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 Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing It to Purchase, Own, Operate, Maintain and Otherwise Control and Manage an Existing Wind Generation Facility in Oklahoma	))))))))	**File No. EA-2022-0328**

Reply Brief

The purpose of a *Reply Brief* is to respond to the arguments made by parties' opponents. Rather than replying to every argument other parties make in their initial briefs, having presented and argued its positions in its initial brief, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("Evergy Missouri West" or "EMW" or the "Company")'s brief is a shallow re-treading of the statements its witness made in direct testimony without acknowledging or explaining the factual concerns based on historical evidence from Persimmon Creek ("Project") Staff and the Office of Public Counsel raised. Evergy's brief also conflates need with want, ignores that its own Application was premised on the economics of the Project, and eschews the current conditions of the Southwest Power Pool (SPP) and statements SPP has made. Rejecting this Application will not stop renewable roll out, resource planning, or leave customers without power. It will however send a strong message to utilities that applications for generation should be well-supported, regardless of type, and either properly address an actual need, not a corporate wish list, or provide benefits that justify the costs, as envisioned in the Tartan Factor test.[1]

As the main contention points in briefing are need, economic feasibility, and the conditions proposed by parties, Staff will organize its reply to address those arguments. Therefore, Staff will not address each and every sub-issue or argument made by parties. Staff stands on its argument made in its Initial Brief, and silence on any argument or position should not be taken as acceptance.

In determining each contested issue, the Commission should be ever mindful that the law places the burden of proof on EMW. In its most basic sense, the burden of proof is "that of establishing the affirmative of the ultimate issue[.]" In practical terms, it means that the Company must prove that the Application should be granted and any failure of proof means that the Company loses. This burden never shifts away from the Company. The Company has not meet this burden; therefore the Application should be rejected.

NEED

At the outset, EMW reiterates some case law regarding certificates of convenience and necessity (CCN), emphasizing that need does not mean essential or indispensable.[2] However, EMW does not place enough emphasis on the other finding the courts and Commission has made, that it is an improvement justifying its cost.[3] This Project does not justify its cost. As Staff witness J Luebbert testified,

> And what I saw whenever I was looking at this [historical revenue from Persimmon Creek] is that I don't believe in any year since this asset has been operational that

[1] *Re Tartan Energy Company, L.C. d/b/a Southern Missouri Gas Company*, GA-94-127 (September 15, 1995).

[2] EMW Initial Brief, p. 8.

[3] *See* United for Missouri v. PSC, 515 S.W.3d 754 (Mo. App. W.D. 2016), State ex rel. Pub. Water Supply Dist. No. 8 v.PSC, 600 S.W.2d 147, 154 (Mo. App. W.D. 1980); State ex rel. Beaufort Transfer Co. v. Clark,504 S.W.2d 216, 219 (Mo. App.1973).

> it's exceeded what that revenue requirement would be. And so what the result is is that ratepayers are going to pay more through their rates than the benefits that they would receive from the revenues from the asset.[4]

According to Evergy, the alleged "improvement" is the reduction of its net energy purchasing position and potential mitigation of exposure to market costs for ratepayers. Evergy's acquisition of Persimmon does not change the fact that Evergy will continue to purchase all of the energy necessary to meet the load of its ratepayers from SPP. Evergy can reduce the net purchasing position by increasing energy sales and/or reducing load. The Project will not reduce the load of ratepayers nor the cost to serve that load through SPP markets. If the revenues from Persimmon Creek are less than costs—and they will be--then reducing the purchasing position by increasing generation is more expensive than maintaining the status quo. The ability to sell energy, at a net cost to ratepayers in an attempt to reduce a shortfall, is not an improvement that justifies the costs of Persimmon. EMW includes a large amount of discussion on the exposure of risk if the Project is not approved, but the discussion is misleading. Because of EMW's SPP participation, high market prices during periods of elevated demand will be realized by ratepayers regardless of the acquisition of the Project. Elevated fuel costs are not mitigated by this project, because EMW's existing generation will continue to be dispatched by SPP regardless of the acquisition of Project. Adding an intermittent generation resource in Oklahoma does not magically insulate EMW's ratepayers from system reliability risk. However, approval of the Project exposes ratepayers to the expected risk that they will pay for an asset that is not justified. So, the Project does not justify its cost, failing the legal standard EMW cites in its own brief.

