

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

In the Matter of the Application of Evergy Metro, Inc. )  
d/b/a Evergy Missouri Metro and Evergy Missouri )  
West, Inc. d/b/a Evergy Missouri West for an )  
Accounting Authority Order Allowing the Companies )  
to Record and Preserve Costs Related to the )  
February 2021 Cold Weather Event )

**File No. EU-2021-0283**

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, through counsel, and states as follows.

1. On June 30, 2021, Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively “Evergy”) filed its *Application of Evergy Missouri Metro and Evergy Missouri West for Accounting Authority Order Related to Winter Storm Uri and Costs and Financial Impacts*. Evergy requests an accounting authority order (“AAO”) allowing it to accumulate and defer as a regulatory asset or a regulatory liability, as appropriate, costs or benefits related to Winter Storm Uri that occurred in February 2021.

2. Evergy also requests an order by December 15, 2021, in order to assist it in preparing its 2021 financial statements.<sup>1</sup>

3. On July 22, 2021, the Commission ordered Staff to file its recommendation by September 23, 2021.

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<sup>1</sup> *Application of Evergy Missouri Metro and Evergy Missouri West for Accounting Authority Order Related to Winter Storm Uri Costs and Financial Impacts*, ¶47 (June 30, 2021).

4. “An AAO permits ‘extraordinary items’ to be deferred and accounted for in a future accounting period.”<sup>2</sup> “[B]ecause establishment of an AAO deviates from the Commission’s general ratemaking methodology, the Commission has substantial discretion in determining whether an AAO is appropriate in a particular case.”<sup>3</sup> Staff agrees with Evergy that Winter Storm Uri is an extraordinary event of a material nature for purposes of Evergy’s request to accumulate and defer associated costs.

5. Specifically, Evergy Missouri West requests an AAO that includes (a) the net of the actual incurred fuel and purchased power costs and off-system sales revenues related to Winter Storm Uri in excess of a three-year February average, which is approximately \$297.3 million;<sup>4</sup> (b) actual reasonable operation and maintenance (“O&M”) costs related to Winter Storm Uri, which is \$274,933;<sup>5</sup> and (c) carrying costs on these deferred amounts at Evergy Missouri West’s weighted average cost of capital, which is 7.358%.<sup>6</sup>

6. Evergy Missouri West would normally recover 95% of its fuel and purchased power costs through its fuel adjustment clause (“FAC”). In this filing, Evergy Missouri West requests deferral via an AAO of 100% of costs above the February three-year average. Evergy Missouri West anticipates securitizing this through the recently-passed Missouri securitization legislation.<sup>7</sup>

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<sup>2</sup> *Office of Public Counsel v. Evergy Missouri, West, Inc.*, 609 S.W.3d 857, 866 (Mo. App., W.D. 2020) (citing *State ex rel. Aquila, Inc. v. Public Service Commission*, 326 S.W.3d 20, 27 (Mo. App., W.D. 2010)).

<sup>3</sup> *Id.*

<sup>4</sup> *Application of Evergy Missouri Metro and Evergy Missouri West for Accounting Authority Order Related to Winter Storm Uri Costs and Financial Impacts*, ¶27 (June 30, 2021). See also *Direct Testimony of Ronald A. Kline*, Schedule RAK-1 (June 30, 2021).

<sup>5</sup> *Direct Testimony of Ronald A. Kline*, Schedule RAK-2 (June 30, 2021).

<sup>6</sup> *Id.* at 8:18 – 21.

<sup>7</sup> *Application of Evergy Missouri Metro and Evergy Missouri West for Accounting Authority Order Related to Winter Storm Uri Costs and Financial Impacts*, ¶31 (June 30, 2021).

7. Evergy Missouri Metro requests an AAO that includes (a) the net of the actual incurred fuel and purchased power costs and off-system sales revenues related to Winter Storm Uri in excess of a three-year February average, which is an approximately \$32 million benefit to customers;<sup>8</sup> (b) actual reasonable O&M costs related to Winter Storm Uri, which is \$521,322;<sup>9</sup> (c) deferral of Winter Storm Uri costs and revenues allocated to the Missouri jurisdiction differently than what the Commission has ordered in the past; and (d) carrying costs on these deferred amounts at Evergy Missouri Metro's weighted average cost of capital, which is 7.1713%.<sup>10</sup>

8. Evergy Missouri Metro's customers would normally receive 95% of the \$32 million financial impact in the current FAC accumulation period. However, in Case No. ER-2022-0025, Evergy Missouri Metro seeks to defer this benefit to a future accumulation period. Commission Staff has recommended that customers benefit immediately; the Commission suspended the tariff filing in Case No. ER-2022-0025.

9. In the attached Staff memorandum, marked as Exhibit A, Staff recommends the Commission approve Evergy Missouri West's request to defer the fuel and purchased power costs and off-system sales in excess of a February three-year average and the O&M costs related to Winter Storm Uri. Staff is not opposed to Evergy Missouri West deferring 100% of these costs, but it believes the determination of whether 95% or 100% of these costs be recovered in rates should be made in the context of a future general rate case, or in a case requesting securitization of these costs. Staff is opposed to

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<sup>8</sup> *Application of Evergy Missouri Metro and Evergy Missouri West for Accounting Authority Order Related to Winter Storm Uri Costs and Financial Impacts*, ¶28 (June 30, 2021). See also *Direct Testimony of Ronald A. Kline*, Schedule RAK-3 (June 30, 2021).

