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# Exhibit No. 200

OPC – Exhibit 200  
Surrebuttal Testimony of Manzell Payne  
Case No. EO-2026-0129

**Exhibit No.:** \_\_\_\_\_  
**Issue(s):** Nucor Participation in MEEIA Business  
Demand Response Program  
**Witness/Type of Exhibit:** Payne/Surrebuttal  
**Sponsoring Party:** Public Counsel  
**Case No.:** EO-2026-0129

**SURREBUTTAL TESTIMONY**

**OF**

**MANZELL PAYNE**

Submitted on Behalf of the Office of the Public Counsel

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

CASE NOS. EO-2026-0129

\*\* \_\_\_\_\_ \*\*  
Denotes Confidential Information that has been redacted.

April 29, 2026

**PUBLIC**

**SURREBUTTAL TESTIMONY**

**OF**

**MANZELL M PAYNE**

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

**CASE NO. EO-2026-0129**

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

2 A. My name is Manzell Payne. I am a Senior Utility Regulatory Auditor for the Office of the  
3 Public Counsel (“OPC” or “Public Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

4 **Q. What are your qualifications and experience?**

5 A. My educational background includes a Bachelor of Arts degree in Accounting from  
6 Westminster College in Fulton, Missouri, which I received in 2020. I am currently  
7 obtaining my MBA with an emphasis in accounting.

8 Prior to joining the Office of Public Counsel in July 2023, I worked as an analyst and  
9 auditor in the banking industry for four and half years. The responsibilities during my time  
10 as an analyst included risk analysis, tracking/monitoring expenditures, auditing of business  
11 financial statements and business plans. Through my various analysis and auditing work in  
12 the banking industry, I had the opportunity to review an individual or company’s credit  
13 worthiness.

14 Since joining the OPC, I have attended the National Association of Regulatory Utility  
15 Commissioners (“NARUC”) Rate School, and I have attended other seminars and trainings  
16 relating to utility regulation.

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

18 A. Yes, I have previously testified before the Missouri Public Service Commission  
19 (“Commission”). Please refer to schedule MMP-S-6 attached hereto for a list of cases in which  
20 I have testified.

21 **Q. What is the purpose of your direct testimony?**

22 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Staff  
23 witnesses, Mark Kiesling, Jordan Hull, and Justin Tevie concerning the Evergy Missouri  
24 West, Inc., d/b/a Evergy Missouri West (“Evergy Missouri West”, “Evergy”, or “EMW”) proposed  
25 inclusion of Nucor Steel Sedalia, LLC (“Nucor”) in EMW’s Missouri Energy

1 Efficiency Investment Act (“MEEIA”) Cycle 4, Business Demand Response (“BDR”)  
2 program.

3 **Q. What is Staff’s position on Nucor participating in EMW’s MEEIA BDR program?**

4 A. Staff witnesses, Mark Kiesling, Jordan Hull, and Justin Tevie, all provide an array of reasons  
5 as to why Nucor should not be included in EMW’s MEEIA BDR program.

6 Mr. Kiesling highlights the impacts to non-Nucor customers. More specifically, Mr.  
7 Kiesling’s testimony encompasses how Nucor’s inclusion in Evergy’s MEEIA BDR program  
8 is not beneficial to EMW ratepayer due to the additional earnings opportunity paid to EMW,  
9 additional incentives paid to Nucor, and the unrealized avoided capacity benefits.

10 Mr. Hull’s testimony elaborates on why Nucor’s Special Rate for Incremental Load Service  
11 Schedule SIL (“SIL”) tariff, which does not currently permit Nucor to participate in BDR. He  
12 also lays out how the Commission could permit Nucor to participate in demand response  
13 outside of Evergy’s MEEIA BDR program and in doing so there would be no dependence on  
14 ratepayer funding. This would still allow for curtailment benefits to ratepayers, capacity  
15 accreditation for EMW, and financial benefits to both EMW and Nucor.

