

**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)	<u>Case No. ER-2026-0143</u>
Increase for Electric Service)	

PUBLIC COUNSEL'S POSITIONS ON LISTED ISSUES

COMES NOW the Office of Public Counsel ("Public Counsel") and states its positions on the listed issues as follows:

PUBLIC COUNSEL'S POSITIONS ON LISTED ISSUES

1. Cost of Capital

A. What is the appropriate capital structure to use for ratemaking in this proceeding?

Public Counsel's Position: The 45% common equity and 55% long-term debt ratemaking capital structure which Public Counsel witness David Murray determined is consistent with Evergy, Inc.'s more cost efficient targeted and average quarterly capital structure ratios for the period June 30, 2024, through June 30, 2026. Evergy Metro, Inc. is a subsidiary in a holding company structure where Evergy, Inc. is the ultimate parent. Evergy, Inc. issues equity and long-term debt in the capital markets through arms-length transactions with third parties. While Evergy Metro, Inc. does issue its own debt, its capital structure is managed through internal capital flows to achieve a common equity ratio of 52% at a specific point-in-time for ratemaking, which is the true-up date of June 30, 2026. By manipulating Evergy Metro Inc.'s common equity ratio to a suboptimal 52% common equity ratio Evergy is requesting the Commission to have Evergy Metro Inc.'s Missouri customers pay for a higher-cost capital structure than the capital structure which it targets for itself, despite the fact that legislative and regulatory changes in Missouri have shifted business risk from investors to ratepayers. Evergy Metro, Inc.'s Missouri ratepayers deserve credit for this shift in risk by being charged a rate-of-return that is consistent with Evergy, Inc.'s market-based capital structure ratios, ratios which Evergy, Inc. has dynamically managed to take advantage of its reduced business risk that flows to it from its regulated utility subsidiaries.¹

B. What cost of debt should be used for determining rate of return?

Public Counsel's Position: 4.54% based Evergy Missouri Metro's embedded cost of long-term debt as of June 30, 2026.²

C. What return on common equity should be used for determining rate of return?

¹ See Schedule DM-8, p. 2.

² David Murray Surrebuttal and True-up Direct, p. 8.

Public Counsel's Position: 9.25%, the midpoint of Mr. Murray's recommended authorized ROE range of 9.00% to 9.50%, a range which is based on the following considerations:

- The electric utility industry's cost of equity ("COE") in 2015 was very similar to the current COE when this Commission authorized a 9.50% ROE for Every Missouri Metro;
- Mr. Murray's recommended 9.25% ROE fairly balances Every Missouri Metro's shareholder compensation with the ratepayer burdens that Every Missouri Metro's planned significant capital investments will create;
- Every Missouri Metro will create additional shareholder wealth if it earns a ROE above its approximately 8.00% COE; and
- 9.25% is reasonable under the Commission's zone of reasonableness of standard of 100 basis points above and below recently authorized ROEs—here 9.70%, for a zone of reasonableness of 8.70% to 10.70%.³

D. What is the appropriate rate of return to use for ratemaking in this proceeding?

Public Counsel's Position: $6.66\% = 45\%(9.25\%) + 55\%(4.54\%)$ —a 9.25% common equity rate and a 4.54% debt rate applied to a 45% common equity and 55% long-term debt ratio.

2. Revenues and Billing Determinants

A. What level of billing units and normalized revenues should be used in calculating rates?

- i. What update period adjustment should be used in calculating normalized billing units, revenues, and rates?
- ii. What rate switcher and Large Power Service customer annualization adjustment should be used?
- iii. What weather normalization adjustment should be applied?
- iv. Should the blocking percentage for the actual blocks and the weather normalized blocks be the same?
- v. What 365-day adjustment should be used?
- vi. What energy efficiency adjustment should be used?
- vii. What growth adjustment should be used, and what counts should be used to calculate normal use per customer and customer growth?
- viii. What non-Missouri kilowatt hour ("kWh") adjustment should be used in calculating normalized billing units?
- ix. Should the definitions of bill count and customer charge counts be added to EMM's tariff?
- x. For normalization of retail revenues and billing determinants, should

³ David Murray Direct, pp. 2 & 6.

- customer charge count or bill count be utilized?
- xi. Should the Company be compelled to provide both bill count and customer charge count in future rate cases.
 - xii. What is the normalized revenue and kWh for Large Power Service (“LPS”) customers?
 - xiii. What Economic Development Rider discount annualization should be applied?
 - xiv. What amount of gross up for revenue requirement should be applied to Economic Development Rider discount amount.