<sup>9</sup> *Direct Testimony of Ronald A. Kline*, Schedule RAK-2 (June 30, 2021).

<sup>10</sup> *Id.* at 16:5 – 7.

including carrying costs in the AAO, because the appropriateness of applying carrying costs to deferrals is a ratemaking determination. Staff recommends that this be considered in the context of a future general rate case, or a case requesting securitization of these costs.

10. For Evergy Missouri Metro, Staff recommends, consistently with its position in Case No. ER-2022-0025, that Evergy Missouri Metro's customers receive 95% of the \$32 million impact in the current FAC accumulation period, as they normally would. If the Commission adopts this recommendation, deferral of the \$32 million is unnecessary, and an AAO for the immaterial amount of O&M expenses is unnecessary. If the Commission grants Evergy Missouri Metro's request for an AAO, Staff recommends that the Commission reject Evergy Missouri Metro's proposed jurisdictional allocator, because a future general rate case is the proper venue for deciding this policy issue. If the Commission adopts Staff's positions regarding treatment of the net of fuel and purchased power costs and off-system sales revenues and O&M expenses, Evergy Missouri Metro will not require an AAO for carrying costs. If the Commission orders an AAO for Evergy Missouri Metro's net of fuel and purchased power costs and off-system sales revenues and its O&M expenses, similar to its recommendation for Evergy Missouri Metro, Staff recommends that carrying costs be considered in a future general rate case or a case requesting securitization of these costs.

**WHEREFORE**, Staff recommends that the Commission approve Evergy Missouri West's request for an AAO but that any ratemaking decisions, including the amount of recovery from customers and whether carrying costs should be recovered, be determined in a future general rate case or a securitization proceeding. Staff further recommends

that the Commission reject Evergy Missouri Metro's request for an AAO and that the net customer benefits be returned to customers through the current FAC accumulation period. However, if the Commission allows Evergy Missouri Metro to defer the net of fuel and purchased power costs and off-system sales revenues, Staff recommends that the Commission reject Evergy Missouri Metro's jurisdictional allocation approach.

Respectfully submitted,

**/s/ Karen E. Bretz**

Karen E. Bretz

Senior Counsel

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**CERTIFICATE OF SERVICE**

I certify that the foregoing has been emailed to counsel of record on this 23rd day of September, 2021.

**/s/ Karen E. Bretz**

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. EU-2021-0283  
Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc.

FROM: Kimberly K. Bolin, Utility Regulatory Manager

DATE: /s/ Kimberly K. Bolin 09/23/2021 /s/ Karen Bretz 09/23/2021  
Auditing Department/Date Staff Counsel's Office/Date

SUBJECT: Staff Recommendation for the Approval in part and Rejection in part of the Application of Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri, West, Inc. d/b/a Evergy Missouri West for an Accounting Authority Order Allowing the Companies to Record and Preserve Costs Related to the February 2021 Cold Weather Event

DATE: September 23, 2021

On June 30, 2021, Evergy Metro, Inc., d/b/a Evergy Missouri Metro (“Evergy Missouri Metro”), and Evergy Missouri West, Inc. (“Evergy Missouri West”) (collectively, “Evergy” or “Company”) filed an Application for an accounting authority order (“AAO”) permitting Evergy to accumulate and defer to a regulatory asset and/or regulatory liability, as appropriate, for consideration of recovery in future proceedings all extraordinary costs and revenues, caused by the North American winter storm of mid-February 2021, commonly referred to as Winter Storm Uri, plus associated carrying costs. Staff recommends that the Missouri Public Service Commission (“Commission”) approve Evergy Missouri West’s request for an AAO permitting Evergy Missouri West to identify, track, document, accumulate and defer in a regulatory asset its extraordinary incurred net costs related to Winter Storm Uri with ratemaking decisions reserved to future proceedings. Staff recommends that the Commission reject Evergy Missouri Metro’s request for an AAO permitting Evergy Missouri Metro to identify, track, document, accumulate, and defer in a regulatory liability its extraordinarily incurred net customer benefit related to Winter Storm Uri. During Accumulation Period 12 (“AP12”) of the Fuel Adjustment Clause (“FAC”), Evergy Missouri Metro had increased fuel and purchased power costs due to Winter Storm Uri, but these costs were more than offset by increased off-system sales revenues, resulting in a net consumer benefit. In Case No. ER-2022-0025 Staff recommended that these amounts flow back

to the customers via the FAC, thus an AAO deferring the net benefits (revenue) is unnecessary for Evergy Missouri Metro.

