

## **File Nos. EO-2020-0280 and EO-2020-0281**

### **Comments of the Staff of the Missouri Public Service Commission**

#### **Background**

On March 10, 2020, Evergy Missouri Metro (“Evergy Metro”) and Evergy Missouri West (“Evergy West”) (Collectively “the Companies”) filed its 2020 Integrated Resource Plan Annual Update Report (“Annual Report”) in File Nos. EO-2020-0280 and EO-2020-0281, respectively, pursuant to 20 CSR 4240-22.080(3)(B). In compliance with 20 CSR 4240.080(3)(D), the Commission Staff (“Staff”) provides this report (“Staff Report”) with its comments concerning the Annual Reports of Evergy Metro and Evergy West.

Since the last triennial compliance filing, but prior to the Annual Report filings, on December 16, 2019, Evergy Metro and Evergy West filed separately a Notice of Determination of Change (“Notice of Change”) in File Nos. EO-2018-0268 and EO-2018-0269, respectively, pursuant to 20 CSR 4240-22.080(12).

#### **Staff’s Comments on the Evergy Metro and Evergy West Annual Reports**

Based on its limited review of the Annual Reports, Staff is of the opinion that the Annual Reports are not compliant with certain aspects of 20 CSR 4240-22 Electric Utility Resource Planning (“Chapter 22 Rules”). Based on that limited review, Staff provides in its Staff Report examples where the Annual Reports are not compliant with certain aspects of the Chapter 22 Rules, but Staff’s Report should not be considered an exhaustive list of all Chapter 22 Rules for which the Annual Reports are not compliant. As more fully explained throughout the Staff Report, certain aspects of non-compliance with the Chapter 22 Rules stem from:

1. Failure to achieve the policy objective of 20 CSR 4240-22.010.
2. Failure to achieve the goal of developing a set of alternative resource plans (“ARPs”) based on substantively different mixes of supply-side and demand-side resources and variations in the timing of resource acquisitions as set forth in 20 CSR 4240-22.060(3).
3. Failure to provide the depth and detail in the Annual Reports generally commensurate with the magnitude and significance of the changing conditions since the last filed triennial compliance filing or annual update as required in part by 20 CSR 4240-22.080(3)(B).
4. Failure to consider mitigation of risks associated with critical uncertain factors that will affect the actual costs associated with ARPs as required by 20 CSR 4240-22.010(2)(C)1.
5. Failure to consider mitigation of rate increases associated with ARPs as required by 20 CSR 4240-22.010(2)(C)3.

**\*\* Denotes Confidential Information \*\***

6. Failure to describe and document its assessment of whether, and under what circumstances, other uncertain factors associated with the preferred resource plan could materially affect the performance of the preferred resource plan relative to ARPs as required in part by 20 CSR 4240-22.070(2).

Staff understands that, due to the non-contested nature of the Annual Report review process, the Commission is not required to conduct a hearing, and Staff has no right to one. However, due to the potential for serious ramifications and financial burden on ratepayers, Staff believes it necessary to make the Commission aware of Staff's concerns now, and recommends that the Commission order the Companies to address, in its future Chapter 22 filings, Staff's issues and criticisms identified in the Staff Report.

**20 CSR 4240-22.010(2)**

(2) The **fundamental objective** of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable, and efficient, at just and reasonable rates, in compliance with all legal mandates, and **in a manner that serves the public interest and is consistent with state energy and environmental policies.** [Emphasis added.]

The Companies have failed to meet the fundamental objective of the Commission's Chapter 22 Rules by entering into 532 MW of fixed price wind power purchase agreements (PPAs) based upon speculation of future SPP energy prices. Entering into a PPA based on speculated market revenues that could outweigh costs does not serve the public interest because flowing all of the costs of these PPAs through the Companies' fuel adjustment clauses creates a potentially large amount of risk to ratepayers and almost zero risk to shareholders at a point in time when the SPP Market Monitoring Unit states that "market prices have not been signaling new generation entry for some time." The Companies do not need to enter into the PPAs for SPP resource adequacy requirements, reliability needs, or Missouri Renewable Energy Standard requirements. The Companies state in the Annual Reports that the PPAs were entered into in part for the Renewable Energy Rider, however Staff cannot determine the accuracy of that statement at this time. Furthermore the economic feasibility analysis that was relied upon for the contracts blatantly ignore realities of the SPP markets, utilizes stale market price forecasts that are limited to only six potential outcomes, relies on developer estimates that are much greater than the actual outputs of the existing Evergy Metro and Evergy West PPAs, \*\*

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<sup>1</sup> Response to Staff Data Request No. 0033.

