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

In the Matter of the Application of Evergy)
Metro, Inc. d/b/a Evergy Missouri Metro)
and Evergy Missouri West, Inc. d/b/a)
Evergy Missouri West for Approval of New)
and Modified Tariffs for Service to Large)
Load Customers)

File No. EO-2025-0154

INITIAL BRIEF OF STAFF

Respectfully Submitted,

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October 29, 2025

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INITIAL BRIEF OF STAFF

COMES NOW, the Staff of the Missouri Public Service Commission (“Staff”), and
for its *Initial Brief* respectfully states as follows:

Introduction

On February 14, 2025, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) and Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“EMM”) (collectively “Evergy”) filed an application (“Application”) with the Commission for approval of a Large Load Power Service (“LLPS”) rate plan and associated tariffs pursuant to Section 393.140(11), RSMo. and 20 CSR 4240-2.060. The Application seeks a Commission order approving Evergy’s LLPS Rate Plan, including accompanying new and modified tariffs, in addition to additional or conforming tariff changes identified through the course of the proceeding.

On April 9, 2024, Governor Kehoe signed Senate Bill 4 into law. This legislation amended Section 393.130 at Section 393.130.7, RSMo., to require that each Missouri utility to have tariff provisions applicable to customers who are reasonably projected to have above an annual peak demand of one hundred megawatts or more, that “reasonably ensure such customers’ rates will reflect the customers’ representative share of the costs

incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers.”¹

Evergy, Union Electric Company d/b/a Ameren Missouri, Google LLC, Velvet Tech Services, LLC, Nucor Steel Sedalia, LLC, the Data Center Coalition, Sierra Club, and Renew Missouri Advocates d/b/a Renew Missouri (collectively “Signatories”) filed a *Non-Unanimous Stipulation and Agreement* (the “Non-Unanimous Agreement”) on September 25, 2025. On September 29, 2025, Evergy filed its *Motion for Leave to File Testimony in Support of Settlement*. Staff was not a signatory to the Non-Unanimous Agreement and filed its *Objections to the Non-Unanimous Stipulation and Agreement* on September 29, 2025, and its *Objection to Evergy Missouri Metro’s and Evergy Missouri West’s Motion for Leave to File Testimony in Support of Settlement* on September 30, 2025.

With the filing of the Non-Unanimous Agreement and the subsequent objection from Staff, the issues for the Commission to decide are as follows:

- A. Should the Commission adopt Evergy’s or Staff’s conceptual tariff, rate structure, and pricing in order to comply with Mo. Rev. Stat. Section 393.130.7?
- B. Can the Commission establish terms and conditions to exclude otherwise eligible customers from receiving EDR discounts?
- C. What should be the threshold demand load in megawatts (“MW”)/criteria for a large load power service (“LLPS”) customer to receive service under a Commission approved LLPS tariff?
 - a. To the extent the threshold captures existing customers, should a grandfathering provision for such customer be adopted?
- D. What other existing programs and riders should or should not be available to LLPS customers, if any?
- E. Should the LLPS customer bear reasonability for its interconnection and related non-FERC transmission infrastructure costs?
 - a. How should such interconnection and related non-FERC transmission infrastructure costs be accounted for or tracked, if at all?

¹ MO. REV. STAT. § 393.130.7.

- F. What minimum term of service should be required for a LLPS customer to receive service under the Commission approved LLPS tariffs?
- G. What collateral or other security requirements should be required for a LLPS customer to receive service under the Commission approved LLPS tariffs?
- H. What termination fee (exit fee) provision should a LLPS customer be subject to under the Commission approved LLPS tariffs?
- I. Should any limit be placed on Evergy concerning the amount of LLPS load that it may serve?
- J. Should the Commission approve Evergy's "Path to Power" approach?
 - a. What components of the proposed "Path to Power," if any, should be included in the Commission's approved tariff sheets?
- K. Are changes needed for the Emergency Energy Conservation Plan tariff sheet and related tariff sheets to accommodate LLPS customers?
- L. What studies should be required for customers to take service under the LLPS tariff?
- M. Should a form customer service agreement be included in the Commission approved LLPS tariffs resulting from this case?
- N. Should Evergy be required to disclose information about prospective customers?
 - a. If so, what review should the Commission have of prospective customers and terms applicable to specific customers?
 - b. In what case would such review occur?
- O. Should LLPS customers be included in the FAC?
 - a. What, if any, changes should be made to Evergy's existing FAC tariff sheet?
 - b. When/in what case should these changes be made?
 - c. What if any FAC related costs should the Commission order tracked?
- P. Should LLPS customers be registered with a separate Southwest Power Pool ("SPP") commercial pricing node or alternatively should Evergy be required to provide the Staff-recommended data (Appendix 2, Schedule 2) node?
- Q. Should LLPS customers be a subclass of Evergy's Large Power Service ("LPS") or be a stand-alone class?
- R. What treatment is needed to address revenues from LLPS customers occurring between general rate cases?
- S. Should the Commission approve the Evergy System Support Rider or take other steps to address cost impacts to non-LLPS customers?
- T. Should the proposed additional riders, be authorized by the Commission at this time
 - a. The Customer Capacity Rider?
 - b. The Demand Response & Local Generation Rider?
 - c. The Renewable Energy Program Rider?
 - d. The Green Solution Connections Rider?
 - e. The Alternative Energy Credits Rider?

- f. The Clean Energy Choice Rider?
- U. Should the Commission order a community benefits program as described in the testimony of Dr. Geoff Marke?

Section 393.140, RSMo. is captioned “General powers of commission in respect to gas, water, electricity and sewer services” and subdivision (11) provides that the Commission shall:

(11) Have power to require every gas corporation, electrical corporation, water corporation, and sewer corporation to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such gas corporation, electrical corporation, water corporation, or sewer corporation; but this subdivision shall not apply to state, municipal or federal contracts. Unless the commission otherwise orders, no change shall be made in any rate or charge, or in any form of contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed and published by a gas corporation, electrical corporation, water corporation, or sewer corporation in compliance with an order or decision of the commission, except after thirty days' notice to the commission and publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect. The commission for good cause shown may allow changes without requiring the thirty days' notice under such conditions as it may prescribe. No corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances. The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations, to carry into effect the provisions of this subdivision, as it may deem necessary, and to modify and amend such rules or regulations from time to time.²

Section 393.130.7, RSMo., states as follows:

7. Each electrical corporation providing electric service to more than two hundred fifty thousand customers shall develop and submit to the commission schedules to include in the electrical corporation's service tariff applicable to customers who are reasonably projected to have above an annual peak demand of one hundred

² MO. REV. STAT. § 393.140(11).

megawatts or more. The schedules should reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers. Each electrical corporation providing electric service to two hundred fifty thousand or fewer customers as of January 1, 2025, shall develop and submit to the commission such schedules applicable to customers who are reasonably projected to have above an annual peak demand of fifty megawatts or more. The commission may order electrical corporations to submit similar tariffs to reasonably ensure that the rates of customers who are reasonably projected to have annual peak demands below the above-referenced levels will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers.³

Based on the foregoing, the Commission has the power to require that Evergy file schedules to include in Evergy's service tariff, and these schedules should "reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers."⁴

The Commission can – and should – order a tariff filing consistent with the tariff set out in Schedule 1 to Sarah Lange's surrebuttal testimony. In the alternative, if the Commission orders a tariff to be filed on the basic terms of the Non-Unanimous Stipulation, the Commission should include conditions that: (1) require the tracking of revenues and expenses to a regulatory deferral account to be addressed in future general rate cases, (2) adopt Staff's approach with respect to the Fuel Adjustment Clause ("FAC"), and (3) do not approve the proposed riders at this time, as they can be developed and approved in separate dockets if needed.

Argument

A. The Commission should adopt Staff's conceptual tariff, rate structure, and pricing in order to comply with Mo. Rev. Stat. Section 393.130.7

³ MO. REV. STAT. § 393.130.7.

⁴ MO. REV. STAT. § 393.130.7.

In this case no tariffs are filed in the Commission's Electronic Filing and Information System ("EFIS") for the Commission to approve or reject. The Commission should order Evergy to work with the parties to finalize tariffs for EMM and EMW which reflect the general terms, rate structures, and pricing recommended by Staff, in Schedule SLKL-1. Section 393.130.7, RSMo. requires that LLPS rates be set to "reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers." This statute requires not only that LLPS customers be charged the right rates, but also that LLPS revenues make their way to prevent other customer classes from bearing the cost of serving LLPS customers. To the extent that LLPS revenue is retained between rate cases as utility profits, it does not prevent other customer classes from bearing the cost of serving LLPS customers.

The Staff-recommended approach avoids reliance on complex and highly discretionary mechanisms such as the "Cost Recovery" and "Acceleration" components of the SSR,⁵ which Evergy would bill to LLPS customers outside of the Commission's oversight, but Evergy asserts are necessary to avoid an "unreasonable subsidy," and to address the increases to cost of service caused by LLPS customer demands.⁶ The Staff-recommended approach also seeks to strike a balance in the treatment of potentially wildly diverse customers, who could range from factories to metallurgy to fertilizer

⁵ Evergy's proposed SSR was removed in the Non-Unanimous Agreement and replaced with the creation of a Cost Stabilization Rider and further seemingly supplemented by a higher Demand Charge. Ex. 106, Testimony of Kevin D. Gunn in Support of Non-Unanimous Stipulation and Agreement, page 10, lines 11-12 and page 12, lines 10-14.

⁶ Ex. 102, Direct Testimony of Jeff Martin (adopted by Jason Klindt), page 18, line 1-page 19, line 4; Ex. 201, Staff Recommendation / Rebuttal Report, page 87, lines 17-24 and page 89, line 27- page 90, line 27.

production to biofuel refineries to advanced manufacturing to data storage to generative AI, to some currently unknown technology.⁷ Historically, any Missouri utility seeking to serve a customer in excess of 25 MW (or even lower) would seek the promulgation of a special rate schedule, tailored to that customer's characteristics.⁸ Section 393.130.7, RSMo. requires that those diverse needs be met under a single new tariff.⁹

Staff's recommended charges may appear voluminous, but are, in reality, simply transparent and discrete, which will simplify future rate cases. This approach targets the main cost of service elements which will vary with additions and growth of LLPS customers.¹⁰ These charges better align cost causation with revenue responsibility, are more responsive to customer actions to manage bills,¹¹ and are easier to understand and administer than the complex Annual Billing Demand in place at EMW and the Hours Use rate structures in place at both EMW and EMM.¹²

Staff's recommended approach better reflects the representative share of costs incurred to serve LLPS customers. With respect to energy charges, Staff initially recommended time-based energy charges, for reasons including that time-based energy charges most clearly correlate revenue responsibility to cost causation, and that time-based energy charges encourage (but do not require) customers with variable loads to shift energy consumption to periods when energy costs are low, and away from periods

⁷ Transcript - Volume III (Evidentiary Hearing – Jefferson City, MO – October 1, 2025), page 106, lines 19-25, page 107, lines 1-4 and page 119, lines 3-8.

⁸ Ex. 201, Staff Recommendation / Rebuttal Report, page 32, line 1-page 33, line 16.

