

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Evergy Missouri)
West, Inc. d/b/a Evergy Missouri West for a)
Financing Order Authorizing the Financing of) No. EF-2022-0155
Qualified Extraordinary Storm Costs Through an)
Issuance of Securitized Utility Tariff Bonds)

**APPLICATION FOR REHEARING AND
REQUEST FOR CLARIFICATION OF EVERGY MISSOURI WEST**

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy Missouri West,” “EMW,” or the “Company”), pursuant to Section 386.500¹ and 20 CSR 4240-2.160, and applies for rehearing and requests clarification of the Report and Order, also entitled on page 6 as a Financing Order (“Financing Order”), that approved Evergy Missouri West’s petition for the issuance of a financing order under Section 393.1700 and authorized the Company to finance the Qualified Extraordinary Costs that it incurred as a result of Winter Storm Uri, related Financing Costs, and other expenses through the issuance Securitized Utility Tariff Bonds.

In support of this Application and Request, Evergy Missouri West states:

I. LEGAL PRINCIPLES THAT GOVERN APPLICATIONS FOR REHEARING

1. All decisions of the Commission must be lawful, with statutory authority to support its actions, as well as reasonable. State ex rel. Ag Processing, Inc. v. PSC, 120 S.W.3d 732, 734-35 (Mo. en banc 2003). An order’s reasonableness depends on whether it is supported by substantial and competent evidence on the record as a whole. State ex rel. Alma Tel. Co. v. PSC, 40 S.W.3d 381, 387 (Mo. App. W.D. 2001). An order must not be arbitrary, capricious, or unreasonable, and the Commission must not abuse its discretion. Id.

¹ All citations are to the Revised Statutes of Missouri (2016), as amended.

2. The lawfulness of an order is determined by whether there is statutory authority to support the Commission's order, with the appellate courts reviewing the legality of the Commission's decisions de novo. For example, it was error for the Commission to exclude "electric vehicle charging equipment" from the statutory definition of "electric plant" in Section 386.020(14). Kansas City Power & Light Co. v. PSC, 557 S.W.3d 460, 472-73 (Mo. App. W.D. 2018). See State ex rel. Util. Consumers Council of Mo., Inc. v. PSC, 585 S.W.2d 41, 49 (Mo. en banc 1979) (as "purely a create of statute," PSC's "powers are limited to those conferred by ... statutes").

3. A review of the record in this case demonstrates that the Report and Order failed to comply with these principles in certain respects and that rehearing should be granted as to the issues discussed below.

II. REHEARING: STATUTORY RIGHT TO REHEARING AND JUDICIAL REVIEW

4. Ordering Paragraph 39 ("Effectiveness of Order"), contained in the Ordering Paragraphs and Approval section of the Financing Order (pages 105-123), states: "This Financing Order is effective upon issuance and is not subject to rehearing by the Commission." Ordering Paragraph 39 violates Section 386.500.1 which provides: "After an order or decision has been made by the commission, the public counsel or any corporation or person or public utility interested therein shall have the right to apply for a rehearing in respect to any matter determined therein" There is no lawful basis for the Commission to deny the Company or any other party to this proceeding the right to apply for rehearing.

5. Ordering Paragraph 39 also violates Section 386.510 by denying the Company and all other parties the right to judicial review which is conditioned upon an application for rehearing having been filed as the Commission. The first sentence of Section 386.510 states that "within

thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may file a notice of appeal with the appellate court”

6. By denying the right to apply for rehearing under Section 386.500 and the right to appellate review under Section 386.510, Ordering Paragraph 39 also violates Section 393.1700.2(3)(a)c which provides: “Judicial review of a financing order may be had only in accordance with sections 386.500 and 386.510.”

7. Ordering Paragraph 39, the first sentence of which states that “[T]his Financing Order is effective upon issuance and is not subject to rehearing by the Commission[.]”, also directly contradicts Ordering Paragraph 44 (as well as the cover sheet of the Report and Order) which states that the Financing Order, which was issued on October 7, 2022, “. . . shall become effective on November 6, 2022.”

8. Therefore, Ordering Paragraph 39 of the Financing Order should be modified to reflect a similar ordering paragraph regarding “Effectiveness of Order” in the Financing Order issued by the Commission in the Empire Securitization case which did not deny the right to rehearing or judicial review. See Amended Report & Order, Ordering ¶ 40 at p. 135, In re Petition of Empire Dist. Elec. Co. to Obtain a Financing Order Authorizing Securitized Util. Tariff Bonds, No. EO-2022-0040 (Sept. 22, 2022).

III. CLARIFICATION POINTS

9. Ordering Paragraph 1 (Approval of Petition) on page 107 incorrectly approves “petitions” filed by Evergy Missouri West. Only one petition for a Financing Order was filed in this proceeding by the Company.

10. Ordering Paragraph 28 (Servicing Agreement) on pages 117-118 incorrectly refers to Ordering Paragraph 29 in its last sentence. The Company believes the Commission meant to refer to Ordering Paragraph 30.

11. There are two Ordering Paragraphs 44 on pages 122-123.

IV. CONCLUSION

12. Evergy Missouri West requests that the Commission grant rehearing by modifying Ordering Paragraph 39 on page 121 of the Financing Order as described in paragraph 8 above; and

13. In addition, Evergy Missouri West requests that the Commission clarify its Financing Order to correct the errors described in paragraphs 9-11 above.

WHEREFORE, Evergy Missouri West, Inc. respectfully requests that this Application for Rehearing and Request for Clarification be granted.

Respectfully submitted,

/s/ Roger W. Steiner

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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 all counsel of record as reflected on the service list maintained by the Commission in its electric filing information system this 4th day of November 2022.

/s/ Roger W. Steiner

Attorney for Evergy Missouri West