### **Accounting Authority Order**

An AAO is an order from the Commission allowing a utility to account for a reporting item in a different manner than normally prescribed for the utility's financial records. An AAO allows a utility to defer costs associated with an extraordinary event. Under normal accounting practices, a utility would charge to expense as incurred on its income statement all costs associated with an extraordinary event. If deferral of those costs is authorized through an AAO, the utility treats the costs associated with an extraordinary event as a regulatory asset and records them on its balance sheet to be amortized over some period of time. If a utility experiences extraordinary savings those savings can also be deferred, but as a regulatory liability, with the regulatory liability then later returned to its customers through an amortization in rates. Examples of savings that have been deferred to an AAO are savings related to the closing of a generating plant and income tax rate reductions.

An AAO gives the utility an opportunity to obtain rate recovery of the deferred items in the future. AAOs have usually been used to allow utilities to capture certain unanticipated costs that have not been included in ongoing rate levels. The Commission has taken the position that the costs in question must be associated with an event that is extraordinary, unusual or unique in nature and not recurring. The costs associated with the event must be material. The classic example of an extraordinary event is the occurrence of a natural disaster, such as a wind or ice storm or major flood that affects a utility's service territory.

AAOs deviate from the Commission's general ratemaking methodology, but the Commission has "substantial discretion" in determining whether an AAO is appropriate in a particular case.<sup>1</sup> However, the Commission has limited the use of AAOs in the past to extraordinary events. Staff agrees with Evergy that Winter Storm Uri was an extraordinary event

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<sup>1</sup> *Office of Pub. Counsel v. Evergy Mo. West, Inc.*, 609 S.W.3d 857, 866 (Mo. App. W.D. 2020).

of a material nature for purposes of Evergy's request to identify, track, document, accumulate, and defer associated costs and revenues.

### **Evergy Missouri West's Request for an AAO**

Evergy Missouri West requests an AAO permitting Evergy Missouri West to identify, track, document, accumulate, and defer in a regulatory asset or liability, as appropriate, the following items: 1) Actual extraordinarily incurred fuel and purchased power costs, and off-system sales revenues earned related to Winter Storm Uri, that are in excess of a three-year average of those costs typically recovered in the FAC; 2) actual reasonable and prudently incurred non-fuel operation and maintenance (O&M) costs related to Winter Storm Uri; and 3) carrying costs on such deferred amounts.

To determine the extraordinary costs of Winter Storm Uri, Evergy Missouri West compared February 2021 costs and off-system sales to a three-year average baseline of monthly costs and sales. Evergy Missouri West calculated the three-year average baseline using actual February costs and sales for the years 2018, 2019, and 2020. The net amount of February 2021 costs and sales that exceeded the three-year baseline is the amount that Evergy Missouri West is requesting be deferred. As of the date of Evergy's application, that amount was approximately \$297 million.<sup>2</sup>

Normally, if these amounts were recovered through Evergy's FAC, then Evergy would recover 95% of the costs and 5% of the costs would not be recovered. However, Evergy is requesting that 100% of the extraordinary costs be deferred. While Staff is not opposed to 100% of these financial impacts being deferred by Evergy Missouri West in an AAO, any decision as to whether all or only a portion of the deferral should be granted rate recovery should be determined in a future general rate proceeding or in a future case involving a request to securitize these costs.

Evergy Missouri West is also requesting to recover approximately \$274,933<sup>3</sup> of non-fuel O&M expenses directly attributable to Winter Storm Uri for communications, overtime for Evergy employees and payroll taxes on the overtime costs, additional contractor costs, damage

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<sup>2</sup> Direct Testimony of Ronald A. Klote in Case No. EU-2021-0283, Schedule RAK-1.

<sup>3</sup> Direct Testimony of Ronald A. Klote in Case No. EU-2021-0283, Schedule RAK-2.



claims, and costs for additional materials. Staff recommends that Evergy Missouri West be allowed to defer these costs. Staff likewise recommends that the rate treatment of these costs be examined in a future general rate case proceeding or in a future securitization application.

Lastly, Evergy is requesting carrying costs be applied to the deferrals using Evergy Missouri West's assumed weighted average cost of capital of 7.358%, factored up for applicable taxes. Staff is opposed to including carrying costs in the deferral at this time, since the appropriateness of applying carrying costs to deferrals is essentially a ratemaking determination. In addition, the Commission has rarely authorized inclusion of carrying costs in a deferral. Staff recommends the Commission wait until Evergy Missouri West's next general rate case proceeding or in a possible future securitization case to decide this issue.

#### **Evergy Missouri Metro's Request for an AAO**

Evergy Missouri Metro requests an AAO permitting Evergy Missouri Metro to identify, track, document, accumulate, and defer in a regulatory asset or liability, as appropriate, the following items: 1) Actual extraordinarily incurred fuel and purchased power costs, and off-system sales revenues earned related to Winter Storm Uri that are in excess of a three-year average of those costs typically recovered in the FAC; 2) actual reasonable and prudently incurred non-fuel operation and maintenance (O&M) costs related to Winter Storm Uri; and 3) carrying costs on such deferred amounts. In addition, Evergy Missouri Metro proposes a unique approach to allocation of the deferral to the Missouri Jurisdiction.

