

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

In the Matter of Evergy Metro, Inc. d/b/a)	
Evergy Missouri Metro's Request for)	File No. ER-2022-0129
Authority to Implement a General Rate)	Tracking Nos. YE-2022-0200;
Increase for Electric Service)	YE-2022-0201

In the Matter of Evergy Missouri West, Inc.))	
d/b/a Evergy Missouri West's Request for)	File No. ER-2022-0130
Authority to Implement a General Rate)	Tracking Nos. YE-2022-0202
Increase for Electric Service)	

REPLY BRIEF OF MIDWEST ENERGY CONSUMERS GROUP

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REPLY BRIEF OF MECG

COMES NOW the Midwest Energy Consumers Group (“MECG”), and for its Reply Brief, respectfully states:

Sibley AAO and Net Book Value (Issue II)

Response to Evergy

When MECG and the Office of Public Counsel filed a complaint seeking an Accounting Authority Order the Commission granted that request and ordered:

KCP&L Greater Missouri Operations Company shall record as a regulatory liability in Account 254 the revenue and the return on the Sibley unit investments **collected in rates** for non-fuel operations and maintenance costs, taxes, including accumulated deferred income taxes, and all other costs associated with Sibley units 1, 2, 3, and common plant. The regulatory liability should quantify separately dollars related to return and other cost of service expense savings.¹

(emphasis added). Throughout its initial brief Evergy repeatedly refers to the Staff’s EMS runs from the prior rate case – ER-2018-0146 – as the basis of MECG’s figures related to the Sibley issues.² It is true that MECG witness Meyer relied on Staff’s True-up Accounting Schedules from

¹ Report and Order, *Iss’d* Oct. 17, 2019, Case No. EC-2019-0200, p. 15.

² Evergy Br. p. 15.

the last rate case for his Direct testimony that shows ratepayers are paying for a net book value related to Sibley of approximately \$300 million.³ It's also true that the figures in Staff's workpapers from that case match Evergy's own workpapers *exactly*.⁴ The source of the figures MEGC relied on – and, importantly – what was relied on to set rates collected as a result of that case is Evergy's own witness Mr. Klote. MEGC included these workpapers in the testimony of Greg Meyer.⁵

2016 GMO Rate Case Model - Jun 18 True-Up w/ Tax Reform-C
PB - Sch 3

KCP&I Greater Missouri Operations
2018 RATE CASE - Jun18 True-Up
TY 630017; Update 12/31/17; K&M 630018