⁹ As discussed in Section C, below, Staff cannot recommend the result of providing a one-size-fits-all pricing structure for customers in excess of 100 MW while leaving a gap for special tariffs for customers of 25 – 99.9 MW.

¹⁰ Ex. 201, Staff Recommendation / Rebuttal Report, page 39, lines 10-12.

¹¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 49, lines 19-24.

¹² Transcript - Volume III (Evidentiary Hearing – Jefferson City, MO – October 1, 2025), page 63, lines 1-10.

when energy costs are high.¹³ In Surrebuttal, Staff refined this approach to include an option for LLPS customers to simply pay the SPP bill for the energy to serve them.¹⁴ In contrast, Evergy relies on flat energy rates of \$2.881 cents per kWh for EMW and 2.988 cents per kWh for EMM.¹⁵ Evergy's proposed rates will not adequately cover the cost of the wholesale energy purchases that will be required to serve LLPS customers, and which will be socialized to all customers through the operation of the EMM and EMW FACs. The historic day-ahead seasonal energy costs, excluding any other energy costs such as RES compliance, transmission, and ancillary services, are provided below in \$/MWh:¹⁶

	Raw Averages							
	Metro				Missouri West			
	Summer	Fall	Winter	Spring	Summer	Fall	Winter	Spring
2024	\$ 26.73	\$ 20.71	\$ 35.16	\$ 20.19	\$ 26.35	\$ 20.59	\$ 33.10	\$ 17.17
2023	\$ 34.29	\$ 24.16	\$ 21.75	\$ 21.59	\$ 35.15	\$ 24.89	\$ 22.75	\$ 21.69
2022	\$ 72.05	\$ 45.55	\$ 34.61	\$ 33.59	\$ 70.43	\$ 47.47	\$ 40.34	\$ 37.65
2021	\$ 33.56	\$ 32.60	\$ 194.60	\$ 20.14	\$ 35.23	\$ 38.50	\$ 197.63	\$ 22.91
2020	\$ 25.07	\$ 20.89	\$ 19.23	\$ 17.46	\$ 23.24	\$ 22.36	\$ 20.13	\$ 16.72
2019	\$ 22.55	\$ 21.44	\$ 23.35	\$ 24.92	\$ 22.51	\$ 21.35	\$ 23.20	\$ 25.54
2018	\$ 27.74	\$ 30.31	\$ 25.90	\$ 25.70	\$ 27.20	\$ 29.70	\$ 24.98	\$ 24.08
2017	\$ 26.46	\$ 18.81	\$ 20.57	\$ 20.41	\$ 25.66	\$ 18.88	\$ 20.53	\$ 20.16
2016	\$ 25.36	\$ 26.92	\$ 21.05	\$ 15.83	\$ 25.31	\$ 25.56	\$ 20.75	\$ 15.95

Regarding certain charges, Staff's recommended Generation demand charge balances cost-causation principles with administrative efficiency.¹⁷ EMW does not have the capacity to serve LLPS customers with its existing generation resources.¹⁸ EMM does

¹³ Ex. 201, Staff Recommendation / Rebuttal Report, page 49, lines 19-29.

¹⁴ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 23, line 10–page 27, line 4; Schedule SLKL-1, at section “Optional Agreement for Payment of Actual RTO Charges.”

¹⁵ Ex. 101, Direct Testimony of Bradley D. Lutz, Schedule BDL-1, pages 37 and 88. These amounts are unchanged in the Non-Unanimous Agreement.

¹⁶ Ex. 201, Staff Recommendation / Rebuttal Report, page 45, line 24–page 46, line 2 and page 52, lines 2-3; Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 22, line 25–page 23, line 9.

¹⁷ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 18, line 1 – page 19, line 29.

¹⁸ Ex. 201C, Staff Recommendation / Rebuttal Report, page 11, lines 1-10.

not have the capacity to serve LLPS customers with its existing generation resources.¹⁹ Staff's recommended generation rates are calculated by dividing the current generation plant balances (minus depreciation reserve) by the number of MW of current peak load for each utility. To that value are added the costs of maintaining generation (such as property taxes), but not the cost of fuel for those plants nor the cost of the labor associated with actual operation and generation of those plants.²⁰

Staff's recommended rates neither buffer this calculated rate for the cost of service of the new power plants which will need to be built to serve LLPS customers, nor artificially reduce the cost of service of existing generation with an offset allocation of the Accumulated Deferred Income Tax ("ADIT") balance of EMM or EMW.²¹ ADIT is a rate base offset that results from tax timing differences under which legacy ratepayers have effectively prepaid the taxes for utility assets relative to the utility's actual payment of taxes on those assets.²² Missouri law requires that the LLPS tariffs to be developed in this case "reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers" and it would be inconsistent with that law, general rate making policy, and patently unfair to offset the rates of large incremental customers causing incremental plant investment with the prepayment of income tax by legacy ratepayers.²³ Further, Missouri law requires that the tariffs under development in this case "prevent other customer classes' rates from

¹⁹ Ex. 201C, Staff Recommendation / Rebuttal Report, page 12, line 5-page 13, line 8.

²⁰ Ex. 201C, Staff Recommendation / Rebuttal Report, page 44, line 22-page 49, line 4.

²¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 44, lines 13-15; Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 20, line 17–page 21, line 5.

²² Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 21, lines 6-9.

²³ *Id.* at lines 9-14.

reflecting any unjust or unreasonable costs arising from service to such customers.”²⁴ Allocating away a substantial portion of the prepaid tax burden of legacy customers to discrete new customers would be inconsistent with this legislation, inconsistent with general rate making policy, and would be patently unfair.²⁵

Staff’s recommended Transmission demand charge is a clean reflection of the cost of service calculation in Evergy’s workpapers from its direct filings in recent rate cases.²⁶ It does not include an estimate of new transmission expense which will be caused by the operation, taxes, and insurance associated with yet-to-be-built transmission facilities which will be prepaid by LLPS customers, which will be recovered through the Facilities Charge.²⁷

In place of a set minimum demand level to be billed at the tariff demand rate, Staff recommended a more customer-friendly approach which better aligns revenue recovery with cost causation, encourages accurate demand forecasts to facilitate system planning, and is not punitive.²⁸ At the outset of service of an LLPS customer, the customer should provide its projection of the monthly demands for each month of its term of service. Each year, the customer is to update these projections, if applicable. Differences between the initial projection and the annual update are billed a “Demand Deviation Charge,” which is lower than the combined Demand Charges which would otherwise be applicable. A plus/minus 5% deadband is also allowed, for which no extra charge will apply. The interaction of these components is roughly equivalent to a 95% minimum demand charge

²⁴ *Id.* at lines 14-16.

²⁵ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 21, lines 16-18.

²⁶ Ex. 201, Staff Recommendation / Rebuttal Report, page 26, lines 3-9, and page 49, lines 5-18.

²⁷ Ex. 201, Staff Recommendation / Rebuttal Report, page 42, line 14-page 44, line 2.

²⁸ Ex. 201C, Staff Recommendation / Rebuttal Report, pages 28, line 1-page 29, line 13; Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

before a reduced demand rate kicks in on the difference. In real time, month to month, the actual demand is compared to the expected demand for the year under the annual update. That difference in demand is subject to a charge which is also lower than the combined demand charges which would otherwise be applicable.²⁹

With respect to discrete charges, not only do they facilitate rate case resolutions in the future, they also facilitate a simple calculation of a means to ensure that LLPS customers are paying rates in excess of the direct costs they cause, and simplify the calculation of termination charges.³⁰ Staff's recommended "Fixed Revenue Contribution" charges recognize that the other charges recommended by Staff do not include items such as PISA revenue requirement, Evergy's management, Evergy's office buildings, or any other cost of service not explicitly identified above.³¹ This level of contribution to fixed cost of service is consistent with that required from customers receiving an Economic Development Rider discount. The deferral provisions set out in the Staff tariff and Staff's recommended FAC-related treatments are necessary to give a chance to "prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers," as required by Section 393.130.7, RSMo.

Staff's work in this case represents Staff's best efforts to implement the mandate that the LLPS customers' rates reflect their representative share of the costs incurred to serve them and prevent other customers from reflecting any unjust or unreasonable costs arising from service to LLPS customers.³² However, there will be at least some times

²⁹ Ex. 201C, Staff Recommendation / Rebuttal Report, page 27, line 1-page 29, line 13; Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

³⁰ Ex. 201C, Staff Recommendation / Rebuttal Report, page 28, lines 1-31, page 39, line 1 – page 41, line 12.

³¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 44, lines 8-15, page 58, lines 11-24.

³² Ex. 201, Staff Recommendation / Rebuttal Report, page 6, line 26 -page 7, line 1.

when other customers' rates will be higher than they otherwise would be due to buildout of new, costly, capacity to eventually serve LLPS customers.³³ Investor Owned Utilities such as EMM and EMW are in the business of investing shareholder dollars for a return that is paid through regulated rates for the provision of electric service to retail customers.³⁴ From time to time, EMM and EMW build power plants to facilitate that business.³⁵ There is no requirement or check in current Missouri regulation that requires EMM or EMW to vet potential customers for the best economic, environmental, public benefit, or any other interest of the State of Missouri, its service territory, or a given community – other than this Commission.³⁶

B. The Commission can establish terms and conditions to exclude otherwise eligible customers from receiving EDR discounts

The Commission can establish terms and conditions to exclude otherwise eligible customers from receiving economic development rider (“EDR”) discounts. Section 393.1640, RSMo. sets out certain statutory economic development discounts to be implemented by electrical corporations and the Commission retains reasonable discretion in the design and application of these discounts.³⁷ EMW’s current SIL and MKT tariffs for large customers include terms that exclude customers served on those tariffs from receipt of EDR discounts.³⁸ Disallowing application of the economic development rider discounts to LLPS customers is not only consistent with existing EMW

³³ *Id.* at page 7, lines 1-3.

³⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 7, line 1-5.

³⁵ *Id.* at page 7, lines 5-6.

³⁶ *Id.* at page 7, lines 6-9.

³⁷ Ex. 201, Staff Recommendation / Rebuttal Report, page 33, lines 27-29.

³⁸ *Id.* at page 33, lines 19-26.

tariffs, it is also consistent with Ameren Missouri's requested treatment for large load customers.³⁹

If LLPS rates are set to meet the statutory requirement that LLPS are meant to "reasonably ensure such customers' rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to such customers," then it is not reasonable to immediately reduce those rates by 40%, or other customer classes' rates will necessarily reflect unjust and unreasonable costs caused by LLPS customers.⁴⁰ This is because the statutory economic development discount – once recognized in a rate case – does not reduce utility revenue. Rather, the revenue not paid by customers receiving the economic development discount is added to the revenue requirement of all other customers.⁴¹

Further complicating any potential application of the statutory economic development discount to LLPS customers is that Section 393.1640, RSMo. is also clear that the customer receiving the discount must meet variable costs and provide a contribution to fixed costs as follows:

[T]he cents-per-kilowatt-hour realization resulting from application of any discounted rates as calculated shall be higher than the electrical corporation's variable cost to serve such incremental demand and the applicable discounted rate also shall make a positive contribution to fixed costs associated with service to such incremental demand. If in a subsequent general rate proceeding the commission determines that application of a discounted rate is not adequate to cover the electrical corporation's variable cost to serve the accounts in question and provide a positive contribution to fixed costs then the commission shall increase the rate for those accounts prospectively to the extent necessary to do so.⁴²

³⁹ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 33, lines 14-16 (citing Wills Rebuttal, page 15).

