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's Request for Authority to Implement a General Rate Increase for Electric Service.	))))	File No. ER-2026-0143

INITIAL POST-HEARING BRIEF

Pursuant to the March 18, 2026 Order Setting Procedural Schedule and Directing the Filing Dates for Local Public Hearings ("Order Setting Procedural Schedule"), Google LLC ("Google"), hereby files its Initial Post-Hearing Brief ("Initial Brief"). As further explained in this Initial Brief, the Commission should (1) approve the LLPS Partial Stipulation and Agreement ("LLPS Stipulation") in its entirety without any modifications or changes and find that the Stipulation and Agreement is just and reasonable and in the public interest, (2) reject modifications to the Large Load Power Service ("LLPS") Tariff proposed by the Office of the Public Counsel ("OPC") and (3) preserve the integrated framework for the Fuel Adjustment Clause ("FAC"), thereby rejecting Staff's proposals to impose separate, wholesale-market-based treatment of LLPS customers.

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I. Introduction

A. Google's Interest

1. Google is a U.S.-based technology company that offers technology services and products and operates multiple data centers in the country and around the world to power its portfolio of products and services. Google is currently developing data centers in the Kansas City area, including within Evergy's service territory. Google's energy spend will be directly impacted by the outcome of this proceeding.

2. Google also participated in Case No. EO-2025-0154, which established the LLPS Tariff (the "LLPS Tariff Case"). Google's objective remains the same as in the LLPS Tariff Case: to invest responsibly, to be a good community and grid partner, and to support a framework that balances the opportunities of growth with meaningful protections for other customers.

B. Procedural History

3. On December 8, 2025, Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("Evergy") filed its Application in this docket, initiating a general rate case.

4. The following parties have been granted intervention in this proceeding: Midwest Energy Consumers Group ("MECG"); Renew Missouri; Velvet Tech Services, LLC ("Velvet"); Missouri Industrial Energy Consumers ("MIEC"); collectively the ("Intervenors"). Staff of the Public Service Commission of the State of Missouri ("Staff"), the Office of Public Counsel ("OPC"), and the Intervenors are referred to collectively as the "Parties."

5. Pursuant to the March 18, 2026 Order Setting Procedural Schedule, on June 30, 2026, Staff and Intervenors filed Direct Testimony-Revenue Requirement; on July 14, 2026, Staff and Intervenors filed Direct Testimony-Rate Design; on August 11, 2026, Evergy, Staff and Intervenors filed Rebuttal Testimony; on September 10, 2026, Evergy, Staff and Intervenors filed

Surrebuttal/True-up Direct Testimony; and on September 23, 2026, Evergy, Staff and Intervenors filed True-Up Rebuttal Testimony.

6. On September 22, 2026, the Parties filed a Jointly Proposed List of Issues, Order of Opening Statements, List and Order of Witnesses, and Order of Cross Examination ("Joint Issues List"). On September 25, 2025, Google filed a Position Statement on the Joint Issues List.

7. The Parties held settlement discussions beginning on September 23, 2026 and those discussions continued until evidentiary hearing, which began on the afternoon of October 5, 2026.

8. On October 5, 2026, shortly before the beginning of the evidentiary hearing, Google and Evergy filed the LLPS Stipulation. The LLPS Stipulation does four primary things: (1) recognizes the revenues from LLPS customers that are available now through a $60 million revenue adjustment, (2) enforces the commitments already made in the LLPS Tariff by confirming the operation of the minimum demand charge, (3) shares the benefits of growth with all customers through an earnings sharing mechanism, and (4) it maintains the current structure of the FAC and reserves any broader changes for an evidentiary record that can support them.

9. On October 6, 2026, Staff filed its Objection to the LLPS Stipulation. On October 7, 2026, OPC filed its Opposition to the LLPS Stipulation. On October 9, 2026, Evergy filed its Support of the LLPS Stipulation.[1]

10. Between October 5 and October 13, 2026, the Commission heard live testimony and argument during the evidentiary hearing and the "on-the-record presentation" regarding the LLPS Stipulation and other partial stipulations addressing various issues in the case. On October 27, 2026, the Commission issued an Order Directing the Filing of a Joint Status Pleading and

[1] *See also* Tr. Vol. 12 p. 54, ln. 8–p. 82, ln. 13 (Evergy witness Darrin Ives hearing October 13, 2026 on-the-record hearing testimony in support of the LLPS Stipulation).

Setting Time for Objections to Commission Exhibits, which took official notice of (1) the transcript of the on-the-record presentation and (2) each of the partial stipulations and agreements filed in the case, including the LLPS Stipulation.