Total Plant in Service - Schedule 3

Line No.	Account No.	Description	Per DR 27 Plant	Adjustments						Total Adjustments	Adjusted Plant	Juris Factor	Juris Allocation	Elec Juris Allocation	Adjusted Plant
				Estimated Net Additions	Charging Stations	J&C Plant Adjustments & GSO T&T	Disallowances Crossroads & T&D	LTP Capitalization Adj							
A	B	C	D	E	F	G	H	I	J	K	L	M	N		
1 INTANGIBLE PLANT															
2	30100	Intangible Plant Organization Electric	\$ 96,664						\$ -	\$ 96,664	7.1	99.591%	\$	96,209	
3	30301	Miscellaneous Intangibles (Like 353)	606,337						-	606,337	8.1	99.660%		604,275	
4	30301	Misc. Intangibles - Trans. - Crossroads	13,476,339				(3,891,687)		(3,891,687)	9,584,651	8.1	99.660%		9,552,064	
5	30302	Miscellaneous Intangibles- Cap Softer 5 yr	16,367,894						-	16,367,894	7.1	99.591%		16,320,867	
6	30302	Misc. Intangible Cap Software - Lake Road	350,000						-	350,000	3.8	75.821%		265,374	
7	30309	Misc. Intangible-MNT Line	72,118						-	72,118	8.1	99.660%		71,873	
8	30310	Misc Intangible Lan Hwy & Bridge	531,039						-	531,039	8.1	99.660%		527,874	
9		TOTAL PLANT INTANGIBLE	\$ 31,920,396	\$ -	\$ -	\$ -	\$ (3,891,687)	\$ -	\$ (3,891,687)	\$ 28,028,709			\$	27,834,595	
10 PRODUCTION PLANT															
11 STEAM PRODUCTION															
12 STEAM PRODUCTION - SIBLEY															
13	31000	Steam Production Land - Elec - Sibley	\$ 396,706						\$ -	\$ 396,706	3.1	99.660%	\$	395,357	
14	31100	Steam Prod Structures - Elec - Sibley	61,783,268						-	61,783,268	3.1	99.660%		61,573,205	
15	31200	Steam Prod Boiler Plant Elec - Sibley	232,560,299						-	232,560,299	3.1	99.660%		231,769,594	
16	31202	Steam Prod Boiler AQC Equip - Sibley	102,236,686						-	102,236,686	3.1	99.660%		101,889,081	
17	31400	Steam Prod Turbogenerator - Sibley	58,260,178						-	58,260,178	3.1	99.660%		58,062,093	
18	31500	Steam Prod Access Equip Elec - Sibley	19,236,607						-	19,236,607	3.1	99.660%		19,171,202	
19	31600	Steam Prod Misc Plant Equip - Sibley	3,635,467						-	3,635,467	3.1	99.660%		3,623,106	
20		TOTAL STEAM PRODUCTION - SIBLEY	\$ 478,169,210	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 478,169,210			\$	476,483,638	
21 STEAM PROD. JEFFREY															
22	31000	Steam Production Land - Elec - Jeffrey	\$ 367,789		\$ 111,704				\$ 111,704	\$ 479,493	3.1	99.660%	\$	477,863	
23	31100	Steam Prod Structures - Elec - Jeffrey	22,838,007		410,538				410,538	23,248,545	3.1	99.660%		23,169,500	
24	31200	Steam Prod Boiler Eq - Elec - Jeffrey	63,561,932		1,438,628				1,438,628	64,999,560	3.1	99.660%		64,769,592	
25	31202	Steam Prod Boiler AQC Eq - Jeffrey	79,161,250						-	79,161,250	3.1	99.660%		78,992,101	
26	31400	Steam Prod Turbogenerator - Jeffrey	22,204,653						-	22,204,653	3.1	99.660%		22,129,157	
27	31500	Steam Prod Access Equip - Jeffrey	7,784,188						-	7,784,188	3.1	99.660%		7,757,721	
28	31600	Steam Prod - Jeffrey GSU's			1,750,630				1,750,630	1,750,630	3.1	99.660%		1,744,678	
29	31600	Steam Prod Misc Plant Equip - Jeffrey	3,132,986		32,089				32,089	3,165,075	3.1	99.660%		3,154,314	
30		TOTAL STEAM PROD. JEFFREY	\$ 199,040,804	\$ -	\$ 3,743,589	\$ -	\$ -	\$ -	\$ 3,743,589	\$ 202,784,394			\$	202,094,927	
31 STEAM PROD - LAKE ROAD															
32	31000	Steam Production Land Elec - LR	\$ 39,919						\$ -	\$ 39,919	3.4	75.821%	\$	29,509	
33	31100	Steam Production Structures - LR	27,491,653						-	27,491,653	3.5	75.821%		20,849,022	
34	31200	Steam Production Boiler Plant - LR	85,319,737						-	85,319,737	3.6	65.594%		55,964,641	
35	31202	Steam Production Boiler AQC - LR	5,636,481						-	5,636,481	3.6	65.594%		3,697,194	
36	31400	Steam Prod Turbogenerator - LR	21,150,783						-	21,150,783	3.7	99.375%		21,016,564	
37	31500	Steam Production Access Equip - LR	12,251,365						-	12,251,365	3.8	75.821%		9,289,112	
38	31600	Steam Prod Misc Power Plant - LR	1,767,593						-	1,767,593	3.9	47.438%		839,514	
39		TOTAL STEAM PROD - LAKE ROAD	\$ 153,662,521	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 153,662,521			\$	111,586,556	
40 STEAM PRODUCTION IATAN COMMON															
41	31000	Steam Prod Land - Iatan Com	\$ 11,281						\$ -	\$ 11,281	3.1	99.660%	\$	11,343	
42	31100	Steam Prod Struct - Iatan Com	21,550,123						-	21,550,123	3.1	99.660%		21,476,852	
43	31200	Steam Prod Boiler Equip- Iatan Com	53,023,598						-	53,023,598	3.1	99.660%		52,843,317	
44	31400	Steam Prod Turbog- Iatan Com	1,750,085						-	1,750,085	3.1	99.660%		1,744,134	
45	31500	Steam Prod Access Equip- Iatan Com	7,583,772						-	7,583,772	3.1	99.660%		7,557,987	
46	31600	Steam Production-Misc Power Plant Equipment-Iatan Com	939,156						-	939,156	3.1	99.660%		935,963	
47		TOTAL STEAM PROD - IATAN COMMON	\$ 84,858,114	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 84,858,114			\$	84,568,597	
48 STEAM PRODUCTION IATAN 1															
49	31000	Steam Production Land - Iatan 1	\$ 249,279						\$ -	\$ 249,279	3.1	99.660%	\$	249,432	
50	31100	Steam Production Structures- Iatan 1	4,722,654						-	4,722,654	3.1	99.660%		4,706,597	
51	31105	Steam Production Structures - Iatan 1 Disallowance	(15,150)						-	(15,150)	1.1	100.000%		(15,150)	
52	31200	Steam Production Boiler Plant- Iatan 1	101,998,219						-	101,998,219	3.1	99.660%		101,651,426	
53	31205	Steam Production Boiler Plant - Iatan 1 Disallowance	(252,720)						-	(252,720)	1.1	100.000%		(252,720)	
54	31202	Steam Prod Boiler AQC - Iatan 1	455,225						-	455,225	3.1	99.660%		453,677	
55	31400	Steam Prod Turbogenerator - Iatan 1	15,614,924						-	15,614,924	3.1	99.660%		15,561,834	