Like Evergy Missouri West, Evergy Missouri Metro also determined the extraordinary costs of Winter Storm Uri by comparing February 2021 costs and off-system sales to a three-year average monthly baseline of costs and sales. Evergy Missouri Metro calculated the three-year average baseline using actual February costs and sales for the years 2018, 2019, and 2020. However, the major difference between Evergy Missouri West and Evergy Missouri Metro is that Evergy Missouri Metro's incremental level of off-system sales revenue attributable to Winter Storm Uri was sufficient to more than offset any additional costs to Evergy Missouri Metro from the event. As of the date of Evergy's application, the net customer benefit allocated to Missouri was approximately \$32 million (before Evergy's proposed adjustment to the jurisdictional

allocations).<sup>4</sup> While this financial impact would normally be flowed to customers in Evergy Missouri Metro's current FAC accumulation period, Evergy Missouri Metro seeks to defer these revenues and costs in order to flow back the net customer benefits in a future FAC accumulation period. However, Staff recommended in Case No. ER-2022-0025 that Evergy Missouri Metro's net customer benefits (revenues net of costs) be flowed back to the customers in the current AP12 in the normal manner. If the Commission approves that course of action, no deferral treatment is necessary.

Evergy Missouri Metro is also requesting to recover approximately \$521,322<sup>5</sup> of non-fuel O&M expenses directly attributable to Winter Storm Uri for communication, overtime for Evergy employees and payroll taxes on the overtime costs, additional contractor costs, damage claims, and costs for additional materials. Staff is recommending the immediate return of the net customer benefits to Evergy Missouri Metro customers in Case No. ER-2022-0025, thus an AAO for recovery of this immaterial amount of non-fuel O&M expenses is not necessary.

In the event its proposed deferral of Winter Storm Uri financial impacts is adopted, Evergy Missouri Metro is proposing that the deferral be allocated to the Missouri jurisdiction differently than how costs and revenues of that nature are normally allocated. This request is tied to a long-standing difference in jurisdictional allocation approaches between Missouri and Kansas. Evergy Missouri Metro claims that the difference in the jurisdictional allocations will result in Evergy refunding 107% of its actual off system sales across Missouri and Kansas in total if the traditional jurisdictional allocation methodologies used in Missouri and Kansas are employed for that purpose. The allocation approach proposed by Evergy Missouri Metro would purportedly result in 100% of the net benefit flowing to its customers if both the Commission and the Kansas Corporation Commission ("KCC") approve this request. The different allocation methodologies used in Missouri and Kansas that impact fuel, purchased power and off-system sales are the Energy Allocator in Missouri and the Unused Energy Allocator in Kansas. Staff continues to recommend that use of the Energy Allocator is appropriate to allocate costs and revenues of this nature and, in fact, the Commission previously agreed in Case No. ER-2006-0314 that the Energy Allocator was

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<sup>4</sup> Direct Testimony of Ronald A. Klote in Case No. EU-2021-0283, Schedule RAK-3.

<sup>5</sup> Direct Testimony of Ronald A. Klote in Case No. EU-2021-0283, Schedule RAK-2.

the appropriate allocation factor to use for these types of fuel costs and revenues.

In his direct testimony in this case, Evergy witness Darrin Ives cites an order from a KCC case<sup>6</sup>. In that case, the KCC ordered the use of the 12-month coincident peak (CP 12) allocation approach for certain generation and transmission plant. However, the order provided no guidance as to whether the use of the Energy Allocator and Unused Energy Allocator was appropriate to allocate fuel, purchased power, or off-system sales actually at issue in this proceeding.

Evergy has stated that it will propose a solution to address the current allocation differences between Missouri and Kansas in Evergy Missouri Metro's next rate case before this Commission, which is estimated to be filed in early 2022. It also states that it will address this same issue in Evergy Metro Kansas' next rate case, which is planned to be filed in 2023. Staff recommends that the Commission reject Evergy's proposed jurisdictional allocation approach in this proceeding, because the proper place to decide this ratemaking policy matter is in a future general rate proceeding.

Lastly, Evergy Missouri Metro is requesting carrying costs using Evergy Missouri Metro's assumed weighted average cost of capital of 7.1713%, factored up for applicable taxes, be applied to the outstanding balance of the deferral until it is returned to customers in a FAC filing. If the Staff's recommendation to immediately flow through the net Winter Storm Uri customer benefits through the FAC is adopted by the Commission, the question of application of carrying costs to an AAO deferral becomes moot. If the Commission adopts Evergy Missouri Metro's request for an AAO for this item, the question of whether carrying costs should be included in future recovery in rates of the AAO deferral should be reserved for subsequent general rate proceedings.

### **Staff Recommendation**

Staff recommends that the Commission approve Evergy Missouri West's request for an AAO, but that any ratemaking decisions, including the amount of recovery from customers and application of carrying costs be determined in a future general rate or securitization proceeding.

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<sup>6</sup> Direct Testimony of Darrin R. Ives in Case No. EU-2021-0283, page 26, footnote 52.

Staff recommends the Commission reject Evergy Missouri Metro's request for an AAO and that the net customer benefits from Winter Storm Uri be included in the current FAC case (No. ER-2022-0025). However, if the Commission should decide to grant Evergy Missouri Metro an AAO, Staff recommends that Evergy Missouri Metro's approach to allocating the deferral amount to Missouri in this case be rejected and that the return of the net customer benefits to Evergy Missouri Metro customers be reflected in the next FAR filing.