11. Initial and Reply Briefs have been ordered to be filed on November 6, 2026 and November 18, 2026, respectively.

II. Large Load Customers Provide Benefits to the Electric System But Only if They Remain a Part of the System

12. Evergy is a vertically integrated, rate-regulated public utility. "Vertically integrated" means that Evergy owns all parts of an interconnected system of generation, transmission and distribution required to serve its customers. Evergy plans its system through an Integrated Resource Planning ("IRP") process that accounts for *all* the needs of its system: accounting for load growth, resource adequacy requirements, demand-side management opportunities, and investments in established and emerging generation resources.[2] Evergy also incorporates all load, including LLPS customer load, into its resource commitments, market positions, and participation in the SPP Integrated Marketplace.[3]

13. Google is an important part of this process and of Evergy's integrated system. As recognized in the Commission's Report & Order in the LLPS Tariff Case, data centers are not just large consumers of electricity, they are "economic and operational partners."[4] Findings 8 through 11 of the LLPS Tariff Order describe why: predictable energy use supports efficient planning and

[2] *See* 20 CSR 4240-22.010(2)(A), 20 CSR 4240-22.030(5)(B), 20 CSR 4240-22.040(1), 20 CSR 4240-22.050(1), 20 CSR 4240-22.060(3)(A), and 20 CSR 4240-22.070(1)(D).

[3] JP Meitner Rebuttal Testimony, at p. 8, ln. 6–10 ("Meitner Rebuttal").

[4] Report and Order, File No. EO-2025-0154, at p. 9 (Nov. 13, 2025) ("LLPS Report & Order").

operations; better utilization of generation and transmission can improve system efficiency; and demand management can strengthen reliability.[5]

14. The Commission also recognized the affordability benefit of large load customers.[6] Consistent energy consumption spreads fixed costs over a larger volume of sales, contributing to a lower average cost per kilowatt-hour.[7] Google's witness, Dr. Carolyn Berry, submitted testimony that further explains these benefits.[8] Large load customers do not merely add demand. They also contribute revenues toward the shared system that serves everyone.[9] Google takes its role as an economic and operational partner seriously by working with utilities on demand-side flexibility, long-term energy storage opportunities, advanced transmission technologies, and other grid-strengthening and grid-improving initiatives. Those initiatives reflect Google's approach to helping the system become more capable, not simply asking it to supply more power.[10]

15. Staff and OPC have taken positions—both in the LLPS Tariff Case and this case—that would partially or fully divorce large load customers from this integrated system. In this case, this positioning is most starkly represented by Staff's proposed "Option 2" for the Fuel Adjustment Clause (or "FAC").[11] This positioning is also represented by OPC's recommendation that all CWIP-related costs of Mullin Creek #2 be allocated to LLPS customers, despite a lengthy record

[5] *Id.* at pp. 9–10, Findings of Fact 8–11; *see also* Dr. Carolyn A. Berry Rebuttal Testimony, File No. EO-2025-0154, at pp. 8–10 (July 25, 2025) ("Berry LLPS Rebuttal").

[6] LLPS Report and Order, at p. 9.

[7] *Id.* at p. 10.

[8] Dr. Carolyn A. Berry Direct (Revenue Requirement), at p. 7, ln. 1–9 ("Berry Direct (Revenue Requirement)").

[9] LLPS Report and Order, at p. 10, Finding of Fact 9; Berry LLPS Rebuttal, p. 8, ln. 6–16.

[10] LLPS Report and Order, at p. 10, Findings of Fact 10–11.

[11] *See* Brooke Mastrogiannis Direct Testimony (Revenue Requirement), at p. 10, ln. 7–14 ("Mastrogiannis Direct (Revenue Requirement)"); Sarah Lange Conforming Direct Testimony (Revenue Requirement), at p. 44, ln. 13 ("Lange Conforming Direct (Revenue Requirement)").

of Mullin Creek #2 being needed for the entire system.[12] At various places in the record, Staff and OPC also point to the Interim Capacity provision of the LLPS Tariff as a mechanism to directly charge LLPS customers for capacity costs.[13] However, it is important to note that the Interim Capacity provision applies only during an interim period during which the Company cannot serve a large load customer with existing system capabilities.[14] It is a bridge to onboard a customer until sufficient system capacity can be obtained.[15] Accordingly, the Commission should reject OPC's and Staff's suggestions to expand its application.

16. Under Staff's Option 2 for remaking the FAC (which is supported by OPC), LLPS customers would be entirely removed from the FAC going forward. In order to back-out the costs associated with LLPS customers from the FAC, Staff proposes using SPP wholesale market locational marginal prices ("LMPs") and matching those LMPs with LLPS customers' load shape. While Option 2 alone would not result in a complete separation of LLPS customers from the integrated system, it would begin a process of attempting to isolate and directly assign discrete pieces or costs of the integrated system to large load customers.[16] The idea of separating LLPS Customers from the rest of the system is taken even further by OPC in its position on Mullin Creek #2 costs and in OPC's and Staff's recommendations regarding the expansion of the Interim Capacity provisions of the LLPS Tariff.