³ Ex. 402, p.4.

⁴ Ex. 402, p. 5.

⁵ Ex. 402, p. 5, Schedule GRM-1, and Schedule GRM-2.

As the Commission can see, the Plant in service balance for the Sibley units is \$478,109,210.

Schedule GRM-2, below is Mr. Klote’s workpapers showing depreciation reserves related to Sibley units.

2018 GMO Rate Case Model - Jun18 True-Up w_Tax Reform-C
Reserve - Sch 6

KCP&L Greater Missouri Operations
2018 RATE CASE - Jun18 True-Up
TY 6/30/17; Update 12/31/17; K&M 6/30/18

Depreciation Reserve - Schedule 6

Line	Account	Depreciation Reserve Description	Per DR 27 Reserve	Adjustments					Total Adjustments	Adjusted Reserve	Juris Factor #	Juris Allocation	Electric Juris Adjusted Reserve
				RB-36 Proj Net Activity	JEC Plant Adjustments & GSU Trf	Disallowances Crossroads & T&D	Charging Stations Jun18						
No.	Number	B	C	D	E	F	G	H	I	J	K	L	
1		INTANGIBLE PLANT											
2	30100	Intangible Plant Organization Electric	\$ 16,313					\$ -	\$ 16,313	7,1	99.591%	16,246	
3	30301	Miscellaneous Intangibles (Like 353)	102,567					-	102,567	8,1	99.660%	102,218	
4	30301	Misc. Intangibles - Trans. - Crossroads	5,216,366			(2,841,288)		(2,841,288)	2,377,079	8,1	99.660%	2,368,967	
5	30302	Miscellaneous Intangibles- Cap Softw 5-yr	15,344,727					-	15,344,727	7,1	99.591%	15,281,968	
6	30302	Misc. Intangible Cap Software - Lake Road	350,000					-	350,000	3,8	75.821%	265,374	
7	30309	Misc. Intangible -MINT Line	26,053					-	26,053	8,1	99.660%	25,964	
8	30310	Misc Intang-latan Hwy & Bridge	145,264					-	145,264	8,1	99.660%	144,770	
9		TOTAL PLANT INTANGIBLE	\$ 21,203,290	\$ -	\$ -	\$ (2,841,288)	\$ -	\$ (2,841,288)	\$ 18,362,002			\$ 18,205,536	
10		PRODUCTION PLANT											
11		STEAM PRODUCTION											
12		STEAM PRODUCTION - SIBLEY											
13	31000	Steam Production Land - Elec - Sibley	\$ -					\$ -	\$ -	3,1	99.660%	\$ -	
14	31100	Steam Prod Structures - Elec - Sibley	-	28,724,769				-	28,724,769	3,1	99.660%	28,627,104	
15	31200	Steam Prod Boiler Plant Elec - Sibley	-	94,777,361				-	94,777,361	3,1	99.660%	94,455,118	
16	31202	Steam Prod Boiler AQC Equip - Sibley	-	7,041,804				-	7,041,804	3,1	99.660%	7,017,862	
17	31400	Steam Prod Turbogenerator - Sibley	-	32,659,429				-	32,659,429	3,1	99.660%	32,548,387	
18	31500	Steam Prod Access Equip Elec - Sibley	-	13,246,389				-	13,246,389	3,1	99.660%	13,201,351	
19	31600	Steam Prod Misc Plant Equip - Sibley	-	688,946				-	688,946	3,1	99.660%	686,603	
20		TOTAL STEAM PRODUCTION - SIBLEY	\$ 177,138,697	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 177,138,697			\$ 176,536,426	
21		STEAM PROD. JEFFREY											
22	31000	Steam Production Land - Elec - Jeffrey	\$ -					\$ -	\$ -	3,1	99.660%	\$ -	
23	31100	Steam Prod Structures - Elec - Jeffrey	-	16,089,254	410,538			410,538	16,499,792	3,1	99.660%	16,443,693	
24	31200	Steam Prod Boiler Eq - Elec - Jeffrey	-	41,906,428	1,436,628			1,436,628	43,347,056	3,1	99.660%	43,199,676	
25	31202	Steam Prod Boiler AQC Eq - Jeffrey	-	8,130,748				-	8,130,748	3,1	99.660%	8,112,073	
26	31400	Steam Prod Turbogenerator - Jeffrey	-	8,487,121				-	8,487,121	3,1	99.660%	8,458,264	
27	31500	Steam Prod Access Equip - Jeffrey	-	6,008,848				-	6,008,848	3,1	99.660%	5,988,417	
28	31500	Steam Prod - Jeffrey GSU's	-		954,738			954,738	954,738	3,1	99.660%	951,492	
29	31600	Steam Prod Misc Plant Equip - Jeffrey	-	1,058,196	32,089			32,089	1,090,285	3,1	99.660%	1,086,578	
30		TOTAL STEAM PROD. JEFFREY	\$ 81,691,694	\$ -	\$ 2,836,993	\$ -	\$ -	\$ 2,836,993	\$ 84,527,688			\$ 84,240,194	
31		STEAM PROD - LAKE ROAD											
32	31000	Steam Production Land Elec - LR	\$ -					\$ -	\$ -	3,4	75.821%	\$ -	
33	31100	Steam Production Structures - LR	-	7,935,346				-	7,935,346	3,6	75.821%	6,016,667	

