

**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 a Financing Order Authorizing the) **File No. EF-2022-0155**
Financing of Extraordinary Storm Costs)
Through an Issuance of Securitized Utility)
Tariff Bonds)

STAFF RESPONSE TO EVERGY MOTION FOR RECONSIDERATION

COMES NOW Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and for its Response to the Motion for Reconsideration or, in the Alternative, for Contingent Enforcement of Procedural Order (“Motion”) filed herein by Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy” or “EMW”), respectfully states as follows:

1. On July 20, 2022, the Commission issued, *sua sponte*, its *Order Directing Staff to File a Draft Financing Order, Setting a Time for Other Financing Order Suggestions, and Notice of Questions for Witnesses About Evergy’s Draft Financing Order* (“Order”). Among other things, the Order directed Staff to submit a draft financing order with its initial brief in this proceeding.

2. On July 27, 2022, EMW filed its Motion, which “requests that the Commission reconsider and rescind its July 20, 2022, Order Directing Staff to File a Draft Financing Order, Setting a Time for Other Financing Order Suggestions, and Notice of Questions for Witnesses About Evergy’s Draft Financing Order (“July 20 Order”) to the extent that it requires or permits the filing of draft financing orders by Staff and other non-Evergy parties.” The Commission should deny EMW’s Motion in its entirety.

3. It should first be recognized that the Commission's Order was issued *sua sponte*. Therefore, EMW's Motion is actually an attack upon the Commission's authority to require, of its own volition, additional filings by the parties in the proceedings before the Commission. Taken to its logical extreme, EMW's Motion even calls into question the Commission's authority to require late-filed exhibits, an authority which, to the knowledge of the undersigned, has never been questioned.¹

4. Second, as the Commission is aware, the subject of the draft financing order was the topic of extensive testimony, both in written form and given orally at the hearing in this proceeding, by Staff and EMW. Therefore, EMW's claim in its Motion that the Commission's Order somehow violates EMW's due process rights is quite disingenuous, as EMW questioned Staff about Staff's position regarding a draft financing order extensively. Submission by Staff of a proposed draft financing order, as directed by the Commission, would not be a violation of any EMW due process rights, but could serve to assist the Commission in its understanding of the testimony regarding the importance of the financing order in a proceeding such as this. In fact, at the hearing, counsel for EMW even indicated a desire to submit a revised version of EMW's proposed financing order in order to get a triple A rating on the bonds – separate and apart from the Commission's Order directing Staff to file a proposed financing order. Furthermore, given the amount of testimony, both written and given orally at the hearing, EMW's "alternative" request in its Motion – "that any draft financing order submitted with the filing of initial

¹ In fact, 20 CSR 4240-2.130(16) provides that "The presiding officer may require the production of further evidence upon any issue. The presiding officer may authorize the filing of specific evidence as a part of the record within a fixed time after submission, reserving exhibit numbers, and setting other conditions for such production."

briefs cannot raise any new issue that has not already been identified in testimony” – is specious at best.

5. Finally, the filing of competing draft financing orders at the rebuttal testimony stage, as championed by EMW, would introduce significant administrative inefficiencies, precipitate excessive costs, and deviate from typical procedure as established in recent cases:

- Financing orders are definitive documents by nature, and the repeated development, argumentation, and revision of multiple drafts thereof on behalf of each filing party prior to finalization of key terms would generate unnecessary legal and administrative costs.

- The Commission should ultimately retain the ability to draft orders based on the record in the case. Asking parties to document their arguments in the form of an order for complicated cases is appropriate and is representative of recent past Commission procedure as demonstrated by the most directly applicable proceeding, which is addressed below.

- If the Commission were to adopt Evergy’s approach, parties would be incentivized to file multiple conflicting financing orders that cover every conceivable point of contention—this would create a costly documentation process that would make distilling and resolving key issues extremely burdensome, time-consuming, and generate excessive legal bills. While this is a complex proceeding, unnecessary excess interim document markups should be managed to avoid unnecessary documentation while open issues are identified and resolved in the proceeding.

- It should be no surprise, therefore, that in the most recent comparable securitization case(s) in Missouri – The Empire District Electric Company d/b/a Liberty securitization case(s), Case Nos. EO-2022-0040 / EO-2022-0193 – the Commission ordered Liberty to file a proposed financing order at the time of filing its initial brief and ordered Staff to file a proposed financing order at the time of filing its *reply* brief.²

WHEREFORE, the Commission should emphatically deny EMW’s Motion in its entirety and issue such further orders as the Commission deems just and reasonable.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 8th day of August 2022.

/s/ Jeffrey A. Keevil

² See *Order Directing Filing of Draft Financing Order*, File No. EO-2022-0040 (EFIS entry number 155) and File No. EO-2022-0193 (EFIS entry number 147).