

**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)) and the Company's Approved Fuel and) Purchased Power Cost Recovery) Mechanism)	Case No. ER-2023-0011
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**RESPONSE TO ORDER DIRECTING FILING OF PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Response to Order Directing Filing of Proposed Findings of Fact and Conclusions of Law*, states as follows:

1. On September 23, 2022, the Commission issued an *Order Directing Filing of Proposed Findings of Fact and Conclusions of Law* that required parties to file Proposed Findings of Fact and Conclusions of Law no later than October 21, 2022.
2. In Compliance with that *Order*, the OPC offers the following proposed findings of facts and conclusions of law.

Proposed Findings of Facts

1. Evergy West elected to make deferrals through Plant-In-Service Accounting (commonly known as “PISA”) provided for under RSMo. section 393.1400 on December 31, 2018. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 7 (PDF) pg. 4 (internal) n. 1, ER-2023-0011, EFIS Item No. 43)

2. Evergy West, then doing business as KCP&L Greater Missouri Operations Company, indicated that it had 286,741 residential customers and 39,886 “other” customers in its annual report for the calendar year 2018 filed with the Commission. (2018 KCP&L GMO Annual Report, pg. 2).

3. Evergy West filed notice for a general rate increase proceeding on November 22, 2017. (Notice of Intended Case Filing, ER-2018-0146, EFIS Item No. 1).

4. The Commission issued its *Order Approving Tariffs* in Evergy West’s general rate proceeding (ER-2018-0146) on November 26, 2018. (Order Approving Tariffs, ER-2018-0146, EFIS Item No. 487).

5. The FAC is a rate adjustment mechanism approved by the Commission under RSMo. §386.266. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 9 (PDF) pg. 6 (internal) lns. 29 – 32, ER-2023-0011, EFIS Item No. 43)

6. The FPA amount for the 30th accumulation period is \$44,604,020. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), LMM-R-4 pg. 63, ER-2023-0011, EFIS Item No. 18).

7. If the full FPA amount for the 30th accumulation period is included in the FAR and recovered through the FAC, Evergy West’s average overall rate will be \$0.10223/kWh. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 12 (PDF) pg. 9 (internal) lns. 16 – 18, LMM-R-4 pg. 4, ER-2023-0011, EFIS Item No. 18).

8. Evergy West’s Average Overall Rate as of the date base rates were set in the last general rate proceeding concluded prior to when Evergy West elected PISA under section 393.1400 was \$0.09367/kWh. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 11 (PDF) pg. 8 (internal) ln. 22 – pg. 12 (PDF) pg. 9 (internal) ln 3, ER-2023-0011, EFIS Item No. 18).

9. An average overall rate of \$0.10223/kWh represents an increase of 9.14% over the Average Overall Rate of \$0.09367/kWh in effect as of the date base rates were set in the last general rate proceeding concluded prior to when Evergy West elected PISA under section 393.1400. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 12 (PDF) pg. 9 (internal) lns. 18 – 19, ER-2023-0011, EFIS Item No. 18).

10. A compound annual growth rate (“CAGR”) is the annualized average rate of growth across time taking into account the growth that has already occurred. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 10 (PDF) pg. 7 (internal) lns. 6 - 7, ER-2023-0011, EFIS Item No. 18).

11. Evergy West’s CAGR as of September 1, 2022, was 11.69%. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 10 (PDF) pg. 7 (internal) ln. 19, ER-2023-0011, EFIS Item No. 18).

12. Evergy West’s CAGR as of September 21, 2022, was 11.87%. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 10 (PDF) pg. 7 (internal) lns. 20 – 21, ER-2023-0011, EFIS Item No. 18).

13. Evergy West’s CAGR as of December 1, 2022, will be 12.51%. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 11 (PDF) pg. 8 (internal) lns. 1 – 2, ER-2023-0011, EFIS Item No. 18).

14. Evergy West’s CAGR as of December 6, 2022, will be 12.55%. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 11 (PDF) pg. 8 (internal) ln. 4, ER-2023-0011, EFIS Item No. 18).

15. Under no circumstances does including the total cost of the FPA in Evergy West’s FAC rate result in a percentage increase in Evergy West’s current average overall rate that would be greater than the CAGR allowed under the PISA statute. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 12 (PDF) pg. 9 (internal) lns. 22 – 25, ER-2023-0011, EFIS Item No. 18).