3. Other Revenues

- A. What is the appropriate level of net revenue to reflect in the cost of service and other models for Large Load Power Service (“LLPS”) and other large customers?

Public Counsel’s Position: The cost-of-service adjustment for Schedule LLPS revenues should be increased to \$117 million per year, substantially more than EMM’s proposed \$25 million adjustment. Absent Commission action, these excess revenues would flow to the Company’s earnings.⁴ The Company’s risk of under-recovery is further limited by the minimum bill and other contract protections approved in Case No. EO-2025-0154.⁵

- i. What is the appropriate revenue adjustment for expected future revenues from Schedule LLPS customers in the cost of service model?

Public Counsel’s Position: The Commission should increase EMM’s Schedule LLPS revenue adjustment from \$25 million to \$117 million per year. This reflects the LLPS customer’s projected calendar-year 2030 revenue, the last year that rates set in this case are likely to remain in effect, and is a known and measurable change that better matches revenues to the costs included in the revenue requirement.⁶ If the Commission prefers not to make a pro forma adjustment of this size, it should adopt the annual true-up mechanism described under Issue 37.⁷

- B. What level of forfeited discount, commonly referred to as late payment revenue, should be included in the cost of service?
- C. Should late payment fee revenue be increased by a proportionate amount of the revenue requirement increase authorized by the Commission in this case, commonly referred to as a “late payment fee factor-up”?

4. Wholesale Transmission Revenue Credit

- A. Should the Commission accept EMM’s revenue reduction to adjust utility transmission revenues in its cost of service to reflect Commission-authorized versus Federal Energy Regulatory Commission (“FERC”) authorized returns on equity?

⁴ Nelson Direct, p. 23; Nelson Surrebuttal, p. 8 (citing Gunn Rebuttal, p. 6).

⁵ Nelson Surrebuttal, p. 8.

⁶ Nelson Direct, p. 3; Nelson Surrebuttal, pp. 2, 9.

⁷ Nelson Direct, p. 26; Nelson Surrebuttal, p. 10.

5. Fuel and Purchased Power

- A. What should be adopted as the variable fuel and purchased power cost for this case?
- B. What fuel prices should be included in the cost of service?
- C. What normalized market prices should be used to determine the revenue requirement in this case?
- D. What level of Transmission Congestion Rights (“TCR”) revenue, not TCR margin, should be included in the cost of service?

6. Transmission Expense

- E. Should the requirement for the Transource adjustment be discontinued?

7. Payroll, Benefits, and Incentive Compensation

- F. What is the appropriate ratio of Operations and Maintenance (“O&M”) expense to be used in calculating payroll, benefits, and payroll tax expense?
- G. What level, if any, of long-term stock-based incentive compensation should be included in the cost of service?
- H. What level of capitalized short-term incentive compensation based on earnings should be removed from plant in service?
- I. What level of severance payments should be included in the cost of service?
- J. What level of pension and other post-employment benefit (“OPEB”) expense should be included in the cost of service?
- K. What level of supplemental executive retirement plan (“SERP”) expense should be included in the cost of service?

8. Maintenance and Operating Expense

- L. What level of meter replacement O&M costs should be included in the cost of service?
- M. What level of outside services expense should be included in the cost of service?
- N. What level of affiliate transaction expenses should be included in the cost of service?

9. Amortizations and Expired Amortization Tracker

- A. What level of Demand Side Management pre-MEEIA opt-out amortization should be included in the cost of service?
- B. What level of prospective tracking amortization should be included in the cost of service?

10. Advertising, Dues, and Donations

- A. What level of Edison Electric Institute (“EEI”) dues should be included in the cost of service?

Public Counsel's Position: Costs related to this endeavor should be borne entirely by EMM as they are not needed to provide safe, adequate and affordable service.

11. Customer Accounts Expense

- A. Should bad debt expense be increased by a proportionate amount of the revenue requirement increase authorized by the Commission in this case, commonly referred to as a “bad debt factor-up”?

12. Regulatory Assessments, Rate Case Expense, and Local Taxes

- A. What level of rate case expense, if any, should be allowed in the revenue requirement?

