**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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| In the Matter of Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro's Request for Authority to Implement a General Rate Increase for Electric Service | ) ) ) ) | **Case No. ER-2026-0143** |

# STAFF'S REPLY BRIEF


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*** Denotes Highly Confidential Information ***

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## STAFF'S REPLY BRIEF

**COMES NOW** Staff of the Missouri Public Service Commission ("Staff"), by and through undersigned counsel, and for its *Reply Brief* states as follows:

## INTRODUCTION

The purpose of a reply brief is to respond to the arguments made by party opponents. Rather than replying to every argument other parties make in their initial briefs, having presented and argued its positions in its *Initial Post-Hearing Brief*, Staff limits its replies to where further explanation will most aid the Commission in its deliberations. Staff stands on the arguments made in its *Initial Post-Hearing Brief*, and silence on any argument or position should not be taken as acceptance.

## LEGAL STANDARD

In determining each contested issue, the Commission should be ever mindful that the law places the burden of proof on Evergy Metro, Inc., d/b/a Evergy Missouri Metro ("EMM"). Section 393.150.2, RSMo., provides:

> At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . electrical corporation . . . and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

In its most basic sense, the burden of proof is "that of establishing the affirmative of the ultimate issue[.]"[1] In practical terms, it means that the Company must prove that rates should be increased. This burden never shifts away from the Company.[2]

As stated on page 9 of Staff's *Initial Brief*, the Commission's rules likewise state that when a stipulation and agreement is not unanimous and an objection is filed, the stipulation shifts procedurally from a settlement to the stipulated position of the signatory parties. The Commission retains authority to decide the case after hearing.[3]

The Commission has authority under Chapters 386 and 393, RSMo, to regulate public utility rates and to ensure rates are just and reasonable after considering all relevant factors.[4] The United States Supreme Court in the *Hope* case established that the rate making process involves a balancing of the investor and consumer interests.[5] Missouri courts have upheld that principle in their rulings, balancing the interests of the stakeholders with the public interest.[6]

**STIPULATIONS**

Six partial non-unanimous stipulations were filed in this case.

I. Auditing Stipulation: Signed by EMM and Staff. Not opposed by OPC[7], Renew[8], or Google. MECG[9] opposed for the limited purpose of preserving (in part) Issue 17.A.[10]

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[1] ***Been v. Jolly,*** 247 S.W.2d 840, 854 (Mo. 1952).
[2] *Id*.
[3] 20 CSR 4240-2.115(2)(D) states that a nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.
[4] ***State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission***, 585 S.W.2d 41, 49 (Mo. banc. 1979).
[5] ***Federal Power Commission v. Hope Natural Gas Co.***, 320 U.S. 591, 603 (1944).
[6] ***State ex rel. Union Electric Co. v. Public Service Commission***, 765 S.W.2d 618, 622 (Mo. App. W.D. 1988).
[7] The Office of the Public Counsel (OPC).
[8] Renew Missouri Advocates d/b/a Renew Missouri (Renew).
[9] Midwest Energy Consumers Group (MECG).
[10] EFIS Item No. 311 *Partial Stipulation and Agreement* (Stipulation I).

II. OPEB Stipulation: Signed by EMM and Staff.[11] Not opposed by OPC, Renew, Google, or MECG.

III. Non-C&I Stipulation: Signed by EMM and Staff.[12] Not opposed by OPC, Renew, Google, or MECG.

IV. Programs Stipulation: Signed by EMM, Staff and Renew. Not opposed by Google or MECG. OPC opposed (in part) specifically to Issue 16 E.i and ii.[13]

V. LLPS Stipulation: Signed by EMM and Google.[14] Opposed by Staff[15] and OPC[16]. Opposed by MECG for the limited purpose of preserving the right to take a position on the issues included within its post-hearing briefs.[17] Renew remained silent in response to this stip.

VI. Rate Design Stipulation: Signed by EMM and MECG.[18] Google does not oppose. Opposed by Staff[19] and OPC.[20] Renew remained silent in response to this stip.

Stipulations I-IV are the most just and reasonable resolution in the public interest when paired with Staff's remaining positions.

Stipulations I-IV, along with Staff's positions on the remaining issues – as addressed throughout this case in testimony, the *Initial Brief*, and herein – are the best proposed resolution supported by the evidence presented in this docket. Within the framework of Stipulations I-IV the Commission has the opportunity to balance the need for rate increases

[11] EFIS Item No. 310 *Non-Unanimous Stipulation and Agreement Regarding Pensions and Other Post-Employment Benefits* (OPEB) (Stipulation II).
[12] EFIS Item No. 312 *Partial Stipulation and Agreement - Non-C&I Rate Design* (Stipulation III).
[13] EFIS Item No. 320 *Non-Unanimous Programs Stipulation and Agreement* (Stipulation IV).
[14] EFIS Item No. 314 (Highly Confidential) and 317 (Public) *LLPS Partial Stipulation and Agreement* (Stipulation V).
[15] EFIS Item No. 318 *Staff Objection to LLPS Partial Stipulation and Agreement* (Public and Highly Confidential).
[16] EFIS Item No. 324 *Public Counsel's Opposition to LLPS Settlement* (Public and Highly Confidential).
[17] EFIS Item No. 325 *MECG Response to Commission's Order Shortening Time to Object to Stipulation and Agreements*.
[18] EFIS Item No. 313 *Non-Unanimous Partial Settlement - Rate Design* (Stipulation VI).
[19] EFIS Item No. 322 *Staff Objection to Non-Unanimous Partial Settlement - Rate Design*.
[20] EFIS Item No. 323 *Public Counsel's Opposition to Non-Unanimous Partial Settlement - Rate Design*.

across classes with affordability concerns, while also protecting customers from risks and rate shock. Stipulations I-IV, however, do not resolve the entire case. Staff urges the Commission to balance the need to adaptively move forward with the risks presented by unsupported, untested and unfamiliar options.

Other parties in this case have presented a false sense of urgency by suggesting final determinations and ongoing plans must be put in place as a result of this case. Staff suggests a more tempered and adaptive approach to allow for changes once rates are in place. In the utility industry there is typically more than one bite at the apple, and the difference between the first and second bite is often found in who bears the risk of when said bite is taken. The risks carry less of a detrimental impact and can be shouldered more easily by EMM and larger customers. Not to mention, the possible benefits and appropriate balancing that may be needed as the industry transitions can always be addressed at a future time through multiple avenues offered under the law.

Accordingly, the relevant question is whether the Commission has sufficient competent and substantial evidence to find that Staff's recommendation produces an end result that is just and reasonable, and whether the Commission finds the public interest is best served by adopting Stipulations I-IV, along with Staff's positions on the remaining issues. Staff's resolution reduces the impact of risks to customers while ensuring costs are paid by the cost-causers. Or, at the least, Staff's recommendation upholds fairness while allowing time for the actual impacts to be borne out and subject to the Commission's discretion at a future point in time. A limited-time solution that supports the industry while better information can be gathered and provided is precisely why

Staff's positions, paired with Stipulations I-IV, represent the best resolution of this proceeding under the circumstances.

For the reasons laid out by Staff at each step of this proceeding, seeking accuracy and proceeding with caution is the best way to balance interests and produce just and reasonable outcomes. Given the limited reliable information presented in this case and the delicate balance of interests needed at this transitional time, Staff recommends precisely this course of action in the adoption of Stipulations I-IV and Staff's remaining positions as a complete package.

Although Staff no longer supports its pre-stipulated positions on the issues addressed by Stipulations I-IV, if the Commission does not adopt these four stipulations, Staff submits the next-best outcome would be the adoption of Staff's original positions as filed on September 25, 2026,[21] specifically the additional modifications to those positions as detailed in Staff's Initial Brief.

Staff modified its positions to support Stipulations I-IV because, in this record, they are the most just and reasonable outcome for EMM and its stakeholders. Stipulations I-IV provide balanced solutions to the issues addressed in a way that supports the Commission's ability to produce a just and reasonable resolution of this entire case.

For the reasons stated above, Staff respectfully recommends the Commission adopt Stipulations I-IV in their entirety, without modification; and, order Staff's positions on the remining issues not covered by Stipulations I-IV.

***Tracy D. Johnson***

[21] EFIS Item No. 295 Staff *Statement of Positions* (Public, Confidential and Highly Confidential).

## REPLY ISSUES

**Issue 1. Cost of Capital**

As argued in pages 21-36 of its *Initial Brief*, Staff maintains its recommended 52.19% common equity and 47.81% long-term debt capital structure, 4.54% embedded debt cost, 9.73% return on common equity ("ROE"), and 7.25% overall return. To aid in the Commission's decision on that issue, Staff presents the following reply arguments to the initial briefs of OPC and EMM.

**A. Capital Structure**

The OPC argues that Evergy, Inc. controls subsidiary dividends and capital flows to preserve an equity-rich utility structure while financing the consolidated enterprise with more debt.[22] That concern merits examination, but the existence of internal capital allocation does not establish that a capital structure including 45% equity mirrors EMM's appropriate capitalization. In fact, Staff expressly considered that relationship. Staff witness, Dr. Seoung Joun Won, PhD found that EMM obtains capital independently, its securities lack a parent guarantee, the financing history did not establish double leverage, and the parent is not significantly diversified into nonutility operations.[23] Staff also found no parent long-term debt proceeds used to infuse equity into EMM.[24]

**C. Return on Common Equity**

Staff updated its analysis and used separate regressions.

EMM asserts that Staff's analysis has not changed since December 2025.[25] Dr. Won expressly updates stock prices, growth rates, the risk-free rate, and beta, and compares

[22] OPC's Initial Brief, pp. 5–11.
[23] Ex. 165, Surrebuttal/True-Up Direct Testimony of Seoung Joun Won, PhD, p. 62, ll. 8–18.
[24] Ex. 120, Direct Testimony of Seoung Joun Won, PhD, p. 43, ll. 10–14.
[25] Initial Post-Hearing Brief of Evergy Metro, Inc., p. 70.

the updated model results with the direct results in his true-up direct testimony.[26] The discounted cash flow ("DCF") mean changed from 8.18% to 8.26%, and the capital asset pricing model ("CAPM") mean changed from 9.16% to 9.08%. The recommended ROE remained 9.73% because Dr. Won found the changes immaterial, not because he did not update Staff's analysis.[27]

EMM also asserts that Dr. Won combined A-rated and Baa-rated yields in a single regression.[28] His direct testimony provides separate equations, and his surrebuttal expressly confirms separate regressions.[29] OPC likewise confuses the narrow spread of model estimates with Staff's recommended range, incorrectly characterizing Staff's range as 9.72% to 9.74%.[30] Staff's range is 9.48%–9.98%.[31]

Later yield and national averages do not establish a minimum ROE.

EMM argues that the record supports no ROE below the 9.86% national average and invokes subsequent interest-rate increases.[32] That proposed floor does not follow from an average of other utilities' authorized returns. EMM itself acknowledges that the Commission does not automatically mirror the national average.[33] *Federal Power Commission v. Hope Natural Gas Co.* requires a reasonable overall result, assessed against comparable risks and capital needs, rather than a particular formula.[34] Staff's recommended range includes 9.86%; the average does not dictate which point the Commission must select.

[26] Ex. 165, p. 63, ll. 8–15 and Table 5.
[27] *Id.*, p. 64, ll. 1–9.
[28] Initial Post-Hearing Brief of Evergy Metro, Inc., p. 82.
[29] Ex. 120, p. 56, ll. 3–12; *see also* Ex. 165, p. 52, ll. 14–18.
[30] OPC's Initial Brief, p. 15.
[31] Ex. 165, p. 64, ll. 6–9.
[32] Initial Post-Hearing Brief of Evergy Metro, Inc., pp. 70, 82, 85.
[33] *Id.*, p. 84.
[34] ***Federal Power Commission v. Hope Natural Gas Co.***, 320 U.S. 591, 602–03 (1944).

The most pertinent later-data evidence is Ms. Bulkley's own update of Staff's methods. She produced a 9.75% bond-yield-plus-risk-premium (BY+RP) estimate, only two basis points above Staff's recommendation.[35] She acknowledged that the regression itself was not fully updated.[36] Her separate 10.40% estimate changes the historical period and specification; it is not merely the consequence of refreshing current yields.[37] Dr. Won explained why a longer period is not necessarily more representative.[38] Even accepting the later Treasury observations EMM asks the Commission to notice, those observations do not establish the resulting utility equity return.

EMM attacks intermediate estimates rather than Staff's recommendation.

EMM compares Staff's DCF and CAPM estimates with historical authorized ROEs and argues that the lower estimates fail both *Hope* and *Bluefield*.[39] Staff recommends neither the 8.26% DCF mean nor the 8.67% combined mean as the authorized ROE. Market-based estimates inform and check Staff's 9.73% recommendation; their difference from that recommendation does not demonstrate that Staff ignored them.[40] The relevant question is whether Staff's recommended return meets EMM's financing needs at comparable risk.

