

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

In the Matter of the Fifth Prudence )  
Review of Costs Subject to the )  
Commission-Approved Fuel ) **Case No. EO-2023-0276**  
Adjustment Clause of Evergy Metro, )  
Inc. d/b/a Evergy Missouri Metro )

In the Matter of the Eleventh Prudence )  
Review of Costs Subject to the )  
Commission-Approved Fuel ) **Case No. EO-2023-0277**  
Adjustment Clause of Evergy Missouri )  
West, Inc. d/b/a Evergy Missouri West )

**STAFF’S STATEMENT OF POSITIONS**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and, as directed by the Commission’s *Order Setting Procedural Schedule and Delegation of Authority* of October 18, 2023, hereby tenders this *Statement of Positions*:

1. Have the Staff and the Office of the Public Counsel applied the Commission recognized prudence standard in evaluating their proposed disallowances?

**Staff’s Position:**

Yes, Staff used the same prudence standard it always uses when evaluating the prudence of company actions and decisions. Staff witness

Mastrogiannis stated that standard as follows:

In evaluating prudence, Staff reviews whether a reasonable person making the same decision would find both the information the decision-maker relied on and the process the decision-maker employed to be reasonable based on the circumstances and information known at the time the decision

was made, i.e., without the benefit of hindsight. If either the information relied upon or the decision-making process employed was imprudent, then Staff examines whether the imprudent decision caused any harm to ratepayers. Only if an imprudent decision resulted in harm to ratepayers will Staff recommend a disallowance. However, if an imprudent decision did not result in harm to [Evergy's] customers, then Staff may further evaluate the decision-making process, and may recommend changes to the company's business practice going forward.<sup>1</sup>

2. Were Evergy Missouri Metro and Evergy Missouri West imprudent in entering into four fixed-price, wind energy Purchased Power Agreements ("PPAs")<sup>2</sup> with twenty-year terms and no clause permitting early cancellation in the event of adverse market conditions?

**Staff's Position:**

Yes, entering into a fixed-price contract with a 20-year term and no early termination clause in the event of adverse market conditions is an imprudent action on its face. By the decision to enter into these long-term contracts with no way out, the Companies bet on a favorable market that would last for twenty years. And they made that bet with ratepayers' money.<sup>3</sup> If a company decided to add a new company-owned generating resource, it would have to seek Commission approval. PPAs do not require Commission approval. Staff not only gets the opportunity, but is required, to evaluate and file a recommendation with respect to a company's application for a Certificate of Convenience and Necessity ("CCN") for a

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<sup>1</sup> Rebuttal testimony of Brooke Mastrogiannis, page 11 lines 8 through 21.

<sup>2</sup> Denominated Cimarron 2, Spearville 3, Gray County, and Ensign.

<sup>3</sup> Rebuttal testimony of Brooke Mastrogiannis, page 16 lines 8 through 10.

proposed new or acquired company-owned resource addition. By contrast, a company is not required to apply for a CCN when entering into a PPA, therefore, neither Staff nor the Commission is afforded any opportunity to evaluate the merits of a PPA before the company enters into it.<sup>4</sup>

3. Were Evergy Missouri Metro and Evergy Missouri West imprudent in not protecting their ratepayers from the high costs resulting from the four fixed-price, wind energy PPAs in adverse market conditions?

**Staff's Position:**

Yes, it is Staff's conclusion that the Companies' decision to allow their ratepayers to continue to pay for losses on these PPAs that have already accumulated to nearly half a billion dollars is imprudent.<sup>5</sup> Staff considers it likely that these PPAs will continue to cost ratepayers substantially going forward simply because market energy prices are lower than the PPA contract prices by 92%, 90%, 81%, and 90%, respectively.<sup>6</sup>

4. Were Evergy Missouri Metro and Evergy Missouri West imprudent in not mitigating the impact on their ratepayers of the high costs resulting from the four fixed-price, wind energy PPAs in adverse market conditions?

**Staff's Position:**

Yes, once the Companies knew or should have known that these four PPAs were causing significant losses to ratepayers, the Companies

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<sup>4</sup> Surrebuttal testimony of Brad Fortson, page 4 lines 3 through 9.

<sup>5</sup> Rebuttal testimony of Brooke Mastrogiannis, page 17 lines 7 through 11.

<sup>6</sup> *Id.*

should have taken steps to mitigate the impact of these losses on the ratepayers; instead, the Companies did nothing.<sup>7</sup>

5. Were Evergy Missouri Metro and Evergy Missouri West imprudent in that their shareholders did not share any part of the high costs (minus the 95%/5% FAC sharing mechanism) resulting from the four fixed-price, wind energy PPAs in adverse market conditions?