16 Mr. Tevie’s testimony discusses the hold harmless provision of Nucor’s SIL tariff, capacity  
17 costs, and load forecasting pertaining to Nucor.

18 Overall, Staff has recommended that the Commission not allow Nucor to participate in the  
19 MEEIA BDR. However, Mr. Hull and Mr. Tevie provide reasonable alternatives if the  
20 Commission were to allow Nucor to participate in demand response, then to either do so  
21 outside of MEEIA or to order EMW to change the structure of Nucor’s involvement in  
22 MEEIA BDR to provide more protection to customers.

23 **Q. Do you agree with the concerns raised by Staff witnesses on Nucor’s participation in  
24 EMW’s MEEIA BDR program?**

25 A. Yes. As stated above, the position that Staff has taken and the concerns identified regarding  
26 cost allocation, tariff consistency, and the lack of demonstrated benefits associated with  
27 EMW’s position are all reasons why Nucor should not participate in EMW’s MEEIA BDR  
28 program. The overall proposed participation of Nucor in the BDR program is not in the best  
29 interest of the public and increases the burden on EMW’s ratepayers.

1 **Q. Why is Nucor’s participation a concern?**

2 A. The underlying issue is that Nucor’s participation results in a shift in cost from Nucor to other  
3 ratepayers without sufficient evidence that those ratepayers will receive commensurate  
4 benefits. The concern is that Nucor and EMW will benefit through the incentives and earnings  
5 opportunity, respectfully, and in doing so those costs will be shifted on to ratepayers.

6 **Q. Can you provide any background as to the connection between Evergy’s MEEIA  
7 business demand response programs and Nucor’s SIL tariff?**

8 A. Yes. Evergy applied for MEEIA Cycle 3 in November 2018. In doing so, there was a target  
9 set for its Business Demand Response program at a certain level. This target could not have  
10 included Nucor Sedalia participating in the BDR program because it did not exist at the time.  
11 The Report and Order regarding Evergy’s MEEIA Cycle 3 was filed in December of 2019.  
12 Also in 2019, EMW became aware of Nucor Sedalia.<sup>1</sup> Then on \*\*\_\_\_\_\_\*\*<sup>2</sup> EMW  
13 entered the SIL tariff agreement with Nucor Sedalia. In the MEEIA Prudence Review Case  
14 Numbers EO-2023-0407 and EO-2023-0408, it was discovered that EMW violated the  
15 express language of its SIL tariff sheet by allowing Nucor to participate in MEEIA BDR. As  
16 a result, both the Commission’s Staff and the OPC raised the issue of this violation in the  
17 prudence review.<sup>3</sup>

18 The Commission approved a Unanimous Stipulation and Agreement in EO-2023-0407 and  
19 EO-2023-0408 to solve all issues regarding Nucor’s participation in EMW’s MEEIA Cycle  
20 3.<sup>4</sup> Now in MEEIA Cycle 4, EMW wants to include Nucor in their MEEIA BDR program,  
21 only this time they are requesting permission to do so. However, the targets for the MEEIA  
22 BDR program (140 MW in 2026 and 150 MW in 2027)<sup>5</sup> have not changed. Those targets  
23 were set without the inclusion of Nucor, which means including Nucor now would create the  
24 same problem identified in the MEEIA Prudence Review Cases, where EMW used Nucor to

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<sup>1</sup> See EO-2019-0244, Application. Attached as MMP-S-2 Confidential.

<sup>2</sup> Contract Signed date from Response to Staff Data Request No. 34 titled “DR0034\_CONF\_2022 Nucor Sedalia Fully Executed Participation Agreement”, attached as Schedule MMP-S-1.

<sup>3</sup> Staff’s Statement of Position in Case No. EO-2023-0407. Item 23. Page 1. Attached as MMP-S-3; OPC Statement of Position in Case Nos. EO-2023-0407/0408. Item 24. Page 1. Public and Confidential. Attached as MMP-S-4.

<sup>4</sup> Case Nos. EO-2023-0407/0408, Order Approving Unanimous Stipulation and Agreement. Item 31. Dated June 10, 2024.