EMM's asserted 37-basis point nuclear premium does not answer that question. A difference between group averages does not isolate nuclear ownership as its cause or quantify EMM's incremental risk. Staff explained that credit assessments already consider

[35] Ex. 11, True-Up Rebuttal Testimony of Ann E. Bulkley, p. 5, ll. 5–15 and p. 6, Figure 1.
[36] *Id*., p. 5, ll. 13–15.
[37] Initial Post-Hearing Brief of Evergy Metro, Inc., pp. 82, 85.
[38] Ex. 165, p. 52, ll. 2–13.
[39] Initial Post-Hearing Brief of Evergy Metro, Inc., pp. 80–81.
[40] Ex. 120, p. 8, l. 3 through p. 9, l. 11; *see also* Ex. 165, p. 63, Table 5.

nuclear risks and found no significantly greater risk requiring an ROE adjustment.[41] Staff also addressed regulatory protections and comparable utilities' capital programs.[42] EMM's listing of risks does not displace that analysis.

The OPC has not established that 9.25 percent is the appropriate result.

The OPC argues that Staff's unchanged recommendation violates *Bluefield's* recognition that changing conditions can make a formerly reasonable return unreasonable.[43] *Bluefield* requires consideration of changing conditions; it does not require a numerical change whenever an input changes.[44] Staff performed the update and explained its conclusion,[45] thus satisfying *Bluefield*.

***Travis J. Pringle***

**Issue 3: Other Revenues**

The Commission should reject EMM and Google's arguments supporting the $60 million stipulated revenue adjustment and adopt Staff's recommended treatment of LLPS and other large-customer revenues, as supported by Exhibit 167, Staff Exhibits 2 and 3, and the other evidence identified in Staff's initial brief.

EMM' assertion that Staff's revenue adjustment is speculative improperly equates annualization with the absence of known and measurable information.

EMM's principal argument is that Staff's proposed LLPS revenue adjustment is not known and measurable because it relies upon Customer A's contracted capacity and an assumed load factor rather than simply annualizing the customer's June 2026 billing

[41] Ex. 145, Rebuttal Testimony of Seoung Jon Won, PhD, p. 36, ll. 1–18.
[42] *Id*., pp. 34–35.
[43] OPC's Initial Brief, pp. 15–16.
[44] ***Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia***, 262 U.S. 679, 693 (1923).
[45] Ex. 165, pp. 63–64.

determinants.[46] According to EMM, Staff's methodology improperly projects revenues based on a contract capacity level that Customer A had not yet reached at the June 30, 2026, true-up cutoff.[47]

The Commission is not establishing rates for June 2026. It is establishing rates that will remain in effect prospectively. Both EMM's and Staff's methodologies necessarily involve estimates of future revenues. The disagreement concerns which methodology more reasonably reflects the revenues expected from Customer A.

EMM's proposed adjustment in its direct case annualizes Customer A's June 2026 billing determinants over twelve months.[48] That methodology necessarily assumes that the June billing determinants provide a representative basis for estimating revenues over the relevant period. However, the record establishes that Customer A's load is subject to a contractual ramp-up.

Staff's methodology accounts for that contractual information. As explained by Staff witness Sarah L.K. Lange, Staff calculated revenues using Customer A's Year 1 contract demand, rather than assuming that a single month's billing determinants would remain representative throughout the period rates are in effect.[49] EMM's position is particularly unpersuasive given its acknowledgment that large-load customers' expectations regarding ramp-up and steady-state demand change over time.[50] That uncertainty does not uniquely undermine Staff's calculation. It also calls into question EMM's assumption that June 2026

[46] EMM Initial Brief, pp. 28–29.
[47] *Id*.
[48] EMM Initial Brief, pp. 26–27; *see also* Ex. 36, Jaynes Surrebuttal/True-Up Direct, p. 27, ll. 1-5.
[49] Ex. 167, Lange Surrebuttal/True-Up Direct, p. 39, l. 1 through p. 40, l. 8.
[50] EMM Initial Brief, p. 30 n.95, citing Tr. Vol. 12, p. 89, ll. 11–25.

usage provides the appropriate basis for annualized revenues. And while this may have been the basis for EMM's direct case, and explained by Mr. Ives, the LLPS Agreement relies on a negotiated number that is not the same as what EMM proposed in its direct case.[51]

The Commission should therefore reject EMM's characterization of Staff's methodology as inherently speculative. The appropriate inquiry is whether Staff's use of the available contractual and customer-specific information provides a reasonable estimate of revenues expected during the period rates will be in effect.

EMM improperly conflates annual revenue estimation with hourly production-cost modeling.

EMM further argues that Staff cannot reasonably estimate Customer A's future revenues because Staff determined that insufficient information was available to normalize Customer A's hourly load for production-cost modeling.[52] EMM's argument conflates two distinct calculations.

Estimating annual revenues requires information concerning customer demand, energy usage, applicable tariff rates, and contractual obligations. Hourly production-cost modeling requires additional information concerning the timing and characteristics of electric consumption. As Ms. Lange explained, hourly load patterns are necessary to calculate the energy costs associated with serving particular customer classes in a locational marginal price-based analysis.[53] The absence of sufficiently detailed hourly load information does not establish that Staff cannot reasonably estimate annualized

[51] Tr. Vol. 12, p. 95, l.12 through p. 96, l. 8.
[52] EMM Initial Brief, pp. 29–30, citing Ex. 167, Lange Surrebuttal/True-Up Direct, pp. 22, 43.
[53] Tr. Vol. 12, p. 165, l. 12 through p. 166, l. 6.

billing revenues. Indeed, Ms. Lange expressly distinguished the limitations affecting class cost-of-service studies from the Commission's ability to establish rates in this proceeding.[54] These limitations are the basis for Staff witness Claire M. Eubanks' reporting requirements that were addressed in Staff's *Initial Brief* under Issue 31, LLPS Tariff and Reporting.[55]

Staff's methodology recognizes that distinction. It estimates additional revenues using available customer-specific information while avoiding unsupported assumptions in production-cost modeling. The Commission should reject EMM's contention that the inability to normalize hourly load necessarily renders Staff's annual revenue adjustment unreliable.

The $60 million stipulated adjustment is not supported by the evidence.

EMM and Google maintain that their stipulated $60 million revenue adjustment reflects the proper application of the LLPS tariff's minimum-demand provisions.[56] Google emphasizes that the LLPS tariff requires billing demand of at least 80% of annual contract capacity, with applicable energy charges assessed in addition to demand charges.[57]

EMM acknowledges that the LLPS Agreement calculation uses 562,186,656 kWh and approximately $60 million in annualized revenues.[58] EMM's witness Darrin Ives acknowledged that the $60 million amount was a negotiated, rounded figure, and that Staff's calculation fell between EMM's earlier calculation and the amount advanced through the

[54] Tr. Vol. 12, p. 185, l. 22 through p. 187, l. 7.
[55] Staff Initial Post-Hearing Brief, pp. 105-118.
[56] EMM Initial Brief, pp. 26–28; *see also* Google Initial Brief, pp. 11–12, ¶¶ 28–30.
[57] Google Initial Brief, p. 11, ¶¶ 28–29; *see also* Ex. 453, Berry Surrebuttal, p. 8, ll. 5–19, through p. 10, l. 9.
[58] EMM Initial Brief, p. 27.

negotiations.[59] Those figures reflect the signatories' selected billing determinants and annualization methodology. They do not establish that other record-supported calculations should be rejected. Rather, it further highlights the limited information the Commission has before it to properly scrutinize the LLPS Agreement.

Staff also presented additional evidence addressing the calculation of LLPS revenues. Attachments A and B to Staff's October 6 objection were admitted as Staff Exhibits 2 and 3 during the on-the-record proceeding on October 13. As argued in Staff's *Initial Brief*, the appropriate level of net revenue to reflect in the cost of service and other models for LLPS customers is *** [redacted] ***.[60] However, this is ultimately a policy matter for the Commission. The number used by Staff in its case, which included a 12-month annualization of Year 1 contract demand for Customer A of *** [redacted] ***. The record, though, supports higher values if the Commission decides an appropriate level of net revenue should be higher. The record supports approximately *** [redacted] *** if the Commission considered an annualization of *** [redacted] *** of revenue calculated using a Year 1 contract demand of *** [redacted] *** and *** [redacted] *** of revenue calculated using Year 2 contract demand of *** [redacted] ***.[61] Using the LLPS Agreement's own calculations, the correct value is approximately *** [redacted] ***, or the value could be as high as *** [redacted] ***.[62]

[59] Tr. Vol. 12, p. 95, l.12 through p. 96, l. 8.
[60] Ex. 167, Surrebuttal/True-Up Direct Testimony of Sarah L.K. Lange, p. 41, ll. 8-10 and p. 42, ll. 1-2.
[61] *Id.*, pp. 39-40.
[62] Staff Initial Brief, pp. 36–37; *see also* Ex. 167, Lange Surrebuttal/True-Up Direct, pp. 39–42; *see also* Staff Ex. 3.

EMM also criticizes Staff Exhibit 3 for not illustrating the 80% minimum-demand calculation.[63] But that criticism alone does not establish that the stipulated amount is the only reasonable adjustment. The Commission should evaluate the admitted evidence and adopt the revenue adjustment that most reasonably reflects expected LLPS revenues, rather than treating EMM and Google's negotiated amount as the only reasonable outcome.

OPC further demonstrates the risk of understating LLPS revenues.

OPC's initial brief provides additional support for Staff's concern that EMM's proposed revenue adjustment may materially understate the financial benefits associated with large-load growth. OPC explains that EMM's original revenue adjustment was substantially lower than the amount subsequently incorporated into the LLPS Stipulation.[64] OPC further identifies substantial revenues that EMM anticipates receiving from LLPS customers as their demand increases.[65] OPC also correctly observes that the LLPS tariff includes minimum-billing and other contractual protections that reduce EMM's exposure to the risk of under-recovery.[66] These protections are relevant when evaluating EMM's contention that Staff's annualization presents an unreasonable risk.

As Ms. Lange explained during the October 13 proceeding, the Commission should also consider the risk of positive regulatory lag. Where actual LLPS revenues exceed the amount recognized in rates, non-LLPS customers may continue paying rates that do not fully reflect the additional revenues received by EMM.[67] The Commission should recognize the

[63] EMM Initial Brief, p. 30.
[64] OPC Initial Brief, pp. 20–21; *see also* Ex. 43, Klote Surrebuttal/True-Up Direct, Schedule RAK-9, p. 1, l. 3.
[65] OPC Initial Brief, p. 21; *see also* Ex. 208, Nelson Direct, pp. 23–24.
[66] OPC Initial Brief, pp. 20–21; Ex. 209, Nelson Surrebuttal, p. 8.
[67] Tr. Vol. 12, p. 185, l. 22 through p. 187, l. 7.

asymmetry between EMM's ability to seek additional rate relief if revenues prove insufficient and the absence of an equivalent automatic mechanism ensuring that customers receive the full benefit of additional revenues between rate proceedings. Accordingly, OPC's evidence supports Staff's position that the Commission should not adopt an unduly conservative estimate of LLPS revenues merely to protect EMM against uncertainty that is already mitigated, at least in part, through contractual protections.

***Travis J. Pringle***

**Issue 5. Fuel and Purchased Power**

Clarification of Staff's Position Regarding Issue 5(A): What Should be Adopted as the Variable Fuel and Purchased Power Cost for This Case?

In its initial brief, EMM states the following:

> The Commission should approve Staff's total variable fuel and purchased power cost for this case, as adopted in the LLPS Stipulation, **with the Missouri jurisdictional amount as reflected in Staff's reconciliation**. Staff's fuel witness identified no remaining difference between Staff's reconciliation and the Company's position apart from the base factor stated in the LLPS Stipulation. Staff's figure is a total-company amount, and **Staff's reconciliation states the lower Missouri jurisdictional amount**.[68] [Emphasis added.]

Staff agrees the Commission should approve Saff's total variable fuel and purchased power cost - as Staff previously recommended in its *Initial Brief*.[69] Note, approving Staff's variable fuel and purchased power cost does not require the Commission to adopt the *LLPS Stipulation* – which Staff objects to.[70] For the purpose of clarification, Staff's True-Up Rebuttal Accounting Schedules reflect the jurisdictional amount.[71]

[68] Docket Item No. 351, Initial Post-Hearing Brief of Evergy Metro, Inc at 91-92.
[69] Docket Item No. 354, Staff Initial Brief at 53.
[70] Docket Item No. 318, Staff Objection to LLPS Partial Stipulation Agreement.
[71] Ex. No. 176, Staff Accounting Schedule.

Likewise, the operation of the fuel adjustment clause ("FAC") applies a jurisdictional factor; see Fuel Adjustment Clause – Rider FAC Fuel and Purchase Power Adjustment Electric. Issues regarding the FAC and the LLPS stipulation are discussed below by Mr. Pringle.