Public Counsel's Position: One-half of the average of EMM's rate case expenses in Case Nos. ER-2018-0145 and ER-2022-0129. The same as what Staff proposes.⁸

13. Common Use Billings

- A. Should the Uplight software be billed to Evergy's Kansas regulated entities?
- B. What Uplight costs, including plant, reserve, amortization expense, and common use billings, should be included in the revenue requirement, and how should those costs be allocated and recovered?

14. Property Tax

- A. What is the appropriate level of Missouri property tax to be included in rates?
- B. What base level of property taxes should the Commission approve for tracking purposes?
- C. What level of property tax tracker rate base amount and amortization should be included in the cost of service?

15. Income Taxes

- A. How much income tax expense should be included in rates?
 - i. Should income tax expense be reduced by a normalized disposition loss deduction?

Public Counsel's Position: Yes.⁹ Once a taxpayer disposes of an asset any normalization violation that before disposition could have occurred with that asset ends; therefore, the disposition loss deduction should be recognized for the tax year of the disposition regardless of any accelerated depreciation the taxpayer may have taken for prior tax periods.

- ii. What amount of research and development tax credits should be included in income tax expense?
 - iii. What amount of ongoing nuclear production tax credit benefits realized should be included in income tax expense?

⁸ Manzell Payne surrebuttal, pp. 7-9.

⁹ John Riley direct, pp. ; surrebuttal, pp. 7-10.

- B. Should the Commission approve a tracker for Inflation Reduction Act tax benefits?
- i. If a tax tracker should be approved, should the differences between actual tax benefits and tax benefits included in income tax expense be subject to carrying costs, and if so, what is the appropriate carrying cost to accrue?
- C. What amount of net operating loss deferred tax assets should be included in rate base?
- Public Counsel's Position:** None. A net operating loss is the excess of taxable expenses over taxable income for income tax purposes—an income tax item, and is independent of an income tax rate; a net operating loss is not a deferred tax liability—balance sheet item—calculated by applying a tax rate that ratepayers finance through utility rates.¹⁰ EMM does not have a net operating loss.
- D. Should an Accounting Authority Order (“AAO”) be issued to defer the sale of tax benefits after the true-up date but prior to the effective date of rates?

16. Income-Eligible Programs

- A. What level of Critical Medical Needs and Rehousing Programs expense should be included in the revenue requirement?

Public Counsel's Position: \$1 million for the Critical Medical Needs Program with 50/50 sharing of total program funding of \$2 million.¹¹ Continue current funding level for Rehousing Program.¹²

- B. What level of economic relief pilot program (“ERPP”) expense should be included in the revenue requirement?

Public Counsel's Position: Continue current funding level for economic relief program.¹³

- C. Should the pilot designation be removed from EMM's ERPP tariff?

Public Counsel's Position: Yes.

- D. Should EMM be required to provide a summary of the Rehousing Program administration, reporting, and evaluation by email to Staff and the Office of the Public Counsel at the conclusion of each year of the Program as described in its currently approved tariff?

Public Counsel's Position: Yes.

- E. Should the Commission approve the creation of a low-income rate or assistance program that waives EMM's customer charge for qualifying customers in this case, or should such a program continue to be developed in the Affordability Workshop?

Public Counsel's Position: The program should be created along the following parameters:¹⁴

¹⁰ John Riley direct, pp. ; surrebuttal, pp. 2-6.

¹¹ Geoff Marke direct, p. 55; surrebuttal p. 14.

¹² Geoff Marke direct, p. 55; surrebuttal p. 14.

¹³ Geoff Marke direct, p. 55; surrebuttal p. 14.

¹⁴ Geoff Marke direct, p. 55; surrebuttal p. 15.

- **Budget:** \$6m annually
- **Definition of Federal Poverty Level:** 150% Federal Poverty Level (“FPL”), 60% State Median Income (“SMI”), or the accepted threshold metric utilized by the Missouri Department of Social Services Low-Income Home Energy Assistance Program (“LIHEAP”).
- **Restrictions:** None.
- **How a customer can renew the waiver:** By providing proof of income to be administered by the Missouri Department of Social Services or and/or its applicable Community Action Agency.
- **Implementation Costs:** Minimal with a possibility of a one-time infusion of costs to enable universal enrollment with existing Missouri Benefits Programs.
- **How long before renewal:** One-year

i. If such a program is approved, should late fees be waived for qualifying customers?

Public Counsel’s Position: Yes.¹⁵

ii. If such program is approved, how should the waived revenues be recovered?

F. Should EMM be required to file quarterly Rehousing Program reports in EFIS in addition to the existing year-end report?