**Staff's Position:**

Yes, based on historic actual data, historic trends, the cost/revenue assumptions going forward, and the customer harm recognizable on a long-term basis, in this circumstance by nearly half a billion dollars, it is Staff's opinion that it is imprudent for the Companies' to not do something about these PPAs going forward or to share more in the losses the ratepayers have incurred over all of these years.<sup>8</sup> It is Staff's position that the ratepayers have already paid enough for losses on these PPAs<sup>9</sup> and that any additional unanticipated costs from these PPAs should be borne by the shareholders.<sup>10</sup>

6. Was Evergy Missouri West's continuing decision to not acquire sufficient generation to protect its customers from the risks of the energy market

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<sup>7</sup> Rebuttal testimony of Brooke Mastrogiannis, page 11 lines 25 through 27.

<sup>8</sup> Direct testimony of Brooke Mastrogiannis, Confidential Schedule BMM-d3, page 34 lines 15 through 19.

<sup>9</sup> Rebuttal testimony of Brad Fortson, page 7 lines 12 through 13.

<sup>10</sup> Rebuttal testimony of Brad Fortson, page 5 lines 17 through 19.

and instead to rely on the energy market to meet a substantial portion of its customers' load requirements imprudent?

**Staff's Position:**

Staff agrees that Evergy Missouri West has relied on the market at times to meet its customer's energy needs. Staff does not consider this to be imprudent and is unsure of what a reasonable disallowance would be based on the amount of variables you would have to consider when trying to quantify such a number.<sup>11</sup>

7. Did Evergy Missouri West improperly recover through the FAC \$2,076.20 for SPP administrative fees, under Schedules 1 and 1a, neither of which are allowed in the FAC, per the Commission approved tariff, Original Sheet No. 127.16, nor are any SPP administrative fee charge types included in the FAC tariff sheets?

**Staff's Position:**

Yes. SPP administrative fees are not recoverable through the FAC.

A. If so, Should the Commission adopt Staff's proposed ordered adjustment of \$2,076.20, plus interest, for transmission and SPP administrative fees to be applied to Evergy Missouri West's next FAR filing?

**Staff's Position:**

Yes. Staff recommended this disallowance based off the Evergy Missouri West FAC Tariff, Original Sheet No. 127.16,

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<sup>11</sup> Rebuttal testimony of Jordan Hull, page 3 lines 7 through 10.

because \$2,076.20 was attributed to SPP Schedules 1 and 1a administrative fees, as those schedules are not permitted to be included in the FAC under SPP transmission service costs.<sup>12</sup>

8. If Evergy Missouri Metro and Evergy Missouri West were imprudent with respect to any of the decisions listed in Issues 1 through 5, above, should there be a disallowance?

**Staff's Position:**

Yes, there should be a disallowance.

A. If so, how much should the disallowance be?

**Staff's Position:**

See Staff's positions on items B through D, below.

B. Should the Commission adopt Staff's proposed ordered adjustment of \$12,401,229, plus interest, to be applied to Evergy Missouri Metro's next Fuel Adjustment Rate ("FAR") filing?

**Staff's Position:**

Yes.

C. Should the Commission adopt Staff's proposed ordered adjustment of \$13,989,508, plus interest, for purchased power costs to be applied to Evergy Missouri West's next FAR filing?

**Staff's Position:**

Yes.

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<sup>12</sup> Rebuttal testimony of Brooke Mastrogiannis, page 25 lines 3 through 23.

D. Should the commission adopt OPC's proposed ordered adjustment of \$86,376,294, with interest, to be applied in Evergy Missouri West's next FAR filing?

**Staff's Position:**

No.

9. Should the Commission order that any losses incurred for these PPAs going forward be borne by the Companies' shareholders?

**Staff's Position:**

Yes, Staff recognizes now, and has recognized for a long time, that these PPAs will not ever make up for the losses they have already incurred roughly halfway through the contract term, and Staff now has enough data to make this recommendation.<sup>13</sup> Staff has concluded that customers will never see a benefit from these PPAs, therefore, the ratepayers should not have to suffer any more harm from them going forward. Staff recommends the Commission order any losses incurred for all PPAs going forward that are halfway through their contract life be borne by the Companies' shareholders.<sup>14</sup>

**WHEREFORE**, Staff respectfully submits its *Statement of Positions* in satisfaction of the Commission's *Order Setting Procedural Schedule and Delegation of Authority* of October 18, 2023.

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<sup>13</sup> Direct testimony of Brooke Mastrogiannis, Confidential Schedule BMM-d3, page 34 lines 21 through 24.

<sup>14</sup> Direct testimony of Brooke Mastrogiannis, Confidential Schedule BMM-d3, page 35 lines 6 through 11.

Respectfully submitted,

/s/ Kevin A. Thompson

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### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to the parties of record as listed in the Service List maintained for this case by the Commission's Data Center, on this 31<sup>st</sup> day of January, 2024.

/s/ Kevin A. Thompson