[4] Tr. Vol. 3, p. 468, lines 2-9.

EMW also alleges that Staff and OPC place too much emphasis on the Project's performance in hot weather months.[5] However, hot weather months are relevant to the evaluation of need, as even assuming EMW's allegations of capacity shortfall are true,[6] the alleged need for capacity is in summer months. As Staff witness Mr. Luebbert explains,

> But I think what we're looking at is we have to base our recommendation on the application before us. And in this case we have a company that's stating that its need is a summer capacity need and its solution is to get the least efficient capacity resource to meet that need. And that's what it's offering as its option. And then on top of that we found additional issues and we raised those through testimony.[7]

Staff can only evaluate the Application as justified and provided by EMW. EMW states it's a summer need it's trying to provide for, but then chastises Staff and OPC for looking at the summer performance. This a theme throughout the case. EMW allege a need, or provide a justification for the Project, but then attack Staff for evaluating the Project based on those alleged needs, or purported benefits. As Staff witness Claire Eubanks explained,

> my understanding is the applicant has the burden to prove that their resource acquisition is needed. So Staff starts with what the utility says are the reasons for pursuing a project. And not to say that that is the only thing that we look at, but that is certainly where we start.[8]

Another example of EMW alleging a need but protesting when this Project is evaluated through the lens of that need is the hedge. EMW has stated that the value of the hedge is a justification for this Project.[9] EMW even likens it to insurance in its brief, with a quote from EMW's attorney seemingly positioned as a Staff statement.[10] However,

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[5] EMW's Initial Brief, p. 13.
[6] Staff's testimony, hearing statements, and *Initial Brief* all note Staff's dismissal of the alleged capacity shortfall since EMW is not evaluated on a standalone basis and other analysis distortions exaggerate the appearance of a capacity need. *See Staff Initial Brief,* pages 3, and 9-10.
[7] Tr. Vol. 3, p. 465, lines 3-10.
[8] *Id.* at p. 419, lines 17-22.
[9] Tr. Vol. 3, p. 419, lines 23-25.
[10] EMW's Initial Brief, p. 19.

EMW neglects important context. First, the full exchange with Staff as is follows:

[EMW Attorney] Q. It's like an insurance, you hedge natural gas prices too, right, correct?

[Staff witness Ms. Eubanks] **A. I don't hedge natural gas prices, no.**

Q. I understand. I'm terrible. But natural gas utilities are encouraged sometimes to hedge so that there's not so much volatility in their supply costs?

A. That's my understanding, yes.

Q. And sometimes they win but most of the time it's a cost of keeping that like you have house insurance, you make sure you have house insurance so that if the worst happens you're not terribly hurt, right?

A. Yes.[11]

EMW fails to acknowledge that Ms. Eubanks answers were in regards to natural gas, not hedging with Persimmon Creek. EMW also does not quote Ms. Eubanks' other statements on hedging, which include the following response from Ms. Eubanks to a question also proposed by EMW's counsel. "I think in this particular case Staff has reasons that Staff is concerned because the need that was purported by the Company was that it was a hedge in the market; and as Mr. Luebbert will testify shortly as the day is wrapping up, it's not a great hedge."[12] EMW may liken generators as hedges to insurance positively and not negatively like in past cases,[13] but if that's the case, Staff

[11] As Staff witness J Luebbert explained in his testimony, the costs will not be covered by the revenues. So this insurance policy will terribly hurt customers, and add no value in extreme situations where an economically sound hedge could be useful. *See* Ex. 104, *Rebuttal Testimony of J Luebbert*, p. 53.
[12] Tr. Vol. 3, p, 421, lines 9-13.
[13] In previous cases, EMW witness Kayla Messamore has stated her response to using generators as hedges as follows:
Q: How do you respond to OPC's reference to generators as "hedges" against the market? A: Generators like Sibley can act as "insurance by offering margins to offset fuel and purchased power costs whenever prices are high. However, that "insurance" comes at a cost. The value of that "insurance" was assessed in the 18 scenarios evaluated in EMW's 2017 IRP, and retiring Sibley was the more favorable option in each

contends it’s a hurricane insurance policy in landlocked Missouri. Staff witness J Luebbert sums it up simply by stating:

