Exhibit No.:	_____
Issue(s):	Business Demand Response
Witness/Type of Exhibit:	Marke/Surrebuttal
Sponsoring Party:	Public Counsel
Case No.:	EO-2026-0129

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

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

CASE NO. EO-2026-0129

April 29, 2026

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EVERGY MISSOURI WEST, INC.

D/B/A EVERGY MISSOURI WEST

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I. INTRODUCTION

Q. Please state your name and business address.

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

Q. What are your qualifications and experience?

A. I have been in my present position with OPC since 2014 where I am responsible for economic analysis and policy research in electric, gas, water, and sewer utility operations.

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

A. Yes. A listing of the Public Service Commission of the State of Missouri ("Commission") cases in which I have previously filed testimony and/or comments is attached in Schedule GM-1.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of this testimony is to respond to the rebuttal testimony of:

- The Missouri Public Service Commission Staff ("Staff"): Justin Tevie, Mark Kiesling, and Jordan T. Hull.

My testimony will also primarily focus on the macro-level policy arguments for denying this application, as well as future considerations regarding business demand response programs.

Q. What is Staff's position?

A. Staff is opposed to adding Nucor into Evergy West's MEEIA business demand response program.

Mr. Kiesling's testimony articulates challenges inherent in including Nucor into a previously approved MEEIA application with a black box avoided cost calculation and a set earnings opportunity matrix.

Mr. Hull's testimony outlines the Southwest Power Pool's ("SPP") current framework for demand response options, including a robust verification process for settlement (currently absent at the MEEIA level). Mr. Hull also points to the inclusion of aggregators of retail choice ("ARC's) who operate in SPP and provide a market-based alternative to the MEEIA construct.

Mr. Tevie's testimony provides greater context around Nucor's existing tariff, specifically the prohibitions around load shedding, MEEIA participation, and the hold harmless provisions for existing ratepayers.

Q. Do you agree with Staff's position?

A. Yes. I generally support Staff's position.[1]

Q. What is your position?

A. Simply put, the Commission should deny this application for the following non-exhaustive reasons:

- It is not aligned with the current approved MEEIA portfolio;
- ARC's represent a preferable market-based alternative;
- Evergy represents a middleman of unnecessary costs to existing ratepayers; and
- The SPP demand response construct is undergoing material changes, which necessitate a larger dialogue around demand response programs and especially the role of hyperscalers moving forward.

Furthermore, the Commission and stakeholders should note that my silence regarding any issue should not be construed as an endorsement of, agreement with, or consent to any other party's filed position.

[1] I would also refer the Commission to OPC witness Manzell M. Payne's surrebuttal testimony which provides greater detail and historical context for OPC's support of Staff's position.

II. BUSINESS DEMAND RESPONSE

Q. What is the business demand response program?

A. Large commercial customers can get paid to curtail their power during select "events" that are typically aligned with peak energy usage. At a large enough scale, the combined efforts of these aggregated large customer curtailments can have the same impact as firing up a peaker plant to meet load but at a much more affordable price point.

Q. Has the business demand response program always been an MEEIA program?

A. No. The idea to include business demand response originated through settlement discussions with Kansas City Power and Light's (now Evergy Missouri Metro) first MEEIA application as a potential solution to make its portfolio cost-effective. For Ameren Missouri, it was not until its second MEEIA cycle that business demand response was introduced on a small scale. Subsequent portfolios increased the scale.

Q. Did commercial demand response events occur before MEEIA?

A. Utilities had emergency curtailment agreements and emergency tariffs in place as a means to mitigate stress on the grid during extreme events, but such events were rarely called or needed to be called in a flat or declining load scenario.

Q. Have there been material changes to the business demand response construct in Missouri since the MEEIA legislation has been in effect?

A. Yes. After a lengthy prohibition on participation in demand response programs in Missouri by third-party ARC's, the Commission voted to lift the ban on ARC participation in Missouri, effective January 1st of 2024.

Q. Did any ARC's intervene in the currently approved MEEIA dockets?

A. Yes, both Voltus and CPower filed for intervention in the Ameren Missouri docket but were ultimately denied because they had filed for intervention past the cut-off date. Neither company filed to intervene in the Evergy MEEIA docket.

Q. Did the absence of third-party ARC's have a material impact on the current program?

A. Yes. With no market-based alternative articulated, parties entered into a non-unanimous stipulation and agreement, in which OPC was a signatory, that approved a reasonable level of business demand response targets and incentives for Evergy and Ameren.

