

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

In the Matter of the Application of)	
Evergy Missouri West, Inc. d/b/a)	
Evergy Missouri West for Authority to)	
Implement Rate Adjustments)	
Required by 20 CSR 4240-20.090(8))	Case No. ER-2023-0210
and the Company's Approved Fuel and)	
Purchased Power Cost Recovery)	
Mechanism)	

OFFICE OF THE PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Statement of Positions*, states as follows:

1. Pursuant to the *Order Setting Procedural Schedule* issued by the Commission on March 22, 2023, the OPC provides this statement summarizing its position on each disputed issue.

Issue 1: Should the Commission approve Evergy Missouri West’s proposed tariff sheet, which includes deferral of \$47.9 million of non-extraordinary costs to a PISA regulatory asset account for consideration in a future general rate proceeding?

No, for two separate and distinct reasons. First, the proposed tariff sheet seeks to recover extraordinary fuel and purchase power costs that should be deferred to a regulatory asset account. *Direct Testimony of Lena M. Mantle*, pg. 2 lns. 14 – 17, EFIS Item no. 22. The specific amount that should be deferred as extraordinary is \$85,420,087, which should be allowed to “accumulate interest at an interest rate that would keep Evergy West whole but not provide a profit to its shareholders until a

decision regarding cost recovery is made in Evergy West's next general rate case. *Id.* at lns. 17 – 20.

Second, the Commission should not approve the proposed tariff sheet simply because it is now more than three months out of date. The proposed tariff sheet contain an effective date of March 1, 2023. *Direct Testimony of Lisa A. Starkebaum*, Schedule LAS-1, EFIS Item no. 2. Evergy's witness further identifies that "[t]he tariff being submitted with this filing reflects recovery of these FAC-related costs in the fuel adjustment rate effective March 1, 2023." *Id.* at pg. 5 lns. 18 – 20. With regard to the PISA deferral issue in particular, Evergy's witness stated that the increase only exceeded "the Average Overall Rate Cap of 13.3372% **at March 1, 2023.**" *Direct Testimony of Darrin R. Ives*, pg. 9 ln. 5, EFIS Item No. 3 (emphasis added). Given these facts, if the Commission determines that the fuel and purchase power costs Evergy West incurred during AP31 were not extraordinary, then it should order the Company to file an updated tariff sheet. This updated tariff sheet should include updated calculations of the amount to be deferred into a PISA regulatory asset, which should be determined as of the date the tariff sheet will become effective in a manner consistent with the originally proposed tariff sheet. *Direct Testimony of Lisa A. Starkebaum*, pg. 5 lns. 18 – 20, EFIS Item no. 2

Issue 2: Should the costs incurred by Evergy in AP31 be considered extraordinary?

Yes. The actual net energy costs incurred by Evergy during the 31st accumulation period were extraordinary. *Direct Testimony of Lena M. Mantle*, pg. 9

ln. 12, EFIS Item no. 22. The fact these costs were extraordinary is further admitted by Evergy's witness Mr. Darrin Ives:

In response to his question of why Evergy West's fuel and purchased power costs increased dramatically, Mr. Ives testified in direct testimony that:

Similar to the direct testimony I provided in the previous 30th Accumulation Period in Case No. ER-2023-0011, there are a variety of causes, all of which are extraordinary and are the product of external factors beyond the Company's control.⁵

(footnote omitted)

It is clear that Mr. Ives considered these costs to result from exclusively extraordinary causes. If Mr. Ives believes the causes giving rise to the costs are extraordinary, then it logically follows that Mr. Ives must have considered the costs themselves to be extraordinary.

Q. In this response, Mr. Ives references his direct testimony in the previous Evergy West AP 30 FAC case, ER-2023-0011. What was Mr. Ives' testimony regarding the costs in the AP 30 case?

A. In his direct testimony in case no. ER-2023-0011, Mr. Ives provided the following as the purpose for his direct testimony:

I will explain how *the fuel cost increases* experienced by [Evergy West] in the last two Fuel Adjustment Clause ("FAC") accumulation periods from June 2021 through November 2021 and December 2021 through May 2022 *were extraordinary* and were significantly impacted by external factors beyond the Company's control.

Emphasis added.

This corroborates the logical deduction that Mr. Ives believes that the fuel and purchased power costs in AP 31 were extraordinary. Even if Mr. Ives does not expressly state that the fuel costs in AP 31 were extraordinary in his direct testimony in this case, by stating that the costs were similar to costs that he said were extraordinary in a previous filing – and considering that the fuel and purchased power costs in AP 31 were 1.5 times greater than the costs in AP 30 – one must conclude that Mr. Ives believed that the costs for AP 31 are extraordinary too.

Surrebuttal Testimony of Lena M. Mantle, pg. 3 ln. 5 – pg. 4 ln. 8 (emphasis in original) (footnotes omitted).

Issue 3: In the event the Commission determines AP31 costs to be extraordinary, how should AP31 costs be recovered?

The extraordinary fuel and purchase power costs that should be deferred to a regulatory asset account. *Direct Testimony of Lena M. Mantle*, pg. 2 lns. 14 – 17, EFIS Item no. 22.

Issue 4: In the event the Commission determines AP31 costs to not be extraordinary, how should AP31 costs be recovered?

The fuel and purchase power costs deemed not to be extraordinary should be recovered through Evergy’s FAC. The Commission cannot simply allow the existing proposed tariff sheet to go into effect, however, because it is out of date. *See Direct Testimony of Lisa A. Starkebaum*, Schedule LAS-1, EFIS Item no. 2 (showing proposed tariff sheets bear an effective date of March 1, 2023). The Commission should consequently order Evergy to file a new tariff sheet, with a new thirty-day effective date. Moreover, because more than three months have passed since the effective date of the proposed tariff sheet, the compound annual growth rate cap imposed by RSMo. section 393.1655.3 will have changed. *See Id.* at pg. 5 lns. 18 – 20. (“[t]he tariff being submitted with this filing reflects recovery of these FAC-related costs in the fuel adjustment rate effective March 1, 2023.”); *Direct Testimony of Darrin R. Ives*, pg. 9 ln. 5, EFIS Item No. 3. Consequently, the amount that may need to be deferred from Evergy’s FAC by action of RSMo. section 393.1655.5 as a result of

exceeding that compound annual growth rate will also have changed. Therefore, the updated tariff sheet that Evergy will need to file if the Commission determines that the costs incurred in AP31 were not extraordinary should include an update to the amount to be deferred, if any, under the PISA statute. Failure to make this update would constitute reversible error, as it would result in a deferral that is greater than what is authorized under the PISA statute. RSMo. § 393.1655.5.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Statement of Positions* and rule in the OPC's favor on all matters addressed herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this sixth day of June, 2023.

 /s/ John Clizer