⁴⁰ Ex. 201, Staff Recommendation / Rebuttal Report, page 33, line 29 – page 34, line 6.

⁴¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 89, lines 2-5.

⁴² MO. REV. STAT. § 393.1640; Ex. 201, Staff Recommendation / Rebuttal Report page 89, lines 9-18.

If the LLPS rate is set appropriately, then a customer's bill is reduced by the economic development discount, the discount would be unreasonably paid for by other customers, and then in the next case the LLPS rates would be raised to make up for the discount.⁴³ Based on the foregoing, the Commission can and should establish terms and conditions to exclude LLPS customers from receiving EDR discounts.

C. The threshold demand load in megawatts (“MW”)/criteria for a large load power service (“LLPS”) customer to receive service under a Commission approved LLPS tariff should be 25 MW

A reasonable threshold for the LLPS class is 25 MW.⁴⁴ This threshold eliminates the result where customers of 25-99.9 MW, who historically would be served under special tariffs, would require a tariff proceeding for service while larger customers would not. The 25 MW threshold is also consistent with an industry breakpoint between loads that can or cannot be served efficiently at distribution voltages,⁴⁵ and with Evergy's Path to Power interconnection process being “designed for all customers seeking service for loads expected to be 25 MW or greater.”⁴⁶ Further, SPP defines “High Impact Large Loads,” or HILLs, as “[a]ny commercial or industrial individual load facility or aggregation of load facilities at a single site connected through one or more shared points of interconnection or points of delivery that can pose reliability risks to the grid. HILLs are deemed Non-Conforming Loads. A load may be considered a HILL if the point of interconnection kV level is:

- 69kV or below and the HILL peak demand is 10MWs or greater

⁴³ Ex. 201, Staff Recommendation / Rebuttal Report page 89, lines 19-22.

⁴⁴ Ex. 201, Staff Recommendation / Rebuttal Report, pages 31, lines 1-16.

⁴⁵ Ex. 201, Staff Recommendation / Rebuttal Report page 32, lines 17-26.

⁴⁶ Ex. 550, Rebuttal Testimony of Dr. Carolyn Berry, page 16, lines 1-4.

- Greater than 69kV and the HILL peak demand is 50MWs or greater”.⁴⁷

Based on the foregoing, 25 MW should be the threshold demand load for a customer to receive service under a Commission approved LLPS tariff.

a. To the extent the threshold captures existing customers, a grandfathering provision for such customer should be adopted

A grandfathering provision should be adopted to the extent the threshold captures existing customers. Staff’s recommended tariff includes grandfathering provisions as follows:

Any customer taking service at 34 kV or greater except those served under the Large Power, Special Rate for Incremental Load Service, or Special High-Load Factor Market Rate rate schedules prior to January 1, 2026, or any customer with an expected 15-minute customer Non-Coincident Peak (NCP) of 25 kW or greater at a contiguous site (whether served through one or multiple meters) shall be subject to this Schedule LLPS. [Note, for the EMM tariff, only the Large Power rate schedule reference is applicable.]

In the event that a customer with a demand that did not exceed 25 MW prior to January 1, 2026, (1) increases its demand to 29 MW or greater, unless such customer is served on the Special Rate for Incremental Load Service or Special High-Load Factor Market Rate rate schedules, or (2) requires installation of facilities operating at transmission voltage to accommodate increases in its demand, EMM/EMW shall expeditiously work with such customer to execute a service agreement and fully comply with the provisions of this Schedule LLPS within 6 months of (1) the customer’s notice that such customer’s demand is expected to equal or exceed 29 MW or (2) EMM/EMW’s determination that transmission facilities are required.⁴⁸

D. Certain existing programs and riders should be available to LLPS customers and certain existing programs and riders should not be available to LLPS customers

LLPS customers should be required to participate in the Fuel Adjustment Clause, the Tax and License Rider, the Renewable Energy Standard Rate Adjustment Mechanism Rider (EMW only), and the Securitized Utility Tariff Rider (EMW only).⁴⁹ LLPS customers

⁴⁷ Ex. 201, Staff Recommendation / Rebuttal Report, Appendix 2 – Schedule 3, page 23.

⁴⁸ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL 1, “Applicability.”

⁴⁹ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL 1, “Other Tariff Applicability.”

should not be eligible to participate in the Underutilized Infrastructure Rider, the Economic Development Rider, the Large Power Off-Peak Rider, the Limited Large Customer Economic Development Discount Rider, the Standby Service Rider, the Voluntary Load Reduction Rider, the Curtailable Demand Rider, the Demand Side Investment Mechanism Rider, and Market Based Demand Response.⁵⁰

E. The LLPS customer should bear reasonability [sic] for its interconnection and related non-FERC transmission infrastructure costs

Yes, LLPS customers should bear responsibility for interconnection and related non-FERC transmission infrastructure costs associated with the cost of service for LLPS customers.⁵¹

a. Interconnection and related non-FERC transmission infrastructure costs should be accounted for or tracked

Evergy's facility extension provisions are tariffed at EMW Sheets R-46 – R-54 and EMM 2 Sheets 1.30-1.31. While the current language of this tariff refers to "service connection" and "distribution system extension," where a customer's interconnection to the utility system occurs at a transmission voltage, those facilities are functionally distribution and properly recorded to distribution accounts.⁵²

As noted in footnote 201 on page 110 of the Staff Recommendation:

The Uniform System of Accounts regarding "Transmission and Distribution Plant," states that "Transmission system means... ..All lines and equipment whose primary purpose is to augment, integrate or tie together the sources of power supply," and "Distribution system means... ..facilities employed between the primary source of supply (i.e., generating station, or point of receipt in the case of purchased power) and of delivery to customers, which are not includible in transmission system, as defined in paragraph A, whether or not such

⁵⁰ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL 1, "Other Tariff Applicability." This list was prepared based on EMW tariff names.

⁵¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 110, lines 7-24 and page 111, lines 1-12.

⁵² *Id.* at page 110, lines 8-12.

land, structures, and facilities are operated as part of a transmission system or as part of a distribution system.”⁵³

The tariff language in the facilities extension provisions should be clarified to include transmission-voltage equipment and modified to require full prepayment of extensions related to transmission-level interconnections. Staff has prepared a comprehensive revision of the EMW facility extension tariff to incorporate necessary changes, and recommends the same changes be made to the EMM tariffs. The EMW version of the tariff is attached to Staff’s Recommendation as Appendix 2 – Schedule 10.⁵⁴

Evergy’s proposed tariff revisions appended to Mr. Lutz’s direct testimony fail to adequately modify terms referring to distribution infrastructure to clearly include equipment that operates at transmission voltages and apply only to customers interconnecting on the proposed LLPS tariff. Also, Evergy’s proposed revisions exclude the costs associated with “network upgrades” from the responsibility of the interconnecting customer. Staff’s recommended tariff revisions address these concerns with the Facility Extension Tariffs.⁵⁵

In addition to these recommended tariff changes, Staff recommends the Commission order Evergy to create subaccounts for each set of interconnection infrastructure associated with each customer interconnecting at transmission voltage.⁵⁶

⁵³ *Id.* at page 110, Footnote 201.

⁵⁴ *Id.* at page 110, lines 13-18; *see also* Appendix 2-Schedule 10 attached to Exhibit 201.

⁵⁵ *Id.* at page 110, lines 19-24.

⁵⁶ *Id.* at page 111, lines 1-3.

Finally, EMW's provision 4.04 "Increasing Connected Load" on sheet R-28 states "If the customer's connected load is increased without prior approval by Company, then the customer shall assume full responsibility for the quality of their service and for any damage to Company's distribution facilities and metering installations. The customer shall pay for such increased service at the appropriate rate tariff. Upon request by Company, the customer shall execute a new agreement at Company's regular published rate covering the total connected load or demand as so increased." This provision should be modified to refer to "transmission, substation, or distribution facilities and metering installations," and similar changes should be made to similar EMM tariff provisions.⁵⁷

F. The minimum term of service required for a LLPS customer to receive service under the Commission approved LLPS tariffs should be 10 years, following a ramp-up period of up to 5 years

The minimum term of service for a customer qualifying for service under LLPS shall be 10 years, following a ramp-up period of up to 5 years.⁵⁸ The Non-Unanimous Agreement's statement at Paragraph 9 that "Schedule LLPS customer shall take service for a minimum term that includes up to five (5) years of an optional transitional load ramp period plus twelve (12) years (the 'Term')" appears to meet Staff's minimum term. Staff was not a signatory to the Non-Unanimous Agreement and makes no further comment regarding the same, for instance, regarding Paragraph 9 of the Non-Unanimous Stipulation's reference to Extension Term and written notice periods. Staff's silence on a topic in the Non-Unanimous Agreement is neither intended to be, nor should it be taken as, Staff's agreement or support.

⁵⁷ *Id.* at page 111, lines 4-12.

⁵⁸ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

G. Collateral or other security requirements should be required for a LLPS customer to receive service under the Commission approved LLPS tariffs as ordered by the Commission, and which should equal or exceed the indicated termination fees, and a commitment to pay or cause to be paid any applicable termination charges, as defined in the LLPS tariff

The customer agreement should provide for a pledge of collateral or other security as ordered by the Commission in this proceeding, which shall equal or exceed the indicated termination fees, and a commitment to pay or cause to be paid any applicable termination charges, as defined in the LLPS tariff.⁵⁹

Collateral or other security requirements are important in this matter because EMM or EMW will be building new power plants to serve LLPS customers, and EMM and EMW have discretion in rate case timing, including the timing of true-up cut offs. It would be reasonable to expect that if EMM or EMW receive notice that a customer will terminate service, then the respective utility will time its next case so that the customer terminates just before the true-up cutoff of the case.⁶⁰ The utility would then expect, and the Commission could order, the determinants and revenues in the case to be modified to exclude the terminating customer.⁶¹ This would result in captive ratepayers paying for the capacity that the LLPS customer will not be using, offset only by an amortization of the value of the termination fee. Stated differently, the utility would bear no risk and no financial harm from the LLPS customer's departure, while captive ratepayers pay for the capacity built to serve that LLPS customer.⁶²

Termination provisions and collateral requirements should be safeguards to mitigate the risks of overbuilt capacity in the event LLPS customers quit taking service. It

⁵⁹ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

⁶⁰ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 30, line 22 – page 31, line 3.

⁶¹ *Id.* at page 31, lines 3-5.