The Depreciation Reserve balance for the Sibley units – according to Evergy’s own workpapers in the last rate case – is \$177,138,697. Subtracting the Depreciation Reserve balance from the Plant in Service balance yields a net plant balance of \$300,970,513, or \$301 million, at June 30, 2018. These exact amounts may also be found in the Staff’s true-up accounting schedules that form the basis of MCEG’s recommendation.⁶

Whenever a company asks for a “true-up” period in its rate case, the company is responsible for gathering the record and providing it to the parties so that Staff can create its own true-up schedules with the updated information. In the prior case, Evergy provided these workpapers and

⁶ Ex. 402, p. 5.

the Commission relied on them to establish rates. If there was a problem with the figures Evergy's witness who provided these workpapers and has extensive knowledge of Evergy's practices would have corrected them. But he did not. These are the *undisputed* figures for Sibley used to set rates in the prior case and because of that – in order to comply with the Commission's order in the AAO case – Evergy “shall record as a regulatory liability in Account 254 the revenue and the return on the Sibley unit investments **collected in rates...**”.⁷ Furthermore, the efforts to discount these workpapers as a clear demonstration of what is in rates are belied by Evergy's own efforts to rely on workpapers to support its position related to the Hydro PPA issue (stating: “OPC is incorrect as EMM workpapers and EMM's existing tariff shows the inclusion of the Hydro PPA in base rates”; “The workpapers show the inclusion of the Hydro PPA in base rates...”; “...included in his fuel run workpapers in the 2018 EMM rate case.”).⁸ This inconsistency by the Company reveals a recognition that the workpapers can be used to show what is included in rates. When the Commission ordered Evergy to track what was “collected in rates” there was no dispute presented about what that meant. The Company's approach to ignore what was clearly collected in rates related to Sibley violates the AAO order.

Evergy's efforts in this case to change Sibley's value after-the-fact should be rejected. First, the company alleges that Mr. Spanos is presenting a more accurate value of the Sibley units. The Company cites Staff Witness Mr. Cunigan to support their efforts to change the values in this case seeming to allege that the company made no such changes:

“Staff witness Mr. Cunigan observed that he could not say Mr. Spanos's “method was different from what he presented in 2018. It was different from Staff's accounting schedules and what was present in Staff's accounting schedules” because in Staff's 2018

⁷ Report and Order, *Iss'd* Oct. 17, 2019, Case No. EC-2019-0200, p. 15. Emphasis added.

⁸ Evergy Br. pp. 37-38.

