

**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 MOTION FOR SEVERANCE, FOR A CONTINUANCE,
AND FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion for Severance, for a Continuance, and for Expedited Treatment*, states as follows:

1. This matter concerns disallowances for imprudence recommended by Staff in its *Staff Report of its Fifth Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of Evergy Missouri Metro* and *Staff Report of its Eleventh Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of Evergy Missouri West*. Together, Staff’s recommended disallowances amount to \$26,390,737, plus interest. Staff has also proposed a disallowance for Evergy Missouri Metro of \$2,076.20, plus interest, for certain Southwest Power Pool (SPP) administrative charges that Staff contends are not properly recoverable through the Fuel Adjustment Clause (FAC).

2. Staff's allegation of imprudence concerns four long-term, fixed-price, wind-energy purchased power agreements (PPAs) that Staff's audit shows have resulted in almost a half billion dollars of excess charges to the ratepayers over half of the contract term. These charges are the cumulative amount by which the PPA contract price per MWh of energy has exceeded the market price.

3. A disallowance for imprudence in Missouri requires both an imprudent decision or action and demonstrable resulting harm to the ratepayers.

4. It was not until the Surrebuttal Testimony filed on January 18, 2024, that Company witness Kayla Messamore brought to Staff's attention certain quantified transmission congestion right ("TCR") revenue streams that could be attributable to the four PPAs. Staff was not aware the TCR revenue streams could potentially be matched back to specific generating assets and those revenues were never reported that way in the Company's own FAC monthly reports.¹ If the information provided by the utility at this point in time has merit, then the consideration of this revenue shows that the four PPAs may have provided a net economic benefit to ratepayers for the review period.

5. Having only learned of this significant change in the attribution of TCR revenues on the very eve of the hearing of this matter, set to begin on February 6, 2024, Staff has not yet had a sufficient opportunity to confirm all of the figures provided by Ms. Messamore. However, if the new information has merit,

¹The TCR revenues are illustrated as lump sums in the Company's FAC monthly reports.

then Staff can no longer show any harm to ratepayers associated with the four PPAs.

6. Staff now moves the Commission to sever the hearing concerning the PPAs from the hearing on the issue raised by the Office of the Public Counsel. The two issues are distinct and largely unrelated² and can be tried separately with no prejudice to any party.

7. Staff also now moves the Commission to continue the hearing concerning the PPAs so that Staff has an opportunity to confirm the figures provided by Ms. Messamore. Staff suggests a continuance of thirty days, at the end of which Staff will file a pleading stating the results of its analysis and proposing an appropriate course of action.

8. Staff does not know and can only speculate why the Company failed to advise Staff that its prudence reviews did not take into account all of the revenues attributable to the PPAs. Staff has stated repeatedly over the years its opinion that the PPAs were causing excessive charges to the ratepayers, a conclusion that would have been quite different had it been aware that the TCR revenues could be attributed to specific generating units and PPAs. Staff has only limited resources and, had Staff been so advised in a timely fashion, the resources so far expended on this case would have been saved. The data that Staff requires to do its job is under the sole control of the regulated utilities and the Commission's ability to regulate those utilities in the public interest is necessarily

² *Office of the Public Counsel's Statement of Positions*, filed January 31, 2024, notes that "[t]he OPC and the Staff of the Public Service Commission ("Staff") have raised separate and distinct issues in these cases."

compromised if that data is not provided to Staff in full and on time. Given the fundamental importance of this issue, Staff suggests that the Commission should require an explanation from the Company.

9. In its prudence reviews of electric utility FACs, Staff's concern and goal is to accurately determine the economic detriment or benefit of the Company actions and decisions that resulted in the amounts submitted for recovery through the FAC so that the ratepayers are not required to pay any costs resulting from imprudence. Ms. Messamore's surrebuttal testimony has raised a significant question regarding the calculation of Staff's disallowance, as explained above in Paragraph 4, such that it would be irresponsible for Staff not to so advise the Commission and parties, and to redetermine its prudence reviews using the most accurate information available. This motion represents the most appropriate course of action available to the Staff in the circumstances.

10. Staff seeks expedited treatment of this motion because the hearing in this matter is set to begin on Tuesday, February 6, 2024, the second business day from today. As explained above, Staff could not have filed this motion any sooner.

WHEREFORE, Staff respectfully moves to sever its issues herein from that raised by the Office of the Public Counsel, for a continuance on the issues raised herein by the Staff regarding the PPAs, and for expedited treatment, all as described in detail above; and for such other and further relief as is just in the circumstances.

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 2nd day of February, 2024.

/s/ Kevin A. Thompson