<sup>5</sup> Company witness, Brian File, Direct Testimony. Page 4, Lines 10-11.

1 meet its targets easier, resulting in an unjustified earnings opportunity and incentives for  
2 EMW and Nucor, respectfully.

3 **Q. Can you provide historical background on the prohibition that exists in the SIL tariff**  
4 **sheets?**

5 A. Yes. In Case No. EO-2023-0407, Company witness Bradley Lutz provided context for the  
6 language related to demand response in the SIL tariff. In doing so, he points out that the SIL  
7 tariff is for establishing incremental pricing for customers meeting special criteria. This  
8 ensures that revenues received from these customers cover the costs to serve them.

9 In relation to the demand response programs, the BDR Program has the potential to impact  
10 peak demand and customers' load. When a company participates in the BDR Program, it can  
11 affect the incremental costs of serving new load.<sup>6</sup>

12 In this case, allowing Nucor's participation in MEEIA BDR would be inconsistent with the  
13 original intent of the SIL tariff, which is to ensure that the costs associated with serving Nucor  
14 are borne by Nucor and not shifted to other ratepayers. Instead, the proposed structure would  
15 allow costs associated with Nucor's participation in MEEIA BDR to be recovered from non-  
16 Nucor customers, contrary to the underlying principles of the SIL tariff.

17 **Q. Why is it important that the SIL tariff included language that prevents Nucor Sedalia**  
18 **from both taking service under the SIL tariff and participating in the MEEIA BDR**  
19 **Program?**

20 A. Mr. Lutz provides an explanation for this in his direct testimony in Case No. EO-2023-0407.  
21 He states:

22 The special rate provides for long term pricing up to ten years. Further, the rate  
23 schedule is designed to recover no less than the incremental costs of serving the new  
24 load. Since the rates are set near incremental cost based on estimated customer loads,  
25 material changes in the customer consumption, such as demand response program  
26 participation, could undermine the rate design and expose the Company to under  
27 recovery of cost.<sup>7</sup>

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<sup>6</sup> EO-2023-0407 and EO-2023-0408, Bradley Lutz, Page 4.

<sup>7</sup> EO-2023-0407 and EO-2023-0408, Bradley Lutz, Page 4, Line 12.

1 Mr. Lutz recognizes that there is risk to under recovery of costs if Nucor Sedalia were to both  
2 take service under the SIL tariff and participate in the MEEIA BDR Program at the same time.  
3 Specifically, there is potential to destabilize the rate design the Commission approved.  
4 Participating in the MEEIA BDR program with also taking service under SIL tariff exposes  
5 customers and Nucor Sedalia to risk if Nucor Sedalia cannot cover their incremental costs.  
6 The language in tariff Sheet No. 157 that those who take service under the SIL tariff cannot  
7 participate in both the SIL tariff and MEEIA programs and demand response programs  
8 without Commission approval is there to minimize risk.

9 **Q. In Case Nos. EO-2023-0407 and EO-2023-0408, EMW’s MEEIA Cycle 3 prudence**  
10 **review, you pointed out Nucor’s participation in MEEIA BDR program was a**  
11 **significant portion of the program. What was that portion of participation?**

12 A. In that case, EMW provided a response to OPC Data Request #2500, which shows that Nucor  
13 curtailed load was a significant portion of the total curtailed MW EMW achieved in 2021 and  
14 2022. Specifically, in 2021, Nucor Sedalia curtailed 18.9071 MW, which was \*\*\_\_\*\*<sup>8</sup> of  
15 the total amount of curtailed MW for that year. In 2022, Nucor Sedalia curtailed 19.025 MW,  
16 which was \*\*\_\_\*\*<sup>9</sup> of the total amount of curtailed MW for that year.  
17 Overall, Nucor Sedalia helped Evergy Missouri West reach its BDR Program target easier by  
18 curtailing a considerable portion of the overall curtailed MW for each year.