Schedules “the accounts are all mingled for the locations, and so I can’t say that [depreciation reserve] actually changed in accounts. Its just the way that it appears on our tracking of it.”⁹

There are several reasons this reasoning by the Staff witness relied on by the company in its brief should be rejected. It’s absurd to say that Mr. Spanos method in this case didn’t change from what was done in 2018 because he *didn’t present anything* in the 2018 rate case.¹⁰ Staff’s witness is wrong in that regard as is the Company. Mr. Spanos’ approach in this case *is a change* that violates the Commission’s AAO order. Next, it wasn’t just Staff’s accounting Schedules that MECG relies on to determine what was in rates from the last case – as demonstrated above – MECG’s figures are consistent with Evergy’s own workpapers from the 2018 rate case. Those workpapers show the values for Sibley that were used to establish what was **collected in rates** for non-fuel operations and maintenance costs, taxes, including accumulated deferred income taxes, and all other costs associated with Sibley units 1, 2, 3, and common plant. As Staff’s Mr. Majors testified, the unrecovered investment value for Sibley reflected in Staff’s accounting schedules was approximately \$300 million and that those schedules were used to set rates in the prior case:

MR. OPITZ: So you agree with me that if you go back to the accounting schedule one, page 1, line 1, which is the net original cost rate base.

MR. MAJORS: Yes.

MR. OPITZ: And that is, I think, \$1.9 billion; is that right?

MR. MAJORS: Yes.

MR. OPITZ: That value includes that 299.9 million of unrecovered investment as depicted in staff’s accounting schedules. Correct?

MR. MAJORS: Yes.

⁹ Evergy Br. p. 16.

¹⁰ Tr. Vol. 8, p. 337.

MR. OPITZ: And those schedules were used to set rates and apply the rate of return to.

MR. MAJORS: Yes.¹¹

This testimony at the hearing is consistent with Mr. Majors rebuttal testimony that “the net plant included in the true-up revenue requirement was \$300 million and this was the basis of the depreciation and rate of return included in the cost of service.”¹² He also testified: “I can conclude that the NBV of \$300 million is the amount upon which the AAO “return on” deferrals should be calculated as that amount was the basis of the rate of return and depreciation calculation.”¹³

Second, Evergy attempts to support its changed value for Sibley by pointing to Mr. Spanos’ new reserve calculations.¹⁴ Setting aside this means that these are new and thus could not have been the basis of what was “collected in rates” related to Sibley, there are additional problems with Mr. Spanos’ approach to use a theoretical reserve. Mr. Spanos agreed during the second time he testified at the hearing that “the theoretical reserve is an estimate of the accumulated depreciation based on the current plant balances and depreciation parameters, service, life, and net salvage estimates at a specific point in time.”¹⁵ Using the theoretical reserve to come up with a net book value for Sibley is inappropriate.¹⁶ MECG’s Mr. Meyer testified that:

“A theoretical reserve calculation takes the plant by vintage year and applies a formula to it. So it's one minus the net salvage value times the original cost of the investment that's put in that vintage, times one minus the next salvage, times one minus the remaining life of the asset over the average life of the asset.”¹⁷

¹¹ Tr. Vol. 8, p. 204, lines 16-25 through p. 205 lines 1-4.

¹² Ex. 254, p. 10.

¹³ Ex. 254, p. 5. Lines 7-10.

¹⁴ Evergy Br. p. 16.

¹⁵ Tr. Vol. 8, p. 331-332.

¹⁶ Tr. Vol. 8, p. 308, lines 11-13.

¹⁷ Tr. Vol. 8, p. 314.

A theoretical reserve is a snapshot in time that doesn't trace and doesn't attempt to trace any collection of depreciation expense on any asset.¹⁸ In other cases Gannett Fleming employees (where Mr. Spanos is employed) have agreed.¹⁹ Using theoretical reserve does not reflect what was collected in rates.

Based on the depreciation rates in effect in combination with plant additions we can see that Mr. Spano's reserve estimates are not reasonable and do not reflect what had been collected in rates related to Sibley. At the hearing, MECG's Mr. Meyer testified:

“the last time depreciation rates were used or were approved is in a 2010 case. And I can track those rates all the way up through this current rate case. And so this is the first rate case they've changed since 2010.”²⁰

Because the depreciation rates had not changed since 2010, when the Sibley plant was expected to have a much longer life there have never been depreciation rates that reflect the retirement of Sibley in 2018. The theoretical reserve approach would have assumed that the depreciation rates had been set to recover the value of the plant over its life for a retirement in 2018. Further compounding the problem is that approximately \$190 million of new plant was invested in the Sibley units after 2007.²¹ But since the depreciation rates did not change to reflect that retirement date or any plant or investment in Sibley after that time period – the value of Sibley would have grown without any corresponding changes to depreciation rates. Every recognizes “The fact that Sibley was retired earlier than what had been assumed in setting depreciation rates..” when it supports its retirement

¹⁸ Tr. Vol. 8, p. 314.

