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

In the Matter of Evergy Metro, Inc. d/b/a )  
Evergy Missouri Metro's Request for Authority ) **Case No. ER-2022-0129**  
to Implement a General Rate Increase for Electric )  
Service )

In the Matter of Evergy Missouri West, Inc. d/b/a )  
Evergy Missouri West's Request for Authority to ) **Case No. ER-2022-0130**  
Implement a General Rate Increase for Electric )  
Service )

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**STAFF'S POST-HEARING BRIEF**

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October 14, 2022

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**STAFF’S POST-HEARING BRIEF**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Post-Hearing Brief*, states as follows:

**INTRODUCTION**

In this general rate case, the Commission must exercise its delegated authority to set prospective rates for Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Metro”, “Metro”, or “EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy West”, “West”, or “EMW”) (collectively, “Evergy” or the “Company”) a task that involves balancing the interests of ratepayers, the utility, and a myriad of other intervening parties with disparate interests and differing ideas about the issues and policies presented. The Commission must weigh the evidence presented before it to come to its ultimate goal in setting rates that are “just and reasonable”, which is a rate that provides sufficient revenue to cover Evergy’s costs in providing electric service, allows Evergy shareholders a reasonable opportunity to earn a fair return on their investment, but is no more than

necessary to meet those goals, which protects the rate-paying residents and businesses  
Energyserves.<sup>1</sup>

**Settled and Non-Contested Issues:**

As part of four stipulations and agreements, approved September 22, 2022,<sup>2</sup> the parties settled several issues. These issues are as follows:

- I. Cost of Capital
- V. Fuel Adjustment Clause (“FAC”) (Sub Issue E. 1 was carved out for hearing)
- VI. Fuel and Purchased Power (Sub Issue D. was carved out for hearing)
- VII. Transmission Expense and Revenues
- VIII. SERP
- IX. Incentive Compensation:
- X. Kansas City Earnings Tax
- XI. Bad Debt Expense
- XII. Dues and Donations
- XIII. Rate Case Expense
- XIV. Depreciation
- XV. Rate Base (Sub Issue C was carved out for hearing)
- XVI. Greenwood Solar Energy Center —
- XVII. Revenues
- XVIII. Rate Design/Class Cost of Service (Sub Issues B, D, E, F, G, K, and L were carved out for hearing)
- XIX. Time of Use Education and Marketing
- XX. Electrification Tariffs
- XXI. Access to Customer Facing Information
- XXII. Management Expense
- XXIII. Pilot Programs (Sub Issue D was carved out for hearing)
- XXIV. Voltage Optimization Study
- XXV. Value of Lost Load Study
- XXVI. Tariff Revisions
- XXVII. Low Income Eligible Weatherization Program (“LIWAP”)
- XXVIII. Universal Customer Service
- XXIX. Customer Privacy
- XXX. Injuries and Damages
- XXXI. Annual Surveillance Report (Metro only)
- XXXII. Jurisdictional Allocations
- XXXIII. Lake Road Plant electric/steam allocation factors (West only) –
- XXXIV. Payroll Overtime

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<sup>1</sup> Mo. Rev. Stat. § 393.130 and § 393.140.

<sup>2</sup> **Order Approving Four Partial Stipulations and Agreements**, filed September 22, 2022.

XXXV.	Cash Working Capital:
XXXVI.	Property Tax:
XXXVII.	Income Taxes
XXXVIII.	Late Fees
XXXIX.	J.D. Power Customer Satisfaction Reports & 5-year roadmap of executable increments filings
XL.	Winter Storm Uri Jurisdictional Allocation Deferral
XLI.	Storm Reserve
XLII.	Prospective Tracking
XLIV.	Uplight
XLV.	Schedule SIL
XLVI.	Reporting Requirements

The First Agreement sets the EMM revenue requirement at \$25.0 million with the revenue requirement for EMW set at \$42.5 million.<sup>3</sup> These revenue requirement amounts will be adjusted to account for the Commission’s decisions on the remaining issues heard, as either negative or positive adjustments. The pre-tax rate of return (ROR) to be utilized in the PISA cost of capital calculations during the pendency of rates effective from this case will be 8.25%.<sup>4</sup> Staff’s true-up revenues and billing determinants will be utilized to set base rates.<sup>5</sup> The First Agreement sets the property tax base amounts included in rates and to be utilized for the tracker as \$66,275,232 for the Missouri jurisdiction of EMM and \$50,495,598 for the Missouri jurisdiction of EMW.<sup>6</sup> The Second Agreement, titled Non-unanimous Stipulation and Agreement Regarding Pensions and Other Post-Employment Benefits, allows Evergy to move from the Regulatory method which has been authorized in the past several rate cases, to the Evergy Generally Accepted Accounting Principles (GAAP) method for regulatory purposes to simplify these

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<sup>3</sup> *Id.* at p. 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

calculations.<sup>7</sup> It also sets forth the appropriate related tracker mechanism for pension and OPEB expenses and addresses details related to calculations of annual pension cost and annual OPEB cost, among other items.<sup>8</sup> The Third Agreement, titled Stipulation and Agreement Regarding Programs and Electric Vehicle Charging Tariffs included the Solar Subscription Pilot Tariff, as well as the Low-Income Solar Subscription Pilot, with the provision that any costs in excess of revenues will be shared equally between customers and shareholders.<sup>9</sup>

The Third Agreement also establishes the Residential Battery Energy Storage Pilot Program and also sets forth several tariff requirements for non-residential electric vehicles.<sup>10</sup> The Fourth Agreement, titled Stipulation and Agreement Regarding Class Revenue Allocation sets the revenue allocation by class but also provides an allocation model to recalculate the percentages should the revenue requirement amounts be changed by the Commission.<sup>11</sup>

***Ratemaking:***

Although four stipulations and agreements have been approved, the Commission still has several decisions to make, which will impacts both the overall revenue requirements and rate design. When determining the appropriate resolutions remaining issues, the guiding principles of ratemaking are still the foundation for decisions. The

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<sup>7</sup> *Id.* at p. 4.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at p. 5.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at p. 6.

Commission's duty is to consider all relevant factors<sup>12</sup> to set "just and reasonable" rates.<sup>13</sup> A "just and reasonable" rate is one that balances the interests of the various parties in a manner that best benefits overall public interest.<sup>14</sup> A just and reasonable rate is fair to both the utility and to its customers<sup>15</sup> and is no more than is necessary to "keep public utility plants in proper repair for effective public service, [and] . . . to insure to the investors a reasonable return upon funds invested."<sup>16</sup>

The Commission sets just and reasonable rates via a two-step process using traditional cost-of-service ratemaking.<sup>17</sup> First, the "revenue requirement" must be determined, that is, the amount of income the utility needs on an annual basis. This is determined by matching expenses, investments, and revenue,<sup>18</sup> and the relationship between the three is the fundamental building block of Missouri ratemaking.<sup>19</sup> This relationship is examined during the test year, and the Missouri Court of Appeals described the test year as follows:

The test year is the primary mechanism through which the PSC determines appropriate rates. The PSC focuses on four factors during the test year: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and

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<sup>12</sup> *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 49 (Mo. banc 1979) ("the commission must of course consider all relevant factors including all operating expenses and the utility's rate of return").

<sup>13</sup> Mo. Rev. Stat. § 393.130 and § 393.140.

<sup>14</sup> See *State ex rel. Union Electric Co. v. Public Service Commission*, 765 S.W.2d 618, 622 (Mo. App., W.D. 1988) ("Ratemaking is a balancing process").

<sup>15</sup> *St. ex rel. Valley Sewage Co. v. Public Service Commission*, 515 S.W.2d 845 (Mo. App., K.C.D. 1974).

<sup>16</sup> *St. ex rel. Washington University et al. v. Public Service Commission*, 308 Mo. 328, 344-45, 272 S.W. 971, 973 (banc 1925).

<sup>17</sup> See L.E. Alt, *Energy Utility Rate Setting*, 18 (2006).

<sup>18</sup> Ex. 215, Rebuttal Testimony of Karen Lyons, p. 19, ll. 18-19.

<sup>19</sup> See *State ex rel. GTE N., Inc. v. Missouri Pub. Serv. Comm'n*, 835 S.W.2d 356, 368 (Mo. Ct. App. 1992).

equipment; and (4) allowable operating expenses. These factors are considered to determine the utility's revenue requirement, which is the amount of revenue taxpayers must generate to pay the costs of producing the utility's services they receive while yielding a reasonable rate of return. The PSC's use of a true-up audit and hearing is designed to balance the historical data with known and measurable subsequent and future changes; these are generally limited only to accounts affected by a significant known and measurable change, such as a new labor contract, new tax rate, or the completion of a new capital asset. This procedure is designed to reduce regulatory lag.<sup>20</sup>

In considering the Company's test year expenses, the Commission should consider whether they are reasonable, necessary and beneficial to ratepayers. Any unreasonable or unnecessary costs should be removed from rates, and, instead, charged to the shareholders. The threshold for reasonable is if the value received from expenditure is commensurate to the amount paid.<sup>21</sup> An expenditure is necessary, if, without it, the utility's ability to provide safe and adequate services within its service territory would be impaired. Finally, expenses that provide no benefits to the ratepayers should be excluded from rates and charged to the shareholders.

In the same vein, the Commission should consider whether the Company's expenditures are lawful and prudent. Any found to be imprudent or unlawful should be excluded from rates. An expenditure is unlawful if it violates a statute or regulation or a Commission order. An expense is imprudent if it is harmful to ratepayers and, if viewed

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<sup>20</sup> *In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n*, No. WD 79125, 2016 WL 4626933, at \*5 (Mo. Ct. App. Sept. 6, 2016), *reh'g and/or transfer denied* (Nov. 1, 2016), *transfer denied* (Feb. 28, 2017).

<sup>21</sup> *State ex rel. Office of the Pub. Counsel v. Pub. Serv. Comm'n of Missouri*, 938 S.W.2d 339, 342 (Mo. Ct. App. 1997) ("If the costs to the Company associated with the existence of the contract exceed the benefits that accrue to the Company, the Commission will make an adjustment to the Company's revenue requirement to compensate the Company's ratepayers for the excessive value transferred by the Company to the District. If, on the other hand, the benefits associated with the existence of the contract exceed the costs associated with the contract, the Commission will make no adjustment.").

in the context of what the Company and its officers knew or should have known at the time the Company made the expenditure, a reasonable prudent person would not have made the expenditure.

To summarize, the ratemaking recipe is often expressed by the following formula:

$$RR = C + (V - D) R$$

where: RR = Revenue Requirement;  
C = Prudent Operating Costs, including Depreciation Expense and Taxes;  
V = Gross Value of Utility Plant in Service;  
D = Accumulated Depreciation; and  
R = Overall Rate of Return or Weighted Average Cost of Capital (WACC).

Cost-of-service ratemaking establishes the utility's cost of providing service on an annual basis, based upon annualized and normalized test year expenses, and adds to that amount a reasonable allowance for a profit to the shareholders on the value of their investment. The profit allowance, in turn, is calculated by multiplying the value of the utility's plant-in-service less accumulated depreciation by a rate of return. This sum is the revenue requirement, that is, the amount of money the company must earn annually to cover its cost of service and provide a reasonable return to its investors. Determining the revenue requirement is the first half of the ratemaking process.<sup>22</sup>

After the revenue requirement is determined, rates must be designed in a manner that, given the usage characteristics of the utility's customers, will produce the necessary

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<sup>22</sup> Edison Electric Institute (EEI), *Rate Shock Mitigation* (June, 2007) p. 5 ("In simple terms, a utility's cost of service or revenue requirement consists of three primary elements: (1) operating costs, such as fuel costs, purchased power costs, operations and maintenance (O&M) costs and customer service costs; (2) a return of capital cost, otherwise known as depreciation expense; and (3) a return on capital cost, including applicable income taxes.").



revenue, with no class significantly under- or over-contributing to the overall revenue produced.<sup>23</sup> The appropriate rate design is shaped in the context of a class cost of service study (“CCOS”), which is designed to determine what rate of return is produced by each customer class on that class’s currently tariffed rates, for recovery of any calculated revenue requirement amount. From there, recommended interclass revenue responsibility shifts, as applicable, are designed to reasonably bring each class closer to producing the system-average rate of return used in determining the recommended revenue requirement. Any recommended intra-class shifts will, where appropriate, redesign the rates that collect a particular class’s revenues to better align that class’s method of recovering revenue with the cost-causation for that class that was indicated by the class cost-of-service study. A well-designed CCOS will produce rates that are non-discriminatory and based upon principles of cost causation. That is not to say that that rates or rate increases must be the same for each class, as “discrimination as to rates is not unlawful where based upon a reasonable classification corresponding to actual differences in the situation of the consumers or the furnishing of the service.”<sup>24</sup>

Rate design may be driven by considerations additional to recovering the necessary revenue requirement in a fair and equitable manner. These objectives may be fairness, simplicity, stability, avoidance of undue discrimination or preferences, efficiency, and conservation.<sup>25</sup> Avoidance of “rate shock”, that is, an increase that is simply too large

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<sup>23</sup> See *State ex rel. Missouri Office of Pub. Counsel v. Pub. Serv. Comm'n of State*, 293 S.W.3d 63, 73 (Mo. Ct. App. 2009).

