Exhibit No.: _______________
Issue(s): Customer Experience/Cost Trackers/ Income Eligible Programs/Late Fees/AMI Service Disconnect Meters/Clean Charge Network/ Uplight Software/Voltage Optimization/Self-Imposed Stranded Asset: Sibley Power Plant
Witness/Type of Exhibit: Marke/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2022-0129 & ER-2022-0130

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

EVERGY METRO, INC. D/B/A EVERGY MISSOURI METRO AND EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST

CASE NOS. ER-2022-0129 & ER-2022-0130

** **
Denotes Confidential Information that has been redacted

August 16, 2022

PUBLIC

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SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

EVERGY MISSOURI METRO
AND
EVERGY MISSOURI WEST

CASE NO. ER-2022-0129 and ER-2022-0130

I. INTRODUCTION

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

A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Dr. Marke that filed direct and rebuttal testimony in ER-2022-0129 and ER-2022-0130?

A. I am.

Q. What is the purpose of your surrebuttal testimony?

I am responding to the direct testimony of other parties' witnesses on select topics. The following is a list of those topics and witnesses:

- Customer Experience
    - Evergy witness Charles A. Caisley
- Cost Trackers
    - Evergy witness Darrin R. Ives
- Income Eligible Programs
    - Evergy witnesses: Darrin R. Ives, Charles A. Caisley and Kimberly H. Winslow
    - Staff witness Kory Boustead
- Late Fees
    - Evergy witness Charles A. Caisley
- AMI Service Disconnect Meters
    - Evergy witness Charles A. Caisley
- Clean Charge Network

    - Evergy witness Charles A. Caisley
- Uplight Software
    - Evergy witness Charles A. Caisley
- Voltage Optimization
    - Evergy witness Kayla Messamore
- Self-Imposed Stranded Asset: Sibley Power Plant
    - Evergy witnesses Darrin R. Ives, Kayla Messamore, and Larry Kennedy

My silence regarding any issue should not be construed as an endorsement of, agreement with, or consent to any party's filed position.

II. CUSTOMER EXPERIENCE

Q. In direct testimony you spoke about operational issues regarding Evergy customer software that lasted from the beginning of 2021 into the Spring. Can you repeat what you said and include the Company's response?

A. Yes. In direct testimony I stated:

> Beginning the first of the year in 2021 Evergy's CIS was nonoperational for an extended period (into Spring Season of 2021) which no doubt impacted the Company's current bad debt expense.[1]

Evergy witness Charles A. Caisley replied in rebuttal with the following:

> The Customer Forward Program required a planned system outage for the final cutover-to-production activities through go-live. The planned outage was from January 13, 2021 to January 18, 2021. The noted five-day outage is much less than the "into the Spring Season of 2021" claim from Dr. Marke.[2]

[1] Direct Testimony of Geoff Marke p. 18, 16-18.
[2] Rebuttal Testimony of Charles A. Caisley. p. 15, 4-9.

Q. What is your response?

A. Immediately following that block quote, Mr. Caisley continues:

> As part of that implementation effort, Evergy wanted to ensure that all systems were functioning properly, and customers would not experience any adverse effects. This included allowing all customers to bill at least once on the new system before any collection efforts were introduced. The collections and severance process itself takes some time to complete. **The collections process was resumed on April 7, 2021 and the associated disconnections occurred on May 3, 2021**.[3](Emphasis added)

The first day of Spring in 2021 was March 20 and the nonoperational services I was speaking to were those that impacted bad debt—collections and associated disconnections. Mr. Caisley's testimony confirmed what I said.

Q. In direct testimony you presented recent JD Power scores and claimed Evergy customers were experiencing a downward trend relative to their peers. What was the Company's response?

A. Mr. Caisley and Mr. Ives countered by claiming I provided no factual support for this and in fact I was wrong as the Company's performance has translated to an upward trend in JD Power scores. Mr. Caisley states:

> Evergy's overall JD Power scores have steadily increased since the merger closed in June 2018. In late 2021 and in 2022, the Company's scores saw significant gains. In 2018, Evergy's full-year JD Power overall score was 707. Evergy's full-year JD Power score in 2021 was 741, and year-to-date 2022 the Company's score is an all-time high at 746.

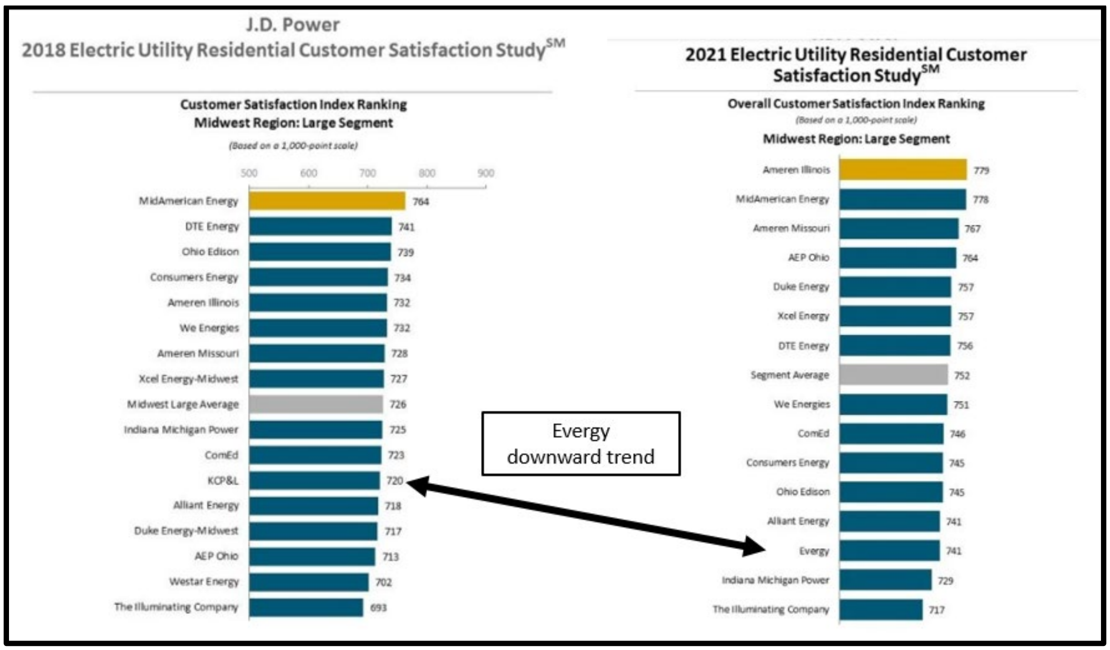
Q. What is your response?

A. A couple of observations. Based on my review of 2018 JD Power scores, KCPL scored 720 not 707. Additionally, raw scores have increased across all utilities, in part, due to additional

[3] Ibid.

metrics being added to the study. For example the average Midwest Region Large Segment score in 2018 was 726 and the Company was only 6 points below the Midwest Average. In 2021 the Midwest average was 752 and the Company was now 11 points below and in the fourth quartile of utilities. Figure 1 provides a graphical illustration of this downward trend.

Figure 1: JD Power Midwest Region Large Segment Scores 2018-2021[4]



My rebuttal testimony provided greater context for Evergy's poor performance relative to its peers. Any upward trend in numerical score is entirely a byproduct of more categories being added to the list—everyone's scores increased. The gap between average and Evergy's lower scores has almost doubled. *That* is the downward trend.

Q. Could the overall downward trend be attributed to the merger of Westar?

A. No doubt Westar's poor scores have likely contributed to the overall poor Evergy score and should be factored in. I will observe that neither Evergy Kansas nor Evergy Missouri have filed rate cases since 2018. Increases to rates (including hundreds of millions of dollars due

[4] JD Power (2018 & 2021) Electric Utility Residential Customer Satisfaction Study
https://www.jdpower.com/business/press-releases/2021-electric-utility-residential-customer-satisfaction-study &
https://www.jdpower.com/business/press-releases/2018-electric-utility-business-customer-satisfaction-study

to exposure to the SPP market from Winter Storm Uri) will no doubt contribute to a negative impact on customer experience.

Q. Mr. Caisley supports his assertion of an upward trend by listing bulleted points of actions taken to support those trends. What is your response?

A. Figure 1 supports my observation that the Company has experienced a downward trend during the period in question. As to the bulleted points of action, none of the points are substantiated with evidence and many run counter to what JD Power reported to Evergy in its 2021 end-of-year report.

Q. Could you provide some examples?[5]

A. Yes. Mr. Caisley states:

> Successful implementation of new customer systems that have now been in place for more than a year and a half and are well-received by customers.[6]

2021 JD Power states:

> *Evergy's 2021 Customer Care score declined -1.8 points compared to 2020, causing our 2021 ranking to decrease from 10th to 11th among large utilities.
>
> - In-Person Customer Care decreased significantly (-39) but fluctuates due to the small sample size.
> - Phone Customer Care also decreased (-11) YoY, while Digital increased (+11)*

Mr. Caisley states:

> Additional online tools heavily used by customers, including outage notifications and improved functionality within Evergy's authenticated portal.[7]

JD Power states:

> *Communication trails Midwest Large average by -18 points, driven by lower recognition of Evergy communications vs Midwest Large.*

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[5] All JD Power responses can be found in attachment GM-1.
[6] Rebuttal Testimony of Charles A. Caisley. p. 28, 3-4.
[7] Ibid. p. 28, 5-6.

Mr. Caisley states:

> For Missouri customers, very favorable reception for Evergy's energy efficiency programs.[8]

JD Power states:

> *The largest gap with Evergy behind Midwest Large include **Aware of energy efficiency programs**, Contacted Customer after power restoration, and Perfect Power.* (emphasis added)

Mr. Caisley states:

> Rates and bills that have increased considerably less than inflation and our regional electric utility peers since 2018.[9]

JD Power states:

> *Evergy's average bill amount was $146 in 2021, which is down $7 YoY, though in 2021 we continue to have the second highest average bill of the Midwest Large utilities.*

Mr. Caisley states:

> Additional payment plans and rates.[10]

JD Power states:

> *In 2021, we continued to see a slow shift from paper bills to electronic bills. One out of six Evergy customers (16%) continued to have an outstanding balance in 2021.*

Mr. Caisley states:

> And, the maturation and recall of our new brand name, Evergy, coupled with distance from the merger that created Evergy.[11]

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[8] Ibid. p. 28, 15-16.
[9] Ibid. p. 28, 9-10.
[10] Ibid. p. 28, 7.
[11] Ibid. p. 28, 17-18.

JD Power states:

> *Brand advocacy Score increased QoQ but continues to be ranked 15th or last in Midwest Large Utilities.*

III. COST TRACKERS

Q. What was Evergy's response to MECG witness Greg Meyer recommendation that the Company's bad debt expense is not significant or likely to significantly higher in the near term?

A. Company witness Darrin R. Ives countered by stating:

> the continuing impacts and extraordinary nature of COVID-19 coupled with the impacts on our customers of inflation at a 40-year high, a cost of living crisis and the threat of a recession all strongly suggest that the Company's bad debt expense will continue to increase.[12]

Q. What is your response?

A. COVID-19, a 40-year high inflation, the cost of living crisis, and the threat of a recession are not unique to Evergy Metro or Evergy West customers. These variables also all exist for Spire East, Spire West, Missouri American Water, Ameren Missouri and Liberty Utilities customers who have all completed rate cases or have filed rate cases pending before this Commission. Yet, Evergy stands alone in requesting a tracker.

Q. Is Evergy uniquely special to warrant such a demand?

A. No. Other than the fact that they were the only utility to fail to reach an agreement with stakeholders over a COVID-19 AAO as it pertains to customer-arrearage and bad debt programs.

[12] ER-2022-0129 and ER-2022-0130 Rebuttal Testimony of Darrin R. Ives p. 20, 16-19.

In Case No. EU-2020-0350 Evergy took the position that it had done enough to shield bad debt concerns and should not be held to the same 50/50 incentive arrearage payment plan and/or bill credit commitment that other utilities entered into.

Q. What is your recommendation to the Commission?

A. As articulated in my rebuttal testimony, the lack of a proactive arrearage matching program, a five month postponed disconnection effort related to the Company's software, and a higher cost of service are management's creation not the pandemics. The Commission should reject this request.

IV. INCOME ELIGIBLE PROGRAMS

Q. Please remind the Commission what you recommended in your direct testimony?

A. I made three recommendations.

First, I recommended that Evergy's Customer Service Reps ("CSRs") ask for consent from customers struggling to pay their bills to forward their contact information to the relevant Community Action Agency ("CAA") so that a representative from a CAA may contact them about weatherizing their home free of charge and other assistance if eligible.

Second, I recommended that Evergy Metro and Evergy West join and contribute $600K under a 50/50 ratepayer/shareholder sharing agreement towards the realization of a statewide delivery of the Critical Needs Program modeled after a pilot by Baltimore Gas & Electric (and later extended throughout all utilities in the State of Maryland). Since the 1st quarter of 2022, various stakeholders including the United Way, Ameren Missouri, Spire, Liberty Utilities, OPC, MO-PSC, Consumer Council of Missouri and Legal Services of Eastern Missouri have been collaborating on this project with the intent of having it operational in both the greater St. Louis and Joplin/Springfield area next month (September).

Finally, I recommended a $500K 50/50 ratepayer/shareholder sharing agreement towards a Rehousing Pilot Program similar to what is in place in Ameren Missouri where a select group of homeless agencies in the greater Evergy service territory would receive funding for clients transitioning into more stable housing. The program would target 500 participants a year who would each receive $1000 to be allocated towards either arrearages and/or future bill credits to help stabilize their transition and ensure future customer contributions.

Q. What was the Company's response?

A. It was aggressively not well received.

Approximately two pages after requesting special accounting treatment for the Company on the basis that Evergy customers are experiencing:

> the continuing impacts and extraordinary nature of COVID-19 coupled with the impacts on our customers of inflation at a 40-year high, a cost of living crisis and the threat of a recession.[13]

Mr. Ives accused me of the crime of extortion for recommending two low-income programs.

Q. What is extortion?

A. Taking a cue from Mr. Caisley's penchant for citing the dictionary, Merriam-Webster Online Dictionary contains the following "Did you know?" excerpt within the definition of the word extortion:

> To extort is literally to wrench something out of someone. *Extortion* is a mainstay of organized crime. Just as the school bully extorts lunch money from the smaller kids in exchange for not beating them up, thugs extort "protection" money from business owners with threats of violence. But that's only one kind of extortion; a mobster might extort favors from a politician with threats of

[13] Ibid.

> revealing some dark secret, just as you might extort a favor from a brother or sister by promising not to tell on them.[14]

Extortion is also a criminal felony in all fifty states.

Q. According to Mr. Ives you are the school bully and Evergy is the weak kid hoping not to get beat up in this analogy. Correct?

A. That is correct.

My request for 50/50 sharing of $1.1 million from ratepayers ($550K) and shareholders ($550K) for two small pilot programs that seeks to enable the dispersal of federal funding and non-profit services to help pay down Evergy customer arrearages in times of crisis and a pilot program designed to help homeless individuals transition to more stable housing are "nothing short of extortion" against a Fortune 500 Company (and a natural monopoly) whose total assets are valued at over $29 billion dollars according to its latest 10-Q filing and who made a $195m in earnings in Q2 of this year.[15,16,17]

Q. That seems a bit excessive. Do you agree what you are requesting is a tantamount to a criminal felony?[18]

A. I do not.

Q. What is your response to this accusation?

A. Surprised. There were many ways to respond to my request—this was one I did not expect.

If Evergy wants to consistently swim against the stream in terms of Corporate Social Responsibility relative to the rest of the investor-owned utilities in Missouri that's its

[14] Merriam-Webster (2022) Extort. Definition of *extort*: Did you know? https://www.merriam-webster.com/dictionary/extort#:~:text=To%20extort%20is%20literally%20to,owners%20with%20threats%20of%20violence.

[15] Evergy, Inc. (2022) 10-Q 2nd Quarter 2022. https://investors.evergy.com/static-files/bc70bd82-9566-4ae0-aba0-2f5e95fcff89

[16] $600,000 (50% of $1.2M) is the equivalent of 0.002% of $29 billion dollars.

