13-14)(footnotes omitted).

The Missouri Industrial Energy Consumers ("MIEC"), a second group that represents C&I customers, also opposed Staff and OPC's attempt to force a new rate structure on their clients:

> The Commission should reject the Commission's Staff proposal for a non-residential mandatory default TOU rate design. The Commission Staff did not provide data or analysis to show the customer impacts of this proposal. To the extent the Commission decides that Staff's proposal should be further evaluated, this can be accomplished in collaborative proceedings which will take place between this case and the next rate case. (MIEC Brief at 2)(footnotes omitted).

Evergy's surveyed residential customers have clearly expressed their views opposing mandatory TOU rates, and no C&I customer group is supporting a mandatory TOU rate structure for commercial and industrial customers. Customers want more choice—not mandates from the state agencies that establish their public utility rates.

c. *Staff's Proposed Mandatory Low-Differential Time-Based Rates Will Not Change Customer Behavior.*

Another reason that Evergy is strongly opposed to Staff's ultra-low differential TOU rate is that such a rate is not expected to change the behavior of Evergy's customers. In fact, that is not even the goal of Staff's proposal. Tr. Vol. 9 at 762-63. Staff's rationale is based upon its intention to develop a "cost-based" rate for customers. Tr. Vol. 9 at 746-47. According to Staff, the cost-based rate is a rate

that has a penny differential between peak and off-peak. Tr. Vol. 9 at 762-63. Such a low differential provides little, or no incentive for customers to change their usage patterns.

OPC, on the other hand, wants to introduce a "training wheels" default rate "to introduce the concept of TOU rates to customers and educate them on its benefits and operation." (OPC Brief at 75). OPC opposes the adoption of a higher differential TOU rate on a mandatory basis because "Evergy customers are not prepared to experience large differentials." (OPC Brief at 76). Paraphrasing, OPC does not want a real TOU rate with a higher differential than Staff is proposing because OPC knows that many customers will not find the rate to be beneficial or attractive. Yet OPC still wants to force their mandatory TOU rate upon the customers it represents. Every mandatory rate will have a negative effect on some customers.

OPC argues that "There is nothing preventing the Commission from ordering default TOU rates with low differentials using the "training wheels" approach and allowing the Company to offer its differential TOU option as well. (OPC Brief at 75). While this result is technically possible, it would be a mistake. Evergy has been educating its customers about the benefits of real TOU rates (not just "training wheel" rates) that will result in savings if the customer's usage patterns change from peak to off-peak times. This savings opportunity will not occur in any significant manner under the low differential approach, proposed by Staff and OPC. Therefore, the Commission should not adopt the ultra-low differential TOU rate—especially if it is called a TOU rate. If adopted, the "training wheels" approach is likely to set back the effort to gain acceptance by the public of time-differentiated rates, and it may be difficult to overcome such setbacks.

Recognizing the flaws in the "training wheels" approach, OPC goes so far as to request that the Commission order Evergy to file in its next rate case a proposal for higher default TOU differentials that would be forced upon all customers. Once again, OPC purports to know what is best for its clients,

even though the customers do not want to have TOU rates forced upon them. The Commission should reject such recommendations as being premature and unnecessary.

Evergy's proposed TOU rates are designed with a price differential to incent behavioral change and to improve efficiency of resources. Additionally, the TOU rates are designed for various customer lifestyles, improving the acceptability of the rate. Evergy is proposing to expand its TOU offer from its existing, 3-period TOU rate with the addition of a 2-period TOU rate and two options designed for the electric vehicle ("EV") driver in mind that include a 3-period high differential TOU rate that can be offered as a whole-house rate or as a separately metered rate. See Ex. 49 at 21-22 (Lutz Direct); Ex. 112 at 21-22 (Lutz Direct). The latter rates provide options for the EV driver/customer to install a separate meter to measure EV charging so that they may choose a different rate offer that is more suitable for their whole-house usage.

In conclusion, the purpose of the TOU rate is to provide a price signal to create behavior change to move certain activities off-peak. Staff is designing a default TOU rate that does not provide any significant price signal to effect behavioral change and that will not minimize grid impacts. Id. at 9. It should not be adopted. Instead, customers should be given greater choices and rate options, just as are available in competitive marketplaces.