⁶² *Id.* at page 31, lines 5-9.

is important that these provisions work to offset future cost of service that would have otherwise been borne by LLPS customers.⁶³

H. An LLPS customer should be subject to termination provisions under the Commission approved LLPS tariffs as recommended by Staff

To meaningfully mitigate the risks of LLPS customers to the cost of service of captive ratepayers, termination provisions should be as recommended by Staff.⁶⁴ Staff's recommended tariff includes termination charges which are intended to discourage early termination and to mitigate the risks faced by EMM and EMW captive ratepayers, while also attempting to avoid a situation where a brief downtown for an LLPS customer would trigger termination charges which would force a closure.⁶⁵

As stated above with respect to collateral or other security, termination provisions are likewise important in this matter because EMM or EMW will be building new power plants to serve LLPS customers, and EMM and EMW have discretion in rate case timing, including the timing of true-up cut offs.⁶⁶ It would be reasonable to expect that if EMM or EMW receive notice that a customer will terminate, that the respective utility will time its case so that the customer actually terminates just before the true-up cutoff of the case.⁶⁷ The utility would then expect, and the Commission could order, the determinants and revenues in the case to be modified to exclude the terminating customer.⁶⁸ This would result in captive ratepayers paying for the capacity that the LLPS customer will not be using, offset only by an amortization of the value of the termination fee. Stated differently,

⁶³ Ex. 201, Staff Recommendation / Rebuttal Report, page 77, lines 3-6.

⁶⁴ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, pages 29-30, Schedule SLKL-1, "Early Termination."

⁶⁵ Ex. 201, Staff Recommendation / Rebuttal Report, page 68, lines 4-7.

⁶⁶ Ex. 201, Staff Recommendation / Rebuttal Report, page 30, lines 22-23.

⁶⁷ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 30, line 22 – page 31, line 3.

⁶⁸ *Id.* at page 31, lines 3-5.

the utility would bear no risk and no financial harm from the LLPS customer's departure, while captive ratepayers pay for the capacity built to serve that LLPS customer.⁶⁹ Further, the Service Agreements with LLPS customers should include terms to address explicit transfer of capacity from one LLPS customer to another to offset or avoid termination charges.⁷⁰

The termination provisions and collateral security requirements should be safeguards to mitigate the risks of overbuilt capacity in the event LLPS customers quit taking service. It is important that these provisions work to offset future cost of service that would have otherwise been borne by LLPS customers.⁷¹ The Commission should adopt Staff's recommended termination provisions; in the alternative, if the Evergy language is relied upon, the Commission should make conditions modifying that language 1. To apply triggering of the charges to a flat floor of 10 MW as well as to the included term of 10%, and 2. To allow for explicit transfer of capacity among LLPS customers that would allow for waiver of termination provisions for charge elements other than those related to local facilities.⁷²

I. A limit of 33% of the annual Missouri jurisdictional load of the respective utility should be placed on Evergy concerning the amount of LLPS load that it may serve

A limit should be placed on Evergy concerning the amount of LLPS load that it may serve. The Commission should include restrictions on the overall quantity of load to be comprised of LLPS customers, which should be 33% of the annual Missouri jurisdictional load of the respective utility, and require utility responsibility for resource adequacy and

⁶⁹ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 31, lines 5-9.

⁷⁰ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

⁷¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 77, lines 3-6.

⁷² Ex. 201, Staff Recommendation / Rebuttal Report, page 77, lines 7-14.

the consequences of the failure to meet resource adequacy requirements.⁷³ More specifically, “[p]rior to execution of a Service Agreement with a prospective LLPS customer, EMM/EMW shall ensure that it has adequate capacity available for resource adequacy calculations to serve all existing customers and the prospective LLPS customer. In the event EMM/EMW executes a Service Agreement without adequate capacity, EMM/EMW’s existing customers shall be held harmless from any SPP or other RTO capacity charges and held harmless from any penalties assessed by any entity related to those capacity shortfalls.”⁷⁴

J. The Commission should approve Evergy’s “Path to Power” approach with the modifications as proposed by Staff.

The Commission should approve Evergy’s “Path to Power” approach with the modifications as proposed by Staff.⁷⁵

a. The Commission should order Evergy to make certain changes in compliance tariffs

Staff recommends the Commission order EMM and EMW to make the following changes in compliance tariffs to their rules and regulations regarding service to loads greater than 25 MW:

- Include expected duration for each phase.
- Include deliverables from Evergy to customer for each applicable phase, such as indicative cost estimates.
- Include the title of all required agreements.

⁷³ Ex. 201, Staff Recommendation / Rebuttal Report, page 69, lines 2-4; Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, Schedule SLKL-1.

⁷⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 69, line 5, “Other Terms (continued).”

⁷⁵ Ex. 201, Staff Recommendation / Rebuttal Report page 115, lines 11-26; *see also* Appendix 2-Schedule 11 attached to Exhibit 201.

- Remove reference to Company's "sole discretion" regarding deposit applicability and managing projects in the queue.
- Prohibit Evergy from being the entity providing certification to its potential large load customers that the absence of a deposit and expedited timing are critical to the state winning the project.
- Modify language regarding the website and require Evergy to maintain on its website a list of accredited state or regional economic development organizations who may certify the criticality of timing and deposit waiver for a specific customer project.⁷⁶

Evergy intends to group large load projects in batches of four projects at a time across jurisdictions. Additionally, Evergy intends to prioritize community interest projects in its queue and waive the initial deposit requirement in certain circumstances. Community interest projects are part of a competitive search in which Evergy is competing against at least one other location, the customer reasonably demonstrates that the project will employ 250 permanent, full-time employees, and an accredited state or regional economic development organization certifies that the absence of a deposit and expedited timing are critical to the state winning the project.⁷⁷

However, certain necessary information regarding the process is not contained in the exemplar tariffs. Importantly, Evergy fails to provide within its proposed tariff the expected duration of any of the steps or the entire process. Several agreements are noted as typically needed in Mr. Martin's direct testimony (Interconnection Agreement, Right-of-

⁷⁶ *Ibid.*

⁷⁷ *Id.* at page 113, lines 28-32 and page 114, lines 1-2.

Way Agreement, and Facilities Extension Agreement) but are not referenced in the exemplar tariff attached to Mr. Lutz's direct testimony.⁷⁸

As further noted in the Staff Recommendation / Rebuttal Report, Evergy included in the tariff that, in regard to the community interest projects, deposit applicability and managing projects in the queue are subject to Evergy's "sole discretion." As tariffs are binding on the Commission as well as the utility and its customers, the proposed language is unnecessarily vague. Staff expects Evergy to manage its queue and determine deposit applicability in line with the guardrails established by the Commission in this case; however, if an issue arises, the tariff should not, directly or indirectly, prohibit applicants, customers, or other parties from bringing formal complaints or making prudence recommendations to the Commission. In other words, the tariffs of EMM and EMW should obligate each to manage the queue reasonably, appropriately, and in a non-discriminatory manner; and nothing in the tariff should directly or indirectly prohibit the Commission from the appropriate review of EMM and EMW's queue management and processing.⁷⁹

One of the guardrails Evergy is requesting to put in place regarding selection of community interest projects is project certification from an accredited state or regional economic development organization. Evergy itself is an accredited economic development organization and the only one listed in the Kansas City, Missouri, area. Evergy contemplates requiring membership in the International Economic Development Council rather than being accredited by the International Economic Development Council.⁸⁰

⁷⁸ *Id.* at page 114, lines 4-6.

⁷⁹ *Id.* at page 114, lines 9-19.

⁸⁰ *Id.* at page 114, lines 20-25.

Evergy intends to include additional details regarding “queue process and submission” on its website that will be updated from time to time. The language is unclear and any changes to major process and submission requirements should be made through tariff filings with the Commission.⁸¹

Staff also notes that SPP is seeking approval of Revision Request 696 – Integrate and Operate High Impact Large Loads from its board and the FERC. Revision Request 696 includes several elements related to the process of interconnection and study.⁸² Staff further recommends the Commission order Evergy to return with additional modifications to its tariffs to align timing of any applicable SPP studies if SPP’s Revision Request 696 receives FERC approval.⁸³

K. Changes are needed for the Emergency Energy Conservation Plan tariff sheet and related tariff sheets to accommodate LLPS customers

Staff recommends the Emergency Energy Conservation Plan tariff sheets indicate that customers taking service under Schedule LLPS may be interrupted during grid emergencies under the same circumstances as any other customer.⁸⁴

The North American Electric Reliability Corporation (NERC) established a Large Load Task Force (LLTF). The purpose of the LLTF is to “better understand the reliability impact(s) of emerging large loads... and their impact on the bulk power system”.⁸⁵

As the Commission is aware, there are many challenges that the electric industry is facing. As NERC notes:

⁸¹ *Id.* at page 115, lines 1-4.

⁸² *Id.* at page 115, lines 5-8.

⁸³ *Id.* at page 115, lines 29-31.

⁸⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 112, lines 18-22.

⁸⁵ *Id.* at page 111, lines 15-17.

Integrating emerging large loads onto the grid poses several challenges including accurately forecasting future demand, ensuring that transmission and generation capacity keeps pace with this demand, and managing rapid fluctuations in consumption during all conditions – both fault and normal – which can destabilize the grid.⁸⁶

NERC’s work plan includes several forthcoming whitepapers. One will address the unique risks of large loads, and the second will assess whether existing “Reliability Standards can adequately capture and mitigate reliability impact(s) of large loads interconnected to the BPS [Bulk Power System].” Additionally, the task force plans to develop a reliability guideline identifying potential risk mitigations, which is expected to be completed in the second quarter of 2026.⁸⁷

Regionally, SPP is seeking approval of Revision Request 696 – Integrate and Operate High Impact Large Loads from its board and FERC. Similarly, to NERC, SPP notes:

Without proper evaluation, planning and safeguards, haphazard interconnection of large loads could lead to reliability challenges, generation shortfalls and potentially more adverse impacts to the regional electric grid.⁸⁸

Revision Request 696 includes several elements related to the process of interconnection and study that could affect Evergy’s proposed “Path to Power”. Additionally, it creates a path for conditional service through a proposed solution referred to as Conditional High Impact Large Load (“CHILL”), “with the trade-off of potential temporary curtailments, in exchange for quick and thorough study results that allow them to integrate and operate as quickly as possible.”⁸⁹

⁸⁶ *Id.* at page lines 18-23.

⁸⁷ *Id.* at page lines 24-28.

⁸⁸ *Id.* at page 112, lines 1-6.

⁸⁹ *Id.* at page lines 7-11.

L. Studies should be required for customers to take service under the LLPS tariff

Evergy should conduct studies as contemplated by its proposed “Path to Power” approach, including any requirements under its Transmission Facility Interconnection Requirements.⁹⁰ Staff recommends the Commission order parties to collaborate on an annual reporting requirement for Evergy to report to the Commission and the public on its large load customers.⁹¹

Additionally, Staff recognizes that OPC witness Dr. Geoff Marke’s concern stems from the same overall public policy observation that Staff made in its Recommendation Report, “that resources such as land are finite, and that resources such as electric capacity are temporally finite. Staff also must note that generation capacity is expensive, cannot be instantaneously built, is subject to extensive federal and environmental regulation, increases cost of service for decades, and causes its own risks to captive ratepayers.”⁹²

Ameren Missouri recommended a process by which the Commission would approve each customer service agreement under its large load tariff. Staff provided its rebuttal report regarding Ameren Missouri’s large load tariff case in Case No. ET-2025-0184; however, Staff recommends elements of Ameren Missouri’s proposal, such as inclusion of a form service agreement in the tariff coupled with Commission approval, be applicable to any electric utility serving large loads as defined in Section 393.130.7, RSMo.⁹³

⁹⁰ Ex. 205, Corrected Surrebuttal Claire M. Eubanks, P.E., page 5, lines 4-7.

