

**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 Authority to Implement Rate) No. ER-2023-0210
Adjustments Required by 20 CSR 4240-)
20.090(8) and the Company’s Approved)
Fuel Purchased Power Cost Recovery)
Mechanism)
)

EVERGY MISSOURI WEST’S REPLY TO OPC RESPONSE

COME NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW,” “Evergy,” or the “Company”) and, for its reply to the Office of the Public Counsel’s (“OPC”) *Response to Filed Tariffs and Staff Recommendation* (“OPC Response”) filed on February 8, 2023, and, pursuant to the *Order Establishing Time to Respond* (“Order”) issued by the Missouri Public Service Commission (“Commission”) on February 9, 2023, states as follows:

1. OPC opposes Evergy’s proposal to manage the \$104.2 million in fuel and purchased power adjustment (“FPA”) costs that were incurred during the Company’s 31st Accumulation Period (June-November 2022) and that exceed base rates. Evergy’s proposal, which Staff recommended be implemented, had two key components. First, \$47.9 million would be deferred to a Plant-in-Service Accounting (“PISA”) regulatory asset for consideration in a future general rate case under Section 393.1655.5¹ so that the Fuel Adjustment Clause (“FAC”) charge does not exceed the three percent (3.0%) compound annual growth rate (“CAGR”) cap.² Second, the remaining \$56.3 million would be recovered through the FAC. The \$56.3 million of this 31st Accumulation Period of June through November 2022 replaces the 29th Accumulation Period costs for that same six-month period in 2021 of \$47.5 million, resulting in an \$8.8 million increase in the FPA impacting customers. This

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

² The 3.0% CAGR cap is contained in Section 393.1655.3

represents an increase of \$1.10 to an average EMW residential customer's monthly bill compared to the prior FAC. See L. Starkebaum Direct Testimony at 3-5.

2. The OPC Response gives the erroneous impression that the Company seeks to flow the entire Fuel and Purchased Power Adjustment ("FPA") amount of \$104.2 million through the FAC which is not the case. Instead of affirmatively stating that EMW proposes to recover \$56.3 million through the FAC, with the remainder deferred via PISA, OPC's Response improperly suggests that \$104.2 million "would otherwise be billed" if its counter-proposal is not accepted. See OPC Response, ¶ 32 at 8.

3. OPC similarly and wrongly implies that the adjusted Actual Net Energy Cost ("ANEC") of \$101.5 million is what the Company is seeking to recover in its FAC filing. See OPC Response, ¶¶ 17-18, 24 at 5-6.

4. In contrast to OPC's recommendation that a generic accounting authority order ("AAO") be used to severely restrict EMW's recovery of its FPA costs, the Company's request is simple and straightforward. It proposes that the FAC operate as normal under EMW's tariff except for the costs that would cause it to exceed the CAGR cap of the PISA Law's Section 393.1655.5 ("Subsection 5"). When such a situation arises, the Subsection 5 mandates that "the electrical corporation shall reduce the rates charged under that rate adjustment mechanism in an amount sufficient to ensure that" (a) the CAGR limitation in Section 393.1655 "is not exceeded due to the application of the rate charged under" the FAC and (b) "the performance penalties" under Section 393.1655 "are not triggered." Therefore, once the \$47.9 million is deferred under Subsection 5, the remaining \$56.3 million in FPA costs will flow through the Fuel Adjustment Clause.

5. That is the intent of the law, and there is no reason that it should not be followed in this case. Subsection 5 mandates this deferral because the CAGR cap would otherwise be exceeded.

Once the deferral occurs, Section 393.1400.2(1) states that in “each general rate proceeding” after PISA became effective, “the balance of the regulatory asset ... shall be included in the electrical corporation’s rate base without any offset, reduction, or adjustment” The only exception is for “any prudence disallowances ordered by the commission” pursuant to 393.1400.2(2).

6. For these reasons, EMW has not sought approval to rely on generic deferral accounting and to request that the Commission authorize an AAO under Missouri law and the FERC-approved Uniform System of Accounts (“USOA”) which prescribes how the Company is to keep its accounts. See § 393.140(4) & (8); 20 CSR 4240-20.030(1) [Uniform System of Accounts – Elec. Corps.]. In contrast with the mandates imposed by PISA Sections 393.1655.5 and 393.1400.2 upon electrical corporations like EMW and the Commission itself, a different standard governs AAOs. “The Commission “is vested with ‘substantial discretion in determining whether an AAO is appropriate in a particular case.’” See Report & Order at 20, In re Evergy Applic. for an Acct’g Auth. Order related to COVID-19 Expenses, No. EU-2020-0350 (Jan. 13, 2021). The Court of Appeals has stated that whether an AAO or a tracking accounting deferral mechanism “should be allowed ... is a policy decision” to be made by the PSC” and is “necessarily a discretionary judgment.” Kansas City Power & Light Co. v. PSC, 509 S.W.3d 757, 769-70 (Mo. App. W.D. 2016).

7. To support EMW’s request for a PISA deferral because the CAGR cap will be exceeded, Mr. Ives provided testimony to explain the significant impact that events beyond the control of the Company are having on its fuel and purchased power costs. He summarized recent dramatic fluctuations in the price of natural gas, rail service issues that have affected coal supply and transportation, higher temperatures, weather changes, and world events. Each of these factors has significantly affected the price of wholesale electricity in Southwest Power Pool. See Ives Direct Testimony at 3-7.