D. Should the Commission order Evergy to meet with stakeholders related to its rate modernization plan within 180 days after the effective date of rates in this case?

In response to OPC's recommendations that the Commission order Evergy to meet with stakeholders related to its rate modernization plan within 180 days after the effective date of rates in this case, and work to improve the education of its customers regarding billion options and rate plans it has currently (OPC Brief at 79), Evergy has already agreed to meet with stakeholders on a periodic basis and is not opposed to discussing the Rate Modernization Plan with interested parties."[24] It will

[24] Evergy Position Statement, p. 31.

also discuss other topics, including expanded billing options for its customers. However, it is important to recognize that such meetings are helpful only if stakeholders are fully engaged and provide constructive feedback to the Company. Unfortunately, that has not always been the case in the past.

It is also unfortunate that Staff and OPC are opposing expanding voluntary rate options and billing payment options that would benefit customers in this case. Instead, these parties in this rate case are trying to foreclose the customers' choices for expanded optional TOU rates and popular subscription pricing plans. Nevertheless, Evergy is always willing to discuss such issues with Staff, OPC, and other stakeholders.

E. Should Evergy work to improve the education of its customers regarding the billing options and rate plans it has currently?

OPC makes unsupported allegations that Evergy has failed to comply with previous orders of the Commission with regard to customer education and made recommendations to disallow $1 million of program/education costs from EMM and EMW's rates. (OPC Brief at 77) In the very next paragraph, OPC requests that the Commission order the Company to request a third-party consulting firm to develop and execute a marketing campaign to educate customers on the overall value of TOU rates and "to inform customers that larger differentials will be going into effect for all customers following the conclusion of Evergy's next rate case." Id. OPC also requests that the Commission disallow the deferral of customer program costs related to the promotion of optional TOU rates. These OPC recommendations should be rejected.

At the same time that OPC is criticizing Evergy for its educational efforts, it recognized that Evergy's TOU pilot program was a "major success." (OPC Brief at 73). In fact, OPC touted the fact

that Evergy's pilot program had the desired effect of reducing on-peak consumption year round, and participating customers lowered their demand peak by 4% to 9% at the system coincident peak. Id.

As Staff noted, in the 2018 rate cases, EMM and EMW agreed to submit a Residential TOU rate design in their next rate case based on lessons learned from the TOU service. (Staff Brief at 35). Evergy has clearly complied with this commitment by proposing several TOU options in this case. Based upon lessons learned and surveys of its customers, Evergy has listened to its customers who clearly have indicated that they are opposed to mandatory TOU rates being forced upon them. Just because mandatory default TOU rates are a "preferred" rate design by Staff (Staff Brief at 36), does not equate to a "preferred" rate design by the vast majority of Evergy's residential, commercial and industrial customers.

The competent and substantial evidence in the record demonstrates that Evergy has complied with all of the commitments from the merger order and other rate case orders. Ex. 39 and 113 at 20-28 (Darrin Ives Direct); Ex. 49 and 117 at 3-18 (Lutz Direct). Evergy has stated that "Evergy strives to continually improve the education of its customers regarding the billing options and rate plans that it has currently. Id. at 32. The Commission should not give any credence to OPC's complaints about Evergy's educational programs when it has more than exceeded the goals established for the TOU programs that it has promoted and explained to its customers. OPC's recommendations related to educational programs and related cost disallowances should be rejected.

ISSUE NO. XXIII. SUBSCRIPTION PRICING PILOT PROGRAM

No party disputed the obvious fact that subscription-based pricing plans for services in other industries is a common form of pricing that consumers regularly encounter in their everyday lives. Nor did any party dispute that Evergy's customers will have familiarity with the concept of paying a fixed fee for a service that they use regularly. Most importantly, no party, including Staff and OPC,

challenged the expectation that there will be a subset of Evergy customers that would find subscription pricing to be an attractive option for them for purchasing their electric service. Nevertheless, Staff and OPC recommend that the Commission deny customers the opportunity to participate in a voluntary, limited, pilot program so that the Company, its customers, Commission, and other stakeholders can study the possibility of making this very popular form of pricing available to Evergy's customers.