> Part of the discussion in my testimony is that if your basis for a project is to hedge market energy costs but your own projections and your own analysis show that you're going to cost ratepayers more money over the long term, that's probably not a great hedge, especially whenever your unit isn't dispatchable and may not be available at the times of greatest market energy costs to serve load.[14]

EMW also tries to justify its need on SPP’s Planning Reserve Margins. EMW states SPP is doing this “as the resource mix continues to change.”[15] EMW fails to note that the resource mix prompting the SPP move is the same type of resource EMW proposes to address that issue, i.e. the lack of dispatchable resources. As OPC witness Lena Mantle explains,

> Wind assets can be good assets, but the thing is wind isn't available when the load is high, and that is -- that's a lesson that's been learned through the ice storms that when they're not available we don't have them, and even SPP and MISO have started to realize that they're accrediting these wind resources actually probably too high. SPP is now changing their accreditation to effective load carrying capabilities. So just that shows that SPP realizes that these resources are not available often in the summer months when the demand for electricity is high.[16]

EMW has no risk of running into Planning Reserve Margin issues with SPP, as EMW witnesses agreed with Staff that EMW is evaluated on a combined basis with Evergy Missouri Metro, because of Evergy’s resources are considered perfectly deliverable to both West and Metro.[17] EMW’s own presentations also support the combined ability for

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and every modeled scenario. *Surrebuttal Testimony of Kayla Messamore,* p 11, lines 17-21. Case No. EF-2022-0155, In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West for a Financing Order Authorizing the Financing of Extraordinary Storm Costs Through an Issuance of Securitized Utility Tariff Bonds.

[14] Tr. Vol. 3, p. 457, lines 5-14.

[15] EMW’s Initial Brief, p. 17.

[16] Tr. Vol. 3, p. 256, lines 7-22.

[17] Tr. Vol. 1, p, 157, lines 15-25.

Evergy to meet both Metro and West loads.[18]

EMW throughout its brief laments that without this Project, customers will have to rely on the wholesale energy market, therefore the only way to meet customers' needs is this Project.[19] However, expert witnesses for the Company have previously testified to the Commission that relying on the market is not a negative attribute, and that being a net seller versus net purchaser of energy does not impact a utility's reliability or ability to serve customers. Those statements were made in the last year, so readily still apply to EMW's situation.[20] Furthermore, neither EMW's position as a net purchaser, nor alleged capacity shortfall on a standalone basis, is new.[21] OPC witness Lena Mantle testified on the extensive history EMW has had since the mid-1990s of capacity gaps.[22] But OPC agrees that despite that history, this Project is not the way to correct any perceived shortfalls.[23]

Despite what EMW argues in its brief, Staff is not proposing a new definition of need. Staff is not evaluating need differently than it has in prior cases. Staff is not setting a new standard for CCNs. Some of EMW's statements in this vein are definitely false, such as EMW's allegation that Staff contends

> the Commission should never grant a CCN (not even an Operating CCN which has the lowest threshold in the Commission's CCN Rules to meet) unless a company can prove revenues of a given project/asset will always exceed its own anticipated total costs—regardless of the unknowable future wholesale market.[24]

In past years, Staff has supported CCNs for RES compliance, community solar, utility

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[18] Ex. 108, *Capacity Update and Discussion Presentation Dated 12/29/2022*, p. 5.
[19] EMW Initial Brief, p. 17.
[20] Tr. Vol. 1, p. 53, lines 22-23.
[21] Tr. Vol. 3, p. 257, lines 15-16.
[22] *Id.* at line 16- p. 258, line 10.
[23] Tr. Vol. 1, p. 233, lines 18-19.
[24] EMW's Initial Brief at p. 19.

scale solar, and economic benefits.[25] Staff evaluates both renewable and non-renewable generation under the same standards.[26]

Furthermore, a look at the transcript citation EMW provided to make the allegations Staff set forth an impossible standard, which is not what Staff stated. Instead, Staff witness J Luebbert explained point by point all of the deficiencies in this Application.