[17] On Aug. 4, Evergy announced second-quarter earnings of $195 million, or 84 cents per share, compared to earnings of $185 million, or 81 cents per share, in the second quarter of 2021. https://investors.evergy.com/static-files/a5873c85-2163-47be-82de-ee9cf9e50f3b

[18] Extortion is a criminal felony in all fifty states.

privilege to do so. I have also already acknowledged in rebuttal testimony (before Mr. Ives filed his testimony) that the Commission doesn't have the power to compel the Company to do anything with its excess profits. My recommendation is consistent with favorable outcomes I have experienced with utilities in Missouri that work well with stakeholders for a common good and a productive settlement. Unfortunately, with this Company, this caustic rhetoric suggests ratepayers, shareholders, and by extension—Evergy management, will arguably be worse off as a result.

Q. Why would ratepayers be worse off?

A. Putting aside any implied moral imperative to look out for those less fortunate, keeping customers rates affordable and customers on the grid benefits all customers through lower collection costs, service disconnections, arrearages, debt write-offs, and reductions in overall fixed costs. It also benefits the community at large as a force multiplier by ensuring core physiological needs are met and productive lives can be realized.

Evergy Metro and West have struggled to date with low-income programs, bad debt, and shut-offs. Really, any action placed on improving these outcomes would clearly benefit that target audience and all ratepayers at large. Evergy would be well served to look at both Spire and Ameren Missouri as two utilities that have implemented successful, well-designed, low-income programs with feedback from active stakeholders.

Q. Why would shareholders be worse off?

A. Many utilities consider utility assistance programs as a means to increase net revenues. Without programs in place, a utility is likely to receive only partial bill and/or incur additional costs or be exposed to write-offs. Seen in this light, the economic rationale for low income assistance programs is akin to the economic development subsidies for unique commercial and industrial customers, *i.e.*, we (ratepayers, shareholders, management) are better off with these customers receiving a temporary subsidy if it results in consistent future non-subsidized payments.

Taken a step further, the argument to prioritize corporate social responsibility is really an argument in favor of economic self-interest for businesses. Actions for the community add value because it allows Evergy to reflect on the needs and concerns of their various stakeholder groups. By doing so, Evergy is also more likely to create greater value and, as a result, retain the loyalty of those stakeholders. This is not rocket science, but rather basic business acumen. Look no further than J.D. Power's list of categories which lists "Corporate Citizenship" as one of its six categories on judging best in class for utilities across the country.

From the point-of-view of an investor, the fact that Evergy is putting up this much resistance and is this over-the-top towards the ratepayer advocate on two low-income pilot programs that either complement the Company's existing initiatives or target an underserved demographic through a 50/50 sharing basis at $600K does not bode well for stakeholder relations on other more financially relevant issues.

It should not be lost on the Commission that the investment community has taken note of Evergy's inability to settle or work with stakeholders on issues that seemingly every other utility can achieve settlement over. Per a Bank of America report to investors from last November:

**____

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Q. Did any other witnesses address your testimony regarding low income programs?

A. Yes. Evergy witnesses Charles A. Caisley and Kimberly H. Winslow filed testimony. Mr. Caisley's response can be characterized as having two parts.

First, he identified a laundry list of actions the Company is currently taking for low income customers. Second, he dismissed my recommendations as having no basis for approval as I did not provide data to show that there is a problem or research relative to other utilities around the United States to show that Evergy is "out-of-step" relative to its peers. I will respond to each of these parts in turn.

As to specific criticism leveled at the Critical Needs Program, Mr. Caisley cited to the Evergy Connect Facility and the Customer Affairs Team as tangible actions that nullify my recommendation.

As to specific criticism leveled at the Rehousing Program, Mr. Caisley cites to current federal funding of the Emergency Rental Assistance Program ("ERAP") or what is more accurately known in Missouri as the State Assistance for Housing Relief ("SAFHR") as a funding stream that accomplishes my intended outcome (at least through 2023).

Mrs. Winslow briefly acknowledged that I recommended that LIWAP funding remain as is and that I made no comment in my direct testimony on Evergy's recommendation to "roll-over" unspent weatherization funding to Dollar-Aide. I will also reply to Ms. Winslow's testimony.

Q. What were Mr. Caisley's examples of good corporate stewardship towards low income customers?

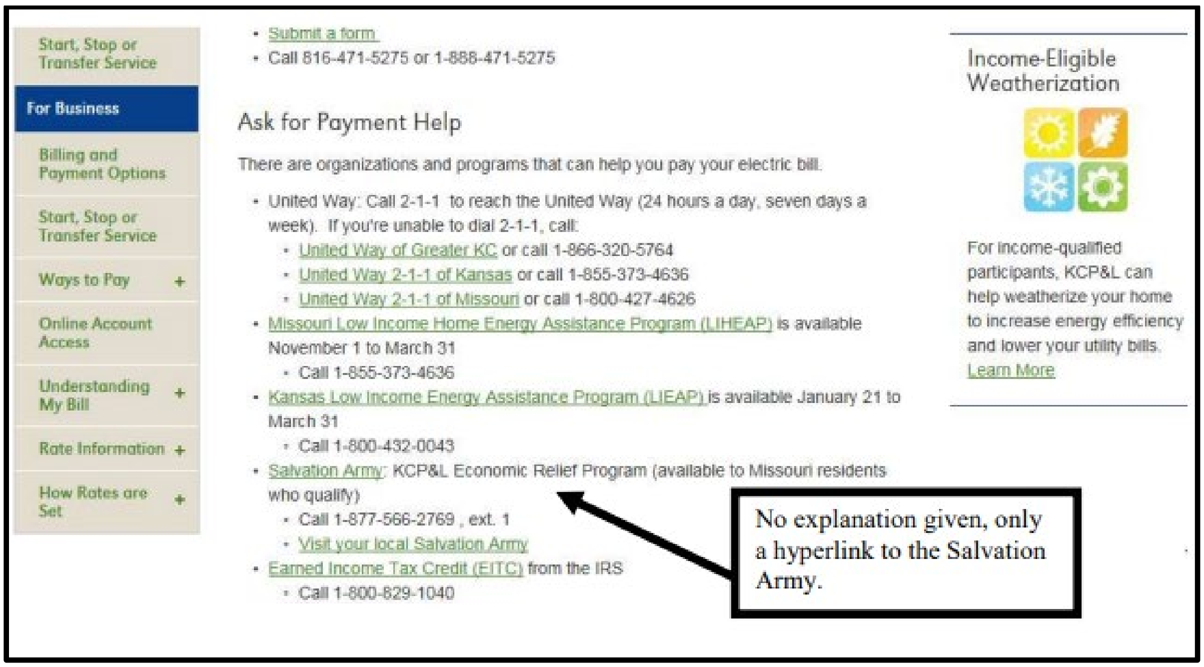
A. Mr. Caisley's listed three programs: (1) The Economic Relief Pilot Program ("ERPP"); (2) the utility-funded Low-Income Weatherization Assistance Program ("LIWAP") expenditures; and (3) MEEIA programs.

Q. Do you agree with this rebuttal?

A. No. I do not believe these programs have performed as well as Mr. Caisley testifies to.

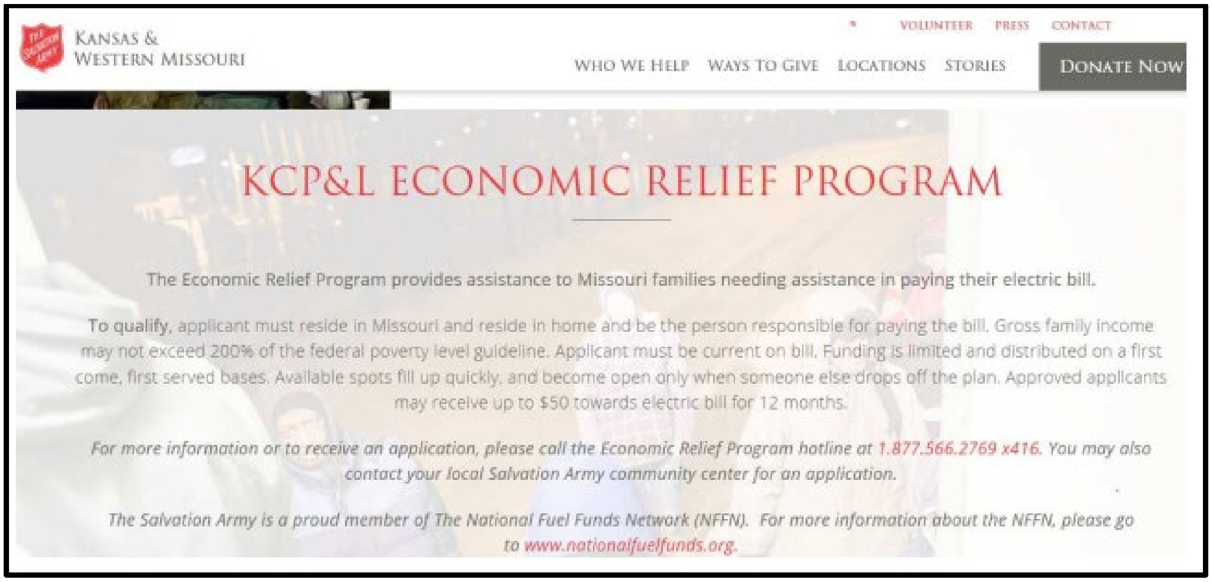
Regarding ERPP, the Commission should note that this program has struggled historically in being able to spend down its funding. This was notably discussed in ER-2016-0285 where I was highly critical of the Company's inability to properly expend funding for this program despite apparent need. At the time, the ERPP program lacked *any* information on the Company's website and the information that was publically available on the Salvation Army's website did not correspond to what was in its approved tariff as seen in Figures 2 and 3:

Figure 2: Snapshot of KCPL's webpage's Financial Assistance options[19]



[19] ER-2016-0285 Surrebuttal Testimony of Geoff Marke p. 5

Figure 3: Snapshot of Salvation Army's ERPP website information[20]



Speaking to Figure 3, my surrebuttal testimony in that case stated:

> The Commission should note that the page has not been updated to reflect changes to the program that were approved from the Company's last rate case. Specifically, the webpage states:
>
> > Approved applicants may receive up to $50 towards electric bill for 12 months.
>
> The website should say "up to $65." Additionally, recipients may receive funds beyond the 12 months, but would need to re-enroll. Finally, recipients do not need to be current on their bill. The ERPP specifically allows for participants who have outstanding arrearages to enter into special pay agreements that are mutually agreeable to the participant and Company.[21]

In that case I also cited to a featured story shown widely throughout the Kansas City news in which power was shut-off for Ms. Kari White, a grandmother responsible for caring for

[20] ER-2016-0285 Surrebuttal Testimony of Geoff Marke p. 6
[21] ER-2016-0285 Surrebuttal Testimony of Geoff Marke p. 6, 3-10.

her four-year-old granddaughter, Lee-Anna, who is blind, deaf, and diagnosed with cerebral palsy. The story was reported by KCTV 5 News as follows:

> A little girl is sick and she can't be at her own home, in her own bed, as she tries to get better because her power has been cut off.
>
> It is dark and cold inside Lee-Anna Williamson's bedroom. However, she has heat and electricity inside her Children's Mercy Hospital room. Her grandmother questions how she got here.
>
> Kari White says KCP&L shut off the power and that was the tipping point for her medically fragile 4-year-old granddaughter who is blind, deaf and diagnosed with cerebral palsy.
>
> "I thought I was a horrible person because I couldn't keep it on for her," White said.
>
> White said she begged KCP&L to work with her.
>
> Children's Mercy even faxed a letter to the utility company in September. It reads, "Please work with the family during this stressful time to ensure that the family has electricity and hot water to tend to Lee-Anna's needs."
>
> KCTV5 News reached out to KCP&L. The company said the hospital letter is not enough. The family needs to fill out a medical form too and that was never done.
>
> Later on Tuesday, KCP&L released a statement:
>
> *KCP&L works to find solutions for customers who are in difficult situations. We know there is no "one-size-fits all" solution for our customers' needs. So we encourage them to let us know when they need our help and we'll work to design the solution that's best for their needs. We also know people living in and around Kansas City are some of the most generous and want to do what they can to help. We encourage anyone who would like to help to check out both our Energy Gift and Dollar-Aide programs.*

> White says this is the first she's heard of a special form.
>
> "I understand I owe money," she said.
>
> The family owes more than $900. The payment plan was for $269. White said she could only pay $125 this month.
>
> "I'm sorry that it's gotten so far behind, but I'm willing to pay it. I just can't go a whole bunch right now. Please turn it back on for my Lee-Anna," she said.
>
> Lee-Anna's family hopes she gets out of the hospital soon. However, she will go stay with her great-grandmother who has cancer.
>
> White said she will fill out the medical form she just received Tuesday but says this is the first she has ever heard of a special medical form.[22]

Keep in mind that Ms. White's experience occurred despite direct pleas from Children's Mercy and despite the fact that ERPP funds were left unexpended.

Q Mr. Caisley cites the Company's direct install low-income program as evidence that Evergy is already offering robust low-income programs. What is your response?

A. MEEIA portfolios are required to have low-income programs. There is nothing compelling about a utility adhering to a Commission and statutory requirement. Furthermore, the Company is rewarded financially with an earnings opportunity for its efforts.

It also bears reminding the Commission that for several years now, Evergy Metro/West have spent more on administrative overhead than on actual energy efficiency measures/actions. In Case Nos. EO-2020-0227 & 0228 I filed testimony showing that Evergy West expended 55% and Evergy Metro 59% of its overall MEEIA budget on overhead costs as opposed to rebates or actions that resulted in realized benefits. Those numbers actually got worse in the next MEEIA prudence review (Case Nos. EO-2021-0416 & 0417) with Evergy West expending 59% and Evergy Metro 61% of its overall MEEIA budget on overhead.

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[22] See GM-2.

Q. What about the Company's support of utility funded low income weatherization?

A. The programs that I am recommending focus on different elements than weatherization. Furthermore, by Evergy's own admission, utility-funded weatherization have historically been challenged in being spent down by a restrictive tariff. I would also characterize this legacy revenue requirement (that is also funded by ratepayers) as the bare minimum of actions by a utility in the State.

Q. Did Caisley identify anything else the Company does to support low income customers?

A. Yes, he also cited to the following items:

- Adjustable payment plans;
- A self-identifying medical program for life support equipment;
- Adherence to the Commission's Cold Weather Rule;
- A website entry that includes payment assistance options;
- Operation of the Evergy Connect Center;
- Investment of $6.7million in funding for hundreds of agencies throughout the territory with approximately 40% directly benefiting vulnerable communities; and
- The fact that Evergy has secured $85 million in federal subsidies from 2019 – 2021.

Q. What is your response?

A. The first four bullet points are not unique to Evergy and do not merit further discussion.

The Evergy Connect Center is a brick-and-mortar building in which Evergy receives a profitable return on. The relative costs incurred vs benefits realized by ratepayers in paying for a one stop-shop building for Evergy (akin to an Apple Store) is almost certainly an item that should have drawn further regulatory scrutiny than it received. As it stands, the building is in rate base, but I would have serious objections if the Company (or any other Company) attempted to revisit this model in the future.

As to the $6.7m in direct funding with 40% going to vulnerable communities. It would have been nice to see *any* breakdown in allocation and recipient rather than a blanket statement.

Past discovery on Evergy's charitable contributions revealed copious charitable funding for various chambers of commerce and organizations and other organization such as the Kansas City Ballet neither of which could hardly be considered low income. In fact, when Mr. Caisley's was crossed on this fact in Case No. EU-2020-0350 (Evergy Metro/West COVID-19 AAO) he could not point to one charitable organization that resulted in ratepayers receiving lower bills or help with their arrearages.

Furthermore, the $6.7 million is also Evergy general (*i.e.*, Kansas and Missouri). Again, past discovery found that there was roughly a 60% (Kansas) to 40% (Missouri) split which would certainly make the $6.7 million less impressive.[23]

Finally, the fact that Evergy customers (again, on a Kansas and Missouri-wide basis) needed $85 million in federal subsidies from 2019-2021 to maintain power for select customers is not a testament of Evergy's corporate social responsibility. Restated, it simply means Evergy accepted money in exchange for services provided.