As Evergy explained in the hearing, Evergy's subscription pricing pilot will provide residential customers with an entirely fixed monthly electricity bill. Based on the experience of electric utilities in other jurisdictions with similar offers, Evergy expects the simplicity, transparency, and predictability of this design to appeal to a subset of Evergy's customers. Again, this is an example of Evergy wanting to give customers a choice on how they pay for their electric services.

Rather than challenge the attractiveness of this popular payment arrangement in other industries, Staff and Public Counsel chose to argue that this widely accepted payment arrangement is not needed since there is already an Average Payment Plan approved by the Commission, it would be difficult for Staff to audit, and this pilot program may not be lawful. Finally, these parties incorrectly suggest that the offering is contrary to energy efficiency goals of MEEIA. (Staff Brief at 44-57; OPC Brief at 80-90) For the reasons stated herein, these arguments should be rejected.

A. The Major Difference Between the Average Payment Plan and Subscription Pricing Is the Lack of any True-Up Adjustments under Subscription Pricing.

During the hearings, Staff witness Contessa King was very candid that the major difference between Evergy's Average Payment Plan and the proposed Subscription Pricing pilot program is there is an annual true-up under the Average Payment Plan in which consumers will have their total payment amounts adjusted to reflect actual usage, but there is no true-up under the Subscription Pricing Plan:

> **Q. Isn't that the major difference [no true-up adjustments] between the current budget billing plan as I call it and what the company is proposing with the subscription pricing pilot program?**

A. That is a difference, correct.

Q. It's probably the major one, isn't it?

A. Yes, I would say it's major.

(Tr. Vol. 9, pp. 557-58)

While Ms. King suggested improvements in the Average Payment Plan, she would not recommend elimination of the true-up feature. Id. at 557. This is the feature of the existing plan that some consumers are expected to find objectionable.

While the Average Payment Plan does reduce monthly bill volatility relative to the standard rate, its participants are still exposed to the financial risk associated with any weather-related changes in usage, and any fluctuations in the standard rate. In contrast, subscription pricing insulates customers from this risk for the full 12-month term of the offer. Additionally, under the Average Payment Plan, bill volatility still occurs in the form of adjustments to the customer's monthly payment amount. According to Evergy analysis of Average Payment Plan data, more than 70% of Average Payment Plan participants experienced a bill change during the recent one-year period between early August 2021 and early August 2022. At least 20% of participants experienced three or more bill changes during that period. The magnitude of the bill change is 10% at a minimum, and could be greater than that. Additionally, Average Payment Plan participants must pay a reconciliation payment when they exit the plan, if it has resulted in under-collection of billed revenue. In contrast, subscription pricing locks in a monthly payment for a full year and decouples the customer's bill from fluctuations in usage and cost in that year. There are no true-ups and no increases in the customer's bill for the full 12-month term of the subscription pricing offer. See Ex 38 at 8 (Hledik Surrebuttal). This true up requirement is the aspect of the existing Average Payment Plan that some consumers are expected to want to avoid by participating in the voluntary Subscription Pricing Plan pilot.

B. Concerns about Staff's Ability to Audit the Subscription Pricing Pilot Are Overblown.

Staff raised several concerns that the Subscription Pricing Plan "will be impossible for Staff to audit and evaluate." (Staff Brief at 49). As explained herein, these concerns are overblown and should not cause the Commission to decline to study this pilot program.

Under the pilot program, Evergy first will determine each customer's expected usage under normal weather conditions based on the customer's previous 12 months usage history. The Residential General Service rate, including applicable riders, then will be applied to calculate the customer's annual bill based on that expected weather normalized usage. The annual bill is divided by 12 months to arrive at a monthly fixed bill amount.

As explained in Evergy's initial brief, weather adjustments to customer usage will be based on Evergy's established class-level weather normalization methodology. Based on analysis of historical weather and usage data, the weather normalization methodology produces factors that can be used to remove the usage effects of temperatures that are hotter or colder than normal. These factors will be applied when estimating the usage of all customers for the purposes of calculating the fixed bill offer as well as their eligibility for an "efficiency incentive" which is discussed further below.