(Staff's concerns about the capacity being overstated in EMW's modeling)

> I would say Ms. Messamore's testimony does not resolve in any way the Staff's concerns. I think her testimony is *slightly misleading*, and I'm glad that you asked about it. Her testimony at one point states that the IRP isn't utilizing the capacity factor. But the way that Evergy -- Evergy did utilize the capacity factor to scale up all of the production of this generic wind assumption that they had in their previous IRP. And by doing that and not accounting for the propensity of negative pricing in this specific location, they're still overstating the production of this asset.[27]

(Staff's concerns about double counting of generation output in EMW's modeling)

> I would disagree with her that accounting for I think she states at one point that accounting for the issues that I raised with double count in the IRP totally disagree because of the way that they developed the actual output of the resource or the projected output hasn't been actual yet. It's all a projection.[28]

(Staff's concerns with the understatement of negative revenues in EMW's modeling)

> She brought up a few different things about my testimony that I absolutely disagree with. One of them being I think she called my assumption that the current owner would operate below a certain level suspect. I went and looked at the data. They operated at levels below that value which is what I was saying. She provided some analysis that estimates the cost of the negative revenues and then tries to equate or tries to balance that against the NPVRR savings which they're not comparing to actual rates, they're looking at comparisons of other resources. The amounts that she uses are averages based on historical negative revenues. As I discussed earlier, those negative revenues have been increasing year over year, and the last

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[25] For example, the Hawthorn Solar facility was an Evergy project, the High Prairie wind farm was an Ameren RES compliance project, Neosho Ridge, King's Point, and North Fork Ridge were Empire projects premised on economic benefits for customers. Tr. Vol. 3, p. 425, lines 7-19. Staff also supported Ameren's Huck Finn solar facility. Tr. Vol. 3, p. 418, lines 24-25.

[26] Tr. Vol. 3, p. 426, lines 13-16/

[27] Tr. Vol. 3, p, 476, line 20- p. 478, line 12.

[28] *Id.*

> two years have been the highest values of negative revenues for this asset. So using an average is probably underestimating what that impact is going to be.[29]

The only generality from Mr. Luebbert's extensive testimony on the shortcomings of EMW's analysis in this case that can be applied to CCNs in general is a refutation of EMW's illogical argument regarding losses incurred by existing rate-based plant. "It is a terrible argument to say these other assets are losing so much money, this one won't be that much worse. That's not a good reason for the Commission to approve this project."[30]

Economic Feasibility

Staff has extensively covered why Persimmon Creek is not economically feasible. Therefore, Staff will only address some highlights of EMW's arguments regarding economic feasibility. Staff notes that economic infeasibility of the Project can be shown by EMW's abrupt pivot from extoling the Project as an economic boon to customers in its Application and supporting to testimony to outrage that Staff suggests the Project that be able recover its costs from both revenues and tax credits to be acquired.[31] The not so subtle implication behind EMW's protests against Staff's suggestions of risk sharing mechanisms and that the Project premised on economic benefits to customers *actually provide* economic benefits to customers is the reality, based on the historical performance of Persimmon Creek, that this Project will be unable to approach any semblance of cost recovery, and therefore is a drain on resources. As long as EMW's customers are being drained, EMW will acquire the Project. Any recommendation that shareholders bear any amount of risk of poor decision making is met by EMW's claims it will not go forward with

[29] *Id.*
[30] *Id.*
[31] EMW's Initial Brief, p. 3.

the Project.[32] This is telling of the economic feasibility of the Project. It is also very telling that for a Project EMW touts as the best option because it is an already operating plant,[33] EMW tells the Commission to ignore that same operation history and performance.[34]

Staff also notes at the outset that EMW has once again presented statements from its counsel in a manner to suggest the statement were from Staff. In particular, nowhere has Staff stated that Persimmon Creek is a "pretty good renewable".[35] In fact, this was the exact exchange between Ms. Eubanks and EMW's counsel.

[Counsel for EMW] Q. I promised I wouldn't take a lot of your time. I'm just trying to understand what these companies will have to show, because these are pretty good renewables compared to what's out there in the market and we're not getting recommendations, positive recommendations, and I'm just trying to understand what more do they need to show in the future?