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[12] Geoff Marke Direct Testimony (Rate Design), p. 42, ln. 14–16 ("Marke Direct (Rate Design)"); Kevin Gunn Surrebuttal Testimony, at p. 22, ln. 11–16 ("Gunn Surrebuttal") (citing to Evergy's CCN Application and supporting testimony for Mullin Creek #2 in File No. EA-2026-0154).

[13] Mastrogiannis Rebuttal Testimony, at p. 7, ln. 13–14 ("Mastrogiannis Rebuttal"); Angela Schaben Surrebuttal Testimony, at p. 12, ln. 1–7 ("Schaben Surrebuttal").

[14] Dr. Carolyn A. Berry Surrebuttal Testimony, at p. 13, ln. 1–10 ("Berry Surrebuttal").

[15] *Id*.

[16] Google's concerns with Staff's proposals for the FAC are discussed further below in Section VII.

17. The dangers of proceeding down a path of separate systems for LLPS customers and others was recently articulated by the Staff of the New Mexico Public Regulation Commission:

> For over 100 years, the utility system has served all customers, and the cost of that system has been socialized amongst all customers to the shared benefit of all. Directly assigning new resources to only new large customers may erode that shared system and could potentially lead to a bifurcated system. One in which existing customers are stuck with aging equipment and another where new large customers benefit from a largely new grid with new generating resources. While allocating the costs for new resources to new customers may initially seem appealing to the wallets of existing customers, the consequences of splitting the system and allowing new large load customers to be excused from the 'social contract' of supporting the aging infrastructure of the broader system may prove detrimental to the customers that large load tariffs purport to protect.

18. From an operations standpoint, the advantages provided by data centers are numerous. Data centers are consistent and predictable consumers of energy, which supports the more efficient operation and planning of the electric utility grid.[17] Data centers enable utility system planners and grid operators to optimize existing generation and transmission infrastructure, which can delay new infrastructure investments and improve overall system efficiency.[18] Many large load customers engage in demand management, which further enhances grid stability and reliability.[19]

19. The economic advantage associated with data centers is that their consistent energy usage helps distribute fixed costs across a larger energy volume, contributing to a lower average cost per kilowatt-hour for all customers.[20]

20. Senate Bill 4 ("SB 4") and the LLPS Tariff Order laid the groundwork for a clear, objective, and transparent framework for infrastructure investment in Evergy's service territory.

[17] LLPS Report and Order, at p. 9.
[18] *Id*. at p. 10.
[19] *Id*.
[20] *Id*.

Because of SB 4 and the LLPS Tariff Order, companies like Google can explore multi-billion dollar investments with increased confidence, knowing there is a clear regulatory path that balances business flexibility with appropriate levels of Commission oversight.

III. This is a Transition Case with No LLPS Customers in the Test Year

21. When the Commission established the LLPS Tariff, it established a clear, objective, and transparent framework for infrastructure investment in Evergy's service territory. The LLPS Tariff fulfills the directives of SB 4, by ensuring large load customers bear their representative share of costs and by preventing other customers' rates from reflecting unjust or unreasonable costs arising from service to such customers.

22. The LLPS Tariff only became effective in December 2025, which was also the last month of the test year in this case. Accordingly, there are no LLPS customers in the test year for this case, which runs from January 2025 to December 2025. The true-up period, which runs through June 2026, only captures the beginning of a load ramp for one LLPS customer—it does not reflect a reliable operating history from which to draw any conclusions.[21]

23. The signatories to the Non-Unanimous Global Stipulation and Agreement in the LLPS Tariff Case (the "LLPS Tariff Settlement) recognized that the impact of LLPS customers on cost allocation issues could not be evaluated until the first general rate case in which there is at least one seventy-five megawatt (75 MW) or greater LLPS customer in the test year and captured in the class cost of service ("CCOS") study determinants.

24. Accordingly, at Paragraph 14 of the LLPS Tariff Settlement, the signatories agreed to leave the Initial Pricing established by the LLPS Tariff Settlement in place until the first general rate case which there is at least one 75 MW or greater LLPS customer in the test year, and further

[21] Darrin Ives Rebuttal Testimony, at p. 11, ln. 6–12 ("Ives Rebuttal").

agreed to wait to evaluate the costs and impacts of any LLPS customers added to the system until such general rate case.[22] Further, Evergy agreed to track the premium paid by LLPS customers compared to Large Power Service ("LPS") customers until such a general rate case, and for CCOS study purposes only, credit the premium to non-LLPS customer classes in determining the sufficiency of class recovery of costs of service.[23]

25. This is not the case anticipated by Paragraph 14 of the LLPS Tariff Settlement. Rather, this is a transition case with no LLPS customer data reflected in the CCOS billing determinants. Without LLPS customer data reflected in the CCOS bill determinants, there is no reliable way of evaluating LLPS customers' relative contribution to the overall cost of service.