General Statement Regarding Staff's Positions in Response to the *Rate Design Stipulation*.

In the interest of maintaining a clear record, Staff wishes to clarify the scope of actions within the *Rate Design Stipulation* to which Staff either does not object to or agrees with EMM and MECG's positions:

> Staff does not object to restructuring of the EMM rates using the "Bright Lines" proposed by EMM, the energy time periods proposed by EMM, and a 15 minute on-peak demand measure as proposed by EMM, modified for a winter demand measurement to begin at 7:00 am.[72,73]
>
> Staff agrees that if, against its objection, high differential opt-in time-based rates are made available, that the demand period for non-summer months and any energy pricing periods should be modified to avoid exacerbating winter morning peaks.[74]
>
> While Staff does not object to the elimination of all-electric C&I rates as contemplated by the [*Rate Design Stipulation*] on page [2], Staff notes that if the Commission adopts Staff's recommendation to delay the implementation of rate structure changes to outside of the peak winter months (and peak summer months), the all electric rates should remain available with an equal percentage increase until the restructured rates take effect.[75]

Additionally, Staff agrees with the "freezing of the TRP rate for current customers in the non-residential class as contemplated" in the *Rate Design Stipulation*.[76] However,

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[72] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 1.
[73] As previously stated in this case, "Staff's support of this rate structure, as modified, **is to enable EMM's immediate work on a customer migration and determinants study**, which is necessary to calculate rates to be ordered in compliance tariffs in this case." Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 1. [Emphasis added.]
[74] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 7.
[75] *Id*.
[76] *Id*.

Staff "does object to increasing the components of this rate by 1.1 times the system average rate increase."[77] Information regarding Staff's specific objections to the *Rate Design Stipulation* are found in this brief, in *Staff's Initial Post-Hearing Brief*, and in the *Staff Objection to Non-Unanimous Partial Settlement – Rate Design*.[78]

***Andrea B. Hansen***

**Issue 20. Rate Base Components**

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

CWIP must first be authorized in the CCN case, Case No. EA-2026-0154, before it can be addressed in this rate case. The Commission should set the limitation of CWIP eligible for rate base inclusion in EMM's future rate case to the amount set forth in the *Non-Unanimous Stipulation and Agreement* ("*Agreement*)" signed by the parties in that case.[79] The statute, § 393.135.2, RSMo, authorizing the Commission to include CWIP requires the Commission to establish limitations in a CCN case before it can include CWIP in base rates. That statute specifically states, "The commission shall determine, in a proceeding under section 393.170 [the CCN statute], the amount of construction work in progress that may be included in rate base." Under the plain reading of the statute, the Commission must determine the CWIP to be used in the rate base in the associated CCN proceeding first. Only after the amount of CWIP is calculated in the CCN case can it be allocated in the future rate case. An example of how that might be calculated was suggested by Staff in its *Initial Post-Hearing Brief* filed in this case. [80] The limitation of CWIP eligible for

[77] *Id*.
[78] Docket Item Nos. 354 and 322, respectively.
[79] See Case No. EA-2026-0154, Ex. 111, Matthew R. Young Rebuttal, Page 2, Lines 11-15.
[80] See Issue 32(D) "How should responsibility for construction work in progress be assigned or allocated among the customer classes?" *Joint List of* Issues, pp. 119-120, filed November 6, 2026.

rate base inclusion in EMM's next rate case should be set at the amount proposed by EMM and set forth in the EA-2026-0154 *Agreement*. Staff recommends the Commission limit the amount of CWIP included in rate base to the period beginning with the month the Mullin Creek #2 Project is eligible to accrue AFUDC under FERC's guidance and ending with the anticipated completion date of October 31, 2030.[81]

EMM has not supported the current amounts charged to Mullin Creek No. 2's CWIP.

EMM's initial brief addresses Staff's recommendation that if the Commission should decide to include CWIP in rate base, it should reduce EMM's requested amount for costs received from EMM's unregulated affiliates.[82] EMM explains that the refund provisions contained in Section 393.135, "… preserve the review Staff seeks."[83] However, the Commission should not substitute a hindsight review of project costs for requiring EMM to support the rate increase it is requesting. EMM had the opportunity to provide details behind the affiliate transaction in this case but failed to do so. As such, it would be irresponsible for the Commission to increase current rates and hope that EMM will support its project costs in future proceedings. Staff reaffirms its position that the Commission should deny all CWIP in rate base but should the Commission disagree, unsupported costs from unregulated affiliates should be excluded from the current rate base.

EMM's analysis of case timing is flawed

EMM's initial brief recounts the exchange between Chair Hahn and Mr. Kevin Gunn regarding statutory requirements in each of EMM's proceedings. EMM's brief also sets out

[81] See Case No. EA-2026-0154, Ex. 111, Matt Young Rebuttal, Page 2, Lines 19-22. See also, *Non-Unanimous Stipulation and Agreement* filed in that case.
[82] See Ex. 175, Matthew Young True-up Rebuttal at p. 3.
[83] See Evergy Missouri Metro brief at p. 99.

the timing for the cases, explaining that the rate case is suspended until January 6, 2027, but EMM has requested a decision in the CCN case by December 23, 2026.[84] EMM's analysis fails because it assumes the Commission will issue a rate case decision on the same day new tariffs become effective. In reality, the Commission's report and order cannot be released on January 6, 2027, because that would not allow for tariffs to be created reflecting the Commission's decisions and would not provide time for various filings from the parties. In practice, the Commission must release its decision weeks before the operation of law date which invalidates EMM's arguments on timing.

The case timing predicament related to CWIP is of EMM management's making

Additionally, EMM's initial brief describes three options for resolution provided by Mr. Gunn in response to the Chair's question. EMM argues that if the Commission can decide the CCN case prior to its rate case order, decide the two cases in conjunction with each other, or condition the CWIP in rate base upon its findings in the CCN case, statutory requirements will be satisfied. EMM's brief also recommends that the Commission take official notice of the CCN case.[85] The Commission should realize that the extra measures EMM is asking the Commission to take to include CWIP in rate base are only necessary because of how EMM chose to initiate the proceedings. Importantly, the timelines and conclusions of the current rate case and the CCN case are 100% due to when EMM chose to file its requests.

[84] See Evergy Missouri Metro brief at pp. 99 - 100.
[85] See Evergy Missouri Metro brief at p. 100.

EMM acknowledges that the Mullin Creek No. 2 facility has been incorporated into management's considerations as far back as 2023 and incorporated in the integrated resource plans as early as 2024. Despite the long lead time for this project, it was EMM's full intent to delay the CCN filing until the first half of 2026.[86] In accordance with its planning, the CCN was not initiated until May 14, 2026, in docket EA-2026-0154. EMM had full knowledge of the statutory language that became effective in 2025 yet chose the timing of the cases. Now, EMM is requesting the Commission to solve a problem the Commission did not create so that CWIP can be shoehorned into current rates.

**C. How much of EMM's current rate base has been retired, and should a rate of return be applied to this amount?**

Staff's rate base adjustment for retired plant is unrelated to depreciation rates

EMM's initial brief continues to characterize Staff's rate base adjustment for retired plant as an issue related to depreciation,[87] but that analysis conflates two distinct concepts that should be evaluated separately. Depreciation is a ratemaking component that allows a utility to recover a return of its investments, and Staff's adjustment has no impact on ongoing depreciation included in base rates. Instead, Staff's rate base adjustment for retired plant is a recognition that EMM's rate base on June 30, 2026, contains approximately $50 million tied to retired plant that cannot provide electric service to customers. EMM admits that the plant examined in Staff's adjustment is indeed not used and useful.[88] Staff's rate base adjustment changes the return on inoperable equipment in ongoing rates

[86] See Ex. 41, Ronald A. Klote direct at p. 13.
[87] See Evergy Missouri Metro brief at p. 102.
[88] See Tr. Vol 9 at 129, 16-22 (Klote).

which is a concept not considered in depreciation recommendations. Removing retired plant from the rate of return calculation leads to just and reasonable rates.

EMM's current operations are focused on building, upgrading, and replacing plant in service.

EMM's brief calls into question Staff's attempt to measure PISA's impact on recent capital spending, but ignores the underlying incentive embedded in PISA and claims, "In any event, PISA does not accelerate asset retirements."[89] Unfortunately, the conclusion in EMM's brief is at odds with the testimony it entered into the record. On page 20 of his direct testimony, Mr. Kevin Gunn (Vice President – Regulatory and Government Affairs) states, "[PISA] has allowed Evergy to increase investment in its distribution system to improve reliability." On page 14 of his rebuttal testimony, Mr. Darrin Ives (Senior Vice President – Regulatory and Government Affairs) states PISA was intended to, "… encourage electric utilities to make timely investments in modernizing, improving, and maintaining their systems." EMM admits that modernizing existing systems is typically done by replacing older infrastructure with newer plant.[90]

Although Staff's measurement of PISA's contribution to capital spending is inconclusive, there is no doubt that PISA is responsible for some level of asset retirements. Additionally, EMM admits that capital spending is attributable to load growth in existing customers, incremental demand from new customers, and increases in SPP's planning reserve margin.[91] There is also no doubt that EMM is in a construction cycle which is clearly

[89] See Evergy Missouri Metro brief at p. 106.
[90] See Ex. 30, Darrin Ives Rebuttal at p. 13:20 – p. 14:4.
[91] See Evergy Missouri Metro brief at p. 102.

reflected in changes to its annual payroll capitalization rates.[92] Regardless, the Commission can decide the reasons for EMM's retirement activity is somewhat irrelevant since Staff's rate base adjustment does not rely on a cause-and-effect to support its adjustment. Instead, Staff's adjustment is a fact-driven mathematical analysis of asset retirement timing that results in a rate base value of plant no longer providing electricity.

***Carolyn H. Kerr***

**Issue 22. Fuel Adjustment Clause – Structure and Base Factor**

**C. At what value should the FAC Base Factor be set at the conclusion of this case?**

The Commission should adopt Staff's base factor corresponding to the FAC treatment it orders: $0.01901 per kWh under Staff's preferred Option 2, or $0.02030 per kWh under Option 1. Those recommendations pair the base calculation with the treatment of LLPS costs during subsequent accumulation periods. EMM's proposed $0.01742 factor cannot be evaluated independently of its proposed changes to that treatment and to the accounts eligible for FAC recovery.[93]

EMM emphasizes that its factor uses Staff's fuel-model results and net system input. That describes the source of the inputs; it does not establish that EMM has adopted Staff's recommendation. Staff's model excluded Customer A. Option 1 therefore adds annualized usage and estimated energy expense to the base calculation, while Option 2 removes LLPS customers and their major incremental costs from subsequent FAC calculations. The *LLPS Partial Stipulation and Agreement* instead excludes LLPS fuel costs from the base

[92] See Ex. 166, Young surrebuttal at p. 18:6.

[93] Ex. 156, Surrebuttal/True-Up Direct Testimony of Brooke Mastrogiannis, p. 2, ll. 10–20; p. 3, ll. 1–2; p. 18, ll. 12–18; p. 19, ll. 1–13; *LLPS Partial Stipulation and Agreement* ¶¶ 9–11 (EFIS Item 314).

calculation while allowing them into actual net energy costs. Staff witness Brooke Mastrogiannis explained this distinction at hearing.[94]

EMM also invokes Staff's testimony that the base factor must match the energy costs reflected in base rates. Staff agrees. Staff witness Sarah L.K. Lange explained at hearing that Staff omitted both Customer A's energy expense and the approximate offsetting energy revenue from its revenue-requirement presentation. A net presentation does not mean the associated energy costs never exist. If LLPS remains in the FAC, the corresponding usage and expense must also be addressed in the FAC base factor calculation. EMM explains that the LLPS stipulation reflects LLPS revenue, energy charges included.[95] But it doesn't. The LLPS stipulated base factor calculation uses Staff Option 2 (excluding LLPS energy expense) and adds long-term capacity purchases and sales (though at the present time the value represents only sales, which reduces the base factor). Agreement on the remaining revenue-requirement inputs does not resolve the disputed FAC design.[96]

The same principle answers EMM's double-credit argument concerning long-term capacity sales. Staff does not advocate counting the same sales credit twice. Staff opposes expanding the FAC to include those transactions in the first place, as explained in Staff's *Initial Brief* under Issue 23(D). A calculation made necessary by EMM's proposed expansion does not establish that the expansion should be approved.

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[94] *EMM Initial Post-Hearing Brief*, Issue 22(C), pp. 62–63; *id*., Issue 25(C), p. 53; Ex. 156, *Mastrogiannis Surrebuttal/True-Up Direct*, p. 2, ll. 10–16; p. 18, ll. 12–18; *Official Tr. vol. 7*, pp. 251–252 (Mastrogiannis); *LLPS Partial Stipulation and Agreement,* paragraph 9.

[95] EMM Initial Post-Hearing Brief, Issue 22(C), pp. 43-44.