Public Counsel’s Position: Yes.

G. What changes, if any, should be made to the ERPP tariff to permit broader enrollment or to allow unused program funding to be transferred to other income-eligible programs?

Public Counsel’s Position: It should be changed to put more emphasis on enrolling elderly and single-parent households and to allow unused program funds to be transferred to other income-eligible programs.¹⁶

H. What level of Low-Income Weatherization Program expense, if any, should be included in the revenue requirement?

Public Counsel’s Position: \$1 million for the Low-Income Weatherization Program with 50/50 sharing of total program funding of \$2 million.¹⁷

17. Depreciation

A. Which depreciation rates should be used?

B. Should terminal net salvage be included in depreciation rates?

C. What general plant amortization reserve deficiency adjustment should be made?

D. Should rates reflect the ongoing amortization of a cost of removal asset?

E. Should EMM recover future retirement costs in current rates?

18. Plant in Service Accounting

¹⁵ Geoff Marke direct, p. 55; surrebuttal p. 15.

¹⁶ Geoff Marke direct, p. 55; surrebuttal p. 14.

¹⁷ Geoff Marke direct, p. 55; surrebuttal p. 14.

A. What projects should be reflected as eligible for plant in service accounting (“PISA”)?

B. What amount of PISA deferral should be reflected in rate base?

Public Counsel’s Position: To the extent that the \$21.8 million for EMM’s lateral rebuild project, the \$20.8 million for EMM’s substation projects, and \$73.1 million for EMM’s transmission projects are included in the PISA deferral, the PISA deferral should be reduced to remove them before the PISA deferral balance is reflected in rate base.

C. What amount of PISA amortization should be included in expense?

D. Should EMM’s plant-in-service reporting requirements be modified from those in the Stipulation and Agreement approved in Commission Case No. ER-2022-0129, and if so, what modifications should be made?

19. Distribution Investment

A. What level of distribution capital investment should be reflected in rate base?

Public Counsel’s Position: For the reasons to which Public Counsel witnesses Paul Alvarez and Dave Shapley testify, the following amounts should not be included in rate base: \$21.8 million for EMM’s lateral rebuild project and \$20.8 million for EMM’s substation projects, a total of \$42.6 million.

B. Is EMM’s asset prioritization methodology a reasonable basis for the investment reflected in this case?

Public Counsel’s Position: No. As Public Counsel witnesses Paul Alvarez and Dave Shapley testify, EMM is prioritizing distribution and transmission system plant replacement regardless of the results of objective tests and formal inspections to evaluate the likelihood of service failures. EMM is not comparing the projected improved service benefit from replacement with the cost of replacement, it is not comparing the projected improved service benefit of refurbishment with the cost of refurbishment, and it is not comparing the results of those comparisons before choosing replacement.

C. Is EMM in compliance with the Commission’s vegetation management rule, and if not, what should the Commission order?

D. Should EMM be required to compare the benefit of increased vegetation management against additional investment in its lateral improvement program?

20. Rate Base Components

A. What level of EEI prepayments should be included in rate base?

Public Counsel’s Position: None. Also, see Public Counsel’s consistent position in its position stated to Issue 10.A. What level of Edison Electric Institute (“EEI”) dues should be included in the cost of service?

B. What amount of construction work in progress is appropriate to reflect in rate base?

Public Counsel’s Position: None. The Commission has not determined in a \$393.170, RSMo., proceeding the amount of construction work in progress that may be included in rate base. Further, as Public Counsel witness John Riley states, the combustion turbine

prepayments that EMM is seeking to include as construction work-in-progress are pre-construction payments, not payments made for construction work-in-progress.¹⁸ Additionally, unless the Commission holds data centers to their pledge and follows cost causation principles for to whom to allocate the costs of Mullin Creek #2, it should not include any construction work-in-progress in rate base.¹⁹

- C. How much of EMM's current rate base has been retired, and should a rate of return be applied to this amount?
- D. What treatment should apply to the pension asset in rate base?
- E. If construction work in progress is included in rate base, what rate of return should be applied to it?

Public Counsel's Position: A rate of return of 5.08%, which David Murray designed to achieve a net present value of zero when comparing estimated ratepayer costs from allowing construction work-in-progress in rate base in lieu of continued allowance for funds used during construction (AFUDC) treatment.²⁰

- F. What amount of transmission investment since EMM's last rate case should be included in rate base?

