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 Authority to Implement a General Rate Increase for Electrical Service	)))))	**Case No. ER-2022-0129**
In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement a General Rate Increase for Electrical Service	)))))	**Case No. ER-2022-0130**

SIERRA CLUB'S INITIAL POST-HEARING BRIEF

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I. Introduction

Sierra Club urges the Missouri Public Service Commission ("Commission") to find that Evergy (the "Company") has not engaged in prudent planning with respect to its existing coal generating units because the Company has consistently failed to reasonably assess whether continued operation of the units—as opposed to retirement and replacement, if needed—provides customers' service at the least cost and least risk. Because Evergy has not engaged in adequate planning for its coal units, the Company's test year spending requested for all these coal units is not supported by sufficient evidence. Now, with the passage of the Inflation Reduction Act ("IRA"), the advantages for customers of retiring coal units and replacing them with clean resources are even greater and the need for Commission oversight stronger.

In this proceeding, Sierra Club has produced evidence, primarily using Evergy's own data, casting serious doubt on the prudence of the test year spending at the coal units. In its 2021 triennial Integrated Resource Plan ("IRP"), Evergy largely shielded its coal units from scrutiny by hand-selecting retirement dates based on the units' accounting life from the Company's last depreciation study, by hard-wiring all new resource additions, and by failing to reasonably assess solar and battery resources.[1] Further, in its 2022 IRP Update, the Company failed to consider the economics of coal units by testing retirements this decade.[2] Sierra Club witness Devi Glick explains that Evergy has resisted calls from stakeholders in the company's IRP processes to evaluate the going-forward value of its coal-burning units with sophisticated modeling and with valid, optimized consideration of replacement resources.[3] Further, as Ms. Glick demonstrated,

[1] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 15-21.

[2] Exhibit 454, Revenue Requirement Surrebuttal Testimony of Devi Glick at 7.

[3] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 18-20; Exhibit 454, Revenue Requirement Surrebuttal Testimony of Devi Glick at 6-7.

relying on Evergy's own revenues and cost data, many of Evergy's coal-burning units have been marginally economic compared to a market proxy,[4] and are projected by Evergy to have negative value to customers going forward this decade.[5] This means that customers would save money if these plants were retired and replaced with cheaper (and cleaner) generation, even absent a capital spending requirement.

The Commission should find that the evidence offered by Sierra Club, which, again, is largely Evergy's own data, casts "serious doubt" on whether each coal unit should be operated in the near term.[6] The Commission should thus require Evergy to come forward with evidence to prove that all of its coal generation spending is reasonable and prudent. Evergy should not be permitted to meet this burden by disproving a strawperson argument: that not all of these units can be immediately retired, which of course is true and is irrelevant to Evergy's obligation to demonstrate the reasonableness of spending at every coal unit. Evergy has not met its burden of proof to demonstrate that continued investment in its coal fleet is the prudent and least-cost option to provide reliable power to ratepayers as part of these dockets or as part of its IRP process, on which it relies in these dockets. The Company has not submitted quantified evidence of the value of retaining each of its coal units in this rate case and, instead, has relied on its IRP to support these costs, but, as explained here, its IRP is not up to that task because the IRP was not designed to achieve that goal.

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[4] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 21-36.

[5] *Id.* at 36-53.

[6] *Office of Pub. Counsel v. Mo. Pub. Serv. Comm'n*, 409 S.W.3d 371, 376, 379 (Mo. 2013) (the Commission may presume that costs are prudent unless a party provides evidence that creates a "serious doubt as to the prudence of an expenditure.").

Based on Evergy's failure to engage in reasonable planning, the overall economic weakness of its coal-burning fleet, upcoming environmental regulations that are likely to increase costs for these units, and the Company's refusal to retire demonstrably non-economic coal units, the Commission should disapprove costs associated with the coal plants and order more-extensive oversight to improve resource planning. This does not mean that all of Evergy's coal units should be retired immediately, of course; instead, Evergy should be required to come forward with a plan to retire its least-economic coal units, which it has so far refused to do.