16. The FPA only recovers the difference between what was already collected from customers in permanent rates (sometimes referred to as base rates) and what was actually incurred in that accumulation period. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg. 10 (internal) lns. 11 – 13, ER-2023-0011, EFIS Item No. 18); Tr. Vol 1 pg. 91 lns. 13 – 18.

17. Under Evergy West’s current tariff, fuel and purchase power costs that are already included in base rates are not separately disclosed as a component of the energy charge rate included in residential customer’s bills. (Evergy Missouri West, Inc. d/b/a Evergy Missouri West Commission Approved Tariff, P.S.C. Mo. No. 1 Sheet No. 146.1).

18. Evergy West did not mention the \$31 million that it seeks to defer, let alone identify that cost as extraordinary, in its minimum filing requirements for this case. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 28 (PDF) pg. 25 (internal) ln. 5 – 25, ER-2023-0011, EFIS Item No. 43).

19. The FPA for this 30th accumulation period was smaller than the FPA for the previous accumulation period (the 29th). (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 21 (PDF) pg. 18 (internal) ln. 19 – pg. 22 (PDF) pg. 19 (internal) ln. 5, ER-2023-0011, EFIS Item No. 43).

20. In its FAC rate change case currently before this Commission, case no. ER-2023-0030,¹ Evergy Metro's filed FAC actual net energy costs is nearly the same amount as its FAC costs included in its permanent rates. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 22 (PDF) pg. 19 (internal) ln. 17 – 20, ER-2023-0011, EFIS Item No. 43).

21. For the time period of December 1, 2021 through May 31, 2022, Evergy Metro's fuel costs were \$105.3 million while Evergy West's fuel costs were about one fourth of that at \$23.3 million. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 23 (PDF) pg. 20 (internal) ln. 4 – 6, ER-2023-0011, EFIS Item No. 43).

22. For the time period of December 1, 2021 through May 31, 2022, Evergy Metro's purchased power costs were 13% greater than Evergy West's. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 23 (PDF) pg. 20 (internal) ln. 10 – 11, ER-2023-0011, EFIS Item No. 43).

23. There are no costs related to winter storm Uri included in Evergy West's FPA for accumulation period 30. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 26 (PDF) pg. 23(internal) ln. 14 – 15, ER-2023-0011, EFIS Item No. 43).

24. A delay in the effective date of the *Report and Order* in this case until after the effective date of the *Report and Order* in the general rate case, ER-2022-0130, would result in harm to customers because it would allow Evergy West to collect sums to which it is not entitled. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 30 (PDF) pg. 27 (internal) ln. 6 – 8, ER-2023-0011, EFIS Item No. 43).

¹ In her rebuttal testimony, Ms. Mantle incorrectly identified this case as ER-2023-0031, which is the FAC rate change case of Union Electric Company d/b/a Ameren Missouri.

25. The Operation of law date for Evergy West's general rate case, ER-2022-0130, is December 6, 2022. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 29 (PDF) pg. 26 (internal) ln. 6 - 7, ER-2023-0011, EFIS Item No. 43).

26. The FAC base factor included in Evergy West's base rates in ER-2022-0130 has been established in an agreement reached between the parties. (Stipulation and Agreement (Public & Confidential), pg. 4 ¶ 6a, ER-2022-0130, EFIS Item No. 312).

27. The *Stipulation and Agreement* setting Evergy West's base factor in case ER-2022-0130 has been approved by the Commission. (Order Approving Four Partial Stipulations and Agreements, pg. 7, ER-2022-0130, EFIS Item NO. 340).

Conclusions of Law

A. The PSC's powers are limited to those conferred by statutes, either expressly or by clear implication as necessary to carry out the powers specifically granted. *Amendment of the Comm'ns Rule Regarding Applications for Certificates of Convenience & Necessity v. Mo. Pub. Serv. Comm'n*, 618 S.W.3d 520, 524 (Mo. banc 2021) (citing *State ex rel. Mogas Pipeline LLC v. Mo. PSC*, 366 S.W.3d 493, 496 (Mo. banc 2012)).

B. RSMo. § 393.1655 applies to an electrical corporation that has elected to exercise any option under section 393.1400 and that has more than two hundred thousand Missouri retail customers in 2018, and shall continue to apply to such electrical corporation until December 31, 2023. RSMo. § 393.1655.