⁹¹ Ex. 205, Corrected Surrebuttal Claire M. Eubanks, P.E., page 3, lines 3-5.

⁹² Ex. 201, Staff Recommendation / Rebuttal Report, page 6, lines 14-19.

⁹³ Ex. 205, Corrected Surrebuttal Claire M. Eubanks, P.E., page 3, lines 11-17.

Regarding any pre- and post-constructing reporting regarding Power Usage Effectiveness (PUE), Water Usage Effectiveness (WUE), and Total Harmonic Distortion (THD), Staff recommends that appropriate technical standards or guidance be referenced.⁹⁴

M. A form customer service agreement should be included in the Commission approved LLPS tariffs resulting from this case

A form customer service agreement should be included in the Commission approved LLPS tariffs resulting from this case. Staff recommends elements of Ameren Missouri's proposal, such as inclusion of a form service agreement in the tariff coupled with Commission approval, be applicable to any electric utility service large loads as defined in Section 393.130.7, RSMo.⁹⁵ Specifically, Ameren Missouri proposed inclusion of a form service agreement into its large load tariff and a process by which the Commission would review and approve each service agreement. Staff recommends the Commission include in its order in this case:

1. A process for review of a new LLPS customer prior to Evergy constructing interconnection facilities for that customer; making upstream transmission investments to facilitate service to that customer; or building or acquiring power plants, or energy contracts, or capacity contracts to serve that customer.
2. Minimum filing requirements for the direct testimony of Evergy in a proceeding seeking authorization to serve a new LLPS customer, and
3. A commitment from the Commission to prioritize such proceedings to the extent possible.⁹⁶

⁹⁴ *Id.* at page, lines 12-14.

⁹⁵ Ex. 205, Corrected Surrebuttal testimony of Claire M. Eubanks, P.E., page 3, lines 14-16.

⁹⁶ Ex. 205, Corrected Surrebuttal testimony of Claire M. Eubanks, P.E. page 5, line 20 and page 6, lines 1-

For the minimum filing requirements in proceedings to authorize service of a new LLPS customer, Evergy should file the following information under affidavit, and simultaneously file in the EFIS docket fully operable supporting workpapers describing:

1. The interconnection facilities to serve the LLPS customer, including:
 - a. a projection of the cost of removing the facilities at the end of the contract term,
 - b. a projection of property tax and insurance expense, each year, associated with the facilities for the projected life of the facilities, and
 - c. a projection of operation and maintenance expenses, each year, associated with the facilities for the projected life of the facilities.
2. All information required under the Service Agreement included in Staff's recommended tariff. At a high level this includes projected demands and energy requirements for the full term of service, information related to financial assurances, and information related to day-to-day load management.
3. An updated capacity forecast without the new LLPS customer.
4. An updated capacity forecast with the new LLPS customer.⁹⁷

In addition to fully operable supporting workpapers, Evergy should file supporting documentation including:

1. Evidence that site control by the proposed customer is established, including local zoning approval as applicable.

10.

⁹⁷ Ex. 205, Corrected Surrebuttal testimony of Claire M. Eubanks, P.E. page 6, lines 23-25 and page 7, lines 1 – 14.

2. The boundary of Evergy's facilities serving the customer in a format supported by the State's geographic information system (GIS) software.
3. Documentation of customer consultation with other utility providers (i.e. water, sewer, gas) that will provide service to the proposed customer whether regulated by the Commission or not.
4. Evidence that Evergy completed all internal engineering studies supporting the interconnection.
5. Proposed annual reporting requirements for Evergy to report to the Commission and the public on the proposed customer.⁹⁸

N. Evergy should be required to confidentially disclose information about prospective large load customers for Commission review

Staff recommends that the Commission require all Missouri-regulated electric utilities to provide the Commission with "actual potential customer lists" identifying who these customers are and their anticipated loads. Additionally, Staff recommends that these utilities be required to provide details to the Commission regarding how these utilities will facilitate the potential new loads anticipated by these customers.⁹⁹ The transparency provided by these recommended requirements is important to upholding the legislative requirement that applicable Missouri-regulated utilities, like Evergy, develop and submit schedules which reasonably ensure that large load utility customers pay for the costs they cause and "prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to" large load customers.¹⁰⁰

⁹⁸ Ex. 205, Corrected Surrebuttal testimony of Claire M. Eubanks, P.E. page 7, lines 16 – 28.

⁹⁹ Ex. 200, James Busch Rebuttal Testimony, page 13, lines 10-13.

¹⁰⁰ MO. Rev. STAT. § 393.130.7.

It is imperative that the Commission be provided with this information. If the Commission were to require this information, it would have the ability to do the following before approving construction and upgrades:¹⁰¹

1). Verify that the utility's claims regarding their potential customers are correct. This is especially important in the wake of the changes in the IRP process brought about by the passage of Senate Bill 4.¹⁰²

2). Verify that "multiple Missouri utilities are not counting the same potential customer."¹⁰³ This scenario is especially applicable to Missouri. It is not inconceivable that large load customers may be negotiating with more than one utility that is regulated by this Commission. If this Commission adopts Staff's recommended requirements regarding customer lists, it will lessen the likelihood that this Commission grants more than one utility "permission to... build new generation facilities to meet the load of a customer who is only going to choose one location."¹⁰⁴

3). Review a potential large load customer's overall load characteristics. Large load customers have diverse load needs in order to ensure that their businesses run successfully. Some need load for continuous operations (for example, computer servers like data centers) while other large load customers' load needs are weather sensitive. Loads that are weather sensitive cause: 1). load factors that are lower overall, and 2). seasonal capacity requirement swings that are significant.¹⁰⁵ If the Commission were to adopt this requirement, it would empower the Commission to determine whether

¹⁰¹ Ex. 200, James Busch Rebuttal Testimony, page 13, lines 14-16.

¹⁰² Ex. 200, James Busch Rebuttal Testimony, page 14, lines 1-4.

¹⁰³ Ex. 200, James Busch Rebuttal Testimony, page 14, lines 6-7.

¹⁰⁴ Ex. 200, James Busch Rebuttal Testimony, page 14, lines 7-11.

¹⁰⁵ Ex. 200, James Busch Rebuttal Testimony, page 14, lines 14-18.

or not facilities proposed in the future “meet actual capacity requirements that the utility will experience.”¹⁰⁶

Moreover, the Commission would benefit from this information because “[t]he magnitude, location, and timing of energy usage impacts fuel and purchased power costs as well as the planning of transmission and distribution facilities.”¹⁰⁷

Staff has no interest in treating Missouri electric utilities unfairly or in a manner which does not respect the privacy of these utility companies. Staff has expressly stated that these customer lists, the anticipated loads for these customers, and plans for meeting these new loads “should be filed confidentially to make sure that the information is not released to the public.”¹⁰⁸

O. Staff has adopted a thoughtful approach to determine in which circumstances LLPS customers should be included in the Fuel Adjustment Clause (“FAC”)

Under Staff’s proposal regarding LLPS customer inclusion into the FAC, if an LLPS customer opts into an Optional Agreement for Payment of Actual RTO Charges (“Optional Agreement”),¹⁰⁹ this LLPS customer’s wholesale energy market transactions for the energy, transmission, and ancillary services would be excluded from the FAC.^{110, 111}

Excluding LLPS customer load from the FAC is reasonable because Evergy Missouri Metro (“EMM”) and Evergy Missouri West (“EMW”) will receive “the exact

¹⁰⁶ Ex. 200, James Busch Rebuttal Testimony, page 15, lines 1-2.

¹⁰⁷ Ex. 200, James Busch Rebuttal Testimony, page 14, lines 12-13.

¹⁰⁸ Ex. 200, James Busch Rebuttal Testimony, page 13, lines 10-14.

¹⁰⁹ The Staff-proposed Optional Agreement for Payment of Actual RTO Charges is located in Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, Schedule 1, page 3.

¹¹⁰ Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 23, lines 16-19, page 24, lines 8-12.

¹¹¹ RTO is an acronym which stands for Regional Transmission Organization.

revenue from LLPS customers to cover the day-ahead, realtime, and ancillary expenses of serving those customers.”¹¹²

a. Language should be added to Evergy’s existing FAC tariff sheet in order to prevent over and under recovery by Evergy

As stated in Staff’s Recommendation, “[w]hen a new LLPS customer comes onto the system it will begin paying for every kWh of energy it consumes.” At the same time, “EMM and EMW will reflect additional energy cost in the respective utility’s FAC.”¹¹³ These two things together will result in double recovery from said LLPS customers.¹¹⁴ On the other hand, the reverse could happen “if an LLPS customer leaves the system and reduces Evergy’s load after that customer has been recognized in base rates and the FAC base factor.” If this occurs, then Evergy would not incur that LLPS customer’s wholesale energy and transmission expense.¹¹⁵ Staff recommends adding an adjustment to Evergy’s existing FAC tariff sheet to solve both of the problems mentioned above. Similar mechanisms, like the “N Factor” have been added to the “Ameren Missouri FAC associated with its service to Noranda.”¹¹⁶ It is important to note that the changes to the FAC tariff sheets proposed in this section would only apply to LLPS customers that do not enter into an Optional Agreement.¹¹⁷

b. The above-proposed changes should not be made until the next general rate case

¹¹² Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 24, lines 8-11.

¹¹³ Ex. 201C, Staff Recommendation / Rebuttal Report, page 64, lines 11-12 and 16-17.

¹¹⁴ Ex. 201C, Staff Recommendation / Rebuttal Report, page 65, lines 10-12.

¹¹⁵ Ex. 201C, Staff Recommendation / Rebuttal Report, page 65, lines 18-21.

¹¹⁶ Ex. 201C, Staff Recommendation / Rebuttal Report, page 64, line 11 to page 65, line 16 and page 66.

¹¹⁷ Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 24, lines 11-12.

Generally speaking, changes cannot be made to FAC tariff sheets unless these are made within a general rate case. As such, the changes Staff recommends above will not be incorporated into the FAC tariff sheet until Evergy's next general rate case(s).¹¹⁸

c. What if any FAC related costs should the Commission order tracked?

In order to account for changes taking place before the next rate case(s), Staff recommends that the LLPS adjustments be tracked as “a regulatory asset or liability until the next rate case(s).”¹¹⁹

P. LLPS customers should be registered with a separate Southwest Power Pool (“SPP”) commercial pricing node or alternatively Evergy should be required to provide the Staff-recommended data (Appendix 2, Schedule 2) node

Staff recommends that the Commission order in this case includes a condition that LLPS customers will be served via a separate commercial pricing node and that Evergy develop subaccounts that would allow for simple and concise tracking of many of the SPP costs directly associated with each customer.¹²⁰

Absent this treatment, it is difficult to isolate the expenses caused by LLPS customers that would otherwise be flowed through the FAC and which may cause unreasonable impacts on captive ratepayers.¹²¹

In the absence of separate commercial pricing nodes for each LLPS customer, Staff recommends that the Commission order each of the conditions included in Appendix 2 – Schedule 2 attached to the Staff Recommendation. The conditions included in Appendix 2 – Schedule 2 are not a perfect solution for identifying the costs associated with the LLPS customers, will not allow for full cost causation transparency, and will create

¹¹⁸ Ex. 201C, Staff Recommendation / Rebuttal Report, page 66, lines 3-5.