Public Counsel's Position: For the reasons to which Public Counsel witnesses Paul Alvarez and Dave Shapley testify the following amounts should not be included in rate base: \$73.1 million + \$14.7 million = \$87.8 million for EMM's transmission projects.

- G. What level of coal inventory should be included in rate base?
- H. Should rate base be reduced to remove Evergy Kansas Central's investment in transmission to serve Panasonic allocated to EMM?

Public Counsel's Position: For the reasons to which Public Counsel witness Paul Alvarez testifies \$14.7 million should be removed from rate base.

21. Jurisdictional Allocations

- A. What jurisdictional demand and energy allocation factors should be used?
- B. How should the allocations be determined for the various elements of the cost of service?

Public Counsel's Position: Production and transmission costs should be allocated using the Probability of Dispatch ("POD") method rather than EMM's Average and Excess 4-CP method, and distribution plant in FERC Accounts 364–368 should be classified as 100 percent demand-related under the Basic Customer method rather than the Minimum System Method.²¹ EMM's allocators also assign no production or transmission costs to Schedule LLPS because no LLPS load was in the test year; including even the projected load of the one known LLPS customer would shift significant cost responsibility away from smaller

¹⁸ Surrebuttal, p. 11; Robinett direct, pp. 6-9.

¹⁹ Geoff Marke Direct, pp. 34-42.

²⁰ Surrebuttal, pp. 2-8.

²¹ Nelson Direct, pp. 4, 36; Nelson Surrebuttal, pp. 13–14.

classes.²²

- C. Should a portion of plant, reserve, and depreciation expense of the Greenwood solar facility be allocated to EMM?

22. Fuel Adjustment Clause — Structure and Base Factor

- A. Should the Commission authorize EMM to continue its FAC?

Public Counsel's Position: No, as Angela Schaben testifies EMM is anticipating LLPS revenues not captured in this case and it is not subject to enough fuel-cost volatility risk to be denied a sufficient opportunity to earn a fair return on equity.²³

- B. Should the general construct of EMM's FAC be changed?

Public Counsel's Position: No, any FAC should continue to track margins to a base, not 100% flow-through.

- C. What value should the FAC base factor be set at the conclusion of this case?

Public Counsel's Position: Staff's second option, where LLPS customer impacts are excluded from the FAC and FAC base factor calculation. If the Commission were to include LLPS customer impacts to flow through a FAC, then the Commission should include separate base factors for the LLPS customers and EMM's other customers.

- D. What sharing ratio between EMM and its customers should the Commission order as an incentive mechanism in EMM's FAC?

Public Counsel's Position: It should remain at the current level of 95/5.²⁴

23. Fuel Adjustment Clause — Included Costs

- A. What SPP transmission costs should be included in the FAC?

Public Counsel's Position: the SPP transmission costs from Staff's fuel model.

- B. What SPP charge types should be included in the FAC?

Public Counsel's Position: Fuel and power purchase-related SPP charge types should be included, and administrative SPP charge types should be excluded.

- C. What FAC subaccounts should be included in the FAC?

Public Counsel's Position: Fuel and power purchase-related SPP charge types should be included, but administrative SPP charge types and capacity costs should be excluded.

- D. Should EMM include long-term capacity purchases and sales for recovery in its FAC?

Public Counsel's Position: No. As the Commission previously has recognized, by statute, only fuel and power purchase costs should flow through a FAC.

24. Fuel Adjustment Clause — Tariff Language

²² Nelson Direct, pp. 21-23.

²³ Surrebuttal, pp. 1-2, 14-20.

²⁴ Schaben surr.

- A. Should EMM include a new definition in the FAC tariff sheets for retail revenue and accounts 440 through 444?
- B. Should the definition of fuel residuals under FERC subaccount 501400 in the FAC tariff sheets be changed?
- C. Should the extraordinary costs language proposed by Staff be reflected in EMM's FAC tariff?

Public Counsel's Position: Public Counsel does not oppose including them.

- D. Should EMM change the Emissions definition Factor R to Emissions and Environmental credit accounts, subaccounts 411.8, 411.9, 411.12 and 411.13?
- E. Should language be added to the FAC tariff sheets to address fuel hedging?

25. Fuel Adjustment Clause — Large Load Power Service

- A. Should changes be made to the FAC to address LLPS customers?

Public Counsel's Position: If LLPS customers are excluded from the FAC, then no changes are needed. If they are not excluded, then the Commission should order a separate base factor for them.