<sup>24</sup> *Smith v. Pub. Serv. Comm'n*, 351 S.W.2d 768, 771 (Mo. 1961).

<sup>25</sup> Alt, *supra*, 58-60; J.C. Bonbright *et al.*, *Principles of Public Utility Rates*, 85-179 (PUR: Arlington, VA, 2<sup>nd</sup> ed. 1988).

and impactful to be easily accepted by ratepayers, is another consideration in rate design. Fair rates match costs and cost causers, so that similarly situated customers pay the same rates. Simple rates are easy to understand and administer. Efficiency and conservation mean that prices send appropriate cost signals at the appropriate times to the customers to safeguard society's scarce resources and to avoid waste and other societal harms from over-generation.

In summary, Staff urges the Commission to set just and reasonable rates for Evergy, after due consideration of all relevant factors, by adopting Staff's recommendations as discussed herein.

-Nicole Mers

## **II. Sibley AAO and Net Book Value**

Sibley was a three-unit coal-fired generating facility that served Evergy West customers. Evergy West retired the entire Sibley plant on November 13, 2018.<sup>26</sup>

In the prior rate case, Case No. ER-2018-0146, the Commission approved a stipulation that included O&M costs, depreciation, and capital costs for Sibley units 2 and 3 in Evergy West's general rates.<sup>27</sup> Subsequent to the effective date of new rates in that case, the Office of the Public Counsel ("OPC") filed an AAO, File No. EU-2019-0197 requesting deferral into a regulatory liability of the O&M costs, depreciation, and capital costs for Sibley units 2 and 3 from the point of the effective date of rates from Case No. ER-2018-0146 to the time of Evergy West's next general rate case.<sup>28</sup> That case

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<sup>26</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 12, lines 13-14.

<sup>27</sup> *Id.* at lines 16-18.

<sup>28</sup> *Id.* at lines 18-22.

was later reassigned as a complaint case in File No. EC-2019-0200.<sup>29</sup> The Commission's *Report and Order* in that case ordered Evergy West to

record as a regulatory liability in Account 254 the revenue and the return on the Sibley unit investments collected in rates for non-fuel operations and maintenance costs, taxes, including accumulated deferred income taxes, and all other costs associated with Sibley units 1, 2, 3, and common plant. The regulatory liability should quantify separately dollars related to return and other cost of service expense savings.<sup>30</sup>

The Commission also noted

Most importantly, if GMO requests accelerated recovery of net plant depreciation costs in its next rate case, the Commission should preserve the option of the future Commission to consider the offset of those costs by consideration of the past savings amounts that would be deferred under the AAO. If this AAO is not granted, such an offset could be challenged as retroactive ratemaking.<sup>31</sup>

In this current case, EMW is requesting recovery of and on the uncovered investment in Sibley.<sup>32</sup> This leaves the Commission with several issues to resolve. Those decision points are

- A. Was the retirement of the Sibley generating facility before the end of its useful life prudent?
  1. If no, what if any disallowance should the Commission order?
- B. What is the appropriate value for the regulatory liability from Case No. EC-2019-0200?
- C. What is the amount of unrecovered investment associated with the Sibley Unit Retirements?
- D. What reserve balances should be used for purposes of determining depreciation expense for Evergy West steam production units, consistent with the Commission's determination of Sibley's unrecovered investment?
- E. What is the proper amortization period for the regulatory liability related to Sibley?
- F. What is the proper amortization period for the unrecovered depreciation investment from the Sibley retirement?
- G. Should the net book value be included in rate base?

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<sup>29</sup> *Id.* at lines 22-23.

<sup>30</sup> File No. EC-2019-0200, The Office of the Public Counsel and the Midwest Energy Consumers Group, Complainants v. KCP&L Greater Missouri Operations Company, Report and Order.

<sup>31</sup> *Id.*

<sup>32</sup> Ex. 113, *Direct Testimony of Darrin R. Ives*, p. 38, lines 16-18.

H. Should the Regulatory liability for Sibley include a rate of return on the undepreciated balance from the time of retirement through the rates effective in this rate case?

I. Should the unrecovered investment in Sibley earn a weighted average cost of capital return on a going forward basis?

As Staff will explain in detail below, Staff recommends a value of \$145.6 million of unrecovered investment for the Sibley generating station.<sup>33</sup> This value should be offset by the regulatory liabilities established in ER-2018-0146, Evergy West's last general rate case, and EC-2019-0200, the complaint case against Evergy West that resulted in an accounting authority order (AAO).<sup>34</sup> Therefore, a value of \$39 million related to labor and non-labor operations and maintenance expense should be used to offset the \$145 million of unrecovered investment.<sup>35</sup> As Sibley is no longer used and useful, under the guidance of 393.135, RSMo., Staff recommends that Evergy be denied recovery of the "return on" portion. This can be done two ways. First, the Commission could offset the regulatory asset by the \$49.5 million of rate of return portion of the Sibley regulatory liability.<sup>36</sup> Or the Commission could choose to not include the net book value of Sibley in rate base.<sup>37</sup> In that case, the Commission should consider not including the rate of return portion of the Sibley regulatory liability.<sup>38</sup> This results in Staff's recommendation of an amortization of the residual regulatory asset of \$12.4 million in the cost of service over 5 years.<sup>39</sup> Finally, the Commission should remove the decommissioning costs of \$37.5 million from rate base and add those costs to the net book value determined by the Commission.<sup>40</sup>

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<sup>33</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14, line 3.

<sup>34</sup> *Id.* at p. 15, line 11-14.

<sup>35</sup> Ex. 254, *Rebuttal Testimony of Keith Majors*, p. 10.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* p. 12, lines 12-14.

<sup>38</sup> *Id.*

<sup>39</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 15, lines 11-14.

<sup>40</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 5.

This step was not included in Staff's direct value of \$12.4 million.

A. Was the retirement of the Sibley generating facility before the end of its useful life prudent?

Staff does not dispute the decisional prudence to retire the Sibley generating facility.<sup>41</sup> This does not mean that all costs related to Sibley must be included in rates or in rate base.<sup>42</sup> While costs should be judged to be prudent prior to inclusion in rates, more than a simple finding of prudence is usually required to meet the standard for rate inclusion for a particular cost.<sup>43</sup>

1. If no, what if any disallowance should the Commission order?

Staff is not recommending any prudence disallowances related to Sibley in this case.<sup>44</sup>

B. What is the appropriate value for the regulatory liability from Case No. EC-2019-0200?

Staff recommends a value of \$91.2 million of regulatory liability consisting of \$39 million related to labor and non-labor operations and maintenance expense, and \$49.5 million of rate of return.<sup>45</sup> If the Commission does not include the net book value of Sibley in rate base, the Commission should consider not including the rate of return portion of the Sibley regulatory liability.<sup>46</sup>

Staff performed a thorough calculation to determine the appropriate regulatory liability value. Staff utilized data requests, workpapers, and information provided by EMW. Staff also took into account an order from a separate fuel clause adjustment case that reduced the value.<sup>47</sup>

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<sup>41</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 2.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>46</sup> Ex. 254, *Rebuttal Testimony of Keith Majors*, p. 10.

<sup>47</sup> Tr. Vol. 8, p. 196, lines 19-25.

As will be discussed later, after reviewing all the evidence in the case, Staff believes the rate of return should be calculated on a net book value (NBV) of Sibley of \$145.6 million.<sup>48</sup> This produces a \$49.5 million value for rate of return captured in regulatory liability.<sup>49</sup> However, if the Commission utilizes a different NBV, the rate of return should be calculated based on that NBV value.<sup>50</sup>

C. What is the amount of unrecovered investment associated with the Sibley Unit Retirements?

D. What reserve balances should be used for purposes of determining depreciation expense for Evergy West steam production units, consistent with the Commission's determination of Sibley's unrecovered investment?

As these two issues are closely related, Staff will address C and D together. Staff recommends a value of \$145.6 million of unrecovered investment for the Sibley generating station as well as for the reserve balances.<sup>51</sup> This amount is reduced by the deferred depreciation of \$41.4 million.<sup>52</sup> The decommissioning costs of \$37.5 million also should be removed from rate base and added to the net book value determined by the Commission.<sup>53</sup>

Staff witness Keith Majors testified that when he reviewed the calculations, the data requests, Mr. Spanos' work papers in both the complaint case and the current rate case, in his expert opinion the \$145.6 million was a reasonable calculation of the NBV of Sibley.<sup>54</sup> Mr. Majors also testified his process for evaluating the appropriate NBV.

We would request, both in the direct filing and the true up, what's called staff data request 27. It's a standard data request. (Audio cuts out) probably for the last 30 years. We would obtain that information, might have some follow up data

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<sup>48</sup> *Id.* at p. 200, lines 15-20.

<sup>49</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>50</sup> Tr. Vol. 8, p. 196, lines 6-10.

<sup>51</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 5, and Ex. 261, *Surrebuttal and True Up Direct of Cedric Cunigan*, p. 9.

<sup>52</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>53</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 5.

<sup>54</sup> Tr. Vol. 8, p. 200, lines 15-20.

requests on that. But that information would go into staff's accounting schedules. Schedules three is plant in service. I believe schedule six is accumulated reserve. And so we would obtain that information by unit in most cases. I think it's got more detailed as of late, in terms of separating the units. But we would include that in staff's accounting schedules and that's how net plant in service, and consequently, rate base in the return is calculated.<sup>55</sup>

Mr. Majors was able to calculate through the depreciation software how EMW got to the \$145.6 million NBV.<sup>56</sup> Staff also, in its expert judgment, utilized a calculation method similar to EMW witness John Spanos.<sup>57</sup> Therefore, Staff also calculated rates including and based on the \$145.6 million NBV.<sup>58</sup> It should be noted that Staff and EMW were the only parties to calculate, model, and produce depreciation rates and schedules.<sup>59</sup>

Regardless of what OPC and MCEG say, the appropriate NBV is not a straightforward, obvious figure. This is exemplified by that there are four different position on the ultimate appropriate value for Sibley,<sup>60</sup> although OPC claims with MCEG's NBV of \$300 million.<sup>61</sup> Even OPC presents multiple figures as potential starting points for the NBV.<sup>62</sup> Mr. Robinett presents three starting point options for the net book value at 2018.<sup>63</sup> The first is the \$299,947,216 advocated by MCEG witness Greg Meyer.<sup>64</sup> The second value Mr. Robinett cites is the \$145,161,990 used by the Company and Staff.<sup>65</sup> The third option he presents is \$190,833,490, that he calculated by moving balances forward from the 2014 depreciation theoretical reserve values.<sup>66</sup>

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<sup>55</sup> *Id.* p. 230 line 18 – p. 231, line 6.

<sup>56</sup> *Id.* at lines 5-7.

<sup>57</sup> *Id.* at p. 249, lines 19-23.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 258, lines 17-19.

<sup>60</sup> *Id.* at p. 233, lines 18-22.

<sup>61</sup> *Id.* at p. 124, line 14.