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

In the Matter of the Application of Evergy )  
Metro, Inc. d/b/a Evergy Missouri Metro and )  
Evergy Missouri West, Inc. d/b/a Evergy )  
Missouri West for an Accounting Authority )  
Order Allowing the Companies to Record and )  
Preserve Costs Related to the February 2021 )  
Cold Weather Event )

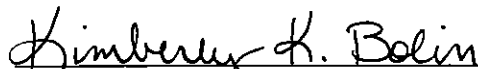
**Case No. EU-2021-0283**

**AFFIDAVIT OF KIMBERLY K. BOLIN**

STATE OF MISSOURI     )  
  ) ss  
COUNTY OF COLE     )

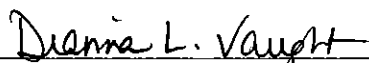
**COMES NOW** Kimberly K. Bolin, and on her oath states that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

  
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Kimberly K. Bolin

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 23rd day of September, 2021.

  
\_\_\_\_\_  
Notary Public

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2023 Commission Number: 15207377
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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of The Empire District Electric	)	
Company's d/b/a Liberty (Empire)	)	<b><u>File No. EU-2021-0274</u></b>
Fuel Costs Related to the Extraordinary Weather	)	
Event of February 2021	)	

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Recommendation* in this matter, hereby states:

1. On February 26, 2021, The Empire District Electric Company d/b/a Liberty (Empire) filed its *Notice* pursuant to 20 CSR 4240-4.017 of an intended case filing. On March 22, 2021, Empire filed a *Motion for Temporary Variance and Partial Waiver and Motion for Expedited Treatment* related to its requirement to file a fuel adjustment rate (FAR) pursuant to its fuel adjustment clause (FAC) tariff sheets, which would require the filing of a FAR by April 1, 2021. Empire later withdrew the *Motion* and filed a *Verified Winter Storm Uri AAO Application* on June 2, 2021. The Office of the Public Counsel (OPC) filed a *Motion to Dismiss the Application* on June 28, 2021, and Empire filed a *Response* to which OPC filed a *Reply*. Staff proceeded with its investigation and now files its *Recommendation*.

2. Staff's *Memorandum* is attached here as Attachment A, and outlines Staff's findings. Staff recommends that the Commission approve Empire's request for an AAO, but that any ratemaking decisions, including the amount of recovery from customers and application of carrying costs, be determined in a future general rate or securitization proceeding.

**WHEREFORE**, Staff prays that the Commission will accept this *Recommendation*; issue an order approving Empire's request for an accounting authority order, with the stipulation that any ratemaking decisions, including the amount of recovery from customers and any application

of carrying costs, be determined in a future general rate or securitization proceeding; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

**/s/ Whitney Payne**

Whitney Payne

Senior Counsel

Missouri Bar No. 64078

Attorney for the Staff of the

Missouri Public Service Commission

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 8th day of October, 2021, to all counsel of record.

**/s/ Whitney Payne**



## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. EU-2021-0274  
Empire District Electric Company

FROM: Kimberly K. Bolin, Utility Regulatory Manager

DATE: /s/ Kimberly K. Bolin 10/08/2021 /s/ Whitney Payne 10/08/2021  
Auditing Department/Date Staff Counsel's Office/Date

SUBJECT: Staff Recommendation for the Approval of the Application of The Empire District Electric Company's Fuel Costs Related to the Extraordinary Weather Event of February 2021

DATE: October 8, 2021

On June 2, 2021 The Empire District Electric Company ("Empire" or "Company") filed an Application for an accounting authority order ("AAO") permitting Empire to track and defer, beginning February 2021, to a regulatory asset: (1) the remaining 5% of extraordinary fuel and purchased power costs from February 2021 that was not deferred as a result of Case No. ER-2021-0032; (2) carrying costs on the total February 2021 fuel and purchased power expenditures at the Company's weighted average cost of capital; and (3) other costs specially related to Winter Storm Uri, including outside legal fees. Staff recommends that the Commission approve Empire's request for an AAO permitting Empire to track and defer to a regulatory asset certain costs associated with Winter Storm Uri.

### Accounting Authority Order

An AAO is an order from the Commission allowing a utility to account for a reporting item in a different manner than normally prescribed for the utility's financial records. An AAO allows a utility to defer costs associated with an extraordinary event. Under normal accounting practices, a utility would charge to expense as incurred on its income statement all costs associated with an extraordinary event. If deferral of those costs is authorized through an AAO, the utility treats the costs associated with an extraordinary event as a regulatory asset and records them on its balance sheet to be amortized over some established period of time. If a utility experiences extraordinary savings those savings can also be deferred, but as a regulatory liability, with the regulatory liability then later returned to its customers through an amortization in rates. Examples of savings that have been deferred to an AAO are savings related to the closing of a generating plant and income tax rate reductions.