- B. What, if any, new FAC reporting requirements should the Commission order?

Public Counsel's Position: Public Counsel does not oppose additional reporting requirements.

- C. Should EMM have a separate FAC base factor for LLPS customers?

Public Counsel's Position: If LLPS customers are not excluded from EMM's FAC, then EMM's FAC should have a separate base factor for LLPS customers.

26. Rules and Regulations Tariff

- A. Should the Commission approve EMM's proposed tariff changes regarding its Rules and Regulations inclusive of modifications identified in the error log?

27. Estimated Billing and Interval Data

- A. What updates, if any, to EMM's tariffs should occur to address energy interval estimation?
- B. What interval estimation threshold is appropriate for designation of an estimated bill and how should intervals be estimated?
- C. What records should be retained for missing or estimated interval data?
- D. What reporting requirements should be implemented for missing or estimated interval data?
- E. Should EMM's estimation procedure defined in the EMM tariff, include thresholds for automated and manual reviews of estimations?

28. Residential Rate Design

A. What should the residential customer charge be set at in this case?

Public Counsel's Position: The residential customer charge should remain at \$12.00 per month, and EMM's proposed increase to \$13.82 should be rejected.

Any additional residential revenue requirement should be recovered through volumetric charges, which is revenue-neutral to EMM.²⁵ Raising the fixed charge would undermine the goals of the Missouri Energy Efficiency Investment Act. The American Council for an Energy-Efficient Economy's Rate Design Matters study modeled 14 efficiency measures across 20 rate scenarios and found that even a moderate fixed-charge increase lowers the volumetric rate, which measurably lengthens payback periods for efficiency investments and increases consumption; that effect operates continuously, not only above some threshold.²⁶ A higher fixed charge also falls hardest on low-usage customers; in Missouri, households earning below \$60,000 use on average about 19 percent less electricity than higher-income households.²⁷ EMM's claimed cost-based charge of \$18.33 is inflated because the Minimum System Method classifies a higher proportion of distribution costs as customer-related than more realistic cost-causation methods, and EMM's own \$13.82 proposal is not grounded in its COSS, confirming that policy considerations are driving the result.²⁸ The Commission has previously declined to raise a residential customer charge so that customers retain control over their bills, and the same reasoning applies here.²⁹

B. Should EMM be required to inform customers on specified Time-of-Use rate schedules of billing issues and remove customers from such specified rate schedules if EMM has estimated their monthly billing?

29. Non-Residential Rate Design

A. Should the rates of the non-residential non-lighting customers be restructured in this case?

- i. What are the appropriate periods for each time-related element?
- ii. Should the Large General Service ("LGS") and Medium General Service ("MGS") classes be subject to reactive demand charges?
- iii. What are the appropriate charges for each rate element for each class?
- iv. Should EMM be ordered to promptly conduct a billing determinants and customer impact study?
- v. What customer education is appropriate?
- vi. What date should restructured rates take effect?

B. Should the non-residential non-lighting opt-in time based rates proposed by EMM be implemented?

C. How should standby service rates be modified to include a minimum demand alternative or modified as appropriate?

²⁵ Nelson Direct, pp. 46, 52–53; Nelson Surrebuttal, p. 31.

²⁶ Nelson Direct, p. 48; Nelson Surrebuttal, pp. 28–29.

²⁷ Nelson Direct, p. 49; Nelson Surrebuttal, p. 30.

²⁸ Nelson Direct, pp. 47, 49–51; Nelson Surrebuttal, pp. 27–28.

²⁹ Nelson Surrebuttal, pp. 29–30 (citing Case No. ER-2014-0258, Report and Order at 76–77).

30. Other Rate Schedules

- A. How should all other applicable rates in this case be increased, including lighting, Large Load Power Service, Electric Vehicle Charging, and Time Related Pricing, if applicable?
- Should the TRP (Time Related Pricing) rate schedule be eliminated?
 - Should Schedule LLPS rates be increased in this proceeding, and if so, by how much?
- B. Should obsolete residential rate schedules and the Underutilized Infrastructure Rider be removed from the EMM tariff book?

31. Large Load Power Service Tariff and Reporting

- A. What tariff changes or clarifications, if any, should be made to the Large Load Power Service tariff?

