

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File  
File No. EO-2023-0105  
In the Matter of the Application of Jack and Tammy Duncan for Change  
in Electric Supplier from to Platte-Clay Electrical Cooperative from  
Evergy Missouri West, Inc. d/b/a Evergy Missouri West.

**FROM:** Brodrick Niemeier, Industrial Analysis Division, Engineering Analysis Dept.

*/s/ Brodrick Niemeier*      12/22/2023  
Engineering Analysis Dept. / Date

**SUBJECT:** Staff Memorandum Recommending Denial of Application

**DATE:** December 22, 2023

### STAFF RECOMMENDATION

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) deny the Application of Mr. and Mrs. Duncan for a Change in Electric Service Suppliers (“Application”) at \*\* [REDACTED], \*\* from Evergy Missouri West (“EMW”) to Platte-Clay Electric Cooperative, Inc. (“Platte-Clay” or “Co-Op”), concluding that the Application does not meet the minimum standard for public interest for reasons other than a rate differential pursuant to 393.106.2 and 394.315.2, RSMo (2021)<sup>1</sup> and 20 CSR 4240-3.140.<sup>2</sup> Staff has found that the Company has made improvements to address the customer’s reliability issues that at this time appear to be successful.

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1 Section 394.315.2 states, in relevant part, that “...Once a rural electric cooperative, or its predecessor in interest, lawfully commence supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The commission’s jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction.”

2 Section 393.106.2 states, in relevant part, that “...Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context

## OVERVIEW

On September 15, 2022, Mr. and Mrs. Duncan filed an Application with the Commission seeking approval of their request to change electric service provider from EMW to Platte-Clay at \*\* [REDACTED] \*\*. The customers indicated in their Application that they are self-employed and run a daycare business out of their home and a remodeling business out of a small shop behind their house. Mr. and Mrs. Duncan have indicated in their Application that there are major electric reliability concerns, namely the frequency of outages. The customers have made no mention of rate-differentials being a contributing factor, either in their Application or in communication with Staff.

EMW is current on its filing of annual reports and payments of its assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against EMW in any state or federal agency or court involving customer service or rates that would have bearing on the immediate case. There are six other open Change of Supplier cases involving Evergy Missouri West, two involve both Platte-Clay and Evergy Missouri West.<sup>3</sup> Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

## DISCUSSION

In a phone call on October 26, 2023, Staff and Mr. Duncan further discussed the issues listed in the Application, filed September 15, 2022. On this call, Mr. Duncan explained how his service had been so unreliable that he had to buy a generator to power parts of his home during brownouts.<sup>4</sup> Mr. Duncan reports that he has lost multiple refrigerators of food in the past due to extended outages, and his wife's daycare has to send children home early whenever the property

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of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction."

<sup>3</sup> EO-2024-0142 and EO-2024-0035 involve both EMW and Platte-Clay, while EO-2024-0161, EO-2024-0166, and EO-2024-0181 involve EMW and Osage Valley Electric Cooperative. The final case was initiated by Brett Felber to move from Ameren to EMW.

<sup>4</sup> A brownout is a drop in voltage resulting in reduced illumination.

loses power. Some of these outages appear to be limited to only the Duncan's property, as all their neighbors had power while Mr. Duncan had to run his generator. As noted in the Duncan's Motion for Continuance, an EMW representative presented several corrective actions that it could attempt. Mr. Duncan alleged both in the October 26, 2023 phone call, as well as within an email chain beginning on November 29, 2023 that outages at his house were still frequent, and that after the conversation with the representative he had not heard from EMW again and did not know if any of the discussed improvements were made.

In Platte-Clay's Response to the Application, filed on November 3, 2022, Platte-Clay indicates its ability to provide service for Mr. and Mrs. Duncan if ordered to. The Co-Op took no position on whether or not the Commission should approve the Application.