26. Nevertheless, non-LLPS customers are protected while a reliable operating history is developed. Those protections include a twelve-year service commitment in addition to an optional ramp period of up to five years; minimum demand obligations based on eighty (80) percent of contract capacity; substantial collateral requirements; restrictions on capacity reductions; and notice requirements and significant fees for early termination or contract capacity reductions.[24]

27. Despite this being a transition case—with no large load customers in the test year—other customer classes are already seeing the benefits of large loads in the form of a $60 million revenue adjustment in this case. The $60 million revenue adjustment is discussed further below in Section IV.A.

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[22] Non-Unanimous Stipulation and Agreement, File No. EO-2025-0154, ¶ 14 (Sept. 25, 2025) ("LLPS Tariff Stipulation").

[23] *Id.* ¶ 14.

[24] *Id.* ¶¶ 9, 11–12, 16, and 21–25. Collateral is based on two years of minimum monthly bills, subject to specified credit/liquidity exemptions. *See LLPS* Report and Order, at pp. 12–17, Findings 20, 23–26, 31–38.

IV. The Commission Should Approve the LLPS Stipulation because it Provides Meaningful Customer Protections and Reflects LLPS Revenues in this Rate Case

A. The LLPS Stipulation Advances Affordability [Issues 3.A, 3.A.i]

28. Despite no LLPS customers in the test year for this case, under the LLPS Stipulation, other customers will save $60 million per year as a direct result of LLPS customer revenues. As noted by Evergy, this revenue adjustment is ***higher*** as a result of Google's advocacy for an interpretation of the minimum demand requirement in the LLPS Tariff that *increases* Google's monthly invoices. The LLPS Stipulation adopts Google's position that billing demand must be at least eighty (80) percent of annual contract capacity, with energy-based charges payable in addition thereto.[25]

29. Specifically, Dr. Berry explained that the Demand Charge under the LLPS Tariff is charged "Per kW of Billing Demand per month" and the "Billing Demand" is defined as "the higher of (a) the Monthly Maximum Demand in the current month or (b) the Minimum Demand." The "Minimum Demand" is defined as "80% of the annual Contract Capacity."[26] Accordingly, the Demand Charge is at a minimum equal to 80% of the Contract Capacity and is *in addition to* the Customer Charge, Grid Charge, Energy Charge, DSIM Charge, and FAC Charge.[27]

30. Based on the corrected calculation of minimum monthly bills, annualized revenue from LLPS Customers at the end of the true-up period equals approximately $60 million. Those revenues offset the amount otherwise recovered from other customers, without any offsetting LLPS costs in the rate base.

[25] Berry Surrebuttal, at p. 8, ln. 5–19, p. 9, ln. 1–5, and p. 11, ln. 1–5
[26] *Id.* at p. 8, ln. 16–17.
[27] *Id.* at p. 8, ln 5–p. 10, ln. 9.

B. The Proposed Earnings Review and Sharing Mechanism Balances Customer Benefits and Evergy's Incentive to Serve Large Loads [Issue 37]

31. The LLPS Stipulation addresses the anticipated growth in large load demand following the establishment of rates based on a historical test year that did not include any large load customers.[28] Although some LLPS loads were reflected during the true-up period, most anticipated growth will occur after the rates established in this case take effect.[29] As a result, LLPS revenues may increase faster than the costs reflected in the revenue requirement, potentially causing Evergy's earned return on equity ("ROE") to exceed its authorized ROE.[30] The LLPS Stipulation proposes an earnings sharing framework that can balance protecting existing customers and maintaining Evergy's incentive to attract and serve large-load customers.

32. A transitional earnings sharing mechanism is supported by precedent in the recent Ameren Missouri large load tariff case, File No. ET-2025-0184.[31] In that case, the Commission approved an earnings sharing mechanism providing that, when Ameren Missouri's earned ROE exceeds a certain threshold, the utility will retain thirty-five (35) percent and the customers will receive sixty-five (65) percent, with fifteen (15) percent designated specifically for the benefit of low-income customers. As Dr. Berry explained, "a similar sharing model could serve as an effective transitional bridge that both aligns with recent Commission precedent and ensures a fair balance of risks and rewards between Evergy and its ratepayers."[32]

33. Under the LLPS Stipulation, Evergy retains its earnings up to twenty (20) basis points above the authorized ROE. Earnings above that threshold are shared at sixty-five (65) percent for customers and thirty-five (35) percent for Evergy. Although the LLPS Stipulation