In sum, Sierra Club respectfully asks that the Commission make the following findings and order these remedies:

1. The Commission should find that Evergy has failed to engage in least-cost planning because it has failed to evaluate the going-forward value of its existing coal-burning units (Issue III, Resource Planning).

2. The Commission should find that Evergy has not carried its burden to demonstrate that capital and maintenance costs incurred at Evergy's coal units during the Test Year should be included in rate base because Evergy has never demonstrated that continued operation saves customers money (XV.C., Rate Base). Consequently, the Commission should disallow from inclusion in rates the amounts identified by Sierra Club witness Glick in her confidential direct testimony (at 4:23 – 5:6).

3. The Commission should find that customers would likely benefit if at least some of Evergy's coal-burning plants were retired in the near term.

4. The Commission should require Evergy to conduct a full retirement study of its coal fleet using optimized capacity expansion software, which identifies the optimal retirement date for each of its coal-fired units, including the impact of the changes to federal law effected by the Inflation Reduction Act.

II. Evergy, Like Any Regulated Utility, Has the Burden to Prove that Its Test Year Generation Spending is Prudent With Persuasive Evidence.

Utilities are obliged under Missouri law to provide electric service that is "safe and adequate and in all respects just and reasonable," and may only make or demand rates that are "just and reasonable."[7] Further, "[a]t any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the [utility]."[8] Although the Commission employs a presumption of prudence in determining whether particular costs and expenses can be passed through to customers as part of just and reasonable rates, this standard merely creates an evidentiary presumption.[9] The presumption "does not change the burden of proof, which by statute must remain on the utility."[10]

Under this standard, a utility's actual costs of providing service are presumed to be prudently incurred unless a party provides evidence that creates a "serious doubt as to the prudence of an expenditure."[11] Once this showing of serious doubt is made, however, the burden of coming forward with substantial evidence shifts to the utility to prove the prudence of a questioned expenditure.[12] In evaluating the prudence of a utility's expenditures, the Commission reviews "whether the utility's conduct was reasonable at the time, under all of the

[7] Mo. Rev. Stat. § 393.130.1.

[8] Mo. Rev. Stat. § 393.150.2.

[9] *Office of Pub. Counsel v. Mo. Pub. Serv. Comm'n*, 409 S.W.3d 371, 376, 379 (Mo. 2013).

[10] *Id.* at 379.

[11] *Id.* at 376, citing *Anaheim, Riverside, Etc. v. Fed. Energy Reg. Comm'n,* 669 F.2d 799, 809 (D.C. Cir. 1981).

[12] *Id*. at 376, 379.

circumstances."[13] A disallowance is appropriate if the Commission finds that the utility acted imprudently and that its imprudence harmed ratepayers.[14]

In rebuttal testimony,[15] Evergy has suggested that the appropriate venue for reviewing its resource planning decision is in the Integrated Resource Plan process itself. The Commission has rejected that theory, in declining to make a substantive ruling on another utility's resource planning:

> The Commission's determination of whether Ameren Missouri is in fact 'providing the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that serves the public interest' must wait for the appropriate rate case in which the Commission can consider all relevant factors.[16]

Thus, in Missouri, where the Commission does not generally rule on the substance of an IRP, rate cases are the primary venue for judging the prudence of a utility's power plant spending, including resource planning decisions.

III. Sierra Club's Evidence Creates a "Serious Doubt" That Evergy's Test Year Coal Spending is Reasonable and Prudent.

In its direct case in this proceeding, Evergy filed no testimony supporting the prudence of the test year spending for its coal generation, though these costs are significant, including test year capital spending of $87.8 million at their coal units and comparatively significant test year O&M.[17] Evergy is currently planning to operate all of the coal units for which Missouri

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[13] *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n of State of Mo.*, 116 S.W.3d 680, 694 (Mo. App. W.D. 2003).