Public Counsel's Positions:

- Should the Commission raise the LLPS minimum bill requirement from 80% to 90%?
 - Yes. This is necessary to ensure that legacy customers are held harmless from the increased risk associated with the LLPS customers.
- Should the Commission raise the LLPS contract-term length from twelve-year to twenty-years?
 - Yes. This is necessary to ensure that legacy customers are held harmless from the increased risk associated with the LLPS customers.
- Should the Commission lower the LLPS applicability from loads greater than 75 MW to loads greater than 25 MW?
 - Yes. This is necessary to ensure that legacy customers are held harmless from the increased risk associated with the LLPS customers. This number is also consistent with the threshold set by MISO for categorizing computational load (i.e., a data center).
- Should the Commission approve a Community Benefits Rider option for LLPS customers?
 - Yes. This voluntary feature enables greater benefits from existing customers and serves as a tangible offset to increased negative externalities associated with the proliferation of artificial intelligence and data center operations.

- B. What reporting requirements are appropriate concerning new large loads and load growth?

Public Counsel's Position: The Commission should require pre-and post-construction studies and benchmarking requirements from independent 3rd party researchers over the following three areas: Power Usage Effectiveness ("PUE"), Water Usage Effectiveness ("WUE") and Total Harmonic Distortion of LLPS customer's impact on the distribution grid. Such reporting enables sound long-term planning, institutional trust through transparency, and provides meaningful opportunities to share information and enhance operational

efficiencies as a shared public good.

32. Revenue Apportionment and Implementation

A. How should revenue responsibility, including any net revenues from LLPS customers and any reduction to revenues from any income-eligible customer discounts, be apportioned among the customer classes, if at all?

Public Counsel's Position: Revenue apportionment should be based on a class cost-of-service study that correctly reflects cost causation, using POD for production and transmission and the Basic Customer method for distribution.

- i. What is the appropriate classification of customer-classified distribution system cost of service for any class cost of service study relied upon in this case?

Public Counsel's Position: The Commission should adopt the Basic Customer method, which classifies only customer-specific costs as customer-related and treats FERC Accounts 364–369 as 100 percent demand-related, not EMM's Minimum System Method.³⁰ The Minimum System Method rests on a hypothetical zero-demand system that would never be built, and it conflicts with the NARUC definition of customer costs as those “directly related to the number of customers served.” EMM does not dispute that it does not remove a pole, conductor, or transformer when a customer disconnects, which shows these facilities are sized to demand rather than customer count.³¹ The size of the distribution system correlates only weakly with the number of customers it serves, and adding customers without adding peak demand requires no new poles or conductors. Reclassifying these accounts reduces the residential revenue requirement by approximately \$17.3 million, or 4.3 percent.³²

- ii. What is the appropriate allocation of production-related cost of service for any class cost of service study relied upon in this case?

Public Counsel's Position: EMM should allocate production costs and transmission costs using the POD method.³³ POD assigns each generating unit's annual revenue requirement to the hours in which it operates, then allocates each hour's cost to classes by their share of load in that hour. POD is an established method: it is included in the 1992 NARUC Electric Utility Cost Allocation Manual, satisfying § 393.1620 RSMo, and it has become practical with EMM's completed AMI deployment.³⁴ Using reconciled load data, Mr. Nelson's updated POD results allocate 34.5 percent of production costs to the residential class, compared to 46.3 percent under EMM's A&E 4-CP method, with correspondingly higher allocations to the LGS and LPS classes; the Hourly Costing Method produces similar results.³⁵ Concerns about impacts on large customers should be handled through gradualism in rate design rather than by retaining an allocator that does not reflect cost causation.³⁶

³⁰ Nelson Surrebuttal, pp. 13–14.

³¹ ¹³Nelson Direct, pp. 50–51; Nelson Surrebuttal, pp. 11–12.

³² Nelson Surrebuttal, pp. 15–16.

³³ Nelson Direct, pp. 4, 42; Nelson Surrebuttal, p. 26.

³⁴ Nelson Direct, p. 39; Nelson Surrebuttal pp. 18–19.

³⁵ Nelson Surrebuttal, pp. 16–18, 24–25.

³⁶ Nelson Surrebuttal, pp. 25–26.

the Probability of Dispatch (“POD”) method because of the increasing importance of the timing of energy use, a temporal method of allocation is preferable, such as

- B. How should customer affordability, including for low- and moderate-income households, be reflected in the rates ordered in this case?

Public Counsel’s Position: By supporting OPC’s position to create a customer charge waiver program as well as ensuring that capital and fuel costs caused by data centers are borne by data centers.