[28] Berry Direct (Revenue Requirement), at p. 4, ln. 9–21.
[29] *Id.* at p. 11, ln. 4–p. 12, ln. 4.
[30] *Id.*
[31] *Id.* at p. 5, ln. 18–21.
[32] *Id.* at p. 12, ln. 16– p. 13, ln. 4.

modifies Dr. Berry's original recommendation, it preserves the fundamental customer protections she sought. Dr. Berry initially proposed that Evergy retain earnings up to twenty-five (25) basis points above its authorized ROE, with earnings above that threshold shared seventy-five (75) percent to customers and twenty-five (25) percent to Evergy.[33]

34. The LLPS Stipulation reduces the customer-sharing percentage to sixty-five (65) percent but also lowers the threshold to twenty (20) basis points, allowing customers to participate in qualifying excess earnings sooner.[34] This lower threshold partially offsets the reduced sharing percentage, while Evergy's retention of thirty-five (35) percent of qualifying excess earnings preserves its incentive to attract and serve additional large loads. The negotiated mechanism maintains the essential balance contemplated by Dr. Berry's proposal—ensuring that customers receive the majority of qualifying excess earnings resulting from large-load growth without discouraging Evergy from pursuing large load growth.

35. The earnings sharing mechanism strikes a reasonable balance between protecting customers and preserving Evergy's incentive to attract and serve additional large loads. By establishing objective criteria tied to the authorized ROE, actual LLPS revenues, and defined sharing percentages, the mechanism promotes transparency and provides a clear, understandable, and replicable framework for determining customer benefits.[35] Ultimately, the LLPS Stipulation ensures that customers have an opportunity to share in the financial benefits of large-load growth while maintaining appropriate incentives for Evergy to pursue that growth.

V. Large Load Customers Mitigate Utility Risk and May Place Downward Pressure on the Cost of Equity [Issue 1.C]

[33] *Id.* at p. 13, ln. 18– p. 14, ln. 6.

[34] Berry Direct (Revenue Requirement), at p. 13, ln. 10–p. 14, ln. 6; LLPS Tariff Stipulation, ¶ 3.

[35] Berry Surrebuttal, at p. 3, ln. 18–21, p. 6, ln. 10–p. 7, ln. 3.

36. The Commission should consider the risk-mitigating characteristics of the LLPS Tariff when determining a fair return on common equity for Evergy. As Google witness Dr. Berry explained, the Commission should weigh the mitigation of Evergy's financial risks—associated with both the stabilizing impacts of the LLPS Tariff and the strong investor interest in utilities experiencing data center growth—as it seeks to balance utility and customer interests in this proceeding.[36]

37. Specifically, the LLPS Tariff establishes a stable, long-term guaranteed revenue stream for Evergy based on a minimum monthly bill utilizing eighty (80) percent of the contract capacity regardless of the actual demand by the LLPS customer. It also requires collateral to support this financial obligation and contains termination provisions that maintain revenues even if the customer chooses to exit. This structure provides commercial protections that do not depend upon the general economy, weather, or customer behavior. These features offer significant financial stability which offsets large load risks.[37]

38. Moreover, where there is strong capital market interest in a particular sector, it can create downward pressure on the cost of equity (and consequently the WACC) for companies operating in that space. Past examples of this dynamic include digital infrastructure industries, such as cell phone towers and fiber optic networks during the internet's rapid expansion, and more recently, the renewable energy sector amid the broader energy transition. In those instances, robust investor demand helped lower effective equity costs and supported significant capital expansion.[38]

39. The Commission should weigh these dynamics—specifically, the credit-positive impact of large loads, the financial protections embedded in the LLPS Tariff, and the strong

[36] Berry Direct (Revenue Requirement), at p. 6, ln. 3–p. 9, ln. 21.
[37] *Id.* at p. 8, ln. 1–11.
[38] *Id.* at p. 8, ln. 14–p. 9, ln. 11.

investor interest in utilities experiencing data center growth—when seeking a fair balance for both the utility and its customers in the context of this proceeding.

VI. Google Did Not Oppose the MECG-Evergy Rate Design Settlement Despite Its Original Position on LLPS Rates [Issues 30.A, 30.A.ii]

40. Google made a significant concession by not opposing the Non-Unanimous Partial Settlement-Rate Design executed by MECG and Evergy on October 5, 2026 (the "Rate Design Settlement")[39]—under which the LLPS class is assigned 94% of the system average rate increase.[40]

41. Google maintains that it would be reasonable for the Commission to maintain the LLPS Tariff rates at their existing levels, consistent with Dr. Berry's recommendation to reject Evergy's proposed 15.19 percent LLPS rate increase, because the Commission only recently approved the negotiated initial LLPS rates in the LLPS Tariff Case, and the present test year contains no LLPS customers on which to base a class-specific cost of service determination.[41] Despite these evidentiary concerns, Google recognizes the importance of its contributions to Evergy's integrated electric system, and therefore is not opposing the allocations set forth in the Rate Design Settlement.