Traditionally owned supply-side resources require a Certificate of Convenience and Necessity from the Commission prior to construction. For traditionally owned supply-side resources, Staff reviews applications based on the five factors the Commission listed in *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994) – (1) need; (2) qualifications to own, operate, control and manage the facilities and provide the service; (3) financial ability; (4) economic feasibility; and (5) promotion of the public interest (“Tartan Criteria”). The Companies did not need to enter into the PPAs to meet SPP resource adequacy needs, reliability needs, or Missouri RES compliance requirements. Since the Companies will be purchasing the energy generated by a third party, the Companies will not own, operate, control or manage the facilities. Further, the Companies’ shareholders will not finance the purchase. Rather ratepayers will be required to finance the purchase for 15+ years through collection of costs through fuel adjustment clauses of the Companies. The Companies have not provided reasonable estimates of economic feasibility for these projects. Whether a project promotes the public interest typically depends on the fulfillment of the first four factors. In the case of the wind PPAs entered into by the Companies, they are not in the public interest for several reasons. The PPAs are not needed, the economic analysis relied upon is extremely flawed, and nearly all of the risk is borne by ratepayers.

Staff requested for the Companies to demonstrate the need for the wind PPA additions in 2021 and 2022 in the preferred resource plans.<sup>2</sup> The Companies’ response to this request simply referred to the Companies’ December 16, 2019 Notice of Determination of Change in Case Nos. EO-2018-0268 and EO-2018-0269, in which the Companies notified the Commission that a decision had been made to enter into two PPAs totaling 532 MW that would be allocated to Evergy Metro and Evergy Missouri West. Staff requested supplemental responses to this data request that actually demonstrated the need to enter into the wind PPAs, to which the Companies continuously insisted that the original response was adequate. The notion that simply making a decision to enter into wind PPAs is an adequate demonstration of the need for the contracts is not only concerning, but insufficient. By that logic, the Companies could continually add the costs of an unlimited number of PPA contracts to Evergy West’s and Evergy Metro’s respective fuel adjustment clauses without any demonstration of a need to do so. In fact, the Companies’ response to Staff data request 23 indicates that the Companies do not have an upper limit on the number of wind PPAs the Companies would consider entering into based on the capacity positions and customer loads of Evergy Metro and Evergy West. The Commission’s regulatory oversight of the decision making of Evergy Metro and Evergy West would be significantly hindered by actions such as these. Furthermore, the burden of proof very quickly shifts away from the Companies in such a scenario. Consider that if the Companies chose to construct an equally large wind farm to be included in rate base, the Companies would be required to apply for a Certificate of Convenience and

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<sup>2</sup> Staff Data Request No. 0001.

Necessity which would require the Companies to demonstrate several factors including the need for the project, economic feasibility, and the public interest of the decision to construct the asset. The burden of proof to demonstrate these factors would lie upon the Companies and stakeholders would have the opportunity to conduct thorough discovery, provide written and oral testimony, and legal briefs to inform the Commission. However, by entering into contracts for a large number of PPAs without demonstrating the need, relying upon speculated revenues outweighing expected costs, and not providing sound economic analysis at the time of entering the PPAs, the Companies have shifted all of the risk to ratepayers through the fuel adjustment clauses and shifted all of the burden of proof onto other stakeholders by making prudence reviews the process for initial in-depth analysis of the decision to enter into the PPAs.

**20 CSR 4240-22.060(3)**

(3) Development of Alternative Resource Plans. The utility shall use appropriate combinations of demand-side resources and supply-side resources to develop a set of alternative resource plans, each of which is designed to achieve one (1) or more of the planning objectives identified in 20 CSR 4240-22.010(2)... The goal is to develop a set of alternative plans based on substantively different mixes of supply-side resources and demand-side resources and variations in the timing of resource acquisition to assess their relative performance under expected future conditions as well as their robustness under a broad range of future conditions.