[96] EMM Initial Post-Hearing Brief, Issue 22(C), pp. 62–63; Ex. 111, Direct Testimony of Brooke Mastrogiannis, p. 4, ll. 12–16; Official Tr. vol. 7, pp. 256–257 (Lange).

The Commission should resolve eligibility and LLPS treatment first, then set the base factor consistently with those decisions.[97]

**Issue 23. Fuel Adjustment Clause – Included Costs**

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

The remaining dispute concerns proposed Subaccounts 555006 and 447016, for capacity purchases and sales exceeding one year, respectively. EMM argues that both accounts parallel existing accounts for shorter-term transactions. An accounting parallel does not decide whether an additional category of costs and revenues belongs in the FAC. The Commission should adopt the subaccount treatment resolved in paragraph 15 of the October 2 *Partial Stipulation and Agreement* and reject these two proposed additions for the reasons stated under Issue 23(D) in Staff's *Initial Brief*. Their accounting classification cannot substitute for a determination that their inclusion produces an appropriate recovery mechanism.[98]

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

The Commission should retain the existing exclusion of long-term capacity purchases and sales from EMM's FAC. EMM's need to procure sufficient capacity does not establish that the costs should be passed through this mechanism. Section 386.266 authorizes the Commission to approve, modify, or reject a proposed adjustment mechanism after considering all relevant factors affecting costs and overall rates. Even assuming that a capacity transaction falls within the statute's purchased-power

[97] EMM Initial Post-Hearing Brief, Issue 22(C), pp. 62–63; Ex. 142, Rebuttal Testimony of Brooke Mastrogiannis, p. 2, ll. 9–15.

[98] EMM Initial Post-Hearing Brief, Issue 23(C), pp. 63–64; Partial Stipulation and Agreement ¶ 15 (Oct. 2, 2026); LLPS Partial Stipulation and Agreement ¶ 11.

authorization, EMM must still justify the recovery treatment it requests.[99] EMM has failed to justify such recovery.

EMM responds that the test year has no long-term capacity purchases, which should not be seen as an obstacle because the FAC is intended to address later cost changes. The absence of purchases is not Staff's only concern. Ms. Mastrogiannis identified existing long-term sales already reflected in base rates, future capacity needs associated with large load customer growth, and the additional retail revenues accompanying that growth. She further explained that contracts with known volumes and prices scheduled for a later period can be annualized in a future rate case. Those matters favor evaluating the capacity costs and the revenues supporting them together, rather than adding only the capacity transactions to the FAC mechanism.[100]

Nor does the proposal's inclusion of both purchases and sales resolve that concern. As long-term sales decline, capacity formerly sold wholesale may support additional retail load. EMM would then collect retail revenue from the additional load while the reduction in wholesale sales revenue increases FAC costs. Ms. Mastrogiannis identified that transition at hearing. EMM's approach shifts additional costs to all ratepayers and additional revenue to EMM's shareholders between rate cases.[101] EMM argues this result is a prediction of Staff; however, Staff has based this on EMM's own admission.[102]

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[99] Section 386.266.1, .5, RSMo; EMM Initial Post-Hearing Brief, Issue 23(D), pp. 64–65.
[100] EMM Initial Post-Hearing Brief, Issue 23(D), p. 65; Ex. 142, Mastrogiannis Rebuttal, p. 2, ll. 9–20; p. 6, ll. 21-24; p. 7, ll. 1–14; Ex. 156, Mastrogiannis Surrebuttal/True-Up Direct, p. 17, ll. 3–14.
[101] EMM Initial Post-Hearing Brief, Issue 23(D), pp. 65–67; Ex. 74, True-Up Rebuttal Testimony of Linda J. Nunn, p. 8, ll. 7–12; Official Tr. vol. 7, pp. 252–253 (Mastrogiannis); Ex. 142, Mastrogiannis Rebuttal, p. 6, ll. 21–24; p. 7, ll. 1–4.
[102] Ms. Mastrogiannis Rebuttal Testimony pp. 2, ll. 18-20.

EMM argues that additional revenues also support transmission, distribution, and other service costs.[103] That is why the Commission should evaluate the additional revenues and associated costs together before authorizing separate recovery of long-term capacity costs through the FAC. The proposed earnings-sharing mechanism does not resolve this concern. It returns only a portion of earnings after specified revenue and earnings thresholds are met; it does not ensure that capacity costs recovered through the FAC are not also recovered through retail rates.[104]

Staff also recognizes the limits of the Interim Capacity provision. EMM and Google correctly distinguish customer-specific interim arrangements from capacity procured for the system generally. Staff does not ask the Commission to deem every future capacity purchase an interim agreement. But describing a purchase as system capacity does not answer whether new LLPS demand caused the need for it or how the related costs should be recovered. Staff's proposed reporting requirements forecasts with and without LLPS load would help establish that relationship. Where an interim agreement applies, the customer-specific costs belong with that customer; otherwise, the Commission can evaluate the appropriate recovery in a general rate case.[105]

EMM expressly proposes to exclude costs separately charged under an Interim Capacity Agreement. That exclusion addresses duplicate recovery of those particular costs, but it does not resolve Staff's broader concern about additional demand revenues and

[103] EMM Initial Post-Hearing Brief, Issue 23(D), p. 66.
[104] EMM Initial Post-Hearing Brief, Issue 23(D), pp. 66–67; LLPS Partial Stipulation and Agreement ¶ 3 & Ex. D.
[105] EMM Initial Post-Hearing Brief, Issue 23(D), p. 66; Google Initial Post-Hearing Brief ¶ 15, p. 7; Ex. 142, Mastrogiannis Rebuttal, p. 3, ll. 6–16; p. 4, ll. 1–17; Ex. 156, Mastrogiannis Surrebuttal/True-Up Direct, p. 16, ll. 15–21; p. 17, ll. 1–14.

capacity costs arising from load growth. Staff's opposition therefore does not depend on assuming that EMM proposes to recover an identified interim-capacity invoice twice.[106]

Finally, tighter reserve margins, changing accreditation standards, and the existing inclusion of short-term transactions may explain EMM's interest for FAC inclusion of long-term capacity contracts. They do not compel the same recovery treatment for those contracts. Prudence reviews address whether incurred costs were prudent; the Commission must still decide now whether EMM's proposed mechanism appropriately assigns their financial consequences. It should reject the proposed additions and continue to address long-term capacity purchases and sales through base rates.[107]

Should the Commission approve the LLPS stipulation but exclude long-term capacity purchases and sales from the FAC, it must also recalculate the stipulated $0.01742 per kWh base factor, i.e. use Staff's Option 1 base factor of $0.02030 per kWh. That stipulated factor of $0.01742 per kWh included in the LLPS Stipulation includes a credit for long-term capacity sales.[108] Adding the long-term capacity sales revenue in the FAC before long-term capacity purchases are expected by EMM to occur would create a mismatch. This mismatch would lead to a potential under-recovery and increase a future Fuel Adjustment Rate. The Commission should ensure that the base factor reflects its decision on which costs and revenues belong in the FAC.

***Mark Johnson***

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[106] EMM Initial Post-Hearing Brief, Issue 23(D), p. 64; Ex. 74, Nunn True-Up Rebuttal, p. 8, ll. 13–19; Ex. 142, Mastrogiannis Rebuttal, p. 6, ll. 21–24; p. 7, ll. 1–14.
[107] EMM Initial Post-Hearing Brief, Issue 23(D), pp. 64–68; § 386.266.5, RSMo; Ex. 156, Mastrogiannis Surrebuttal/True-Up Direct, p. 17, ll. 3–14.
[108] EMM's Initial Post-Hearing Brief, Issue 22(C), pp. 62–63.

**Issue 25: Fuel Adjustment Clause – Large Load Power Service**

**A. Changes to the FAC for LLPS customers.**

The LLPS Agreement design is materially different from Staff's Option 2.

EMM argues that its stipulated factor uses Staff's inputs and differs from Staff's reconciliation only in the stipulated number of $0.01742.[109] While EMM further argues that there is no remaining difference between Staff's reconciliation and EMM's position,[110] this is not true. Adopting Staff's total variable fuel and purchased power costs does not require the Commission to approve the LLPS Agreement.

The stipulated base factor in the LLPS agreement of $0.01742 per kwh is much lower than either of Staff's options and EMM witness Linda Nunn's most up-to-date supported FAC base rate of $0.01931 per kWh.[111]

EMM's characterization overlooks the decisive operational difference. Paragraph 9 of the LLPS Agreement excludes LLPS energy expense from the base-factor calculation but includes it in actual net energy cost going forward, creating a mismatch and contradicts the Base Energy Costs definition in its own FAC tariff.[112] Paragraph 7 then recombines the allocated customer responsibilities into a common fuel adjustment rate.[113] Staff's Option 2 instead removes LLPS customers and their principal associated energy and transmission expenses from the common mechanism.[114] EMM also argues that the LLPS Agreement is the only proposal in this case that maintains the construct the Commission approved in

[109] EMM Initial Brief, p. 53.
[110] EMM Initial Brief, pp. 91-92.
[111] Ex. 73, Nunn Surrebuttal/True-Up Direct, p. 14, l. 17.
[112] P.S.C. MO No. 7, Original Sheet No. 50.39.
[113] LLPS Partial Stipulation and Agreement, pp. 2–3, ¶¶ 7, 9–10.
[114] Ex. 156, Mastrogiannis S/TU Direct, p. 2, ll. 10–16.

Case No. EO-2025-0154.[115] This is simply not true; the Commission explicitly stated in EO-2025-0154 that changes to the FAC as a result of LLPS customers should be dealt with when a rate case is filed. The LLPS Agreement would alter the current FAC construct by including long-term capacity sales and purchases in the FAC. EMM witness Darrin Ives confirmed that the stipulated FAC base factor calculation excludes LLPS net system input and cost yet retains LLPS participation in the FAC.[116]

Calling that combination a modification of Staff's proposal does not establish its reasonableness and is misleading. Staff's inputs were developed for a different recovery design. The Commission must examine what expense enters subsequent accumulation periods ("AP"), what retail revenue EMM receives, and which customers ultimately pay the common Fuel Adjustment Rate ("FAR").

EMM's general explanation that an FAC reconciles changes from base costs does not answer Staff's specific objection to the LLPS Agreement.[117] Ms. Lange identified the two recovery streams: the LLPS energy charge and recovery through the common FAR.[118] Staff's claim is supported by that analysis, not merely by comparing two base-factor figures. The Commission should resolve the interaction of those recovery streams rather than assume that applying one FAR to every customer necessarily prevents overlapping recovery.

EMM also invokes the earnings sharing mechanism as protection against growth after true-up.[119] That mechanism tests aggregate annual ROE, permits retention through a

[115] EMM Initial Brief, p. 38, citing Tr. Vol. 12, p. 39, ll. 20-23.
[116] Tr. Vol. 12, p. 96, ll. 19–25; p. 97, ll. 1–5.
[117] EMM Initial Brief, pp. 43–44.
[118] Ex. 167, Lange S/TU Direct, p. 7, ll. 1–4.
[119] EMM Initial Brief, p. 44.

20-basis-point deadband, and shares 65% of earnings above the threshold.[120] The Commission should assess the FAC allocation directly rather than assume that an earnings review necessarily cures it.

Google conflates annualization uncertainty with the absence of usable evidence.

Google argues that neither Staff option has competent and substantial evidentiary support because there were no LLPS customers in the test year and available load-factor assumptions are unreliable.[121] Staff does not dispute uncertainty about a customer's future ramp. That uncertainty is one reason Staff witness Brooke Mastrogiannis prefers Option 2, which relies less on assumed annualized consumption.[122]

The ongoing Option 2 LLPS deduction from the FAC uses hourly customer loads and settled load-node prices, with separate monthly energy and coincident-demand determinants for other load-side charges.[123] Those are observed accumulation-period inputs, not an assumption that every future hour will follow a forecast load shape. An objection to annualization does not establish that actual hourly usage cannot be multiplied by the corresponding settled price.

Nor is the record devoid of operating evidence. Ms. Lange reviewed April–June 2026 hourly loads and calculated the associated day-ahead values.[124] Her AP 22 illustration showed an approximately $0.00028/kWh lower FAR under Option 2, with additional monthly

[120] LLPS Agreement, ¶ 3, Ex. D, ¶ c(i).
[121] Google Initial Brief, pp. 18–21, ¶¶ 48–54.
[122] Ex. 156, p. 2, ll. 17–20; p. 3, ll. 1–2.
[123] Ex. 111, Mastrogiannis Direct, p. 11, ll. 12–25; *see also* Ex. 177, Lange Conforming Direct, p. 51, ll. 9–18 & nn.14–15.
[124] Ex. 167, p. 4, ll. 10–14; p. 5, ll. 1–19.

load-side adjustments outside that illustration.[125] This does not prove every future month's outcome. It does defeat Google's categorical assertion that there is no data or probative support. The Commission can weigh this evidence and its limitations without requiring a complete historical year before addressing prospective FAC exposure.

Integrated dispatch does not establish identical retail recovery treatment.

EMM and Google argue that using LMPs confuses market prices with production costs and disregards generation revenues.[126] Staff acknowledges that total net energy cost includes generation fuel and generation-sale revenues. Ms. Lange expressly identified those components, alongside the hourly cost of serving load.[127]

Ms. Lange's explanation addresses the marginal load question: the load-side component changes directly with customer consumption, whereas generation fuel and generation revenues do not directly change with that consumption.[128] Dr. Berry likewise recognizes SPP purchases and sales at LMPs.[129] The fact that those transactions largely offset at a system level does not establish an exact offset for each added LLPS kWh or make the load-side transaction disappear.

Staff does not propose separate dispatch or a separate settlement node. It uses the existing EMM load node and different determinants for hourly energy, monthly energy-based charges, and coincident-demand charges.[130] The Commission should evaluate that allocation alongside LLPS base-rate recovery.

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[125] *Id*., p. 7, ll. 5–11 & nn.5–6.
[126] EMM Initial Brief, pp. 46–47; *see also* Google Initial Brief, pp. 20–21, ¶¶ 51–54.
[127] Tr. Vol. 12, p. 168, ll. 21–25; p. 169, ll. 1–16.
[128] *Id*., p. 169, ll. 7–16.
[129] Ex. 452, Berry Rebuttal, p. 7, ll. 3–12.
[130] Ex. 167, p. 10, ll. 1–18 & n.10; p. 11, ll. 1–9.

EMM also calls Option 2 an impermissible attempt to relitigate the prior LLPS decision.[131] The prior order deferred FAC modification until a general rate proceeding and separately rejected customer-specific nodes.[132] This is that contemplated proceeding, and Staff's proposal uses no new customer-specific node. Section 386.266.5 through .6 authorizes Commission review of the mechanism; section 393.130.7 requires protection of other classes against unjust or unreasonable large-load costs. Different treatment supported by those cost and recovery considerations is not shown to be undue discrimination merely because dispatch remains integrated.

A larger shareholder share does not correct cost assignment.

EMM correctly observes that 90/10 sharing can provide a benefit that increases with LLPS usage.[133] The relevant distinction is between reducing the amount passed through its FAC and determining which customers should bear the underlying expense.

Paragraph 7 of the LLPS Agreement allocates the net FAC difference by energy usage for sharing purposes and combines the resulting customer amounts into one FAR.[134] Mr. Ives described that weighted calculation.[135] Thus, at a 50% LLPS share, the aggregate customer percentage becomes 92.5%, rather than 95%. That arithmetic does not segregate LLPS expense or make LLPS customers responsible for all expense assigned to their service. EMM itself recognizes the same calculation.[136] The Commission can credit the incremental shareholder contribution and still find it insufficient to correct the common FAR allocation.

[131] EMM Initial Brief, p. 49.
[132] See Case No. EO-2025-0154, Report and Order, pp. 40–42 (Nov. 13, 2025).
[133] EMM Initial Brief, pp. 41–43.
[134] LLPS Agreement, pp. 2–3, ¶ 7.
[135] Tr. Vol. 12, p. 75, ll. 7–24.
[136] EMM Initial Brief, p. 42 & n.190.

The recovery gap and tariff objections require a direct answer.

EMM argues that Option 2 leaves no FAC recovery of deviations from the base level and lacks an exemplar tariff.[137] Ms. Mastrogiannis clarified that EMM would retain LLPS base-rate revenues but would not recover those differences through the FAC.[138] Based on the ramping of customer load, EMM is expected to realize positive regulatory lag through retention of LLPS base-rate revenues that will far exceed expected differences through the FAC.[139] The question is whether continuing to spread those deviations through the common rider is reasonable when all relevant LLPS revenues are considered. Section 386.266.5(1) requires a sufficient opportunity to earn a fair return, not a guarantee of recovery of each and every cost fluctuation through this particular rider.

Ms. Mastrogiannis also acknowledged that Staff had not supplied an exemplar tariff, then explained that her testimony provided the information needed to prepare one.[140] The Commission should specify the approved deductions and require conforming tariff language and reproducible calculations. Its November 16 order now requires EMM's own exemplar FAC sheets by November 23 and permits responses by November 30.[141] Staff will address implementation through that process.

**B. Additional reporting remains necessary.**

EMM contends that the October 2, 2026, *Partial Stipulation and Agreement* resolves reporting, and that LLPS-specific information serves no purpose if the common FAC

[137] EMM Initial Brief, p. 48.
[138] Tr. Vol. 8, p. 28, ll. 13–25; p. 30, ll. 9–23; p. 31, ll. 5–21.
[139] Ex. 167, p. 3, l.17 through p. 8, l. 19.
[140] Tr. Vol. 8, p. 29, ll. 4–13; p. 33, ll. 11–25.
[141] Order Directing the Filing of Exemplar Tariff Sheets, pp. 1–2, ordering ¶¶ 1–2.

remains.[142] Staff agrees that the Henderson and Poudel reporting provisions are addressed in that agreement.[143]

Those provisions do not dispose of the separate monthly LLPS loads, corresponding settled prices, and energy and demand determinants requested by Ms. Mastrogiannis.[144] Those inputs support Option 2 and any separate LLPS mechanism. Even under Option 1, separate LLPS hourly reporting allows review of actual load growth against annualized assumptions. Ms. Lange specifically recommended continued monthly reporting of LLPS loads separately from LPS.[145] Uncertainty about LLPS impacts supports observation rather than dispensing with it. This also ties into the importance of Staff's recommended reporting requirements under Issue 31, including providing demand and load forecasts for the LLPS class separately from LPS. This would provide Staff an indication of additional contract capacity, and whether it is specific to the LLPS class.

EMM's response also does not answer the distinct CHILLS and contract-specific requests. Staff seeks separate monthly tracking of CHILLS-related SPP costs, notice within three business days of a customer becoming CHILLS, and the relevant SPP or FERC filing.[146] Staff also seeks reporting for the identified confidential contract comparable to other PPAs in tab 5(K)2.[147] The agreed RR and RC rider factors do not by themselves establish that these different data will be supplied.

[142] EMM Br., pp. 51–52.
[143] Partial Stipulation and Agreement, pp. 5–6, ¶ 15; Staff Initial Brief, p. 91 n. 315.
[144] Ex. 111, p. 11, ll. 12–25.
[145] Ex. 167, p. 9, ll. 1–6.
[146] Ex. 125, Staff Rate Design Report, p. 49, ll. 16–20.
[147] Ex. 142, Mastrogiannis Rebuttal, p. 12, ll. 7–12.

**C. Alternative relief must use matched components.**

Staff retains Option 1 as an alternative, but EMM's argument against Option 1 mischaracterizes Staff's approach.[148] Ms. Lange explained that Staff netted Customer A's approximately offsetting energy revenues and energy expense rather than include both gross amounts.[149] A net presentation does not mean the associated energy costs never exist. If the Commission determines that the LLPS revenue includes energy revenue consistent with the LLPS Stipulation, it should also choose Staff's Option 1 because it effectively balances inclusion of LLPS customers in the FAC. The difference in the LLPS stipulation base factor is that it uses Staff's Option 2 (excluding LLPS energy expense) and adds long-term capacity sales and purchases.

***Travis J. Pringle***

**Issue 29. Non-Residential Rate Design**

As stated in its *Initial Brief*, "Staff is generally in support of EMM's proposed restructuring – with some modifications. Staff's support for EMM's restructuring (as modified by Staff) is to give EMM the opportunity to promptly begin work on the Customer Migration and Determinants Study."[150]

Staff Reaffirms its Objection to the Increase of Demand and Energy Components as Contemplated in the *Rate Design Stipulation* (Issue 29.A.iii).

In its initial brief, MECG argues the Commission should "adopt the method of determining the charges of each rate element according to the terms" of the *Rate Design Stipulation* and states that the approaches within that stipulation "align[] with the cost of

[148] EMM Initial Brief, pp. 44–45.
[149] Ex. 170, Lange True-Up Rebuttal, p. 6, ll. 11–22.
[150] Staff Initial Post-Hearing Brief at 95-96. (Internal citations omitted).

service studies' results in this case."[151] As Staff discusses at length below, no reliable CCOS[152] study was possible in this case and the CCOS studies prepared by EMM suffer from a number of flaws which make them unreliable.[153]

In Staff's objection to the *Rate Design Stipulation*, Staff opposed MECG's and EMM's demand component and energy component increases – because, among other reasons, "this change in intraclass revenue responsibility is arbitrary and may result in unreasonably low energy rates."[154] MECG responded to this in its initial brief stating that these increases are legitimate because the "relationship moderates the 1.50/0.5 relationship supported by MECG's cost analysis."[155] MECG's cost analysis is based on EMM's CCOS.[156] In its CCOS, EMM "overallocated the cost of service for generation that provides Renewable Energy Credits required for RES compliance" to Residential and SGS clients while under allocating this responsibility to LPS and LGS customers.[157] Additionally, EMM's approach in allocating responsibility for Plant In Service Accounting ("PISA") [158] seems to shift disproportionately higher responsibility to "customers served at lower voltages."[159,160] It is telling that MECG,

[151] MECG Initial Brief at 16.
[152] Class Cost of Service (CCOS).
[153] Ex. No. 125, Staff Rate Design Report at 2:9-11; Ex. 138, Rebuttal Testimony of Sarah Lange at 29:11-16.
[154] "The Agreement contemplates, on page [2], increasing the demand component 1.25 times the class average assigned to the LPS/LGS classes, with the energy component increasing 0.75, with the remainder of the class revenue requirement recovered from the remaining rate elements." See Docket No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3-5.
[155] Docket Item No. 355, MECG Initial Brief at 17.
[156] Ex. No. 305, Surrebuttal Testimony of Jessica York at 11:7.
[157] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 33:6-10.
[158] Section 393.1400, RSMo.
[159] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 37 – 39:9.
[160] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 39:1-9: "While all customers pay towards the three-phase primary voltage portions of the distribution system, only customers served at secondary voltage pay towards assets that operate at secondary voltage, **and smaller customers as a whole are allocated more responsibility for the customer-classified portion of distribution accounts than is allocated to larger customers as a whole.**"[Emphasis added.]

who represents larger customers, is a proponent of a CCOS study which arguably shifts responsibility off of its clients.

In its initial brief, EMM argues against the implementation of Staff's Customer Migration and Determinants Study. [161]

As discussed in more detail below, EMM's CCOS suffers from a migration sequencing issue.[162] In order "[t]o estimate the determinants of each of EMM's non-residential customers under restructured rate elements, it will be necessary to use each customer's 15-minute demands during the selected on-peak periods, as opposed to 30-minute demands from any time of day."[163] Staff also discussed the effects of this skewed analysis: "all else being equal, shifting from 30-minute measured demand to 15-minute measured demand will increase the demand measured for most customers. Additionally, changing from 24-hour demand to on-peak demand will reduce the demand measured for many customers."[164] One can reasonably surmise that if: 1). EMM is not required to conduct the Customer Migration and Determinants Study and 2). the Commission adopts these components, then measured demand will be skewed even more.

In defending the demand and energy factors it and MECG agreed to, EMM states that "Staff's own alternative would recover about 15 percent of the revenue in each restructured class from billing demand charges. Staff has not identified a cost-of-service analysis supporting the 15% figure."[165] Staff stated it "is not opposed to retaining the 12% and 17% demand revenue percentages currently resulting from the current class composition for the

[161] Docket Item No. 351, EMM Initial Brief at 133-136.
[162] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 3:1-5.
[163] Ex. No. 125, Staff Rate Design Report at 23:8-11.
[164] Ex. No. 125, Staff Rate Design Report at 24:11-14.
[165] Docket Item No. 351, EMM Initial Brief at 131. (Internal quotations and citations omitted).