An AAO gives the utility an opportunity to obtain rate recovery of the deferred items in the future. AAOs have usually been used to allow utilities to capture certain unanticipated costs that have not been included in ongoing rate levels. The Commission has taken the position that the costs in question must be associated with an event that is extraordinary, unusual or unique in nature and not recurring. The costs associated with the event must be material. The classic

example of an extraordinary event is the occurrence of a natural disaster, such as a wind or ice storm or major flood that affects a utility's service territory.

AAOs deviate from the Commission's general ratemaking methodology, but the Commission has "substantial discretion" in determining whether an AAO is appropriate in a particular case.<sup>1</sup> However, the Commission has limited the use of AAOs in the past to extraordinary events. Staff agrees with Empire that Winter Storm Uri was an extraordinary event of a material nature for purposes of Empire's request to identify, track, document, accumulate, and defer associated costs and revenues.

### **Empire's Request for an AAO**

Empire requests an AAO permitting Empire to track and defer, to a regulatory asset, the costs associated with Winter Storm Uri. The costs to be deferred include: (1) the remaining 5% of extraordinary fuel and purchased power costs from February 2021 that were previously not authorized for deferral; (2) carrying costs on the total February 2021 fuel and purchased power expenditures at the Company's weighed average cost of capital; and (3) other costs specifically related to Winter Storm Uri, including outside legal fees. The following table provides the amount of Missouri jurisdictional fuel and purchased power expense incurred for February 2021:

Total MO Jurisdictional Fuel and Purchased Power	\$184,333,407
Ordinary Fuel & PP Recovered in Case No. ER-2021-0332	\$ 7,346,526
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Total Extraordinary Fuel & PP (Case No. ER-2021-0332)	\$176,986,881
95% of Total Extraordinary MO Jurisdictional Fuel & PP	\$168,720,211
5% of Total Extraordinary MO Jurisdictional Fuel & PP	\$ 9,266,670

As shown above, 5% of the extraordinary fuel and purchased power costs from February 2021 is \$9,266,670. In Case No. ER-2021-0332, Empire was allowed to defer \$168,720,211 (or 95%) of the extraordinary fuel and purchased power costs incurred during February 2021. Normally, if fuel and purchased power costs are recovered through Empire's FAC, then Empire would recover only 95% of the costs and 5% of the costs would not be recovered through the FAC. However, Empire is requesting that the 5% of the extraordinary February 2021 fuel and purchased power costs not eligible for recovery through the FAC be deferred in the instant Application. While Staff is not opposed to these amounts being deferred by Empire in an AAO, any decision as to whether any, some or all of the deferral should be granted rate recovery should be determined in a future general rate proceeding or in a future case involving a request to securitize these costs.

Empire is also requesting carrying costs be applied to the deferrals using Empire's weighted average cost of capital of 6.77% as approved in the last rate case (Case No. ER-2019-0374). Staff is opposed to including carrying costs in the deferral at this time, since the

<sup>1</sup> *Office of Pub. Counsel v. Evergy Mo. West, Inc.*, 609 S.W.3d 857, 866 (Mo. App. W.D. 2020).

appropriateness of applying carrying costs to deferrals is essentially a ratemaking determination. In addition, the Commission has rarely authorized inclusion of carrying costs in a deferral. Staff recommends the Commission wait until Empire's next general rate case proceeding or in a possible future securitization case to decide this issue.

Lastly, Empire is also requesting to recover other costs specifically related to Winter Storm Uri, including outside legal fees. Empire provided an estimated amount of \$100,000 in Empire's workpapers for the current rate case (Case No. ER-2021-0312) for legal costs related to Winter Storm Uri. Staff recommends that Empire be allowed to defer these costs. Staff likewise recommends that the rate treatment of these costs be examined in a future general rate case proceeding or in a future securitization application.

### **Staff Recommendation**

Staff recommends that the Commission approve Empire's request for an AAO, but that any ratemaking decisions, including the amount of recovery from customers and application of carrying costs, be determined in a future general rate or securitization proceeding.

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

In the Matter of The Empire District Electric )  
Company's d/b/a Liberty (Empire) Fuel Costs )  
Related to the Extraordinary Weather Event )  
of February 2021 )

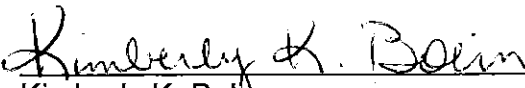
Case No. EU-2021-0274

**AFFIDAVIT OF KIMBERLY K. BOLIN**

STATE OF MISSOURI    )  
                                  ) ss  
COUNTY OF COLE     )

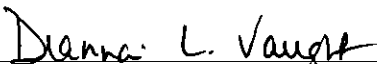
**COMES NOW** Kimberly K. Bolin, and on her oath states that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

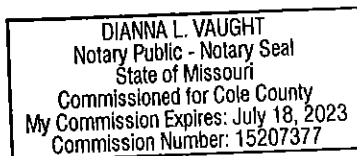
Further the Affiant sayeth not.