8. Because the regulatory asset balances with FPA costs will be reviewed by the Commission for prudence under Section (11) of the FAC Rule, as well as under the PISA Section 393.1400.2(2), Mr. Ives' testimony appropriately discussed these issues, especially given the cost of fuel re-basing in base rates in EMW's recent general rate case which increased by \$56.1 million. **See Attachment A.**³

9. Given the mandate of Section 393.1655.5 that requires a deferral when the CAGR caps will be exceeded, OPC's recommendation that the Commission ignore the PISA Law and proceed on a different course should be denied.⁴

10. Staff supports Evergy's proposal that "removed the \$47,898,201 from recovery through the FAC and has included this amount in a PISA regulatory asset for consideration in a future general rate proceeding." See Staff Recommendation, ¶ 1 at 2. Based on "its examination and analysis of the information" submitted by EMW, "Staff recommends the Commission issue an order approving the proposed" tariff sheet submitted by the Company. Id., ¶ 4 at 3. The Staff Memorandum noted the testimony of Evergy's Ms. Starkebaum that the average increase that residential customers would incur was the result of warmer weather during the June-November 31st Accumulation Period, the resulting 10% increase in retail load over the 30th Accumulation Period, and higher natural gas prices. See Staff Recommendation, Appendix A at 4-5.

³ Attachment A is Evergy Ex. 4 which the Company prepared at the request of the Regulatory Law Judge in its last fuel adjustment rate proceeding, No. ER-2023-0210. It shows that the total amount of fuel that was re-based in EMW's rate case was \$56.1 million, as well as the FAC Accumulation amounts for the FAC's two 6-month period. See Tr. 56-60, 86-88, 106 (Sept. 30, 2022 Hearing); Order Admitting into Evidence Evergy Mo. West Ex. No. 4, No. ER-2023-0210 (Oct. 7, 2022).

⁴ Furthermore, OPC's reference to the statement in USOA General Instruction 7 that for an item to be considered "extraordinary," it should be more than approximately 5 percent of income is misplaced. The Commission has stated that it exercises its discretion to evaluate facts which will support an AAO and that the 5 percent figure "is not case dispositive." In re Southern Union Co. App. for an Acct'g Auth. Order, Report & Order at 13 & n.35, No. GU-2011-0392 (Jan. 25, 2012) (Joplin tornado AAO); In re Mo. Public Service, Report & Order, 1991 WL 501955 at 5, No. EO-91-358 (Mo. P.S.C. 1991) (Sibley upgrades AAO).

11. OPC suggests that the Commission can rely on Paragraph XI of the Fuel Adjustment Clause Rule because it mentions “extraordinary costs not to be passed through” the FAC. See 20 CSR 4240-20.090(8)2.A(XI) (“FAC Rule”). However, that provision is only an option available to the electric utility that is filing for a periodic change to its fuel adjustment rates. Moreover, the option offered to the utility under Paragraph XI to propose that costs “not be passed through” the FAC that relate to “an insured loss, or subject to reduction due to litigation or for any other reason” must yield to the statutory deferral mandate of Section 393.1655.5 when the CAGR cap will be breached.

12. The Commission recognized in the Company’s last FAC rate adjustment case that Section 393.1655.5 “explicitly states that it is triggered only if a change in rates needed to recover costs ‘charged under’ one of two specific rate adjustment mechanisms⁵ would cause an electric[al] corporation’s average overall rate to exceed the relevant CAGR cap” See Report & Order at 17, In re Applic. of Evergy Mo. West, Inc. to Implement Rate Adjustments, No. ER 2023-0011 (Nov. 9, 2022) (30th Accum. Period). Because the Commission found that the increase cited by the Company “did not exceed” the pertinent CAGR caps, it denied EMW’s deferral request. Id. at 19.

13. However, in this proceeding no party disputes the fact that the FPA amount of \$104.2 million will exceed the CAGR cap and trigger Section 393.1655.5. Because the CAGR cap will be breached, the Commission must follow Subsection 5 and grant the Company’s request to defer \$47.9 million under Sections 393.1655 and 393.1400 of the PISA Law, as recommended by Staff. This is the appropriate treatment for the roughly \$100 million in FPA costs in this case which were incurred over a six-month accumulation period of continued market fluctuations.

⁵ Those two sections are § 386.266 (Rate schedules for interim energy charges or periodic rate adjustments) and § 393.1030 (renewable energy standard).

WHEREFORE, Evergy Missouri West requests that the Commission issue an order approving the revised tariff sheet that it has submitted which proposes a new fuel adjustment rate to be effective on March 1, 2023.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 16th day of February 2023, by either e-mail or U.S. Mail, postage prepaid.

/s/ Roger W. Steiner

Roger W. Steiner

Exhibit No. 4

MO West Fuel Impact on Overall Rates				
	(A) Rates Effective Dec 6, 2018	(B) Settled Effective Dec 6, 2022	(C) Fuel Increase Before Adj./Deferral	(D) Percentage Increase
Base Retail Rates - Fuel	\$ 189,453,834	\$ 245,512,953	\$ 56,059,119	7.5%
FAC Accumulation - Part 1	8,315,398	47,488,718	39,173,320	5.2%
FAC Accumulation - Part 2	11,366,822	44,604,020	33,237,198	4.4%
Total			<u>\$ 128,469,637</u>	17.2%
				<u>12.55%</u>

Column (d) Percentages
Column C / 2018 Baseline
= 56,059,119 / 747,666,724
= 39,173,320 / 747,666,724
= 33,237,198 / 747,666,724
= 128,469,637 / 747,666,724

Note 1: Denominator of \$747,666,724 is the 2018 Baseline Total Revenue Allowed to Recover per MO West PISA Calculation Workpaper.
Note 2: 12.55% Average Overall Rate Cap at December 6, 2022 from PISA Calculation Workpaper, CAGR tab.

No. ER-2023-0011
(Admitted October 7, 2022)