Filed
August 18, 2022
Data Center
Missouri Public
Service Commission

Exhibit No. 205P

OPC – Exhibit 205P
John S. Riley
Rebuttal Testimony
File No. EF-2022-0155

Exhibit No.:	_______________
Issue(s):	Income Tax Deduction
Witness/Type of Exhibit:	Riley/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	EF-2022-0155

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

EVERGY MISSOURI WEST, INC. D/B/A EVERGY MISSOURI WEST

CASE NO. EF-2022-0155

** **
Denote Confidential Information that has been redacted.

June 30, 2022

PUBLIC

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

AFFIDAVIT OF JOHN S. RILEY

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

John S. Riley, of lawful age and being first duly sworn, deposes and states:

1. My name is John S. Riley. I am a Utility Regulatory Supervisor for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

John S. Riley
Utility Regulatory Supervisor

Subscribed and sworn to me this 29th day of June 2022.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI
TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121

Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

EVERGY MISSOURI WEST, INC.

CASE NO. EF-2022-0155

Q. What is your name and what is your business address?

A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Office of the Public Counsel ("OPC") as a Utility Regulatory Supervisor.

Q. What is your educational background?

A. I earned a B.S. in Business Administration with a major in Accounting from Missouri State University.

Q. What is your professional work experience?

A. I was employed by the OPC from 1987 to 1990 as a Public Utility Accountant. In this capacity I participated in rate cases and other regulatory proceedings before the Public Service Commission ("Commission"). From 1994 to 2000 I was employed as an auditor with the Missouri Department of Revenue. I was employed as an Accounting Specialist with the Office of the State Court Administrator until 2013. In 2013, I accepted a position as the Court Administrator for the 19th Judicial Circuit until April, 2016 when I joined the OPC as a Public Utility Accountant III. I have also prepared income tax returns, at a local accounting firm, for individuals and small business from 2014 through 2017.

Q. Are you a Certified Public Accountant ("CPA") licensed in the State of Missouri?

A. Yes. As a CPA, I am required to continue my professional training by attending Missouri State Board of Accountancy qualified educational seminars and classes. The State Board of Accountancy requires that I spend a minimum of 40 hours a year in training that continues my education in the field of accountancy. I am also a member of the Institute of Internal Auditors ("IIA") which provides its members with seminars and literature that assist CPAs with their annual educational requirements.

Q. Have you previously filed testimony before the Missouri Public Service Commission?

A. Yes I have. A listing of my Case filings is attached as JSR-R-1.

Q. What is the purpose of your rebuttal testimony?

A. To provide some clarity as to the tax ramifications of Storm Uri costs, bond proceeds, and ratepayer repayment. I will explain how securitizing the Storm Uri costs through bonds results in a reduction in taxable income and therefore a reduction in taxes that should be recognized through a reduction in the proposed bond amount.

Q. The consequences of Storm Uri upon utilities across the Midwest are well documented. What effect did this intense weather have on the financial condition of Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("Evergy West" or the "Company")?

A. Essentially, Evergy West is claiming that Storm Uri caused the Company to incur fuel and purchase power costs in excess of ** ____________ ** over and above any additional revenues the intense weather may have generated from ratepayers during the same timeframe.[2] If you take this as an isolated instance, which is what the Company is arguing, the Company's taxable income will be reduced by the $296.5 million mentioned above. In

[1] Ives direct testimony, pg 14 line 16 $296.5 million. This amount represents a total company adjustment.
[2] I am not considering carrying costs or other financing charges in any tax calculations.

other words, the Company has a taxable write-off, a "loss," an expense, or a reduction of this amount. The tax consequences of this reduction can be quantified by applying the generally accepted composite tax rate—23.84%—to the amount of the reduction. The result of this calculation is Evergy West's tax savings associated with the unreimbursed Storm Uri costs.

Q. What is the tax savings created by this proposed securitization?

A. Evergy West will receive a tax reduction related to the $296 million of Storm Uri costs of approximately** ______________________________ **.

These tax savings should be reflected in the overall amount the Company seeks to collect in securitized utility tariff bonds.

Q. Why should tax consequences be considered when seeking bond funding?

A. Income tax recognition is inescapable in the context of utility ratemaking. The tax effect is always considered when calculating a company's revenues or expenses. The difference in this instance is that securitization is outside the ratemaking process until the ratepayer begins paying off the bonds through rates. Any decision by the Commission in this case will ultimately affect customer rates. It stands to reason that any tax adjustment associated with the proposed bond amount should be addressed here.

Let's look at the difference between traditional ratemaking—recovery through the FAC—and securitization of the Storm Uri costs. In this simplified example, I'm using a hypothetical $500,000 as Commission-authorized income[4] with a composite tax rate of 23.84%. Under both scenarios, Company operating income is adversely affected by the Storm Uri cost of $296,000, so the $500,000 of authorized income is initially reduced by $296,000.

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[3] As mentioned previously, this is a total Company adjustment. OPC ultimate adjustment will be based on Commission decision with a 23.84% tax rate application.

[4] For simplicity my example calculations use hundreds of thousands but the actual adjustments are in millions.

In traditional ratemaking, the costs are recovered through the FAC[5]. This restores taxable income to the $500,000 level and the tax is accurately calculated at $119,200 ($500,000 * 23.84%). Because ratemaking allows a utility to be made whole, this $119,200 is added to the $500,000 of authorized income to produce $619,200 in revenue requirement.

In securitization, the $296,000 of Storm Uri costs are recovered through bond proceeds which are not taxable. Therefore, the Company's initial $500,000 of taxable income is reduced by the Storm Uri costs of $296,000 to result in $204,000 of taxable income. Because bond proceeds are not taxed, taxable income does not increase to the previous $500,000 that was established in rates. For income tax purposes, the tax the Company would be responsible for is considerably less than what ratepayers will be subsidizing. See the difference in the table below.