  
\_\_\_\_\_  
Kimberly K. Bolin

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
Notary Public



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

In the Matter of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty’s Fuel Costs Related to the Extraordinary Weather Event of February 2021 )  
 ) **File No. GU-2021-0276**  
 )

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), through counsel, and for its *Staff Recommendation* states:

1. On August 25, 2021, Liberty Utilities (Midstates Natural Gas) Corp. (“Liberty”) filed its *Verified Winter Storm Uri AAO Application*. Liberty requests an accounting authority order (“AAO”) allowing it to accumulate and defer as a regulatory liability costs related to Winter Storm Uri. Specifically, Liberty seeks to defer the following costs: (1) February 2021 fuel and purchased gas costs, (2) carrying costs on the total February 2021 fuel and purchased gas costs at Liberty’s weighted average cost of capital, and (3) outside legal fees related to Winter Storm Uri.

2. On October 27, 2021, the Commission ordered Staff to file its recommendation by November 16, 2021.

3. “An AAO permits ‘extraordinary items’ to be deferred and accounted for in a future accounting period.”<sup>1</sup> “[B]ecause establishment of an AAO deviates from the Commission’s general ratemaking methodology, the Commission has substantial discretion in determining whether an AAO is appropriate in a particular case.”<sup>2</sup>

4. As explained in the attached Memorandum, Staff recommends the Commission deny Liberty’s request. Liberty requested extended recovery of fuel and

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<sup>1</sup> *Office of Public Counsel v. Evergy Missouri, West, Inc.*, 609 S.W.3d 857, 866 (Mo. App., W.D. 2020) (citing *State ex rel. Aquila, Inc. v. Public Service Commission*, 326 S.W.3d 20, 27 (Mo. App., W.D. 2010).

<sup>2</sup> *Id.*

purchased gas costs related to Winter Storm Uri in its current purchased gas adjustment (“PGA”) case, Case No. GR-2022-0128. The accounting treatments Liberty seeks in this AAO request (Case No. GU-2021-0276) and the PGA case (Case No. GR-2022-0128) are duplicative. Staff recommended in the PGA case that the Commission allow Liberty to extend its ACA recovery period. The Commission has not ruled in this matter.

5. Similar to the Winter Storm Uri fuel and purchased gas costs, Liberty requested extended recovery of carrying costs in its current PGA case (Case No. GR-2022-0128). Staff recommends that carrying costs not be deferred in this case (Case No. GU-2021-0276), because the Commission will handle them in the PGA case.

6. And finally in this case (Case No. GU-2021-0276), Liberty requested AAO treatment for outside legal fees of \$37,404 it incurred related to Winter Storm Uri. These costs are immaterial and should not be included in an AAO.

**WHEREFORE**, for the above reasons Staff recommends that the Commission deny Liberty’s request.

Respectfully submitted,

**/s/ Karen E. Bretz**

Karen E. Bretz  
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Missouri Bar No. 70632  
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**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing have been emailed to all parties and/or counsel of record on this 16<sup>th</sup> day November, 2021.

**/s/ Karen E. Bretz**

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. GU-2021-0276  
Liberty Utilities (Midstates Natural Gas) Corp.

FROM: Kimberly K. Bolin, Utility Regulatory Manager

DATE: /s/ Kimberly K. Bolin 11/16/2021      /s/ Karen Bretz 11/16/2021  
Auditing Department/Date      Staff Counsel's Office/Date

SUBJECT: Staff Recommendation for the Denial of the Application of Liberty Utilities (Midstates Natural Gas) Corp.'s Fuel Costs Related to the Extraordinary Weather Event of February 2021

DATE: November 16, 2021

On August 25, 2021, Liberty Utilities (Midstates Natural Gas) Corp. ("Liberty" or "Company") filed an Application for an accounting authority order ("AAO") permitting Liberty to track and defer, beginning February 2021, to a regulatory asset: (1) fuel and purchased gas costs from February, 2021; (2) carrying costs on the total February, 2021 fuel and purchased gas expenditures at the Company's weighted average cost of capital; and (3) other costs specifically related to Winter Storm Uri, including outside legal fees. Staff recommends that the Commission deny Liberty's request for an AAO permitting Liberty to track and defer to a regulatory asset certain costs associated with Winter Storm Uri.

### **Accounting Authority Order**

An AAO is an order from the Commission allowing a utility to account for a reporting item in a different manner than normally prescribed for the utility's financial records. An AAO allows a utility to defer costs associated with an extraordinary event. Under normal accounting practices, a utility would charge to expense as incurred on its income statement all costs associated with an extraordinary event. If deferral of those costs is authorized through an AAO, the utility treats the costs associated with an extraordinary event as a regulatory asset and records them on its balance sheet to be amortized over some established period of time. If a utility experiences extraordinary savings those savings can also be deferred, but as a regulatory liability, with the regulatory liability then later returned to its customers through an amortization in rates. Examples of savings that have been deferred to an AAO are savings related to the closing of a generating plant and income tax rate reductions.

An AAO gives the utility an opportunity to obtain rate recovery of the deferred items in the future. AAOs have usually been used to allow utilities to capture certain unanticipated costs that have not been included in ongoing rate levels. The Commission has taken the position that the costs in question must be associated with an event that is extraordinary, unusual or unique in



nature and not recurring. The costs associated with the event must be material. The classic example of an extraordinary event is the occurrence of a natural disaster, such as a wind or ice storm or major flood that affects a utility's service territory.

