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

REPLY BRIEF OF NUCOR STEEL SEDALIA, LLC

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COMES NOW, Nucor Steel Sedalia, LLC ("Nucor"), and respectfully submits its reply brief in this proceeding.

I. INTRODUCTION

On June 25, 2026, the parties to this case filed initial briefs regarding the proposed amendment to the Special Incremental Load Rate Contract between Evergy Missouri West ("Evergy," "EMW," or "Company") and Nucor (the "Nucor Contract") and the related Non-Unanimous Stipulation and Agreement ("Stipulation"). In general, most of the parties to this case recognize the value and importance of demand response and agree that Nucor's participation in demand response programs can be beneficial if properly implemented. Staff also acknowledges that the Stipulation:

> is a constructive step forward because it recognizes a limited 2027 approval, ties continuation to a later financial analysis, refers to SPP-accredited kW, provides for final Evaluation, Measurement, & Verification ("EM&V") values, limits the amount of Nucor kW credited to EMW's BDR goals for earnings-opportunity purposes, and excludes Nucor kW from the 65% earnings-opportunity vesting threshold. These provisions show that the parties recognize the need for a controlled trial rather than an open-ended authorization.[1]

Staff clearly recognizes the objectives Nucor and Evergy were trying to achieve with the Stipulation. Nevertheless, Staff opposes Nucor's participation in Evergy's Missouri Energy

[1] Staff's Initial Brief at 5-6.

Efficiency Investment Act ("MEEIA") programs without additional onerous and unnecessary conditions. For its part, and in contrast to Staff, the Office of Public Counsel ("OPC") is strident in its opposition to Nucor's participation in the MEEIA programs.

In this case, Nucor simply would like the ability to participate in Evergy's MEEIA programs (specifically, the Business Demand Response ("BDR") Program) under the same rules and requirements as any other eligible customer. Nucor submits that, considering the weight of the evidence, Nucor's participation in Evergy's MEEIA programs provides the best opportunity to provide value to non-Nucor customers of Evergy. As such the Commission should approve the contract amendment and Stipulation.

Nucor files this reply brief to respond to certain arguments raised by Staff and OPC. We will not address all the arguments raised by the parties, and our decision not to respond to a particular argument or position should not be construed as agreement with that argument or position.

II. REPLY

A. Nucor's Participation in the BDR Program Will Provide Significant Benefits

OPC's first argument for why the Commission should deny Evergy's and Nucor's request to allow Nucor to participate in Evergy's demand response program is that the "benefits arising from Nucor's participation in the BDR program do not exceed the costs of its participation."[2] OPC further states that "there are effectively no benefits to Evergy's consumers for having Nucor participate in the BDR program," and quotes OPC witness Dr. Marke as stating that there are "**<u>no benefits</u>** for ratepayers if the Commission approves this today, **<u>zero</u>**."[3] OPC can make its bold

[2] Initial Brief of the Missouri Office of the Public Counsel ("OPC Initial Brief") at 6.
[3] *Id*. at 9 (emphasis in the original).

claim that there are no benefits attributable to Nucor's participation in Evergy's demand response programs because OPC looks at only a single factor – whether Nucor's participation directly causes Evergy to avoid having to build a new peaking plant.[4] But by focusing only on this single factor, OPC ignores evidence showing that there are many other benefits demand response provides.

To begin with, Nucor's participation in the BDR program results in capacity cost savings and helps Evergy meet its Southwest Power Pool ("SPP") resource-adequacy requirements in a cost-effective manner. As Evergy explains:

> The benefits of Nucor's participation are not theoretical. Nucor's verified 2021 and 2022 peak-demand reductions produced avoided capacity-cost benefits that exceeded the incentives paid, for a benefit-cost ratio well above one. Those reductions also produce [SPP] resource-adequacy value that counts toward the capacity EMW must otherwise procure, which can reduce costs for every customer.[5]