VII. The Commission Should Reject OPC's Proposed Modifications to the Large Load Tariff because it Constitutes an Unsupported Collateral Attack on the LLPS Tariff Order [Issues 31.A, 31.B]

42. The Commission should reject OPC's proposed changes to the LLPS Tariff. OPC seeks to revisit central terms of a comprehensive tariff framework that the Commission approved in LLPS Tariff Case less than a year ago. Its recommendations would lengthen the minimum

[39] Non-Unanimous Partial Settlement – Rate Design, ¶ 11 (Oct. 5, 2026).
[40] *Id.* ¶ 2 (Oct. 5, 2026).
[41] Dr. Carolyn A. Berry Direct Testimony (Rate Design), at p. 4, ln. 2–p. 7 ("Berry Direct (Rate Design)"), ln. 19; Google Position Statement, pp. 5–6 (Issues 30.A and 30.A.ii).

service term from twelve to twenty years; increase the minimum billing demand from eighty (80) to ninety (90) percent of contract capacity, subject to a proposed performance offset; lower the applicability threshold to twenty-five megawatts and restrict the tariff to data centers; and impose extensive pre-construction studies, ongoing benchmarking, and public reporting concerning Power Usage Effectiveness ("PUE"), Water Usage Effectiveness ("WUE"), and Total Harmonic Distortion ("THD").[42] These are not minor clarifications. They would materially revise the bargain reflected in the Commission-approved tariff and impose new conditions on customers who are making long-term investment decisions in reliance on that tariff.[43]

43. The Commission has authority to consider tariff revisions upon an appropriate showing. But OPC has not made the showing necessary to justify these particular revisions in this particular case. The LLPS Tariff Order was the result of extensive litigation and settlement negotiations. That framework addressed eligibility thresholds, contract duration, minimum monthly bills, collateral, termination and capacity-reduction protections, and reporting obligations as interdependent components of a balanced package. Reopening selected components immediately, without accounting for the protections in the package as a whole, threatens the certainty that the Commission's recent action was intended to provide.[44]

44. OPC's proposal to extend the contract term to twenty years illustrates the defect in its approach. Dr. Geoff Marke reasons that the twelve-year term may be shorter than the depreciation life of resources developed to serve new loads and therefore could leave other customers exposed if a data center departs. But the mere difference between a contract term and

[42] Marke Direct (Rate Design), p. 25, ln. 1–p. 26, ln. 3, p. 29, ln. 1–8, p. 31, ln. 16–22, p. 33, ln. 3–22; OPC's Positions on Listed Issues, pp. 13–14 (Sept. 25, 2026).

[43] Marke Direct (Rate Design), pp. 25–33; Google Position Statement, at p. 6 (Issues 31.A–31.B).

[44] LLPS Report and Order, at pp. 12–17; LLPS Tariff, ¶¶ 9, 11–12, 14, 16, 21–25, 35.

an asset's accounting life does not establish that existing customers will be responsible for stranded costs. That conclusion disregards the minimum-payment obligation, collateral, advance termination notice, exit fees, capacity-reduction limits, and opportunities to mitigate or redeploy resources. Nor does OPC identify an LLPS-specific cost-of-service analysis demonstrating that a twenty-year term, rather than the Commission-approved package, is necessary to produce just and reasonable rates.[45]

45. The proposed ninety (90) percent minimum-demand requirement likewise lacks an adequate cost-based justification. OPC would raise the present eighty (80) percent minimum to ninety (90) percent, then condition a ten (10) percentage point offset on contributions in areas such as job creation, low-income demand-side management, or urban heat mitigation.[46] Dr. Marke suggests a contribution equal to approximately two (2) percent of the monthly bill as an example of qualifying support.[47] Although Google supports constructive community partnerships, OPC does not connect the proposed ninety (90) percent level—or its offset—to a demonstrated incremental cost of serving LLPS customers. A condition that changes a customer's minimum electricity bill depending on unrelated community expenditures is not a substitute for cost-based rate design.

46. OPC's proposed PUE, WUE, and THD requirements merit the same scrutiny. Dr. Marke proposes pre-construction studies and continuing performance reports, customer funding of the studies, consolidated public reporting by Evergy, and additional remedial conditions. Google does not dispute that energy efficiency, responsible water use, and power quality are important. In

[45] Marke Direct (Rate Design), pp. 21–22, 33; Google Initial Brief, File No. EO-2025-0154, ¶¶ 43–46 (Oct. 29, 2025) ("Google LLPS Initial Brief").

