

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

In the Matter of Evergy Missouri West,)
Inc. d/b/a Evergy Missouri West’s)
Submission of Its 2022 Renewable)
Energy Standard Compliance Report)

AND)

Case No. EO-2023-0362
EO-2023-0364

In the Matter of Evergy Missouri West,)
Inc. d/b/a Evergy Missouri West’s 2023)
Renewable Energy Standard)
Compliance Plan.)

**Office of the Public Counsel’s Comments on Evergy Missouri
West’s Renewable Energy Standard Compliance Report and
Plan**

COMES NOW the Office of the Public Counsel (“OPC”) and for its Comments on Evergy Missouri West’s (“Evergy West” or “Company”) Renewable Energy Standard (“RES”) Compliance Report (“Report”) and RES Compliance Plan (“Plan”).¹

OPC submits these comments to raise significant concerns with Evergy West’s Report and Plan, as detailed in the attached Memorandum from Ms. Lena Mantle, P.E. The Commission’s purpose of requiring RES reports and plans is not met when the information provided by the utility lacks the transparency necessary to ensure compliance with the RES. As explained below and in Ms. Mantle’s Memorandum, Evergy West’s Filings do not comport with state law, Public Service Commission (“Commission”) regulation, or the central policy that underlies the Filings’ existence.

¹ Addressed jointly as “Filings.”

Ignoring State Law

The central law that both codifies Missouri's RES requirements and permits the Commission regulate the format that Filings must follow is RSMo Section 393.1030. This statute does order one (1) notable aspect of the Missouri RES, relating to renewable energy credits (RECs), stating, "An unused credit may exist *for up to three years from the date of its creation.*"² Therefore, when a REC reaches three (3) years and one (1) day, that REC cannot be used for RES compliance purposes. As further explained in Lena Mantle's attached memorandum, 1,070,008, or 93%, of the RECs that the Company retired for RES compliance were statutorily expired.

The Company's actions do not comply with the law and hurt ratepayers. Evergy West should sell excess RECs to make money and decrease rates for customers. Instead, Evergy West is banking these RECs until they expire, then using the legally non-existent RECs for RES compliance. In the end, the Company's choice not to sell the RECs cost ratepayers a total of \$3.2 million in lost revenue.³

The Company's RES Filings show further noncompliance with state law. The RES statute limits the average retail rate increase permitted for RES compliance to one percent (1%) in two (2) separate provisions.⁴ In fact, one clause states that a utility "shall not raise the retail rates charged to the customers of electric retail

² RSMo § 393.1030.2 (emphasis added).

³ Lena Mantle, RESPONSE TO EVERGY WEST, INC'S 2022 RENEWABLE ENERGY STANDARD REPORT AND PLAN FILED WITH THE MISSOURI PUBLIC SERVICE COMMISSION, pg. 5 (June 30, 2023), Case Nos. EO-2023-0362 & EO-2023-0364.

⁴ RSMo § 393.1030.2(1) & RSMo § 393.1045.

suppliers by an average of more than one percent *in any year*[.]”⁵ Ms. Mantle calculates in her memo that the actual impact of Evergy West’s RES compliance was actually somewhere between two point two percent (2.2%) and two point five-eight percent (2.58%), making its rate impact over two times (2xs) higher for retail customers than the law permits.

Moreover, the Company’s Plan ignores tangible costs in its rate impact calculation and provides incomplete data when asked to explain how it will meet RES compliance from 2023 through 2025. By repeating these problematic practices, Evergy West is signaling that it will continue to violate RSMo Sections 393.1030.2(1) and 393.1045 in the future. Preventing future abuse of the RES by Evergy West is reliant on the Commission stopping it now.

Ignoring Commission Regulation

While Evergy West’s Filings appear to address each section of 20 C.S.R. 4240-20.100(8)(A) & (B), the nebulous nature of many Company responses renders their answers unresponsive to the rule’s requirement. Where the regulation requires “[a] *calculation* of [RES compliance’s] actual calendar year rate impact,”⁶ the Company provides the *number* they calculated for their rate impact.⁷ Where the regulation requires the company to provide “[a] *specific description* of the utility’s planned

⁵ RSMo § 393.1045.