Nucor's participation in the BDR program resulted in over $2.5 million in avoided capacity cost benefits to Evergy's customers, not including additional potential benefits related to avoided transmission and distribution costs.[6] The benefit to cost ratios for the BDR program in 2021 and 2022 were 2.45 and 2.47 respectively under the Total Resource Cost test and 1.17 respectively under the Program Administrator Cost Test.[7] As Evergy witness File testified, these results demonstrate that the BDR program is "highly cost-effective and delivers value well above its costs."[8]

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[4] *Id*. at 8.
[5] Evergy Missouri West's Initial Post-Hearing Brief ("Evergy Initial Brief") at 2 (citations omitted).
[6] Ex. 1, Direct Testimony of Brian File, at 7:19-8:4.
[7] *Id*. at 8:11-15.
[8] *Id*. at 8:15-16.

The resource adequacy value from demand response is significant, and the MEEIA programs are uniquely suited to provide these benefits. As Evergy explains, SPP credits Nucor's tested summer reductions against EMW's resource-adequacy obligation, reducing the quantity of capacity EMW must account for in its resource-adequacy position.[9] The capacity Nucor would provide through its participation in the BDR program would cost less than other alternatives such as procuring capacity through contracts or new generation.[10] Also, non-MEEIA demand response programs and wholesale demand response through an Aggregator of Retail Customers ("ARC") cannot provide this critical resource adequacy value – only demand response obtained through the MEEIA programs can.[11]

In addition to the avoided capacity benefits discussed above, there are other benefits Nucor's participation in the BDR program could provide. As discussed in Nucor's Initial Brief, demand response can be implemented quickly, cost-effectively, and without the long lead times; can help reduce the risk of outages and reduce the system peak; and can provide indirect societal benefits (*e.g.*, improved health and safety, investment in local economies, and local job creation).[12] The reliability benefits of demand response are of particular note in light of the recent unprecedented surge in electricity demand, which puts additional stress on the system at times of peak demand. For example, at the hearing, Staff witness Tevie agreed that curtailing load at a time of system stress can prevent brownouts or blackouts, and that curtailing load at the time of the

[9] Evergy Initial Brief at 7.
[10] *Id*.
[11] *Id*. at 7-8 (noting that at the hearing, Evergy witness Meitner agreed with Chair Hahn that MEEIA BDR is "the only one as far as capacity accreditation that you get credit for in resource adequacy at SPP," with the demand-response portion taken against the peak load forecast.).
[12] *See* Initial Brief of Nucor Steel Sedalia, LLC ("Nucor Initial Brief") at 6 (citations omitted).

system peak helps reduce the overall system peak.[13] Staff witness Keisling also agreed that demand response could provide avoided capacity, reliability, and peak reduction benefits.[14]

Finally, even with regard to OPC's single chosen metric to measure benefits – avoidance of a peaking generator – OPC's claims are overstated and unsupported. While OPC asserts that Evergy is long on capacity,[15] Evergy notes that this claim relates to Evergy, Inc., the holding company, not to EMW.[16] Even if SPP were to view the combined Evergy entities as long on capacity, EMW would still need to transact for any shortfall in its own resource-adequacy position,[17] which affirms the need for and value of cost-effective demand response obtained through the MEEIA programs. Evergy also points out that any claim that EMW is long on capacity is refuted by EMW's 2026 IRP Annual Update which projects needs and a plan for substantial new generation together with tightening SPP margins.[18] The IRP supports the need for cost-effective capacity resources for EMW in the future, which demand response can help provide.

OPC's claim that there are no benefits from Nucor's participation in the BDR program does not withstand the weight of the evidence in this case, and is directly refuted by testimony from several witnesses, including witnesses for Staff. On the contrary, the evidence shows that Nucor's participation in the BDR program will provide significant benefits.