LGS and LPS classes, respectively."[166] However, as stated in Staff testimony, demand charge increases must be limited in order to:

> (1) minimize the overall customer impact at a time when customer classes are changing, the measure of demand is changing, and the relevant period for demand is changing, and,
> (2) ensure that upon completion of the customer migration study and calculation of appropriate determinants, care should be taken to ensure that the energy charges for any class are not less than the hourly load LMP multiplied by each class's hourly loads.[167]

In sum, Staff reaffirms its objection to EMM and MECG's agreement regarding the increase of demand and energy increases as contemplated in the *Rate Design Stipulation* for the reasons discussed above – and within the Staff objection to the *Rate Design Stipulation*.[168]

<u>It is Imperative that the Commission Require EMM to Conduct the Staff-Proposed Customer Migration and Determinants Study, Order EMM to Implement the Staff-Proposed Customer Education Recommendations, and Delay Restructuring Until November 2027 (Issues 29.A.iv – vi).</u>

One must note that early on in this case, EMM had concerns regarding the effect of LLPS customers and rate design changes occurring simultaneous with a customer migration would have on revenue allocation.[169] One must also note that these concerns are in line with the concerns that Staff has raised regarding LLPS impact and rate design changes taking place at the same time as restructuring. EMM's concerns informed EMM's original position: "[EMM] believes a cautious approach is warranted. Maintaining the current revenue allocation will minimize rate shock, preserve transparency, and allow for informed

[166] Ex. No. 167, Surrebuttal Testimony of Sarah L.K. Lange at 30:2-4.
[167] Ex. No. 167, Surrebuttal Testimony of Sarah L.K. Lange at 30:6-12.
[168] Docket No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3-5.
[169] Ex. No. 33, Direct Testimony of Graham Jaynes at 49:22 – 50:2.

adjustments once LLPS operations mature and rate design changes are fully incorporated."[170] ***A more in-dept account of EMM's concerns regarding this issue are located in pages 47 through 50 of Mr. Jaynes' Direct Testimony.*** [Emphasis added.]

As a matter of clarification and as made clear by Ms. Lange in hearing, there are billing determinants in this case. However, EMM failed to follow "the proper process" to form the determinants.[171] This issue is discussed below.

In its initial brief, EMM maintains that no Customer Migration and Determinants Study is necessary, stating "[t]he record already contains what the study would produce, and the remaining work is a compliance calculation that does not justify delaying the restructured rates."[172] This is incorrect. Staff witness Marina Gonzales provided insight regarding this point, stating:

> To estimate the proposed billing determinants, EMM developed a conversion factor using customer-level 15-minute interval data paired with billed 30-minute demand. EMM applied the conversion factor of 1.03042 to the demand and facilities billing components across all rate codes. **This conversion factor assumes that customers were properly migrated based on their 30-minute measured demand and further reduces the transparency that could have been provided if EMM used actual billing determinants measured at the 15-minute interval level.**[173] [Emphasis added.]

The effect of this is an "increase [to] the demand measured for most customers."[174] It is vital to have accurate billing determinant data in order to set just and reasonable rates.[175] If billing

[170] Ex. No. 33, Direct Testimony of Graham Jaynes at 49:22 – 50:2.
[171] Tr. Vol. 12 at 175:17-176:7.
[172] EMM Initial Brief at 133.
[173] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 3:8-14.
[174] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 3:1-5.
[175] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 5:5-6.

determinants are inaccurate, this can cause "unintended revenue allocation shifts among customer classes."[176]

In order to remedy these issues, Staff proposed the Customer Migration and Determinants Study to EMM in July of this year in the Staff Rate Design Report.[177] In contradicting Ms. Lange's assertion to Commissioner Coleman that the Customer Migration and Determinants Study could be completed in less than a week (if EMM prioritized it) EMM stated that it "estimated in discovery that pulling the data Staff requested would take two to three months."[178] It is notable that, if EMM were to have conducted the study when Staff first proposed it in July, this study would have been complete by now – even assuming it would take two to three months as asserted by EMM.

As stated in its objection to the *Rate Design Stipulation* and its initial brief, Staff's support of EMM's proposed rate structure (as modified) is to give EMM to opportunity to begin work on the Customer Migration and Determinants Study immediately.[179] Here, Staff attempted through its testimony to encourage EMM to conduct the Customer Migration and Determinants Study, thereby correcting the billing determinant flaw discussed above in Ms. Gonzales' testimony.

In the interest of flexibility and collaboration and in order to have this crucial study completed, Staff modified its recommendation on the Customer Migration and Determinants Study as follows:

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[176] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 5:8-10.
[177] Ex. No. 125, Staff Rate Design Report at 24-25.
[178] Initial Post-Hearing Brief of Evergy Metro at 135.
[179] Docket No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 1; Staff Initial Post-Hearing Brief at 95-96.

> Staff does not object to restructuring of the EMM rates using the "Bright Lines" proposed by EMM, the energy time periods proposed by EMM, and a 15 minute on-peak demand measure as proposed by EMM, modified for a winter demand measurement to begin at 7:00 am.[180]

The modified Customer Migration and Determinants Study adjoins Staff's objection to the *Rate Design Stipulation* as Attachment B.

EMM points out that, although Staff found EMM's "method behind the conversion factor unreasonable", Staff itself did not offer any alternative determinants.[181] Because EMM did not provide the information Staff needed and requested from EMM (i.e. actual demands of customers within the peak demand time period), Staff did not have "the information necessary to conduct an analysis to determine an appropriate conversion factor."[182] EMM witness Graham Jaynes' argument as to why Staff did not need that information is unconvincing. In making his argument, Mr. Jaynes states "[t]he question is not whether every individual record can be evaluated separately, but whether the additional precision gained would materially improve the result."[183] EMM fails to address the fact that actual customer demands vary depending on the time period selected. EMM's current demand is based upon monthly non-coincident peaks, but the restructured rates will be based upon non-coincident peak demand that falls within a specified peak demand time period. *The Rate Design Stipulation* further modified the peak demand time period from EMM's original proposal but still does not address how billing determinants of customers will

[180] Docket No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 1.
[181] Initial Post-Hearing Brief of Evergy Metro at 135.
[182] Ex. No. 36, Surrebuttal of Graham A. Jaynes at 4:1-7.
[183] *Id.* at 4:8-18.

subsequently change. The result of EMM's proposal is unsubstantiated billing determinants which would be used to develop rates in this case.[184]

In defense of its position that restructured rates "take effect with the rate increase, by bill cycle", EMM argues that Staff's approach of delaying the restructuring until November 1, 2027, would cause customer confusion and also require EMM to "file two sets of tariff sheets for SGS, MGS, LGS, and LPS customers."[185] Avoiding customer confusion and other negative outcomes is *precisely* why Staff recommends the Commission delay restructuring until November 1, 2027. In its objection to the *Rate Design Stipulation*, Staff stated:

> Immediate implementation will result in a rate increase and a significant change in rate structure **in the peak winter billing months, without the benefit of any meaningful customer education.** This runs **unnecessary and unreasonable risk of rate shock and customer disgruntlement**, as opposed to providing an opportunity for customers to understand the purposes behind the pricing of the new rate structure, and to modify usage, if applicable, accordingly.[186] [Emphasis added.]

There are several advantages to delaying restructuring until November 1, 2027:

1. EMM will still get its rate increase at the end of this case;[187]
2. Non-residential EMM customers will receive necessary education regarding the restructuring and how it affects them (Staff proposes the Commission require EMM to implement the Customer Education Recommendations for exactly this purpose);[188]
3. The new rate structure rates will be based on actual information and not approximations of relationships (if the Commission orders EMM to complete the Customer Migration and Determinants Study); and[189]
4. Mitigated rate shock during the winter months when rates will be higher.[190]

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[184] Ex. No. 125, Staff Rate Design Report at 24-25.
[185] Docket No. 351, Initial Post-Hearing Brief of Evergy Metro at 136.
[186] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3.
[187] Tr. Vol. 12 at 163:14 – 164:7-17.
[188] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3 and Attachment A; Ex. No. 125, Staff Rate Design Report at 27:15 – 28:11.
[189] Tr. Vol. 12 at 163:14 – 164:4.
[190] Tr. Vol. 12 at 164:25 – 165:11; Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3.

MECG, too, recommended a delay in implementing EMM's structural changes, and based this recommendation "on the absence of information necessary to determine whether the proposed change produces just and reasonable results for individual LGS and LPS customers."[191] Ms. York's concerns are in line with Staff's concerns on this issue, which Staff discussed in the *Staff Rate Design Report*.[192] It is important to note that Staff considers all affected classes when making its analysis, not simply the LGS and LPS classes – whom MECG represents. Furthermore, it is notable that MECG's concerns regarding this issue seemingly dissipated in light of the *Rate Design Stipulation*.[193]

The bottom line is this: Staff is not opposed to an equal percentage rate increase (which is what EMM originally asked for),[194] nor is Staff opposed to EMM's proposed restructuring (as modified).[195] Staff is simply asking for: 1). EMM to complete the Customer Migration and Determinants Study so that accurate rates can be calculated; 2). a delay in rate restructuring so as to mitigate negative impacts to EMM customers; and 3). EMM to complete the Customer Education Recommendations.[196]

***Andrea B. Hansen***

[191] Ex. No. 138, Rebuttal of Sarah L.K. Lange at 59:4-12.
[192] Ex. 125. Staff Rate Design Report at 27-28.
[193] See generally: Non-Unanimous Partial Settlement – Rate Design.
[194] Ex. No. 33, Direct Testimony of Graham Jaynes at 47:15-20.
[195] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 1.
[196] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design, Attachment A.

**Issue 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?**

In its initial brief, Google stated that it made "a significant concession by not opposing" the *Rate Design Stipulation*.[197] Such a concession should not assuage any concerns the Commission may have about adopting this stipulation – the *Rate Design Stipulation, specifically the rate increase for each class, is tied to the allocation of revenue for each class which has no basis outside* of EMM's faulty CCOS studies.[198] Thus, the *Rate Design Stipulation* is incurably flawed and should not be adopted, regardless of whether Google saw it fit to not oppose this stipulation.

***Andrea B. Hansen***

**ii. Should Schedule LLPS rates be increased in this proceeding and by how much?**

EMM argues that Staff's recommendation would break the relationship between Schedule LLPS and Schedule LPS rates established in the earlier LLPS proceeding.[199] That argument misconstrues Staff's proposal. Staff recommends an equal percentage increase to all customer classes, including LPS and LLPS.[200] Applying the same percentage increase to both schedules preserves their relative pricing. Maintaining that relationship provides no independent basis for assigning LPS and LLPS only 94% of the system-average increase.

EMM's own evidence confirms the distinction. During the on-the-record presentation, EMM witness Bradley D. Lutz explained that LLPS rates were derived from LPS

[197] Docket Item No. 352, Initial Post-Hearing Brief at 15.
[198] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 2 (section I.6.b); Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 29:11-26; Docket Item No. 355, MECG Initial Brief at 8-13.
[199] *EMM Initial Post-Hearing Brief*, Section X, Issue 30.A.ii, pp. 144–46.
[200] Ex. 125, *Staff Rate Design Report*, p. 1, ll. 6–7; *Staff Initial Post-Hearing Brief*, Issue 30(A)(ii), pp. 103–04.

rates and that he wanted LLPS rates to follow changes in LPS rates until customer information supports different treatment.[201] Staff's proposal accomplishes that objective. EMM witness Graham A. Jaynes likewise acknowledged that Staff's recommendation was consistent with maintaining the relationship between the two schedules and explained that preserving that relationship was preferable to freezing LLPS rates while increasing LPS rates.[202] The disagreement concerns the percentage increase assigned to both schedules. EMM's linkage argument does not answer Staff's objections to the proposed preferential allocation, addressed in Staff's initial brief.

***Mark Johnson***

**Issue 31: Large Load Power Service Tariff and Reporting**

The Commission should expressly order the minimum-demand billing treatment supported by Staff's evidence and Google's tariff analysis, while independently deciding the remaining construction-power and exceedance protections. It should also adopt Staff's reporting requirements beyond coordinating the annual report with the existing commitment and preserving the proposed confidentiality protections. Neither the LLPS Agreement's limited scope nor the absence of mature test-year LLPS operations justifies postponing the information necessary for effective regulation.

[201] Tr. vol. 12, *On-the-Record Presentation* (Public), at 115, ll. 1–9 (Lutz).

[202] Ex. 36, *Surrebuttal & True-Up Direct Testimony of Graham A. Jaynes*, p. 21, ln. 21 through 22, ln. 3.

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

The Commission must expressly address minimum-demand billing.

EMM argues that Staff's proposed tariff modifications are addressed by the LLPS Agreement and existing tariff.[203] That argument overstates the agreement's scope. Paragraphs 4 and 5 of the LLPS Agreement address minimum-demand billing and corresponding tariff redlines.[204] Those paragraphs do not establish Staff's requested construction-power commencement rule or its three protections against contract-demand exceedance.[205]

Google expressly supports billing demand of at least 80% of annual contract capacity, with energy-based charges assessed in addition.[206] Google witness Dr. Carolyn Berry explains that EMM should have used Minimum Demand when it exceeded actual monthly peak demand in calculating the demand charge.[207] Her analysis supports the billing protection Staff requests, notwithstanding her disagreement with Staff witness Sarah L.K. Lange's characterization of EMM's previous practice.

The Commission should therefore expressly require the applicable demand charge to use the higher of measured demand or 80% of annual contract capacity, with energy-based charges assessed separately and without offsets against that demand obligation. This conclusion rests on the tariff analysis in the evidentiary record; it does not require Staff to accept the settlement's separate FAC, revenue, or earnings-sharing provisions.