Q. Did parties contemplate the inclusion of Nucor as a participant in Evergy's MEEIA portfolio?

A. As Staff witness Justin Tevie discusses, due to tariff prohibitions that were entered into with Nucor under its economic development tariff, the potential demand response contribution from Nucor were explicitly carved out. Furthermore, Nucor does not pay a MEEIA surcharge because it has "opted out" from having to pay for this subsidy. In effect, the Commission has approved a load-building special economic development rate for the Nucor facilities in which stakeholders deliberately omitted the chance for participation in the utility-led MEEIA programs to ensure that Nucor would be providing enough costs to cover its contribution and subsidy.

Additionally, the Commission approved a MEEIA that purposely omitted Nucor from its earnings opportunity and targets. Late-inning inclusion of this load under the current approved framework would result in a windfall profit opportunity for Evergy in meeting its MEEIA targets.

Q. Did Staff opine on a free-market alternatives to a ratepayer-sponsored demand response program?

A. Yes. Mr. Hull pointed out that ARC's represent a free market option that accomplishes the same end result.

Q. What do you see as the role of utility regulation when a free-market option is available?

A. The default option for regulators should be to enable competition whenever feasible and legally permissible.

Economic regulation of natural monopolies is necessary because of the inherent market imperfections that result from their existence. Economic utility regulation serves as an essential proxy for the absence of a competitive market. Absent regulatory oversight, utilities could exploit their monopolistic privilege, and the public at large would be worse off. But natural monopolies' positions are not necessarily an inevitable, absolute outcome that cannot be modified or even absolved under emerging technological and market conditions.

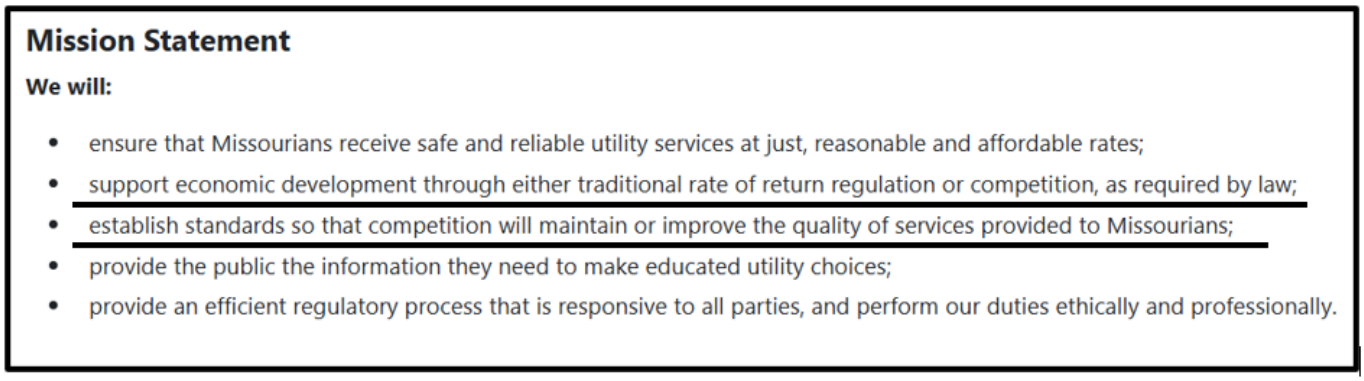
In fact, history is full of examples of former natural monopolies that have deregulated and consumer welfare has increased as a result (e.g., airline industry, telecom, railroads, large trucking, etc.). To quote the father of deregulation, economist Alfred Kahn:

> "Whenever competition is feasible it is, for all its imperfections, superior to regulation as a means of serving the public interest."

Simply put, the existence of ARCs represents a market-based alternative available to select customers. This competitive environment results in increased consumer welfare for demand response participants through choice, and for nonparticipating customers who no longer have to rely on the incumbent utility and the attendant regulatory red tape of costs that minimize collective benefits.

Basic economic theory demonstrates that when firms have to compete for customers, it leads to lower prices, higher quality goods and services, greater variety, and more innovation. The Missouri Public Service Commission has historically recognized this fact, so much so that the importance of competition is explicitly cited in the Commission's Mission Statement twice, as shown in Figure 1.

Figure 1: Snippet of Missouri Public Service Commission's "Mission Statement" [2]



Mission Statement

We will:

- ensure that Missourians receive safe and reliable utility services at just, reasonable and affordable rates;
- support economic development through either traditional rate of return regulation or competition, as required by law;
- establish standards so that competition will maintain or improve the quality of services provided to Missourians;
- provide the public the information they need to make educated utility choices;
- provide an efficient regulatory process that is responsive to all parties, and perform our duties ethically and professionally.

Q. How would competition in demand response benefit the Missouri public?

A. Competitive ARC's operate in most wholesale energy markets today at no direct cost to ratepayers. Voltus, CPower, or other ARC's do not require the three funding streams necessary for utility-sponsored demand side management (e.g., program costs, a throughput disincentive, and an earnings opportunity from captive ratepayers).