[14] *State ex rel. KCP & L Greater Mo. Operations Co. v. Mo. Pub. Serv. Comm'n*, 408 S.W.3d 153, 163 (Mo. App. W.D. 2013).

[15] Exhibit 55, Rebuttal Testimony of Kayla Messamore at 12.

[16] File No. EO-2011-0271, Report and Order, Issued March 28, 2012, p. 10.

[17] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 12, Table 5 (providing test year capital and O&M spending for all coal units). Evergy has claimed that the total test year amount of O&M for its coal units is confidential.

customers pay—Hawthorn Unit 5, Iatan Units 1 & 2, Jeffrey Units 1, 2, & 3, and La Cygne Units 1 & 2—through at least 2030.[18]

Through the Glick testimony, which relies on Evergy's own data, Sierra Club has produced evidence casting "serious doubt" as to the prudence of the expenditures at the coal units. This evidence includes Evergy's IRP, which tends to show benefit for early retirement of coal units, without fully evaluating the issue. In its 2021 triennial IRP, the Company ignored the results of its own analysis that indicated that early retirement (prior to the current depreciation date) of at least some of its coal units, specifically La Cygne Unit 2 and Jeffrey Units 2 and 3, would deliver a lower-cost portfolio than the Company's current preferred portfolio.[19] This evidence also included Evergy's actual historic coal-unit cost and revenue data, which shows that the units have generally been higher cost than available alternatives, as well as Evergy's projected cost and revenue data for the 2020s. Under Missouri law, the burden shifts to Evergy to prove the prudence of its expenditures. Evergy has not met that burden.

a. Evergy's approach to resource planning raises "serious doubt" about the Test Year coal spending.

Evergy's IRP planning has not reasonably supported the retention of all of its coal units. In its 2021 triennial IRP, Evergy performed no optimized economic analyses on the projected performance of its coal units.[20] The Company set its retirement dates based on a separate and highly limited Depreciation Study and then hard coded them into the model, along with hard-coded dates for new resource additions.[21] Evergy identified the depreciable life span for each

[18] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 6, Table 1 (providing ownership shares and planned retirement dates for coal units).

[19] *Id.* at 16.

[20] *Id*.

[21] *Id*.

unit in its Depreciation Study. While this type of study might have been reasonable when replacement options were more limited, and coal-fired power's comparative economics were strong, it is not reasonable to do so today,[22] as retirement of a coal unit should be based on optimized evaluation of going-forward costs of the unit only in comparison to alternatives.[23] The Depreciation Study has a narrow purpose—i.e., determining how long a power plant could remain active as a matter of engineering capability or book life.[24] While this information is useful in evaluating the expected economics and depreciation schedule for a specific plant, it is not sufficient for prudent, fleet-wide resource planning.[25] Unit-level, forward-going economic analysis of the plant and potential resource alternatives in the market is required for that.[26] A depreciation study constitutes a narrow analysis that evaluates plants in isolation from the larger system in which they operate. The inputs are based largely on units' generic manufacturer useful lives and on Company staff's internal intuitions. Because of this, it is unlikely that Evergy's modeling results delivered a least-cost plan. In Evergy's 2022 IRP Update, there is no consideration of coal units' economics at all through consideration of near-term retirements.[27]

Even the 2021 IRP's limited hard-wired assessment of the economics of Evergy's coal units tends to support earlier retirement. For example, the Company's modeling results also

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[22] *Id.* at 7.

[23] Exhibit 55, Rebuttal Testimony of Kayla Messamore at 4 ("While unrecovered capital costs from a retirement are included in the Company's IRP analysis, they are irrelevant to a retirement decision which assumes that these costs will eventually be recovered. These costs are "sunk" and are not generally considered in a retirement decision. What is important are the going forward costs which were evaluated in the IRP process.")