The Companies state in the Annual Reports that, “Alternative Resource Plans were developed using a combination of supply-side resources, demand-side resources, various resource addition timings, as well as generation retirement options and timing.” However, contrary to what the Companies claim, ARPs were developed using the same amount of renewable additions and the same timing of those renewable additions. Specifically, in every one of Evergy Metro’s 15 ARPs, it includes 377 MW of wind added in 2021 and 30 MW of wind added in 2022 and in every one of Evergy West’s 13 ARPs, it includes 125 MW of wind added in 2022. The Companies include the same amount of renewable wind resources in every ARP due to the fact that it signed into the wind PPAs prior to developing the ARPs and vetting the wind PPA additions through a full integrated analysis, therefore the Companies are “forcing” the wind PPAs into the ARPs instead of letting the integration analysis determine the appropriate size and timing of wind PPAs. This is confirmed in Evergy Metro’s response to Staff Data Request No. 0004 and Evergy West’s response to Staff Data Request No. 0005 in the respective Annual Reports. In those Staff data requests, Staff asked if the Companies had developed any ARPs that do not include the PPA additions in 2021 and 2022 and if not to explain why an ARP that does not include the PPA additions is unnecessary. Evergy Metro responded that, “The 2020 IRP Update did not include any plans that did not include the recent PPA additions. These PPAs were evaluated prior to the 2020 IRP Update

and are included in the change in plan filings in December 2019, Case Number EO-2018-0268.” Everygy West responded with the same response, the only difference being instead of Case Number EO-2018-0268, it was Case Number EO-2018-0269.

**20 CSR 4240-22.080(3)(B)**

(B) ...The depth and detail of the annual update report shall generally be commensurate with the magnitude and significance of the changing conditions since the last filed triennial compliance filing or annual update filing. If the current resource acquisition strategy has changed from that contained in the most-recently-filed triennial compliance filing or annual update filing, the annual update report shall describe the changes and provide updated capacity balance spreadsheets required pursuant to 20 CSR 4240-22.080(2)(D). If the current resource acquisition strategy has not changed, the annual update report shall explicitly verify that the current resource acquisition strategy is the same as that contained in the most-recently-filed triennial compliance filing or annual update.

**20 CSR 4240-22.080(12)**

(12) If, between triennial compliance filings, the utility’s business plan or acquisition strategy becomes materially inconsistent with the preferred resource plan, or **if the utility determines that the preferred resource plan or acquisition strategy is no longer appropriate**, either due to the limits identified pursuant to 4 CSR 240-22.070(2) being exceeded or for other reasons, **the utility, in writing, shall notify the commission within sixty (60) days of the utility’s determination** and shall serve notice on all parties to the most recent triennial compliance filing. The notification shall include a description of all changes to the preferred plan and acquisition strategy, the impact of each change on the present value of revenue requirement, and all other performance measures specified in the last filing pursuant to 4 CSR 240-22.080 and the rationale for each change. **[Emphasis added.]**

Although the Companies have not provided the Commission any notice of change to the adopted preferred resource plan, \*\* \_\_\_\_\_

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<sup>3</sup> Response to Staff Data Request No. 0050.

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**20 CSR 4240-22.010(2)(C)1.**

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall describe and document the process and rationale used by decision-makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing the resource acquisition strategy. These considerations shall include, but are not necessarily limited to, mitigation of:

1. Risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

The Companies have not assessed the potential risks to ratepayers should the competitive SPP energy marketplace not behave as it is modeled over the life of the 532 MW of fixed price wind PPAs. SPP energy prices have historically been a critical uncertain factor and are modeled in low, base and high SPP energy price forecasts which are each assigned a probability of occurring in the future by the Companies' decision-makers. A review of the low, base and high SPP energy price forecasts for the 20-year planning horizon in the Companies' past Chapter 22 filings demonstrates a dramatic downward movement in market prices over time. While lower energy market prices are generally desirable, at some point low energy market prices represent a risk to ratepayers when long-term fixed price "take-or-pay" PPAs are not "in the money" and energy is delivered at a cost that exceeds revenues from off-system sales. Over the term of a PPA, a high amount of "negative" pricing may be an acceptable ratepayer risk for PPAs which are entered into when there is a need for capacity in order to meet minimum capacity requirements. However, ratepayers should not have to bear all of the risk of PPAs which were entered into when there is not a need for capacity to meet minimum capacity requirements. Staff is of the opinion that in the case where PPAs are entered into when there is not a need for capacity to meet minimum capacity requirements that this risk could be addressed fairly in the Commission-approved fuel

adjustment clauses of the Companies to mitigate ratepayer risk and to ensure that rates are fair and the public interest is served.