ARC participation in wholesale markets serves the public interest because the lower clearing price that results from bidding demand response in RTO/ISO markets benefits all customers in those markets, not just the bidding demand response aggregator. This is a positive externality. When an action causes a positive externality, that action is typically under-invested and can be viewed as a market imperfection. Conversely, a utility's failure to use cost-effective demand response can be seen as causing a negative externality, as the inaction raises the market price for everyone.

The premise behind RTO/ISOs is that market forces will push prices down to "just and reasonable" levels. If these market forces are insufficient because demand response is absent (or suboptimal because of barriers to entry caused by government interference) then it calls into question the validity of the RTO/ISO market premise.

[2] Missouri Public Service Commission (2024) About the PSC. https://psc.mo.gov/General/About_The_PSC

Allowing only regulated utilities to aggregate customer demand response converts a potentially competitive market into a monopsony market.[3] This deprives customers of the dynamic efficiencies and differentiated choices that minimize cost and maximize convenience. Just because the utility is the service territory's sole buyer of energy in the RTO market does not automatically mean it should be the service territory's sole aggregator of demand response.

Thankfully, the Commission lifted the ban on ARC participation in Missouri. Now, it just needs to not inhibit market actors from participating in Missouri.

Q. Would a ratepayer-funded utility-sponsored demand response program inhibit market-based actors (e.g., ARC's) from participating in Missouri?

A. Yes. It arguably already has. In effect, today, ratepayers are overpaying a middleman—Evergy—to provide the same service a private actor would do without direct ratepayer compensation.

If Evergy continues to practice as the *de facto* middleman with the financial backing of captive ratepayers, then ARCs have little reason to operate in Missouri, and all of the workshops, the outside help from Lawrence Berkeley National Labs, and other efforts undertaken by the Commission's Staff in preparation of the Commission lifting the ban on ARCs will have been for nothing.

Q. Is SPP currently undergoing potential changes in how it operates and values demand response as a resource candidate?

A. Yes, driven by rapid load growth, changing risk profiles, and a need for dispatchable capacity, SPP is currently undergoing significant changes to how it operates and values demand response as a market-based resource and as a critical component for meeting planning reserve margins.

[3] A monopsony is a market condition in which there is only one buyer. Because there is only one buyer for a good or service, the buyer sets the demand, and therefore, controls the price. Monopsonies, like monopolies, are inefficient as compared to a free market, where supply and demand regulate prices to be fair for consumers.

SPP is also moving toward a performance-based accreditation model, most likely using its Effective Load Carrying Capability ("ELCC") methodology to value demand response ("DR") (similar to its approach for renewables and storage). This method aims to accredit DR based on its ability to perform during critical, high-risk hours, which are increasingly shifting to long-duration winter events. My understanding is that SPP is still awaiting approval from the Federal Energy Regulatory Commission ("FERC").

Collectively, this suggests that SPP is taking demand response seriously as a viable market-based resource and the Missouri Public Service Commission should adapt accordingly as SPP's framework is modified.

Q. Do you have any final comments to make?

A. I do. The uncertainty surrounding speculative data center load throughout SPP increases the importance of demand response. Today, Nucor could rightly be characterized as the "big fish" of potential demand response actors in the Evergy service territory, but that is starting to change as larger load customers from data centers materialize.

The sheer size of these data center customers necessitates a dialogue around requiring economic demand response and/or emergency curtailments as a required tariff feature for these customers to receive service. Absent that requirement, existing ratepayers will be needlessly exposed to volatile market prices that will only exacerbate the affordability crisis that is emerging across many households and companies operating today. Data center participation in demand response programs is also crucial for stabilizing the power grid, lowering operational costs, and maintaining reliability. By temporarily reducing or shifting electricity usage during peak demand, data centers can prevent grid outages, better integrate renewable energy, and, ideally, turn massive energy consumption into flexible, compensated grid resources.

Moving forward, I would encourage the Commission to consider this case as a precursor to a larger dialogue around the future of demand response, MEEIA, market-based alternatives,

and hyperscale data centers. The Staff and OPC's recommendations in the case support efficient competition, reduce unnecessary subsidies, and prioritize transparency and economic stability moving forward. For those reasons, I recommend the Commission reject Evergy's application.

Q. Does this conclude your testimony?

A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West For Approval of an Amendment to Nucor Steel Sedalia, LLC Agreement	))))	Case No. EO-2026-0129

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Geoff Marke
Chief Economist

Subscribed and sworn to me this 29th day of April 2026.

TIFFANY HILDEBRAND
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES AUGUST 8, 2027
COLE COUNTY
COMMISSION #15637121

Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.