⁶ 20 C.S.R. 4240-20.100(8)(A)1P (emphasis added).

⁷ 2022 Annual Renewable Energy Standard Compliance Report pg. 9, EO-2023-0362, EFIS Item No. 1.

actions to comply with the RES”⁸ the Company simply states that it will use banked and generated RECs to meet compliance.⁹

Ignoring the Point

The central purpose of the RES Filings is for utilities to inform both the state and the public of how they are complying with the RES in the past, present, and future. The utilities need to create clear, detailed, and accurate RES Filings. One reason these Filings are required is to be available tools for the administrative bodies that monitor and regulate utilities to analyze for oversight. Another reason for these Filings is so that curious members of the public can review them and see how the utility is meeting RES.

Evergy West fails to follow a transparent approach with these Filings. Comprehending the Company’s work required outside information from the North American Renewables Registry, Evergy West, and Ms. Mantle’s own retained data. Moreover, the Company’s Filings are cursory, misleading, and confusing. Therefore, Evergy Missouri West is failing to satisfy the fundamental objective of these Filings, even without considering the statute or the regulation.

WHEREFORE, the OPC requests that the Commission find Evergy Missouri West in non-compliance with RES due to the content and nature of its Filings.

⁸ 20 C.S.R. 4240-20.100(8)(B)1A, (emphasis added).

⁹ 2023 Annual Renewable Energy Standard Compliance Plan pg. 5, EO-2023-0364, EFIS Item No. 1.

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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 30 of June, 2023.

/s/ Anna Martin

MEMORANDUM

To: Missouri Public Service Commission
Official Case File Nos. EO-2023-0362 and EO-2023-0364

From: Lena M. Mantle, PE
Senior Analyst, Office of Public Counsel

Re: Response to Evergy Missouri West, Inc.'s 2022 Renewable Energy Standard
Report and Plan filed with the Missouri Public Service Commission

Date: June 30, 2023

Evergy Missouri West, Inc.'s ("Evergy West") **2022 Annual Renewable Energy Standard Compliance Report** ("report") does not demonstrate it met the 2022 Missouri renewable energy standard ("RES") statute and the Commission rule 20 CSR 4240-20.100 in the following ways.

- Evergy West's report does not specify the amount of energy necessary to meet the 2022 RES nor which renewable assets provided the energy to meet that standard.
- Data provided in response to data requests shows that 93% of the renewable energy credits ("RECs") Evergy West retired to meet the non-solar 2022 RES were created more than three years before Evergy West retired them rendering them unavailable to meet the Missouri RES.
- Evergy West's report does not meet the rule requirement 20 CSR 4240-20.100(8)(A)1.P to show the calculation of the 2022 actual calendar year rate impact. It simply states that the retail rate impact was 0.267% with no mention of what costs are considered in the determination of the rate impact.
- While Evergy West lists all of its renewable resources that generate energy to its retail customers as required by 20 CSR 4240-20.100(8)(A)1.C., it does not explain that not all of these resources are available to meet the RES. Not providing this differentiation of the resources could result in a misunderstanding of the resources available to meet the Missouri RES.

Evergy West's 2023 **Annual Renewable Energy Standard Compliance Plan** ("plan") does not comply with the RES for the following reasons.

- The resources Evergy West will use for RES compliance for 2023 through 2025 is not provided.
- All costs to meet the RES are not included in Evergy West's calculation of the Missouri RES ten year average renewable rate impact ("RRI").

REPORT

The Report Does Not Document Compliance

Evergy West did not provide the amount of energy it was required to meet with renewables in 2022 or which of the renewable resources that it has access provided the energy to meet the Missouri RES. Table 1, below, shows Evergy West’s RES requirements for 2022 as follows:

Table 1
Evergy West’s RES Requirements

Total retail sales in 2022	8,666,707 MWh
RES requirement (15%)	1,300,006 MWh
Solar requirement (2% of 15%)	26,000 MWh
Non-solar requirement	1,274,006 MWh

Using the North America Registry (“NAR”) information on the renewable energy credits (“RECs”) retired for compliance provided as by Evergy West in response to Data Request 8000, I was able to verify that, Evergy West did retire enough RECs to meet the RES. The resources that it used are shown in Table 2 below.