B. Special EM&V Requirements for Nucor to Participate in the BDR Program are Not Necessary

Staff asserts that Nucor should not be allowed to participate in the BDR program under the program rules and requirements that apply to all other customers because of Staff's perceived

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[13] Tr. at 161:15-25.
[14] Tr. at 172:19-173:11.
[15] OPC Initial Brief at 8.
[16] Evergy Initial Brief at 9.
[17] *Id.*
[18] *Id.*

difficulty in establishing a baseline for Nucor. Staff repeatedly characterizes Nucor's load as "highly volatile," or "volatile"[19] and "unpredictable" or fluctuating wildly.[20] Because of this alleged volatility, Staff argues that Nucor's participation in the BDR program should be subject to additional scrutiny and special measurement and verification requirements.[21]

Nucor is a large customer with its own unique load profile, but that does not mean that special EM&V requirements are necessary for Nucor to effectively participate in the BDR program. As Evergy witness File explained at the evidentiary hearing, all customer load changes or is variable.[22] There are no requirements in the BDR program rules restricting customers with variable loads from participating or mandating special EM&V protocols for such customers.[23] Staff witness Tevie also testified that he is not aware of any customer ever being barred from participating in the BDR program based on its load shape.[24] Despite Staff's characterization of Nucor's load as "volatile" and "unpredictable," Staff simply has not demonstrated that the existing BDR rules are inadequate for Nucor's participation, or that other customers would be put at risk in any way from Nucor's participation.

In fact, the most compelling evidence in this case on the EM&V issues raised by Staff is the real-world results of Nucor's participation in the BDR program in 2021 and 2022. As Evergy states in its brief, "Nucor's track record is both proven and harmless. Its 2021 and 2022 reductions were third-party verified, produced a benefit-cost ratio above one, and harmed no other customer."[25] Evergy further explained that the third-party evaluation consultant, ADM &

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[19] Staff's Initial Brief at 2, 3, 6, 12, 13, 16, 18, 21, 36, 37, and 48.
[20] *Id.* at 10, 20, 27, and 37.
[21] *See id.* at 18.
[22] Nucor Initial Brief at 8; Tr. at 109:2-20.
[23] *See* Rules and Regulations, Electric - P.S.C. MO. No. 1 Original Sheet No. R-81.
[24] Tr. at 164:5-15.
[25] Evergy Initial Brief at 5.

Associates, sets and runs the baseline, and Staff's consultant, Evergreen Economics, oversees the work.[26] In 2021 and 2022, neither ADM nor Evergreen raised any issues or concerns with Nucor's baseline.[27] As Evergy witness File testified, Nucor performed well under the BDR program, responding when curtailments were called and providing demonstrated demand reductions at peak times.[28] Nucor's participation in the BDR program produced $2.5 million in avoided capacity cost savings.[29] Finally, even if the results of Nucor's participation in the BDR program are not enough to assuage the EM&V concerns raised by Staff, the Stipulation provides additional protection by including additional third-party verification of Nucor's performance, and a requirement that the benefits from Nucor's participation must exceed the costs in order for Nucor to continue to participate in the BDR program.

To summarize, Staff's claim that Nucor's load requires additional EM&V procedures in order to verify load reduction under the BDR program is largely speculative, while the evidence from Nucor's actual participation in the BDR program in 2021 and 2022 demonstrates that the EM&V rules that apply to other customers participating in the program work just as well for Nucor. As a result, the Commission should reject Staff's proposal to impose special EM&V requirements on Nucor.

C. The Cost of Nucor's MEEIA Participation Should Not be Included in the Hold Harmless Calculation

Staff argues that the existing hold harmless and cost tracking provisions of the Nucor Agreement, Schedule SIL, and the Non-Unanimous Stipulation and Agreement in EO-2019-0244 would only protect non-Schedule SIL customers if all costs attributable to Nucor's participation in

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[26] *Id*. at 13.
[27] *Id*.
[28] Ex. 4C, Confidential Surrebuttal Testimony of Brian File, at 7:18-8:4.
[29] Ex. 1, Direct Testimony of Brian File, at 7:17-8:8.

the MEEIA programs are included in the hold harmless and cost tracking process.[30] OPC similarly argues that Nucor's participation in the BDR program would violate the hold-harmless provision of the Nucor Contract and SIL Tariff.[31] These arguments by Staff and OPC should be rejected.