Adders will be applied to the base fixed bill to mitigate the increased financial risks to Evergy shareholders and to recover program costs from participants. The customer's subscription pricing offer will include a behavioral usage adder, a risk premium adder, and a program cost adder. The behavioral usage adder is five percent, the risk premium adder is estimated to be five percent but would not-to-exceed 10 percent, and the program cost adder is up to $2.50 per month. These values are stipulated in the tariff. The adders will be evaluated by Evergy on an ongoing basis.

The risk premium adder is incorporated as an increase in each customer's fixed bill amount, and it is the same on a percentage basis for all participants. Evergy has estimated that the risk premium will

be 5%. In any event, it is proposed to not exceed 10 percent. The risk premium is determined by identifying the historical conditions under which annual revenue shortfall due to subscription pricing would be the largest relative to the standard rate, and then setting the risk premium to limit this single-year loss to a level that is acceptable to Evergy.

At the end of the process, Evergy will offer the individual participant in the pilot program a fixed monthly price. If the customer accepts the proposed fixed monthly price, then the Company will simply bill that amount each month. This rate will be re-evaluated and updated at the end of the year. See Ex. 37, 128 at 19 (Hledik Direct).

The point of subscription pricing is its simplicity. A single monthly bill amount, which participants will know with complete certainty for a full year, is a very easy concept to convey to customers. Staff asserts that it would be too complicated to explain every charge underlying the subscription pricing offer to customers. Evergy is in agreement on this point. It would be highly counterproductive to market and describe the calculation of each individual charge in the subscription pricing offer to customers. Further, it would be unreasonable to expect Evergy to communicate each of these individual charges for the same reason that it does not make sense to explain to customers the various allocated costs that are behind the prices in each period of a TOU rate during TOU marketing initiatives. Very few customers would have the appetite for that level of detail. Each subscription pricing charge will be documented in the tariff, but it is not necessary to explain these nuanced details in customer outreach materials. Giving customers an offer for a bill that will be known with 100% certainty goes beyond the transparency that can be achieved through any other rate design. Ex. 38 at 10-11 (Hledik Surrebuttal).

If a customer calls the Commission's Consumer Services Department with a question about his bill, then the Staff representative will need to determine what was the fixed monthly amount that was

agreed to by the customer under the pilot program. It will be a straightforward process to determine if the customer was billed the appropriate fixed monthly amount that was agreed to by the customer. No further "audit" will be required.

Staff, OPC and other stakeholders will be able investigate the Subscription Pricing Pilot in the future to determine if there are improvements that could be made to the Subscription Pricing Plan and whether it should be continued, modified or terminated. This may be done in a future rate case, or a separate investigatory docket. Such "audit" concerns should not dissuade the Commission from initiating the pilot program so that the concept can be fully studied and evaluated by the Commission, Company, and other stakeholders.

C. The Subscription Pricing Pilot Program Is Lawful.

Contrary to the assertions of Staff and OPC, the Commission may lawfully authorize the proposed Subscription Pricing Pilot Plan in this case. (Staff Brief at 54-57)

In State ex rel. McKittrick v. Public Service Commission, 352 Mo. 29, 175 S.W.2d 857 (Mo. banc 1943), the Missouri Supreme Court noted: "This court has held several times that the Commission may establish test or experimental rates pro tempore; and that a utility may have two or more rates if they be for different characters of service." (footnotes omitted.) See also State ex rel. Watts Engineering Co. v. Public Service Commission, 269 Mo. 525, 191 S.W. 412 (banc 1917); State ex rel. Washington University v. Public Service Commission, 308 Mo. 328, 272 S.W. 971 (banc 1925); State ex rel. City of St. Louis v. Public Service Commission, 317 Mo. 815, 296 S.W. 790 (banc 1927); State ex rel. Laclede Gas Co. v. Public Serv. Comm'n, 535 S.W.2d 561, 567 n. 1 (Mo.App. 1976).

The courts have authorized the Commission to establish experimental rate plans to determine the best way to establish permanent rates in the future. The proposed Subscription Pilot Program fits into this experimental rate approach.

Staff also raised concerns that this rate could be considered “an untariffed rate in violation of the filed tariff doctrine.” (Staff Brief at 54). This is an unfounded concern. The Subscription Pricing Pilot program will be fully explained and authorized in the Company’s tariffs. While each individual situation will not be laid out in the tariff, the process for determining the customers’ rates will be fully described. Under these circumstances, there is no violation of the filed tariff doctrine.

Staff and OPC also raised issues regarding the Fuel Adjustment Clause (“FAC”), Renewable Energy Standard Rate Adjustment Mechanism (“RESRAM”), Missouri Energy Efficiency Investment Act (“MEEIA”) rider, and the securitization surcharge. (Staff Brief at 54-57)(OPC Brief at 81-85). A customer’s flat bill will be calculated using the effective riders at the time that the customer’s offer is prepared. If there are increases in fuel costs or other riders during the 12-month term that the fixed bill is in effect, Evergy assumes that price risk for those participating flat bill customers. Non-participating customers are not impacted and are isolated from this downside risk Tr. Vol. 10 at 501-503.; Ex. 37, 112 at 19 (Hledik Direct). Any incremental changes in revenue relative to the standard rate will be treated “below-the-line”, meaning the changes are a direct benefit or loss to Evergy’s shareholders. (Ex. 37, 112 at 21 (Hledik)

Finally, the Subscription Pricing Pilot Plan is not discriminatory, as suggested by Staff and OPC. (Staff Brief at 55-56; OPC Brief at 81). In *State ex rel. Marco Sales, Inc. v. Public Serv. Comm'n,* 685 S.W.2d 216, 221 (Mo.App.1984), the court noted that a discrimination as to rates is not unlawful under the statute where it is based upon a reasonable classification corresponding to actual differences in the situation of the consumers or the furnishing of the service. Whether a discrimination is unlawful and unjust or the circumstances are essentially dissimilar is usually a question of fact. *Id.* See also State ex rel. Missouri Office of Public Counsel v. Missouri Public Service Com'n, 782 S.W.2d 822, 825 (Mo.App. W.D. 1990)

First, unlike any other service offering, the Subscription Pricing Plan has a totally fixed bill. This requires the premium adder feature to compensate the Company for the additional risk associated with the service. In addition, this pilot program would also have the feature of an "efficiency incentive" which is unique to the pilot program. These features make the Subscription Pricing a different character of service from other offerings and justify a different treatment from other rates.

Second, it is totally voluntary and will be available to up to 20,000 customers per company. Finally, it not necessary that all customers must be charged a per kwh rate to be lawful. For example, customer charges of public utilities are assessed on a flat rate basis. Similarly, demand charges are also assessed on a demand, rather than a usage sensitive basis. Certainly, the Commission has also authorized other flat-rate charges. (e.g., service connection, late fees, etc.)

In the telephone industry, the Commission in the past routinely authorized a monthly flat-rate charge for local exchange service, while also authorizing a usage sensitive rate known as "local measured service."[25] There is nothing discriminatory about charging customers on a different basis if customers choose to adopt a different method for paying for their services.

D. The Subscription Pricing Pilot Program Is Not Contrary to the Goals of MEEIA.

Contrary to the arguments of Staff and OPC (Staff Brief at 45-46)(OPC Brief at 89-90), subscription pricing is not contrary to the energy efficiency goals of the MEEIA statute. This program will not be marketed as an "unlimited" offering. As explained by Evergy witness Ryan Hledik:

> While the term "unlimited" was analyzed along with other messaging alternatives in preliminary market research materials, Evergy will not market subscription pricing to customers as an "unlimited" rate plan. The purpose of subscription pricing is not to encourage increased energy use. My understanding is that Evergy's marketing of subscription pricing will feature the cost-saving

[25] Local measured service was approved by the Commission on an experimental basis under which the service was first offered in June, 1980. On April 9, 1981, SWB filed tariffs in Case No. TO–78–46 for the purpose of making LMS a permanent service offering in Missouri. The Commission approved LMS on a permanent basis, even though local exchange service was also available on a flat-rate basis. Re Southwestern Bell Telephone Co., 1981 WL 721557 (Mo.P.S.C.), 45 P.U.R.4th 73, 104 (1981).

> benefits of the efficiency incentive and the opportunity to incorporate the purchase of an energy-saving smart thermostat into the monthly payment when enrolling. (Ex. 38 at 7 (Hledik Surrebuttal).