¹¹⁹ Ex. 201C, Staff Recommendation / Rebuttal Report, page 66, lines 6-7.

¹²⁰ Ex. 201, Staff Recommendation / Rebuttal Report, page 22, lines 21-24.

¹²¹ *Id.*, at page 22, lines 14-16.

additional work processes for Staff and other parties. However, absent separate commercial pricing nodes, the information provided would provide an improvement over Evergy's current documentation processes.¹²²

It is imperative that Evergy conducts due diligence when forecasting the loads of customers this large and avoids cross-subsidization from non-LLPS customers by combining the overall load forecast. Doing so is opaque and leads to added complication for identifying costs directly associated with what will be Evergy's largest retail customers. Pairing Evergy's stated intent to ensure that the LLPS customers are not subsidized by other ratepayers with a request to serve the LLPS customers via a separate SPP commercial pricing node is a logical conclusion.¹²³

Q. LLPS customers should be a stand-alone class rather than a subclass of Evergy's Large Power Service ("LPS")

Historically, any Missouri utility seeking to serve a customer in excess of 25 MW (or even lower) would seek the promulgation of a special rate schedule, tailored to that customer's characteristics.¹²⁴ Schedules SIL and MKT are currently effective EMW tariffs that exist outside of the LPS class. Staff is unaware of any advantage to including the LLPS customer class as a subclass of the Large Power Service rate schedule.¹²⁵ Staff recommends the rates for LLPS customers be set out as a separate rate schedule, and studied and set separately in future rate cases.¹²⁶ However, Staff also acknowledges an idea that merits consideration, as presented by Google witness Dr. Berry – that is –

¹²² *Id.* at page 22, line 25 to page 23, line 2.

¹²³ *Id.* at page 25, lines 16-22.

¹²⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 32, line 2- page 33, line 7.

¹²⁵ Ex. 201, Staff Recommendation / Rebuttal Report, page 78, lines 8-9.

¹²⁶ *Id.* at page 78, lines 9-10.

LPS rates are not the destination, but a waypoint.¹²⁷ Staff's recommended rate structure and rate design matches the sophistication of LLPS customers to the complexity of the cost of service these customers cause.¹²⁸ Staff's recommended revenue treatment captures the revenue provided by these customers prior to recognition in a rate case as a tool to offset the long-term increases to the overall utility cost of service, both to work towards compliance with Section 393.130.7, RSMo., and also to reduce the significant long-term stranded asset risk that is introduced to captive rate payers by utility pursuit of very large customers.¹²⁹ However, if the Commission does not adopt this revenue retention approach, in the alternative it could be reasonable to use the existing LPS rate schedule rates for service of LLPS customers until a rate case occurs to recognize these customers.¹³⁰ This is not Staff's recommendation, but it is an acknowledgement that it is extraordinarily difficult to design reasonable rates for unknown customers with unknown characteristics, outside of a rate case with a fully developed cost of service calculation.¹³¹

R. Treatment to mitigate double recovery is needed to address revenues from LLPS customers occurring between general rate cases

Depending on the actual size of the LLPS customer and the wholesale cost of energy in the future, EMM and EMW will recover substantial portions of the LLPS customer's cost of energy through the FAC, and fully recover that cost of energy through LLPS rates.¹³² Further, due to the inherent lag between when an LLPS customer begins paying its bills, and when that revenue is recognized in a rate case, EMM and EMW will

¹²⁷ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 28, line 15 – page 29, line 1.

¹²⁸ *Id.* at page 29, lines 1-3.

¹²⁹ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 29, lines 3-7.

¹³⁰ *Id.* at page 29, lines 7-10.

¹³¹ *Id.* at page 29, lines 10-13.

¹³² Ex. 201, Staff Recommendation / Rebuttal Report, page 65, lines 10-12.

experience positive regulatory lag.¹³³ This lag is different than ordinary positive lag associated with customer growth for the following reasons:

1. Scale,
2. Lack of offsetting revenue requirement increases,
3. The statutory requirement that LLPS customers rates will reflect the customers' representative share of the costs incurred to serve the customers and prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to LLPS customers cannot be effectuated until those revenues are realized in a rate case to the benefit of other customers, and
4. While Staff does not recommend approval of Evergy's requested riders, revenues under those riders compound these problems.¹³⁴

To mitigate this double recovery, Staff recommends deferral of the revenue from many LLPS charges. A table identifying the Staff's recommended revenue deferrals for the Commission to order in this case is provided below:¹³⁵

¹³³ Ex. 201, Staff Recommendation / Rebuttal Report, page 61, lines 6-7.

¹³⁴ *Id.* at page 61, lines 8-19.

¹³⁵ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 27, lines 15-16.

Charge	EMM Rates	EMW Rates	Determinant	Revenues Deferred Until Recognized in Rate Case - To be Ordered in this Case	Ongoing Revenue Deferral - To be Reflected in Tariff	Include in Revenue Contribution?	Include in Termination?
Customer Charge	\$10,000	\$10,000	\$/Customer			Variable	
Facilities Charge	\$ 0.0107	\$ 0.0065	\$/ of Assets			Variable	Yes
Demand Charge 1 - Charge for Generation Capacity Cost of Service	\$ 17.55	\$ 8.16	\$/kW during demand window	Yes	Yes	Stable	Yes
Demand Charge 2 - Charge for Transmission Capacity Cost of Service	\$ 3.00	\$ 5.81	\$/kW during demand window	Yes		Stable	Yes
Energy Charge	\$ 0.055	\$ 0.053	\$/kWh				
<i>Alternative to Energy Charge</i>	Execution of an Optional Agreement for Payment of Actual RTO Charges			Yes	Not if excluded from FAC	Variable	Yes
RES compliance charge	\$ 0.00033	\$ 0.00040	\$/kWh		Yes	Variable	
Variable Fixed Revenue Contribution	24.77%	24.77%	Percent of other charges	Yes	Yes		Yes
Stable Fixed Revenue Contribution	24.77%	24.77%	Percent of other charges	Yes	Yes		Yes
Demand Deviation Charge	\$8.9177	\$8.9177	\$/kW of deviation	Yes	Yes		
Imbalance Charge	\$8.9177	\$8.9177	\$/kW of deviation	Yes	Yes		
EDI Responsibility Charge	\$ -	\$ -	\$/kWh				
Capacity Shortfall Rate, if applicable	TBD	TBD	\$/kW	Yes, if Applicable			
Capacity Cost Sufficiency Rider, if applicable	TBD	TBD	\$/Month	Yes, if Applicable			
Reactive Demand Charge	\$ 0.99294	\$ 0.46000	\$/kVar				

Staff's recommended revenue treatment captures the revenue provided by these customers prior to recognition in a rate case as a tool to offset the long-term increases to the overall utility cost of service, both to work towards compliance with Section 393.130.7, RSMo., and also to reduce the significant long-term stranded asset risk that is introduced to captive rate payers by utility pursuit of very large customers.¹³⁶

S. The Commission should not approve the Evergy System Support Rider; instead, Staff recommends the Commission implement Staff's proposals as set forth below

The Evergy-proposed SSR consists of two components: the Cost Recovery Component and the Acceleration Component. The proposed SSR "is a mandatory rider for any LLPS customer."¹³⁷ Staff has identified a number of concerns with the SSR, which will be detailed below. In light of these concerns, Staff recommends that the proposed SSR be rejected in its entirety.¹³⁸

¹³⁶ Ex. 207, Surrebuttal Testimony of Sarah L.K. Lange, page 29, lines 3-7.

¹³⁷ Ex. 201C, Staff Recommendation / Rebuttal Report, page 87, lines 8-14.

¹³⁸ Ex. 201C, Staff Recommendation / Rebuttal Report, page 88, line 1 and page 87, lines 20-22.

Staff's principal concern regarding the Cost Recovery Component of Evergy's SSR is that it puts forth an unnecessary solution in order to address the issue of potential unreasonable subsidization of LLPS customers via Evergy's Economic Development Rider ("EDR").¹³⁹ Evergy asserts that Section 393.1640, RSMo requires Evergy "to offer its EDR to qualifying customers."¹⁴⁰ Broadly speaking, Evergy's concern is that if LLPS customers qualify for Evergy's EDR, this could result in existing customers subsidizing LLPS customers.¹⁴¹ Evergy's solution for this cross-subsidization problem is to implement "a minimum bill requirement and a non-bypassable System Support Rider."¹⁴² However, Staff asserts that the statutory language in Section 393.1640.1(2), RSMo, affords the Commission discretion "to exempt LLPS customers from the availability of economic development discounts" such as Evergy's EDR.^{143, 144} In accordance with the discretion provided to the Commission under Section 393.1640.1(2), RSMo., "Staff recommends that LLPS customers be ineligible for participation in economic development discounts", such as Evergy's EDR.¹⁴⁵

Such exemptions are not new. Both the EMW SIL tariff and the EMW MKT tariff have similar exemptions. Both tariffs state, "[s]ervice under this tariff may not be combined with service under an Economic Development Rider, [or] an Economic Redevelopment Rider...".¹⁴⁶

¹³⁹ Ex. 201C, Staff Recommendation / Rebuttal Report, page 88, line 1 and page 89, lines 29-30.

¹⁴⁰ Ex. 102, Direct Testimony of Jeff Martin, page 17, line 3.

¹⁴¹ Ex. 102, Direct Testimony of Jeff Martin, page 18, lines 4-18.

¹⁴² Ex. 102, Direct Testimony of Jeff Martin, page 18, lines 18-20.

¹⁴³ Ex. 201C, Staff Recommendation, page 88, lines 21-22.

¹⁴⁴ Section 393.1640.1(2), RSMo provides in part: "[t]he electrical corporation may include in its tariff additional or alternative terms and conditions to a customer's utilization of the discount, subject to approval of such terms and conditions by the commission."

¹⁴⁵ Ex. 201C, Staff Recommendation / Rebuttal Report, page 88, lines 6-7.

¹⁴⁶ Ex. 201C, Staff Recommendation / Rebuttal Report, page 88, lines 8-17.

If the Commission were to follow Staff's recommendation and exempt LLPS customers from Evergy's EDR, the Cost Recovery Component of the SSR would be rendered unnecessary.

The purpose of the Acceleration Component is to charge LLPS customers for "the accelerated construction of a power plant that has not yet been built." Staff further believes that the Acceleration Component would allow Evergy to keep these revenues.¹⁴⁷ This is unreasonable.

Instead of implementing the Acceleration Component of Evergy's SSR, Staff recommends:

- 1). That "offsets to rate base paid for by non-LLPS customers are not unreasonably allocated to the benefit of LLPS customers", such as Accumulated Deferred Income Taxes or ADIT;¹⁴⁸
- 2). LLPS customer load be excluded from the FAC during a rate case; and¹⁴⁹
- 3). Utilizing LLPS customer revenues to offset ratebase increases arising as a consequence of the plant additions made to serve LLPS customers.¹⁵⁰

¹⁴⁷ Ex. 201C, Staff Recommendation / Rebuttal Report, page 94, lines 1-3.

¹⁴⁸ Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 21, lines 2-5.

¹⁴⁹ Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 23-24 and Ex. 201C, Staff Recommendation / Rebuttal Report, page 66, lines 3-5.