Q. What was Caisley's response to the Critical Needs Program?

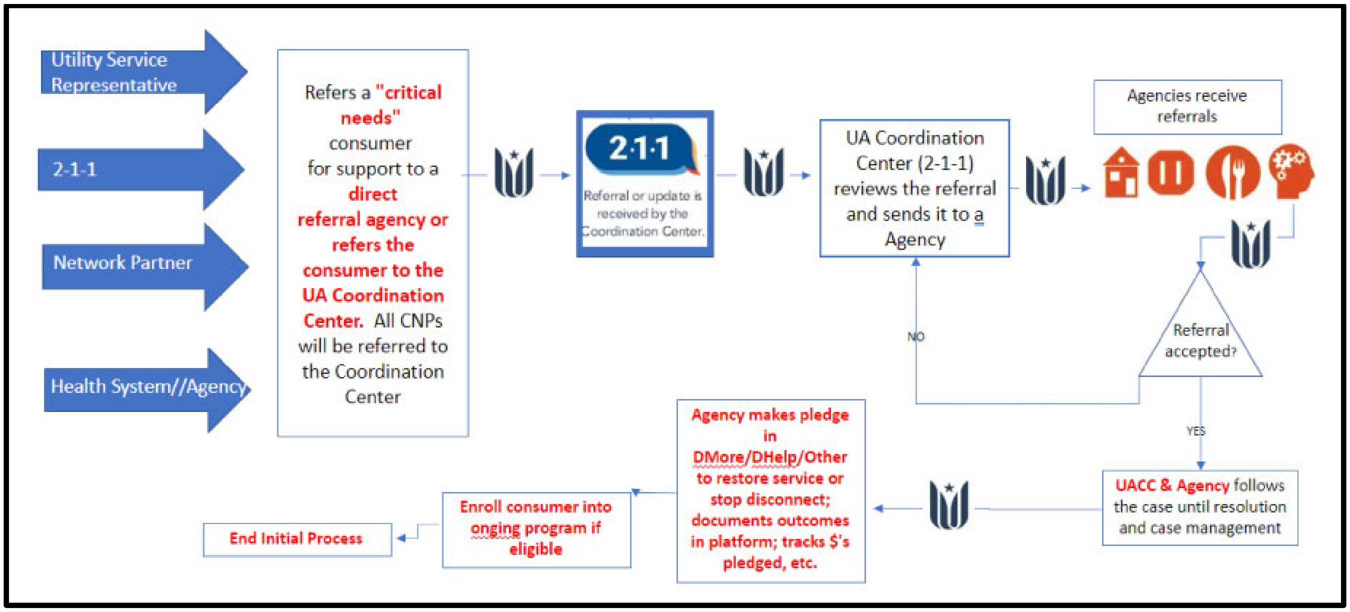
A. He cites to the Connect Center as a program that already accomplishes that intent.

Q. What is your response?

A. The Critical Needs Program is designed to prevent situations like four-year old Lee-Anna White from happening again. As shown in Figure 4, the Critical Needs Program is a screening and referral process that is designed to ensure that clients most in need of service are properly identified, streamlined for funding and that the funding expended returns the highest possible dividend primarily through the power of network collaboration and pooled resources.

[23] The lack of time and the number of issues prevented me from issuing more recent discovery on this issue in time for surrebuttal.

Figure 4: Critical Needs Screening and Referral Process



Stakeholders have been working since the beginning of the year on this program with the following objectives in mind:

- Streamline the process for billing support or fast-tracked restorative efforts for individuals with verified medical needs
- Gain efficiencies in the proliferation of agencies who can expand the utility assistance ecosystem (and consumer reach) in order to increase awareness and utilization of available energy assistance programs such as LIHEAP, weatherization, and more
- Create a model where multiple sectors who engage with potential clients can be trained to properly navigate, refer and / or provide access to energy assistance support services. The priorities for these sectors include hospitals, school districts, community-based organizations, FQHCs, Area Agencies on Aging and homeless services
- Explore establishing a shared statewide utility assistance fund to ensure equitable access across geography and population needs (MD Model)

- Leverage / expand existing infrastructure in order to support immediate utility assistance needs and to extend intermediate and long-term support to at-risk households for wrap around services
- Explore shared tracking of all utility sponsored assistance programs across a shared client record (including LIHEAP, EFS, other)

The Connect Center is brick-and-mortar building in downtown Kansas City that functions as an "all things customer" contact building. There are individual employees that work with customers, many of which may be customer's in-need, but is not comparable to the Critical Needs Program. If adopted, the Connect Center would be integrated into the Critical Needs Program as a node within that network. Stated differently, the Critical Needs Program is designed to amplify and streamline funding streams and client services across multiple venues. Such a program is all the more necessary given the uncertain nature of COVID-19, a 40-year high in inflation and the threat of a recession as identified earlier by Mr. Ives in his testimony. I would add, for Evergy West customers, the unexpected hundreds of millions of dollars in one-week fuel costs because the Company did not plan properly to weather Winter Storm Uri's fuel spike which resulted in West ratepayers needlessly being exposed to a volatile SPP market which they will be paying down for the next fifteen years.

Q. Mr. Caisley criticizes the lack of research to substantiate the validity of this program. Do you have a response?

A. I do not believe Mr. Caisley's criticism is over my omission of empirical data to substantiate that Evergy customers are struggling.[24] Rather the criticism is over the lack of evidence to substantiate that such a program has worked.[25] To that end, I am not advocating for something that is theoretical in nature. The Critical Needs Program is modeled after a

[24] If he is, there are many publicly available websites: American Community Survey, US Census, or other demographic repositories that analyze county-level information. Alternatively, if Mr. Caisley wishes for more finite data exploring the energy burden his customers experience I would recommend he support the rebuttal testimony of Renew Missouri's Director James Owen and his organizations efforts to map the Energy Burden Data across Evergy's service territory. See also the Rebuttal Testimony of James Owen p. 16-19 in this case.
[25] If it is neither, than I am at a loss as to what he is speaking about.

Baltimore Gas & Electric pilot program that was so successful that it was made into a statute for all utilities in the State of Maryland. The Maryland program was also highlighted as a best practice in a 2021 white paper titled "Protecting Seriously Ill Consumers from Utility Disconnections: What States Can Do to Save Lives Now" from the National Consumer Law Center.[26] I have reprinted the section from that report over the Maryland program in Figure 5 for reference.

[26] Wein, O.B. & C. Harak. (2021) Protecting Seriously Ill Consumers From Utility Disconnections: What States Can Do to Save Lives Now. National Consumer Law Center. https://www.nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/Serious_Illness_Rpt.pdf

Figure 5: National Consumer Law Center's write-up on the Maryland Critical Needs Program[27]

Case Study of a Model Partnership: Maryland's Critical Needs Program

An innovative program in Maryland combines many of NCLC's recommendations to not only help sick consumers access that state's serious illness protection, but also enroll them in other energy assistance programs in an expedited and holistic manner. The Critical Medical Needs Partnership (CMNP) began as a pilot that included the Maryland Office of People's Counsel, Baltimore Gas and Electric Company, the Maryland Office of Home Energy Programs, Maryland Department of Housing and Community Development, the Fuel Fund of Maryland and the Cancer Support Foundation, medical facilities, and others. Subsequently, a state law made this program permanent and expands it throughout the state.[31]

The program recognizes that very ill consumers who have fallen behind on their utility bills may not have the capacity to research and apply for serious illness protection, negotiate reasonable payment plans, and complete applications for federal and charitable bill payment assistance, energy efficiency programs. Yet, their fragile medical conditions make them particularly susceptible to harm should they become disconnected from electricity or natural gas service.

In response, the CMNP streamlines and expedites the processes to help very sick utility customers stay connected. In developing the initial pilot, the goal was to create a system to fast-track access to the existing array of utility assistance, including repair/replacement of broken heating equipment, and consumer protections for medically fragile consumers.

CMNP is a voluntary program that trains patient "navigators," who are located in hospitals, oncology centers, and public and private assistance agencies that help seriously ill patients. A simple CMNP form was created, and a fast-track protocol was developed by the utilities and the agencies that administer low-income utility assistance programs. The CMNP provides an expedited process to stop a disconnection or quickly reconnect service for a seriously ill consumer and expedite access to other utility assistance to help keep the household connected to essential utility service. The program is housed in the Office of Home Energy Programs of the Family Investment Administration within the Maryland Department of Human Services.

The Maryland program is just one example of the type of partnership with social services and patient advocacy organizations that utilities can explore as a way of proactively identifying and protecting seriously ill customers. These partnerships can create a network of trained patient navigators to help sick patients easily access critical protections, such as the serious illness protections, to preserve access to essential utility services.

Q. What is Mr. Caisley's response to your proposed Rehousing Pilot Program?

A. He cites to the existence of SAHFR rental assistance funding as evidence that my program is not needed and/or redundant to existing federal funds.

[27] Ibid p. 17.

Q. What is SAFHR?

A. SAFHR is a federal subsidy that provides rental and utility assistance to households that are financially struggling due to the COVID-19 pandemic. The program primarily targets renters, homeowners and landlords. Eligibility requirements are three-fold: (1) Missouri citizen, 80% of the area median income; and experience of financial hardship due to COVID-19. In Jackson County, a family four who has experienced a family hardship due to COVID-19, has overdue utility bills and makes under $77,450 annually is eligible for SAFHR funding.[28] If an individual making under $46,350 with no family was applying in Cole County they would be eligible for SAFHR rental, home mortgage and/or utility funding. For comparative purposes, the median annual salary for a Missouri state public employee in 2021 was $ 40,500.66.[29]

Stated differently, many individuals and/or households are likely eligible for SAFHR funding and all utilities should be doing everything possible to encourage this program.

Q. Mr. Caisley believes the Rehousing Pilot Program is not necessary in light of SAFHR funding. Do you agree?

A. I do not. The Rehousing Pilot Program is not targeting existing renters and landlords or homeowners in need of mortgage assistance. To the extent that SAFHR funds overlap transitional homeless clients there could theoretically be some similarities, but it would merely complement SAFHR funding not be negate the need or purpose of the pilot. Moreover, SAFHR funding will either be exhausted next year or will be funneled back to the federal government unspent. The Rehousing Pilot Program is designed to get at least three years' worth of data to determine the program's effectiveness.

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[28] Missouri SAFHR for Renters (2022) Area Median Income Calculator https://www mohousingresources.com/safhr-ami-calculator

[29] STL Today (2021) Public Pay 2021 State of Missouri. https://graphics.stltoday.com/apps/payrolls/salaries_2021/91/

Q. Do you have a response to Staff witness Boustead's recommendation to defund the ratepayer-sponsored LIWAP program by half?

A. Although I share Mrs. Boustead's frustration. I continue to maintain that Evergy's funding remain as is. Recent conversations with Evergy personnel have confirmed that all but one Community Action Agency is struggling to spend down its ratepayer-sponsored funding. The sole exception stems from Evergy withholding funds to the agency in question. To that end, I believe it is incumbent that stakeholders (at least OPC and Staff) meet with Evergy to discuss the current tariff and determine if edits need to be made regarding what actions funding may be allocated towards. I have not experienced this issue with other utilities and suspect the problem may revolve around the self-imposed restrictions by Evergy. Further dialogue is warranted but I have confidence that a resolution can be reached. In the event the event the issue goes to hearing, I recommend the tariff be modified to allow for up to 50% of the funding to be allocated to administrative duties such as marketing, employee training, new hires and/or maintaining existing employees to perform weatherization services until the influx of federal funding devoted to weatherization is spent down or the Company's next rate case (which either happens first). At such a time the issue should be revisited.

Q. Do you have a response to Mrs. Winslow's recommendation to roll-over ratepayer-funded weatherization dollars to Dollar-More indefinitely?

A. I oppose it given my recommendation to expand the weatherization tariff above.

Q. Do you support Renew Missouri's witness Mr. Owens recommendation to collaborate with Evergy to map the energy burden of its customers?

A. I do. Hopefully such a request will be accepted and not met with criminal accusations.

V. LATE FEES

Q. In direct testimony you recommended that Evergy Metro and West's late fees should reflect the actual cost of the service for such a fee. How did the Company respond?

A. Evergy witness Charles A. Caisley rejected this recommendation claiming large late fees are an accepted practice across various industries and late fees encourage customers to pay on time—thus benefiting all customers.

Q. What is your response?

A. We should not be over-charging customers for any of Evergy's services—including late fees. In fact, many services are moving away from late fees entirely (a policy that I am not advocating for in this case). For example, the New York Public Library System announced the elimination of all late fines going forward and all prior late fines and replacement fees have been cleared. According to Anthony W. Marx the President of the New York Public Library:

> Research shows that fines are not effective in ensuring book returns—New Yorkers are quite reliable and responsible, clearly respecting our collections and the need for them to be available for others to borrow. But, unfortunately, fines are quite effective at preventing our most vulnerable communities from using our branches, services, and books. That is the antithesis of our mission to make knowledge and opportunity accessible to all, and needed to change. As New York grapples with the inequities laid bare by the pandemic, it is all the more urgent that we ensure the public library is open and freely available to all.[30]

I continue to see zero evidence to support that late payment fees are an appropriate deterrent to non-payment, and I believe that any additional fee added to an already financially struggling customer will increase the likelihood of disconnection.

[30] Marx, Tony (2021) New York Public Library. https://www nypl.org/spotlight/fines

I also believe the threat of disconnection is the primary deterrent to incentivize timely payments, and that Evergy Metro/West should be doing everything in its power to provide an affordable service, which should include minimizing punitive charges that make it more likely for already struggling customers to fall off.

Q. How did he respond to your observation that late fees are different across Evergy's affiliates?

A. He dismisses this observation by saying it has never been an issue before.

Q. What is your response?

A. It is an issue in this case.

Q. How did he respond to your criticism that late fee penalties are not readily available on the Company's website?

A. Mr. Caisley responded as follows:

"That is simply not true."[31]

He then posted a snippet of the Company's website titled "How rates are set" which included the following three options:

a.) detailed tariff documents

b.) rate riders and regulations

c.) rules and regulations

His implied response suggests the late fee amount is in one of those three categories—somewhere.

Q. What is your response?

A. This is technically true. The Commission approved late fee amount is listed in the Company's tariff which can be found in a.) Detailed tariff documents. Of course a customer

[31] Rebuttal Testimony of Charles A. Caisley. p. 30, 3.

would have to have the good sense to know what a tariff is, what is included in it, and then conduct the time-intensive word search to actually find out what that fee is.

With that in mind, I am genuinely concerned about the lack of basic customer information being provided by this Company on its website. Evergy customers deserve better than this.

At the risk of being accused of falling victim to confirmation bias I encourage the Commissioners, their advisors, and the regulatory law judge to ask a friend or family member to open up Evergy's website and attempt to answer the question, "What is the penalty amount charged to Evergy Metro/West residential customers for late payment?"

A simple question, that took me a surprisingly long time to answer.

On a related note, the Commission should also take into consideration that earlier in Mr. Caisley's testimony he derided OPC's request to have access to the Company's customer portal and then took the additional step to minimize OPC's professional experience by stating:

> nowhere in the resumes of OPC witnesses do they offer a witness or testimony with experience in designing, evaluating, testing, or implanting authenticated customer portals.[32]

If there is any doubt as why OPC wants easy, transparent access to see what ratepayers are experiencing—let this late fee website challenge serve as a testament in support of our position.

Q. Has your recommendation changed?

A. It has. I now recommend that the late fee should be based on the Company's average cost of commercial paper at the end of the prior quarter as disclosed in the Company's SEC 10-Q filings and that the Company's tariff should explicitly state that.

[32] Rebuttal Testimony of Charles A. Caisley. p. 3, 18-19.

I also recommend that the Commission order the Company to make all Commission-approved fee amounts (including delinquent fees) explicitly available to customers seeking this information on the Company's website and easily accessible by at least utilizing the words "late fee," "delinquent," and "charges" in the Company's search engine. The disclosure of this information needs to go beyond it being buried in a multi-hundred page tariff.

VI. AMI SERVICE-DISCONNECT METERS[33]

Q. Can you please summarize your primary concern surrounding Evergy's decision to replace their recently deployed AMI meters with AMI Service-Disconnect meters?

