

**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)

File No. EF-2022-0155

**EVERGY MISSOURI WEST’S REPLY TO OPC’S RESPONSE
IN OPPOSITION TO AMENDED MOTION FOR PROTECTIVE ORDER**

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or “Company”), by and through counsel, and for its Reply to OPC’s Response in Opposition To Amended Motion for Protective Order, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On June 22, 2022, the Office of the Public Counsel (“OPC”) filed its *Response In Opposition To Amended Motion For Protective Order* (“OPC Response”) which opposed EMW’s request for a protective order in this proceeding. OPC recognized that the information referenced in the Amended Motion may require additional protection beyond a confidential designation, but raised specific concerns with EMW’s proposed protective order which will be addressed herein. As explained in EMW’s Motion, Staff DR No. 0046 seeks access to a report that is specific to EMW’s assets, emergency plans, protective measures, and a multitude of other specifics about EMW’s operations that are also regulated by the Federal Energy Regulatory Commission (“FERC”), FERC’s authorized reliability entity – the North American Electric Reliability Corporation (“NERC”) – and the Department of Energy (“DOE”).

2. OPC does not dispute that in recent years FERC, NERC, DOE, and the industry in general have developed a heightened awareness regarding the physical and cyber security of the Bulk Electric System (“BES”) due to foreign and domestic threats to the BES and the utilities operating the system. As a result of the heightened risk and threat to the BES, FERC and NERC

have developed categories of highly sensitive information that must be protected not only in who is able to view certain information but also who actually has custody of such information. As a result, utilities such as EMW have designated certain sensitive information and developed processes with NERC regulators wherein the designated information is only provided in a “view-only” manner through an encrypted system such that EMW never relinquishes custody of the actual data.

3. OPC asserts that “EMW provides no specific indication why a highly confidential designation would not sufficiently protect CEII and BCSI from disclosure.” (OPC Response, p. 4) As explained in EMW’s Motion, at the heart of EMW’s request for a protective order, is the concern that federal regulatory agencies have requested and directed that the custody of certain very sensitive operational information discussed in EMW’s motion not be relinquished to other parties, including regulatory authorities, if at all possible. Under the PSC’s typical treatment of highly confidential materials, such physical custody would be given up to outside parties which is contrary to the goal of the federal regulatory agencies to provide added protection to such sensitive information.

4. As explained in EMW’s Motion, EMW has participated in nationwide industry discussions and development of policy and processes to ensure the custodial protection of sensitive information and means to allow regulators to view necessary information without an actual exchange of custody of the actual data to ensure the location of the sensitive information only resides on EMW’s protected network or physical files. EMW’s proposed protective order is designed to accomplish this goal, while still allowing OPC, Staff, and intervenors to have the opportunity to review the materials and utilize them in the proceeding if they are determined to be relevant to the issues in this case.

5. In EMW’s proposed Amended Order, EMW proposed that the issuance of the Protective Order include CEII and BCSI and limit the viewing of such information to only Staff,

Office of the Public Counsel, counsel of record and outside consultants who sign a Non-Disclosure Agreement, and the Commission through an encrypted “view-only” document review system that EMW uses with its NERC regulators. As an alternative to this proposal, EMW is willing to also make physical copies of these documents available to Staff, Public Counsel, and counsel of record and outside consultants who sign a non-disclosure agreement for review in its Jefferson City office. Notes could be taken, but no physical copies could be taken from EMW’s office. Such procedures have been used for the review of other highly confidential and sensitive information under PSC confidentiality rules for many years.

6. Given the operational nature of these sensitive materials, EMW will be surprised if Staff, Public Counsel, or other intervenors find the protected information relevant to the securitization issues in this proceeding. However, if these parties find it necessary to disclose the contents of the information requested in DR No. 0046 to the Commission, EMW will make a physical copy of the CEII and BSCI information available for review by the Commission in the hearing room in *en camera* session. Staff, Public Counsel, or intervenors may reference the location of such information in the response to DR No. 0046 in its pre-filed testimony, and EMW will make those portions of the response available for review by the Commission and the parties in the *en camera* session.

7. In the event the Commission found any of the CEII and BSCI information relevant to the issues in this proceeding, the Commission could address the appropriate treatment of the materials in the briefing of the issues at the time of the hearing after it has had the occasion to review the materials themselves.

WHEREFORE, EMW replies to the Public Counsel’s Response In Opposition To Amended Motion For Protective Order, and renews its request an order of the Commission, pursuant to Commission Rule 20 CSR 4240-2.135(4), granting a protective order regarding EMW’s securitization case filings, as described herein. Specifically, EMW requests that the

Commission issue a Protective Order that provides that certain information (i.e. CEII and BCSI) be available only to Staff, Public Counsel, and counsel of record and outside consultants for intervenors who sign a Non-Disclosure Agreement on the following basis:

a. Any CEII or BCSI produced in this case shall be made available only to the Commission, its Staff, Public Counsel, and counsel of record for intervenors and outside consultants who have signed a non-disclosure agreement;

b. The contents of CEII and BCSI or any other form of information that copies or discloses such materials shall not be disclosed publicly, and shall be used only in connection with this specific proceeding;

c. When Staff, Public Counsel and/or counsel of record for intervenors and their outside consultants view CEII and BCSI information in this docket, it will do so as view-only through Evergy's encrypted document review system, or in the alternative, reviewed at EMW's Jefferson City office;

d. If Staff, Public Counsel, or intervenors need to reference its review of CEII or BCSI in its report, testimony, and recommendations filed in the case, it will reference the material by name only in the written filing and provide any necessary description of the details of the CEII or BCSI verbally to the Commission in a closed session. In that event, EMW will provide a physical copy of the information for review by the Commission and the parties in *en camera* session of the hearings.

e. Staff, Public Counsel, and/or intervenors will not include any details regarding CEII or BCSI in writing in any filing made in the case, unless authorized to do so by the Commission.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 27th day of June 2022, with notification of the same being sent to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner