BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West for Authority to Implement Rate Adjustments Required by 20 CSR 4240-20.090(8) and the Company's Approved Fuel and Purchased Power Cost Recovery Mechanism	)))))))))	Case No. ER-2023-0011

POSITION STATEMENT OF THE OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of the Public Counsel ("OPC") and for its *Position Statement*, states as follows:

The Public Service Commission ("PSC" or "the Commission") filed an *Order Amending Procedural Schedule* on September 20, 2022, requiring, among other things, that "[e]ach party [] file a simple and concise statement summarizing its position on each disputed issue, including citations to pre-filed testimony supporting its position." (<u>Order Amending Procedural Schedule</u>, pg. 2 ¶ 4, ER-2023-0011, EFIS Item No. 16). Pursuant to that order, the OPC now files this summary of its positions as to all issues found in the *Joint List of Issues, Order of Witnesses, Order of Cross Examination and Order of Opening Statements* filed by the Staff of the Commission ("Staff") on behalf of all parties on September 23, 2022.

<u>Issue 1:</u> Should the Commission approve Evergy Missouri West's ("EMW") request to defer $31 million of FAC- fuel and purchased power costs for further treatment in a subsequent general rate case?

<u>Answer</u>: No. "Evergy West is attempting to manipulate its FAC rate to avoid legislatively imposed PISA caps." (<u>Rebuttal Testimony of Lena M. Mantle</u>, pg. 3 lns. 10 – 11, ER-2023-0011, EFIS Item No. 18). "The costs in this FAC rate adjustment mechanism filing do not cause Every West's average overall rate to exceed the CAGR limitation, as demonstrated by the Company's own internal workpapers." *Id*. at pg. 16 lns. 7 – 9. Therefore, these costs do not qualify for deferral under the relevant statutory mechanism. *Id* at lns 1 – 7. Further, the fuel and purchase power costs for this accumulation period should not be deferred on the basis of Evergy West's claim that they are extraordinary. *Id* at pg. 23 lns. 1 – 3.

> All of the electric utilities in Missouri are facing the same external factors and yet Evergy West is the only electric utility that is claiming that its fuel and purchased power costs are extraordinary. In fact, the FAC costs of Evergy Metro, Evergy West's sister company, have been nearly the same as the costs that were included in its permanent rates. This signifies that the increase in FAC costs is not due to external factors but due to the resource acquisition decisions of Evergy West.
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> In addition, Evergy West's FPA costs in AP 30 were lower than the FPA costs in AP 29 and Evergy West did not claim, at the time of the last FAC rate change case, that these costs were extraordinary.

Id. at lns. 3 – 11. There is thus no legal or factual reason for any portion of the costs for fuel and purchased power associated with this accumulation period to be deferred. Instead, "[t]he Commission should immediately order that Evergy West file a substitute tariff that includes all of Evergy Wests FPA to assure that Evergy West's

FAC rate change takes effect before the effective dates of new rates in Evergy West's current general rate case, ER-2022-0130." *Id.* at pg. 27 lns. 13 – 16.

Issue 2: Should the Commission consider the FAC rate adjustment mechanism's requirement that fuel and purchased power costs will be rebased in EMW's general rate case (No. ER-2022-0130) in determining the amount of EMW's requested deferral in this FAC proceeding?

Answer: No. The statutory provision upon which Evergy principally relies is 393.1655.5 RSMo. (*see* Direct Testimony of Darrin R. Ives, pg. 10 lns. 8 – 13, ER-2023-0011, EFIS Item No. 3). Section 393.1655.5 begins with a triggering clause which reads: "If a change in any rates charged under a rate adjustment mechanism approved by the commission under sections 386.266 and 393.1030 would cause an electrical corporation's average overall rate to exceed the compound annual growth rate limitation set forth in subsection 3 or 4 of this section[.]" The application of this triggering mechanism requires the Commission to answer a very simple question: will the change in the amount charged under a rate adjustment mechanism approved by the Commission under sections 386.266 or 393.1030 cause the utility's immediately resulting average overall rate to exceed the compound annual growth rate limitations set in the statute? There is nothing in this language that requires or even suggests that the Commission needs to consider the FAC rate adjustment mechanism's requirement that fuel and purchased power costs will be rebased in

Evergy West's general rate case. On the contrary, attempting to include a future fuel rebasing that (1) has not yet occurred and (2) will not flow through the FAC regardless as part of the mathematical determination of whether section 393.1655.5 has been triggered is contrary to the plain and ordinary language of the statute and would therefore constitute reversible error. (*See* Rebuttal Testimony of Lena M. Mantle, pg. 16 lns. 10 – 14, ER-2023-0011, EFIS Item No. 18).

Issue 3: What is the full amount of the current FPA for the 30th accumulation period?

Answer: $44,604,020,. (Rebuttal Testimony of Lena M. Mantle, LMM-R-4 pg. 63 of 63, ER-2023-0011, EFIS Item No. 18). Note that this is taken **directly** from Evergy's own workpapers. *Id.*

Issue 4: If EMW's current FAC rate is changed to allow for full recovery of the FPA for the 30th accumulation period and no other changes were made to the rates currently in effect, what would the resulting average overall rate for EMW be?

Answer: "If the total FPA costs are included for AP 30, Evergy West's workpapers show that the average rate on September 1, 2022 as calculated by Evergy West with the entire $44.6 million would have been $0.10223/kWh[.]" (Rebuttal Testimony of Lena M. Mantle, pg. 9 lns. 16 – 18, LMM-R-4 pg. 4 of 63, ER-2023-0011, EFIS Item No. 18).