A. I believe the Company is gold plating their distribution investment in meters by prematurely retiring there first generation AMI meters only a few years into their useful life with AMI Service-Disconnect meters whose sole distinguishing "benefit" is its ability to remotely disconnect a customer. There are accompanying secondary concerns surrounding this imprudent managerial action (*e.g.*, a deployment strategy focused on customers struggling to pay their bills) but the blatant gold-plating of the distribution system is my primary objection.

Q. What is gold plating?

A. Gold plating is premised on the fact that the "allowed profit" for a utility is based on the size of its rate base; thus utilities have a perverse incentive to augment its capital stock in any manner that will increase rate base.[34] In this case it would be replacing an expensive meter only a few years after it had been put in service with effectively the same meter but with small incremental differences (*e.g.*, the ability to remotely disconnect a customer).

[33] AMI Service-Disconnect (or AMI-SD) is the preferred nomenclature used in Evergy witness Charles A. Caisley's rebuttal testimony to distinguish the difference between the original AMI meters and the replacement AMI meters that allow for remote disconnections.

[34] Also known as the Averch-Johnson Effect, the phenomenon was first articulated in the seminal work by economists Harvey Averch and Leland Johnson in an article titled "The Behavior of the Firm Under Regulatory Constraint," printed in the American Economic Review, December 1962. See https://www.jstor.org/stable/1812181

Ratepayers are now in a position of having to pay for two advanced meters despite needing only one to record your usage and investors are able to earn a larger profit now as both the three-year old meter and the brand new AMI Service-Disconnect meter are in rate base.

Over-investment (or over-capitalization) by a utility has obvious implications for rates by consumers (they are needlessly increased) and also for the efficiency of resource allocation (capital costs could have been directed towards more meaningful actions).

Q. What was Evergy's response?

A. Evergy witness, Charles A. Caisley, rejected my recommendation for disallowance and accused me of confirmation bias. Perhaps what is most interesting about Mr. Caisley's testimony is what he failed to respond to.

Q. What did he fail to respond to?

A. He offered no response to the remaining undepreciated balance of the first generation of AMI investment. In my direct testimony, I included the following Q&A:

> **Q. What is the current plant balance and accumulated depreciation reserve balance associated with Evergy's "old" AMI meters as of year-end 2021, broken out for Evergy Missouri Metro and West respectively?**
>
> A. Evergy has not recorded the AMI meters on the books as 'old' or 'new' nor do they intend to open up a new subaccount for the new meters.[35] The AMI meters have the following balance as of December 2021 as seen in Table 1[36]
>
> Table 1: Evergy Missouri Metro/West AMI books as of December 31, 2021

	Book Cost	Allocated Reserve	Net Book Value
Metro	$120,249,040.93	$6,300,675.57	$113,948,365.36
West	$51,702,138.18	$3,723,547.33	$47,978,590.85

[35] See GM-3 in OPC
[36] See GM-4 in OPC

Q. Why is that the most relevant?

A. Because the entirety of his argument in rebuttal is premised on this issue not existing or taking liberty with the actual costs of Evergy management's imprudent actions.

Q. Please explain.

In an attempt to negate my argument that Evergy is taking advantage of its customers Mr. Caisley claims Evergy performed two "financial reviews" to inform the prudency of its decision. I am going to quote his testimony verbatim as it pertains to the contents of both reviews. Regarding the first financial review, Mr. Caisley states:

> The first financial review evaluated the cost to purchase and install AMI-SD meters based on the change out schedule previously described and the short-term and on-going O&M savings that would be realized due to the additional capabilities the AMI-SD meters could provide to make operations more efficient. The results indicate that from a financial perspective, customers would be indifferent to the AMI-SD meter change.[37]

Q. Have you evaluated the first financial review and drawn any conclusions?

A. Yes. Without going into great detail about my issues regarding the assumptions surrounding O&M savings and assumed capital relative to Mr. Caisley's projected deployment, there is one critically omitted variable the Commission needs to be aware of in assessing the validity of this analysis—the undepreciated balance of the existing meters is not considered as a cost or an input in the review. That is, if we assume ratepayers don't have to pay a return on and of the remaining AMI meter investments than the AMI Service-Disconnect meter investment "might be" revenue neutral over a twenty-year period. Of course this is not the filed position of the Company. The Company wants all of the meters and software in rate base, and provide no measurable benefits or hope to be achieved benchmarks customers will receive in return. Finally, as the Commission is well aware, the Company continues to reject mandatory TOU rates despite having the technology in place for more than eight years now.

[37] Rebuttal Testimony of Charles A. Caisley. p. 15, 4-9.

Instead the Company supports two new rate options that do not require AMI technology for use.[38]

Q. How was the second financial review conducted?

A. According to Mr. Caisley:

> The second financial review calculated the present value of the AMI meters installed in 2014 at $76 per meter plus the cost to install an AMI-SD meter in 2021 at $125 per meter. This was then compared to the cost of an AMI-SD meter in 2014 at $165 per meter. The present value comparison indicated that installing the AMI meter without SD capabilities in 2014 plus installing an AMI-SD meter in 2021 was less expensive than if the Company would have installed AMI-SD meters in 2014. For more details on the business case and financial review, please refer to DR 0295 in case ER-2022-0130.[39]

Based purely on Mr. Caisely's testimony, the math does not make sense. Figure 6 attempts to break down this block quote on why buying two meters is cheaper than one.

[38] The link between Evergy's Prepay offering and its AMI Service Disconnect meters is solely dependent on remote disconnect/reconnect and customers surrendering their Chapter 13 consumer protections. The actual act of prepay can and does occur for many customers every month without the loss of customer protections. Customers just need to pay more than what they use and they will be credited back in the next billing period.

[39] Rebuttal Testimony of Charles A. Caisley. p. 15, 4-9.1

Figure 6: Breakdown of Caisley's testimony Over the Second Financial Review

Scenario 1

1.) Assume all non-shut off meters were installed in 2014; *and*

1A.) Then assume a present value of $76 (2021 valuation) beginning in 2014 for non-shut-off meters;

2.) In 2021 add a second set of meters at $125 each

Total costs = $201 per meter

Scenario 2

1.) Assume a $165 cost in 2014 to install the meter with shut-off capability

Total costs = $165 per meter

Claimed outcome

$201 is less expensive than $165

Fact check: False

Scenario 2 is $36 more than Scenario 1

Q. Did you have an opportunity to review the work papers?

A. I did, and the calculation is more nuanced than what he describes in testimony, but it still does not accurately reflect the actual cost incurred by customers. Additional issues I took with include assuming all of the original AMI meters were operational in 2014 and were valued at $76. In reality, only 7. 8% of all AMI meters were installed in 2014 and the original AMI meters costs much more than $76 per meter. $76 per meter is the assumed 2021 present value the first set of AMI meters—not the appropriate amount incurred and profited off in rate base in years 2014-2021. The true costs of the new AMI Service-Disconnect meters should also go out to 2041 (or really later depending on the actual phased in deployment) not 2034 as modeled because AMI is supposed to have an estimated 20-year useful life (that is, unless you prematurely retire them because you want a new feature—like remote disconnection).

The second financial review suffers from the same problem as the first by understating the historic costs incurred by customers and the remaining undepreciated balance. It also makes generalized assumptions without accounting for the actual retirement and deployment of the meters. I also cannot confidently say that I trust the assumptions surrounding the costs of the meters and what they do/or do not factor in (*i.e.*, labor costs, time, etc..).

Q. Do you have any additional comments on the two financial reviews?

A. I struggle to believe that these two spreadsheet models were the basis for management making the decision to move ahead with prematurely retiring assets that were only in operation, at most, a quarter of their useful life in exchange for the benefit of remote disconnection. The "financial reviews" look like after-the-fact spreadsheets that were produced in response to OPC and Staff's calls for disallowance in this rate case.

The problem here is that I don't know which scenario is actually worse. If the spreadsheets were put together after-the-fact to provide a rationale for blatant gold plating than I at least understand the perverse financial motivation for the Company. The Averch-Johnson Effect is inherent in cost-of-service regulation. However, if these two spreadsheets really were the intellectual underpinning behind such a large, unnecessary capital investment beginning in 2020, than that would appear to fly in the face of any rational regulatory prudence standard and we should all have a much greater fear for this Company's ability to make sound management decisions.

Q. To recap, Mr. Caisley claims the additional benefits obtained from the AMI Service-Disconnect meters are so great that they justify having customers pay down the remaining costs for the AMI meters as well as the new costs associated with the AMI Service-Disconnect meters. How is that possible?

A. It's not. Customers who have not realized any meaningful benefits from the original AMI deployment are now they are being asked to pay for *another* meter on top of the first one.

Q. How do you define meaningful benefits?

A. By meaningful benefits I mean any empirical evidence to substantiate cost savings or other tangible benefits. Examples include but are not limited to:

- Better reliability scores due to "quicker" insights on outages?—no;
- Energy savings quantified from right-sizing voltages?—no;
- Mandatory or double digit adoption of TOU rates?—no;
- Improved customer satisfaction scores—no; and
- Investments that are at least future proofed (i.e., we won't need to upgrade for twenty years)—no.

Q. Mr. Caisley spends a considerable amount of time engaging in *ad hominim* attacks on you about your views on AMI and rooftop solar. What is your response?

A. This line of testimony was very confusing to me. In my direct testimony I cited to both the opportunity to price service more in line with its actual costs (*i.e.*, TOU rates) and the ability to leverage finite data to meaningful actions (*e.g.*, purchase of rooftop solar) as legitimate benefits that should result from AMI deployment. Mr. Caisley took great issue with my rooftop solar example. For clarity, I will restate my direct testimony on this issue:

> **Q. What is the primary benefit for AMI meters?**
>
> A. The ability to price electricity closer to the true cost of service through time-of-use rates ("TOU"). **<u>A secondary benefit is more finite energy usage (15 minute intervals), which can be useful if a customer is considering rooftop solar as a possible large capital investment</u>**.[40]

Note, that I am identifying a theoretical benefit of AMI—finite energy usage data and linking it with a tangible action—finite data can help inform decisions like whether or not rooftop solar makes sense financially. Mr. Caisley takes this throwaway statement

[40] Direct Testimony of Geoff Marke p. 16, 9-12.

identifying a positive attribute of AMI as an opportunity for misdirection and thinly-veiled *ad hominem* attacks.

His rebuttal testimony states:

> I also do not agree that the ability to receive finite energy usage data is a critical factor for a customer considering solar.
>
> The availability of interval meter data does not increase solar adoption in isolation and likely is not a factor at all. Dr. Marke fails to understand that customers do not first prioritize interval data as a key decision point on whether or not to install solar. There are numerous much more significant factors that customers consider that have a material impact on whether to invest in and install solar. Those factors include, but are not limited to: the price of electricity; the overall cost of the solar installation, coupled with available financing and lease options; utility tariffs valuing excess solar generation and how it impacts the period over which the initial investment will be paid back; the availability of state authorized solar rebates and their per watt amount; the availability and level of federal tax credits; the value and ability to access the market for renewable energy credits ("REC"); a customer's attitude towards climate change and renewable generation; homeowner association rules and local ordinances regarding solar installations, availability of solar installers; the age and pitch of the customer's roof; the direction a customer's house and roof are facing; and, the estimated annual and lifetime maintenance costs for the solar installation. Evergy works with nearly every solar installer and engineering company within our service territory, as well as multiple national solar companies. The availability of meter data, as described by Dr. Marke, is not even in the top ten considerations for a customer determining whether or not to pursue solar generation on their home. In fact, customers were installing solar long before the availability of AMI data.

> The Britannica dictionary defines confirmation bias as, "the tendency to process information by looking for, or interpreting, information that is consistent with one's existing beliefs. This biased approach to decision making…often results in ignoring inconsistent information." Dr. Marke's conclusion suffers from confirmation bias. When posed the question, "what benefits have customers received to date from the hundreds of millions of dollars invested in the Company's AMI and CIS systems," Dr. Marke answers, "none that I can see." This statement by Dr. Marke is unfounded and demonstrates the length at which he has to stretch to make a point.

Q. That's a lot to unpack here. Do you have a response?

A. My original comment about AMI data being a feature that could help homeowners considering their purchase of rooftop solar hardly merits this sort of misdirected delegitimization rhetoric. I don't know what more to say.

Q. And what is your response to the accusation of confirmation bias?

A. Absent evidence of bias, an accusation of confirmation bias is just a sneering *ad hominem* insult. Just as we don't legally convict someone of a crime based on accusations alone, nor should Mr. Caisley condemn me for "bias" absent evidence of such bias.

To suggest that AMI investment is above questioning runs in the face of Utility Commissions around the country who have rejected utility AMI investment plans over the lack of benefits to customers. This was highlighted in a recent white paper from the American Council for an Energy-Efficient Economy ("ACEEE") titled "Leveraging Advanced Metering Infrastructure To Save Energy" who challenged regulators on the realization of the value-statements for AMI because too often utilities choose not to maximize the benefits available from AMI.[41] In 2019, regulators in Virginia rejected

[41] York, D. (2020) Smart meters gain popularity, but most utilities don't optimize their potential to save energy. ACEEE https://aceee.org/blog/2020/01/smart-meters-gain-popularity-most

Dominion Energy's proposed smart meter rollout, and utility commissions in New Mexico, Massachusetts and Kentucky all rejected utility proposals.[42]

Evergy, in contrast, is already in the process of deploying their AMI Service Disconnection meters less than eight years after they began their first AMI deployment and Company didn't even bother to file direct testimony to this fact in this case.

Q. Did you file rebuttal testimony on your use of the phrase "redlining" in direct testimony with respect to Evergy's AMI replacement strategy?

A. I did. My testimony also quoted my direct in part and reads as follows:

> **Q. Do you have any additional comments to make as it pertains to Evergy's AMI testimony?**
>
> A. Yes. In my direct testimony on this subject I stated:
>
> > **Q. What is Evergy's replacement strategy?**
> >
> > A. It is not entirely clear to me based on my understanding of discovery issued by Staff. As it stands, it appears as though Evergy is systematically replacing meters on domiciles with bad debt.
> >
> > **Q. What is your response to this?**
> >
> > A. If this is true, then this would appear to be a variation of "redlining" and would be incredibly disturbing. Further discovery is warranted on this topic before I can say one way or the other.[43]
>
> This testimony incorrectly used the term "redlining" when I intended to use the term "economic discrimination." Further, I have not been able to verify my initial impression of Evergy's replacement strategy given the time since direct testimony was filed. I will update this testimony as needed in surrebuttal.[44]

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[42] Walton R. (2020) Most utilities aren't getting full value from smart meters, report warns. Utilitydive. https://www.utilitydive.com/news/most-utilities-arent-getting-full-value-from-smart-meters-report-warns/570249/

[43] Direct Testimony of Geoff Marke p. 21, 22-25 thru p. 22, 1-4.

[44] Direct Testimony of Geoff Marke p. 21, 22-25 thru p. 22, 1-4. Rebuttal Testimony of Geoff Marke P. 39, 5-18

Q. Did you file this correction in rebuttal testimony before Mr. Caisley filed his rebuttal testimony?

A. I did.

Q. What was Evergy's response?

A. Evergy witness Charles A. Caisley responded:

> **Q: Both Ms. Eubanks and Dr. Marke express concern that the Company has been systematically replacing meters on houses of customers in arrears. Dr. Marke even goes so far to allege that prioritizing customers in arrears is the equivalent of redlining and that this information about meter exchanges only came to light during the discovery process. How do you respond?**
>
> A: Of the many utterly unsubstantiated and outrageous claims Dr. Marke makes in his Direct testimony, characterizing prioritizing customers with balance in arrears as the equivalent of redlining is the most ridiculous and unprofessional testimony I have come across in nearly twenty years in the utility industry. It is gross in its exaggeration and careless in its implication.[45]

This rhetoric continued for another two pages.