**20 CSR 4240-22.010(2)(C)3.**

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall describe and document the process and rationale used by decision-makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing the resource acquisition strategy. These considerations shall include, but are not necessarily limited to, mitigation of:

3. Rate increases associated with alternative resource plans.

Because of the long term uncertainty of energy prices in the SPP competitive marketplace, there exists a possibility –if not a probability – that the 532 MW of fixed price take-or-pay PPAs will result in an excessive level of costs that exceed the revenues associated with off-system sales over the term of the PPAs. The Annual Reports contain no assessment of potential long term rate increases which are possible if the energy prices in the SPP marketplace do not behave as modeled over the term of the PPAs. This consideration is required by rule, because this is a risk which ratepayers should not have to bear alone. Staff is of the opinion that this risk could be addressed fairly through risk mitigation or risk sharing in the Commission-approved fuel adjustment clauses of the Companies.

**20 CSR 4240-22.070(2)**

(2) The utility shall specify the ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the preferred resource plan is judged to be appropriate and explain how these limits were determined. The utility shall also describe and document its assessment of whether, and under what circumstances, other uncertain factors associated with the preferred resource plan could materially affect the performance of the preferred resource plan relative to alternative resource plans.

The Companies have failed to recognize, describe and document several key pieces of information regarding the SPP markets. In its 2019 State of the Market report, the SPP Market Monitoring Unit (MMU) stated:

1. Total wholesale market costs—including energy, operating reserve, and uplift payments—averaged around \$24/MWh in 2019, which was about 12 percent lower than in 2018.
2. Day-ahead prices averaged around \$22/MWh and real-time prices averaged around \$21/MWh for the year, both down from \$25/MWh in 2018.
3. The incidence of negative prices in the real-time market in 2019 was about seven percent of intervals, about double the level in 2018.
4. New capacity additions were just over 1,800 MW at nameplate capacity, with wind representing all of the new capacity.
5. Given the relatively low average SPP market prices, the MMU does not expect SPP market prices to support new entry of generation investments.
6. In 2019, SPP market revenues were also insufficient to support the cost of new entry of renewable generation, wind and solar.

Each of the market price forecasts utilized by the Companies in its analysis assumes increasing market prices. \*\*

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5 \*\* Notably, during times of high

wind generation, SPP experiences negative LMPs \*\*

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\*\* The large number of wind additions in the SPP footprint in 2019 may further exacerbate the negative price issue.

The MMU states that current market revenues “were also insufficient to support the cost of new entry of renewable generation, wind and solar.” Yet the Companies have chosen to enter into PPAs without demonstrating a need, without a mechanism to mitigate risk to ratepayers, and without reasonable economic analysis of the decision.

<sup>4</sup> Response to Staff Data Request No. 0006.

<sup>5</sup> Response to Staff Data Request No. 0006.

<sup>6</sup> Due to the presence of production tax credits, wind owners are willing to continue to generate during negative price intervals up to the value of a production tax credit as opposed to curtailing.



## **Summary**

In summary, as previously stated, Staff understands that, due to the non-contested nature of the Annual Report review process, the Commission is not required to conduct a hearing, and Staff has no right to one. However, Staff would also suggest that the annual update is also not the proper time to include such significant resources without the benefit of the robust triennial process. This is further recognized by the notice of change of preferred plan process, which envisions a robust analysis. In short, the rules envision a robust integrated analysis and demonstration of such things as risk mitigation and uncertain factors, when considering changes of the magnitude and significance that were included in this annual update. To better ensure compliance with the rules as set forth in Chapter 22, Staff recommends the Commission order that the Companies, in future Chapter 22 filings, address Staff's issues and criticisms as outlined in this Staff Report.

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

In the Matter of the 2020 Integrated Resource     )  
Plan Annual Update for Evergy Metro, Inc.     )     Case No. EO-2020-0280  
d/b/a Evergy Missouri Metro     )

In the Matter of the 2020 Integrated Resource     )  
Plan Annual Update for Evergy Missouri     )     Case No. EO-2020-0281  
West, Inc. d/b/a Evergy Missouri West     )

**AFFIDAVIT OF BRAD J. FORTSON, J LUEBBERT**

STATE OF MISSOURI     )  
   )     ss.  
COUNTY OF COLE     )

**COME NOW** Brad J. Fortson, J Luebbert, and on their oath declares that they are of sound mind and lawful age; that they contributed to the foregoing *Staff Comments*; and that the same is true and correct according to their best knowledge and belief, under penalty of perjury.

Further the Affiants sayeth not.

/s/ Brad J. Fortson  
Brad J. Fortson

/s/ J Luebbert  
J Luebbert