<sup>62</sup> *Id.* at p. 258, lines 5-12.

<sup>63</sup> Ex. 310, *Rebuttal Testimony of John Robinett*, p. 14-17.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

The calculation of the appropriate NBV is not as straightforward as simply looking at an EMS run in a prior case and pulling a figure. As Mr. Majors testified, a variety of sources and inputs are utilized to develop a NBV for an individual unit.<sup>67</sup> This is because currently EMW is not tracking depreciation on an individual or locational basis for generating plant.<sup>68</sup>

Following Uniform System of Account guidance, construction costs are booked in accounts 310 through 316, upon purchase or construction.<sup>69</sup> As time moves forward, a reserve accrues, but not necessarily by unit.<sup>70</sup> Further complicating this is the other items that can be accrued and booked in the account, like depreciation expense and net salvage.<sup>71</sup>

The calculation of NBV involves various inputs, and reasonable minds can disagree, which explains why no NBV was determined for Sibley in EC-2019-0200.<sup>72</sup> In fact, the *Report and Order* lists the various NBV proffered as part of that case by parties.

The estimated net book value of each Sibley unit and the common assets at Sibley as of June 30, 2018, as calculated by GMO's witness, is 145.7 million. Public Counsel's witness estimated that net book value at 160 million. While MECG's witness estimated that value at 300 million.<sup>73</sup>

If the calculation was as clear as OPC and MECG claimed,<sup>74</sup> it would have been simple for parties to produce so the Commission could order a number for the NBV during the complaint case.

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<sup>67</sup> Tr. Vol. 8, p. 230 line 18 – p. 231, line 6.

<sup>68</sup> *Id.* p. 194, lines 16-23.

<sup>69</sup> *Id.* p. 212, lines 17-20.

<sup>70</sup> *Id.* lines 21-22.

<sup>71</sup> *Id.* lines 22-24.

<sup>72</sup> File No. EC-2019-0200, The Office of the Public Counsel and the Midwest Energy Consumers Group, Complainants v. KCP&L Greater Missouri Operations Company, Report and Order.

<sup>73</sup> *Id.* at p. 9.

<sup>74</sup> Tr. Vol. 8, p. 316, lines 9-14.



It's also an over-simplification to say the \$300 million was what the 2018 rates were based upon and therefore is the correct figure. Issues related to Sibley were settled in the last rate case by a stipulation and agreement, which treated as unanimous by the Commission as no party objected.<sup>75</sup> The Stipulation and Agreement did not include a specific value for the NBV of Sibley.<sup>76</sup> This is colloquially known as a "black box" settlement.<sup>77</sup> Often in a black box settlement, an overall figure is agreed upon as revenue requirement, where some specific costs or regulatory treatments are spelled out, but others are left silent. That means certain positions taken in the rate case by parties are not necessarily accepted or rejected by a stipulation, and thus the later the Commission, when approving or denying the stipulation, is not accepting or rejecting those positions.<sup>78</sup> Therefore, parties may all not agree to what is included in the revenue requirement, only what the overall just and reasonable rates and revenue requirement is.<sup>79</sup> This means even with stipulation and agreement that settles a case, parties can have different opinions or positions on whether a piece of plant or specific cost is in the revenue requirement, and thus paid by ratepayers, or is not included, and thus covered by shareholders.<sup>80</sup>

Even if an EMS run had been approved as part of the Stipulation and Agreement, it would still be difficult to unwind a particular NBV from it. Since Evergy groups individual unit plant balances and reserve balances, those individual balances don't have an impact when setting rates.<sup>81</sup> Only aggregate amounts of reserve balances are used to set rates,

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<sup>75</sup> Ex. 409, *Order Approving Stipulations And Agreements*, p. 3.

<sup>76</sup> *Id.* at p. 9.

<sup>77</sup> Tr. Vol. 8, p. 257, lines 3-6.

<sup>78</sup> *Id.* at lines 7-10.

<sup>79</sup> *Id.* at lines 11-14.

<sup>80</sup> *Id.* at lines 15-20.

<sup>81</sup> *Id.* at p. 221, line 25 – p. 222, line 4.

so Mr. Spanos' calculations to determine individual unit plant balances and reserve balances would not have impact what rates were based upon in the last case.<sup>82</sup>

All of these difficulties make the approach Evergy witness Mr. Spanos used, and Staff thoroughly reviewed, appropriate. As Mr. Spanos explained,

I think it needs to be clarified that I'm using an actual book reserve that has been assigned and developed based on all rates that have been in place. The assignment of the actual book reserve to the location level is based on the recovery and ages of those assets. And when you take that from the location level to the vintage level, the only way to calculate that is based on theoretically assigning that to the vintage level based on the age of the dollars.<sup>83</sup>

It is commonly accepted that a theoretical reserve is an appropriate method to use as the basis to allocate a functional plant reserve to the plant account level for companies that do not maintain the book reserve at the account or subaccount level, to allocate a plant-account book reserve balance to the vintage level, or as a benchmark to assess the adequacy of a company's book reserve.<sup>84</sup> All of those reasons justified the use of the theoretical reserve calculation in this case, as Mr. Spanos explained,

All three of them are applicable. I think the key one that I was trying to explain in the first question you asked is, we have the book reserve, how it's been developed at the account level. And it now needs to be assigned because we used to be at whole life, and we did not have lifespan. So now when you add the remaining life and lifespan, you have to now assign the book reserve that has been calculated based on rates that were in place to that detail, degree of detail at a location level, and at a vintage level. And so it is used -- the theoretical reserve then takes that number that you have -- and in this case, I'll say Sibley at 145, and assign that to the vintage level based on those recovery patterns. So it's allocating to the vintage level each of those assets.<sup>85</sup>

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<sup>82</sup> *Id.* at lines 9-14.

<sup>83</sup> *Id.* at p. 324, lines 9-17.

<sup>84</sup> *Id.* at p. 327, lines 17-25.

<sup>85</sup> *Id.* at p. 328, lines 4-18.

Mr. Spanos also clarified that he did not “assigned a theoretical reserve to each unit. I've taken the actual book reserve and assigned the amount that would be calculated based on the past rates and the parameters that are in place today.”<sup>86</sup>

Staff also did not just take that figure at face value. Staff performed its own reasonable check. As Mr. Majors explained,

I've done and went back to a high level do some kind of verification of that, I don't come up with 300 million. I actually went farther than this and I went and looked at -- not went and looked -- but I pulled the information when latan 2 came into service in 2010, in the subsequent 2012 cases, and obtained the plant in service and depreciation reserve. On the contrary, with latan 2, because it is recorded on a unit basis, the build out of depreciation that I calculated was right on top, very close to what the company had in the '18 case. And so if I were to take that from 12 -- I'm sorry, the 2010 case through the '18 case, take the latan 2 using authorized rates, building out the reserve, I came very close to what was actually recorded as of June 30, 2018.<sup>87</sup>

Therefore, \$145.6 million is the best estimate of the Sibley NBV, and the most reasonable to use in this case.

E. What is the proper amortization period for the regulatory liability related to Sibley?

Staff recommends a five-year amortization period of the regulatory liability, when used as a reduction of the net book value.<sup>88</sup> If the Commission uses a higher net book value or a lessor regulatory liability as an offset, the Commission should consider lengthening the amortization period to mitigate the rate impact.<sup>89</sup>

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<sup>86</sup> *Id.* at p. 332, lines 1-6.

<sup>87</sup> *Id.* at p. 232, lines 4-19.

<sup>88</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>89</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 6.

F. What is the proper amortization period for the unrecovered depreciation investment from the Sibley retirement?

Staff recommends a five-year amortization period of the net book value, as reduced by the regulatory liability resulting from Case No. EC-2019-0200.<sup>90</sup> If the Commission uses a higher net book value or a lesser regulatory liability as an offset, the Commission should consider lengthening the amortization period to mitigate the rate impact.<sup>91</sup>

G. Should the net book value be included in rate base?

H. Should the Regulatory liability for Sibley include a rate of return on the undepreciated balance from the time of retirement through the rates effective in this rate case?

I. Should the unrecovered investment in Sibley earn a weighted average cost of capital return on a going forward basis?

Staff will address these three issues together as they are interrelated. Staff's primary recommendation is to not include the NBV in rate base.<sup>92</sup> If the Commission does not include the NBV of Sibley in rate base, the Commission should consider not including the rate of return portion of the Sibley regulatory liability from the time of retirement through the rates effective in this rate case.<sup>93</sup> If the Commission does include the NBV in rates, Staff recommends the \$49.5 million of rate of return in the Sibley regulatory liability be included as an offset, along with the \$39 million related to labor and non-labor operations and maintenance expense, for a total liability offset of \$91.2 million of regulatory liability.<sup>94</sup> Staff does not recommend a weighted average cost of capital (WACC) be applied to the unrecovered investment in Sibley.<sup>95</sup>

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<sup>90</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>91</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 6.

<sup>92</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 13-14.

<sup>93</sup> Ex. 254, *Rebuttal Testimony of Keith Majors*, p. 10.

<sup>94</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14.

<sup>95</sup> *Id.* at p. 13-14.

Evergy is the only party requesting that Sibley receive a return on investment. OPC, MECG, and Staff may disagree on other aspects of Sibley, but all three parties do not believe Evergy should earn a return on plant that is no longer used and useful for ratepayers. Allowing Evergy return of but not on Sibley is the fairest sharing of risk between ratepayers and shareholders.

Evergy claims that since the retirement of Sibley was prudent, Evergy is entitled to both the return on and of Sibley.<sup>96</sup> However, Evergy ignores Commission precedent that allows for costs to be removed from rate base without a showing of imprudence.<sup>97</sup> As MECG witness Greg Meyer explains, there are several examples of this.

Any time you normalize or test your expense or amortize it over several periods of time, those are instances where the exact cost of providing service and the rates don't sync up. There's also disallowances, you know, typically on dues and donations that the staff makes that, you know, the company continues to do those, you know, knowing the regulatory treatments<sup>98</sup>

Mr. Meyer also explains that not only is allowing return on but not of the most just and reasonable outcome, the risk of not receiving return on is one utilities acknowledges.<sup>99</sup>

Courts have held the Commission has the ability to craft remedies, which under its discretion and expertise, determine the just and reasonable expenses to be borne by ratepayers.<sup>100</sup> The Commission has determined, and the Courts have upheld, that since it is required under section 393.130.1 to set rates that are "just and reasonable," it can exclude expenditures to arrive at rates it deems to be just and reasonable, that are

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<sup>96</sup> Ex. 129, *Rebuttal Testimony of Larry Kennedy*, p. 5, lines 14-22.

<sup>97</sup> Tr. Vol. 8, p. 310, line 25- p. 311, line 5.

<sup>98</sup> *Id.* lines 9-15.

<sup>99</sup> *Id.* p. 312, line 7-16.

<sup>100</sup> In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n, 509 S.W.3d 757, 779 (Mo. Ct. App. 2016).

supported by competent and substantial evidence and not arbitrary, capricious, or an abuse of discretion.<sup>101</sup> For instance, when the Commission decided it was just and reasonable for Spire's shareholders to share the burden of rate case expenses with ratepayers, Spire challenged the Commission's decision in Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225 (Mo. 2021). Spire argued, much like Evergy does in this case, that it is entitled to recover all prudent expenditures in its rates. However, the Court concluded otherwise, and upheld the Commission's decision, stating

In terms of their reasonableness, these expenditures were entitled to a presumption of prudence, and the **prudence** of the expenditures was never called into question. Nonetheless, the PSC concluded that including all of these expenditures in setting Spire's future rates was not **just** because some of the expenses were not fair to ratepayers in that they only were incurred to benefit (if anyone) Spire's shareholders.

Here, even assuming there was no basis in the evidence to reject the presumption of prudence with respect to one or more of Spire's rate case expenses, the PSC did not err in its decision to exclude a portion of those expenses in setting "just and reasonable" rates because they served only to benefit shareholders and minimize shareholder risk with no accompanying benefit (or potential benefit) to ratepayers.<sup>102</sup>

In other words, expenses must not just be prudent, they must also be fair to both investors and ratepayers to be just and reasonable.<sup>103</sup>

The Commission is empowered to make a finding in this case that just and reasonable rates should include the return of, but not the return on, the unrecovered investment in Sibley. In Staff's opinion, it is appropriate to share the economic impact of Sibley between Evergy West and its customers. Customers will finance whatever replacement employed for Sibley either through a purchase power agreement or from

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<sup>101</sup> Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225 (Mo. 2021).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

market purchases.<sup>104</sup> Providing a return on the net amounts would make Evergy West completely whole with no impact of the risk of early retirements such as Sibley.<sup>105</sup> Accordingly, a sharing of the remaining unrecovered capital costs for Sibley would provide an appropriate ratemaking result for Evergy West and its customers.<sup>106</sup>

In conclusion, an appropriate resolution to the Sibley issues is to set a value of \$145.6 million of unrecovered investment for the Sibley generating station.<sup>107</sup> This value should be offset by the regulatory liabilities established in ER-2018-0146, Evergy West's last general rate case, and EC-2019-0200.<sup>108</sup> Therefore, a value of \$39 million related to labor and non-labor operations and maintenance expense should be used to offset the \$145.6 million of unrecovered investment.<sup>109</sup> As Sibley is no longer used and useful, under the guidance of 393.135, RSMo., Staff recommends that Evergy be denied recovery of the "return on" portion, by either not including the NBV of Sibley in rate base or offsetting the regulatory asset by the \$49.5 million of rate of return portion of the Sibley regulatory liability.<sup>110</sup> This results in Staff's recommendation of an amortization of the residual regulatory asset of \$12.4 million in the cost of service over 5 years.<sup>111</sup> Finally, the Commission should remove the decommissioning costs of \$37.5 million from rate base and added those costs to the net book value determined by the Commission.<sup>112</sup>

-Nicole Mers

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<sup>104</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 15.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 14, line 3.

<sup>108</sup> *Id.* at p. 15, line 11-14.

<sup>109</sup> Ex. 254, *Rebuttal Testimony of Keith Majors*, p. 10.

<sup>110</sup> *Id.*

<sup>111</sup> Ex. 218, *Direct Testimony of Keith Majors*, p. 15, lines 11-14.

<sup>112</sup> Ex. 269, *Surrebuttal and True Up Direct Testimony of Keith Majors*, p. 5.

#### IV. Advanced Meter Infrastructure (“AMI”)

**The Commission should apply a disallowance for recovery of AMI meters that were replaced with AMI-SD meters due to the lack of SD functionality with years of design life remaining and Evergy's failure to document why the meters were exchanged.**

The Commission should apply a disallowance of (\$6,321,846) from Evergy Missouri Metro’s and (\$2,957,124) from Evergy Missouri West’s plant account 381, and a corresponding reserve adjustment of (\$781,163) and (\$288,367)<sup>113</sup> to adjust the revenue requirement agreed to by parties in the four stipulations and agreements, approved by the Commission on September 22, 2022,<sup>114</sup> because Evergy has failed to meet its burden of proof that full recovery would result in just and reasonable rates.

Evergy has the burden of proof to show why recovering the cost of replacing AMI meters that were still functioning and, in many instances, less than 7 years old is just and reasonable.<sup>115</sup> In setting just and reasonable rates, the Commission has considerable discretion due to the inherent complexities involved.<sup>116</sup> Courts have approved previous Commission rate decisions that were based on a “cost/benefit” analysis.<sup>117</sup> In terms of

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<sup>113</sup> Exhibit 285; Eubanks Work Papers and Exhibit 282 (True-up Rebuttal Testimony Staff Accounting Schedules for Evergy Missouri Metro) It appears the True-up Rebuttal Testimony Staff Accounting Schedules for Evergy Missouri West are not included in Exhibit 285 in EFIS. Staff will be filing a pleading on this issue. EFIS Item number 299 in ER-2022-0130, True-up Rebuttal Testimony Staff Accounting Schedules, prepared August 25, 2022.

<sup>114</sup> *Order Approving Four Partial Stipulations And Agreements*, issued September 22, 2022.

<sup>115</sup> § 393.150.2, RSMo (2016) (“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].. .”) (emphasis added).

<sup>116</sup> *State ex rel. Office of the Public Counsel v. Pub. Serv. Comm’n*, 938 S.W.2d 339, 344 (Mo. App. W.D. 1997).

<sup>117</sup> *State ex rel. Office of the Public Counsel v. Pub. Serv. Comm’n*, 938 S.W.2d 339, 344 (Mo. App. W.D. 1997).



just and reasonable rates, the cost/benefit analysis should demonstrate some “accompany benefit (or potential benefit) to ratepayers.”<sup>118</sup> This is because it is not the theory or methodology, but the impact of the rate order, which counts.<sup>119</sup> The Commission has previously disallowed costs related to premature replacement of used and useful meters.<sup>120</sup>

Beginning late 2018, and continuing through May 31, 2022, Evergy implemented a meter replacement strategy in which 87% of meters replaced were less than 7 years old.<sup>121</sup> The AMI meters that Evergy prematurely replaced had a design life of more than 20 years.<sup>122</sup>

Claire Eubanks, Staff’s witness, testified that AMI-SD meters included in Staff’s recommended disallowance are those where Evergy replaced an AMI meter solely to obtain service disconnect capability, including for customers who are in arrears, and those where the Company failed to show why an AMI meter was replaced while still operational.<sup>123</sup> Staff did not recommend disallowing replaced AMI meters where Evergy provided evidence that it was replacing damaged or failed AMI meters.<sup>124</sup>

Evergy did not demonstrate that the benefits of replacing AMI meters with remaining years of design life outweigh the cost.<sup>125</sup> Evergy’s own witness, Mr. Caisley,

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<sup>118</sup> *Spire Mo., Inc. v. Pub. Serv. Comm’n*, 618 S.W.3d 225, 233 (Mo. banc 2021); see also, *Matter of Application of KCP&L Greater Mo. Operations Co.*, 515 S.W.3d 754, 659 (Mo. App. W.D. 2016) (in deciding certificate of convenience and necessity, the term “necessity” means “an additional service would be an improvement justifying its cost.”).

<sup>119</sup> *State ex rel. Office of the Public Counsel v. Pub. Serv. Comm’n*, 938 S.W.2d 339, 344 (Mo. App. W.D. 1997).

<sup>120</sup> Report and Order GR-2021-0108, page 40-41 (Decision Regarding Ultrasonic Meter Recovery – Issue 26)

<sup>121</sup> Exhibit 262c at pp. 5, lines 12-13 (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

<sup>122</sup> *Id.* at pp. 5, lines 12-13

<sup>123</sup> Tr. Vol. 9, pp. 398

<sup>124</sup> Exhibit 262c at pp. 6, lines 15-17 (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

<sup>125</sup> Exhibit 262p at pp. 6, lines 6-8 and lines 13-17 (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

testified that customers would be financially indifferent to the AMI-SD change.<sup>126</sup> However, Evergy's evidence is based on mere estimates of cost savings with unreasonable assumptions.<sup>127</sup> By using reasonable assumptions, Staff demonstrates that the so-called financial neutral position of the meter replacements in fact increases the NPVRR significantly, even without considering the existing investments made in the 2014-2015 timeframe.<sup>128</sup> Evergy was unable to demonstrate actual savings, even though its meter replacement strategy was implemented in late 2018 and Evergy had several years to collect data to support its claims.<sup>129</sup> In addition, Evergy witness Brad Lutz contradicted Evergy's representation in discovery on the quantification of certain benefits. In rebuttal testimony, Mr. Caisley's testified that "[a]ll of [the benefits] were described and quantified in the business plan constructed to analyze [their] AMI decision,"<sup>130</sup> but when asked for Evergy's quantification of those benefits, Mr. Lutz answered that "Evergy has not quantified these benefits...."<sup>131</sup>

Thus, Evergy's recovery for the replacement of operational AMI meters with AMI-SD meters is not just and reasonable. Evergy has not met its burden of proof showing that the replaced meters are just and reasonable.

*-Eric Vandergriff*

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<sup>126</sup> Exhibit 21 at pp. 15, lines 4-9 (Rebuttal Testimony of Charles A. Caisley)

<sup>127</sup> Exhibit 262c at pp 7, lines 11-20 and pp 8, lines 1-14 (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

<sup>128</sup> Exhibit 262c at pp. 8, lines 9-14. (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

<sup>129</sup> Exhibit 262c at pp. 7, lines 18-20 (Surrebuttal and True-Up Direct Testimony of Claire M. Eubanks)

<sup>130</sup> Exhibit 21 at pp. 12, lines 15-17 (Rebuttal Testimony of Charles A. Caisley) (emphasis added)

<sup>131</sup> Exhibit No. 238p (Data request responses attached to Rebuttal Testimony of Claire M. Eubanks, Schedule CME-r1, pp. 1-2)

## V. FUEL ADJUSTMENT CLAUSE

**A. Should the cost of the Central Nebraska Public Power and Irrigation District (“CNPPID”) hydro purchased power agreement be included in the FAC base factor calculation for Evergy Metro or within the rate case under its variable fuel and purchased power expense?**

No, the cost of the CNPPID hydro purchased power agreement (“PPA”) should not be included in the FAC nor in the general rate case as this agreement entered into between Evergy Metro and the CNPPID is not used and useful to Missouri customers.

### **FACTS**

Evergy Metro and CNPPID entered into a hydro purchased power agreement that began in 2014<sup>132</sup> in order to meet the Kansas Renewable Energy Standard (“RES”).<sup>133</sup> The CNPPID Hydro PPA was not entered into to meet Missouri RES compliance,<sup>134</sup> nor is it needed to meet Missouri RES requirements.<sup>135</sup> Ms. Linda Nunn further testified that the PPA would expire in 2023.<sup>136</sup>

Mr. Eric Peterson of Evergy stated in his rebuttal testimony that the revenue and costs associated with the CNPPID Hydro PPA should be included when calculating the variable fuel and purchased power expense.<sup>137</sup> He further stated the Stipulation from the rate case of ER-2018-0145<sup>138</sup> agreed to exclude the costs and revenues associated with the Hydro PPA from the Fuel Adjustment Clause, but it did not exclude it from being

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<sup>132</sup> Ex. 70, p. 4;

<sup>133</sup> Tr. 13, p. 916.

<sup>134</sup> *Id.*; and Ex. 263, p. 12.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> Ex. 70, p. 3.

<sup>138</sup> Ex. 332, p. 8 (dated 9/19/2018).

included in the base rates.<sup>139</sup> He further stated the contract began in 2014 and that it was fully included in the cost of service in the rate cases filed in 2014 (ER-2014-0370) and 2016 (ER-2016-0285). Moreover, he stated the issue was settled in the last rate case, but the settlement did not exclude recovery of the contract in base rates.<sup>140</sup>

Jessica Tucker of Evergy submitted Surrebuttal testimony that mirrored Mr. Eric Peterson's rebuttal testimony as in the preceding paragraph.<sup>141</sup> Ms. Tucker, in her Surrebuttal testimony, referred to the Non-unanimous Partial Stipulation and Agreement as precedent in this proceeding or a future proceeding, but admitted at the hearing that the agreement states that no signatory shall assert those terms in any future proceeding as precedent and that Evergy Metro was a signatory on said document.<sup>142</sup>

Mr. Brad Fortson of Staff testified that in EMM's last general rate case, ER-2018-0145, the Company agreed to exclude the costs and revenues associated with the CNPPID Hydro PPA from the Company's FAC calculations. While the Stipulation and Agreement explicitly stated the costs and revenues associated with the CNPPID Hydro PPA would be excluded from the Company's FAC, it was silent on any further cost recovery. Staff did not include the costs and revenues associated with the CNPPID Hydro PPA in its calculation of EMM's variable fuel and purchased power expense in this rate case.<sup>143</sup>

Mr. Fortson testified at the hearing that Evergy Metro entered into the hydro PPA in order to meet RES imposed by Kansas and the PPA would remain in force until

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<sup>139</sup> *Id.*, p. 4.

<sup>140</sup> *Id.*

<sup>141</sup> Ex. 79, p. 3.