Q. What is your response?

A. I have already acknowledged it was not my intent to file testimony that used that specific phrase. It was placeholder language that inadvertently was filed. Additionally, I didn't say Evergy was redlining, rather":

> "If this is true, then this would appear to be **<u>a variation of "redlining</u>**" and would be incredibly disturbing."[46] (emphasis added)

To be clear, Evergy *is* targeting renters and customers with a history of arrearages with AMI Service Disconnection meter replacement as opposed to some seemingly more efficient

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[45] Rebuttal Testimony of Charles A. Caisley p. 18, 1-10.

[46] Direct Testimony of Geoff Marke p. 22. 2-3.

strategy like bulk replacement by zip codes. I maintain that this has the appearance of discriminatory behavior.

Mr. Caisley can characterize this as an opportunity to get disconnected customers reconnected quicker. I see it as an opportunity to get struggling customers disconnected quicker for non-payment. Perhaps Evergy has some customer surveys they have performed that could shed some light on this topic.

Q. But Mr. Caisley says no customers are surrendering their Chapter 13 consumer protections. So, no harm. What is your response?

A. Evergy filed Case No. EE-2022-0071 requesting waiver's from the Commission's Chapter 13 rules to make it easier to disconnect a customer. In fact, after Staff filed its motion to dismiss the case due to concerns surrounding the interplay of Evergy's request and this rate case, Evergy counsel filed a Motion for Consideration to seek Commission approval for the Company to waive Chapter 13 rules over disconnection. This also occurred on the same day Mr. Caisley filed his testimony attesting that no customers are surrendering *any* Chapter 13 rules. Although he is technically true, I would argue he just failed to finish his thought, "because the Commission has not approved our request yet."

Additionally, Evergy is literally advocating for a rate design that makes it easier to disconnect customers and surrender Chapter 13 rights with Prepay—a rate design option that is overwhelmingly adopted by struggling customers in parts of the world where this practice is condoned.

Q. What else should the Commission consider Evergy's arguments that the AMI Service Disconnection benefits justify the costs?

A. By this point, the Commission and Regulatory Law Judge will have heard plenty of arguments surrounding what benefits customers actually (or could theoretically) receive from either of the two large meter investments they are being charged. I believe it would be helpful to see how Evergy's AMI hardware provider Landi + Gyr markets the two types of meters in question in this case. Table 2 shows a breakdown of three Landis + Gyr FOCUS

AMI meters. The first two of which are the meters in question in this case—the FOCUS AL (current AMI) and the FOCUS AX-SD (replacement AMI).

Table 2: Landis + Gyr FOCUS Family of Residential Meter break-down[47]

Precision Meets Advanced Energy Management

Features	The FOCUS Family of Residential Meters		
	E130 FOCUS AL	E330 FOCUS AX E350 AX-SD	E331 FOCUS AXe E351AXe-SD
Non-volatile memory	+	+	+
Digital Multiplication Measurement Technique	+	+	+
20+ year life design	+	+	+
Time of use and demand billing display options		+	+
Optical port lockout option		+	+
Event log of 500+ entries		+	+
Service limiter function (SD models only)		+	+
9-digit LCD		+	+
12 self reads		+	+
Voltage monitoring	+	+	+
Sag/swell detection		+	+
Reactive kVAh or kVARh		+	+
Load profile (8 channels)		+	+
Increased memory and power supply			+
Tilt/vibration sensor for tamper detection			+
2nd demand (kVA or kVAR)			+
Total harmonic distortion (watts)			+
Optional 8-channel 2nd load profile recorder			+
Class 320A disconnect switch			+

Q. What should the Commission note from Table 2?

A. None of the generalized benefits highlighted in Mr. Caisley's testimony are listed as differences between the FOCUS AL and the FOCUX AX-SD. In fact, outside of service disconnection, the only other benefits to upgrading appear to be largely cosmetic (e.g., TOU billing display option, optical port lockout option). I struggle to see what additional benefit customers are getting other than the ability to be remotely disconnected—a "benefit" I believe most customers would challenge.

[47] Landis + Gyr (2019) Residential Metering: Precision Meets Advanced Energy Management. https://www.landisgyr.com/webfoo/wp-content/uploads/2014/08/OV-ResidentialMetering.pdf

Q. Is there anything else the Commission should be aware of regarding the replacement AMI Service Disconnection meters?

A. Yes. As the Commission is well aware, Evergy Metro and West elected Plant-In-Service-Accounting ("PISA") on December 31, 2018. Beyond utilities being rewarded with reduced risk through reduced regulatory lag, the PISA statute also contains a section regrading AMI investments. RSMo Section 393.1400.4 states:

> For each of the first five years that an electrical corporation is allowed to make the deferrals provided for by subsection 2 of this section, the purchase and installation of smart meters shall constitute no more than six percent of the electrical corporation's total capital expenditures during any given year under the corporation's specific capital investment plan.[48]

I would note that the statute is silent on treatment of second generation AMI meters as I cannot imagine anyone anticipated a situation where a utility would be going through a second round of smart meter investment within the first five years of PISA such as this. My cursory review of Evergy's PISA filings suggests that both Metro and West may have exceeded the statutory limits placed on smart meter investment in 2020 for Metro and 2019 for West as shown in Tables 3 and 4 respectively.

Table 3: Evergy Metro AMI investments (in $millions) relative to annual PISA to date

Evergy Metro	AMI	Total Spend	%
2021	$14.32M	$378	3.78%
2020	$17M	$228	7.45%
2019	$8.653M	$199	4.3%

[48] RSMo Section 393.1400 Deferral of depreciation to regulatory asset. https://revisor.mo.gov/main/OneSection.aspx?section=393.1400#:~:text=393.1400.,grid%20modernization%20projects%20%E2%80%94%20expiration%20date.

Table 4: Evergy West AMI investments (in $millions) relative to annual PISA to date

Evergy West	AMI	Total Spend	%
2021	$5.52	$504	1.1%
2020	$8.005	$287	2.8%
2019	$21.843	$169.7	12.87%

I would also note that the filed PISA expenditures appear to be at odds with Mr. Caisely's 2nd generation AMI deployment table from his rebuttal testimony as seen in Table 5.

Table 5: Reprint of Caisley Rebuttal Actual and Forecasted Service-Disconnect AMI[49]

	Missouri Metro	Missouri West	Total
2020*	14,000	2,400	16,400
2021*	30,000	18,000	48,000
2022	40,000		40,000
2023	45,000	25,000	70,000
2024	45,000	40,000	85,000
2025		85,000	85,000
Total	174,000	150,000	324,000

* Estimated Actual replacements

This issue was discovered late in my review of this case and merits further discussion with the MO PSC Staff and the Company. My two primary concerns surround the discrepancy between Mr. Caisley's numbers and those listed in the Company's PISA plans and to the extent there should be repercussions for Evergy Metro or West exceeding the 6% annual threshold as capped by law. As it stands, I recommend that this be added to the list of issues where OPC can provide a recommendation in its position statement.

[49] Rebuttal Testimony of Charles A. Caisley p. 15. 1

VII. CLEAN CHARGE NETWORK

Q. Please restate your recommendation regarding the Clean Charge Network from your direct testimony?

A. I made the following recommendation:

> I strongly recommend that the agreed to position from Evergy Metro and West's last rate case (Case No. ER-2018-0145 and ER-2018-0146) be maintained. Specifically, that no other customer class shall bear any costs related to this service either through base rates or through any rate adjustment mechanism such as a FAC, DSIM, or RESRAM.[50]

Q. Did Evergy respond?

A. Evergy witness Charles A. Caisley responded to my testimony but was silent on my recommendation.

Q. If he was silent on your recommendation, what exactly did he respond to?

A. The totality of his response appears focused on rebutting a declarative statement I made. Specifically: "As it stands, the CCN has been a disappointment."[51]

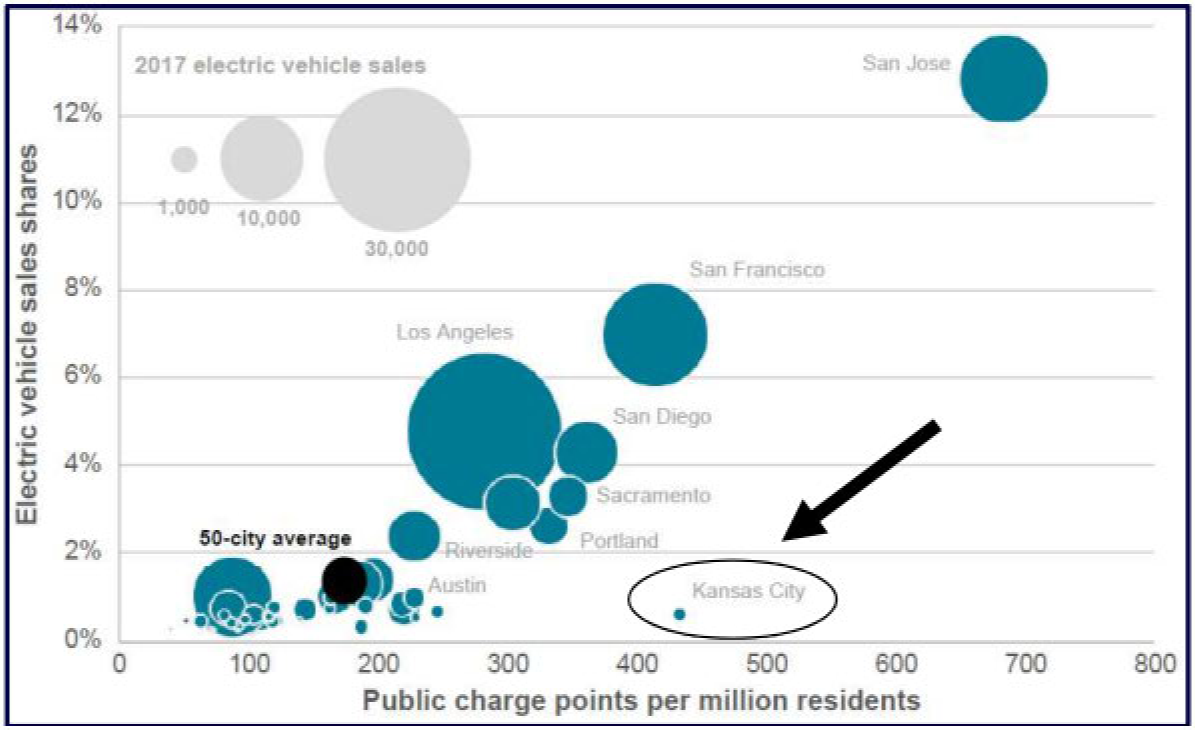
Q. Do you still maintain the CCN has been a disappointment in light of Mr. Caisley's rebuttal?

A. I do.

To provide further context for that disappointment, consider Figure 7 from a 2017 Oxford Institute for Energy Studies report which graphical shows the relationship between EV sales and EV charging stations across major metropolitan cities.

[50] Direct Testimony of Geoff Marke p. 25, 10-13.
[51] Ibid. p. 23, 13.

Figure 7: EV Uptake and Charging Infrastructure in US 'EV Capitals'[52]



There are at least three observations to draw from Figure 7:

1. Of the 50 cities examined, Kansas City appears to have the second most public charging stations with only San Jose exceeding on a per capita basis.
2. Despite having the second most available public charging stations per resident of all US cities, Kansas City's electric vehicle sales (less than a 1,000) and EV sales share of the market (less than 1%) are well below the 50-city average.
3. EV sales are overwhelmingly occurring in California as seen by the shares in: San Jose, San Francisco, San Diego, Sacramento, Los Angles and Riverside.

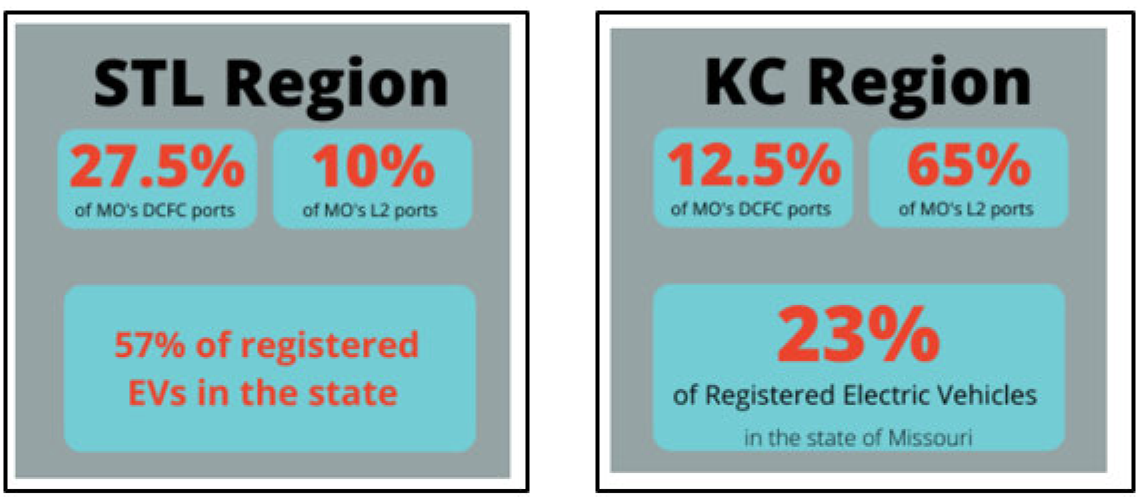
[52] The Oxford Institute for Energy Studies (2019) Electricity, Electric Vehicles, and Public Policy: Eight Key Takeaways. https://www.oxfordenergy.org/wpcms/wp-content/uploads/2019/02/Electricity-Electric-Vehicles-andPublic-Policy-8-Key-Takeaways.pdf emphasis added.

Or consider the more recent concurring analysis from the Missouri Energy Initiative's ("MEI") 2021 white paper: Electric Vehicle Charging Infrastructure.[53]

> The Kansas City (KC) region, including Cass, Clay, Jackson, Platte, and Ray counties leads the state in number of charging ports deployed and is second to the St. Louis region in the level of EV adoption. **<u>The KC region accounts for nearly 60% of the total charging station ports deployed in the state (Figure 7), but only 23% of the registered EVs on the road in Missouri.</u>** (emphasis added) [54,55]

Ameren did not build out a ubiquitous charging network, Evergy did. Comparing EV adoption rates relative to EV charging penetration of St. Louis to Kansas City presents a wonderful natural controlled experiment over the question of whether or not Mr. Caisley's "If you build it, they will come" hypothesis is correct. Based on MEI's independent analysis seen in Figure 8, the answer appears no. He was not correct.

<u>Figure 8: MEI State of EV Charging Infrastructure in Missouri Comparing Regions</u>[56]



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[53] See GM-5.

[54] Wood, T. (2021) 2021 Electric Vehicle Charging Infrastructure in the State of Missouri. *Missouri Energy Initiative* white paper. https://moenergy.app.box.com/s/jvsnxhizzxcu4wehzk0gbl2y7a4rlqvb

[55] Based on MEI's report, there were 8,979 EV drivers in Missouri as of Jan. 1, 2021 with 5,118 registered EV drivers in St. Louis and 2,065 registered EV drivers in Kansas City.

[56] Ibid. p. 12 & 14.

MEI's conclusion echoes sentiment I have expressed in multiple filings before this Commission and supports my assertion that Evergy's CCN has not achieved favorable outcomes. Consider the following:

1.) The revenues produced from the CCN have never covered the costs for the CCN;
2.) Ratepayers have not received the promised downward pressure on rates; and
3.) Mass adoption of EV cars has not materialized in Evergy's service territory as a result of the ubiquitous charging network.

The fact that EV adoption is projected to increase over the next couple of decades does little to alleviate the aforementioned failed outcomes because the forecasted adoption is not predicated on Evergy's historical actions but forecasted market changes from aggressive federal subsidies. Worse still, 98% of the CCN charging stations are both too slow and increasingly likely to be exposed to technological obsolesce as we approach the eighth-year of operations of this network.

Q. Mr. Caisley states "Dr. Marke's insistence on providing unreliable data to the Commission on this topic is irresponsible, misleading and I have to assume intentional to orchestrate a negative narrative on this program."[57] Is this true?

A. I'd like to first make the observation that no data was provided in my direct testimony on this topic. I merely wrote two and a half pages making the observation that the CCN has not been successful judged by any reasonable standard and continued to recommend that no other customer class should bear any costs related to this service either through base rates or through any rate adjustment mechanism such as a FAC, DSIM, or RESRAM.