[46] *See* Marke Direct (Rate Design), p. 33, ln. 15–22; Brad Lutz Rebuttal Testimony, p. 46, ln. 12–p. 47, ln. 7 ("Lutz Rebuttal"); Ives Rebuttal, p. 13, ln. 14–19.

[47] Marke Direct (Rate Design), p. 34, ln. 4–6.

fact, Google is a global leader in these metrics of responsible data center development and operation. The question is whether this record supports adding OPC's specific mandates as conditions of taking service under a recently approved electric tariff. OPC has not sufficiently established the governing technical standards, the relationship between each proposed measure and Evergy's electric cost of service, the practical burden of administration, or why existing planning, engineering, and reporting channels are inadequate. [48]

47. For these reasons, the Commission should reject OPC's proposed changes to the LLPS Tariff and maintain the tariff terms approved in the LLPS Tariff Case.

VIII. The Commission Should Preserve the Integrated FAC Framework and Reject Staff's Proposals to Impose Separate, LMP-Based Fuel-Cost Treatment on LLPS Customers [Issues 22.A, 22.B, 22.C, 23.D, 25.A, 25.C]

48. Staff offers two options for restructuring the FAC. Under Option 1, Staff proposes keeping LLPS customers in the FAC, but increasing the FAC base factor to reflect an estimated annualized energy and transmission expense associated with LLPS customers at their true-up demand levels.[49] To reach an estimated annualized energy expense for Option 1, Staff relied on normalized and annualized day-ahead LMPs produced by the SPP Integrated Marketplace.[50] Staff also made inadequately supported assumptions about LLPS customer usage and load factors as part of its normalized and annualized day-ahead LMP calculations.[51]

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[48] Marke Direct (Rate Design), pp. 25–33; Google LLPS Initial Brief, ¶ 66.

[49] Mastrogiannis Direct (Revenue Requirement), at p. 10, ln. 3–6.

[50] Lange Conforming Direct (Revenue Requirement), p. 40, ln. 15–p. 41, ln. 12; *see* Tr. Vol. 7, p. 260, ln. 17–p. 261, ln. 22 (Staff witness Sarah Lange explaining that Staff used the market value of energy, i.e., the day-ahead locational market price).

[51] Tr. Vol. 7, p. 101, ln. 21–p. 103, ln. 1 (Staff witness Sarah Lange testifying that she selected the midpoint of a range of potential load factors for LLPS customers); Tr. Vol. 7, p. 261, ln. 10–p. 265, ln. 9 (Staff witness Sarah Lange testifying that her assumptions about load factors for LLPS customers were also used to annualize and normalize LMPs for purposes of determining energy expenses imputed to LLPS customers).

49. Under Option 2, Staff proposes modifying the FAC to exclude LLPS customers from FAC charges and remove the energy and transmission costs attributable to those customers from FAC calculations.[52] This approach would also use hourly energy consumption and market prices, along with allocations of certain SPP expenses, to separate out costs imputed to LLPS customers.[53] Again, this calculation relies on inadequately supported assumptions about LLPS customer usage and load factors.[54]

50. The Commission's decisions must be supported by substantial and competent evidence upon the whole record.[55] "Substantial evidence" is "evidence, which, if true, would have a probative force upon the issues," and the Missouri Supreme Court has held "substantial evidence" necessarily encompasses competent evidence.[56] "Competent evidence" is evidence that is relevant, admissible, and capable of establishing a pertinent fact.[57] Missouri courts have rejected the Commission's adoption of a proposed rate design where Staff's testimony failed to adequately substantiate its conclusions regarding the costs of serving different customers.[58] The same evidentiary deficiency exists here—there is no substantial competent evidence supporting Staff's drastic restructuring of the FAC. As noted above, this is a transitional case, with no LLPS customers in the test year. Accordingly, there is no reliable data on how LLPS customers impact the class cost of service or the allocation of fuel costs through the FAC. Without a reliable

[52] Mastrogiannis Direct (Revenue Requirement), at p. 10, ln. 7–10.

[53] Mastrogiannis Direct (Revenue Requirement), at p. 10, ln. 17–p. 11, ln. 25; Lange Conforming Direct (Revenue Requirement), p. 40, ln. 15–p. 41, ln. 12.

[54] *See* discussion *infra* n.52.

[55] *Spire Missouri, Inc. v. Pub. Serv. Comm'n*, 618 S.W.3d 225, 231 (Mo. 2021).

[56] *State ex rel. Rice v. Pub. Serv. Comm'n*, 220 S.W.2d 61 (Mo. 1949).

[57] *State ex rel. Noranda Aluminum, Inc. v. Pub. Serv. Comm'n*, 356 S.W.3d 293, 309 (Mo. App. S. Dist. 2011).