[24] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 17.

[25] *Id.* at 17.

[26] *Id.* at 17.

[27] Exhibit 454, Surrebuttal Testimony of Devi Glick at 7.

included the early retirement (that is, retirement prior to the current depreciation date) of some of the Jeffrey units in nine of its ten lowest-cost plans, yet the Company's preferred plan retained the later depreciation retirement date for each of the Jeffrey units.[28] Further, in its 2021 triennial IRP, Evergy included a joint plan that studied the retirement of La Cygne Unit 1 in 2023 (EBBGS), which was the only plan that tested the "early" retirement of this unit in isolation. This plan was lower cost than the otherwise very similar plan that retired La Cygne Unit 1 in 2032 (EAAGS).[29] This would tend to indicate that retiring La Cygne Unit 1 earlier would save customers money by avoiding the O&M, capital, and fuel associated with maintain it beyond 2023. The sole reason that a La Cygne Unit 1 "early" retirement was not included in the lowest cost joint plans is because Evergy never studied a La Cygne Unit 1 retirement along with the early retirement of other high-cost coal units, such as (Kansas jurisdictional) Lawrence Units 4 and 5, or with other low-cost plans.

Similarly, in the 2021 IRP, the only plan that tested the "early" retirement of La Cygne Unit 2 (ECCGS) is lower cost than the comparable joint plant (EAAGS) that operates the unit through the end of this decade. This tends to suggest that retiring La Cygne in 2023 would reduce customers costs compared to operating the units longer. And, again, the reason that a La Cygne Unit 2 retirement in 2023 does not appear in lowest cost joint plans is because Evergy refused to consider this retirement in combination with other low-cost plans and, more-fundamentally, Evergy's model was not designed to select the lowest-cost resource plan.

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[28] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 19.

[29] *Id.* at 19 (citing Evergy Metro 2021 IRP, Volume 6, pages 21–27); *see* EO-2021-0035, *In the Matter of Evergy Metro, Inc. d/b/a Evergy Missouri Metro's 2021 Triennial Compliance Filing Pursuant to 20 CSR 4240-22*; *see also* File No. EO-2021-0036, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's 2021 Triennial Compliance Filing Pursuant to 20 CSR 4240-22.*

Further, other aspects of the 2021 triennial IRP cast doubt on whether retaining all of Evergy's coal units would be the least-cost plan. Evergy's replacement resource analysis in its IRPs was deeply flawed because, like its retirement analysis, it included no optimization of replacement resources. The Company modeled storage as well as paired solar and storage in a limited number of its alternative resource plans.[30] Evergy did not robustly and reasonably evaluate solar photovoltaics, battery storage, and solar-battery hybrids as resource alternatives.[31] That failure serves only to make the economics of Evergy's coal units look better than they really are. That bias against affordable clean energy harms customers by depriving them and the Commission of any analysis of what could be a truly least-cost resource portfolio. And that error is compounded by the recent enactment of Inflation Reduction Act, which reduces the cost of clean energy alternatives to Evergy's coal units by as much as 50 percent. *See* Section V, below.

What makes Evergy's decision to ignore the economic results in favor of early retirement dates even more concerning is that the Company currently has a surplus of generation capacity such that if it retired one or two of its existing coal units, it would not need to replace the capacity for at least another decade. For example, the Company could retire La Cygne 2 and at least one of the Jeffrey Units without the Company having to acquire additional capacity until 2032.[32] Therefore, based on the Company's own IRP analysis, it makes no economic sense for the Company to continue to operate all its coal plants. Given that the Company has already identified several of its coal units as the costliest, Evergy should complete the exercise and

[30] *Id.* at 19.

[31] *Id.* at 16.

[32] *Id.* at 19.

identify an optimal order and date to retire and (as necessary) replace each unit based on the availability of market alternatives.