<sup>142</sup> Tr. 13, p. 931-932; and Ex. 79, p. 3.

<sup>143</sup> Ex. 263, p. 12.

December 2023.<sup>144</sup> Mr. Fortson stated that if this PPA was included in this rate case, the Company would collect money from Missouri customers on a contract that it no longer maintains or pays for.<sup>145</sup> The PPA was entered into for Kansas customers and not Missouri customers, and is not needed to serve Missouri customers; and therefore, Missouri customers are not receiving benefits from the Hydro PPA.<sup>146</sup> These costs associated with the PPA should be recovered from Kansas customers.<sup>147</sup>

Mr. Shawn Lange of Staff testified at the hearing that he performed a fuel model and that Evergy Metro's generation exceeded their load requirements as modeled with the Hydro PPA and would still have generation in excess of its load requirements without the Hydro PPA.<sup>148</sup>

Ms. Lena Mantle of Office of Public Counsel ("OPC") testified at the hearing that the Hydro PPA was not needed to meet Missouri RES compliance nor can it be used to meet Missouri RES compliance.<sup>149</sup> She further testified that the Hydro PPA is not needed to meet Evergy Metro's customer load, nor are there benefits to Missouri customers based on the Hydro PPA.<sup>150</sup> Moreover, the costs of the Hydro PPA exceeded the revenues that came from the PPA.<sup>151</sup>

Ms. Mantle stated that this is a costly purchased power agreement that Evergy Metro entered into in 2014 to meet the renewable standards (RES) requirements of the State of Kansas.<sup>152</sup> These facilities cannot be used to meet the Missouri

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<sup>144</sup> Tr. 13, pp. 945 and 949; and Ex. 333.

<sup>145</sup> Tr. 13, pp. 952 and 955.

<sup>146</sup> Tr. 13, pp. 959-961.

<sup>147</sup> Tr. 13, p. 962.

<sup>148</sup> Tr. 13, pp. 975-977.

<sup>149</sup> Tr. 13, pp. 984-990.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> Ex. 303, p. 6.

RES statutes.<sup>153</sup> The energy from the PPA is not needed to meet Evergy Metro Missouri's customers' RES requirements and the capacity is not needed for Evergy Metro to meet the SPP resource adequacy requirement.<sup>154</sup>

If the CNPPID Hydro PPA is included in the revenue requirement but not in the FAC base factor or the actual FAC costs and revenues, Evergy Metro would recover the normalized cost of this PPA through increased base rates increasing customer's bills.<sup>155</sup> Also if the costs are not included in the FAC base nor the accumulation period FAC, changes in the costs of the PPA would not impact the FAC.<sup>156</sup>

Ms. Mantle further testified that Evergy Metro would recover the normalized cost of the PPA through increased base rates and therefore increased customer bills.<sup>157</sup> Including the PPA in the calculation of the FAC base factor would result in a higher base factor.<sup>158</sup> Because the PPA is a cost, the absence of the PPA costs in the calculation of the actual FAC costs in the accumulation period would, everything else being consistent with the costs included in base rates, result in a negative FAC rate with Evergy getting to keep 5% of what was saved. While Evergy Metro's customers would not be paying for the entire Hydro PPA cost, they would be paying for 5% or over \$150,000 per year.<sup>159</sup>

Ms. Mantle stated that Mr. Peterson's proposal that the Hydro PPA be included when calculating variable fuel and purchased power expense in the general rate case for Evergy Metro, would result in Missouri customers paying for the PPA contract that

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<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*, at p. 7.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

provides no benefit, but only costs.<sup>160</sup> The costs and revenues associated with the Hydro PPA should not be included in the revenue requirement, calculation of the FAC base or Evergy Metro's actual FAC costs in a future accumulation period. In other words, Ms. Mantle recommended the Commission order that no costs and revenues of the PPA be included in base rates or flow through Evergy Metro's FAC.<sup>161</sup>

Staff is in agreement with OPC that the costs and revenues associated with the CNPPID hydro PPA continue not to be included in the Company's FAC, and also not be included in Company's base rates.<sup>162</sup>

### **ARGUMENT**

Evergy Metro is a public utility, and an electric corporation, as those terms are defined in Section 386.020(15) and (43), RSMo. As such, Evergy Metro is subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, RSMo.

In determining the rates that Evergy Metro may charge its customers, the Commission is required to determine that the proposed rate is just and reasonable. The property upon which a rate of return can be earned must be utilized to provide service to its customers. That is, it must be used and useful. This used and useful concept provides a well-defined standard for determining what properties of a utility can be included in rate base.<sup>163</sup> Evergy Metro has the burden of proving that its proposed increase is just and reasonable.<sup>164</sup>

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<sup>160</sup> *Id.* at p. 8.

<sup>161</sup> *Id.*

<sup>162</sup> Ex. 263, p. 12.

<sup>163</sup> *In Re Missouri Gas Energy*, 256 P.U.R.4th 250 (Mar. 22, 2007).

<sup>164</sup> § 393.150.2, RSMo.

Evergy Metro has not met its burden of proof that it is just and reasonable for Missouri ratepayers to pay the costs of this Hydro PPA. In fact, Evergy Metro only states that the Hydro PPA should be included in its general rate case, as it allegedly was fully included in the cost of service in the rate cases filed in 2014 (ER-2014-0370) and 2016 (ER-2016-0285), and that the settlement agreement entered into in 2018 did not exclude recovery of the contract in base rates. This is insufficient to show that this PPA is being utilized to provide service to Missouri customers.

Here, Evergy Metro entered into an agreement with CNPPID as required by Kansas law and not Missouri law.<sup>165</sup> Evergy Metro admitted in its filed testimony and during the hearing that the Hydro PPA was because of Kansas law and not Missouri, nor can it be used to meet the Missouri RES requirements.<sup>166</sup> This PPA is a benefit to Kansas customers and not a benefit to Missouri customers, as it was not required in Missouri.<sup>167</sup>

Secondly, Staff's model shows that Evergy Metro's generation exceeded their load requirements as modeled with the Hydro PPA and would still have generation in excess of its load requirements without the Hydro PPA.<sup>168</sup> The energy from the PPA is not needed to meet Evergy Metro Missouri's customers' RES requirements and the capacity is not needed for Evergy Metro to meet the SPP resource adequacy requirement.<sup>169</sup> Therefore, this model shows that the Hydro PPA is not being used to service Missouri customers and is not needed to do so.

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<sup>165</sup> Tr. 13, p. 916; and Ex. 263, p. 12.

<sup>166</sup> *Id.*

<sup>167</sup> Tr. 13, pp. 959-961.

<sup>168</sup> Tr. 13, pp. 975-977.

<sup>169</sup> Ex. 303, p. 6.



Finally, if the Commission would allow the Hydro PPA to be included in the general rates, Missouri customers would be paying for a contract where they receive no benefit.

This Hydro PPA is not used and useful to Missouri customers as Missouri customers are not receiving a service or benefit from it. Staff recommends that the Commission not include the Hydro PPA in Evergy Metro's base rates or flow through its FAC.

*-Scott Stacey*

### **XVIII. Rate Design/Class Cost of Service**

Staff has an overall goal of streamlining Evergy's rate design. Staff recommends this case be taken as an opportunity to begin the modernization of Evergy's rate structures. To achieve this, all non-lighting rate schedules should be transitioned to simple time-based time of use rate structures, with a plan to transition to more complex time-variant rate structures that will better reflect cost causation in the future.

Staff further recommends elimination of end-use distinctions in customer rate schedules with regard to appliance configurations. Staff recommends elimination of duplicative rate codes because most are the legacy of prior territorial mergers and rate schedule consolidations that have become obsolete with the passage of time and prior rate consolidations.

B. What are the appropriate rate schedules, rate structures, and rate designs for the non-residential customers of each company?

This case should be taken as an opportunity to begin the modernization of the rate structures of EMM and EMW. Staff recommends that all non-lighting rate schedules be transitioned to simple time-based time of use ("ToU") rate structures in this case, with an

eye towards eventual transition to more complex time-variant rate structures that better reflect cost causation.<sup>170</sup> Staff further recommends elimination of end-use distinctions in customer rate schedules with regard to appliance configurations.<sup>171</sup>

The Commission should order default ToU rate structures for all customers in this case, excluding the lighting, RTP, and special customer rate schedules. Staff recommends a summer off-peak discount for the “Super Off-Peak” period of -\$0.01, from midnight to 6:00 am, and an on-peak premium of \$0.01, from 4:00 pm until 8:00 pm. For the non-summer months, in conjunction with Staff’s recommended rate schedule changes, Staff recommends the Super Off-Peak discount be held constant at \$0.01, but that the on-peak premium be moderated to \$0.025. Default ToU will allow all customers to be introduced to these types of rates, but ToU rates alone will not result in dramatic changes to customers’ bills.

Time-of-use elements should be incorporated into each rate schedule, using a class-wide calculation for each class to determine the revenue impact of the time-based overlays. This process will not be revenue neutral, and the applicable revenue requirement increase for each class will need to be adjusted for the resulting revenue change.<sup>172</sup>

After the revenue-neutral consolidation within each class, and the incorporation of the time-based rate elements, except as specified otherwise herein, each rate element should be adjusted by an equal percentage to achieve the revenues targeted for that class.<sup>173</sup>

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<sup>170</sup> Ex. 229, *Direct Testimony of Sarah L.K. Lange*, p. 9-10.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*, p. 6-7.

D. What are the appropriate rate schedules, rate structures, and rate designs for the Residential customers of each utility?

Duplicative rate codes should be eliminated, because most are the legacy of prior territorial mergers and rate schedule consolidations that have become obsolete with the passage of time and rate consolidations. Distinctive rate codes be defined within the tariff and utilized in the billing and/or metering systems.

**Remove end-use distinctions, improve future hourly data availability**

The Residential General Service rate schedule includes multiple rate codes, and customers are charged a different rate for their energy consumption based on whether or not they are on file with Evergy as having “permanently installed electric space heating and must be the primary heating source and able to provide whole house heating.”<sup>174</sup>

This distinction is an artifact from a time when meters to facilitate time-based rates were cost-prohibitive.<sup>175</sup> These end-use rates were used as a proxy for time-based rates, to recognize that under most studies of most electric heating sources, customers using electric heating tended to use more energy during times when energy was relatively less expensive than customers who had other sources of heat.

Evergy proposes not only retaining the end-use rate, but actually modifies that eligibility requirement to read “Electric space heating equipment may be supplemented by wood burning fireplaces, wood burning stoves, active or passive solar heating, and used in conjunction with fossil fuels where the combination of energy sources results in a

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<sup>174</sup> Ex. 229, *Direct Testimony of Sarah. L.K. Lange*, p. 9-10.

<sup>175</sup> *Id.* at p. 8.

net economic benefit to the customer. Electric space heating equipment shall be permanently installed and thermostatically controlled.”<sup>176</sup>

In today’s world, end use rate codes are a clumsy substitute for reliance on already-installed AMI metering. This approach is unreasonable and unsupported by any cost study. A much more reasonable way to align cost-causation related to time of consumption with revenue recovery is to use a cost-based time-variant rate element. Staff’s recommended introduction of a default ToU rate structure.

While Staff recommends elimination of end-use rate distinctions, if this is not done in this case it is reasonable to lessen the winter decline in place for Residential Space Heating customers, and freezing the availability of end-use rates to those customers at those locations currently receiving such rate. If the end-use rate remains available, it is critical that hourly loads be retained for this separate rate code, so that it may be further studied and addressed in future rate cases.

Staff recommends creation of various rate codes to facilitate data retention, improve future revenue normalization, and improve future cost studies and rate modernization efforts. <sup>177</sup>

### **Introduction of Time-Based Element into Default Rate Structures**

In the Nonunanimous Partial Stipulation and Agreement Concerning Rate Design Issues, filed September 25, 2018, in ER-2018-0145 (EMM) and ER-2018-0146 (EMW), EMM and EMW agreed, “KCP&L and GMO will submit a Residential TOU rate design in their next rate cases based on lessons learned from the TOU service.”

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<sup>176</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*, p. 40.