C. Evergy Missouri West is an electrical corporation that has elected to exercise an option under section 393.1400 and that had more than two hundred thousand Missouri retail customers in 2018. Thus, RSMo. § 393.1655 applies to Evergy Missouri West. (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 7 (PDF) pg. 4 (internal) n. 1, ER-2023-0011, EFIS Item No. 43); (2018 KCP&L GMO Annual Report, pg. 2).

D. RSMo. § 393.1655.3 states:

This subsection shall apply to electrical corporations that have a general rate proceeding pending before the commission as of the later of February 1, 2018, or August 28, 2018. If the difference between (a) the electrical corporation's average overall rate at any

point in time while this section applies to the electrical corporation, and (b) the electrical corporation's average overall rate as of the date new base rates are set in the electrical corporation's most recent general rate proceeding concluded prior to the date the electrical corporation gave notice under section 393.1400, reflects a compound annual growth rate of more than three percent, the electrical corporation shall not recover any amount in excess of such three percent as a performance penalty.

RSMo. § 393.1655.3

E. Evergy West had a general rate proceeding pending before the Commission as of the later of February 1, 2018, or August 28, 2018. Thus, RSMo. § 393.1655.3 applies to Evergy Missouri West. (Notice of Intended Case Filing, ER-2018-0146, EFIS Item No. 1); (Order Approving Tariffs, ER-2018-0146, EFIS Item No. 487).

F. RSMo. § 393.1655.5 states:

If a change in any rates charged under a rate adjustment mechanism approved by the commission under sections 386.266 and 393.1030 would cause an electrical corporation's average overall rate to exceed the compound annual growth rate limitation set forth in subsection 3 or 4 of this section, the electrical corporation shall reduce the rates charged under that rate adjustment mechanism in an amount sufficient to ensure that the compound annual growth rate limitation set forth in subsection 3 or 4 of this section is not exceeded due to the application of the rate charged under such mechanism and the performance penalties under such subsections are not triggered. Sums not recovered under any such mechanism because of any reduction in rates under such a mechanism pursuant to this subsection shall be deferred to and included in the regulatory asset arising under section 393.1400 or, if applicable, under the regulatory and ratemaking treatment ordered by the commission under section 393.1400, and recovered through an amortization in base rates in the same manner as deferrals under that section or order are recovered in base rates.

RSMo. § 393.1655.5

G. In order for any cost incurred by an electric corporation to be deferred pursuant to RSMo. § 393.1655.5, there must be a change in any rates charged under a rate adjustment mechanism approved by the Commission under sections 386.266 and 393.1030 that would cause the electrical corporation's average overall rate to exceed the compound annual growth rate limitation set forth in subsection 3 or 4 of this section. RSMo. § 393.1655.5

H. In determining what costs can be deferred, there is no distinction between controllable and uncontrollable costs. RSMo. § 393.1655.5

I. RSMo. § 386.266.1 allows, subject to the requirements of the section, any electrical corporation to make an application to the Commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation. RSMo. § 386.266.1.

J. Commission rule defines the FAC as a mechanism established in a general rate proceeding which is designed to recover from or return to customers the fuel and purchased power adjustment (FPA) amounts through periodic changes to the fuel adjustment rates (FAR) made outside a general rate proceeding. 20 CSR 4240-20.090(1)(I).

K. The FAC is a mechanism designed to allow periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs authorized by the Commission under RSMo. § 386.266. 20 CSR 4240-20.090(1)(I); RSMo. § 386.266.1.

L. Commission rule defines rate adjustment mechanism (RAM) to mean either a Commission-approved fuel adjustment clause (FAC) or a Commission-approved interim energy charge (IEC). 20 CSR 4240-20.090(1)(W).

M. The FAC is a rate adjustment mechanism approved by the Commission under RSMo. § 386.266 as identified in the first sentence of RSMo. § 393.1655.5. 20 CSR 4240-20.090(1)(I); 20 CSR 4240-20.090(1)(W); RSMo. § 386.266.1; RSMo. § 393.1655.5; (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 9 (PDF) pg. 6 (internal) Ins. 29 – 32, ER-2023-0011, EFIS Item No. 43).

N. Commission rule defines FAC charge as the positive or negative dollar amount on each utility customer's bill, which in the aggregate is to recover from or

return to customers the fuel and purchased power adjustment (FPA) amount. 20 CSR 4240-20.090(1)(H).