Table 2
RECs Retired for 2022 Mo RES Compliance

	# of RECs	Compliance RECs
Ensign Wind	168,300	168,300
Gray County Wind	83,791	83,791
Osborn Wind	191,789	239,736
Prairie Queen Wind	65,024	65,024
Pratt Wind	324,021	324,021
Rock Creek Wind	309,374	386,718
St. Joe Landfill Gas	5,134	6,418
Total Non-Solar	1,147,433	1,274,007
Solar	20,800	26,000

The NAR data reveals that Evergy West utilized RECs created at all of the wind facilities that it has purchased power agreements (“PPAs”) with the exception of the Cimarron Bend 3 wind PPA.

Evergy West Retired RECs More Than Three Years After They Were Created

Section 393.1030.2 requires that RECs be retired for the RES within three years of their creation. In its response to data request 8000, Evergy West provided when the RECs were created and retired. Table 3 below summarized this information.

Table 3
Vintage of RECs Retired for Mo 2022 RES Requirements

Vintage	3 Yr Deadline	Retirement Date		Total
		Dec 19, 2022	Mar 15, 2023	
Mar-19	Mar-22	58,740		58,740
Apr-19	Apr-22	186,063		186,063
May-19	May-22	150,542		150,542
Jun-19	Jun-22	114,167		114,167
Jul-19	Jul-22	113,625		113,625
Aug-19	Aug-22	95,352		95,352
Sep-19	Sep-22	166,311	30,422	196,733
Oct-19	Oct-22	70,501	24,491	94,992
Nov-19	Nov-22	59,794		59,794
Dec-19	Dec-22	77,425		77,425
Grand Total		1,092,520	54,913	1,147,433
Amount older than 3 years				1,070,008
				93%

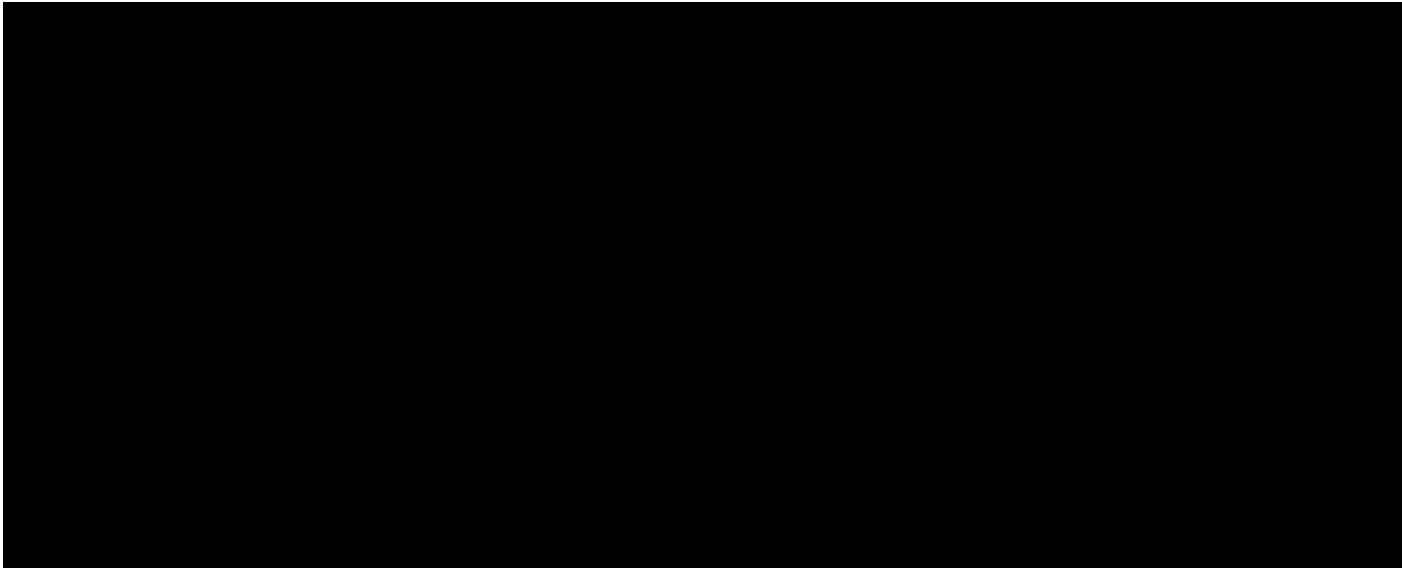
This table shows that Evergy West retired 1,070,008 RECs¹ for the Missouri RES that were untimely, according to Section 393.1030.2. Therefore, Evergy West did not comply with the Missouri RES statute.

