

**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)
Financing of Extraordinary Storm Costs)
Through an Issuance of Securitized Utility)
Tariff Bonds)

Case No. EF-2022-0155

STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel (the “OPC”) and for its Statement of Positions respectfully states:

Issue 1: What amount of costs related to Winter Storm Uri should the Commission authorize EMW to finance as qualified extraordinary costs using securitized utility tariff bonds?¹

In setting the amount that Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) is authorized to finance as qualified extraordinary costs related to Winter Storm Uri (“Storm Uri”) using securitized utility tariff bonds, the Commission should reflect each of the five adjustments proposed by the OPC:

- (1) a disallowance up to \$250,524,777 of the fuel and purchase power costs EMW seeks to securitize, to reflect EMW’s imprudent resource planning (Mantle Rebuttal Test. 6, Schedule LMM-R-1C, Doc. 43; Mantle Surrebuttal Test. 1-2, Doc. 48);
- (2) a disallowance to the fuel and purchase power costs found to be prudent to account for the 5% of fuel and purchased power costs not recoverable through EMW’s fuel adjustment clause (“FAC”) (Mantle Rebuttal Test. 27-31);
- (3) application of a rate consistent with the rating of EMW’s commercial paper program, rated A2/P2, to calculate carrying costs from February 2021 through the date the securitized bonds are issued (Murray Rebuttal Test. 7-8, Doc. 44; Murray Surrebuttal Test. 2, 4 Doc. 50);
- (4) a disallowance to the fuel and purchase power costs found to be prudent equal to the amount of fuel and purchased power costs found to be prudent multiplied by the composite tax rate of 23.84%, to reflect the income tax deduction that EMW will receive for the fuel and purchased power costs related to Storm Uri (Riley Rebuttal Test. 2-4, Doc. 40; Riley Surrebuttal Test. 2-4, Doc. 51); and

¹ The List of Issues alternatively lists this issue as “What amount of qualified extraordinary costs caused by Winter Storm Uri should the Commission authorize EMW to finance using securitized utility tariff bonds?” (List of Issues & Proposed Hearing Schedule 1, Doc. 66).

(5) a disallowance to the fuel and purchase power costs found to be prudent equal to the amount of carrying costs authorized by the Commission multiplied by the composite tax rate 23.84%, to reflect the income tax deduction that EMW will receive for the carrying charges associated with the costs related to Storm Uri (Riley Surrebuttal Test. 4-6).

Issue 1a: What amount of the costs, if any, that EMW is seeking to securitize would EMW recover through customary ratemaking?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 1b: What is the appropriate method of customary ratemaking absent securitization?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 1c: Under Section 393.1700.2(2)(e), what is the “customary method of financing”? What are the costs that would result “from the application of the customary method of financing and reflecting the qualified extraordinary costs in retail customer rates”?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 1d: What is the appropriate adjustment related to non-fuel operations and maintenance (“NFOM”) costs?

The OPC did not present testimony on this issue. However, the OPC supports Staff’s recommendation to remove the NFOM costs from this case. (Bolin Rebuttal Test. 3-4, 7, Doc. 36).

Issue 1e: Should EMW’s recovery through securitized bonds include more than 95% of fuel and purchased power costs?

No. (Mantle Rebuttal Test. 27-31). The Commission has determined that it is “appropriate for utilities, as an incentive to efficiently manage [their] fuel and purchased power costs, to be at risk for 5% of the cost above what was included in base rates, and be rewarded 5% of the costs below what was included in base rates.” (*Id.* 28-29). If the Commission allows EMW to recover the full amount of fuel and purchased power expenses, then the Commission has, in effect removed any incentive for EMW to plan for and to efficiently manage extraordinary events that impact its biggest cost—fuel and purchased power. (*Id.* 27). The Commission allows EMW to earn a return for assuming the risk of the 95%/5% sharing mechanism. (*See id.* 29). EMW’s customers should not have to pay both EMW’s

5% of the fuel and purchased power costs and the return to EMW based on the assumption of the risk associated with fuel and purchased power costs. (*See id.*).

The disallowance associated with the application of the 95%/5% cost sharing mechanism is fluid. (*Id.* 30). The exact amount of this disallowance will depend upon the amount of fuel and purchased power costs the Commission finds prudent. (*Id.*). The Commission should disallow recovery of 5% of the prudent fuel and purchased power costs. (*Id.* 27-31).

Issue 1f: Should EMW’s recovery through securitized bonds reflect an offset based on certain higher than normal customer revenues received by EMW during Winter Storm Uri?