[58] *State ex rel. Public Counsel v. Mo. Pub. Serv. Comm'n*, 289 S.W.3d 240, 249–51 (Mo. App. W.D. 2009).

evidentiary basis establishing those impacts, Staff's proposed restructuring rests on unsupported assumptions rather than probative evidence sufficient to justify such a significant change to the FAC.

51. In addition to not being supported by substantial competent evidence, Staff's proposal ignores the fact that Evergy operates an integrated system for all its customers, as discussed above at Section II. Carving one customer class out of the FAC and treating it differently is therefore discriminatory.

52. Staff's proposal is also unworkable from an accounting perspective because it is infeasible to isolate and attribute market outcomes (represented by LMPs) to a single customer or class of customers.[59] As explained by Evergy witness, JP Meitner, "market results are produced through SPP's centralized optimization processes, which are designed to identify the lowest-cost and most reliable solution for the system as a whole rather than assigning specific market outcomes to individual customers."[60] Mr. Meitner notes that attempting to isolate an individual customer's impact would require assumptions and allocation methodologies that do not reflect how costs and benefits are actually created or realized within the SPP market.[61]

53. Moreover, the purpose of the FAC is to recover the variable cost of producing energy, which is mostly fuel costs.[62] As noted in Mr. Meitner's Rebuttal Testimony, market results (*i.e.*, LMPs) are produced through SPP's centralized optimization process and are not a proxy for fuel costs.[63] In fact, LMPs provide an incomplete picture about Evergy's cost of producing energy because Evergy sells the energy it produces into the SPP markets at LMP prices and buys the

[59] Ives Rebuttal, at p. 3, ln. 21–p. 4, ln. 2; Meitner Rebuttal, at p. 8, ln. 4–18.
[60] Meitner Rebuttal, at p. 8, ln. 11–13.
[61] Meitner Rebuttal, at p. 8, ln. 14–18.
[62] Berry Rebuttal, at p. 7, ln. 3–17.
[63] Meitner Rebuttal, at p. 8, ln. 4–18.

energy it needs to serve its load from the SPP markets at LMP prices, resulting in equal and offsetting transactions that essentially net out to $0.[64] Consequently, Evergy's cost to serve its customers consists primarily of the costs of running its own generators, which consists primarily of fuel costs.[65] Staff witness Sarah Lange admitted that she used the market value of energy—not the cost of producing energy—to calculate the incremental expenses that she imputes to LLPS customers in Staff's proposed Option 1 and Option 2.[66]

54. With no LLPS customers in the test year and no data on how LLPS customers will impact the FAC, there is no substantial competent evidence that supports Staff's dramatic remake of the FAC under either Option 1 or Option 2. Moreover, both Options rely on assumptions about the energy expenses imputed to LLPS Customers that do not match the reality of how Evergy operates its system. While Staff has claimed that Option 2 is a good thing for LLPS customers because it would remove the FAC charge from LLPS customers' invoices,[67] Google is not interested in short term discounts that are based on fundamentally flawed methodologies. Accordingly, the Commission should reject both of Staff's Options 1 and 2 regarding the FAC.

[64] Tr. Vol. 12, p. 64, ln. 14–20 (Evergy witness Darrin Ives explaining that Evergy "bid in all of our energy into the market and, and [sic] that the revenues from bidding in the energy are also available to customers through the FAC, resulting in kind of a net fuel and purchase-power impact instead of just pricing a customer class at the location marginal pricing."); Berry Rebuttal, at p. 7, ln. 4–10.

[65] Berry Rebuttal, at p. 7, ln. 10–12.

[66] Tr. Vol. 7, p. 260, ln. 5–15 (Staff witness Sarah Lange agreeing that it is reasonable to focus on the day-ahead locational marginal price as the basis of energy expense for serving large customers).

[67] Mastrogiannis Direct (Revenue Requirement), at p. 10, 12–14 ("Option 2 modifies the FAC to exclude major incremental energy and transmission costs related to LLPS customers, and to exempt LLPS customers from the FAC"); *see also* Tr. Vol. 7, p. 31, ln. 19–20 (Staff's Opening Statement arguing that "Under Option 2, LLPS customers would not pay any FAC charges.").

IX. Conclusion & Requested Relief

55. WHEREFORE, Google respectfully requests the Commission approve the LLPS Stipulation in its entirety without modifications or changes, reject OPC's proposed modifications to the Large Load Tariff, reject Staff's proposals to remake the FAC, and otherwise establish just and reasonable rates that recognize LLPS customers as a beneficial part of Evergy's integrated electric system.

Respectfully submitted,

POLSINELLI PC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties listed on the official service list by email, this 6th day of November 2026.

/s/ Andrew O. Schulte
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