¹⁹ Tr. Vol. 8, p. 315, lines 4-7.

²⁰ Tr. Vol. 8, p. 307, lines 6-11.

²¹ Tr. Vol. 8, p. 321, lines 6-12.

decision.²² Taken together, it is reasonable that the NBV of Sibley would be approximately \$300 million as reflected in both Mr. Klote's and Staff's accounting schedules from the 2018 rate case.

In addition to its attempts to change the value of the Sibley units, Evergy also asks the Commission to violate established law and grant a return on the unrecovered investment. Evergy alleges that there is no disincentive to pursuing securitization if its allowed to earn a return but that "the real disincentive is created by parties who oppose a return on the unrecovered assets, despite prudently incurred investments made on behalf of customers..."²³ This explicit ask for a return goes even further than Evergy's efforts to recover a portion of the unrecovered investment from the Sibley plants in depreciation expense over the life of its other generating units.²⁴ Allowing a return on the value of Sibley under either scenario is contrary to established law and Commission practice.

In *State ex rel. Union Elec. v. Pub. Serv. Comm'n*, 765 S.W.2d 618 (Mo. App. W.D. 1988), the Western District Court explained:

The utility property upon which a rate of return can be earned must be utilized to provide service to its customers. That is, it must be used and useful. This used and useful concept provides a well-defined standard for determining what properties of a utility can be included in its rate base.²⁵

This decision was discussed in another case that indicated a company may be able to recover its cost of a stranded asset but would not be able to earn a return on the stranded investment.²⁶ These cases establish the long-standing principle that a utility cannot earn a return on plant that is not used and useful or benefitting ratepayers. Recently, the Commission has reiterated its commitment

²² Evergy Br. P. 11.

²³ Evergy Br. p. 22.

²⁴ Ex. 400, p. 14.

²⁵ *State ex rel. Union Elec. Co. v. Public Service Com'n of State of Mo.*, 765 S.W.2d 618, 622 (Mo. App. W.D. 1988)

²⁶ *State ex rel. Missouri Office of Public Counsel v. Public Service Commission of State*, 293 S.W.3d 63, 74-76 (Mo. App. S.D. 2009)

to this principle in Empire’s securitization cases (Storm Uri and Asbury retirement) by including in its order a finding that “the utility property upon which a rate of return can be earned must be utilized to provide service to customers. That is, it must be used and useful.”²⁷

The Commission did the right thing in the AAO case. Now, Evergy asks the Commission to ignore its prior order and to violate the principle of utility regulation that a utility should not earn a “return on” investment that is not used and useful or providing any benefit to customers. Instead, the Commission should order that the Sibley regulatory liability be calculated according to the 2019 Report and Order as MECG Witness Greg Meyer has done.

Response to Staff

Staff begins its Sibley discussion by acknowledging three premises that, if followed, MECG would be in full support. First, that “in the prior rate case, Case No. ER-2018-0146, the Commission approved a stipulation that included O&M costs, depreciation, and capital costs for Sibley units 2 and 3 in Evergy West’s general rates.²⁸ Second, Staff also acknowledges that – as a result of MECG and OPC’s AAO complaint – the Commission ordered Evergy West to:

record as a regulatory liability in Account 254 the revenue and the return on the Sibley unit investments collected in rates for non-fuel operations and maintenance costs, taxes, including accumulated deferred income taxes, and all other costs associated with Sibley units 1, 2, 3, and common plant. The regulatory liability should quantify separately dollars related to return and other cost of service expense savings.²⁹

²⁷ Amended Report and Order, Case Nos. EO-2022-0040/EO-2022-0193, p. 67.

²⁸ Staff Br. p. 9.

²⁹ Staff Br. p. 10.

Third, the Staff acknowledges that Evergy should not be permitted to earn a “return on” plant that is no longer used and useful or providing any benefit to ratepayers.³⁰ However, from this positive starting point, the Staff takes the wrong approaches and totally fails to follow the principles it outlines.