The OPC did not present testimony on this issue. However, the OPC supports Staff’s recommendation to include the amount of retail revenues that exceeded the three-year average as excess revenues and to offset the securitized balance of fuel and purchased power costs by that amount. (Bolin Rebuttal Test. 12-13).

Issue 1g: Should EMW’s recovery through securitized bonds reflect a disallowance based on EMW’s resource planning?

Yes. To account for the imprudence of EMW’s resource planning, the Commission should include a disallowance up to \$250,524,777 of the fuel and purchase power costs EMW seeks to securitize. (Mantle Rebuttal Test. 6, Schedule LMM-R-1C; Mantle Surrebuttal Test. 1-2).

EMW is imprudent because it does not have enough generation resources to meet the energy requirements of its customers. (*See* Mantle Rebuttal Test. 2-6, 8-27; Mantle Surrebuttal Test. 2, 4-5; Robinett Rebuttal Test. 3, Doc. 42). EMW’s resource planning decisions to rely on energy from other utilities in the Southwest Power Pool (“SPP”) to meet its customers’ needs transferred the price risk to its customers. (*See* Mantle Rebuttal Test. 4-5). These decisions are imprudent. (Mantle Rebuttal Test. 2-6, 8-27; Mantle Surrebuttal Test. 2, 4-5; Robinett Rebuttal Test. 3, Doc. 42). The Commission need look no further than to Evergy Metro as a utility that prudently planned its resources and made a profit as a result of Storm Uri. (Mantle Rebuttal Test. 3).

Issue 1h: Were the costs incurred by EMW related to Winter Storm Uri as a result of its resource planning process just and reasonable?

No. If EMW had prudently planned its resources, it would have had generation resources that would have mitigated the cost of energy and avoided much of the cost EMW incurred during Storm Uri. (*See* Mantle Rebuttal Test. 2-6, 8-27; Mantle Surrebuttal Test. 2, 4-5; Robinett Rebuttal Test. 3). Because EMW did not prudently plan its resources, many of the costs it incurred related to Winter Storm Uri are not just and reasonable. (*See id.*). The Commission need look no further than to Evergy Metro as a utility that prudently planned its resources and made a profit as a result of Storm Uri. (*Id.* 3).

Issue 1h(i): If no, should EMW’s recovery through securitized bonds reflect a disallowance?

Yes, the Commission should only allow EMW to recover prudent fuel and purchase power costs. *See* RSMo. § 393.1700.1(13) (defining qualified extraordinary costs as “costs incurred *prudently* before, on, or after August 28, 2021, of an extraordinary nature which would cause extreme customer rate impacts if reflected in retail customer rates recovered through customary ratemaking, such as but not limited to those related to purchases of fuel or power, inclusive of carrying charges, during anomalous weather events.” (emphasis added)); (Mantle Rebuttal Test. 2-6, 8-27; Mantle Surrebuttal Test. 2, 4-5; Robinett Rebuttal Test. 3).

Issue 1h(i)(1): If yes, what amount should the Commission disallow?

To account for the imprudence of EMW’s resource planning, the Commission should include a disallowance up to \$250,524,777 of the fuel and purchase power costs EMW seeks to securitize. (Mantle Rebuttal Test. 6, Schedule LMM-R-1C; Mantle Surrebuttal Test. 1-2).

Issue 1i: Should EMW’s recovery through securitized bonds reflect a disallowance for income tax deductions for Winter Storm Uri costs?

Yes. To account for the income tax deduction that EMW will receive as a result of the Storm Uri costs, the Commission should disallow an amount equal to the amount of fuel and purchased power costs found to be prudent multiplied by the composite tax rate, 23.84%. (Riley Rebuttal Test. 2-4; Riley Surrebuttal Test 2-4).

The Commission should reduce the securitized bond request by the amount of tax savings that EMW will enjoy due to the excess costs of the storm. (Riley Rebuttal Test. 2-4, 7-8; Riley Surrebuttal Test. 2-4). If the Commission does not reduce the bond request then EMW will double recover nearly \$72.2 million² through proceeds of the securitized utility tariff bonds that the Company has already received in tax benefits outside of the securitization. (*Id.*).

Issue 1j: Should Evergy’s recovery through securitized bonds reflect a disallowance for the income tax deduction on the carrying costs for Winter Storm Uri costs?