In EMW's Response, filed on November 3, 2023, EMW recommended the Commission grant an extension on Staff's recommendation, citing the customer's *Motion for Continuance* and adding "the Customer and the Company are working together to attempt to resolve any issues."<sup>5</sup> EMW noted that it, as the provider of permanent electric service, had the right to continue serving the Duncan's. According to EMW, it replaced the customer's transformer in November 2022. Additionally, EMW completed system upgrades, specifically EMW \*\* [REDACTED] \*\*.<sup>6</sup> EMW could not provide a record of contact with the customer discussing the customer's issues, either on November 1, 2022 when the transformer was replaced, or afterwards.<sup>7</sup>

In previous Change of Provider Cases, the Commission has identified ten factors<sup>8</sup> when considering the "...meaning of 'public interest' for a change of supplier." These ten factors, along with Staff's analysis are:

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5 From Paragraph 3 of Evergy Missouri West's Response.

6 Data Request 1, Confidential.

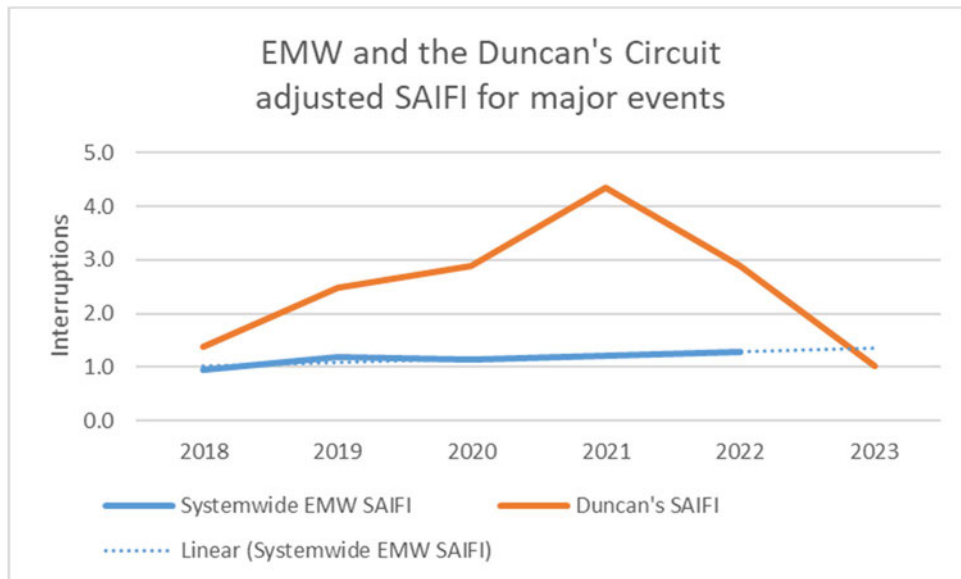
7 EMW Data Request 3 and 4, Public.

8 Case No. EO-2017-0277.

**(1) Whether the customer's needs cannot adequately be met by the present supplier with respect to either the amount or quality of power;**

Mr. Duncan has alleged that EMW's service reliability is not adequate. In response to Staff Data Request 2, EMW provided the adjusted SAIFI (System Average Interruption Frequency Index),<sup>9</sup> a gauge for the frequency of interruptions, for the circuit serving the Duncan's.

Figure 1 below includes Evergy Missouri West's adjusted SAIFI metrics as reported in its annual reliability reports<sup>10</sup> compared to the adjusted SAIFI metrics for the Duncan's circuit over the past five years. This includes a linear estimation of the EMW 2023 adjusted SAIFI value based off the last five years. As shown in Figure 1, the Duncan's circuit has demonstrated a history of poorer performance than the EMW system as a whole. However, EMW reported in November 2023 that the Duncan's circuit had a year-to-date SAIFI value of 1.03, indicating an improvement in the frequency of outages on this circuit.



<sup>9</sup> According to 20 CSR 4240-23.010: System Average Interruption Frequency Index (SAIFI), which reflects the average frequency of service interruptions in number of occurrences per customer and is defined as the total number of customer interruptions for the period covered divided by the total number of customers served; throughout this report, adjusted SAIFI will be used.