With respect to the first two principles - despite saying that “in the prior rate case, Case No. ER-2018-0146, the Commission approved a stipulation that included O&M costs, depreciation, and capital costs for Sibley units 2 and 3 in Evergy West’s general rates³¹, Staff claims the issue is not straightforward in order to justify its departure from what was included in rates. It’s unquestionable that ratepayers are paying for a net book value related to Sibley of approximately \$300 million.³² This is demonstrated by the Staff’s accounting schedules as well as the workpapers from Evergy discussed above. In addition, Staff’s Mr. Majors testified that “the net plant included in the true-up revenue requirement was \$300 million and this was the basis of the depreciation and rate of return included in the cost of service.”³³ He also testified: “I can conclude that the NBV of \$300 million is the amount upon which the AAO “return on” deferrals should be calculated as that amount was the basis of the rate of return and depreciation calculation.”³⁴ Despite this unequivocal testimony, in its position statements and initial brief Staff claims that pointing to the accounting schedules to determine the value of Sibley is complicated by that prior case being resolved by a “black box” settlement.³⁵ According to Staff “that means certain positions taken in the rate case by parties are not necessarily accepted or rejected by a stipulation” and “parties can have different opinions or positions on whether a piece or plant or

³⁰ Staff Br. p. 20.

³¹ Staff Br. p. 9.

³² Tr. Vol. 8, p. 319.

³³ Ex. 254, p. 10.

³⁴ Ex. 254, p. 5. Lines 7-10.

³⁵ Staff Br. p 16.

specific costs is in the revenue requirement...”³⁶ This blanket assertion that there was a stipulation so we can’t know what is in rates is unfounded. No one can point to a disputed position related to the NBV of Sibley in the 2018 rate case. In fact, the Company and Staff agreed as demonstrated in the accounting schedules. A black box settlement isn’t about non-contested issues, instead, it resolves contested issues. For Sibley, the NBV in rates was not contested.³⁷ The fact is that no one disagreed on the values related to Sibley that were included in rates at the time of the 2018 case. If the Staff thought that this was a black box issue that could not be determined, it would have asked for clarification in the AAO case when the Commission ordered the company to “record as a regulatory liability in Account 254 the revenue and the return on the Sibley unit investments collected **in rates** for non-fuel operations and maintenance costs, taxes, including accumulated deferred income taxes, and all other costs associated with Sibley units 1, 2, 3, and common plant.”³⁸ If these values were a black box, as Staff contends, there would never be a way to determine what was “in rates”. No clarification was needed, however, because the accounting schedules were clear and the values at issue here were not part of any black box settlement because there was no dispute.

Staff correctly acknowledges that Evergy should not be permitted to earn a “return on” plant that is no longer used and useful or providing any benefit to ratepayers.³⁹ However, Staff’s position betrays that principle in three important ways. First, by using Evergy’s theoretical net book value related to Sibley rather than following the Commission’s AAO order and relying on what was collected in rates. By artificially reducing the value of Sibley after-the-fact in this case,

³⁶ Staff Br. p. 16.

³⁷ OPC did want to have the entire plant excluded, but that did not have anything to do with the values that were eventually included in rates.

³⁸ Amended Report and Order, Case Nos. EO-2022-0040/EO-2022-0193, p. 67.

³⁹ Staff Br. p. 20.

customers will not realize the full value of the regulatory liability. Second, through the manipulation of the depreciation reserves that Staff goes along with, customers will continue paying a return on a portion of the Sibley plant going forward because the unrecovered investment from the Sibley retirements will be baked into the value of those generating units.⁴⁰ Third, Staff's approach outlined in its initial brief presents two ways it believes the Commission can deny a return on investment:

This can be done two ways. First, the Commission could offset the regulatory asset by the \$49.5 million of rate of return portion of the Sibley regulatory liability. Or the Commission could choose to not include the net book value of Sibley in rate base. In that case, the Commission should consider not including the rate of return portion of the Sibley regulatory liability.⁴¹

Staff's position is inconsistent with the principle to deny a return on Sibley. The appropriate way to deny a return on Sibley requires accounting for both the "return on" Sibley customers paid after it was retired until the time new rates are set in this case **and** denying the return on the remaining unrecovered Sibley investment moving forward. To accomplish this the regulatory liability balance as ordered by the Commission for Sibley's retirement should include a rate of return on the undepreciated balance (this addresses the time period between retirement and new rates). It also means that the undepreciated value of Sibley should not be included in rate base so that it does not earn a return (this addresses denying a return moving forward). Staff's approach does not do both and so inadvertently allows a return on the retired plant. The Commission should reject Staff's flawed approach and, instead, adopt the approach outlined in the testimony of MECG – that Evergy

⁴⁰ Ex. 400, p. 14.

⁴¹ Staff Br. p. 11. Internal citations omitted.

should recover only its unrecovered cost of investment in Sibley and not a return or profit stream for investments that are no longer used and useful.