19 **Q. What other comparisons in Case Nos. EO-2023-0407 and EO-2023-0408 were made**  
20 **regarding Nucor’s participation in MEEIA BDR in 2021 and 2022?**

21 A. Nucor Sedalia’s curtailment in 2021 is even more considerable when considering that 141  
22 other businesses participated in Evergy Missouri West’s MEEIA BDR Program. The same  
23 can be said for 2022 when 145 other businesses participated. Nucor Sedalia’s participation  
24 made it easier for the Company to reach its BDR Program target.

25 Another comparison can be made when looking at the total curtailed MW of Evergy Missouri  
26 Metro’s MEEIA BDR Program in 2021 and 2022. Nucor Sedalia’s curtailed MW of 18.9071  
27 MW in 2021 is \*\*\_\_\*\* of the total curtailed MW of \*\*\_\_\_\_\_\*\*<sup>10</sup> for Evergy

<sup>8</sup> Case Nos. EO-2023-0407/0408. Data Request No. 2500 response, attached as MMP-S-5 Confidential.

<sup>9</sup> Case Nos. EO-2023-0407/0408. Data Request No. 2500 response, attached as MMP-S-5 Confidential.

<sup>10</sup> Case Nos. EO-2023-0407/0408. Data Request No. 2500 response, attached as MMP-S-5 Confidential.

1 Missouri Metro's *entire* BDR Program. In 2022, Nucor Sedalia's curtailed 19.025 MW was  
2 \*\*\_\_\_\_\_\*\* curtailed MW of Evergy Missouri Metro's *entire* MEEIA BDR  
3 Program, which was \*\*\_\_\_\_\_\*\*<sup>11</sup> in 2022.

4 **Q. Why are these comparisons important?**

5 A. These comparisons are important because they show how much EMW relies on Nucor to  
6 meet its Earnings Opportunity. The Company wants to reach its target goals easier in order to  
7 receive its EO money. Without Nucor it must rely on finding other businesses to do so. As is  
8 seen above and with this request from EMW for the Commission to allow Nucor to  
9 participate, the Company will benefit greatly while others do not. Additionally, EMW's  
10 reliance on a single large load customer for demand response introduces concentration risk.  
11 The availability and performance of relying primarily on Nucor for DR may change overtime,  
12 which can leave EMW in a worse position, and ultimately increase to financial burden onto  
13 ratepayers.

14 **Q. What does Nucor's inclusion in the MEEIA BDR program mean for the Earnings  
15 Opportunity that EMW can receive?**

16 A. Since the MEEIA BDR program was approved by the Commission with targets that were set  
17 by the Company without consideration of Nucor's participation, the target was set lower than  
18 it would have been if Nucor is allowed to participate, allowing EMW to meet its demand  
19 response targets more easily. This was the case when EMW unlawfully included Nucor in its  
20 MEEIA BDR program from June of 2020 to September of 2023. However, the concern is not  
21 simply that EMW may achieve its target and earn the earnings opportunity, but rather how  
22 those targets are achieved. More specifically, including Nucor introduces a large, previously  
23 excluded customer into the program, which was not contemplated when the targets were  
24 established. This result may cause EMW to achieve its performance metrics using a resource  
25 that may not reflect the type of broad-based customer participation that MEEIA programs are  
26 intended to achieve. Additionally, as Mr. Kiesling explains, Nucor's participation would be  
27 supported by ratepayer funded incentives while Nucor does not contribute to MEEIA program  
28 costs if they were to opt out.<sup>12</sup> This raises a concern that EMW could earn an EO based on

<sup>11</sup> Case Nos. EO-2023-0407/0408. Data Request No. 2500 response, attached as MMP-S-5 Confidential.

<sup>12</sup> Staff witness Mark Keisling Rebuttal Testimony. Page 6.

1 participation that shifts costs to ratepayers without sufficient evidence of corresponding  
2 incremental benefits.

