

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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) Case No. EF-2022-0155
Qualified Extraordinary Storm Costs Through an)
Issuance of Securitized Utility Tariff Bonds)

MOTION FOR NUNC PRO TUNC CLARIFICATION AND/OR CORRECTION

COMES NOW Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or the “Company”), and for its *Motion for Nunc Pro Tunc Clarification and/or Correction* (“Motion”), pursuant to 20 CSR 4240-2.160(4), states as follows:

1. On November 17, 2022, the Missouri Public Service Commission (“Commission”) issued its *Amended Report and Order* (“Order”) in this matter.

2. The Order’s paragraph 8, entitled “Approval of Tariff,” states: “The form of securitized Utility Tariff Rider attached as Appendix B to this order is approved.” However, the last sentence of the Order’s paragraph 9 then states: “If there is a partial payment of an amount billed, the amount paid must first be apportioned ratably between the securitized utility tariff charges and other fees (excluding any late fees), and second, any remaining portion of the payment must be allocated to late fees.”

3. There appears to be an unintended disconnect between the Order’s paragraphs 8 and 9. The exemplar tariff that the Commission approved in and attached as Appendix B to its Order contains its own specific provisions regarding partial payments, which are not reflected by and conflict with the last sentence in the Order’s paragraph 9. Accordingly, paragraph 9 inaccurately reflects paragraph 8, which contains the Commission’s actual judgment rendered in this proceeding.

4. Staff (“Staff”) for the Commission and the Company had negotiated the exemplar tariff, including its partial payment provision. In particular, EMW represented that the exemplar tariff’s partial payment language is industry standard for similar securitization proceedings monitored by the Company, as well as consistent with the configuration of the Company’s billing system. Reconfiguring the billing system to comply with the Order’s paragraph 9, which requires different treatment for late fees, would be costly and time-consuming.

5. As the issue with paragraph 9’s language is thus likely a clerical error, and otherwise substantially inconsequential to the overall securitization transaction, EMW requests that the Commission grant the instant Motion for a nunc pro tunc order to clarify and/or correct the Order by rescinding paragraph 9’s language on partial payments. “The commission may correct its own orders *nunc pro tunc*.” 20 CSR 4240-2.160(4). See, e.g., Dobson v. Riedel Surv. & Eng’g Co., 973 S.W.2d 918, 921 (Mo. Ct. App. W.D. 1998) (a nunc pro tunc order is a “device whereby a court may correct clerical errors or omissions in the record that inaccurately reflect the judgment actually rendered.”).

6. The fact that the Commission’s judgment and different language of the Order are currently on appeal has no bearing on this requested relief to clarify and/or correct, which the Commission is fully authorized to grant while the appeal is pending. This is because the Commission’s jurisdiction over its own “records exists independently of the [the Commission’s or an appellate court’s] jurisdiction over its cause or its judgment.” Id. at 922. As such, this correction of the record and Order can be made now, regardless of whether the Commission currently has “jurisdiction over the cause” or its ultimate judgment. Id. The “changes relate back to the original judgment and do not constitute a new judgment.” Id.

7. The Commission has granted requests of this nature in other, similar cases. In In re Tariff Sheets Filed by Union Elec., the Commission issued an order approving AmerenUE's tariff sheet. See No. ET-2010-0123, 2009 WL 4023605 (Nov. 12, 2009). The next day, AmerenEU filed a motion for clarification objecting to a sentence in footnote two of the order. The Commission held that the "sentence that was struck from the order, the correction, was non-substantive and striking it did not in any way affect or alter the decision of the Commission when approving AmerenUE's tariff." Id.

8. Likewise, EMW hereby requests that the Commission correct its Order by striking the last sentence of paragraph 9 regarding partial payments, because it is non-substantive and in no way affects or alters the decision of the Commission. Instead, paragraph 8 is consistent with the configuration of EMW's billing system, and is standard treatment for partial payments in securitization transactions. Additionally, EMW will soon be filing compliance tariffs mirroring the exemplar tariff in paragraph 8 that the Commission has already approved.

9. EMW consulted Staff, and Staff advised that it does not oppose the relief requested by this Motion.

WHEREFORE, Every Missouri West respectfully requests the Commission grant its Motion as stated herein, and for all further relief that the Commission deems just and proper.

Respectfully submitted,

/s/ Roger W. Steiner

Roger W. Steiner, MBN 39586
Evergy, Inc.
1200 Main Street
Kansas City, MO 64105
Phone: (816) 556-2314
roger.steiner@energy.com

Karl Zobrist, MBN 28325
Jacqueline M. Whipple, MBN 65270
Dentons US LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Phone: (816) 460-2400
Fax: (816) 531-7545
karl.zobrist@dentons.com

James M. Fischer, MBN 27543
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
Phone: (573) 636-6758 ext. 1
Fax: (573) 636-0383
jfischerpc@aol.com

Attorneys for Evergy Missouri West

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been 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 on this 1st day of November 2023.

/s/ Roger W. Steiner

Attorney for Evergy Missouri West