¹⁵⁰ Ex. 207C, Surrebuttal Testimony of Sarah K. Lange, Schedule 1, page 4, lines 2-23 and page 5, lines 3-7.

Moreover, Staff recommends the following rates and rate treatments for Evergy:¹⁵¹

Charge	EMM Rates	EMW Rates	Determinant	Revenues Deferred Until Recognized in Rate Case - To be Ordered in this Case	Ongoing Revenue Deferral - To be Reflected in Tariff	Include in Revenue Contribution?	Include in Termination?
Customer Charge	\$10,000	\$10,000	\$/Customer			Variable	
Facilities Charge	\$ 0.0107	\$ 0.0065	\$/¢ of Assets			Variable	Yes
Demand Charge 1 - Charge for Generation Capacity Cost of Service	\$ 17.55	\$ 8.16	\$/kW during demand window	Yes	Yes	Stable	Yes
Demand Charge 2 - Charge for Transmission Capacity Cost of Service	\$ 3.00	\$ 3.81	\$/kW during demand window	Yes		Stable	Yes
Energy Charge	\$ 0.055	\$ 0.053	\$/kWh				
Alternative to Energy Charge	Execution of an Optional Agreement for Payment of Actual RTO Charges			Yes	Not if excluded from FAC	Variable	Yes
RES compliance charge	\$ 0.00033	\$ 0.00040	\$/kWh		Yes	Variable	
Variable Fixed Revenue Contribution	24.77%	24.77%	Percent of other charges	Yes	Yes		Yes
Stable Fixed Revenue Contribution	24.77%	24.77%	Percent of other charges	Yes	Yes		Yes
Demand Deviation Charge	\$8.9177	\$8.9177	\$/kW of deviation	Yes	Yes		
Imbalance Charge	\$8.9177	\$8.9177	\$/kW of deviation	Yes	Yes		
EDI Responsibility Charge	\$ -	\$ -	\$/kWh				
Capacity Shortfall Rate, if applicable	TBD	TBD	\$/kW	Yes, if Applicable			
Capacity Cost Sufficiency Rider, if applicable	TBD	TBD	\$/Month	Yes, if Applicable			
Reactive Demand Charge	\$ 0.99294	\$ 0.46000	\$/kVar				

Staff has further articulated concerns noted below with regard to Evergy's SSR:

[T]he calculation of the rate is very subjective, the determinants that the SSR rate would apply to are subject to Evergy's discretion, and much of the revenue collected under the SSR as proposed by Evergy would be retained by shareholders and would not be reflected in the revenue requirements of EMM and EMW as needed to prevent other customer classes' rates from reflecting any unjust or unreasonable costs arising from service to LLPS customers.¹⁵²

In sum, the goals that Evergy wishes to attain through implementation of the SSR can be reached more efficiently and with more transparency through Staff's recommended approach in this section.

T. Commission Authorization of Proposed Additional Riders

Evergy's requested tariffs include opening the availability of several riders to customers on other rate schedules. Staff opposes this requested expansion in addition to

¹⁵¹ Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 27, lines 15 and 16. A portion of this rate table is also provided in Schedule 1, page 3 of Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony.

¹⁵² Ex. 207C, Sarah L.K. Lange Surrebuttal Testimony, page 17, lines 20-25.

stated opposition to the riders, addressed below, and the Commission should reserve its authorization of these additional riders for future tariff dockets.¹⁵³

a. The Proposed Customer Capacity Rider (“CCR”) should not be authorized by the Commission at this time.

Evergy’s proposed CCR makes LLPS customers eligible for a bill credit if the LLPS customer contracts generation capacity under its control to either EMM or EMW.¹⁵⁴ Staff recommends that the Commission reject the CCR because it may hinder necessary Commission oversight into these transactions and “the revenue requirement impact of these transactions.”¹⁵⁵ Specifically, the CCR:

[P]rovides EMM and EMW authority to enter into agreements of their choice, with customers of their choice, on terms of their choice, and for the results of those agreements to modify the otherwise applicable bills of their largest customers.¹⁵⁶

Additionally, Staff is concerned that “contracts from the CCR may not take resource planning into account.”¹⁵⁷ Staff is also unsure whether a CCR is necessary as EMM and EMW are not prohibited purchasing energy or capacity from an LLPS customer.¹⁵⁸

b. The Proposed Demand Response and Local Generation Rider should not be authorized by the Commission at this time.

¹⁵³ Ex. 201, Staff Recommendation / Rebuttal Report, page 78, lines 18-20. The requested tariffs also include proposals to freeze the availability of the EMW Special Rate for Incremental Load Service; Staff does not oppose this request. Staff also suggested it reasonable to freeze the availability of the MKT rate schedule, although a grandfathering provision may be reasonable for customers who will commence service under that schedule soon. *Id.* at page 78, lines 20-24.

¹⁵⁴ Ex. 201C, Staff Recommendation / Rebuttal Report, page 99, lines 1-5.

¹⁵⁵ Ex. 201C, Staff Recommendation / Rebuttal Report, page 100, lines 1-5.

¹⁵⁶ Ex. 201C, Staff Recommendation / Rebuttal Report, page 100, lines 1-5.

¹⁵⁷ Ex. 201C, Staff Recommendation / Rebuttal Report, page 100, lines 25-26.

¹⁵⁸ Ex. 201C, Staff Recommendation / Rebuttal Report, page 99, lines 17-18.

The Demand Response and Local Generation Rider, as proposed by Evergy, is a new, optional rider described as customers using “their onsite generation to provide demand response services to Evergy.”¹⁵⁹ The Commission should not authorize the Demand Response and Local Generation Rider (“DRLR”) at this time, in part because the customers, their participation levels, and the curtailment capabilities are unknown.¹⁶⁰ Further, the proposed DRLR tariff has the following three issues: (1) Lack of a non-performance penalty, which undermines the reliability of demand reductions, (2) Inclusion of an “Earnings Opportunity Fee”, a compensation mechanism that Staff finds inappropriate outside of an authorized and statutorily-compliant framework such as the Missouri Energy Efficiency Investment Act (MEEIA), and (3) Affordability, where administrative and incentives costs will be borne by all ratepayers.¹⁶¹

While Staff opposes the current DRLR proposal, it recognizes the potential value of a properly designed demand curtailment program. Such a program could help mitigate the incremental capacity and wholesale energy cost impacts associated with LLPS customers. Staff encourages Evergy to continue engaging with potential LLPS participants to develop a revised and reasonable demand response program that could be brought forward in a future tariff filing.¹⁶²

c. The proposed Renewable Energy Program Rider should not be authorized by the Commission at this time.

Evergy has proposed its Renewal Energy Program Rider (“Schedule RENEW”), which would give customers who are participating in a voluntary renewable energy

¹⁵⁹ Ex. 101, Direct Testimony of Bradley D. Lutz, page 30.

¹⁶⁰ Ex. 201, Staff Recommendation / Rebuttal Report, page 94, line 13 – page 95, line 26.

¹⁶¹ Ex. 201, Staff Recommendation / Rebuttal Report, page 94, line 8, to page 97, line 13.

¹⁶² *Id.* at page 94, lines 9-12.

program the option to purchase unbundled renewable energy credits or certificates (“RECs”) at a fixed price that is adjusted annually.¹⁶³ RECs will be retired annually by Evergy on behalf of the customer and revenues collected will be recognized in the associated resource’s jurisdictional FAC for the benefit for respective jurisdictional customers.¹⁶⁴ Evergy intends to determine the amount of kWh available to participants based on the amount of RECs anticipated to be available to the Company for any program year.¹⁶⁵ If demand in a given year exceeds the amount available, Evergy will purchase RECs from external sources if they can be procured at prices equal to or less than the tariffed renewable energy charge; if this is not possible, Evergy will issue a refund to each participating Customer at the end of each program year for the difference between the customers’ pro rata share of the RECs and the RECs for which they were contracted.¹⁶⁶

Evergy provided its projected renewable energy generation and RES requirements in its 2025 RES Compliance Plans for EMW and EMM; in response to a data request in Case No. EO-2025-0258, Evergy stated that a large load data center customer is included in the load projections, however the load forecast does not include any customers that have not yet committed to service or are under contract.¹⁶⁷ The full impact of large load customers is still unknown.¹⁶⁸ As sales increase, so will the RES requirement – which is calculated as 15% of total retail electric sales – which means the addition of large load data center customers could increase the RES requirement significantly.¹⁶⁹

¹⁶³ *Id.* at page 102, lines 7-9.

¹⁶⁴ *Id.* at page 102, lines 14-16.

¹⁶⁵ *Id.* at page 102, lines 18-19.

¹⁶⁶ Ex. 201, Staff Recommendation / Rebuttal Report, page 102, line 19 -page 103, line 2.

¹⁶⁷ *Id.* at page 103, lines 21-25.

¹⁶⁸ *Id.* at page 104, line 3.

¹⁶⁹ *Id.* at page 104, lines 4-6.

The North American Renewables (“NAR”) registry currently has limits on the amount of RECs that can be retired on behalf of others¹⁷⁰ and Evergy is already close to reaching that limit with its other programs.¹⁷¹ Additionally, Staff noted certain tariff updates, including the need to clarify the definition of the term “discounted Renewable Energy Charge”, the need to clarify that RECs represent the energy generated by Company-owned resources and outside renewable sources, the need to clarify that the location-based credit of 1.25 is not applicable to RECs sold to customers under this program, and that RECs qualifying for the 1.25 credit under the Missouri RES should not be the first sold under the program.¹⁷² The Commission should also order that in any future program, Evergy is to denote all RECs retired under the program in the Commission-approved tracking system as being retired on behalf of beneficial owner.¹⁷³ This designation is necessary for Staff to review RES compliance as no REC retired under this program may count toward Missouri RES compliance.¹⁷⁴

Based on the foregoing, the RENEW Rider should not be approved at this time due to current North American Registry REC retirement limitations and other concerns including the need for improvement of the tariff language.

d. The proposed Green Solution Connections Rider should not be authorized by the Commission at this time.

The Green Solution Connection Rider (“GSR”) as proposed by Evergy in this case is a voluntary, subscription-based program that gives Commercial and Industrial (“C&I”) customers the ability to subscribe to the renewable attributes of certain

¹⁷⁰ *Id.* at page 105, line 6; Ex. 203, Surrebuttal of Amanda Arandia, page 4, lines 3-6.

¹⁷¹ Ex. 203, Surrebuttal of Amanda Arandia, page 4, lines 3-7.

¹⁷² Ex. 201, Staff Recommendation / Rebuttal Report, page 106, lines 4-26.

¹⁷³ Ex. 201, Staff Recommendation / Rebuttal Report, page 106, lines 27-29.

¹⁷⁴ *Id.* at page 106, lines 29-30.

EMW resources.¹⁷⁵ This proposed rider is specific to EMM customers receiving permanent electric service from EMM through Schedules SGS, MGS, LGS, LPS, SGA, MGA, LGA, MKT, or LLPS.¹⁷⁶ In Case No. EA-2024-0292, Evergy applied for a CCN for certain resources and proposed the GSR program for EMW. A Stipulation and Agreement was filed on May 29, 2025, in which Staff agreed that the Commission should *authorize* a subscription-based Green Solution Connection Program for these resources.¹⁷⁷ However, Staff and the Company committed to continuing to work on the details of the program and file specimen tariffs in the docket for Commission *approval* at least six months prior to the expected completion of the facilities/resources.¹⁷⁸

The GSR Rider in this case should be rejected until such time that the program tariff has been approved in EA-2024-0292 in order to ensure consistency for the Green Solution Connections Program.¹⁷⁹

e. The proposed Alternative Energy Credit Rider should not be authorized by the Commission at this time.