<sup>177</sup> Ex. 229, *Direct Testimony of Sarah L.K. Lange*, p. 12, l. 13-17.

EMM and EMW did not submit a preferred default time-based rate design in this case. However, Staff's design leverages the existing time periods, including the "wait 'til 8" campaign. Staff's recommendation is to take the consolidated Residential Rate Schedule and incorporate<sup>178</sup>:

1. On-peak premium of \$0.01, from 4:00 pm until 8:00 pm.
2. Super Off-Peak period of -\$0.01, from midnight to 6:00 am, in summer; \$0.0025 in non-summer

In the past, end use rate were used as a stop-gap for the lack of affordable meters capable of recording the time at which energy was used. Well-designed time-based rates reflect economic responsibility for an individual customer's contribution to a number of factors that may run counter to the customer's class's characteristics. Because of AMI metering, those pricing distinctions that end-use rates estimated in the past, can now be passed on to customers in a level appropriate to that customer, allowing better adherence to the requirement that discriminatory rate treatment not be unreasonable.

1. What is the appropriate residential customer charge?

The residential customer charge for both utilities should be established by increasing the current EMM residential customer charge by the percentage adjustment to the Metro Residential class revenue requirement, rounded to the nearest quarter<sup>179</sup>.

E. What measures are appropriate to facilitate implementation of the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule?

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<sup>178</sup> Ex. 229, *Direct Testimony of Sarah L.K. Lange* p. 22-23.

<sup>179</sup> *Id.* at p. 30-31.

Given the customer education provisions of the 2018 stipulation, and since that EMM has spent \$1, 386, 936 and EMW has spent \$1,692,041 on ToU program costs, and EMM has spent \$98,788 on customer education costs related to ToU and EMW has spent \$24,000, Evergy's customers at large should be well-educated on both the general economic underpinning and the potential bill impacts of rates that vary with the time of day at which energy is consumed.<sup>180</sup>

F. Should the Company's proposed Time of Use rate schedules be implemented on an opt-in basis?

No. We know that energy generally costs more in certain time periods. We know that utilities must build transmission and distribution facilities to meet the peak demands of their customers, and obtain generation capacity to meet their needs plus a margin.

In the IRP<sup>181</sup>, EMM takes the position that avoided distribution costs cannot be valued at this time, because the system has sufficient capacity. Therefore, it is not appropriate to balloon a time-based rate differential with distribution costs, at this time.

It is not reasonable to expect that energy will be shifted from the hour at which a monthly or annual system peak is experienced. Evergy's ToU EM&V did not indicate that coincident demands were reduced by the studied ToU rate. If a peak was weather driven, it is not unreasonable for customers participating in a ToU rate structure to decide that the same weather conditions that have driven other customers to consume energy in the hour of a system peak make it worthwhile for them to consume energy at that time.

Some policy makers may view short-term absolute bill reductions as a goal of time-based rates. However, for a regulated utility, those short-term bill reductions will be incorporated

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<sup>180</sup> Ex. 229 *Direct Testimony of Sarah L.K. Lange*, p. 15-16.

<sup>181</sup> EO-2021-0035.

into a future rate case as reduced billing determinants, and the rates will be factored up to negate the bill reductions that exceeded avoided revenue requirement. The only revenue requirement that can reasonably be expected to be avoided is that associated with energy acquisition at wholesale, so it is not reasonable to transfer additional allocated costs from non-participants to participants. Non-participating ratepayers should not bear any cost in the form of avoided revenues or otherwise from these non-cost-based optional rate schedules.

If Evergy's proposed rate schedules are promulgated<sup>182</sup>:

For compliance tariff preparation, care must be taken that rates – particularly the Super Off Peak rate – meet or exceed the average cost of wholesale energy adjusted to secondary voltage for the indicated period. Going forward, EMM and EMW must consider the specific residential rate schedule on which service will be sought in determining the applicable non-refundable construction charge associated with any non-basic extension requests. For residential customers, the Extension of Electric Facilities Tariff, EMM sheet 1.30 et seq. and the related EMW sheet include a construction allowance formula that relies on an estimate of “estimated margin.” Estimate margin is defined as “The Estimated Margin will be determined by first multiplying the effective rates for each customer class by the estimated incremental usage – and then subtracting 1) applicable margin allocation for network and infrastructure support costs; and 2) incremental power and energy supply costs.” This construction allowance formula is necessary in determining any non-refundable construction charge in connection with any non-basic extension requests.

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<sup>182</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*.

Concerning the proposed **Residential Time of Use – Two Period RTOU-2 Rate Schedule**, and assuming correction of various drafting errors, this rate design is less extreme than others, but appears to exceed the differential levels that are cost justified due to energy price difference between time periods. This rate is less objectionable than the other optional rate proposals Evergy has included in this case, but is still not cost-based. Staff recommends rejection, but if the Commission desires continuation of a time-based rate that exceeds cost-based justification, this design is the most reasonable to promulgate. However, if a well-designed separately-metered EV charging rate is not implemented, this RTOU-2 design is not unreasonable for use as a rate required of participants in the Residential EV rebate programs.

The RTOU design incorporates a 6 cent, (50%) price differential between the Super Off-Peak and Off-Peak hours during summer months. However, the cost-based difference between these time periods is less than 1.4 cents. The On-Peak price is slightly higher than that of the RTOU-2 design.

Using the time periods chosen by Evergy, the average off-peak and on-peak prices for wholesale energy during non-summer months are virtually identical. However, Evergy imposes an On-Peak premium of 9 cents, which is at a 12 cent premium to the Super Off-Peak rate.

### **Residential High Differential Time of Use RTOU-3 Rate Schedule**

Energy sold during summer months during the “Super Off-Peak” time period is not expected to be sold at any margin. Energy sold during the summer “On-Peak” period, is sold at an unreasonably large margin. The non-summer design significantly discounts



energy consumption between the hours of 12 am to 6 am, but does not include any real premium for energy consumed outside of that time.

### **Separately Metered EV time of Use RTOU-EV Rate Schedule**

This rate schedule is applied to a separate meter in residences with “customers with electric vehicle charging at the residence connected through a separately metered circuit.” There is nothing unique about energy consumed by “customers with electric vehicle charging at the residence connected through a separately metered circuit.” Excluding potential consideration of reactive demand requirements, the end use of energy consumed does not impact the cost to provide a given kWh of energy at a given point in time.

As drafted, the availability and applicability sections do not actually specify that the rate schedule is for the separately-metered circuit to which electric vehicle charging occurs, or a clearer restriction, such as “the separate meter shall be connected to a panel dedicated to the supply of energy to electrical vehicle charging devices including any on-board chargers.” Staff recommends insertion of such a requirement, if the schedule is promulgated.

Eversource proposes that this second-meter service would not be available to customers who operate parallel generation or net metering through a separate meter served on a separate residential schedule. This restriction is unreasonable, and Staff recommends its removal, if the schedule is promulgated. However, it may be reasonable to include a provision restricting the use of the service to charge batteries for discharge through the meter associated with parallel generation or net metering.

The requested \$3.25 customer charge for a second meter is not reasonable. A more reasonable customer charge for a second meter would be in the range of \$4.25 - \$5.00.

Staff remains open to discussion of a comprehensive well-designed rate schedule for residential EV charging comparable to that developed for customers of Liberty-Empire in File No. No. ET-2020-0390.

Chargepoint recommends eliminating the requirement for a separate meter, eliminating the corresponding customer charge, and allowing submetering through a non-utility meter. While these recommendations on their face appear consistent with the resolution of the Empire EV case, these recommendations do not incorporate the full sets of agreements made in that case that enabled Staff to recommend approval of the redesigned Empire program.

Evergy's request to record losses of over \$150 per customer should be denied.

It would be in the best interest of Evergy's customers as a whole to eliminate the opt-in ToU as presently designed. In general, the Evergy EM&V Report shows that the program allowed participants to avoid contributing to revenue, but did not avoid peak demands that relate to the generation, transmission, and distribution sizing requirements of the utility.<sup>183</sup> Evergy's EM&V did not indicate the level of energy cost savings—if any—that were passed through the FAC, nor did it demonstrate that less energy was consumed by participating customers in the hour of monthly or annual system peaks.<sup>184</sup>

G. Should the Staff's proposed Time of Use rate schedules be implemented on a mandatory basis?

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<sup>183</sup> Ex. 229 *Direct Testimony of Sarah L.K. Lange*, p. 13.

<sup>184</sup> *Id.*

Yes. Consistent with the Ameren Missouri default ToU approach, in which a modest on-peak overlay was included in the default residential rate design, and the Empire default ToU approach in which a modest off-peak discount overlay was included in the default residential rate design, the EMM and EMW rate structures for each residential and non-residential rate schedule (excluding the lighting, RTP, and special customer rate schedules) should incorporate an on-peak overlay as a result of this rate case, to operate in conjunction with an off-peak discount overlay.<sup>185</sup> Default, time-variant, and cost based rates have become the norm for Missouri electric utilities.

Staff's "Real Time Pricing" rate schedule recommendations should be incorporated into the company's proposed "Limited Time-Related Pricing" program, or the "Limited Time-Related Pricing" should be modified to address concerns that include<sup>186</sup>,

One set of rates - the rate differential offered for "Power Load," and "General Load" customers does not appear cost-based. It would be more reasonable to base the facilities demand charge on the around-the-clock customer non-coincident peak occurring in the last 3 to 5 years, as the local facilities in place to safely serve the customer do not vary on an annual basis. The tariff should incorporate a demand charge. – The proposed tariff's "Minimum Demand," provisions appear to reflect a drafting error in that minimum demand is typically the amount subject to a monthly demand charge, whether or not that level of demand is met in a given month. However, the draft tariff indicates that the bill will consist only of a customer charge, a facilities charge, and an energy charge. While the availability section refers to demands, it sets a floor of an average capacity of 150 kW over the past twelve months. It is unclear if a monthly demand charge was intended, but

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<sup>185</sup> Ex. 229, *Direct Testimony of Sarah L.K. Lange*, p. 2 l. 1-11.

<sup>186</sup> *Id.* at p. 23-24.

omitted. . It would be reasonable to include a monthly demand charge, and it would be best practice for that demand charge to be associated with the customer's peak during some period of "on peak" time, such as summer days between the hours of 4 pm and 8 pm, or winter days between the hours of 6 am and 10 am, and 4 pm and 8 pm, While it is unclear why different charges are prescribed for "General" and "Power" customers are charged different energy charges, the "summer" rates appear generally consistent with expectations. The weekday/weekend distinctions are likely not necessary, but not particularly problematic. However, the "Winter" season should be subdivided for a shoulder season including the months of October, April, and May, and a true winter season consisting of November, December, January, and February. Staff would also accept mid-month seasonal changes for the shoulder months, It does not appear that a reactive demand charge is applicable, but it would be reasonable to incorporate one. With incorporation of the recommendations described above, Staff does not oppose promulgation of the Limited Time-Related Pricing Service Electric rate schedule.

*-Casi Aslin*

### **XXIII. Pilot Programs**

#### **A. Subscription Pricing Pilot Program**

Evergy proposes to begin an unlimited energy usage pilot it calls the subscription based pilot program. This program is contrary to the clear indications regarding energy efficiency and cost based rates, and is not just a step, but a fall backwards into regressive, non efficient rates. Contrary to the rate modernization plans Evergy touts, the subscription based pilot program is an archaic design that provides a cash stream to shareholders,

does not send clear pricing signals to customers, does not provide transparency as it rolls all riders and surcharges into one rate, and offers to refund customers a portion of the bill inflation under certain circumstances, which are not subject to any regulatory oversight, while depriving customers of any incentive to manage their energy usage. Staff cannot support a pilot program that removes protections and disclosures mandated in 13.020 Billing and Payment Standards.<sup>187</sup> It is important that customers are knowledgeable on their energy usage and Commission rules require utilities to provide customers billing statements with detailed information on consumption.<sup>188</sup> Monthly bills based on actual usage provides information that can empower customers to make informed decisions about usage and conservation considerations.<sup>189</sup> Additionally, participants could potentially under or over pay while on this program.<sup>190</sup> Taking into account the potential for over payment, particularly through the adders, at this time Staff does not support residential customers paying for more than actually used, not even on a voluntary basis.<sup>191</sup>

Staff urges the Commission reject this pilot, and find for Staff on each issue as explained briefly on individual level below, and later in more detail on a combined basis.