Evergy's IRP was not designed to study near-term retirements; yet, the IRP's results nevertheless suggest value for retiring coal units sooner. Other plans that include earlier coal retirement are lower cost than Evergy's preferred plan. Instead, the Company elected to choose a higher-cost plan and keep more uneconomic coal online.

b. In recent years, many of Evergy's coal units have performed poorly compared to available alternatives.

With the exception of the anomalous year 2021, each of Evergy's coal plants incurred costs in excess of the value of its energy and capacity over the past five years.[33] Unlike Evergy, Sierra Club witness Glick studied the current economics of Evergy's coal units. Relying on Evergy's own data, including the capacity value the Company pays in one of its own firm capacity contracts, witness Glick showed that Evergy incurred negative net revenues at Hawthorn 5, Iatan Units 1 and 2, Jeffrey Units 1-3, and La Cygne Units 1 and 2 during four out of the last five years (with the exception being 2021 due to the high market prices during winter storm Uri).[34] Ms. Glick calculated these figures by relying on historical unit costs provided by the Company, the cost of resource purchases provided by the Company, historical and projected market prices provided by the Company, and the cost of alternative resource options from the National Renewable Energy Laboratory, a widely recognized source of industry data.[35]

[33] *Id.* at 21.

[34] *Id.* at 4.

[35] *Id.* at 22.

Ms. Glick found that all four coal plants incurred costs (variable and fixed) well in excess of their energy revenue and the value of their capacity in every year between 2017 and 2020, as shown in Table 7 of her direct testimony.[36] While Ms. Glick's screening analysis of comparing total costs to total value does not substitute for sophisticated optimized modeling, her analysis tends to show that the economics of the Evergy coal units are marginal compared to replacement resources. Ms. Glick's historic analysis therefore confirms the findings of Evergy's IRP that there is likely benefit to retiring coal units in the near-term. This analysis is further supported by the fact that Evergy's coal units have generally exhibited declining capacity factors over the last decade and are projected by Evergy to generally continue to decline in utilization.[37]

c. Based on Evergy's own data, many of the Company's coal units are projected to perform poorly this decade.

Based on the Company's data, including the capacity value the Company pays in one of its own firm capacity contracts, Sierra Club witness Glick finds that Jeffrey Units 1, 2, and 3, and La Cygne Units 1 and 2 have been and are projected to continue to be uneconomic when compared to market value and alternative resources. According to witness Glick, Evergy is likely to continue incurring negative net revenues by operating and investing in each of the plants over the next decade (2022–2031).[38] Ms. Glick calculated the net revenues using the Company's own projections on unit costs and revenues. For costs, these calculations rely on Evergy's projected fuel costs, projected plant O&M costs (variable and fixed combined), projected sustaining capital

[36] *Id.* at 26.

[37] *Id.* at 23, Figure 1 (providing historic and projected capacity factors for coal units) (Confidential Version).

[38] *Id.* at 36-38.

expenditures and environmental capital expenditures for the period 2022–2031.[39] For revenues, Evergy provided projected energy market revenues from selling each coal unit into the Southwest Power Pool ("SPP") market, and, because SPP does not operate a capacity market, Ms. Glick valued capacity of each of the coal units at the Company's at the cost of its mid-priced existing capacity contract.[40] While Ms. Glick's forward-looking screening analysis of comparing total costs to total value does not substitute for sophisticated optimized modeling, her evaluation, based on Evergy's own projections, tends to support the finding that a near-term retirement of some coal units, in particular La Cygne Units 1 and 2 and the Jeffrey Units would likely save customers money.[41]

IV. Evergy Has Not Offered Persuasive Evidence to Support the Test Year Spending at Its Coal Units.

The Company referenced its most recent 2021 triennial IRP in response to nearly all of Sierra Club's requests for data on projected unit performance.[42] Yet, as explained above, for its 2021 IRP, Evergy did not sufficiently analyze whether continued operation of and investment in its coal plants is the least-cost option for ratepayers or identify optimal retirement dates for its coal plants.[43] Even the limited number of retirements that Evergy has studied tend to show a benefit to retire coal units earlier, but Evergy failed to follow up those distant-retirement-date studies with near-term retirement studies that could have supported the reasonableness of its test year spending in this case.

