



ratepayers, the Missouri RES mandate includes a 1% limitation on the “maximum average retail rate increase.” §§ 393.1030.2(1) and 393.1045 RSMo.

To demonstrate compliance with the 1% annual impact cap, the Commission requires annual RES compliance reports and plans to include calculations of each company’s annual retail rate impact. 20 CSR 4240-20.100(8)(A)1(P) and 20.100(8)(B)1(F). “The retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio.” 20 CSR 4240-20.100(5)(B).

Evergy Missouri West, Inc. d/b/a Evergy Missouri West and Evergy Metro, Inc. d/b/a Evergy Missouri Metro (collectively “Evergy”) filed their Revised RES compliance reports and plans on July 25, 2022. Evergy’s Revised 2021 Compliance Reports show that ninety-eight percent (98%) of Evergy’s renewable energy per megawatt-hour (MWh) comes from Evergy’s wind PPAs as shown below:

<b>Evergy Renewable Energy Portfolio 2021<sup>2</sup></b>		
	<b>Wind PPAs</b>	<b>Solar/Landfill Gas</b>
<b>Evergy Metro Renewable Generation</b>	<b>98%</b> (2,409,972 MWh)	<b>2%</b> (37,644 MWh)
<b>Evergy West Renewable Generation</b>	<b>98%</b> (2,900,030 MWh)	<b>2%</b> (67,076 MWh)

<sup>2</sup> Source: Case No. EO-2022-0285, Evergy Metro – Missouri, 2021 Annual Renewable Energy Standard Compliance Report; and Case No. EO-2022-0286, Evergy West, 2021 Annual Renewable Energy Standard Compliance Report.

Despite Evergy relying almost entirely upon wind energy PPAs to fulfill its RES mandate, despite its wind PPAs generating over 5 million MWh of renewable energy, and despite the tens of millions of dollars in annual losses caused by its failed wind generation PPAs, Evergy claimed not a single wind generated MWh as a cost of its RES compliance.

Evergy's rationale for not including the wind PPAs in its retail rate impact calculations is its argument that it entered into the PPAs for "economic" reasons, and therefore, all wind generation, and almost all RES compliance generation costs, are shielded from the 1% cap. Public Counsel is aware of no such limitation stated or implied in Missouri statutes or rules, and Evergy should provide its legal analysis to support its interpretation. Under Evergy's interpretation, the 1% rate impact is rendered practically meaningless for the vast majority of Evergy's RES-compliant costs.

The Commission's rules define "RES compliance costs" as "prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard." 20 CSR 240-20.100(1)(Q). The Commission's "directly related" standard is furthered in 20 CSR 4240-20.100(5)(A), where the rules provide that costs of renewable energy resources must be "directly attributable" to RES compliance. The only RES-compliant energy resources excluded by 20 CSR 4240-20.100(5)(A) are "resources owned or under contract prior to September 30, 2010." All other generation that Evergy used to meet its RES mandate is "directly related" and "directly attributable" to RES compliance.

Even if the law did allow Evergy’s subjective opinion of the economics of its wind contracts to control what can be attributed to RES compliance, Evergy’s claim the wind PPAs had nothing to do with the RES is contrary to Evergy’s own characterization of those PPAs at the time it executed at least two of those contracts. \*\* \_\_\_\_\_

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Other sources also show Evergy entered into two additional wind PPAs for RES compliance purposes. In Case No. EO-2019-0067, a fuel adjustment clause prudence review, the Commission considered the prudence of the Companies entering into the Rock Creek and Osborne wind projects PPAs. The Commission’s *Report and Order* found, “In deciding to acquire the PPAs from the Missouri-based Rock Creek Wind Project and Osborn wind projects, GMO and KCPL considered the following: a. Missouri Renewable Energy Standard (“RES”) incentives.”<sup>3</sup> RES compliance was the first reason listed. This is referring to the Missouri-based renewable generation incentives in the RES, where “[e]ach kilowatt-hour of energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.” § 393.1030.1 RSMo. The Commission’s *Report and*

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<sup>3</sup> Case No. EO-2019-0067, Report and Order, November 6, 2019, p. 16.

*Order* continued, “In deciding to acquire the PPAs, GMO and KCPL considered that both facilities qualify for the RES incentive set out in 20 CSR 4240-20.100(2)(B)1 and (3)(G) and Section 393.1030.1, RSMo.”<sup>4</sup> The evidence cited by the Commission in its order is the testimony of the Company’s Director of Energy Resource Management, where he acknowledged, “Several factors were considered in the decision to procure Missouri-based wind projects including the Missouri Renewable Energy Standard (“RES”).”<sup>5</sup>

The RES statutes and rules should not be interpreted in a manner that allows Evergy to simply avoid a rate impact protection by claiming it entered into those contracts for more than one reason. Instead, all renewable energy contracted for after September 30, 2010 and used to comply with the RES should be included in the rate impact calculation. Since Evergy’s renewable energy portfolio currently exceeds the RES mandate, the majority of Evergy’s wind PPA recovery would be unaffected since the limitation would only apply to the renewable energy that allowed Evergy to meet the mandate.

Public Counsel requests the Commission direct Evergy to recalculate its retail rate impact using all renewable energy sources acquired after September 30, 2010 that enabled Evergy to meet the RES mandates. Even if adding those wind PPAs into the retail rate impact calculation would limit Evergy’s annual recovery, it would not prevent Evergy from eventually recovering those costs – it would only extend those recoveries over a greater recovery period in order to protect customers. Section 393.1045 RSMo states, “Any renewable mandate

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<sup>4</sup> *Id.*

<sup>5</sup> Case No. EO-2019-0067, Direct Testimony of Burton Crawford, p.3.

required by law shall not raise retail rates...by an average of more than one percent in any year, and all the costs associated with any such renewable mandate shall be recoverable in the retail rates charged by the electric supplier.” The Commission’s rules also provide, “If the electric utility incurs costs in complying with the RES that exceed the one percent (1%) rate limit determined in accordance with section (5) of this rule for any year, those excess costs may be carried forward to future years for cost recovery permitted under this rule.” 20 CSR 4240-20.100(6)(A)3.

The Missouri RES contemplates the possibility of increased costs from uneconomic renewable mandates, and the harmful impacts those costs could impose on electric rates, which is why annual impacts are limited. Rate increases caused by RES-compliance such as Evergy’s extremely uneconomic wind PPAs, and the tens of millions of dollars in annual losses from those PPAs being passed on to ratepayers, are the reason the 1% retail rate impact cap exists.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to Evergy’s Revised 2021 Compliance Reports and 2022 Compliance Plans and requests the Commission order Evergy to file revised reports and plans to correct these errors and omissions.

Respectfully submitted,

**/s/ Marc Poston**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 28th day of July, 2022.

**/s/ Marc Poston**

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