3 **Q. Staff witness, Justin Tevie raises concerns with the hold harmless provision of Nucor's**  
4 **SIL tariff. Do you agree with their concerns?**

5 A. Yes. Mr. Tevie identified that the proposal excludes MEEIA program costs and incentives  
6 from the hold harmless calculation. By excluding these costs, non-Nucor ratepayers would  
7 bear expenses associated with serving Nucor, which is inconsistent with the intent of the hold  
8 harmless provision.

9 **Q. Based on your review of Staff's testimony, do you believe there is a viable alternative**  
10 **that allows Nucor to participate in a demand response program that avoids the pitfalls**  
11 **you have already identified?**

12 A. Yes. Nucor has the option, if the Commission were to allow it, to participate in demand  
13 response outside of MEEIA. As Mr. Hull has pointed out, this can protect EMW's ratepayers  
14 while also still providing value to EMW and Nucor. This alternative will just not result in  
15 Nucor and EMW making the same amount of profit they otherwise would have if Nucor  
16 participated in MEEIA BDR. Mr. Hull in his rebuttal testimony provides background and  
17 information on demand response programs that are outside of EMW's MEEIA and are not  
18 ratepayer funded. He especially states:

19 Missouri customers, particularly larger commercial and industrial loads, may  
20 participate in regional wholesale demand response markets operated by the  
21 Midcontinent Independent System Operator, Inc. ("MISO") and the Southwest Power  
22 Pool ("SPP"). These markets compensate participants for reducing load during  
23 periods of system stress by partaking as a market participant. Recent regulatory  
24 changes in Missouri have lifted prior restrictions, allowing larger customers to  
25 participate either directly or through third-party Aggregators of Retail Customers  
26 ("ARCs"). As a result, companies can work with an ARC or the utility to bid load  
27 reductions into wholesale markets and earn revenue independent of Evergy Missouri  
28 West's MEEIA tariffs.<sup>13</sup>

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<sup>13</sup> Staff witness Jordan Hull Rebuttal Testimony. Pages 5-6, Lines 12-19 and 1-2, respectfully.

1           Additionally, he provides the demand response tariff options offered by SPP, which are:

- 2                     • Dispatchable Demand Response Resource (“DDR”): Load reductions that can be
- 3                     dispatched by SPP (i.e., controlled in real time).
- 4                     • Block Demand Response Resource (“BDR”): Load reductions that are not real-time
- 5                     dispatchable but can still reduce grid withdrawals under instruction.<sup>14</sup>

6           In the SPP’s DR program, participants receive compensation or incentives whenever called  
7           upon to reduce electricity consumption or lower load. Thus, Nucor can still participate in  
8           demand response, while receiving an incentive, without doing so in MEEIA. Additionally,  
9           SPP has certain criteria, such as verified performance, that must be backed by detailed  
10           baseline calculations for incentives to be paid. EMW’s MEEIA BDR does not have this.  
11           Through SPP’s DR program, EMW’s customers will be better protected due to the reporting  
12           requirements.

13 **Q.    So, in your opinion, it would be acceptable for Nucor to participate in the kind of**  
14 **demand response program discussed in Mr. Hull’s rebuttal testimony?**

15 A.    Yes. To be very clear, I am not against demand response programs in general nor am I against  
16        Nucor’s participation in such programs generally. The issues I have identified are specific to  
17        allowing Nucor to participate in EMW’s existing MEEIA BDR program.

18 **Q.    What is your recommendation to the Commission as to Nucor?**

19 A.    First, I recommend that the Commission deny Evergy Missouri West’s request to allow Nucor  
20        to participate in its MEEIA BDR program. The Company’s position would impose costs on  
21        ratepayers without sufficient evidence of corresponding benefits, and it raises concerns  
22        regarding cost allocation and program integrity. However, if the Commission finds it  
23        reasonable for Nucor to participate in demand response, it should order them to do so through  
24        alternative forms that are outside of MEEIA, that will not be funded by EMW ratepayers.

25 **Q.    Does this conclude your surrebuttal testimony?**

26 A.    Yes, it does.

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<sup>14</sup> Staff witness Jordan Hull Rebuttal Testimony. Page 6, Lines 8-12.