As to Mr. Caisley's conspiracy theory that I have orchestrated some masterplan to foil the Commission from the truth; the data and conclusions I have drawn in this case have been objective, transparent, public and consistent with those of the U.S. Department of Energy, Oxford University and MEI (to name a few organizations on this subject). Mr. Caisley

[57] Rebuttal Testimony of Charles A. Caisley. p. 39, 16-18.

would need to level this same accusation at these organizations who all have expressed a clear vested interest in greater EV adoption.

Finally, I can confidently say I have not changed parameters or otherwise massaged the inputs to change the narrative. I am not sure Mr. Caisley can make the same claim. One need look no further than the following Q&A from his rebuttal testimony:

> **Q. Does the St. Louis area have more EVs than the Kansas City area?**
>
> A. No. This question was explored last year in response to OPC's claims in rebuttal testimony in File No. ET-2021-0151. This[sic] results of Evergy's analysis are as follows:
>
> - In terms of core-based statistical area, Kansas City had 6% more EVs per capita than St. Louis as of 9/30/2020.
> - Utilizing OPC's rationale of selecting adjacent localities radiating from the city core, **<u>Evergy determined that the Kansas City area defined as Johnson County, Kansas</u>** and Jackson County, Missouri has 8% more EVs per capita than St. Louis City, St. Louis County, and St. Charles County as of 6/30/2021.[58]

To decode this Caisley spin, Evergy expanded the parameters to include Kansas but not extend the parameter to include Illinois. This resulted in Evergy achieving an 8% greater adoption rate. It should also be noted that no data source or attached data was included in this to verify the assertion that Evergy's Kansas City Kansas and Missouri EV adoption was 6% greater than Ameren's Missouri's St. Louis on 9/30/2020 or 8% greater on 6/30/21.[59] We are just supposed to accept this as true because he says so.

Mr. Caisley makes these claims with a straight face and simultaneously levels *ad hominem* attacks at me that I am irresponsible, intentionally misleading, and deliberately orchestrating

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[58] Ibid, p. 41, 7-14 & p. 42, 1-2.

[59] I also legitimately have questions as to whether Mr. Caisley changed the parameters around this assertion as well (e.g., Evergy had a 6% greater EV adoption rate over Ameren Missouri <u>for the month of September 2020</u>).

a narrative of failure around a "successful program" that, he also admits, has never covered its costs.

When a company cannot cover its fixed costs. It goes out of business. No amount of mental gymnastics or positive spin puts that lost money back in the pockets of investors or alters that reality. Not so for a regulated utility backed by captive ratepayer funding.

Q. What data is he relying on to draw his conclusions?

A. Evergy utilizes proprietary data from HIS Markit. According to Mr. Caisley:

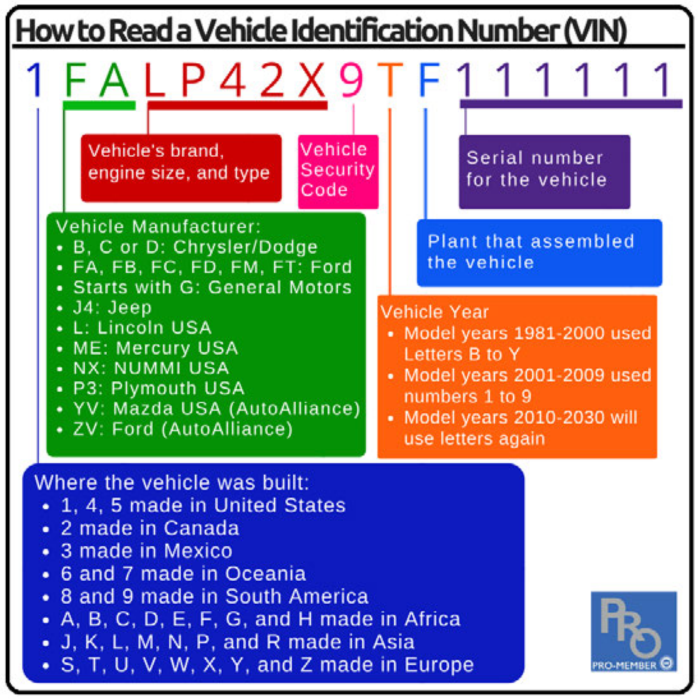
> In creating its data, IHS Markit takes the critical step of analyzing each vehicle's identification number ("VIN") to determine whether the vehicle's powertrain qualifies as an EV. For this reason, the EV population data from IHS Markit are much more accurate than estimates based on raw vehicle registration data.[60]

Q. What is a VIN?

A. A car's VIN is the identifying code for a specific automobile. The VIN serves as the car's fingerprint, as no two vehicles in operation have the same VIN. A VIN is composed of 17 characters (digits and capital letters) that act as a unique identifier for the vehicle. Figure 9 illustrates what that looks like:

[60] Ibid p. 40, 9-13.

Figure 9: How to read Vehicle Identification Number (VIN)[61]



Q. Do you agree that HIS Markit's use of a VIN number to verify the power train of a vehicle is superior to the Missouri Department of Revenue licensing procedure?

A. No. The Department of Revenue also relies on VIN numbers to verify registration as well as for its issuance of the Special Fuels Decal.

Q. What is the Special Fuels Decal?

A. When a Missouri taxpayer purchases a car (new or used) they are required to pay applicable taxes and apply for a title in their name within 30 days of the purchase date. This is true regardless of the type of vehicle. Owners and operators of vehicles powered by propane, electricity, plug-in hybrid electric vehicle (PHEV) or natural gas are required by law to have a Special Fuels Decal. Failure to do so can result in a $500 fine.

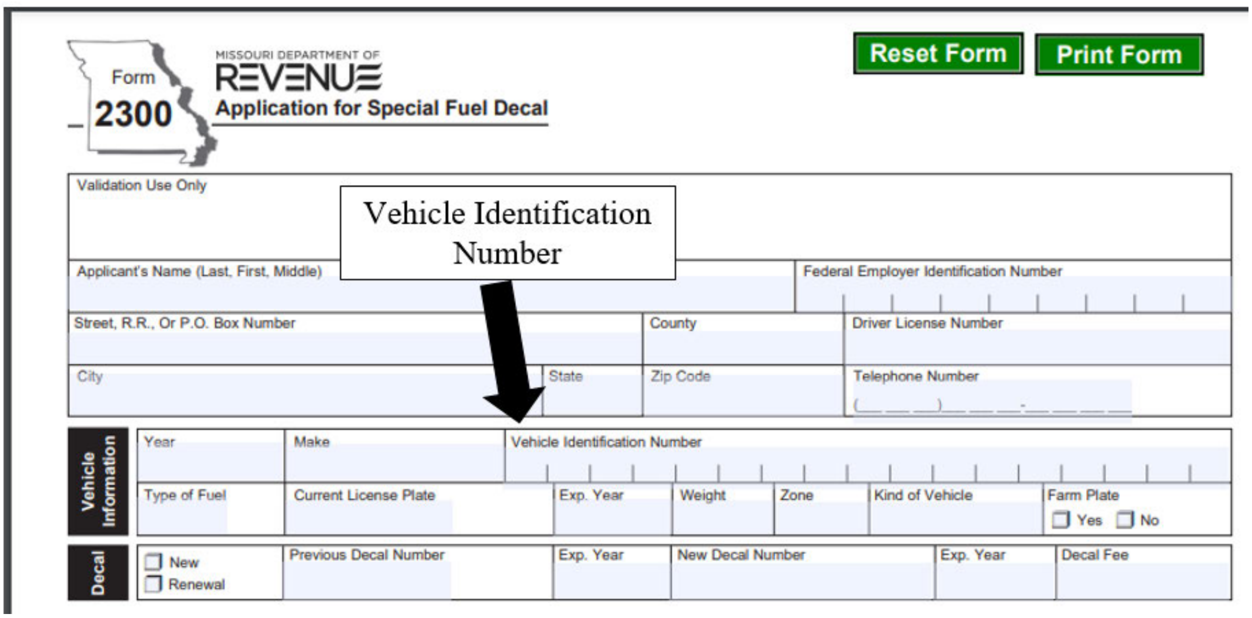
RSMo Section 142.869.9 states:

[61] UAW (2022) How do we know where our vehicles are made? https://uaw.org/standing-committees/union-label/how-to-read-your-vin/

> It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal unless the motor vehicle is exclusively fueled at propane, compressed natural gas, or liquefied natural gas fueling stations that collect the motor fuel tax.[62]

Figure 10 provides a snippet of the Special Fuels Decal that is highlighted to emphasize the requirement to list the car's VIN.

Figure 10: Example of Missouri's Special Fuels Decal Application[63]



There is nothing superior about HIS Markit data let alone worth ratepayer's expenditures as a prudent cost of service.

Q. Do you still maintain your recommendation that no other customer class should bear any costs related to this service either through base rates or through any rate adjustment mechanism such as a FAC, DSIM, or RESRAM?

A. I do.

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[62] https://www.revisor.mo.gov/main/OneSection.aspx?section=142.869&bid=49701&hl=

[63] Missouri Department of Revenue (2020) Form 2300—Application for Special Fuel Decal. https://dor mo.gov/forms/2300.pdf

Q. Do you have any further recommendations?

A. Yes, I do. I recommend that the Commission remove costs associated with HIS Marketing from the revenue requirement. Evergy can utilize open and free data from the Department of Revenue. If Evergy management wants to continue to purchase proprietary data that is available, free to the public, and duplicative in outcome it can do it with its own money. EV adoption rates are recorded by the State when a vehicle is registered and EV charging metrics should be readily available to the Company. It is not prudent for ratepayers to be paying for HIS Markit data.

VIII. UPLIGHT

Q. What was the Company's response to OPC's recommendation to disallow costs related to Uplight?

A. Evergy witness Charles A. Caisley rejected the recommendation asserting that Uplight costs are not related to MEEIA.[64]

Q. Did you file direct or rebuttal testimony on this topic?

A. I did not. OPC witness Angela Schaben is the OPC witness on this topic.

Q. Then what would I like to say regarding this cost expenditure?

A. Mrs. Schaben's surrebuttal testimony will speak to why Mr. Caisley is wrong. My contribution is to remind the Commission that MEEIA is designed to defer supply capital investments not increase it. The Company is well compensated for its demand-side management efforts. Earning a return on demand-side investment in rate base is having it both ways. The Commission should also be aware that this large capital investment is being booked solely on Evergy Missouri's customers because Evergy Kansas does not have an approved KEEIA yet. Finally, the Commission should be aware that the Company entered into a Stipulation and Agreement with stakeholders to extend its current MEEIA portfolio an additional year in 2023. One of the pertinent conditions revolves around the ratio of

[64] Rebuttal Testimony of Charles A. Caisley p. 53, 4-5.

incentive to non-incentive (administrative overhead) costs. The Stipulation and Agreement specifically states:

> 8. Program Costs. Non-incentive and incentive costs will be monitored at the Residential, Business and Income-Eligible portfolio levels, with the standard 11-step change process notifications in PY4.4 Costs will be identified in the following categories: 1) Incentives, resulting in measurable energy and demand savings; 2) Administrative, including employee salary and benefits; 3) Delivery, including contractual salary; 4) EM&V; and 5) advertising and marketing. Cost categories 2-5 collectively should not exceed more than 45% of the MEEIA Cycle 3 PY4 period cost expenditures (categories 1-5). For cost category 1 above, Staff's definition of incentives5 will be used. For the purpose of calculating the percentage of non-incentive to incentive amounts, Research & Development dollars will be excluded from the calculation. This calculation will be confirmed in the annual EM&V process after the completion of PY4. **If the Company does not meet the 45% threshold described above, an Earnings Opportunity penalty of 3% of the Total Cap identified on page 1 will be imposed, equating to $870,960**.[65] (emphasis added)

If Evergy is allowed to rate base Uplight MEEIA software it will be distorting the terms surrounding Evergy's MEEIA Program Costs earning penalty in its approved MEEIA application.

If this issue is litigated I will be available for further questions or clarification on this topic.

[65] EO-2019-0132 Non-Unanimous Stipulation and Agreement (April 29, 2022) p. 3

IX. VOLTAGE OPTIMIZATION

Q. What was the Company's response to your request for a third-party voltage optimization study?

A. Evergy witness Kayla Messamore rejected the idea on the basis of costs. Mrs. Messamore believes such a study is more appropriate in-house.

Q. What is your response?

A. I continue to maintain my position. Evergy West is short on capacity and its ratepayers are being asked to shoulder hundreds of millions of dollars for Winter Storm Uri related fuel costs. Evergy has also announced planned CAPEX investments of billions of dollars over the next five years. A robust voltage optimization study and subsequent cost-effective roll-out would help minimize risk exposure, especially for Evergy West to volatile a SPP market and represent relatively low-hanging PISA distribution investment that should result in immediate benefits for ratepayers. A third-party, voltage optimization study provides an independent, objective perspective on an issue that the Company has not prioritized to date. I see very little downside and obvious upside in such an order given the Company's current CAPEX investments and exposure in the SPP market.

X. STRANDED ASSET: SIBLEY POWER PLANT

Q. What was Evergy's response to your recommendation for disallowance of the remaining balance and return on the self-imposed stranded asset Sibley Power Plant?

A. Three Company witnesses filed testimony in response to my direct on this topic. Mr. Ives responded to my allegation that Evergy had historically attempted to "game the regulatory process" in the last rate case. Mrs. Messamore's response was entirely premised on her assertion that Evergy was prudent because Evergy's IRP supported it. Finally, Evergy consultant Larry Kennedy made a three-fold argument: 1.) That Evergy's self-imposed stranding meets the regulatory prudence standard; 2.) Nationwide trends suggest coal plants are being retired; and 3.) My argument should be dismissed out-of-hand because it is grounded solely on hindsight analysis. Finally all three witnesses claim that my position is that a utility should never retire a plant before the end of its depreciable life unless the government intervenes and tells them to, or there is categorical loss of load. I will respond to each witness in turn.

Response to Mr. Ives:

Q. What did you say in direct regarding historic "regulatory gamesmanship"?

A. There are two separate instances where I invoked that sentiment in this case. The first time I stated:

> Evergy West attempted to game the regulatory process by including its self-imposed stranded power plant (Sibley) in rates by claiming it was still operational after management retired it.[66]

And the second as follows:

> Evergy West attempted to game the retirement of Sibley by timing it around settlement of its rate case but choosing not to disclose this information to stakeholders until after Sibley was in rates.[67]

Q. What was the Company' response?

A. Evergy witness Darrin R. Ives wrote:

> No. That is a continuation of a ridiculous accusation and just another example of Dr. Marke's propensity for making inflammatory and unsupported allegations. The events leading up to EMW's decision to retire the plant are clear, well-documented, and well communicated with the Commission and interested parties.[68]

He then lists 11 bulleted point statements that he purports to support his positon that the Company clearly claimed Sibley was going to be retired. He then concludes with the following:

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[66] Direct Testimony of Geoff Marke p. 7, 6-8.
[67] Direct Testimony of Geoff Marke p. 11, 21-23.
[68] Rebuttal Testimony of Darrin R. Ives p. 12, 6-9.

> Rather than "gaming" the regulatory process as Dr. Marke asserts, the Company engaged in a deliberate, transparent and prudent planning process which it carefully communicated to the Commission and interested parties, including Staff, OPC and MECG.[69]

Q. What is your response?

A. This is a bold position to still maintain. I participated in Case No. ER-2018-0146 as well as OPC/MECG's filed complaint in Case No. EC-2019-0200. So did Mr. Ives.