[Ms. Eubanks] A. I think in this particular case Staff has reasons that Staff is concerned because the need that was purported by the Company was that it was a hedge in the market; and as Mr. Luebbert will testify shortly as the day is wrapping up, it's not a great hedge.

EMW throughout its brief tries to present levelized cost of energy (LCOE) as the alpha and omega of economic feasibility.[36] As Staff witness J Luebbert explains, LCOE does not provide the complete picture.

> [T]he value that a resource is providing the owner is very dependent on the time and the location of when that facility is actually generating. So because of the SPP construct, a resource is generating revenue based on the locational marginal price and that changes over time and by location. So there is -- the concept that producing more energy is always good isn't necessarily true when you can have a resource that is generating energy at a cost to the owner and that's especially true for a resource where negative locational marginal prices happens fairly frequently, and I point that out within my testimony that Persimmon Creek is such a resource. And you can also have a resource that may generate infrequently but when it does it has a high margin. And so just looking at the total production from a resource

[32] *Id.* at p. 35.
[33] *Id.* at p. 12.
[34] Tr. Vol. 1, p. 191 lines 20-21.
[35] EMW's Initial Brief, at p. 18.
[36] EMW's Initial Brief at p. 3.

isn't necessarily the best view of the value that it's providing.[37]

LCOE also does not account for the reliability of an asset, or an asset's ability to be dispatched.[38] In fact, it's widely accepted in the industry, and by such entities as the Electric Power Research Institute that LCOE is not the best metric and does have downfalls.[39] LCOE furthermore is made a less useful tool as EMW's analysis does not compare how different projects would have been impacted by a full ten years of production tax credits (PTC) and the increased production associated with that, authorized by the Inflation Reduction Act (IRA).[40]

EMW's brief tried to rebut Mr. Luebbert's analysis, but failed to rebut the significant issues Mr. Luebbert found with EMW's analysis and assumptions.[41] As Mr. Luebbert showed in his testimony, the generation profile of Persimmon Creek does not align with EMW's load profile, making it unsuitable as a hedge.[42] For a project based on economics, customers only benefit if the market values cover the LCOE, and Mr. Luebbert's analysis shows this Project does not.[43]

EMW tries to buttress its arguments on page 12 by asserting the Production Tax Credits (PTC) will reduce purchase price. However, Staff has asserted consistently in the case that EMW's analysis assumes perfect ratemaking, and that without the tracker Staff has proposed, PTCs will not flow to customers, for up to four years.[44] Therefore, that is four years' worth of PTCs that will not reduce the purchase price, or approximately $90

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[37] Tr. Vol. 3, p. 435, line 11 to p. 436, line 3.
[38] *Id.* at p. 436, lines 3-20.
[39] *Id.*
[40] *Id*. at p. 496, lines 1-9.
[41] P. 12.
[42] Ex. 104, *Rebuttal Testimony of J Luebbert*, p. 47-48.
[43] Tr. Vol. 3, p. 437, lines 1-4.
[44] Tr. Vol. 3, p. 487, lines 12-25.

million lost to customers.[45] That $90 million also deeply drops the $130 million dollar net present value of revenue requirement[46] savings EMW claimed its analysis showed for customers.[47] EMW's argument also ignores Staff's other repeated assertion that capacity factors for Persimmon Creek are overstated, which impacts revenue assumptions, in 10 out of the 16 years in Persimmon Creek's remaining useful life.[48]

The $90 million in lost PTCs undercuts EMW's argument that the Inflation Reduction Act (IRA) did not need to be considered.[49] Furthermore, the fact that Persimmon Creek will only be eligible for six years of PTCs, which will really only be 2 years unless the PTC tracker is approved, also undermines EMW's argument to ignore the IRA. A new project would receive 10 full years of benefit.[50] EMW then states that Persimmon Creek is still the right decision for EMW, given its $1,250/KW cost compared to other projects.[51] However, as Staff witness J Luebbert explained in testimony, that value does not account for the actual lifespan of the project, nor the 10% SPP accreditation it would receive.[52] Therefore, the true dollar per KW cost is vastly understated, and in fact would be 10 times higher.[53]