<u>Issue 4a:</u> What is the percentage difference between this rate and EMW's average overall rate as of the date new base rates were set in EMWs most recent general rate proceeding concluded prior to the date the EMW gave notice under section 393.1400?

<u>Answer:</u> 9.14% based on Evergy West's own workpapers. (<u>Rebuttal Testimony of Lena M. Mantle</u>, pg. 9 lns. 16 – 19, pg. 8 ln. 22 – pg. 9 ln. 3, LMM-R-4 pg. 4 of 63, ER-2023-0011, EFIS Item No. 18).

<u>Issue 5</u>: Does allowing for recovery of the full FPA for the 30th FAC accumulation period through EMW's FAC result in a change in the rates charged under EMW's FAC that would cause EMW's average overall rate to exceed the 3% annual compound growth rate cap set forth in section 393.1655.3 RSMo.?

<u>Answer:</u> No. As explained by the OPC's Witness Ms. Lena Mantle:

> If the total FPA costs are included for AP 30, Evergy West's workpapers show that the average rate on September 1, 2022 as calculated by Evergy West with the entire $44.6 million would have been $0.10223/kWh; an increase of 9.14% over the base Average Overall Rate of $0.09367/kWh. This 9.14% CAGR is considerably below the September 1, 2022, PISA 3% CAGR of 11.69%; the September 21, 2022, PISA 3% CAGR of 11.87%; and the December 1, 2022, PISA 3% CAGR of 12.51%. Under no circumstances does including the total cost of the FPA in Evergy West's FAC rate result in a percentage increase in Evergy West's current average overall rate that would be greater than the CAGR allowed under the PISA statute.

(Rebuttal Testimony of Lena M. Mantle, pg. 9 lns. 16 – 25, LMM-R-4 pg. 4 of 63, ER-2023-0011, EFIS Item No. 18). Again, please note that this information is derived from Evergy's **own** workpapers. *Id.*

Issue 6: Should EMW be permitted to defer any portion of the costs related to the 30th accumulation period on the basis of the company's claim that those costs are extraordinary?

Answer: No. The costs Evergy West seeks to defer from the 30th accumulation period are not extraordinary nor do they result from extraordinary factors beyond the Company's control. "The reason for the vast difference between the normalized fuel and purchased power costs included in the last rate case and what actually occurred, rests squarely on Evergy West's lack of generation resources to earn revenues to offset the high market prices paid for its load." (Rebuttal Testimony of Lena M. Mantle, pg. 18 lns. 4 – 7, ER-2023-0011, EFIS Item No. 18). As OPC Witness Ms. Mantle explained:

> First, the FPA or difference between what Evergy West included in revenue requirement and actual FAC costs incurred in this accumulation period, AP 30, is $2.9 million (6.1%) less than the FPA in Evergy West's last accumulation period, AP 29. Evergy West did not claim in its testimony in its FAC rate change case for AP 29, that the costs incurred in AP 29 were extraordinary. AP 29 was June 1, 2021 through November 31, 2022 - the six months immediately preceding AP 30. Evergy West faced many of the same external factors in AP 29 that it did in AP 30 and yet it did not claim that the FPA for AP 29 was "extraordinary." It did not consider the costs that it incurred "extraordinary" until it discovered that including the total FPA in AP 30, while not hitting the cap for deferral provided in the PISA statute,

> *would limit the amount of revenue requirement increase that it could get in the general rate case.*
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> [. . .]
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> Finally, and perhaps most persuasively, Every Metro, Inc. ("Evergy Metro"), a sister company of Evergy West, did not ask for a deferral of costs due to extraordinary circumstances for costs it incurred over nearly the same six month time period *despite incurring the same high fuel and purchase power costs*. This is because, in its FAC rate change case currently before this Commission, case no. ER-2023-0031, Evergy Metro's filed FAC actual net energy costs is nearly the same amount as its FAC costs included in its permanent rates. The difference is only $1.7 million. This means, despite the recent increase and volatility in fuel and market prices that is out of its control, Evergy Metro's FAC costs nearly matched what was included in its revenue requirement set nearly four years ago.

Id. at pg. 18 ln. 19 – pg. 19 ln. 23.

> From December 1, 2021 through May 31, 2022, Evergy Metro and Evergy West faced the same fuel prices. Evergy Metro and Evergy West faced the same market prices. Evergy Metro and Evergy West faced the same weather. Evergy West and Evergy Metro had the same management – their parent company Evergy, Inc. ("Evergy"). The drastic difference in fuel costs and market revenue is due to Evergy's management decisions regarding the generation assets of the two utilities.

Id at pg. 21 lns. 10 – 16. It is also important to note that there are **<u>NO</u>** costs related to winter storm Uri included in the FPA for this accumulation period. *Id*. at pg. 23 lns. 14 – 15.

<u>Issue 6a:</u> If so, what accounting treatment should the deferral receive?

<u>Answer:</u> There should be no deferral. If the Commission nonetheless does approve a deferral, however, Evergy West should not receive any interest related to the deferral and the amount deferred should be recovered in Evergy West's current general rate case. "A utility should be made whole for extraordinary costs, but it should not earn a profit at the customers' expense on an extraordinary cost." (Rebuttal Testimony of Lena M. Mantle, pg. 25 lns. 3 – 4, ER-2023-0011, EFIS Item No. 18).

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Statement of Position*, and rule in the OPC's favor on all issues stated herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this twenty-seventh day of September, 2022.

/s/ John Clizer