The Alternative Energy Credit (“AEC”) Rider as proposed by Evergy is a new program which would allow all C&I customers, including LLPS customers, to purchase AECs produced from Evergy’s Wolf Creek Nuclear Generating Station located in Kansas.¹⁸⁰ The program would be available to customers currently receiving permanent electric service from Evergy through Schedules SGS, MGS, LGS, LPS, and LLPS who have an annual average monthly peak demand greater than 200kW.¹⁸¹ AECs, as defined

¹⁷⁵ Ex. 201, Staff Recommendation / Rebuttal Report, page 106, lines 27-page 107, line 1.

¹⁷⁶ *Id.* at page 107, lines 2-3.

¹⁷⁷ *Id.* at page 107, lines 10-13.

¹⁷⁸ *Id.* at page 107, lines 13-17.

¹⁷⁹ *Id.* at page 107, lines 19-21.

¹⁸⁰ Ex. 201, Staff Recommendation / Rebuttal Report, page 108, lines 2-6.

¹⁸¹ *Id.* at page 108, lines 6-8.

in Evergy's proposal, are different than RECs and are not included in RES.¹⁸² There is currently no existing market for AECs and there is also no standard set by statute or rule.¹⁸³

An AEC is a certificate similar to a REC, however, it represents that 1 MWh of electricity has been generated from an alternative energy source such as a nuclear energy facility.¹⁸⁴ This concept is still relatively new and, as such, there are currently no registries that track AECs.¹⁸⁵ Evergy has proposed that it will hire a third party to certify the AECs on an annual basis.¹⁸⁶

The AEC Rider should be rejected at this time due to uncertainty regarding AEC tracking, retirement, and reporting.¹⁸⁷ In the alternative, the Commission should require that Evergy first obtain the third party tracking system in order to track and retire the AECs and file on an annual basis an update of the program showing how the AECs are being tracked and proving that the AECs are not being utilized more than once.¹⁸⁸

f. The Clean Energy Choice Rider should not be authorized by the Commission at this time.

Given the size of potential LLPS customers relative to current customers and the headroom in EMM and EMW's capacity positions, it is important to have reasonable expectations of the energy and capacity requirements of an LLPS customer over the expected duration of that customer's service requirements.¹⁸⁹

¹⁸² *Id.* at page 109, line 2.

¹⁸³ *Id.* at page 109, lines 3-4.

¹⁸⁴ *Id.* at page 108, lines 9-10.

¹⁸⁵ Ex. 201, Staff Recommendation / Rebuttal Report, page 108, lines 10-11.

¹⁸⁶ *Id.* at page 108, lines 11-12.

¹⁸⁷ Ex. 201, Staff Recommendation / Rebuttal Report, page 109, lines 17-19.

¹⁸⁸ *Id.* at page 109, lines 20-23.

¹⁸⁹ Ex. 201, Staff Recommendation / Rebuttal Report, page 37, lines 18-21.

The Clean Energy Choice Rider (“Schedule CER”) would allow new LLPS customers to influence the Evergy’s IRP analysis,¹⁹⁰ Evergy’s Preferred Resource Plan,¹⁹¹ and the Evergy’s resource acquisition strategy.¹⁹² One threshold question regarding Schedule CER is whether it is actually necessary, especially where Evergy has stated it could consider customer requests and cost allocation in its current IRP modeling.¹⁹³ More specifically, Staff sent Data Request 58 in this case, which asked:

Since the Company has historically updated its Preferred Resource Plan annually, could the Company take into consideration any LLPS customers want or need for new clean energy in its capacity expansion modeling for IRP annual updates or triennial compliance filings in lieu of the proposed Schedule CER? Could the Company still allocate any incremental costs to requesting LLPS customers?

Evergy’s response to Data Request 58 stated:

Yes, the Company could include customer requests in its IRP modeling, however the Rider is useful to set clear terms and conditions for the consideration and to clearly provide for the recovery of the incremental cost between the Company Preferred Plan and the Clean Energy Preferred Resource Plan. Concerning allocation, the similar is true. Incremental cost could be allocated, but the Rider would clarify and formalize the treatment.¹⁹⁴

Staff is concerned with adding Schedule CER, a new tariffed rider, when by its own admission Evergy could consider customer requests and cost allocation in its current IRP modeling.¹⁹⁵

¹⁹⁰ Commission Rule 20 CSR 4240-22.080(1)(A) requires Evergy to submit its triennial compliance filing (IRP) every three years, starting on April 1, 2012. EMM’s and EMW’s most recent IRPs were filed on April 1, 2024, in Case Nos. EO-2024-0153 and EO-2024-0254, respectively. Commission Rule 20 CSR 4240-22.080(3)(B) requires Evergy to prepare an annual update report in the years a triennial compliance filing is not required. This rule further states that, “The depth and detail of the annual update report shall generally be commensurate with the magnitude and significance of the changing conditions since the last filed triennial compliance filing or annual update.” Ex. 201, Staff Recommendation / Rebuttal Report, page 79, lines 9-15.

¹⁹¹ While preferred resource plans and resource acquisition strategies are not required to change or be updated in annual update reports, and historically for certain utilities often are not updated, EMM’s and EMW’s change every year. Ex. 201, Staff Recommendation / Rebuttal Report, page 79, lines 15-18.

¹⁹² Ex. 201, Staff Recommendation / Rebuttal Report, page 79, lines 6-8.

¹⁹³ Ex. 201, Staff Recommendation / Rebuttal Report, page 80, lines 4 – 6.

¹⁹⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 79, line 18 – page 80, line 3.

¹⁹⁵ *Id.* at page 80, lines 4-6.

Moreover, Evergy has included only one large load customer in each of EMM's and EMW's 2025 IRP Annual Updates.¹⁹⁶ While there may be a "pipeline" of customers to come, only one is accounted for in the IRPs, and that one large load customer is indicated to receive service under the Schedule LLPS rate no sooner than the first quarter of 2026.¹⁹⁷ Additionally, the IRP process is likely to drastically change with the passage and signing of Senate Bill 4,¹⁹⁸ as SB4 added Section 393.1900.1, RSMo., which states in part that, "[t]he commission shall, but August 28, 2027, and every four years or as needed thereafter, commence an integrated resource planning proceeding for electrical corporations."¹⁹⁹

Staff also sent a data request asking Evergy if it was aware of any other programs/tariffs submitted or approved in other states that are similar to the proposed Schedule CER.²⁰⁰ Evergy's response to Data Request 62 stated:

No, the Company is not aware of another program that shares this design. The closest known program is the Clean Transition Tariff proposed by NV Energy. The Clean Energy Choice Rider mostly aligns with the purpose of the Clean Transition Tariff, to allow customers to influence resources deployed by the utility, but otherwise differs in nearly all respects.²⁰¹

Based on this response, Evergy's proposed CER itself is an outlier and a novel concept in the regulatory industry relating to large load customers.²⁰²

¹⁹⁶ *Id.* at page 81, lines 25-27.

¹⁹⁷ *Id.* at page 81 line 24 – page 82, line 4.

¹⁹⁸ *Id.* at page 80, lines 7-8.

¹⁹⁹ Ex. 201, Staff Recommendation / Rebuttal Report, page 80, lines 8-10.

²⁰⁰ *Id.* at page 82, lines 9-14.

²⁰¹ *Id.* at page 82, lines 15-20.

²⁰² Evergy does not support the NV CTT, despite asserting that the CER purports to most closely align in purpose. Ex. 105, Surrebuttal Testimony of Bradley D. Lutz, page 18, lines 10-18. Further distinguishing these tariffs is that the NV CTT is structured "to accelerate the transition to a 100% clean energy portfolio" and that may be consistent with the regulatory framework in Nevada, which has a net zero goal. Ex. 202, Surrebuttal of Brad J. Fortson, page 2, line 14-page 3, line 2.

Evergy claims that if a customer terminates “its service at any point after the Company has implemented a Clean Energy Preferred Resource Plan for a specific customer and before the cost differential of the Clean Energy Preferred Resource Plan, or allocated portion, has been fully paid, the customer shall be required to pay the outstanding cost differential as a single payment.”²⁰³ Staff issued Data Request 63 referencing that statement and requesting additional information, including subpart 4, which asked “If the customer does not pay the outstanding cost differential, will other customers have to bear the cost?”²⁰⁴ Evergy responded to this subpart stating:

It is difficult to say for certain given the range of possible remedies, but under extreme conditions, it is plausible that the cost differential could ultimately be recovered from other non-sponsoring customers.²⁰⁵

The Commission should allow for the new IRP process to be developed and understood prior to considering a rider that allows for customers to influence prudent resource planning.²⁰⁶ And importantly, extreme conditions or not, the cost differential agreed to be paid by the sponsoring customer(s) should not be paid by “non-sponsoring customers” in any scenario.²⁰⁷ Even though Evergy frames resources added as a result of a Clean Energy Choice Preferred Plan to be considered a Company resource for the service of all customers, those resources would be added as a direct request by a sponsoring customer to meet its renewable energy goals.²⁰⁸

²⁰³ Ex. 101, Direct Testimony of Bradley D. Lutz, page 57, lines 5-9.

²⁰⁴ Ex. 201, Staff Recommendation / Rebuttal Report, page 83, line 20 – page 84, line 45.

²⁰⁵ Ex. 201, Staff Recommendation / Rebuttal Report, page 83, line 20 – page 84, line 19.

²⁰⁶ *Id.* at page 82, lines 2-8.

²⁰⁷ *Id.* at page 85, lines 1-3.

²⁰⁸ Ex. 201, Staff Recommendation / Rebuttal Report, page 85, lines 1-3. Further, even though Evergy frames resources added as a result of a Clean Energy Choice Preferred Plan to be considered a Company resource for the service of all customers in its response to subpart 5 of Data Request 63, those resources would be added as a direct request by a sponsoring customer to meet its renewable energy goals. *Id.* at page 85, lines 3-7.

U. Staff takes no position at this time regarding whether the Commission order a community benefits program as described in the testimony of Dr. Geoff Marke

Staff does not have a position on this issue at this time but reserves the right to respond in its *Reply Brief*.

Conclusion

In summary, Staff recommends that the Commission order a tariff filing consistent with the tariff set out in Schedule 1 to Sarah Lange's surrebuttal testimony. In the alternative, if the Commission orders a tariff to be filed on the basic terms of the Non-Uniform Stipulation, the Commission should include conditions that: (1) require the tracking of revenues and expenses to a regulatory deferral account to be addressed in future general rate cases, (2) adopt Staff's approach with respect to the Fuel Adjustment Clause ("FAC"), and (3) do not approve the proposed riders at this time, as they can be developed and approved in separate dockets if needed.

WHEREFORE, Staff respectfully submits this *Initial Brief* for the Commission's information and consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all parties and/or counsel of record this 29th day of October, 2025.

/s/ Travis J. Pringle