1. Should the Commission approve the proposed Subscription Pricing Pilot Program?

No. Evergy proposes to overcharge residential customers, remove those customers' incentives to manage their load or limit consumption, retain the proceeds for shareholders, (at best) initiate an untargeted peak pricing program or possibly an unlawful

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<sup>187</sup> Ex. 242, *Rebuttal Testimony of Contessa King*, p. 11-12.

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

interim energy charge, and charge nonparticipating customers \$150 per participant.<sup>192</sup> The program is unreasonable and the Commission imprimatur should not be placed on this program.<sup>193</sup> If the Commission decides to let Evergy play in this arena, Evergy should bear any costs of that decision.<sup>194</sup>

2. Should the Commission grant Evergy's request for variances to Chapter 13.020 Billing and Payment Standards, which the Company states is needed to implement Evergy's proposed Subscription Pricing Pilot Program?

No. Staff cannot in good conscience support a pilot program that removes protections and disclosures mandated in 13.020 Billing and Payment Standards.<sup>195</sup> Commission rules mandate utilities provide customers billing statements with detailed information on consumption.

*The subscription pilot is contrary to the Missouri Energy Efficiency Act. (MEEIA)*

This rate renders the last three cycles of MEEIA investments meaningless, as it does not encourage peak usage reduction, or any usage reductions in general.<sup>196</sup> In fact, the program is the antithesis of MEEIA,<sup>197</sup> with the expert charged with designing it touting a potential success of the program increased usage to spread costs over.<sup>198</sup> As a reminder, the MEEIA charge includes the program costs, the administrative costs, and a bonus incentive in the form of the earnings opportunity for offering MEEIA programs.<sup>199</sup> Contrary to Evergy's claims this program encourages energy efficiency,<sup>200</sup> this

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<sup>192</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*, p. 3-4.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> Ex. 242, *Rebuttal Testimony of Contessa King*, p. 11-12.

<sup>196</sup> Tr. Vol. 10, p.598, lines 18-19.

<sup>197</sup> *Id.* at lines 4-5.

<sup>198</sup> Ex. 38, *Surrebuttal Testimony of Ryan Hledik*, p. 5.

<sup>199</sup> Tr. Vol. 10, p. 598, lines 10-11.

<sup>200</sup> Ex. 38, *Surrebuttal Testimony of Ryan Hledik*, p. 7, lines 14-21.

subscription model erodes the ten years of costs customers have paid into MEEIA and contradicts the efforts and messaging around energy efficiency.<sup>201</sup> As OPC's witness

Dr. Geoff Marke explains,

When Ms. Lange talks the antithesis of [MEEIA], we spent hundreds of millions of dollars. You throw in the AMI technology, you're talking close to a billion dollars over the past decade in [MEEIA] related programs, in meters, in software. All that stuff is idle effectively right now in terms of pricing. All of that is sunk costs that the company is earning something off of but it's not going towards reduced bills, that collective good for all ratepayers which is what it's designed to be. That's how it was sold to us. That's how -- I personally work, you know, a considerable amount of hours on [MEEIA] programs and [MEEIA] related programs. This would undermine it<sup>202</sup>

Encouraging consumption undermines all value from energy efficiency programs.<sup>203</sup>

*The subscription pilot is contrary to cost based rates.*

Although the Commission has repeatedly signaled a preference for cost based rates, and time of use rates,<sup>204</sup> with Evergy being the only electric utility in the state without widespread, default time of use rates, Evergy proposes this subscription pilot, which ignores all principles of cost causation.<sup>205</sup> This program also mutes price signals, is contrary to sound ratemaking policies.<sup>206</sup> Acts such as the Public Utility Regulatory Policies Act (PURPA) of 1978 sets goals of conservation and efficiency in designing rates, which this all you can use subscription plan that encourages consumption is directly contrary to.<sup>207</sup> This rate also ignores the reality that rates have a temporal component,

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<sup>201</sup> Tr. Vol. 10, p. 602, line 14 – p. 603, line 25.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.* at p. 604, lines 3-5.

<sup>204</sup> Tr. Vol. 10, p. 608, line 23- p. 609, line 2.

<sup>205</sup> *Id.* at line 15-22.

<sup>206</sup> *Id.* at p. 619, lines 18-23.

<sup>207</sup> *Id.* at p. 621, lines 6-18.

and that energy purchases in the SPP cost more at certain times of the day, depending on the generation used.<sup>208</sup>

The proposed billing treatment is not based on sound normalization techniques, as Staff witness Mrs. Sarah Lange explains,

My understanding is they'll be using a class weather normalization factor which is typically developed about 45 days after the close of the billing period and applying that at some point to that customer's usage for prior experience period and that's not how it works. That class value, you can't develop an individual customer weather normalization value that I'm aware of. So using that class value and applying it to individual customers is going to give you non-reliable results for purposes of establishing what customer's usage is to bill them. Things that we can do on an average normalized basis for ratemaking are very different than things that are reasonable to do to individual customer bills and to establishing a level at which to bill that customer going forward.<sup>209</sup>

Therefore, customers will start off with a non-reliable average usage baseline.<sup>210</sup> Then, the customer charge and other charges are factored up arbitrarily, and not according to any cost based reasoning.<sup>211</sup> As Staff understands it,

you have to add all of your adders and then you increase it by that up to 10 percent. So that's how your customer charge becomes \$1.20 higher. That's how your \$2.50 charge becomes a \$2.75 charge. I think that the times 10 percent occurs after the smart thermostat is added on, after the clean energy is added on. I think that all of those amounts get increased by the up to 10-percent.<sup>212</sup>

As Staff explains later, not only is not cost based, but this procedure raises legal questions regarding un-tariffed rates.

Staff has raised concerns about the education customers are receiving regarding principles of cost causation, and how prepared Evergy customers will be in the inevitable progression towards cost based rates and time of use rates. Staff has serious concerns

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<sup>208</sup> *Id.* at p. 623, lines 11-14.

<sup>209</sup> *Id.* at p. 578, line 25- p. 579, line 14.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.* at p. 581, lines 9-18.

<sup>212</sup> *Id.*



about this program being yet another rate option that is marketed towards consumers without educating those customers.<sup>213</sup> OPC also notes concerns regarding the signals and expectations this program will provide customers,<sup>214</sup> as part of OPC's continued concerns about the methods and efforts Evergy has undertaken to market and not educate for time of use rates and other programs. These concerns are further exacerbated by the vague and ill-defined tariff proposed for the program.

*The tariff is vague and sparse on details, leading to a difficult to audit and evaluate program for Staff and other stakeholders, and a confusing bill for participants, subject to potential unexpected charges and adders.*

The tariffs proposed by Evergy are inadequate. Formulas, values and procedures for weather normalization are unspecified, discretionary charges abound, and audits of each of the customer's unique un-tariffed rates determined by the utility without regulatory oversight are impossible. Each component of the tariff leads to more questions than answers. Starting with the "EXPECTED MONTHLY KWH USAGE," the tariff states that "Customer's expected monthly energy consumption is calculated based on the historical metered usage at the premise, adjusted for vacancy and normal weather."<sup>215</sup> However, the tariff does not answer how is it adjusted, how is the adjustment verified?<sup>216</sup> None of these questions are answered in the tariff.<sup>217</sup> Next is the "BEHAVIORAL USAGE ADDER." The tariff states this "adders accounts for a potential increase in usage that may result from the change in rate design. The Behavioral Usage Adder will be 5% of expected

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<sup>213</sup> Ex. 242, *Rebuttal Testimony of Contessa King*, p. 11-12.

<sup>214</sup> Tr. Vol. 10, p. 639, lines 6-16.

<sup>215</sup> Tariff Sheets 5D-5F for EMM, and 169-169.2 for EMW,

<sup>216</sup> Tr Vol. 10, at p. 595, lines 16-23.

<sup>217</sup> Tariff Sheets 5D-5F for EMM, and 169-169.2 for EMW,

monthly kWh usage.”<sup>218</sup> It will be impossible for Staff, let alone a customer, to know if this 5% is reasonable.<sup>219</sup> As Mrs. Lange explains, this issue stems from not being able to determine the baseline versus actual incurred plus adders usage and bill values. “We can't determine whether or not that 5 percent went back without determining what the underlying amount was, what the actual amount was, and then what the difference between the two were that's due to the company's weather normalization process.”<sup>220</sup> Finally, the “RISK PREMIUM”. “The tariff states this compensates the Company for the incremental risk associated with offering Subscription Pricing Pilot, such as weather-related usage and non-weather impacts. The Risk Premium will not exceed 10%.” The Company will be solely responsible for setting and changing this adder.<sup>221</sup>

All together, these tariff provisions add to a quagmire that will be nearly impossible for Staff to audit and evaluate. Staff witness Sarah Lange, whose department is responsible for reviewing tariffs, pilot programs, and other rate programs,<sup>222</sup> explains the issues Staff would face when trying to audit this program in a future rate case.

This tariff as it's proposed has significant discretion available to company and what we've learned here today is that there's even more discretion than we're aware of. We've learned today that, let me get the right name here, the risk adder, is that what we're calling it, the 10 percent gross-up or the up to 10 percent gross-up that that can vary presumably at the company's complete discretion, whether that's over time, whether that's by customer, whether that is both. That gives us an inability to go back and check things. What we would need not only to review the appropriateness of bills charged but also to evaluate the effectiveness of the program and any impact it has on increasing usage, particularly usage at times of high energy costs and capacity demand is we would need hourly usage. In this case we've been unable to obtain hourly usage of, for example, the individual

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<sup>218</sup> *Id.*

<sup>219</sup> *Id.* at p. 597, lines 2-7.

<sup>220</sup> *Id.*

<sup>221</sup> *Id.* at p. 512, lines 19-23.

<sup>222</sup> *Id.* at p. 594, lines 1-17.

customers who are on the TOU study and that was due to the way the company maintains the data and the way they were able to make that available to the staff was going to involve a tremendous amount of storage and computer processing that far exceeds staff's ability to use. And probably the most significant issue is this weather normalization process. Weather normalization is commonly done on a class or subclass level. It functions as well as it can on that. The issue is applying those class average responses to individual customers is just not reasonable and so we would have to take the company's word for how they weather normalize both the historic usage and the present period usage to come up with these amounts. And even if we could access, you know, the 4,000, I'm sorry, 40,000 customers' individual usage as would be necessary to individually weather normalize them, I don't think there's any reason to expect that using that class level response and applying it to individual customers would be reasonable for any -- whether done as part of an audit or as a part of the bill calculation.<sup>223</sup>

She further explains the difficulties, stating:

So the missing pieces are those pieces that are subject to the company discretion. So if there are individual customer specific risk premiums, that's going to be a volume of information that's just going to be hard to handle. There will be customers who enter the program and leave the program that that \$50 fee for departure and that the true-up payment, you know, all the discussion of there is no true-up, it's right there in the term of the contract that there is the potential for, I'm trying to make sure what they call it, the reconciliation fee. So how to calculate that reconciliation fee is something that I think we will all struggle with. The company has indicated in data request responses that they'll decide when or when not to charge that \$50 fee, as well as I think the reconciliation fee. The biggest issue really is this weather normalization problem. So if we could have the usage for the up to 40,000 customers in a useable format, which in this case we were unable to acquire for the TOU customers in useable format, and their cohort in useable format, weather normalization is a class average response to weather or a subclass level. So if you have a storm and half the customers stay home, half go about life as usual, class weather normalization will indicate half of the appropriate adjustment to customers who stayed home and impose an inappropriate adjustment on customers who proceeded as usual. So we're going to have to step through all of that. So the question is, did the company accurately weather normalize according to their procedures which are not set out in any tariff or any governing document, but it will also be did they appropriately weather normalize as best as you can individual customer and that's tough. That's something from time to time that occurs for purposes of revenue normalization and billing determinate normalization looking forward but ineffectively this is looking backward and asking what would this customer, this particular customer, what would they have used if the weather were different and that's a bridge that I'm not aware we've ever attempted to cross.<sup>224</sup>

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<sup>223</sup> *Id.* at p. 571, line 7 – p. 572, line 19.