O. Commission rule defines fuel adjustment rate (FAR) as the rate used to determine the FAC charge on each utility customer's bill during a recovery period of a FAC. 20 CSR 4240-20.090(1)(J).

P. The FAR is the one and only rate defined in the Commission's rules that may be adjusted outside of general rate proceeding as authorized under RSMo. § 386.266.1. 20 CSR 4240-20.090(1)(J); 20 CSR 4240-20.090(8); RSMo. § 386.266.1.

Q. The FAR is a rate that is charged under a rate adjustment mechanism approved by the Commission under RSMo. § 386.266, as identified in the first sentence of RSMo. § 393.1655.5. 20 CSR 4240-20.090(1)(J); 20 CSR 4240-20.090(8); RSMo. § 386.266.1; RSMo. § 393.1655.5

R. The Commission rule further defines fuel adjustment rate (FAR) by stating that FAR shall be designed to recover from or return to customers the recovery period FPA. 20 CSR 4240-20.090(1)(J).

S. Commission rule defines fuel and purchased power adjustment (FPA) as the dollar amount intended to be recovered from or returned to customers during a given recovery period of a FAC. 20 CSR 4240-20.090(1)(K).

T. The Commission rule further defines fuel and purchased power adjustment (FPA) to include:

1. The difference between the ANEC and NBEC of the corresponding accumulation period taking into account any incentive ordered by the Commission;
2. True-up amount(s) ordered by the Commission prior to or on the same day as commission approval of the FAR adjustment;
3. Prudence adjustment amount(s) ordered by the Commission since the last adjustment to the FAR;
4. Interest; and
5. Any other adjustment amount(s) ordered by the Commission

20 CSR 4240-20.090(1)(K).

U. Commission rule defines actual net energy costs (ANEC) as prudently incurred fuel and purchased power costs net of fuel-related revenues of a rate adjustment mechanism (RAM) during the accumulation period. 20 CSR 4240-20.090(1)(B).

V. Commission rule defines net base energy costs (NBEC) as the fuel and purchased power costs net of fuel-related revenues billed during the accumulated period in base rates. 20 CSR 4240-20.090(1)(U).

W. The FPA does not itself include fuel and purchased power costs that are already included in base rates because the FPA is defined as the difference between the fuel and purchased power costs net of fuel-related revenues billed during the accumulated period that are already included in base rates (NBEC) and the prudently incurred fuel and purchased power costs net of fuel-related revenues actually incurred during the accumulation period (ANEC). 20 CSR 4240-20.090(1)(K); 20 CSR 4240-20.090(1)(B); 20 CSR 4240-20.090(1)(U); (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg. 10 (internal) Ins. 2 – 17, ER-2023-0011, EFIS Item No. 43).

X. Because the FPA does not itself include fuel and purchased power costs already included in base rates, the FAC charge does not recover fuel and purchased power costs that are already included in base rates. 20 CSR 4240-20.090(1)(K); 20 CSR 4240-20.090(1)(B); 20 CSR 4240-20.090(1)(U); (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg. 10 (internal) Ins. 2 – 17, ER-2023-0011, EFIS Item No. 43); 20 CSR 4240-20.090(1)(H).

Y. Because the FAC charge does not recover fuel and purchased power costs already included in base rates, no fuel and purchased power costs already included in base rates are charged under the FAR. 20 CSR 4240-20.090(1)(K); 20 CSR 4240-20.090(1)(B); 20 CSR 4240-20.090(1)(U); (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg. 10 (internal) Ins. 2 – 17, ER-2023-0011, EFIS Item No. 43); 20 CSR 4240-20.090(1)(H); FAC. 20 CSR 4240-20.090(1)(J).

Z. Because no fuel and purchased power costs already included in base rates are charged under the FAR, no fuel and purchase power costs already included in base rates are recovered through a rate charged under a rate adjustment mechanism approved by the Commission under RSMo. § 386.266. 20 CSR 4240-20.090(1)(K); 20 CSR 4240-20.090(1)(B); 20 CSR 4240-20.090(1)(U); (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg.

10 (internal) Ins. 2 – 17, ER-2023-0011, EFIS Item No. 43); 20 CSR 4240-20.090(1)(H); FAC. 20 CSR 4240-20.090(1)(J).

AA. RSMo. § 386.266.7 states that any amounts charged under any adjustment mechanism approved by the Commission under section 386.266 shall be separately disclosed on each customer bill. RSMo. § 386.266.7.