[203] EMM Initial Brief, pp. 34–35.
[204] LLPS Partial Stipulation and Agreement, p. 2, ¶¶ 4–5.
[205] Ex. 124, Lange Rate Design Direct, p. 6, ll. 5–9; p. 8, ll. 1–8.
[206] Google Initial Brief, p. 11, ¶¶ 28–29.
[207] Ex. 453, Berry Surrebuttal, p. 8, ll. 7–19.

Agreement on the correct billing instruction is a reason to order it, not a reason to leave the instruction dependent on disposition of the entire settlement.

EMM's characterization of construction power does not resolve when the five-year ramp begins.

EMM relies on Brad Lutz's explanation that construction power is separate from LLPS service.[208] Mr. Lutz describes construction preceding business operations and a contractor retaining control of the site until completion.[209] That explanation identifies the parties' disagreement; it does not eliminate the timing question. Ms. Lange identifies the potential for construction service followed by an additional transitional period to produce an effective ramp exceeding five years,[210] and the tariff already permits demand below 75 MW during the ramp.[211] Consequently, the absence of full operating load does not itself explain why construction service supporting the LLPS project must fall outside that period.

Staff does not allege that every contractor account is an LLPS account or that a particular customer has evaded its obligations. Staff requests a definite tariff milestone that includes construction power for the LLPS project within the optional ramp. The Commission should resolve that request directly. Leaving the matter to the characterization of service in individual agreements perpetuates the ambiguity Staff has identified.

[208] EMM Initial Brief, p. 34.
[209] Ex. 56, Lutz Rebuttal, p. 37, ll. 9–23.
[210] Ex. 124, p. 6, ll. 5–9.
[211] *Id*., p. 6, ll. 1–4.

Permission to revise contract capacity does not supply Staff's exceedance protections.

EMM also relies on the ability to revise capacity values in a service agreement.[212] Mr. Lutz confirmed that the tariff permits those numbers to change.[213] But permission to revise an agreement does not establish what happens when actual demand exceeds the applicable contractual commitment.

Staff's proposal answers that exact question. It requires reasonable preventive measures, protects non-LLPS customers from exceedance costs, and makes the exceeded demand the new minimum-demand basis.[214] A negotiated revision and an enforceable consequence for exceeding an existing commitment serve different purposes. The former does not necessarily provide the latter. Staff's proposal ensures that both are provided for.

Nor does conditional transmission service eliminate the need to address the retail consequences of increased demand. Ms. Lange distinguishes transmission availability from generation capacity and resource adequacy.[215] Staff's recommendation concerns the customer's retail commitment and the allocation of resulting costs; it does not purport to amend SPP's transmission tariff.

The Commission should require EMM to implement all three protections, including during the ramp. Increasing the minimum-demand basis after an exceedance should not be construed as authorizing the exceedance or dispensing with EMM's obligation to prevent unreasonable costs arising from serving LLPS customers from reaching non-LLPS customers.

[212] EMM Initial Brief, p. 34.
[213] Tr. Vol. 12, p. 148, ll. 21–25 through p. 149, ll. 1–2.
[214] Ex. 124, p. 8, ll. 1–8.
[215] *Id*., p. 7, ll. 7–18.

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

EMM's claim that reporting is premature does not remedy the data deficiency.

EMM argues that prescribing future workpapers is premature because no LLPS customer appears in the test year.[216] That position confuses the absence of mature operating history with the absence of a present regulatory need. Staff witness Claire M. Eubanks, PE identified an actual information problem: as of her testimony, Staff had not received hourly Customer A loads, estimated or actual, despite discovery beginning March 6, 2026.[217]

A prospective workpaper requirement also does not presume that future data already exists. It establishes what EMM must supply when it files a rate case after service to LLPS customers begins in earnest. Mr. Lutz himself describes Staff's proposal as defining future workpapers and their updates through true-up.[218] Establishing those requirements before the next rate case allows EMM to prepare them and allows Staff to begin its audit with a usable record.

Existing annual reports and access rights do not replace timely delivery requirements.

EMM invokes its annual report commitment, anticipated production of agreements upon request, and preservation of the Commission's information-access rights.[219] Those commitments are relevant, but they do not make Staff's remaining requests redundant.

[216] EMM Initial Brief, pp. 36–37.
[217] Ex. 123, Eubanks Corrected Direct, p. 19, ll. 10–19.
[218] Ex. 56, p. 30, ll. 4–19.
[219] EMM Initial Brief, pp. 35–36.

Staff's annual report recommendation can be implemented through the existing stakeholder process without requiring a second report.[220] The substantive dispute concerns the additional agreement-specific materials, delivery deadlines, and rate-case data. A report describing customer counts and estimated enrolled load cannot perform all of those functions.

Ms. Eubanks links the requested materials to tariff compliance, capacity assessment, emergency-response and service-quality work, and rate-case audits.[221] These are distinct supervisory functions. Preserving a general right to request information does not establish when it must arrive or ensure its availability for regulatory purposes.

The Commission should require delivery within thirty days after execution of electric service agreements with LLPS customers, with the confidentiality protections Staff proposed.[222] This requirement concerns disclosure after EMM has already entered into an agreement with a customer. It does not give Staff approval authority over negotiations or transfer operational management from EMM to Staff.

The prior reporting decision does not dispose of the present evidentiary showing.

EMM emphasizes that Ameren Missouri accepted reporting as part of a different settlement.[223] Staff acknowledges this. Ameren Missouri's agreement does not bind EMM, and adoption of a particular term in another settlement does not independently establish its necessity here.

[220] See Ex. 56, p. 27, ll. 11–25.
[221] Ex. 123, p. 18, ll. 3–13.
[222] *Id*., p. 17, ll. 7–22 through p. 18, ll. 1–2.
[223] EMM Initial Brief, pp. 36–37.

But EMM's distinction between settlements does not adequately respond to Ms. Eubanks' explanation of the information needed in this case. She identifies the mismatch between integrated resource plan information schedules and rate-case work.[224] The Commission should assess this current date deficiency issue rather than treat the previous decision as a permanent prohibition on more specific reporting.

Section 393.140(9), RSMo, authorizes the Commission to require periodic reports in the form and at the times it prescribes. Staff's proposed timing and contents give practical effect to that authority. The relevant question is whether this record supports the requested information, not whether EMM previously agreed to produce it voluntarily. And as presented by Staff in this case, the record fully supports the Commission ordering EMM provide the requested information.

Hourly loads and fifteen-minute demands serve different purposes.

The distinction between energy modeling and demand-based billing also answers the objection to interval granularity. Ms. Lange expressly explains that hourly data supports the functions EMM witness JP Meitner discusses, while fifteen-minute demand data support customer revenue annualization.[225] The currently effective tariff's Monthly Maximum Demand uses a fifteen-minute interval.[226]

Staff therefore does not claim that every production-cost model requires fifteen-minute resolution. Its proposal supplies hourly workpapers, required updates through true-up, and demand intervals upon request.[227]

[224] Ex. 123, p. 15, ll. 12–20.
[225] Ex. 167, Lange Surrebuttal/True-Up Direct, p. 18, ll. 11–24 through p. 19, ll. 1–2.
[226] Ex. 123, p. 19, n.19.
[227] *Id*., p. 18, ll. 18–22 through p. 19, ll. 1–9.

EMM's acknowledgment that monthly reports already include LLPS hourly loads likewise supports continued, separate identification of those loads; it does not justify merging them with LPS.[228] Monthly reporting, rate-case workpapers, and agreement-specific disclosures answer different questions and should remain complementary.

***Travis J. Pringle***

**Issue 32. Revenue Apportionment and Implementation**

EMM's CCOS Studies are Unreliable and Should Not be Used

In their respective briefs, both EMM and MECG promote the *Rate Design Stipulation*, offering the Commission multiple arguments as to why the Commission should adopt this agreement.[229] The allocations agreed to in the *Rate Design Stipulation* are strongly informed by EMM's CCOS studies.[230] In its initial brief, MECG faults Staff for not conducting its own CCOS study in this case.[231] This criticism is misplaced. It was impossible **for any party** to conduct a ***reliable*** CCOS study because:

> 1). EMM engaged in rate class restructuring in this case;
> 2). New load and capacity requirements were incorporated during this case; and
> 3). The large customer represented a significant shift in both cost and revenue during the update and true-up period.[232,233]

[228] EMM Initial Brief, p. 37; Ex. 167, p. 9, ll. 1–6.
[229] Docket Item No. 355, MECG Initial Brief at 8-13; Docket Item No. 351, EMM Initial Brief at 146-149.
[230] Docket Item No. 355, MECG Initial Brief at 8-13.
[231] Docket Item No. 355, MECG Initial Brief at 13.
[232] Ex. 125. Staff Rate Design Report at 2:9-11.
[233] The fact that EMM did not "request interclass revenue responsibility shifts in direct testimony" but instead requested "an equal percentage increase among the classes" was one of the factors impacting "Staff's decision not to do a CCOS study in direct". Tr. Vol. 12 at 161:14 – 162:7.

What's more, the CCOS studies that EMM did conduct are not a reliable foundation on which to build accurate revenue allocations and these issues are carried forward to MECG's derivative studies. These studies suffer from a number of flaws which make them unreliable – these are listed below and discussed at length in turn.[234,235]

> 1). EMM's treatment of the LLPS rate class distorts its CCOS studies;
> 2). EMM's customer migration sequencing undermined the reliability of its proposed class study and made Its current class study inapplicable to customer classes in the future.
> 3). EMM Made Questionable Allocation and Classification Decisions Which Affected the Reliability of its CCOS Studies.

<u>EMM's Treatment of the LLPS Rate Class Distorts its CCOS Studies</u>

Section 393.130.7, RSMo states in pertinent part:

> Each electrical corporation providing electric service to more than two hundred fifty thousand customers shall develop and submit to the commission schedules to include in the electrical corporation's service tariff applicable to customers who are reasonably projected to have above an annual peak demand of one hundred megawatts or more. **The schedules should reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers**... [Emphasis added.]

EMM's CCOS study does not reasonably ensure that LLPS customers rates reflect the share of the costs incurred to serve them.[236] No aspect of Customer A's treatment in EMM's CCOS study was reasonable.[237] As it relates to Customer A, EMM failed to allocate any cost of service for the following categories:

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[234] Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 29:11-26.
[235] A number of additional EMM CCOS study flaws not discussed in this brief can be found by referring to Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 29:15-26.
[236] Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 8:14-16.
[237] Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 7:16-17.

> [G]eneration plant ownership, transmission ownership or operation, energy market expenses, SPP participation, PISA election or the ordinary administrative and overhead operation of a utility.[238]

Additionally, EMM "allocated only a non-representative amount of generation fuel to the cost of service allocated to Customer A."[239] By failing to allocate cost of service for the above categories to LLPS customers, EMM is running afoul of the language in the statute above.[240]

EMM's Customer Migration Sequencing Undermined the Reliability of Its Proposed Class Study and Made Its Current Class Study Inapplicable to Customer Classes in the Future.

In this rate case, multiple components are in flux. There is a customer migration based upon customer demand, movement to a peak demand period, and the interval for demand measurement is changing from 30-minute demand to 15-minute measured demand.[241] This sequencing is unreasonable. If these occur simultaneously, then (all else being equal) "the demand measured for most customers" will increase.[242] These issues deteriorate the accuracy of any CCOS in this case. EMM is also "changing from 24-hour demand to on-peak demand" simultaneous with the customer migration. This is also unreasonable because (all else being equal) this will result in a reduction of "the demand measured for many customers."[243]

In order to address these issues, Staff continues to recommend that the Commission adopt the Customer Migration and Determinants Study. This study lays out the proper way to sequence the customer migration.[244]

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[238] Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 8:1-6.
[239] Ex. 138, Rebuttal Testimony of Sarah L.K. Lange at 8:1-6. (Internal quotations omitted).
[240] Section 393.130.7, RSMo.
[241] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 2:17 – 3:5.
[242] Ex. No. 133, Rebuttal Testimony of Marina Gonzales at 3:1-5.
[243] Ex. No. 125, Staff Rate Design Report at 24:11-16.
[244] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design, Attachment B.

EMM Made Questionable Allocation and Classification Decisions Which Affected the Reliability of its CCOS Studies.

EMM's questionable allocation and classification decisions summed up in a nutshell are these:

> EMM's study relies on a problematic approach to production allocations of allocating the cost to own and operate power plants differently than the revenue received from operating those plants, relies on an inappropriate transmission allocator, relies on problematic distribution classification, subfunctionalization, and perpetuates those errors through its internal allocation of other cost of service that are not related to production, transmission, or distribution.[245]

Staff will discuss some of these issues in greater length below.

***Allocation Concerns:***

Pursuant to Section 393.1620.2, RSMo, in allocating production plant costs, electric utilities can only use: 1). the average and excess method discussed in 393.1620.1 or assignment/allocation methods in the National Association of Regulatory Utility Commissioners ("NARUC") manual – 1992 or later.