<sup>10</sup> EO-2019-0328, EO-2020-0340, BRIP-2021-1780, EO-2022-0343, and EO-2023-0383.

The electric utilities are required to provide the Commission with a Worst Performing Circuits (WPC) list as a part of its annual reliability reporting. The WPC is a list of the worst 5% of circuits by SAIFI value. Additionally, the utilities are required to report all corrective actions the company has taken or plans to take to improve reliability of the WPC. The Duncan's circuit did not appear on this list, either in 2021 or in 2022. Indicating that while outages on the Duncan's circuit occur more frequently than the EMW system as a whole, there are circuits that are worse performing than the circuit serving the Duncan's.

In 2021, the Duncan's experienced six outages, one of which lasted over 18 hours, and was caused by vegetation. Other major outage causes in 2021 were weather and the public. In 2022, the Duncan's experienced nine sustained outages. Equipment, including a planned transformer replacement, as well as weather and vegetation were the main causes of these outages. EMW has attempted to address the reliability issues, and since January 2023, there have only been two outages recorded by EMW, one caused by the public and another caused by weather.

In terms of SAIFI, the circuit serving the Duncan's has, in the past experienced reliability that is worse than the EMW system SAIFI. However, after the Application was filed in late 2022, EMW made improvements. EMW replaced the transformer serving the Duncan's and the system upgrades are expected to limit \*\* [REDACTED] \*\* likely reducing the risk of outages caused by vegetation and storms.

**(2) Whether there are health or safety issues involving the amount or quality of power;**

Staff is not aware of electrical safety issues with the current situation. Mrs. Duncan sends the children in her daycare home early whenever there is an outage as a safety precaution, the HVAC system cannot operate and proper meals cannot be prepared.<sup>11</sup>

**(3) What alternative a customer has considered, including alternative with the present supplier;**

The Duncan's gave EMW six months to address the reliability issues after they filed a Motion for Continuance in November of 2022. This was after EMW replaced their transformer

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<sup>11</sup> According to the customer's Application

on November 1, 2022. At the end of the 6-month continuance, the customer asked for a further six months due to health issues. In October 2023, Staff began re-investigating the case after the year of requested extensions. Staff is concerned that it appears that EMW did not take additional actions or discuss its progress with the Duncan's between November 1, 2022 and November 2023 despite indicating to the Commission it was working with the Duncan's.<sup>12</sup> Staff has outstanding data requests on the topic.<sup>13</sup>

**(4) Whether the customer's equipment has been damaged or destroyed as a result of a problem with the electric supply;**

Staff is not aware of any claims by Mr. Duncan of damaged equipment as a result of the electric service provided. In the phone call on October 26<sup>th</sup>, 2023, he described the outages as brownouts and reported no power surges.

**(5) The effect the loss of the customer would have on the present supplier;**

EMW has not indicated what possible effects losing this customer may have on its system/operations. Although any impacts are likely negative on EMW and its customer base.

**(6) Whether the change in supplier would result in a duplication of facilities, especially in comparison with the alternatives available from the present supplier, a comparison that should include;**

- (i) The distance involved and cost of any new extension, including the burden on others – for example, the need to procure private property easements, and
- (ii) The burden on the customer relating to the cost or time involved, not including the cost of the electricity itself.

Approval of the Application would not result in duplication of any facilities as Platte-Clay already has a transformer in the customer's front yard. The Co-Op has a circuit that runs in front

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<sup>12</sup> Paragraph 3 of *Evergy Missouri West's Response to Application to Change Electrical Supplier*.