EMW also makes much of Mr. Luebbert's mentioning of Winter Storm Uri without mentioning Winter Storm Elliot.[54] The Storm Elliot information was not provided to Staff

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[45] *Id.* at p. 498, lines 2-4.
[46] The IRP analysis also assumes perfect ratemaking meaning that the PTC benefits are assumed ratepayer benefits. Under Evergy's proposal, that will not be the case.
[47] EMW's Initial Brief, at p. 24.
[48] Tr. Vol. 3, at p. 474, lines 13-16.
[49] *Id.* at p. 24.
[50] Tr. Vol. 3, p. 496, lines 1-25.
[51] EMW's Initial Brief, p. 25.
[52] Ex. 104, *Rebuttal Testimony of J Luebbert*, p. 19-20.
[53] *Id.*
[54] EMW's Initial Brief, p. 12.

prior to its admission at hearing. Furthermore, Winter Storm Uri was the second worst performing month in Persimmon Creek's history.[55] Storm Uri was also the storm that impacted EMW profoundly enough to require a securitization case.[56]

EMW then tries to state that by Commission's previous decisions that this Project is economically feasible.[57] It repeatedly references the Greenwood solar facility, ignoring the fact that the Greenwood solar facility was a three MW facility, purchased for a much lower price.[58] The scale difference alone can be seen when the Court mentions Greenwood solar would be a minor expense compared to EMW's 180 million operating expenditure budget.[59] In comparison, this Project clocks in at $245 million,[60] nearly double the annual operating expenditure budget the Court referenced. Scale matters. Especially when considering economic feasibility. In other cases, to "fairly weigh the interests of, and risks to, both customers and shareholders",[61] the Commission has approved risk sharing mechanisms.[62]

EMW also tries to argue that positive revenues will make this Project economically feasible. In doing so, EMW distorts a quote of Staff witness Brad Fortson to make it appear that Staff agrees SPP revenues from Persimmon Creek will be positive.[63]

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[55] Tr. Vol. 3, p. 492, lines 1-5.
[56] Case No. EF-2022-0155, In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West for a Financing Order Authorizing the Financing of Extraordinary Storm Costs Through an Issuance of Securitized Utility Tariff Bonds.
[57] EMW's Initial Brief, p. 22.
[58] Matter of Application of KCP&L Greater Missouri Operations Co. for Permission & Approval of a Certificate of Pub. Convenience & Necessity Authorizing It to Construct, Install, Own, Operate, Maintain & Otherwise Control & Manage Solar Generation Facilities in W. Missouri, 515 S.W.3d 754, 757 (Mo. Ct. App. 2016)
[59] *Id.*
[60] Tr. Vol. 3, p. 292, lines 3-4.
[61] EMW's Initial Brief at p. 22, quoting State ex rel. Harline v. PSC, 343 S.W.2d 177, 181 (Mo. App. W.D. 1960).
[62] Tr. Vol, 1, p. 66, lines 14-17, and Tr. Vol. 3, p. 409, lines 1-6.
[63] EMW's Initial Brief, p. 27.

However, it is clear Mr. Fortson does not believe that the positive revenues received from Persimmon Creek will outweigh the negative revenues and fixed costs from Persimmon Creek, therefore the Project is not economically feasible.[64] This is worsened by the PTCs not flowing to customers.[65] The existence of some positive revenues does not outweigh the alarming amount of negative revenues, which have a cost to customers,[66] nor does it mean the Project will cover its overall cost.[67]

This Project is not economically feasible.