No 2022 Rate Impact

Commission rule 20 CSR 4240-20.100(8)(A)1.P requires the annual RES compliance reports to provide a calculation of the utility’s most recently completed calendar year. Evergy West did not meet this requirement; it merely stated that the impact of meet the RES in 2022 was 0.267% The report does not explain the costs included, nor does it articulate the cost amount. Therefore Evergy West’s RES report is not in compliance with the Commission rule.

In response to the Public Service Commission staff’s (“Staff’s”) data request 1, Evergy West provided the following costs used to calculate the rate impact.

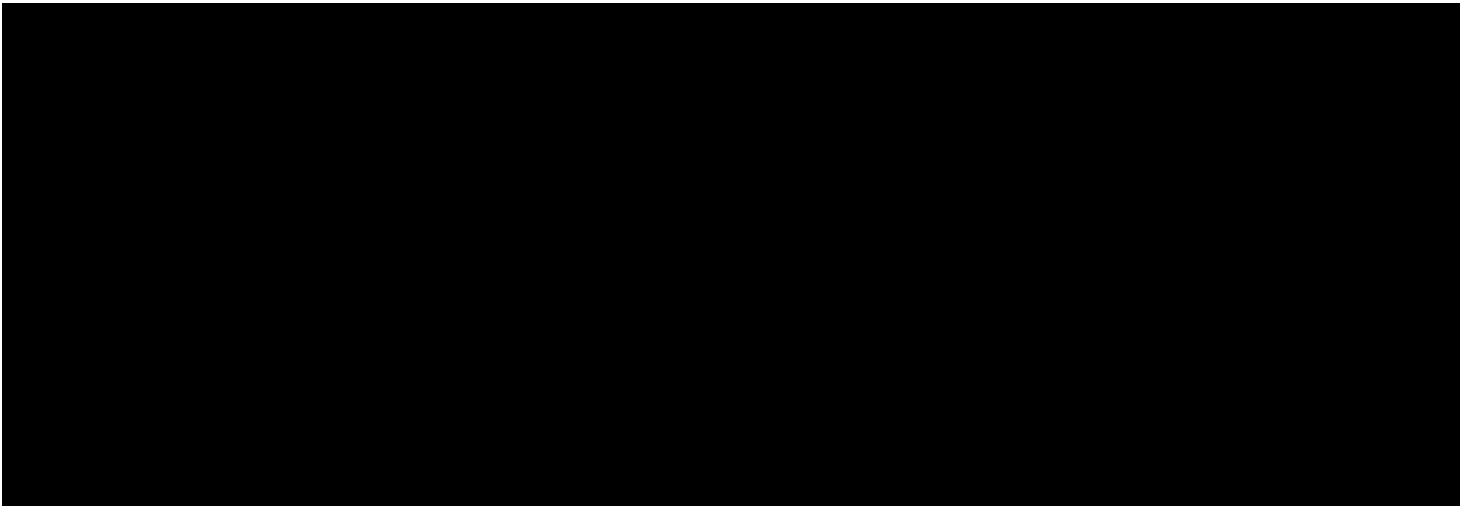
¹ This number assumes that the RECs retired in December 2022 were created after December 19, 2019.



This is the extent of the information regarding the cost Evergy West incurred to meet the RES. It did not identify the contractors or their role in Evergy West meeting the RES. It did not explain what the carrying costs were for. There is no information on whether the revenues generated by the sale of generation from the Greenwood solar project and the SJLG landfill project was included in calculating its revenue requirements that are included in this cost.