MECG asserts that EMM's CCOS studies "utilized generally accepted approaches that are used in the industry and accepted by Missouri law, Revised Statutes of Missouri Section 393.1620."[246] In its critique of EMM's study, Staff used the 1992 NARUC manual which states:

> If your objective is – as it should be using this method – to reflect the impact of average demand on production plant costs, then ***it is a mistake*** to allocate the excess demand with a coincident peak allocation factor because it produces allocation factors that are

[245] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 53:12-18.
[246] Docket Item No. 355, MECG Initial Brief at 13.

> identical to those derived using a CP method. Rather, use the NCP to allocate the excess demands.[247] [Emphasis added.]

In its CCOS, EMM used a "four coincident peak allocation factor ("A&E-4CP")" in allocating production cost of service – the very thing the 1992 NARUC manual advised against. Furthermore, EMM allocated the fuel expense and revenues produced by these plants to the classes on the basis of the energy consumed by the classes. [248] The effect of EMM's decision to use the A&E-4CP allocator is that the Residential, MGS, and SGS rate classes are on the hook for 68% of renewable generation costs – while "LGS and LPS customers are credited with 44% of the value of the energy generated by renewable generation."[249]

Staff recognizes the statute gives electric utilities more than one option regarding production plant cost allocation. The issue is not whether EMM used a methodology prohibited by Section 393.1620, RSMo. The issue is that EMM's calculation of its allocation is thought to be a "mistake" by NARUC. In addition to this, as seen above, EMM's A&E-4CP allocator methodology results in unreasonable impacts to the Residential, MGS, and SGS rate classes.[250]

***Classification Concerns:***

As Staff stated in its objection to the *Rate Design Stipulation*, EMM's CCOS studies "misclassify distribution cost of service such that the revenue responsibility of MGS, SGS, and Residential customers is significantly overstated, and the revenue responsibility of LGS

[247] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 30:16-21.
[248] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 30.
[249] Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange at 30:8-11.
[250] More information regarding EMM's flawed allocation methodology and its effect on customers can be found in Ex. No. 138, Rebuttal Testimony of Sarah L.K. Lange beginning at 30.

and LPS customers is significantly understated."[251,252] As such, EMM's CCOS studies lack the accuracy necessary to make them reliable.

It is Crucial that The Commission Reject EMM's Surrebuttal Proposal to Implement the Rate Restructuring by Bill Cycles (32.C).

MECG states that "rate changes after a rate case are not a new phenomenon."[253] Staff readily concedes that rate changes are not novel. But, as discussed ad nauseum, this rate case is different than a run-of-the-mill rate case. Specifically pertaining to this issue, EMM's proposed restructuring will result in customer migration.[254] This is a complicating factor. It is reasonably foreseeable that if these new rate structures are implemented when the new rates take effect on January 2, 2027, customers belonging to the migrating classes will face rate shock and unnecessary discontent.[255]

***Andrea B. Hansen***

**Issue 33. Critical Peak Rate**

Staff Recommends the Commission Adopt Staff's Proposed Critical Peak Rate ("CPR") Tariff Discussed in Issue 33.

In its initial brief, EMM contends that "if the CPR occurs during extreme weather events, no price signal may make a difference and the Commission may not want to discourage energy use at that time."[256] EMM continues by stating, "[i]n fact, Staff's proposal would add an additional burden on customers at the exact time when they are already experiencing larger energy usage and therefore higher costs" and "a portion of customer

[251] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 2.
[252] More information regarding EMM's flawed classification methodology and its effect on customers can be found in Ex. No. 133, Rebuttal Testimony of Marina Gonzales beginning at 8.
[253] Docket Item No. 355, MECG Initial Brief at 17.
[254] See generally: Ex. No. 133, Rebuttal Testimony of Marina Gonzales.
[255] Docket Item No. 322, Staff Objection to Non-Unanimous Partial Settlement – Rate Design at 3-5.
[256] Docket Item No. 351, Initial Post-Hearing Brief of Evergy Metro, Inc. at 161.

usage is not discretionary. A surcharge during those conditions risks charging customers more at the same time electricity may be most essential."[257]

Staff's intent is to encourage conservation only when it can be done so safely.[258] Likewise, Staff's intent in proposing this tariff is not to add an additional burden on customers. Ms. Lange made these two points clear in hearing:

> Customers may choose to continue using, and I would hope they would do so to the level that is safe. It may encourage them to not go ahead and do that extra load of laundry they may otherwise do on a snow day. It might encourage a school that was going to shut off for the weather anyway to go ahead and make sure that they've got the thermostats turned down a little bit more in all those classrooms. It may encourage a workplace that…was going to send its employees home early to go ahead and do that in order to avoid some of [those] extra energy charges, **but it's not going to be an excessive bill if they're unable or choose not to do those things.**[259] [Emphasis added.]

EMM has indicated that "[a]ny critical peak design should be developed through a more complete process that evaluates costs, benefits, customer impacts, operational feasibility, and alternatives such as voluntary demand response or rebate-based programs."[260] EMM concedes that Staff is open to engaging in such a process in stating that Staff showed a willingness to work out the details of the CPR tariff "in a workshop or a non-contested docket."[261]

Section 386.1100, RSMo is Neutral as to Mandatory Time-Based Rates

Section 386.1100, RSMo states the following:

> **Mandatory use of time-of-use rates, opt out, procedure. —** If the commission has ordered adoption of time-of-use rates on a mandatory

[257] Docket Item No. 351, Initial Post-Hearing Brief of Evergy Metro, Inc. at 159 and 160.
[258] Ex. 125, Staff Rate Design Report at 41:8-13.
[259] Tr. Vol. 9 at 28:4-16.
[260] Docket Item No. 351, Initial Post-Hearing Brief of Evergy Metro, Inc. at 163. (Internal quotations omitted).
[261] *Id.* at 161 – 162.

> basis for an electrical corporation's residential customers before August 28, 2025, then within one year from August 28, 2025, the commission shall issue an order which allows for mandated time-of-use rate customers to opt out of participating in time-of-use rates and elect to participate in non-time-of-use rates. The transition to opt out of time-of-use rates may occur in a general rate case or in a stand-alone tariff proceeding to allow for the transition to conclude no later than one year from August 28, 2025.

In its initial brief, EMM opines that this statute "shows that mandatory time-based rates are discouraged."[262] This opinion was provided by EMM witness Brad Lutz – who, in his rebuttal testimony, further states: "[i]n my opinion, Senate Bill 4 [Section 386.1100, RSMo] makes it clear that mandatory time-based rates are discouraged and time-based rate design approaches should be optional."[263]

The CPR tariff is not a time-of-use rate. The triggering event under the proposed CPR tariff is a price signal.[264] Although Options 1 and 2 under the CPR tariff do have time periods in which the CPR tariff would apply, these time periods are not the controlling factor in a CPR.[265] Rather the price signal, specifically the signal immediately below, is the controlling factor. Because the CPR tariff is not a time-of-use rate, Section 386.1100, RSMo does not apply.

> If the DA-LMP has exceeded $100 in each hour of a given operating day and is $100 or more in each hour of the subsequent operating day, EMM shall issue a CPR notice.[266]

[262] *Id.* at 162. (Internal quotations omitted).
[263] Ex. No. 56, Rebuttal Testimony of Bradley D. Lutz at 63:4-12 and n. 59.
[264] Ex. No. 125, Staff Rate Design Report at 40:18 – 41:2.
[265] *Id.* at 41:14 – 17.
[266] *Id.* at 42:8 – 10.

For the reasons discussed here and in its *Initial Brief*,[267] Staff is of the opinion that the CPR tariff will be beneficial to EMM customers. As such, Staff recommends the Commission adopt it or consider it in a non-contested proceeding.

***Andrea B. Hansen***

**Issue 37: Revenue Sharing Mechanism**

The Commission should adopt Staff's Ameren-based mechanism with EMM-specific references, expressly identify the applicable ROE benchmark, and reject the additional 20-basis point allowance. Staff's proposal accounts for overall financial performance and preserves a shareholder incentive.

EMM incorrectly characterizes Staff's objections as a request for consistency alone.

EMM asserts that "Staff identifies no term of the ERS that it contends is unreasonable."[268] That characterization overlooks Staff's specific objections and their evidentiary foundation. Staff's *Initial Brief* expressly challenges the additional deadband and explains its effect on customer sharing.[269]

Staff witness Kimberly K. Bolin's live testimony identified the deadband, separate Plant In Service Accounting ("PISA") treatment, and Mullin Creek No. 2 Construction Work In Progress ("CWIP") treatment as disputed features. She estimated that the deadband, applied to Staff's true-up rebuttal rate base, would allow EMM to retain approximately $5 million above its authorized ROE.[270] These are substantive objections to the calculation and disposition of earnings, not an abstract preference for uniformity.

[267] See also Docket Item No. 359, Staff Supplemental Initial Post-Hearing Brief.
[268] EMM Initial Brief, p. 58.
[269] Staff Initial Brief, pp. 130–131.
[270] Tr. Vol. 7, p. 286, ll. 15-25 and p. 287, ll. 1-23.

EMM also emphasizes Ms. Bolin's inability to explain the reasoning behind the negotiated deadband.[271] But Commissioner Mitchell asked about the genesis and rationale of the signatories' allowance.[272] Ms. Bolin's answer did not withdraw Staff's objection. She subsequently explained that Staff's proposal begins sharing above the authorized ROE, subject to the LLPS revenue condition.[273] Ms. Bolin need not supply the justification for a settlement provision that Staff opposes. It is the responsibility of the parties who negotiated the deadband to explain why it is necessary; thus EMM and Google, as the signatories to the Agreement, bear that responsibility, not Staff. Both EMM and Google have failed to do that.

Staff's proposal includes a companywide earnings test and a large-load revenue condition.[274] Consequently, additional LLPS revenues do not automatically produce customer credits when overall earnings fall below the applicable benchmark. EMM's criticisms of mechanisms that examine only one customer class do not establish a defect in Staff's design.

EMM witness Darrin Ives confirmed the mechanisms' common structure, but also identified the deadband as a negotiated addition. He acknowledged that EMM's earlier proposal did not include one.[275] That testimony establishes the distinction the Commission must decide; describing the mechanisms as similar does not resolve it.

The additional allowance changes the effective division of excess earnings. A 65% customer share applies only after the allowance has been exhausted. Customers therefore

[271] EMM Initial Brief, p. 59.
[272] Tr. Vol. 7, p. 289, ll. 4-11.
[273] Tr. Vol. 7, p. 289, l. 18 through p. 290, l. 20.
[274] Ex. 150, Bolin Surrebuttal, p. 3, ll. 6-20 and Schedule KKB-s2, p. 2, ¶ c.
[275] Tr. Vol. 12, p. 77, l. 19 through p. 78, l. 6.

receive less than 65% of the entire earnings increment above the authorized ROE whenever the deadband excludes part of that increment. For example, assume the LLPS revenue condition is satisfied, authorized ROE is 10 percent, and earned ROE is 10.20 percent. Staff's design produces sharing; the settlement produces none. This is an illustration of the competing formulas, not a forecast. The difference cannot be dismissed merely because both mechanisms use the same nominal sharing percentage.

Google's incentive argument supports retaining the shareholder share, not necessarily adding a deadband.

Google compares the settlement with Dr. Carolyn Berry's original proposal, explaining that reducing the allowance from 25 to 20 basis points partially offsets reducing customers' sharing percentage from 75 to 65 percent.[276] That comparison does not establish that the settlement is preferable to Staff's alternative. Staff proposes a 65% customer share without the additional allowance.

Google also attributes preservation of EMM's growth incentive to its retention of 35 percent of qualifying excess earnings.[277] That reasoning supports Staff's position: the retained shareholder share already supplies an incentive. The separate question is why EMM must also retain the entire first 20 basis points above its authorized return.

Mr. Ives explained that the negotiation considered incentive differences between EMM's Missouri and Kansas jurisdictions.[278] That consideration does not demonstrate that the Missouri mechanism requires this additional allowance. The Commission can recognize

[276] Google Initial Brief, pp. 12–13, ¶¶ 33–34.
[277] *Id*., p. 13, ¶ 34.
[278] Tr. Vol. 12, p. 77, l. 19 through p. 78, l. 6.

investment incentives through the retained shareholder share while rejecting a further exclusion from sharing.

***Travis J. Pringle***

## CONCLUSION

Staff affirms its recommendation that the Commission adopt Stipulations I-IV and accept Staff's positions and recommendations contained in its *Initial Brief* as clarified herein. Such an order will be aligned with past Commission decisions, and be consistent with the Commission's treatment of similar issues for the other regulated electric utilities.

**WHEREFORE**, on account of all the foregoing, and its *Initial Brief*, Staff prays that the Commission will issue its findings of fact and conclusions of law, determining just and reasonable rates and charges for EMM as recommended by Staff; and granting such other and further relief as is just in the circumstances.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to counsel of record on this 18th day of November 2026.

***/s/ Tracy D. Johnson***