	Traditional Recovery FAC	Securitization	
Operating income	$ 500,000	$ 500,000	
Storm Uri	$ (296,000)	$ (296,000)	
Amount recovered through the FAC	$ 296,000	$ -	
Taxable revenues	$ 500,000	$ 204,000	
Tax at 23.84%	$ 119,200	$ 48,634	
Bond proceeds	$ -	$ 296,000	**Company**
Total Revenues After Taxes	$ 619,200	$ 548,634	**Tax reduction** $ 70,566

[5] You would expect a 95/5split in the recovery2

Q. Should the taxes associated with this securitization request be grossed up by the 1.313 tax factor?

A. No. Even though income taxes are weaved through the ratemaking process, and the 1.313 gross up is recognized in ratemaking, this bond issuance is a separate transaction from revenue requirement so the traditional tax expense of ratemaking will not be recognized until the actual collection from the ratepayer is initiated.

Q. Some may claim that the tax savings of Storm Uri will be built into rates. How do you respond?

A. That is not true for several reasons. First, Evergy West has separated the Storm Uri costs from the general rate case and tendered them for securitization leaving the tax savings separate from general rates. Second, in the general rate case, Staff will calculate the test year by normalizing revenues and expenses and the taxes calculated will be normalized as well. Because Staff's normalized calculations would exclude an abnormal event like Storm Uri, there would be no change to the usual tax calculations due to Storm Uri. Third, there are no deferred taxes associated with these expenses since there isn't a timing difference involved. Finally, when the actual securitization is implemented, taxes will be applied to the line item that ratepayers will see on their monthly bill, the revenues from which are earmarked for the securitization bond repayment. These taxes will be the responsibility of the ratepayer and not the Company. Without recognition of the tax savings in this securitization case, the Company reaps the $70.6 million tax savings and the ratepayer pays taxes on the $70.6 million for the life of the securitized bonds.

Let's look at an illustration of how much the ratepayer stands to pay if the tax savings are or aren't recognized. On the left is the total request from Evergy West and on the right is the bond amount less the tax savings: Keep in mind that my illustration is in thousands but the real costs are in millions.

No Tax Benefit Recognized		**Recognize Tax Benefit**
$296 ,000	bonds	$225,326
15	Years	15
4%	interest	4%
$2,189	Monthly payment	$1,667
$394,106	Total bond payments	$300,060
$93,955	Tax on payments[6]	$71,534
$488,061	Total payments[7]	$371,594
	Additional interest paid	$116,467

As can be seen in this illustration, acknowledging the tax savings meets the goals of each party. The Company gets all its Storm Uri costs reimbursed and the ratepayer pays less over the life of the bond period due to the initial reduction of the bond balance by the tax savings. The tax recognition saves the ratepayer over $116 million over the life of the bonds.

Q. Please explain how the issuance of the bonds is integrated into rates.

A. Without getting into the mechanics of calculating bond issuance charges and other fees that go with underwriting, what will generally happen is fairly similar to the Company issuing construction bonds. Bonds are sold out into the market and the proceeds are distributed to the Company. There is no tax associated with the Company's initial receipt of funds from the issuance of bonds. This is a financing strategy.

The difference with securitized bonds and the ordinary long-term bonds the Company may issue for construction is that the securitization statute calls for specific repayment steps.

[6] Simple tax calculation on the total bond payments: $394,106 * 23.84% = $93,955; $300,060 * 23.84%= $71,534.

[7] Total payment by the ratepayer to cover the total bond payments and the tax on payments.

After the bonds are issued, the ratepayers' repayment of these special purpose bonds will be listed as a separate line item on the ratepayer's monthly bill. This is where the taxability that Staff has eluded to in past cases gets its footing. To ensure that Evergy West is able to wholly recover their costs associated with these bonds, including all tax amounts, Staff will calculate the additional revenues associated with the bond repayment and incorporate the income tax costs as well. If the calculations were performed in a general rate case, the bond revenues would be combined with general rate revenues to produce gross revenues. The income tax calculations would be completed using the gross revenues. As stated above, this will occur when the bonds are placed into the financial markets.

Q. Why do you claim that a tax reduction should be recognized against the bond proceeds when you have already described how taxes will be collected on the repayment of the bonds?

A. In simple terms, the Company receives tax savings upfront and the ratepayer pays all the taxes associated with the extended collection. Without Commission recognition of the tax savings in the initial bond amount, the Company gets a permanent tax savings from the one time reduced taxable income but the ratepayer will be denied any benefit and will pay taxes on the Company's windfall.

Q. Why can't the tax savings be recognized in the Company's current or next general rate case?

A. I suppose the Commission could address this issue in the current rate case but the root cause of the adjustment—the Storm Uri costs—have now been removed from FAC consideration and the general expenses of the current general rate case. The venue to address this issue is this securitization case.

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Q. Could you summarize your position of an income tax adjustment on the requested securitize bond amount?

A. The Company will receive a tax savings of approximately $70.6 million to reflect the increased expenses of **————————** due to Storm Uri. These tax savings should be a reduction against the requested securitization amount, to ensure that ratepayers see a benefit from Evergy West's reduced taxes. As can be seen from the illustrations above, if the Commission reduces the amount to be securitized to reflect these tax savings, the ratepayer saves more than $116.5 million over the life of the bonds.

Any carrying costs that are calculated on the proposed loss amount should recognize this upfront reduction as well.

Q. Does this conclude your rebuttal testimony?

A. Yes.