Finally, the 2022 RES compliance cost does not include any costs or revenues for the resources shown in Table 2. Evergy West's monthly FAC submission shows the following costs, revenues, and resulting margins for the wind facilities that provided the RECs used to meet the 2022 RES. This information for March 2019 through December 2019² is shown below.

Table 4
Cost of Evergy West's Wind PPAs
March 2019 through December 2019



² This is the time period that RECs were retired for the 2022 RES.

Evergy West was receiving energy from Gray County prior to the passage of section 393.1030, therefore its cost is not a cost Evergy West incurred to meet the RES. Therefore the March through December 2019 cost of these wind PPAs absent the cost customers paid for the Gray County PPA was [REDACTED]. If this cost of the wind PPAs that were utilized to meet the RES is added to the 2022 compliance cost that Evergy West provided, the total cost for the 2022 RES was [REDACTED] resulting in a retail rate impact of 2.21%.

In addition, Evergy West did not include the revenue customers lost because it retired RECs from these uneconomic PPAs rather than selling them. Evergy West responded to Staff data request 4 with a listing of the RECs it sold and the prices it received. Using this information, I calculated that, had Evergy West received these prices for the RECs it retired, it could have generated \$3.17 million in REC revenue for customers in 2022. The lost opportunity cost for the retired RECS, with the losses from Evergy West's wind PPAs, equal a total cost of [REDACTED], a retail rate impact of 2.58%.

Renewable Resources Not Available for RES are Not Identified

Commission rule 20 CSR 4240-20.100(8)(A)1.C requires Evergy West to provide, by source, the total electric sales supplied by renewable energy resources. One of the resources that Evergy West lists is its Cimarron Bend 3 PPA. However, this PPA is assigned to Evergy West's Renewable Energy Rider program and its special contract customer, Nucor. Therefore, the RECs are retired for Nucor and the participants of Renewable Energy Rider program and cannot be used to meet the Missouri RES.

While this is not technically a deficiency in the report, the purpose of the report is to show how Evergy West is meeting the RES. It is misleading to not designate in the report resources that cannot be utilized for the RES.

PLAN

The Plan Does Not Identify Resources that Will Be Used to Meet RES in 2023 through 2025

Commission rule 20 CSR 4240-20.100(8)(B)1.A requires a "specific" description of Evergy West's planned action to comply in 2023 through 2025. Evergy West's plan lists its PPAs and provides the estimated energy production of the PPAs at 2,369,137 MWh (compliance RECs of 2.56 million RECs) and provides a general statement that RECs from these resources in addition to banked RECs will be used to meet the expected need of approximately 1.24 million RECs per year over the next three years. Evergy West's plan does not specify which wind PPAs it will use for compliance.

Commission rule requires Evergy West to prove that its compliance plans are the least cost, prudent methodology to achieve compliance (20 CSR 4240-20.100(8)(B)1.E). Evergy West states that its Gray County Wind PPA was in place prior to the passage of the RES rule, the wind energy from this PPA is the least cost resource. However, data provided in response to data requests shows that in 2022 Evergy West scattered the RECs that it chose to retire across all of the PPAs utilizing less than half of the RECs created by its least cost Gray County wind PPA.

Evergy West appears to believe that there is no cost to using RECs from all of its PPAs, since it asserts Evergy West entered into the contracts because the PPAs were “economic.” However, only one of Evergy West’s wind PPAs has shown to be economic. In fact from 2014 through the 2022, these “economic” PPAs have cost Evergy West’s Missouri retail customers over \$145 million.

Even if only the cost is considered is the lost opportunity cost of not being able to sell the RECs, Evergy West should present a plan that optimizes the RECs it retires to meet the Missouri RES to maximize the revenue it can get for RECs that are not retired for the RES.

The Calculation of the Average Retail Rate Impact Does Not Consider All Costs

Similar to the actual 2022 retail rate impact calculation, the average retail rate impact does not include all costs because it does not consider the losses in the market for the PPAs. In addition, the average retail rate remains artificially low because the Company did not consider the economic effect of these PPAs on Evergy West’s customers.

**ATTACHMENT A
IS
CONFIDENTIAL
IN ITS ENTIRETY**