AAOs deviate from the Commission's general ratemaking methodology, but the Commission has "substantial discretion" in determining whether an AAO is appropriate in a particular case.<sup>1</sup> However, the Commission has limited the use of AAOs in the past to extraordinary events. Staff agrees with Liberty that Winter Storm Uri was an extraordinary event of a material nature for purposes of Liberty's request to identify, track, document, accumulate, and defer associated costs and revenues. Nonetheless, Staff recommends that the Commission deny Liberty's application for the reasons explained below.

### **Liberty's Request for an AAO**

Liberty requests an AAO permitting Liberty to track and defer, to a regulatory asset, the costs associated with Winter Storm Uri. The costs to be deferred include: (1) fuel and purchased gas costs from February 2021; (2) carrying costs on the total February 2021 fuel and purchased gas expenditures at the Company's weighed average cost of capital; and (3) other costs specifically related to Winter Storm Uri, including outside legal fees.

On September 16, 2021, Liberty filed its Application for Approval of Amendment of Rider PGA and Motion for Waiver of 60-Day Notice Filing Requirement ("tariff change request") in Case No. GT-2022-0079, requesting changes to its Purchased Gas Adjustment Clause that will allow it the flexibility to spread the recovery of the gas costs from the Cold Weather Event over a longer period than the currently required 12 months. On October 14, 2021, the Missouri Public Service Commission ("Commission") approved the tariff change request.

On November 4, 2021, Liberty filed tariff sheets in Case No. GR-2022-0128 to reflect changes to its PGA and ACA factors. Additionally, in Case No. GR-2022-0128, Liberty requested deferring the recovery of the extraordinary fuel and purchased gas costs and operational flow order ("OFO") penalties related to Winter Storm URI by extending the ACA recovery period to three years, which is a longer period of time than normal. These extraordinary costs and penalties are the same costs and penalties that it requests to be deferred to an AAO in this proceeding. As such, the accounting treatments Liberty seeks in this AAO request (Case No. GU-2021-0276) and the PGA/ACA filing (Case No. GR-2022-0128) are largely duplicative in that both requests are designed to allow Liberty to retain costs on its balance sheet for potential later rate recovery.

Staff recommended in Case No. GR-2022-0128 that the Commission approve Liberty's tariff sheets on an interim and refundable basis and that Liberty be allowed to defer costs in order to extend its ACA recovery period. The Commission has not issued an order in that proceeding. The Commission will resolve Liberty's request to retain Winter Storm Uri fuel and

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<sup>1</sup> *Office of Pub. Counsel v. Evergy Mo. West, Inc.*, 609 S.W.3d 857, 866 (Mo. App. W.D. 2020).

purchased gas costs and OFO penalties on its balance sheet for potential later rate recovery in Case No. GR-2022-0128. For this reason, Staff is opposed to Liberty being allowed to defer its extraordinary fuel and purchased gas costs and OFO penalties in an AAO.

Additionally, in this case Liberty is requesting carrying costs be applied to the deferrals, using Liberty's weighted average cost of capital of 7.4%, as approved in its last rate case (Case No. GR-2018-0013). This WACC carrying cost rate is greater than "prime minus 2%" typically applied to ACA balances. Liberty requested extended recovery of carrying costs in its PGA/ACA case (Case No. GR-2022-0128), and Staff may object to inclusion of these higher carrying costs in a future mandatory ACA filing.<sup>2</sup> Staff recommends that carrying costs not be deferred in this case, because the Commission will handle them in the ACA/PGA case.

Lastly, Liberty is requesting to recover other non-gas costs specifically related to Winter Storm Uri, including outside legal fees in the amount of \$37,404. Legal fees of this nature are not recoverable through Liberty's PGA/ACA mechanism. Staff recommends that an AAO should not be granted for these legal fees due to the immaterial nature of the costs.

### **Staff Recommendation**

Staff recommends that the Commission deny Liberty's request for an AAO for fuel and purchased gas costs, OFO penalties, and related carrying costs, because the Commission will resolve the issue of whether they should be deferred in Case No. GR-2022-0128. Staff also recommends that the Commission deny Liberty's request to defer outside legal fees because they are immaterial.

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<sup>2</sup> *Staff Memorandum*, Case No. GR-2022-0128, P. 4 (Nov 12, 2021).

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of Liberty Utilities (Midstates )  
Natural Gas) Corp. d/b/a Liberty's Fuel ) File No. GU-2021-0276  
Costs Related to the Extraordinary )  
Weather Event of February 2021 )

**AFFIDAVIT OF KIMBERLY K. BOLIN**

STATE OF MISSOURI )  
 ) ss  
COUNTY OF COLE )

**COMES NOW**, Kimberly K. Bolin and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Kimberly K. Bolin  
Kimberly K. Bolin

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 16th day of November, 2021.

DIANNA L. VAUGHT  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: July 18, 2023  
Commission Number: 15207377

Dianna L. Vaught  
Notary Public