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[39] *Id.* at 39.

[40] *Id.* at 39.

[41] *Id.* at 38, Table 11 (providing results of Ms. Glick's forward-looking screening analysis).

[42] *Id.* at 15.

[43] *Id.* at 15.

Nor has Evergy provided any evidence outside its IRP to support its requested test year spending at its coal units. The only evidence that Evergy offers to support its coal spending at issue in this case is Rebuttal Testimony of Kayla Messamore, and the testimony does not provide a basis to find that this spending is prudent. First, Ms. Messamore objects that Sierra Club has asserted that "the continued operation of all but two of Evergy's coal plants is potentially imprudent and thus all O&M and capital costs."[44] But the broad nature of this claim is a consequence of Evergy's broad-stroke approach to ignoring the economics of its coal units and the fact that, as a regulated utility, Evergy had the burden of showing that its coal units' costs are reasonable and prudent. Coal unit economics in SPP have been declining for years[45] and yet Evergy ignored its obligations to support the test year spending in this case. The Company has elected not to make that showing.

Second, Ms. Messamore claims it is "ridiculous" to ignore that Evergy must have sufficient capacity to meet its resource adequacy obligations.[46] Sierra Club did not ignore this fact. Sierra Club valued capacity at Evergy's mid-point capacity contract.[47] Ms. Messamore speculates that future capacity additions will be more expensive, but offers no quantified data to support its claim, and with the federal government offering to pay 30-50% of all solar, wind, battery, and hybrid additions that assertion is unlikely to be true. In any event, Ms. Messamore's 'say so' that Evergy's existing capacity contracts are lower cost than all future capacity additions isn't reliable evidence.

[44] Exhibit 55, Rebuttal Testimony of Kayla Messamore at 11.

[45] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 20.

[46] Exhibit 55, Rebuttal Testimony of Kayla Messamore at 12.

[47] Exhibit 451, Revenue Requirement Direct Testimony of Devi Glick at 39.

Third, Ms. Messamore observes that there is "nothing magical" about capacity expansion modeling and that:

> testing the impact to the net present value of revenue requirement ("NPVRR") of retiring each coal unit in 2023 will demonstrate which unit is the best option (in terms of reducing NPVRR) for accelerated retirement, regardless of whether a capacity expansion model is used.[48]

In theory, Sierra Club agrees with Ms. Messamore observation. The problem in the context of Evergy's IRPs and in this proceeding has been that Evergy tested just one 2023 retirement for each La Cygne Unit, found them advantageous to customers, and then ignored the results.

Last, Ms. Messamore suggests that these questions of coal units' economics should be resolved in the IRP process itself. As a theoretical matter, that observation is not unreasonable, but in the Missouri regulatory context, the Commission does not generally rule on the substance of a resource plan, and the Commission has made clear that such issues are ultimately decided in rate cases. *See* Section II, above.

V. The Inflation Reduction Act Further Undermines Evergy's Choice to Leave Its Test Year Spending Unsupported by Substantial Evidence.

The enactment into federal law of the Inflation Reduction Act in August 2022 increases the certainty the Evergy's customers would benefit from the near-term retirement of some of its coal units. The Inflation Reduction Act confirms Ms. Glick's conclusions and undermines the economics of Evergy's coal units in two ways.

First, the new law will significantly decrease the cost of renewable and battery storage resource alternatives to retention of Evergy's coal units. Before the enactment of the IRA, for example, battery storage resources were not entitled to any federal tax credits, and accordingly,

[48] Exhibit 55, Rebuttal Testimony of Kayla Messamore at 13-14.