- C. Should EMM’s surrebuttal proposal to implement the rate increase by bill cycle in this case be permitted?
- D. How should revenue responsibility for construction work in progress be assigned or allocated among the customer classes?

Public Counsel’s Position: It should be assigned entirely to the LLPS customer class. Public Counsel recommends that these costs be collected on the front-end to minimize investor and legacy ratepayer stranded asset risk.

33. Critical Peak Rate

- A. Should the Critical Peak Rate recommended by Staff be implemented?
- i. If not implemented, are other accommodations needed to address high market cost events and establish offsetting revenues to be applied through the FAC?
- B. Should EMM have a separate line on its fuel adjustment rate tariff to account for critical peak pricing?

34. Storm Reserve

- A. Should a storm reserve be established in this case?

Public Counsel’s Position: No.

- B. If approved, how much should be included in the cost of service?

35. Injuries and Damages

- A. Should an injuries and damages reserve be established in this case?
- B. If approved, how much should be included in the cost of service?

36. Critical Infrastructure Protection and Cyber Security

- A. What level of critical infrastructure protection (“CIP”) and cyber security expense should be included in the revenue requirement?

Public Counsel’s Position: The historically-based levels Staff determined.

- B. Should EMM implement a tracker for CIP and cyber security costs?

Public Counsel’s Position: No, they are not volatile.

37. Revenue Sharing

- A. Should the Commission implement a mechanism to review or share earnings attributable to Schedule LLPS customers, and if so, how should it be designed?

Public Counsel's Position: Only if the Commission does not adopt Public Counsel's primary recommendation to increase the LLPS revenue adjustment. The Commission should then establish a mechanism modeled on the Earnings Review Surveillance approved for Ameren Missouri in Case No. ET-2025-0184, under which EMM would calculate Schedule LLPS revenues annually and refund any amount above the \$25 million included in this case to the other rate classes in the following year, outside the rate case cycle.³⁷ If the Commission prefers the earnings sharing mechanism proposed by Google, it should be scoped to Schedule LLPS revenues rather than company-wide ROE, benefits should flow only to other rate classes in the following year with no refund to LLPS customers, and the deadband should be reduced from 25 to 10 basis points.³⁸

38. Energy Burden Analysis

- A. Should the Commission order a 3rd party energy burden analysis for EMM that does not exceed \$150K in costs?

Public Counsel's Position: Yes. Such a study is appropriate given near-term economic insecurity faced by many of Evergy Metro's existing customers. See also Marke Rebuttal Testimony p. 2 that cites 172% increase in residential disconnections for non-payment in quarter 2 of 2026 compared to quarter 2 of 2025.

39. Green Button Connect

- A. Should the Commission order EMM to implement Green Button Connect ("GBC") in this rate case?

Public Counsel's Position: No. The benefits do not outweigh the costs.

- B. If the Commission orders EMM to implement GBC, should the Commission order the tariff proposed by Renew Missouri related to GBC?
- C. If the Commission orders EMM to implement GBC, should the Commission adopt Renew Missouri's revenue requirement recommendation?
- D. If the Commission orders EMM to implement GBC, should Renew Missouri's recommended revenue requirement for studying a regional data hub be ordered by the Commission?

40. Customer Battery Programs

- A. Should the Commission order the adoption of Renew Missouri's proposed battery programs?

Public Counsel's Position: No. The benefits do not outweigh the costs.

41. Income-Eligible Solar Program

³⁷ Nelson Direct, pp. 26-27; Nelson Surrebuttal, p. 10.

³⁸ Nelson Surrebuttal, 5, 9-10.

- A. Should the Commission order the adoption of Renew Missouri's proposed evaluation and expansion of the Income-Eligible solar program?

42. MEEIA Margin Rates

- A. What methodology should be used to calculate the net marginal rate for each rate class?

In addition to the foregoing listed issues, with which Public Counsel does not agree to the wording of each, a Public Counsel issue is omitted. That issue appropriately should be in **3. Other Revenues** as subpart D. It follows with Public Counsel's position on it:

3. Other Revenues

- D.** What amount of sales tax discount should be included in EMM's revenues?

Public Counsel's Position: \$541,331.³⁹

Further, for issues where it has not taken a position, Public Counsel reserves the right to take positions, and it also reserves the right to modify its positions during the pendency of this case should circumstances warrant it doing so.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 25th day of September 2026.

/s/ Nathan Williams

³⁹ John Riley surrebuttal, p. 10, direct, pp. 4-12.