Conditions

PTC Tracker

If the Commission does approve the Project, a PTC tracker should be utilized to provide the bulk of the promised benefit to customers. EMW tries to state that Staff's analysis did not consider the operations and maintenance (O&M) expense from the Project between rate cases.[68] This is incorrect, as Staff witness Matthew Young walked through his calculations of negative and positive regulatory lag experienced by EMW, supported by the Company's own data request responses, he clearly calls out a value for the O&M in the calculation of negative lag.[69] EMW's positive regulatory lag outweighs the negative by almost double, even without considering the PTC values.[70] Adding in the PTCs increases the magnitude of EMW's windfall by 4-5 times.[71] That could be 90 million

[64] Tr. Vol. 3, p. 403, lines 1-4.
[65] Tr. Vol. 3, p. 382, lines 10-23.
[66] *Id.* at p. 460, lines 5-7.
[67] *Id.* at p. 454, lines 23-25.
[68] EMW's Initial Brief at p. 26-27.
[69] Tr. Vol. 4, p. 374, lines 1-17.
[70] Tr. Vol. 3, p. 372, lines 1-8.
[71] *Id.*

dollars that ratepayers never see flow to them to offset the $245 million purchase price.[72]

Without a tracker, customers may only receive two years of the PTCs that EMW has centered as the bedrock of the benefits of this Project.[73] EMW's own models include the PTCs flowing immediately to customers;[74] therefore, EMW should be prepared to pass those PTCs to customers immediately, since that was what made the Project economically supported for shareholders and ratepayers in its view. If the Commission approves the purchase of Persimmon Creek, deferring PTCs for ratemaking consideration in EMW's next rate case is an equitable approach to balance the deferral of costs and the deferral of benefits.

Conditions Regarding Future and Further Analysis

EMW argues the Commission should not order EMW to provide better and more accurate data in future cases.[75] EMW also argues that the lengthy analysis provided in this case shows that these conditions are not needed.[76] Both of these statements ignore the myriad concerns Staff and OPC raised with modeling in this case and modeling performed by EMW in general. Staff witness Brad Fortson explained at length in his testimony in the case and in the hearing about how the modeling is not optimized, and suffers from self-selection bias.[77] Mr. Fortson also testified how the advanced modeling capabilities of PLEXOS are not been utilized as designed, nor is EMW noting when the model has been allowed to optimize vs when EMW has entered predetermined inputs or

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[72] *Id.* at p. 498, lines 2-4.
[73] *Id.* at p. 314, lines 8-14.
[74] Tr. Vol. 3, p. 487, lines 12-22.
[75] EMW's Initial Brief, p. 38.
[76] *Id.* at p. 39.
[77] *See* Ex. 101, *Rebuttal Testimony of Brad Fortson,* and Tr. Vol. 3, p. 380, line 20- p. 381, line 4.

outputs.[78] OPC witness Lena Mantle also concurred with Staff that the modeling software is not being allowed to run to its full extent and optimize plans as intended.[79] OPC also proposed its own suggested conditions, along with Staff's, to ensure future CCN applications are properly vetted, which Staff supports.

Conclusion

EMW attempted to argue in this case, it meets the first Tartan factor with this Project, simply because it provides energy, regardless if EMW actually has no energy need and ignoring that the Project is actually uneconomical. Next EMW attempted to argue that the Project meets the third Tartan factor by producing positive revenues. Not net positive revenues, after considering the loss of PTCs and negative pricing. EMW also wants the Commission to ignore that Persimmon Creek's costs will almost certainly outrun its revenues and, thus, it is an uneconomical response to a supposed economic need. EMW essentially argues that if ratepayers pay $100, and get back $10, as analyzed, it is an economic benefit. EMW is so sure that the Commission will be persuaded by the red herring of green energy, EMW ignores its own analysis that contains the PTCs as the foundation as the positive offset customers would receive by laying claim to all PTCs in between rate cases, a value of up to $90 million dollars. Not only is this contrary to EMW's analysis, it further highlights the absurdity of the request. Now EMW asks ratepayers for

[78] Tr. Vol. 3, p. 400, lines 13-25.
[79] *Id.* p. 285, lines 1-2.

$100 based on an analyzed $10 return (and $90 loss), but instead hands a dollar back and expects to grateful for the "risk mitigation" effort. If this effort satisfies the need and the economic feasibility standards, what wouldn't?

Staff suggests, for all the reasons outlined herein and within its testimony in the case, that this effort does not pass muster, and this Application should be rejected.

WHEREFORE, Staff respectfully submits this post-hearing reply brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies by her signature below that on March 17, 2023, she filed the above document in the EFIS file of the Missouri Public Service Commission.

/s/ Nicole Mers