Far from an inflammatory or unsupported allegation there are volumes of testimony, discovery and an entire separate complaint case filed to attest to the attempted "gaming of the regulatory process." The issue did not center on whether Sibley *was* going to be retired but *when* it was going to be retired.[70] To refresh Mr. Ives of the events and circumstances surrounding Evergy's management's actions approximately four years ago, I will cite to a portion of OPC's initial brief in Case No. EC-2019-0200 that provides an excellent summation:

> d. Retiring the Sibley Units was Extraordinary because of GMO's Resistance to Having the Retirement Reflected in Rates[71]
>
> In addition to the already sufficient grounds to see GMO's decision to retire the Sibley units as extraordinary, this Commission can also consider the unique and unusual circumstances of GMO's resistance to having its rates accurately reflect Sibley's retirement. This consideration requires a brief review of GMO's positions and actions in its prior rate case.
>
> Before GMO even filed its rate case, it considered the timing of the case related to its prior announcements that the Sibley units were to be retired. Recall that in June

[69] Rebuttal Testimony of Darrin R. Ives p. 14, 14-16.
[70] Whether it should have been retired is a separate issue to be discussed later
[71] Footnotes 72 – 88 are the referenced footnotes from the block quote cited from Case No. EC-2019-0200 Public Counsel's Initial Post-Hearing Brief.

of 2017, GMO issued a press release announcing that GMO would retire all of the Sibley units by the end of 2018.54[72] GMO then told Staff in Mid-August of 2017, that the Company would not include the "announced power plant retirements" within its proposed test year because they were to "occur after [the] June 2018 true-up cutoff."55 GMO then initiated its rate case on January 30, 2018. Due to the preannounced retirement of Sibley, OPC sought to have it excluded from GMO's cost of service calculations for ratemaking purposes. However, GMO then portrayed Sibley's retirement as an uncertainty throughout the rate case.

Despite clearly signaling to the world that Sibley was going down, first voiced in July of 2018, Mr. Ives testified in rebuttal that OPC's understanding that Sibley would be retired by the end of 2018 as a mere "assumption."[73] He notably did not couch his position as Sibley's eventual retirement being certain within 2018 but merely outside of the test year of GMO's last rate case. Instead, he described the retired event as an assumed event with no certainty as to its occurrence. Mr. Ives continued this refrain in his surrebuttal testimony in September. Then he testified that the "OPC's proposed disallowance of costs related to these plants which have not yet occurred and if they do would occur months after the end of the true-up period."[74] Once again he portrayed Sibley's retirement not as a given that parties can rely upon, but as an unknown event that could not even occur at all.

After the surrebuttal stage of the rate case, the parties entered settlement discussions. Settlements were eventually agreed to with the position that GMO retiring the Sibley units was an uncertainty, and therefore GMO's resulting rates support the operation of and return on the Sibley units.[75] The Commission then held

[72] Exhibit 24, DRI-3.
[73] Exhibit 6, Surrebuttal Testimony of Robert E. Schallenberg, EC-2019-0200 RES-S-1 (July 7, 2019).
[74] Transcript of Proceedings, Evidentiary Hearing, EC-2019-0200 p. 388 (quoting Rebuttal Testimony of Darrin R. Ives, ER-2018-0146 p. 2 (July 27, 2018)).
[75] Id. at 389 (quoting Surrebuttal Testimony of Darrin R. Ives, ER-2018-0146 p. 14-15) (emphasis added

an on-the-record presentation on October 3, 2018, for the parties to support their stipulations and agreements. GMO supported all of its prior testimony, and moved to have it admitted as evidence, at this on-the-record presentation as well.[76] This Commission then approved the stipulations and agreements setting GMO's rates on October 31, 2018, and the tariffs implementing those rates became effective on December 6, 2018.

However, GMO's internal discussions do not match its positions in the rate case. During the pendency of the rate case, Sibley unit 3 experienced a forced outage due to a mechanical failure on September 5, 2018, which caused the Sibley Station to cease generating electricity.[77] Nearly a month later Duane Anstaett, Vice President of Evergy's Generation Operations, emailed Company leadership on October 2, 2018, including Mr. Ives, to tell them:

> "This email is to let the Evergy officer team know the direction being taken following a turbine trip due to vibration on Sibley Unit 3. Following a comprehensive evaluation of options we have determined the safest and most economical solution is to cease burning coal at the station and to remove the remaining coal currently on the ground to Iatan."[78]

On that same day, Mr. Anstaett also told Mr. Ives

> "It is our intention to cease burning coal and move to decommissioning activities. Upon receipt of this email Robert Hollingsworth will contact Eric Peterson to notify SPP and will contact Randy Adams at Local 412."[79]

These emails demonstrate that less than one month after the initial filing of surrebuttal testimony by GMO arguing that the Sibley retirement may not even happen, a decision had already been made. By early October, both SPP and the local labor union were notified that Sibley's retirement was certain, but Mr. Ives'

[76] See Non-Unanimous Stipulation and Agreement, ER-2018-0146 (Sept. 19, 2018).
[77] Transcript of Proceedings, On-the-record Presentation, ER-2018-0146 p. 251.
[78] Order Approving Stipulations and Agreements, ER-2018-0146 (Oct. 31, 2018); Order Approving Tariffs, ER-2018-0146 (Nov. 26, 2018)
[79] Transcript of Proceedings, Evidentiary Hearing, EC-2019-0200 p. 377.

testimony did not reflect that reality.[80] In fact, Mr. Ives was expressly told one day prior to the on-the-record presentation that GMO was definitely going to retire the Sibley units, but did not bring this up at the presentation.65 During the rate case, the OPC did not have knowledge of these communications.

Despite ample time and opportunity to change his testimony, Mr. Ives failed to do so, maintaining his description of the Sibley retirement as an "assumption" before the Commission approved both the rate case stipulations and associated tariffs, even after being told in early October that Sibley was being effectively treated as retired.[81] Three months passed from the time of the forced outage to the completion of GMO's rate case, two months from Mr. Anstaett's emails and GMO's new rates becoming effective, and still Mr. Ives' represented to the OPC, other parties, and the Commission that Sibley's retirement was an assumption.

Even at the evidentiary hearing for this case, Mr. Ives continues to maintain that GMO was still considering options regarding Sibley but had not yet "come to a final decision" as late into the year as November 1, 2018, when the Company apprised OPC and Staff of the forced outage situation.[82] The idea that GMO was still weighing options in November is in direct conflict with the internal October emails. Mr. Ives also claims in this case that GMO "made the decision . . . on November 13 to officially retire Sibley at that time rather than make repairs and move forward" in response to Sibley's September forced outage.[83] However, the only way to grant this statement any credibility is to relent to Mr. Ives semantic game that it was not truly "officially" retired despite not generating power, SPP being told it was going down, and having the union workforce being told that Sibley's retirement is certain.

[80] Exhibit 6, RES-S-1 p 75 (emphasis added); see also Exhibit 26.
[81] Exhibit 6, RES-S-1 p 76
[82] Id.
[83] Compare id. with Transcript of Proceedings, On-the-record Presentation, ER-2018-0146.

> Bear in mind that even if GMO truly did not know that Sibley would be retired until the November 13, 2018, date, that date was still before GMO's new rates went into effect. GMO had every opportunity to proactively respond then and attempt to credit customers or at least track their contributions related to Sibley's expenses and return. Instead, GMO is now enjoying the benefits of saying nothing previously, and now returns to the position of its 2017 press release that Sibley's retirement was known. As GMO's counsel most recently told the Commission at the evidentiary hearing, "All the parties at the time of the rate case were certainly aware that the retirement of Sibley was . . . pending in 2017."[84] Except, GMO's position now ignores Mr. Ives' maintenance of "ifs" and "assumptions" when describing Sibley's retirement during the prior rate case, and how those positions resulted in GMO's customers paying for fictional plant costs.
>
> This pattern of changing positions is extraordinary. It is extraordinary to announce a plant retirement, claim that retirement is an assumption during the subsequent rate case, and then actually retire that same plant during the pending rate case. Staff witness Mr. Oligschlaeger, despite his years before the Commission, does not know of any prior instance were a generating unit was retired "immediately after the conclusion of a rate case."[85] The timing of Sibley's retirement is thus extraordinary by itself, and GMO's intransigence in representing when or if the Sibley units will be retired further compounds the unique and unusual circumstances surrounding the retirement.[86] [87]

To charge customers on the front end for a fictional plant, while hitting them on the back end for retiring of the plant without a total consideration of the fictional costs they are supporting "is gaming the regulatory process." Or, as Chairman Silvey observed:

[84] Transcript of Proceedings, Evidentiary Hearing, EC-2019-0200 p. 395-96..
[85] Id. at 378.
[86] Id. at 76.
[87] EC-2019-0200 Public Counsel's Initial Post-Hearing Brief p. 12-16

> It seems like it might be double dipping. If you're earning on a plant that's not generating electricity and then you come back and ask for decommissioning costs while you have been earning money . . . when it wasn't in operation.[88]

Response to Mrs. Messamore:

Q. Mrs. Messamore's argues that the Commission should make ratepayers pay for the remaining balance and a return on that balance because the Company's past IRP's supported retiring the plant. What is your response?

A. An IRP is not a prudence review. It is a modeling exercise with no real recourse for stakeholders. Stakeholders can voice their concerns and file memorandums, but these are merely placeholders for future rate cases. Mrs. Messamore write's her testimony as if Evergy's IRP model is irrefutable. The extraordinary costs incurred by ratepayers from failed Power Purchase Agreements is testament to the fact that this is not true. She also conveniently ignores the many filings OPC submitted in EFIS voicing our objections to the increased risk exposure Evergy's management was placing onto customers by stranding Sibley.

Q. Could you provide some examples?

A. Yes.

Case No. EO-2017-0230, July 30, 2017:

> Based on OPC's review of the annual update, the Company has met the minimum filing requirements for the plan and is in compliance with 4 CSR 240-22. ("IRP Rule"). OPC is concerned, however, with the significant degree to which GMO's preferred plan deviates from its previous Triennial filing. OPC is also apprehensive that the premature retirement of approximately 900 MW of capacity (GMO and KCPL combined) creates significant risk by not fully accounting for the highly uncertain, interdependent energy market and policy arena the revised "preferred"

[88] Transcript of Proceedings, Evidentiary Hearing, EC-2019-0200 p. 96-97

plan would operate in. More specifically, the premature forced closure of large amounts of dispatchable base load-serving generation1 in favor of unknown capacity contracts through the SPP energy market raises prudency concerns moving forward by potentially producing significant stranded costs, increased risk exposure from market volatility and future reliability concerns. **<u>To be clear, OPC's primary concern centers on the early retirement of Sibley 3's 364MW of energy in 2018 where it was previously scheduled to be retired in 2040.</u>**) The accelerated retirement dates for the other five units are a secondary concern. With this preferred plan, it seems GMO is moving from a vertically integrated electric utility to a utility that relies on the capacity and energy of other utilities. (emphasis added)

. . .

OPC's concern regarding the preferred plan and the dynamic SPP market centers on the likely reactions from other market participants from these very same price signals. **<u>In short, if GMO's IRP modeling suggests retiring significant amounts of base load generation prematurely is prudent; won't other SPP member's modeling show similar results? Under that scenario, a near-term future where excess SPP reserve margins are erased entirely appears plausible</u>**. . . . (emphasis added)

A further review of the SPP June 2017 Resource Adequacy Report also does not list any of GPE's or Westar's publically announced plant retirements. The Company cites reductions in wholesale electricity market prices and near-term capacity needs as justification for accelerated and additional base load retirement, but these assertions appear to be dependent, at least in part, on operating in a static future. [89]

[89] See GM-6.

Case No. EO-2018-0045, September 27, 2017

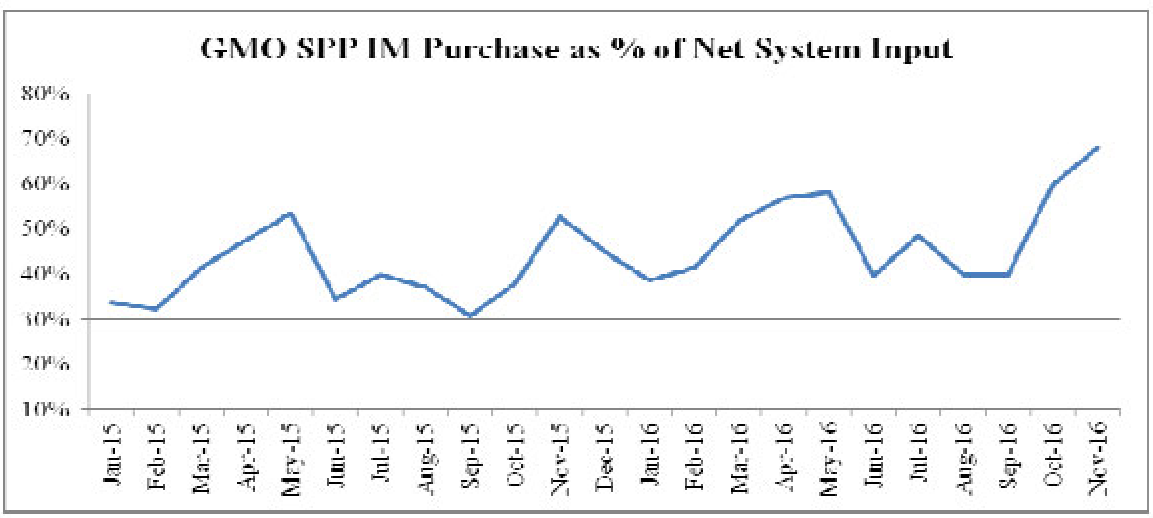
> The change to GMO's preferred plan in its most recent annual update accelerated the retirement of its largest baseload coal plant, which can be dispatched when needed, by 22 years. The new preferred plan adds wind capacity through purchased power contracts that require GMO to "take or pay" regardless of whether the energy is needed by its customers or the current SPP IM price. The plan also includes yet-to-be determined contracts for capacity which will not include any provision of energy which will increase GMO's reliance on energy from the SPP IM. Also important in this discussion is GMO's current reliance on the Southwest Power Pool ("SPP") integrated market ("IM") for energy. **<u>This reliance on market purchases of energy shifts GMO's responsibility of cost-effectively providing energy to its customers to the SPP IM.</u>** Since GMO has an FAC, GMO has little cost recovery risk from this transfer of responsibility to the SPP IM. However there is significant increase in the potential for volatility in cost to GMO's customers, and with potential retirement of base load units by other SPP members, an increase in the risk of availability during times when wind energy is not available. . . .
>
> <u>Supply-Side Management:</u> A recent presentation by SPP to the Commission in Agenda included a slide that showed that beginning in 2019, GMO did not meet SPP's Resource Adequacy Requirements. Neither the SPP representatives nor the GMO representative present could provide an explanation to Chairman Hall. The SPP Resource Adequacy study was based on GMO's 2016 preferred plan. GMO's 2016 preferred plan is contingent on unknown capacity contracts beginning in 2019.

Final Report – June 2017

Load Responsible Entity	Met Resource Adequacy Requirement					
	2017	2018	2019	2020	2021	2022
Carthage Water & Electric Plant	NO	NO	NO	NO	NO	NO
City of Malden Board of Public Works	YES	YES	YES	YES	YES	YES
City of Poplar Bluff Municipal Utilities	YES	YES	YES	YES	YES	YES
City of West Plains Board of Public Works	YES	YES	YES	YES	YES	YES
City Utilities of Springfield	YES	YES	YES	YES	YES	YES
Empire District Electric Company	YES	YES	YES	YES	YES	YES
Greater Missouri Operations Company (KCP&L)	YES	YES	NO	NO	NO	NO
Independence Power & Light	YES	YES	YES	YES	YES	YES
Kansas City Power & Light	YES	YES	YES	YES	YES	YES
Kennett Board of Public Works	YES	YES	YES	YES	YES	YES
Missouri Joint Municipal Electric Utility Commission	YES	YES	YES	YES	YES	YES
People's Electric Cooperative	YES	YES	YES	YES	YES	YES
Westar Energy	YES	YES	YES	YES	YES	YES

This Memorandum highlights why the Commission should consider GMO's premature retirements and the subsequent topic.

