

**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 ) File No. EF-2022-0103  
Authority to Encumber Assets )

**UNANIMOUS STIPULATION AND AGREEMENT**

**COME NOW**, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or the “Company”), Staff (“Staff”) of the Missouri Public Service Commission (“Commission”), and the Office of the Public Counsel (“OPC”) (collectively, the “Signatories”), by and through their respective counsel and, for this Stipulation and Agreement (“Stipulation”), respectfully state as follows to the Commission:

**BACKGROUND**

1. On November 22, 2021, EMW filed its *Application to Encumber Assets, Request for Waiver of 60-Day Notice, and Motion for Expedited Treatment* (“Application”).

2. As stated in its Application, EMW seeks authority from the Commission to encumber its Missouri utility assets (current and future) through a First Mortgage Indenture and Deed of Trust (“Mortgage Indenture”). The Mortgage Indenture is intended to secure ongoing financing arrangements and future financing arrangements. As it relates to ongoing financing arrangements, the Commission’s authority would allow EMW to attach the Mortgage Indenture to all of its current outstanding unsecured debt, which, as of September 30, 2021, was \$1,379,250,000. After EMW secures its current outstanding unsecured debt with the Mortgage Indenture, subsequent future financing arrangements (i.e. new long-term indebtedness) will be secured by the Mortgage Indenture. Therefore, the Commission’s approval of this Stipulation authorizes the encumbrance of EMW’s Missouri utility assets as it relates to EMW’s desire to do

so for purposes of supporting its current outstanding debt and future debt used for the benefit of its Missouri utility operations.

3. On January 25, 2022, EMW and Staff filed a Stipulation and Agreement (“Original Agreement”).

4. On February 1, 2022, OPC filed its Objection to the Original Agreement.

### **AGREEMENTS AND CONDITIONS**

5. The Signatories request that the Commission issue an order, subject to the conditions and other agreements and representations herein, granting approval for EMW to establish a first mortgage lien on all of EMW’s existing and future assets, pursuant to the Mortgage Indenture as security for the issuance, in one or more series from time to time of first mortgage bonds, as requested by EMW in the Application.

6. The Mortgage Indenture shall contain standard issuance tests, including the bondable property (as defined in the Mortgage Indenture) test, whereby the aggregate principal amount of secured bonds of any one or more series that may be issued under the Mortgage Indenture from time to time cannot exceed a specified percentage of bondable property. The Mortgage Indenture will provide that such percentage shall not exceed seventy-five percent (75%) of EMW’s unbonded bondable property; provided, however, that potential EMW bond investors may negotiate for a lower bondable property percentage.

7. EMW agrees to provide the following information to Staff and OPC:

- i. an electronic copy of the final Mortgage Indenture, as filed with the Securities and Exchange Commission (“SEC”) as part of a Current Report on Form 8-K, within five (5) business days after filing with the SEC; and

- ii. an electronic copy of the Application for Authorization to Issue Long-Term Debt Securities Under Federal Power Act Section 204, as filed with the Federal Energy Regulatory Commission (“FERC”), within five (5) business days after filing with FERC when EMW requests additional debt authorization from FERC.
8. The Signatories further agree as follows:
- i. The Company shall not seek to prevent the OPC from intervening in any FERC case concerning a request made by EMW for additional debt authorization from FERC nor challenge the OPC’s legal authority to do so in any forum, whether state or federal in jurisdiction.
  - ii. That the Company shall file with the Commission within thirty (30) days of issuance of any financing secured by the Mortgage Indenture authorized pursuant to a Commission order in this proceeding, a report including the amount of secured indebtedness issued, date of issuance, interest rate (initial rate if variable), maturity date, redemption schedules or special terms, if any, use of proceeds, estimated expenses, and loan or indenture agreement concerning each issuance;
  - iii. That the Company shall file with the Commission any information concerning communication with credit rating agencies concerning any such issuance;
  - iv. That the Company shall file with the Commission as a non-case related submission in EFIS under “Resources” - “Non-Case Related Query” -

- “Ordered Submission” any credit rating agency reports published on EMW’s corporate credit quality or the credit quality of its securities;
- v. That the Company be required to file a five-year capitalization expenditure schedule in future finance cases;
  - vi. That the Company be required to maintain a corporate credit rating of at least investment grade and if either S&P or Moody’s credit rating falls below investment grade, that the Company be required to adhere to all of the reporting stipulations laid out in EM-2018-0012;
  - vii. That the Company be required to maintain a total indebtedness to total capitalization percentage of no more than 65%;
  - viii. That nothing in the Commission’s order in this case shall be considered a finding by the Commission of the value of this transaction for rate making purposes, and that the Commission reserves the right to consider the rate making treatment to be afforded the financing transaction and its impact on cost of capital, in any later rate proceeding.

#### **GENERAL PROVISIONS**

9. This Stipulation is being entered into solely for the purpose of settling the issues in this case explicitly set forth above. Unless otherwise explicitly provided herein, none of the Signatories of this Stipulation shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any cost of service methodology or determination, method of cost determination or cost allocation or revenue-related methodology.

10. This Stipulation is a negotiated settlement. Except as specified herein, the Signatories of this Stipulation shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Stipulation, or in any way condition its approval of same. No Signatory shall assert the terms of this agreement as a precedent in any future proceeding.

11. This Stipulation has resulted from extensive negotiations among the Signatories, and the terms hereof are interdependent. If the Commission does not approve this Stipulation, or approves it with modifications or conditions to which a Signatory objects, then this Stipulation shall be void and no Signatory shall be bound by any of the agreements or provisions hereof.

12. This Stipulation embodies the entirety of the agreements between the Signatories in this case on the issues addressed herein.

13. If approved and adopted by the Commission, this Stipulation shall constitute a binding agreement among the Signatories. This Stipulation does not constitute a contract with the Commission and is not intended to impinge upon any Commission claim, right, or argument by virtue of the Stipulation's approval. Acceptance of this Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has or as an acquiescence of any underlying issue. Thus, nothing in this Stipulation is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information, or any statutory obligation.

14. If the Commission does not approve this Stipulation, or approves it with modifications or conditions to which a Signatory objects, and notwithstanding the provision herein

that it shall become void, (1) neither this Stipulation nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with RSMo. §536.090 or Article V, Section 18 of the Missouri Constitution, and (2) the Signatories shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

15. If the Commission accepts the specific terms of this Stipulation without condition or modification, with respect only to the issues resolved herein, the Signatories each waive their respective rights to call, examine and cross-examine witnesses pursuant to RSMo. §536.070(2), their respective rights to present oral argument and written briefs pursuant to RSMo. §536.080.1, their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2, their respective rights to seek rehearing pursuant to §386.500, and their respective rights to judicial review pursuant to §386.510. These waivers apply only to a Commission order approving this Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding nor any matters not explicitly addressed by this Stipulation.

16. The Signatories shall also have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that each Signatory shall, to the extent reasonably practicable, provide the other parties with advance notice of the agenda meeting for which the response is

requested. Signatories' oral explanations shall be subject to public disclosure, except to the extent they refer to matters that are privileged or protected from disclosure pursuant to the Commission's rules on confidential information.

**WHEREFORE**, the Signatories respectfully request the Commission to issue an order in this case approving this Stipulation subject to the specific terms and conditions contained herein.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**Attorney for Staff for the Commission**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to the Staff of the Commission and to the Office of Public Counsel this 10<sup>th</sup> day of February 2022.

*/s/ Roger W. Steiner*

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Roger W. Steiner