

**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 Permission)
and Approval of a Certificate of Public)
Convenience and Necessity) Case No. EA-2022-0328
Authorizing It to Purchase, Own,)
Operate, Maintain and Otherwise)
Control and Manage an Existing Wind)
Generation Facility in Oklahoma)

PUBLIC COUNSEL’S REPLY TO EVERGY MISSOURI WEST NOTICE

COMES NOW, the Office of the Public Counsel (“OPC”), pursuant to 20 CSR 4240-2.080(13). states the following:

1. On December 8, 2022, the Commission filed an *Order Setting the Procedural Schedule* which states as follows:

The following procedural schedule is established:

Supplemental Direct Testimony	-	December 9, 2022
Staff Report/Rebuttal Testimony	-	January 17, 2023
Simultaneous Surrebuttal Testimony	-	January 31, 2023
Final Day for Submitting Discovery/ Requesting Depositions	-	February 2, 2023
List of Issues, List of Witnesses, and Order of Cross-Examination	-	February 9, 2023
Position Statements	-	February 13, 2023
Pre-Filled Exhibit Lists Filed	-	February 17, 2023
Evidentiary Hearing	-	February 21-22, 2023

Initial Post-Hearing Briefs - March 3, 2023
Reply Briefs - March 17, 2023¹

At no point did the Commission provide time or opportunity for parties to respond to the Commission’s case discussion of EA-2022-0328 in Agenda.

3. The Commission conducted Agenda on March 29, 2023, wherein the commissioners discussed EA-2022-0328 in detail. Chairman Rupp, Commissioner Coleman, and Commissioner Holsman agreed that it would be best for customers and Evergy Missouri West (“EMW,” “Evergy West,” or the “Company”) if the Commission granted the CCN for Persimmon Creek with conditions. Commissioner Kolkemeyer stated the CCN’s conditions did make him more comfortable, he still could not support this application.²

4. At that Agenda Meeting, the conditions Chairman Rupp suggested adding to the CCN were as follows:

- 1) The Company would work with Staff to create a report tracking the revenues and expenses of the asset, to deliver to the Commission on at least a quarterly basis, if not more frequently;
- 2) The Company would track the Production Tax Credits (PTCs) that Persimmon Creek would generate for an upcoming rate case; and

¹ *Order Setting Procedural Schedule*, ER-2022-0328, EFIS Item No. 18.

² Missouri Public Service Commission, *Agenda 3-29-23*, YOUTUBE (Mar. 29, 2023), <https://www.youtube.com/watch?v=9Oo6Xsngdzs>.

3) A 50/50 cost-sharing mechanism between customers and shareholders.³

After the Chairman presented this handling of the Persimmon Creek CCN, each subsequent commissioner indicated support for these added conditions. There was no mention of additional time or opportunity for any party to respond to this discussion.

5. As of this date, the Commission has not issued a Report and Order concerning any official action or decision on the CCN application of Persimmon Creek.

6. At 5:16 PM on March 31, 2023, Evergy West filed a Notice⁴ that reiterating the same points it made twice before, in its Initial Post-Hearing Brief and its Reply Brief. The Company mischaracterized the Commission's stated positions regarding the conditions necessary to approve Persimmon Creek's CCN. Finally, EMW doubled down on rhetoric that any and all risk of this project's economic failure must be borne by their captive customer base, and any shareholder or company risk is inappropriate.

7. The Company, itself, referenced the fact that it has made these same arguments both during and after the hearing. Specifically, this filing makes statements such as "Throughout this proceeding, EMW has made clear that [,]"⁵ "The Company made clear in the testimony of Vice President Kayla Messamore that[,]"⁶ and "Evergy Missouri West reiterated this position in its post-hearing briefs[.]"⁷

³ *Id.*

⁴ *Evergy Missouri West Notice*, EA-2022-0328, EFIS Item No. 102.

⁵ *Id.* at pg. 1, § 2.

⁶ *Id.* at pg. 2, § 3.

⁷ *Id.* at pg. 3, § 7.

8. From the *Order Setting a Partial Procedural Schedule* on December 1, 2022, to the *Order Granting an Extension of Time to File Initial Briefs* on March 3, 2023, the Commission did not grant the ability to file another brief reiterating the same arguments in response to the Commission's discussion.

9. The Company did not request leave from the Commission to file an additional brief in response to the Commission discussion, despite the filing deviating from the Commission-ordered procedural schedule.

9. There were no new arguments or suggestions in EMW's filing, which both inappropriately deviated from the Procedural Schedule the Commission ordered, and unnecessarily repeated arguments the Company has made throughout this proceeding. As such, the OPC requests that the PSC disregard statements made by Every West in this March 31 filing.

WHEREFORE, the Office of the Public Counsel requests that the Commission disregard any and all advisory statements, arguments, or suggestions made by Every Missouri West in this inappropriate and redundant filing.

Respectfully submitted,

By: /s/ Anna Kathryn Martin
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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 4th day of April, 2023.

/s/ Anna Martin