<sup>224</sup> *Id.* at p. 592, line 1- p. 593, line 17.

Additional, the existence of rate adjustment mechanisms and securitization and other rider charges places further complications on review and auditing. Mrs. Lange explains those complications as well.

you're effectively setting up 40,000 untariffed rates you need to each customer. So we're going to have to get what their actual usage was for each of those periods to calculate what those rider charges were as they change over time. That's easier for some. RES RAM is adjusted once a year. That's harder for FAC. That's adjusted twice a year. And you know, when you layer securitization in, then that's just another rate element that's changing with the real difficulty of going back. You know, we're not calculating class average revenue at that point.<sup>225</sup>

Not only does this inability to review impact Staff's audit in the rate cases, it impairs Staff's ability to assist customers in complaint cases.<sup>226</sup>

There are also problems with future adjustments in future rate cases due to the nature of how Evergy plans to book costs and revenues with this program. Evergy plans on booking all costs and revenues below the line.<sup>227</sup> Staff does not support this program, but if approved, does not believe customers should bear any costs related to the program.<sup>228</sup> However, Staff feels the need to clarify some statements made by Evergy implying the Commission has the ability to make below the line adjustments, or adjustments to out of period costs and/or revenues.<sup>229</sup> The Uniform System of Accounts, which the Commission has adopted, guides how auditors, accountants, and others, book, review, and audit utility books and ledgers.<sup>230</sup> It is outside typical accounting practice to

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<sup>225</sup> *Id.* at p. 596, lines 13 – 24

<sup>226</sup> *Id.* at p. 573, lines 14-20.

<sup>227</sup> *Id.* at p. 529, lines 6- 13.

<sup>228</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*, p. 3-4.

<sup>229</sup> Tr. Vol. 10, p. 529, lines 14-23.

<sup>230</sup> *Id.* at p. 645, lines 15-20.

be allow to carry forward revenues or expenses outside of a test year without a special accounting authority order.<sup>231</sup>

The unclear and opaque tariff does not only complicate review for Staff. The tariff will also make it difficult for customers to understand their bill and take proper actions in response to it. Evergy contradicts itself on the simplicity of this program, by stating:

Q: Is subscription pricing too complex to explain to customers?

A: Absolutely not. The point of subscription pricing is its simplicity. A single monthly bill amount, which participants will know with complete certainty for a full year, is a very easy concept to convey to customers. Staff witness King asserts that it would be too complicated to explain every charge underlying the subscription pricing offer to customers. We are in agreement on this point. **It would be highly counterproductive to market and describe the calculation of each individual charge in the subscription pricing offer to customers.** Further, **it would be unreasonable to expect Evergy to communicate each of these individual charges** for the same reason that it does not make sense to explain to customers the various allocated costs that are behind the prices in each period of a TOU rate during TOU marketing initiatives. Very few customers would have the appetite for that level of detail. Each subscription pricing charge will be documented in the tariff, **but it is not necessary to explain these nuanced details** in customer outreach materials.<sup>232</sup>

However, Staff and OPC believe that customers must be fully educated on their bills, even for voluntary programs.<sup>233</sup> OPC also stated strong disagreement that this tariff is:

simple, transparent, and predictable. Those were three words I would not use to characterize how this case has been evolving at least today. I think there's disagreement, you know, amongst all three parties as to exactly what customers are going to be charged in a given year. As an untariffed rate, we're talking 40,000 customers that need to be weather normalized, that need to be factored in with all of the additional surcharges that are on there. Staff gets calls. We get calls. We get lots of calls from customers that don't understand their bills or are struggling or any number of odd things. I would struggle in the role that I'm in today trying to explain to them exactly why they got paid -- or were having to be charged what they're being charged given at least the information that's been presented to me today.<sup>234</sup>

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<sup>231</sup> *Id.* at p. 646, lines 2-16.

<sup>232</sup> Ex. 38, *Surrebuttal Testimony of Ryan Hledik*, p. 10-11.

<sup>233</sup> Tr. Vol. 10, p. 564, lines 10-12.

<sup>234</sup> *Id.* at p. 604, line 6 – p. 605, line 2.

Staff concurs with Dr. Marke's testimony. Due to the variances requested, Staff does not believe customers will have vital information needed, such as actual usage.<sup>235</sup> OPC is also concerned with these variances regarding usage and meter readings.<sup>236</sup> Customers may miss vital issues, like diversion, meter inaccuracies, or other possible billing issues.<sup>237</sup> Customers are entitled to that information, and utilities should be required to provide to have educated customers.<sup>238</sup>

*The level payment plan, with modifications, would achieve the customer goals as the subscription pilot, but without the negative consequences.*

Evergy touts the customer need for stability as the main draw for this program.<sup>239</sup> However, as Staff witness Ms. Contessa King explains, with a few tweaks, the Company's current level payment plan could meet customers' desire for more stability and predictability.

The company is stating that one of the reasons they want to offer this program to their customers is because customers want predictability and they want choice. So they could look at their existing average payment plan and redesign it in a way in which customers would get that predictability and they can also design it in a way where there's choices that customers can make along the way within that 12-month period. For example, giving them the choice to true up maybe at six months or at the end of the 12-month period allowing them to roll over any remaining balance into the next 12 months. So they can achieve the predictability that they're touting as well as customer choice by simply redesigning an existing program, and OPC witness Ms. Lisa Kremer, she mentions that in her testimony as well.<sup>240</sup>

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<sup>235</sup> *Id.* at p. 565, lines 17-22.

<sup>236</sup> *Id.* at p. 643, lines 12-14.

<sup>237</sup> *Id.* at p. 566, lines 17-24.

<sup>238</sup> *Id.* at p. 643, lines 16-18.

<sup>239</sup> Ex. 37, *Direct Testimony of Ryan Hledik*, p.5.

<sup>240</sup> Tr. Vol.10, p. 555, line 21 – p. 556, line 11.

Denying this subscription program does not foreclose customers have the option to choose a level payment plan that provides stability and predictability.

*Staff has concerns that the tariff is unlawful in several regards.*

Staff has very strong concerns that this rate is unlawful in multiple regards. First, the rate could be considered an un-tariffed rate in violation of the filed tariff doctrine. What Staff means by this is that participating customers are charged a flat rate per month, but not a rate per kWh. With the floating subjective adders and projective based usage, grossed up at Evergy's discretion, customers do not have a calculable rate for service.<sup>241</sup> This appears to be a violation of section 393.140(11), which provides that after the tariffs are filed and take effect, no corporation is able to "demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable" at that time. Courts define this as the "filed rate doctrine" and<sup>242</sup>that it constitutes a general rule against "retroactive ratemaking."

In the same vein, the rate appears to be an interim rate, either unlawfully promulgated without an authorizing rate adjustment mechanism, or as noted in Ms. Lange's rebuttal testimony, the "efficiency incentive" provision appears to violate Statute 386.266.1, if offered by either Evergy utility while that utility has a fuel adjustment clause.<sup>243</sup> Evergy confirmed at hearing that rates charged to customers could change in

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<sup>241</sup> *Id.* at p. 575, line 21 – p. 576, line 2.

<sup>242</sup> In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n, 509 S.W.3d 757, 781 (Mo. Ct. App. 2016).

<sup>243</sup> 386.266.1. states "Subject to the requirements of this section, any electrical corporation may make an application to the commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation...."

The "EFFICIENCY INCENTIVE" is defined as "If the customer's weather-normalized usage does not increase during the twelve-month period, the annual behavioral usage adder will be paid back to the customer in the form of an efficiency incentive. Participants qualify for the efficiency incentive based on a

between rate cases.<sup>244</sup> However, changing rates without Commission authorization and approval has been held to be unlawful by the courts. The courts have stated unless otherwise provided for by law, an electrical corporation is not permitted to adjust the rate it charges customers until its next rate case, which is a periodic proceeding before the Public Service Commission.<sup>245</sup> When determining if Union Electric Company's rates had violated its fuel adjustment clause and other provisions of law, the Court stated, "variables not expressly envisioned within the scope of a legislatively authorized interim rate adjustment tool like a fuel adjustment clause in an electric utility's tariff may only be remediated, if at all, in a general rate case."<sup>246</sup> Risk adders and other adjustments would seem to clearly fall under "variables not expressly envisioned within the scope of a legislatively authorized interim rate adjustment tool."

Staff's final concern is that this rate is discriminatory. Participants may ultimately pay a higher or lower rate for electric service than other similar situated customers.

Section 393.130 states

2. No gas corporation, electrical corporation, water corporation or sewer corporation shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity, water, sewer or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No gas corporation, electrical corporation, water corporation or sewer corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of

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comparison of their weather-normalized usage during the twelve-month contract term to their historical weather-normalized usage during the prior twelve months."

<sup>244</sup> Tr. Vol.10, p. 513, lines 6-11.

<sup>245</sup> Union Elec. Co. v. Missouri Pub. Serv. Comm'n, 591 S.W.3d 478 (Mo. Ct. App. 2019).

<sup>246</sup> State ex rel. Union Elec. Co. v. Pub. Serv. Comm'n of State, 399 S.W.3d 467 (Mo. Ct. App. 2013).



service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

However, the subscription tariff is highly likely to result in unduly and unjustified discrimination. For instance, participants, while being able to utilize energy efficiency products, and incur usage that would contribute to the fuel adjustment clause (FAC) or renewable energy standard (RES) rate adjustment mechanism (RAM), they would be insulated from the changes in those riders.<sup>247</sup> Participants may also be insulated from the securitization charge, depending on when that is finalized.<sup>248</sup> Staff also has concerns the imposition of the risk adder could be discriminatory. As Staff witness Sarah Lange explains,

**Q. Is there anything that guarantees that the risk premium adder is consistent for all customers in the tariff?**

A. There is not. And whether that's over time or whether that is, you know, if the company decides that the risk premium is 5 percent, number one, I don't know where that amount would be published. Number two, I don't know if that 5 percent applies to all customers or to some subset of customers, let's say the company decides that some customers have a 5 percent risk premium, some customers have a 7-1/2 percent. I don't believe there's anything in the tariff to constrain that and I don't believe there's anything in the tariff or the proposed treatment to notify customers as that changes over time so that you could have a very discriminatory situation where two customers with identical prior usage on this program are receiving effectively different untariffed rates due to the company's discretionary imposition of these charges and adders.<sup>249</sup>

Mrs. Lange's stated concerns also applicable to why Staff believes there is an issue with adders in this program constituting un-tariffed rates.

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<sup>247</sup> Tr. Vol. 10, p. 575, lines 2-4.

<sup>248</sup> *Id.* at lines 4-7.

<sup>249</sup> *Id.* at p. 576, lines 5-24.

In conclusion, this program is a bad idea, with a bad design, for no real end goal.<sup>250</sup> Evergy is actually proposing is to overcharge residential customers, remove those customers' incentives to manage their load or limit consumption, and retain the proceeds for shareholders, while passing costs of at least \$150 per participant on to non-participants.<sup>251</sup> All at the same time, those same non-participants are paying for customers to manage their load or otherwise install energy efficiency measures as part of MEEIA.<sup>252</sup> The program is unreasonable and the Commission should send a strong signal to Evergy that rate innovation cannot come at the expense of gains made in other areas, such as MEEIA, nor result in rates becoming further misaligned with principles of cost causation.<sup>253</sup> The Commission should reject this program, and instead order Evergy to pursue true cost based rate modernization with Staff's rate design.

*-Nicole Mers*

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

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<sup>250</sup> Ex. 243, *Rebuttal Testimony of Sarah L.K. Lange*, p. 3-4.

<sup>251</sup> *Id.*

<sup>252</sup> Tr. Vol. 10, p. 598, lines 10-11.

<sup>253</sup> *Id.* at. 609, lines 15-22.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on October 14, 2022 to all counsel of record.

**/s/ Nicole Mers**