Evergy did not model any potential tax credit savings for batteries (and hardly modeled batteries at all). Now, with the enactment of the IRA, batteries (and any other zero carbon resource, including solar and wind) are entitled to a 30% base investment tax credit ("ITC"), if they begin installation before December 31, 2032.[49] The tax credit increases by 10% if the batteries are located in an "energy community," as defined in the Act,[50] and another 10% if the project is manufactured with materials made in the United States. Accordingly, for example, if Evergy located a hybrid solar-battery project at or near a retired coal unit, federal taxpayers will cover 50% of the cost.

The Inflation Reduction Act not only reduces battery costs by up to 50%, but increases the size and term that tax credits are available to solar and wind projects. At the time of its 2021 and 2022 IRPs, under federal law, those credits would step down substantially or expire in the near-term. Now, under the IRA, solar and wind (or any other zero-GHG resource) resources can take either a 30% ITC or $25/MWh production tax credit ("PTC") if they begin construction before December 31, 2032.[51] These projects are likewise eligible for an additional 10% tax credit if they are located in an "energy community," and another 10% if the projects are manufactured

[49] This deadline is extended if the U.S. has not met defined greenhouse gas reduction targets by 2032.

[50] An energy community is defined as being 1) a brownfield site under CERLCA; 2) an area which has or had certain amounts of direct employment or local tax revenue related to oil, gas, or coal activities and has an unemployment rate at or above the national average; or 3) a census tract or any adjoining tract in which a coal mine closed after December 31, 1999, or in which a coal-fired electric power unit was retired after December 31, 2009. *See* Inflation Reduction Act, Section 13101, 13102, 13701, and 13702.

[51] Inflation Reduction Act, Section 13102 (extension of existing ITC through December 31, 2024); Section 13701, 13702 (creating of a new Clean Electricity Production Credit and Clean Electricity Investment Credit that takes effect on January 1, 2025).

with domestic parts. In any event, the enactment of the IRA renders Evergy's renewable replacement assumptions obsolete and entirely in the direction of disfavoring coal unit retention.

Second, the increase in zero-marginal cost renewable energy generation resulting from the IRA will substantially lower energy market prices over time (notwithstanding the near-term increases in market prices due to inflation and high fossil fuel commodity prices), fundamentally undermining Evergy's ability to secure market revenue to support its coal units. In fact, one recent analysis suggests that the IRA could lower overall energy market prices by nearly 7%.[52]

In short, the enactment of the Inflation Reduction Act materially undermines Evergy's economic case—if it had made one—for retaining its coal units and strengthens the need for Commission oversight of Evergy's resource planning.

VI. Conclusion

In Missouri, rate cases are a primary venue for protecting regulated customers from imprudent power plant and other resource planning decisions. At a minimum, where challenged, a utility must carry its burden to show that a particular generating unit's test year costs were prudently incurred and that it was prudent to operate the plant through the test year. But because a generator would reduce spending as it approaches a prudently selected retirement date, the obligation to plan reasonably should extend beyond the test year as well. For example, a prudent utility would avoid substantial upcoming environmental capital costs if a particular plant was slated for near-term retirement. In this case, Evergy has declined to defend the prudence of its

[52] Nicholas Roy, Dallas Burtraw, and Kevin Rennert, Retail Electricity Rates under the Inflation Reduction Act of 2022, Resources for the Future (Aug. 3, 2022), *available at* https://www.rff.org/publications/issue-briefs/retail-electricity-rates-under-the-inflation-reduction-act-of-2022/.

test year spending at its coal units. For the reasons explained above, Sierra Club respectfully asks that the Commission grant the relief requested.

* * *

Respectfully submitted,

Date: October 14, 2022

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Sierra Club Initial Post-Hearing Brief was electronically filed on this date via the Missouri PSC's electronic filing system. Notice of this filing will be served upon all parties of record who have registered through this electronic filing system.

Date: October 14, 2022

/s/ Sarah Rubenstein
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