Yes. To account for the income tax deduction that EMW will receive as a result of the carrying charges associated with the costs related to Storm Uri, the Commission should disallow an amount equal to the amount of carrying charges authorized by the Commission multiplied by the composite tax rate, 23.84%. (Riley Surrebuttal Test. 4-6).

The Commission should reduce the securitized bond request by the amount of tax savings that EMW will enjoy due to carrying charges associated with the costs related to Storm Uri. (*Id.*). If the Commission does not reduce the bond request then EMW will double

² This amount is subject to change based upon the Commission’s final Order.

recover the tax benefits associated with the carrying costs³ through the proceeds of the securitized utility tariff bonds. (*Id.*).

Issue 1k: What are the appropriate carrying costs for Winter Storm Uri?

EMW's carrying costs should be determined based on its cost of short-term debt. (Murray Rebuttal Test. 7-8, 11). The Commission should find EMW's cost of short-term debt to be consistent with the rating of EMW's commercial paper program, rated A2/P2. (*Id.* 7-8; Murray Surrebuttal Test. 2, 4). The cost of short-term debt should be applied to the allowed Storm Uri costs on a monthly basis for the period February 2021 through the date the securitized bonds are issued. (Murray Rebuttal Test. 11).

Issue 1l: What is the appropriate adjustment to the amount of Winter Storm Uri costs to be recovered through securitized bonds, if any, regarding EMW's administration of the Special Incremental Load (SIL) tariff?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 1m: What is the appropriate discount rate or rates to use to calculate the net present value of Winter Storm Uri costs that would be recovered through customary ratemaking?

A rate higher than the securitization scenario. (Murray Rebuttal Test. 12-15, Murray Surrebuttal Test. 5). This higher rate accounts for less certainty associated with customer payments under customary ratemaking. (*Id.*). OPC recommends a range of discount rates based on Evergy's current after-tax cost of capital. (Murray Rebuttal Test. 12-15; Murray Surrebuttal Test. 7). OPC considers a range of 6.08% to 7% to be reasonable. (Murray Rebuttal Test. 15; Murray Surrebuttal Test. 6-8).

Issue 2: What are the estimated up-front and ongoing financing costs associated with securitizing qualified extraordinary costs associated with Winter Storm Uri?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 2a: What is the appropriate return on investment and treatment of earnings in the capital subaccount?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

³ The exact amount is subject to change based upon the Commission's final Order.

Issue 2b: Is the issuance of multiple series appropriate?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 3: Would the issuance of securitized utility tariff bonds and imposition of securitized utility tariff charges provide quantifiable net present value benefits to customers as compared to recovery of the securitized utility tariff costs that would be incurred absent the issuance of bonds?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 3a: What is the appropriate discount rate to use to calculate net present value of securitized utility tariff costs that would be recovered for Winter Storm Uri through securitization?

The rate/coupon of the securitized debt. (Murray Rebuttal Test. 13-14; Murray Surrebuttal Test. 5). This rate will be determined at the time of pricing of the securitized bond and is consistent with the risk of the volatility of customer payments to service the required debt service on the securitized bonds. (*Id.*).

Issue 3b: What is the appropriate term and coupon rate for securitization of qualified extraordinary costs related to Winter Storm Uri?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 4: How should the SUTC be allocated?

The Commission should adopt Staff's loss-adjusted energy-based sales allocation and related tariff provisions. (*See* Marke Surrebuttal Test. 1-2, Doc. 49). The approved amount should be recovered from all applicable customers. (*Id.*). An energy-based recovery design will minimize the potential of wild fluctuations from rate switching or from the sudden loss of a large customer and is in compliance with § 393.1700 RSMo. (*Id.* at 2).

Issue 5: What, if any, additions or changes should be made to the Storm Securitized Utility Tariff Rider proposed by EMW?

The OPC supports the positions taken by Staff witness Ms. Sarah L. K. Lange in her rebuttal testimony and as reflected in Schedule SLKL-r2. (*See* Marke Surrebuttal Test. 2).

Issue 6: Regarding any designated Staff representatives who may be advised by a financial advisor or advisors, what provisions or procedures should the Commission order to implement the requirements of Section 393.1700.2(3)?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 7: What other conditions, if any, are appropriate and not inconsistent with Section 393.1700 that should be included in the financing order?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

Issue 8: Should the Commission grant a waiver under Section 10(A)(1) of the Affiliate Transactions Rule between EMW and the special purpose entity?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission accept this Statement of Positions and rule in the OPC's favor on the issue addressed herein.

Respectfully submitted,

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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 26th day of July 2022.

/s/ Lindsay VanGerpen