As explained in Evergy's initial brief, the Subscription Pricing pilot program can facilitate achievement of energy efficiency goals and sustainability goals by packaging the fixed bill offer with other customer offers, such as energy efficiency and demand response incentives, green pricing offers, or EV charging services. The attractiveness of the fixed bill can be used to draw customers to these other beneficial offerings.

Evergy's proposed design also provides for additional offers for the customer to choose, including the purchase of a smart thermostat, and in the future, the potential for enrollment in various other green programs. Subscription pricing will be an attractive incentive to encourage customers to use energy efficiently by coupling the incentives with other energy efficiency programs.

The primary incentive for efficient energy use is an "efficiency incentive". Evergy's estimate of each customer's expected usage will include a five percent "behavioral usage adder" to the customer's weather-normalized historical usage. That five percent adjustment accounts for a potential increase in usage that may result from the change in rate design (i.e., no longer being billed on a volumetric rate that charges per kilowatt-hour of consumption). If the customer's weather-normalized usage does not increase, the behavioral usage adder will be paid back to the customer as the efficiency incentive. For an average-sized customer, the efficiency incentive would amount to around $70 per year. Ex. 37, 112 at 15 (Hledik Direct). This feature will also serve as an incentive to conserve energy so that the next year's rate will not increase or perhaps decline based upon additional usage history.

The design of the efficiency incentive is attractive from a customer satisfaction standpoint because it is a risk-free opportunity. The incentive rewards customers if they are able to limit their usage, without penalizing them if they fail to do so. In this sense, the efficiency incentive is consistent

with subscription pricing's central theme of containing no hidden charges or surprises. See Ex. 37, 128 at 10 (Hledik Direct). Additionally, if a participating customer uses less (on a weather normalized basis) during the 12-month period, their next offer will be based on their lower usage. On the other hand, if the participating customer uses more (on a weather normalized basis), during the 12-month period, their next offer will be based on their higher usage.

In summary, the Commission should reject the arguments of Staff and Public Counsel on this issue. Evergy has proposed to test subscription pricing as a pilot, so that the Company, stakeholders, and the Commission can become better informed about its benefits and use cases. The initial scope of the pilot includes innovative features, such an energy efficiency incentive and an add-on to promote smart thermostat adoption. These features are intended to be an initial demonstration of the potential of using subscription pricing not only to provide customers with stability and bill transparency, but also to advance the state's energy goals.

Over time, as Evergy and the Commission collectively gain experience with the initial subscription pricing offering, the program's design can continue to be optimized to maximize these benefits for consumers. The first step is for the Commission to approve Evergy's proposal, so that the Company can deploy a pilot and begin to develop on-the-ground experience with the subscription pricing concept.

Having addressed the arguments in opposition to the proposal, Evergy respectfully renews its request that the Commission authorize the implementation of a limited, pilot program for EMM and EMW to test the voluntary subscription pricing plan.

ISSUE NO. XLIII: STREETLIGHTING [EMW]

The City of St. Joseph's ("City") request to change EMW's existing tariffs should be rejected by the Commission as the proposed changes are not consistent with how the Company regulates and

provides streetlighting services to all other municipalities in its service territories and are not necessary for the City to continue having developers install streetlights. Moreover, the changes would deprive EMW from recovering the costs it expends to perform maintenance, repair and replacement of streetlights.

The City seeks to restore a process which the Company does not support. EMW does not agree that the past practice of allowing developers to install streetlights was "successful" as the Company was required to review the work of the developers to ensure that the developer installed streetlights met the Company's standards. To do this the Company had to implement and maintain internal processes to field inspect and evaluate the "gifted" streetlights. It is far more efficient for the Company to install the streetlights according to the established standards rather than try to ensure compliance after the fact when installed by 3rd parties.

The City states at p. 4 of its initial brief, that the change in the tariffs in the ER-2016-0156 case was significant to its budgeting process. The City argues that streetlight costs are now capital costs instead of operating costs for the City because it cannot use the process of having the developer installed streetlights any longer. If this is an issue, it is outside of the EMW's control and it is certainly a problem created by the City's own budgeting and accounting practices. The City has two options under the current tariffs, have EMW install the streetlights or receive energy-only service where it can continue to have developers install streetlights and retain ownership and maintenance responsibilities. Lutz Rebuttal, Ex. 51, p. 13. Thus, the shifting of costs to developers by the City can continue under the current tariffs and the major reason why the City says it is interested in this issue (shifting of costs to capital costs instead of operating costs) is not something that needs to be addressed by the Commission.