Rate Design (Issue XVIII)

Response to Evergy

Evergy states that sub-issue K (Should the Commission order Evergy to meet with stakeholders related to its rate modernization plan within 180 days after the effective date of rates in this case?) does not need to be resolved by the Commission.⁴² It is true, the company has signaled its intent to continue changing its rate designs over a period of years under its “rate modernization plan” and but it should take more formal steps to involve stakeholders in the process. This will give parties an opportunity to work collaboratively to reach a reasonable result rather than addressing these issues only in an adversarial rate case process. In this case, the company asked for stakeholders to provide feedback to its rate modernization plans. MECG’s witness Maini offered testimony addressing these plans and noted several areas where the plan could be improved to better serve commercial and industrial customers. This includes:

- Evaluating shifting fixed costs from energy charges to demand charges while maintaining energy charge differentials;
- Removing demand blocks (as shown in the Company’s proposals) and introduce an on-peak provision whereby the maximum demand set in the specified on peak hours is the billing demand for the month; and
- Evaluating a time differentiated on and off-peak energy rate to recognize the cost differentials and provide better pricing signals than a flat energy rate.⁴³

⁴² Evergy Br. p. 76.

⁴³ Ex. 408, p. 13.

During the hearing, Evergy's Mr. Caisley testified the company would agree to set up a working group with interested parties to evaluate the alternatives presented in this case and assess the rate impacts prior to the next rate case.⁴⁴ Specifically, he agreed that the company would agree to evaluating the items identified by MECG in its testimony. The Commission should require the stakeholder meetings.

Response to Staff

Staff asks that the Commission should order default TOU rate structures for all customers in this case, excluding the lighting, RTP, and special customer rate schedules.⁴⁵ To accomplish this Staff asks that default rates include a summer off-peak discount for the "Super Off-Peak" period, from midnight to 6:00 am, and an on-peak premium from 4:00 pm until 8:00 pm.⁴⁶

For Commercial and Industrial customers in the LGS and LPS classes, the Commission should reject staff's TOU-adder approach. Staff claims its approach "will not result in dramatic changes to customers' bills."⁴⁷ Despite staff's claim, the record in this case does not adequately tell us how the TOU adder will impact LGS and LPS customers. This approach is not tested and Commercial and Industrial customers in the LGS and LPS classes have not been presented with impact analysis or information on the TOU proposal by Staff.⁴⁸ In addition, this adder approach is flawed because it mixes two rate design approaches that sends pricing signals in a suboptimal way.

MECG supports a more systematic and measured approach to considering rate design changes that will evaluate rate impacts, ensure proper pricing signals, and avoid unintended consequences prior to changing the structure of default rates.⁴⁹ If the Commission does want to

⁴⁴ Tr. Vol. 11, p. 694, lines 17-23.

⁴⁵ Staff Br. p. 33.

⁴⁶ Staff Br. p. 33.

⁴⁷ Staff Br. p. 33.

⁴⁸ Ex. 405, p. 12.

⁴⁹ Ex. 405, p. 12.

see time differentiated rates for commercial and industrial customers it should not order Staff's time based adder but should order Evergy to meet with stakeholders after this case in order to work towards quantifying the impacts of alternative rate design proposals on customers. Evaluating the rate impacts on customers is a vital step in being able to educate and inform them about what they can expect their utility bills to look like in future rate cases. It is unreasonable to impose this change in this case without doing that evaluation.

Conclusion

For the treatment of Sibley, the Commission's guiding principle should be that "[t]he utility property upon which a rate of return can be earned must be utilized to provide service to its customers. That is, it must be used and useful."⁵⁰ MECG's recommendations in its testimony, position statements, and initial brief comply with that principle and should be adopted. The various treatments of Sibley's regulatory liability, Net Book Value, and associated depreciation reserve adjustments proposed by Evergy and Staff do not comply with the Commission's AAO order or adhere to established law prohibiting a "return on" plant that is not used and useful. Furthermore, the Commission should reject efforts to force Commercial and Industrial customers onto a new and untested default rate. Instead, it should require the Company to meet with interested stakeholders to incorporate and fully evaluate proposed rate design changes to its rate modernization plan.

WHEREFORE, MECG submits its Reply Brief.

Respectfully,

/s/ Tim Opitz

⁵⁰ *State ex rel. Union Elec. Co. v. Public Service Com'n of State of Mo.*, 765 S.W.2d 618, 622 (Mo. App. W.D. 1988)

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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 21st day of October 2022:

/s/ Tim Opitz