<sup>13</sup> EMW's response to Data Requests 1, 2, 3, 4, 5, 6, 7, and 8 were all 11 days late. EMW did request seven more days to respond to Data Requests 1, 3, 4, and 8, but could not answer any Data Requests even within this additional time. Staff asked a few follow-up data requests that are due by December 26<sup>th</sup>. Staff requested EMW provide responses by the 20<sup>th</sup> but responses have yet been received.

of the customer's property which was designed in 1985 to serve all lots along \*\* [REDACTED] [REDACTED] \*\*, including the customer's.<sup>14</sup> Staff is not aware if this transformer is currently in use, but its location effectively eliminates any concerns of duplication if the Application was approved.<sup>15</sup>

**(7) The overall burden on the customer caused by the inadequate service including any economic burden not related to the cost of electricity itself and any burden not considered with respect to factor 6(ii) above;**

During the phone call on October 26, 2023, Mr. Duncan mentioned losing multiple refrigerators of food in the past due to outages and has invested in a small electric generator to minimize the losses caused by outages going forward. Additionally, Mr. Duncan's remodeling shop and Mrs. Duncan's daycare have to close for the duration of outages, impacting both small businesses.<sup>16</sup>

**(8) What efforts have been made by the present supplier to solve or mitigate problems;**

As discussed under the third factor, EMW has made efforts to improve the reliability, first by replacing the customer's transformer in November 2022, and secondly by making system upgrades in November 2023.

**(9) The impact the Commission's decision may have on economic development on an individual or cumulative basis;**

No party has discussed the potential for positive or negative impact to economic development resulting from the approval of the Duncan's Application. Economic development is not a significant factor in this Change of Supplier request given the Duncan's have not expressed plans for future development. Economic burden to the Duncan's is discussed under factor 7.

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<sup>14</sup> The customer's Application alleges that a Platte-Clay transformer is in their yard and Platte-Clay confirmed this fact in response to Data Request 10.

<sup>15</sup> Platte-Clay did not explain the current purpose of the transformer in Data Request 10.1.

<sup>16</sup> Customer's Application.

**(10) The effect the granting of authority for a change of suppliers might have on any territorial agreements between the two suppliers in question, or on the negotiation of territorial agreements between the electric service suppliers.**

Staff is unaware of any existing Territorial Agreements between EMW and Platte-Clay, any discussions between EMW and Platte-Clay regarding any Territorial Agreements, or the effect on such negotiations if the Commission should approve the Application.

Besides the ten public interest factors, Staff is concerned that EMW reported it had no communication with the Customer after improvements were made<sup>17</sup> despite claiming in its Response that “the Customer and the Company are working together to attempt to resolve any issues.”<sup>18</sup> Mr. Duncan was unaware of any changes as late as November 30, 2023.<sup>19</sup> \*\* [REDACTED]  
[REDACTED] \*\* EMW had yet to contact the customer about completing their system upgrades.<sup>20</sup>

**CONCLUSION**

Staff recommends the Commission deny the Application of Mr. and Mrs. Duncan. EMW has recently made system upgrades to the circuit serving the Duncan’s, that are expected to reduce the risk of outages caused by vegetation, weather, and the public. The other major source of outages, equipment failure, has not been an issue since the company replaced the customer’s transformer. Staff also notes that there are neither electrical safety nor duplication concerns with either result and economic development will also be unaffected.

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17 Response to Staff Data Request 4.

18 Paragraph 3 of *Evergy Missouri West’s Response to Application to Change Electrical Supplier*.

19 Staff reached out to the customer via email on November 29th, 2023 to ascertain whether Mr. Duncan had noted any improvements in the frequency of outages.

20 Response to Staff Data Request 1.



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

In the Matter of the Application of Jack and )  
Tammy Duncan for Change of Electric )  
Supplier to Platte-Clay Electrical )  
Cooperative from Evergy Missouri West, )  
Inc. d/b/a Evergy Missouri West )  
)

**File No. EO-2023-0105**

**AFFIDAVIT OF BRODRICK NIEMEIER**

STATE OF MISSOURI    )  
                                  ) ss.  
COUNTY OF COLE     )

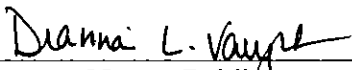
COMES NOW BRODRICK NIEMEIER, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
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BRODRICK NIEMEIER

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 21<sup>st</sup> day of December 2023.

  
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Notary Public

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2027 Commission Number: 15207377
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