Staff argues that failing to pass the BDR program costs through the Nucor Contract hold-harmless provision is "an attempt to circumvent the hold-harmless provision because it will leave all other customers paying the bill."[32] But this view misconstrues the hold-harmless provision and improperly entangles Nucor's power supply agreement with Evergy and Nucor's provision of demand response through the BDR program. As Evergy witness Nunn testified, the hold-harmless provision relates specifically to "the provision of electricity to Nucor. The requested participation in demand response is separate from and unrelated to the provision of electric service."[33] As a result, it would be improper to run the costs of Nucor's BDR program participation through the hold-harmless calculation.

The proper cost recovery mechanism for Nucor's participation in the BDR program is the Demand-Side Investment Mechanism ("DSIM"), the same mechanism used to recover the costs of participation by all other customers in the MEEIA programs. Staff argues that since Nucor is the sole SIL customer and pays no DSIM charge, including the costs of Nucor's BDR participation in the hold-harmless provisions is necessary to ensure that other customers are not left "paying the bill."[34] But as Evergy explains in its brief, this argument is flawed because the Commission has determined that opt-out customers may participate in the BDR program while the DISM costs flow

[30] Staff's Initial Brief at 22.
[31] OPC Initial Brief at 10-11.
[32] Staff's Initial Brief at 25.
[33] Ex. 6, Surrebuttal Testimony of Linda Nunn, at 3:20-22.
[34] Staff's Initial Brief at 24-25.

to others.[35] Including these costs in the hold-harmless provision would also allow other customers to avoid support of the BDR program even though they would be receiving the avoided capacity benefits.[36]

In fact, Staff's and OPC's recommendation to flow Nucor-related BDR costs through the hold-harmless mechanism appears to be driven by a belief that Nucor's participation in demand response will provide no benefits to anyone other than Nucor and Evergy. OPC, for example, dismisses the request by Nucor and Evergy to allow Nucor to participate in demand response as "nothing more than an open attempt to subsidize Nucor on the back of Evergy's other customers."[37] But there can be no "subsidy" if the benefits customers receive from Nucor's participation in the program exceed the costs. As discussed in detail above in Section II.A. and as clearly demonstrated by the evidence in this case, Nucor's participation in demand response would provide important benefits to all customers on Evergy's system. These benefits include avoided capacity costs that exceed the costs of the program, resulting in the BDR program easily passing the MEEIA program's cost effectiveness tests. Nucor's participation in the BDR program would not be a subsidy or give-away (after all, Nucor will be the one altering its operations in response to calls to curtail under the BDR program to help maintain system reliability), so there is no reasonable justification for flowing program costs through the hold-harmless calculation rather than through the DSIM, the Commission-approved mechanism for recovering MEEIA program costs.

Finally, the hold-harmless mechanism will still function to protect Evergy's customers as intended even if the Commission rejects Staff's and OPC's proposal to flow BDR program costs through the hold-harmless calculation. For example, if Nucor's demand response participation

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[35] Evergy Initial Brief at 18-19.
[36] *Id*. at 19.
[37] OPC Initial Brief at 15 (citation omitted).

results in Evergy not recovering sufficient revenue from Nucor to cover the incremental cost of service, the hold-harmless provision will ensure that other customers do not bear any additional cost.[38] In addition to the hold-harmless provision, all of the other protections in the SIL tariff and the Non-Unanimous Stipulation and Agreement in EO-2019-0244 will remain in place.[39] Further, the Stipulation in this case would provide additional protections for customers if the costs of Nucor's participation in the BDR program are found to exceed the benefits.