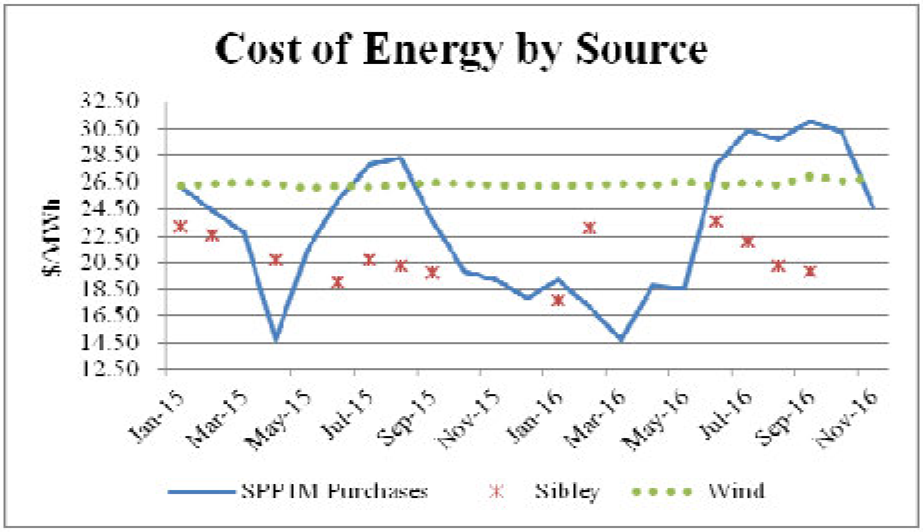
In the time period of January 2015 through November 2016, GMO has relied on the SPP Integrated Market (SPP IM) to supply 44% of its customers' energy needs. The graph below shows GMO's monthly reliance on the SPP IM for energy.



Sibley 3 currently is GMO's largest generation unit at 364 MW. It is dispatchable meaning that it can and does follow load. During the time period of January 2015 through November 2016, Sibley 3 supplied 35% of GMO's energy needs. According to GMO's response to Staff's data request 16 in the FAC prudence review case EO-2017-0232, Sibley 3 was to be retired in 2040. GMO's 2017 preferred plan provided 34 days later in EO-2017-0230, accelerated that retirement from 2040 to 2018.

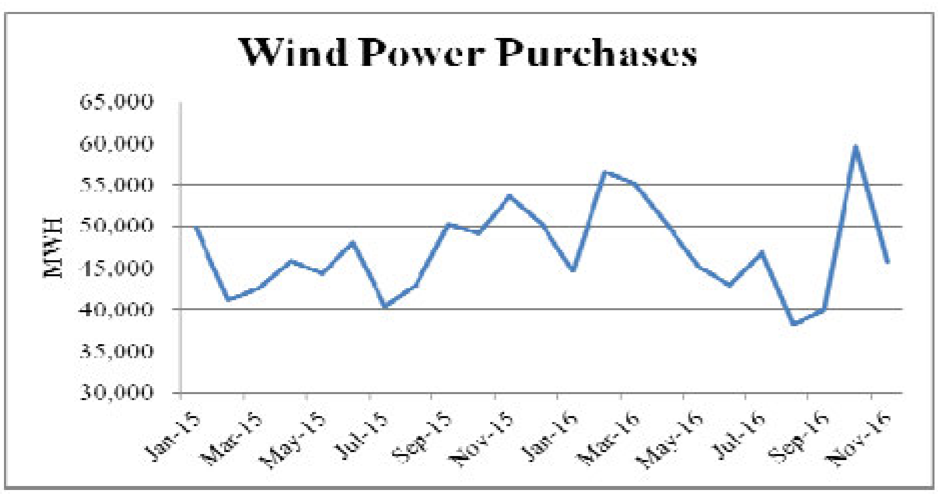
During the time period of January 2015 through November 2016, energy from GMO's current wind purchased power contracts supplied 11% of GMO's energy needs. GMO's current wind purchased power contracts require GMO to "take or pay" at a set price regardless customers' needs or the market price of energy at the time the wind is strong enough to generate energy. Wind power is intermittent and not dispatchable. While GMO does not have to take the wind energy generated, it does have to pay for what is generated. This results in GMO taking the energy and often "selling" it at a loss on the SPP IM.

The graph that follows shows the average monthly cost per megawatt-hour (MWh) GMO paid for energy purchased from the SPP IM, the cost wind energy from its purchased power contracts and the average production fuel cost per MWh of the Sibley site.



As shown by this graph, the cost of energy generated by the Sibley plants is typically lower than the price of energy purchased on the SPP IM. It also shows that the price of the "take or pay" wind contract was only lower than the cost of purchasing from the SPP IM seven out of the 23 months.

What this graph does not show is the erratic availability of wind energy. This is shown in the following graph:



> In its Resource Plan update, GMO changed its 2016 preferred resource plan to Sibley 3 (364 MW) early. Its 2017 preferred resource plan replaces this baseload, dispatchable low cost resource with capacity from wind (30 MW accredited capacity) and unknown capacity purchased power contracts to meet its SPP capacity requirements. It is GMO's current plan to replace any energy that would have been generated by Sibley 3 that is not supplied through its new wind contracts with SPP IM energy purchases. This change in the preferred resource plan will increase GMO's reliance on the SPP IM to meet its customers' energy needs.
>
> While all of these concerns are limited to GMO, SPP IM does not operate in isolation. The resource capacity decisions of all of its members affect the SPP IM prices. Other SPP members have announced that they are planning for early retirement of their coal plants and also replacing that capacity with wind. Many of these announcements were made after the June 2017 publication of the SPP Resource Adequacy report. These retirements have a yet-to-be determined impact on the SPP IM.[90]

Case No. EO-2018-0269, August 30, 2018

> OPC is again concerned with the degree in which GMO's preferred plan deviates from its previous Triennial filing and may not fully account for the highly uncertain, interdependent energy market and policy arena the revised "preferred" plan would operate in. **As such, the early forced retirement of base load generation1 raises prudency concerns moving forward by potentially producing significant stranded costs and future liabilities**. OPC has raised these concerns in GMO's currently contested rate case (Case No: ER-2018-0146) and believes that venue is the proper forum for further dialogue at this point.[91]

[90] See GM-7.
[91] See GM-8.

Additionally three rounds of testimony were filed in ER-2018-0146 by OPC witness John Robinett.[92] In Mr. Robinett's Direct Testimony he filed the following transcribed excerpted dialogue from the Commission, the Southwest Power Pool and Evergy management on resource adequacy:

Time of transcript start: 1:35:56 5

Sam Loudenslager (SPP): …Even if you've got somebody who likes like they're won't be able to meet this year's resource requirement at some point in the future I wouldn't be too concerned about it. There's plenty of time for things to get- for things to happen. For resources to be procured.

Chairman Daniel Hall: Well, could you- could you explain or give some background for KCP&L GMO in 2019, the projection is that they won't make that requirement?

Loudenslager: No. I don't know why that is frankly, but it is – I can't tell you. I don't know.

Chairman Hall: But you're not – You would anticipate them being able to meet it?

Loudenslager: Oh yeah. Yeah.

Chairman Hall: Yeah I would too. So I was a little surprised to see that. I was surprised to see that.

Loudenslager: And I think that is all I have….Oh, we will do a post-season analysis also, and this will determine whether or not there is any sort of – What would we call that thing?

Chairman Hall: You can find the name of a system report [inaudible] or a report type thing.

[92] See GM-9.

Loudenslager: Yeah. Anyway if there is some sort of assessment that is going to – financial assessment that will need to be made, that will show up. Basically, “here’s what you told us you were going to. Here’s the resources and the demand you anticipated when you submitted your workbooks to us.” We published a report in June that said “Yep. This is what everybody says.” In October I believe it is that is we will do an analysis and see okay how did everybody do? Did they meet what they said they were going to meet or not?

Unknown: I think KCP&L wants to answer your question.

Chairman Hall: Oh. Okay.

Loudenslager: Hey Denise.

Denise Buffington (Evergy): Good morning.

Chairman Hall: Morning.

Buffington: So on behalf of KCP&L and GMO I do not know why the numbers reflect we won’t meet our resource requirement in 2019, but I assure you that we have the numbers and we will meet it. Chairman Hall: *laughs*

Buffington: I don’t know what’s in that chart. I haven’t seen the numbers. But, you know, we do resource planning and submit those requirements here at the Commission on an annual basis, and we are prepared to meet those requirements.

Chairman Hall: Oh. Okay. I am not nervous about it. I’ll put it that way.

Buffington: I’m nervous about it.

Chairman Hall: Well, I was surprised with this calculation. I am not nervous about the company’s ability to meet the requirement.

Buffington: Thank you.

Loudenslager: Any other questions before I move into my last…

Chairman Hall: I guess not.

End of transcript: 1:38:59[93]

Mr. Robinett then documented how the Company's next filed SPP Resource Adequacy Report was filed on a combined Missouri basis (Metro and West) to allow it to meet SPP's resource adequacy commitment. An action that may meet a bureaucratic requirement but also masked the reality that hundreds of thousands of customers (Evergy West) were now exposed to the SPP IM. Mr. Robinett wrote:

> OPC is raising this very concern of the ability to meet the SPP resource adequacy requirements as the direct result of the retirement of the Sibley generating units by the end of 2018. Mr. Crawford ironically uses OPC's concern as an example for why KCPL and GMO should be considered consolidated in order to avoid any shortfall or penalties for failure to meet the resource adequacy requirement.[94]

To suggest that OPC was somehow silent regarding Evergy's IRP assumptions and managerial actions is categorically incorrect. OPC has gone to great lengths to file our objections in any meaningful docket we could as soon as we saw examples of managerial imprudence to specifically prevent accusations of hindsight analysis.

Q. Do you have any additional comments to make as it pertains to IRP modeling and prudency?

A. Yes. An IRP is a modeling exercise that is constantly evolving. For example, carbon pricing has yet to occur for any of our utilities, but they still continue to model scenarios with various cost assumptions (depending on the utility in question) as if various types of pricing will happen. The end result is an overstatement of "benefits" in a retirement scenario on this one metric alone. Utilities routinely change direction in preferred plans, and the only recourse for stakeholders is to document historical grievances and wait until the next filing

[93] ER-2018-0146 Direct Testimony of John A. Robinett p. 5, 4-12 thru p. 7, 10. See GM-9.
[94] ER-2018-0146 Surrebuttal Testimony of John A. Robinett p. 7, 29-33. See GM-10.

(which can be accelerated or moved back per Commission waiver—which every utility has been granted when asked for to date).

I strongly recommend that the Commission refrain from buying into this rhetorical argument. Commission affirmation that the IRP process serves as the bright line for prudency will result in an absurd outcome which utilities will exploit to no end as they effectively have absolute control over the IRP process.

Regulators and consumer advocates have neither the resources, nor responsibility to create and guarantee utility investment plans, and cannot be expected to match the deep supply of outside consultants, and resources available to utilities. This is why utility management is compensated as well as it is—to manage.

Response to Mr. Kennedy:

Q. Mr. Kennedy accuses you on multiple occasions of not employing a "traditional regulatory prudence standard" with your recommendation. What is your response?

A. This is nonsense. I was reasonable, I did raise concerns (see above) and the fact that those concerns were validated does not somehow negate my argument or suddenly make it victim of hindsight analysis. Consider the following relevant facts pertaining to the premature retirement of Sibley:

- Evergy West is the only utility in Missouri with increasing load growth
- Evergy West was prematurely retiring its largest, dispatchable, baseload power plant with 22 remaining years of useful life;
- Sibley had hundreds of millions of dollars in remaining undepreciated balance on its books due to large-scale environmental investments meant to make it both in compliance and extend its useful life.
- Evergy would not replace the loss in generation caused by the premature retirement with Company owned accredited and dispatchable capacity but instead rely on take-or-pay wind contracts and the SPP IM;

- Evergy's support for its decision relied on a modeling exercise that assumed the retirement occurred in a vacuum without consideration of the interdependent actions of other SPP market actors

Would a reasonable person given the aforementioned information question management's decision? Yes. Yes, they would.

The fact that Evergy attempted to bill customers twice by selectively playing a "is it retired or not retired" timing game in its last rate case or the fact that Evergy West customers suffered hundreds of millions of dollars in fuel costs because of risk exposure from Storm Uri are all disappointing and tragic outcomes that make this whole ordeal all the more frustrating.

Q. Should the Commission consider the prudency of a self-imposed stranded Sibley in light of hundreds of millions of dollars Evergy West customers are being asked to pay as a result of realized risk exposure from Storm Uri.

A. Managerial imprudence predates Winter Storm Uri and would exist if Winter Storm Uri had never occurred. But let's explore that question a little more.

Prudence is frequently judged in risk-management terms, as the prudence test centers on whether utility managers make good decisions based on what is "known and knowable" at the time, that is, with due diligence. Prudence is an especially pertinent regulatory standard with regard to risk and risk allocation as prudence calls for anticipating and managing risk with regard to investments and expenditures.

With that in mind, imagine Evergy wanted to take out an insurance policy against volatile SPP market fuel prices for its two Missouri affiliates. The first affiliate (Evergy West) is experiencing increased load with new, large "economic" customers but is short on capacity. It has exposure to market volatility—exactly what this insurance policy is supposed to cover. The second affiliate (Evergy Metro) is experiencing stagnant growth but is long on capacity. The risk to market volatility is comparatively much lower. Which one do you believe would receive a better deal from the agent charged with assessing risk? The answer is obviously the affiliate that is short on capacity. Any reasonable person can see that. Of course in the real world scenario Evergy ratepayers are the insurance policy. They are the ones Evergy is asking regulators to absorb all of the risk.

There is of course a legitimate argument for the Commission to disallow fuel costs related to Evergy West's inability to properly manage its resource adequacy in the securitization case *and* to disallow capital costs related to the Sibley stranded investment in this case, but I fail to see how management can be deemed to be prudent in both cases.

Q. Mr. Kennedy cites to a nationwide shift away from coal plants as justification for Evergy's actions. What is your response?

A. Not all retirements are equal. Sibley represented a wholly extraordinary retirement because its characteristics look nothing like the other retirements that have occurred to date due to its overall size, market efficiency, environmental mitigation investments, current and future load growth context and remaining book value. This point was discussed at length in my surrebuttal testimony in Case No. EC-2019-0200 which I will include here as an attachment.[95]

Q. Mr. Kennedy accuses you of employing hindsight analysis. What is your response?

A. Please refer to the testimony above in response to Mrs. Messamore. I have been vocal about our concerns and threats of managerial imprudence well before the Company stranded Sibley. This accusation is without merit.

Q. Do you have any additional comments to make on this topic?

A. I believe a cost disallowance related to self-imposed stranding of Sibley is justified under the prudence standard, the "used and useful" standard, and it is aligned with sound ratemaking underpinning the regulatory compact. I also believe the Commission has large discretion as to how much of cost-disallowance is reasonable over excess fuel costs, undepreciated capital expenses, and the profit to be earned from that expense as it explores

[95] See GM-11 p. 9-14.

the managerial conduct of Evergy issue with evidence on the record across two dockets at the moment. For approximately five years, OPC has been documenting the risk ratepayers would be exposed to and the excess costs likely to be incurred from IRP modeling exercises that failed to account for changing SPP market conditions across multiple dockets. To suggest my recommendations are dependent on hindsight analysis is patently false.

Q. All three Evergy witness accuse you of taking the position that a utility should never retire a plant before the end of its depreciable life. Is that your position?

A. No. More importantly that narrative runs counter to all of the times I supported a coal plant being retired with depreciable life still remaining. Coal plants such as Ameren Missouri's Meramec Power Station and Evergy's Montrose Power Station. Any generating asset that faces a potential situation where it may need to be retired early needs to be considered on a case-by-case basis. I did not raise the same outcry about the retirement of Meramec or Montrose, which is clearly more in line with observed power plant retirements occurring nationally. That is, coal plants that are at the end of their useful life with little to no remaining book value. Given the size, risk exposure to the market, lack of appropriate back-up planning, and cost impact to ratepayers Sibley is singularly unique.

Q. Do you have any final comments to make over your testimony?

A. Yes. In rebuttal testimony I recommended that Evergy's Market Tariff needed to be modified to reflect changes in law. I misspoke and would like to strike that testimony. There is no modification needed.

Q. Does this conclude your testimony?

A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro's Request for Authority to Implement a General Rate Increase for Electric Service	)	Case No. ER-2022-0129
In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement a General Rate Increase for Electric Service	)	Case No. ER-2022-0130

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Geoff Marke
Chief Economist

Subscribed and sworn to me this 16th day of August 2022.

NOTARY PUBLIC
NOTARY SEAL
STATE OF MISSOURI

TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121

Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.