BB. Commission rule defines base rates as the tariffed rates that do not change between general rate proceedings. 20 CSR 4240-20.090(1)(E).

CC. Because fuel and purchase power costs that are already included in base rates are not separately disclosed as a component of the energy charge rate included in residential customer's bills in Evergy's current tariff, those amounts are not charged under any adjustment mechanism approved by the Commission under section 386.266. 20 CSR 4240-20.090(1)(E); (Evergy Missouri West, Inc. d/b/a Evergy Missouri West Commission Approved Tariff, P.S.C. Mo. No. 1 Sheet No. 146.1); RSMo. § 386.266.7.

DD. The primary rule of statutory interpretation is to give effect to legislative intent as reflected in the plain language of the statute at issue. *Goerlitz v. City of Maryville*, 333 S.W.3d 450, 455 (Mo. banc 2011) (quoting *Parktown Imps., Inc. v. Audi of Am., Inc.*, 278 S.W.3d 670, 672 (Mo. banc 2009)).

EE. When necessary, courts may sometimes rely on maxims known as the canons of statutory interpretation as considerations made in a genuine effort to determine what the legislature intended. *Goerlitz v. City of Maryville*, 333 S.W.3d 450, 455 (Mo. banc 2011) (quoting *Parktown Imps., Inc. v. Audi of Am., Inc.*, 278 S.W.3d 670, 672 (Mo. banc 2009)).

FF. One such canon of statutory construction is the maxim expression unius est exclusion alterius. *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010).

GG. This Latin phrase is understood to mean the expression or inclusion of one thing implies the exclusion of the other or of the alternative. *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010).

HH. The maxim teaches that where a statute designates a form of conduct, its manner of performance and operation, and the persons and things to which it refers, there is an inference that all omissions are understood as exclusions. When the items expressed are members of an associated group or series, they justify the

inference that the legislature deliberately excluded items not mentioned. *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010).

II. The maxim's force is strengthened where a thing is provided in one part of the statute and omitted in another. *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010).

JJ. Because RSMo. § 393.1655.5 explicitly states that it is triggered only if a change in rates needed to recover costs “charged under” one of two specific rate adjustment mechanisms would cause an electric corporation’s average overall rate to exceed the relevant compound annual growth rate cap while RSMo. § 393.1655.3 applies regardless of what causes the electric corporation’s average overall rate to exceed the compound annual growth rate cap, the doctrine of *expressio unius est exclusio alterius* dictates that only costs that are actually recovered under one of the two rate mechanism explicitly set forth in section 393.1655.5 should be considered when determining whether the triggering mechanism of 393.1655.5 is met and that all other costs should be excluded from consideration. RSMo. § 393.1655.3; RSMo. § 393.1655.5; *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010); *DiSalvo Props., LLC v. Bluff View Commer., LLC*, 464 S.W.3d 243, 248-49 (Mo. App. W.D. 2015).

KK. Because no fuel and purchase power costs already included in base rates are recovered through a rate charged under a rate adjustment mechanism approved by the Commission under RSMo. § 386.266, fuel and purchase power costs already included in base rates should not be considered when determining whether the triggering mechanism of 393.1655.5. 20 CSR 4240-20.090(1)(K); 20 CSR 4240-20.090(1)(B); 20 CSR 4240-20.090(1)(U); (Exhibit No. 200 - Rebuttal Testimony of Lena M. Mantle (Public and Confidential), pg. 13 (PDF) pg. 10 (internal) lns. 2 – 17, ER-2023-0011, EFIS Item No. 43); 20 CSR 4240-20.090(1)(H); FAC. 20 CSR 4240-20.090(1)(J); § 393.1655.3; RSMo. § 393.1655.5; *State v. Carson*, 317 S.W.3d 136, 141 (Mo. App. W.D. 2010); *DiSalvo Props., LLC v. Bluff View Commer., LLC*, 464 S.W.3d 243, 248-49 (Mo. App. W.D. 2015).

LL. Fuel and Purchase power costs to be included in base rates in a pending general rate proceeding are not yet effective rates and so cannot be considered as part of a change to an existing FAC rate under RSMo. § 393.1655.5. RSMo. § 393.150.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Response to Order Directing Filing of Proposed Findings of Fact and Conclusions of Law*.

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 twenty-first day of October, 2022.

 /s/ John Clizer