D. Concerns About Evergy's Earnings Opportunities are Misplaced

Staff raises concerns about potential earning opportunities from Nucor's participation in the BDR program, but those concerns are not valid because the Stipulation eliminates that possibly through the end of Cycle 4. Staff is concerned that Nucor's participation would "benefit EMW by helping it achieve target savings it might otherwise not achieve."[40] However, the Stipulation explicitly provides that any "Nucor kW contributed to EMW 2027 demand response goals will not count towards Evergy meeting the 65% threshold of goal for EO to be vested."[41] In fact, Staff actually highlights that provision in its brief, but claims the provision "rings hollow because EMW is already positioned to achieve the 65% vesting threshold with or without Nucor's participation."[42] If Evergy was already going to meet the 65% vesting threshold, then any concerns about earnings opportunities from Nucor's participation are irrelevant. Regardless, as explained above, the Stipulation provides that the earnings opportunity associated with Nucor participation will be forfeited through the end of Cycle 4.

[38] Ex. 1, Direct Testimony of Brian File, at 10:19-11:14.
[39] *See* Evergy Initial Brief at 17 ("Beyond the FAC, the protections are multi-layered: Schedule SIL-specific FAC subaccounts, 25%/4-hour deviation tracking, rate-case revenue imputation, and planned-outage notices, with the most recent accumulation period producing a net decrease to non-Nucor customers.").
[40] Staff's Initial Brief at 28-29.
[41] Ex. 8, Non-Unanimous Stipulation and Agreement, at 2.
[42] Staff's Initial Brief at 29.

Staff also argues that Nucor was not allowed to participate in the BDR program when EMW's Cycle 4 targets were established and that allowing Nucor in mid-way through Cycle 4 would benefit EMW by helping it achieve target savings.[43] It is unclear how this concern is relevant. If it is Staff's position that no new customers can join MEEIA programs mid-cycle, then this would defeat the purpose of the MEEIA statute. Erecting barriers to participation in MEEIA programs would be particularly counterproductive today, when Evergy needs robust demand response participation in order to meet its resource adequacy requirements and deal with the current "unprecedented surge in electricity demand."[44] Furthermore, while Nucor is currently prohibited from participating in demand response programs (hence the filing of this case), the language of the SIL Tariff contemplates potential participation in demand response programs with Commission approval.[45]

E. Claims that Allowing Nucor to Participate in the BDR Program Would Inhibit Competition in Missouri are Unfounded

The Commission should reject OPC's claims that allowing Nucor to participate in the BDR program would inhibit competition in Missouri. OPC argues that allowing Nucor to participate in the BDR program would amount to a denial of access by ARCs to demand response supplier opportunities in Missouri.[46] First, denying Nucor the opportunity to participate in the BDR program in no way guarantees that Nucor would instead choose to participate in a demand response program through an ARC. Second, there is no evidence (aside from OPC's conclusory statements) that an ARC or competition in Missouri will be impeded by Nucor's participation in the BDR program. Finally, if Nucor's participation in Evergy's MEEIA programs would inhibit competition

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[43] *Id.* at 28.
[44] Ex. 1, Direct Testimony of Brian File, at 4-5.
[45] *See* Schedule SIL, P.S.C. MO. No. 1 1st Revised Sheet No. 157.
[46] OPC Initial Brief at 13.

in Missouri, then every other customer participating in those programs is inhibiting competition as well. OPC's concerns about Nucor participation, therefore, appear to be a collateral attack on the BDR program and the MEEIA statutory construct in general. As a result, OPC's concerns about the state of competition in Missouri (fundamentally a policy matter) would be more appropriately addressed in another forum, such as in the MEEIA cases or before the General Assembly, rather than in this case, which is considering a request for a single customer to have the ability to participate in Evergy's currently-approved MEEIA programs.

III. CONCLUSION

Neither Staff nor OPC raise issues that reasonably show that the Nucor Contract amendment should be disapproved or that the Stipulation is not in the public interest. For the reasons discussed above, and for the reasons detailed in Nucor's Initial Brief, the Commission should approve the Nucor Contract amendment and Non-Unanimous Stipulation and Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon all the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission on July 9, 2026.

/s/ Marc H. Ellinger
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