The City rejects the ownership option (p. 6 of its initial brief) as it doesn't want to own and maintain streetlights. Instead, it wants EMW to own and maintain the streetlights after the City's

developer builds them. Note that the City wants it both ways-it doesn't want to own the streetlights because it doesn't want to have to pay insurance, maintain the poles, etc. But even though it recognizes that the streetlights will need to be maintained, it wants the Commission to prevent EMW from recovering in rates the costs it incurs for maintenance by eliminating the "optional equipment" or "breakaway bases" charges in the tariffs.

The City maintains at p. 8 of its initial brief that there is no legitimate basis for charging the City for breakaway bases, undergrounding and other equipment charges for streetlights that were installed by developers and gifted to EMW because those charges have already been "borne by the contractor or developer." But this assertion ignores the City's own admission that streetlights will require maintenance work long after the developer installs the streetlight pole. EMW presented evidence that these monthly charges are to cover the ongoing maintenance of the streetlights. Lutz Rebuttal , Ex. 61 , p. 12; Tr. 887, lines 8-18. For example, should a streetlight for which EMW is responsible for maintenance be damaged due to a traffic accident, EMW would incur costs to replace that streetlight. The cost of a replacement streetlight is approximately $3800. Tr. 872. Without the additional monthly charges to the City to pay for this type of on-going maintenance, the City would get these replacement and maintenance services for free, to the detriment of the Company and ultimately other ratepayers. Finally, it is important to understand that these undergrounding and breakaway base charges are not assessed to the City for streetlights that the City owns and maintains. Tr. 887, lines 3-7.

At p. 5 of its initial brief, the City also raises the non- issue of the number of streetlights that were transferred to the Company under the old tariff. The Company believes it accurately responded to data request 2.2 (Ex. 853) as the request did not ask for the number of streetlights since 1995 (as asserted on p. 5 of the City's initial brief). Instead, the data request asked for lights gifted since 2010. The 2017 limitation contained in the Company's data request response is due to the limitations of the

Company's new billing system and the fact that it may not have been informed about every streetlight installed by a developer. The Company does not agree that there are at 127 additional streetlights that have been gifted to it by the City but does recognize that there are likely more than 61. However, as indicated by Mr. Lutz at the hearing, the developer installed streetlights that have been gifted to the Company are part of EMW's rate base only for record keeping purposes. Tr. 873; 888, lines 2-9. The streetlights are set at a zero value which means EMW is not earning a return on the streetlights or recovering depreciation expense. Id.

The City's proposed tariff language at p. 7 of its initial brief should be rejected by the Commission. As explained above, proposed section 6.1 would prevent the Company from recovering maintenance costs from the City for any streetlights that were gifted to the EMW and maintained by EMW. This means that other ratepayers would pick up the tab and the Commission should reject this unreasonable result. Likewise, proposed section 6.0 should also be rejected as it could be seen as unduly preferential. Other cities, while they may have not have previously had a streetlight program where they could shift costs to developers by requiring them to install streetlights, would certainly try to qualify under the tariff should they desire to have a developer streetlight program. Tr. 875, lines 11-23.

WHEREFORE, the Company submits its Initial Post-Hearing Brief to the Commission.

Respectfully submitted,

/s/ Roger W. Steiner

Roger W. Steiner, MBN 39586
Evergy, Inc.
1200 Main – 16th Floor
Kansas City, Missouri 64105
Phone: (816) 556-2314
Fax: (816) 556-2110
E-mail: roger.steiner@evergy.com

Karl Zobrist, MBN 28325
Jacqueline M. Whipple, MBN 65270
Dentons US LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Phone: (816) 460-2400
Fax: (816) 531-7545
karl.zobrist@dentons.com
Jacqueline.whipple@dentons.com

James M. Fischer, MBN 27543
Fischer & Dority, P.C.
Phone : (573) 353-8647
Email : jfischerpc@aol.com
101 Madison—Suite 400
Jefferson City, Missouri 65101

Attorneys for Evergy Missouri Metro and Evergy Missouri West

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 21st day of October 2022, with notification of the same being sent to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner