

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

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

**EVERGY MISSOURI WEST’S
POST-HEARING REPLY BRIEF**

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or the “Company”) and, for its *Post-Hearing Reply Brief* (“Brief”), states as follows:

INTRODUCTION

The Office of the Public Counsel’s (“OPC”) Initial Brief reflects a fundamental misunderstanding of the Southwest Power Pool (“SPP”) energy market and the realities of EMW’s resource planning and corporate governance, as well as a resulting misapplication of the Missouri prudence presumption and standard. Leveraging that fundamental misunderstanding and misapplication, OPC issued a purported “call of action” to the Public Service Commission (“Commission”), repetitively threatening that: “Absent the Commission taking necessary actions ... the losses incurred in this case will be repeated in future prudence periods” and “OPC will be compelled to bring this same issue back to the Commission to once again try to stem this constant bleeding.”¹ While OPC sensationalizes its position with terms like “constant bleeding” and an

¹ Repetition does not equal truth. *See, e.g.*, “The effects of repetition frequency on the illusory truth effect,” Aumyo Hassan and Sarah J. Barbe, NIH National Library of Medicine, *Cogn Res Princ Implic.* 2021 Dec; 6: 38. Published online 2021 May 13. doi: 10.1186/s41235-021-00301-5, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8116821/> (“Repeated information is often perceived as more truthful than new information. This finding is known as the illusory truth effect, and it is typically thought to occur because repetition increases processing fluency.”); OPC Initial Brief at 6.

overplayed number of references to inaccurately portrayed “hundreds of millions of dollars of losses,” the OPC’s rhetoric remains unfounded both factually and legally.

OPC cannot avoid the Commission’s prior ten rulings in which the Commission never found EMW’s generational resource planning to be imprudent and never issued any associated disallowance.² Here, too, OPC has not satisfied its burden of proof of evidencing a “serious doubt” to rebut the prudence presumption, nor established the legal elements of the prudence standard on the record as a whole.³ The Commission should yet again reject OPC’s arguments, which employ unlawful hindsight, hypotheticals, and speculation rather than evidence-based analysis as required under the Commission’s prudence test. EMW has demonstrated that OPC has not met its burden, and respectfully requests that the Commission deny OPC’s proposed disallowance in this proceeding.

ISSUES⁴

1. *Has OPC applied the Commission-recognized prudence standard in evaluating its proposed disallowance?*

As OPC’s Initial Brief underscores, the unavoidable answer to Issue 1 is “No.” OPC’s entire argument is that “Every West has been, and still is, imprudent in its resource planning,” “exposing” the Company’s customers to market price volatility rather than building steel-in-the-ground “insurance.”⁵ However, despite there being no authentic disagreement among the parties

² Ex. 8, Ives Surrebuttal at 16 (citing Amended Report and Order, p. 33, In re App. of EMW for a Financing Order of Extraordinary Storm Costs Through an Issuance of Securitized Utility Tariff Bonds, No. EF-2022-0155, (issued November 17, 2022)); Tr. 152:18-154:-5 (Mantle).

³ See State ex rel. Associated Natural Gas v. PSC, 954 S.W.2d 520, 528-529 (Mo. App. W.D. 1997); see, e.g., Report and Order, p. 19, In re: Eighth Prudence Rev. of Costs Subject to the Comm’n-Approved Fuel Adjustment Clause of KCP&L Greater Mo. Operations Co., No. EO-2019-0067 (Nov. 6, 2019); Report and Order, pp. 13-14, In re: Third Prudence Rev. of Costs Subject to the Comm’n-Approved Fuel Adjustment Clause of KCP&L Greater Mo. Operations Co., No. EO-2011-0390 (Sept. 4, 2012).

⁴ The Company does not agree with the wording of some issues or inclusion of all of the issues set out herein. The inclusion of an issue and the Company’s position thereon in the list below does not mean all parties agree with such issue’s characterization, that such issue identified is actually in dispute, and/or that a Commission decision on such issue is proper or necessary in this case.

⁵ OPC Initial Brief at 7.

as to the governing Missouri-law prudence presumption and standard,⁶ OPC still offers no evidentiary or legal support for its position.

As a threshold matter, OPC's use of "has been and still is"⁷ appears to suggest that a Fuel Adjustment Clause ("FAC") prudence review should apply prohibited retroactive ratemaking, which the Commission must discard out of hand. State ex rel. Ag Processing vs. PSC, 340 S.W.3d 146 (Mo. App. W.D. 2011). Similarly, the Commission should also disregard OPC's uncorroborated allegation of a billion-dollar "loss" from the "past four FAC prudence periods" and EMW's Winter Storm Uri securitized costs, which in turn plainly violates Mo. Rev. Stat. § 393.1700.3.⁸

Next, OPC's "three points" that its Initial Brief claims rebut the mandatory prudence presumption reveal themselves as unsubstantiated sensationalism.⁹ OPC's "first point" that "the Company just let the losses continue to pile up, prudence period after prudence period" while taking "no action" is unaccompanied by citations to any reasoned or verifiable analysis.¹⁰ To the contrary, the Company's expert witnesses provided detailed pre-filed and hearing testimony, along with supporting Integrated Resource Planning ("IRP") data and considerations for the audit period at issue, which were not countered by OPC with requisite competent evidence.¹¹ The same is true for OPC's "second point," another unadorned allegation that "[n]o other Missouri utility has relied on an RTO energy market to cover customer load requirements," which is not from an evidence-based analysis of EMW's resource planning or an apples-to-apples comparison of utilities' asset

⁶ Associated Natural Gas, 954 S.W.2d at 528-9; OPC Initial Brief at 9-10.

⁷ OPC Initial Brief at 7.

⁸ OPC Initial Brief at 4-5.

⁹ Id. at 12-14.

¹⁰ Id.

¹¹ Associated Natural Gas, 954 S.W.2d at 528-9; EMW Initial Brief at 4; OPC v. PSC, 409 S.W.3d 371, 379 (Mo. 2013), as modified (Sept. 10, 2013) and Deck v. Teasley, 322 S.W.3d 536, 539 (Mo. 2010) ("A presumption places the burden of producing substantial evidence to rebut the presumed fact on the party against whom the presumption operates.").

portfolios and load requirements during the audit period.¹² Perhaps most transparent is OPC's "third point," where OPC stretches out-of-context quotations into a broad assertion that "each of the three Evergy West witnesses who sponsored testimony in this case have also testified to this Commission about how an overreliance on the SPP energy market to cover customer need is imprudently risky."¹³ In EMW's witnesses' EA-2023-0291 (Dogwood) testimonies, in fact discussed how the Company's current IRP process indicates a need for capacity in the near future, which determined that Dogwood was the viable option, not any past need to build.

None of these specious arguments have resulted in a disallowance or finding of imprudence in ten prior proceedings, they cannot as a matter of law now constitute "substantial evidence" to support vague allegations regarding EMW decision-making during the audit period (let alone for years before), to rebut the prudence presumption.¹⁴ The Commission should end its evaluation here because OPC did not carry its burden.¹⁵

As detailed in EMW's Initial Brief, even if the Commission proceeds to the undisputed prudence standard itself, OPC has also not met its two prongs: (1) evaluate whether the utility acted imprudently (that is, did not act reasonably at the time under the applicable circumstances); and (2) evaluate whether such imprudence was the cause of the harm (increased costs) to the utility's customers.¹⁶ OPC denies relying on hindsight in its pre-filed testimony, position statements, opening statement, and Ms. Mantle's cross-examination.¹⁷ But OPC's inflamed

¹² Ms. Mantle agrees such analysis would need to include "complex optimization of many forecasted variables including future market price, the impact of demand-side resources, and customer load requirements." Tr. 152:5-15 (Mantle) (citing Mantle Direct at 5).

¹³ OPC Initial Brief at 4-5.

¹⁴ "Substantial evidence" is "evidence which, if true, has probative force upon the issues, i.e., evidence favoring facts which are such that reasonable men may differ as to whether it establishes them." See Deck, 322 S.W.3d at 540; EMW Initial Brief at 5.

¹⁵ E.g., Atmos Energy Corp. v. OPC, 389 S.W.3d 224, 230 (Mo. App. WD 2012).

¹⁶ EMW Initial Brief at 5-6; see Associated Natural Gas, 945 S.W.2d at 529.

¹⁷ EMW's arguments that OPC is attempting to apply improper hindsight in this proceeding are thus uncontested. See Tr. 145:22-146:7 (Mantle) ("I don't know."); EMW Initial Brief at 6-8.

contentions about EMW's unidentified "ongoing decision" over "the last decade" to not acquire unnamed "sufficient resource generation" to stop EMW's customers' unspecified "bleeding" necessarily utilize later-period market information as compared to the audit period, amounts to unlawful hindsight.¹⁸ Further, OPC has completely failed to prove any causal connection between its argument about EMW's "lack of insurance" to OPC's proposed disallowance.¹⁹

EMW was prudent in its decision to buy energy from the SPP market during this FAC prudence review, as determined by its IRP process, and as explained by its witnesses in this case. This is the only substantive, competent evidence regarding EMW's decisions during the audit period in the record.²⁰ "Making a claim of imprudence" without any analysis "is simply, unjust, unreasonable, and illogical."²¹ Accordingly, because OPC failed to meet its burden of proof under the Missouri prudence presumption or standard, its proposed disallowance should be denied.

6. *Was Evergy Missouri West's continuing decision to not acquire sufficient generation to protect its customers from the risks of the energy market and instead to rely on the energy market to meet a substantial portion of its customers' load requirements imprudent?*

OPC's argument for this Issue delves into a four-page, oversimplified analogy to purchasing homeowners' insurance. There are several fatal flaws with OPC's approach.

First, insurance purchase decisions involve multiple variables generally, as well as individual variables specific to the purchaser. OPC fails to acknowledge EMW's witnesses Darrin Ives', Kayla Messamore's, and John Reed's testimony that the Company's "insurance" necessarily includes a variety of resources, such as physical assets, financial hedges, and purchase power agreements.²² And of course, owning "homeowners' insurance" is drastically different than

¹⁸ E.g., OPC Initial Brief at 32.

¹⁹ Tr. 194:15-24 (Commissioner Holsman) ("I'm still trying to ... hear evidence that ... what has occurred in this FAC period has actually caused – that volatility has caused harm to the ratepayers.").

²⁰ EMW Initial Brief at 16.

²¹ Ex. 302, Mantle Surrebuttal at 25 (quoting Ex. 7, Reed Rebuttal at 7).

²² Tr. 54:6-11, 58:5-11 (Messamore); Tr. 101:14-15 (Ives); EMW Initial Brief at 11.

building assets, which are investments and included in customers' rate base. OPC's analogy fails to take into account EMW's IRP process, asset portfolio, and customer requirements, or the actual performance of the SPP market during the audit period at issue that would inform all such variables and associated decision-making.²³ In fact, and directly contrary to OPC's untailored analogy, EMW's witnesses testified that EMW's Preferred Plan and market conditions demonstrated it was more cost-effective for EMW's customers for EMW to purchase from the SPP market during the audit period, rather than build generating assets or even deploy all of the assets that EMW owns.²⁴

Second and relatedly, OPC's argument rests entirely on the testimony of Ms. Mantle, who in turn is proclaiming her own unsupported pronouncement.²⁵ This is not competent or substantial record evidence under Missouri law,²⁶ as unfounded analogy is no legal or factual substitute for the proper and fulsome expert analysis that Ms. Mantle readily admits she did not perform in this case.²⁷

Third, OPC's insurance analogy is inextricably intertwined with unlawful hindsight.²⁸ OPC is misfocused on the impact of an unforeseeable, fictional tornado leveling a fictional house rather than its homeowner's actual decision-making in purchasing insurance.²⁹ But EMW agrees

²³ Tr. 54:6-11, 58:5-11 (Messamore); Tr. 75:19-22, 83:2-18, 101:14-15, 102:9-103:8, 106:18-25 (Ives); Ex.10, Messamore Surrebuttal at 12-3; Ex. 6, Messamore Rebuttal at 8-10 (EMW's IRP process "also assesses the cost of purchasing energy from the SPP market in a wide variety of potential futures." When "a plan is identified as 'least cost'... it is 'least cost' across this wide variety of futures and factoring in all costs of the resource plan.").

²⁴ EMW Initial Brief at 10.

²⁵ OPC continuously offers "its own previous concerns about Evergy West's resource planning as its primary evidence of imprudence." Ex. 8, Ives Surrebuttal at 16 (citing Amended Report and Order, p. 33, In re App. of EMW for a Financing Order of Extraordinary Storm Costs Through an Issuance of Securitized Utility Tariff Bonds, No. EF-2022-0155, (issued November 17, 2022)); Tr. 152:18-154:-5 (Mantle).

²⁶ The Commission "is not required to admit opinion evidence that is connected to" FAC costs incurred during the audit period only "by the ipse dixit of the expert." E.g., Gebhardt v. Am. Honda Motor Co., 627 S.W.3d 37, 46 (Mo. Ct. App. 2021) ("A court may conclude that there is simply too great an analytical gap between the data and the opinion proffered.").

²⁷ Tr. at 159:19-160:7 (Mantle) ("I haven't done an analysis."); Ex. 6, Messamore Rebuttal at 5.

²⁸ Ms. Mantle's confusion with her own car-buying vs. gas-pump analogy is particularly illustrative of OPC's problem with hindsight. Tr. 145:22-146:7 (Mantle).

²⁹ OPC Initial Brief at 16; Tr. 145:22-146:7 (Mantle); EMW Initial Brief at 6; See In Re: Sixth Prudence Rev. of Costs Subject to the Comm'n-Approved Fuel Adjustment Clause of the Empire Dist. Elec. Co., No. EO-2017-0065, 2018

with Dr. Marke’s statement that a “homeowner does not need to perfectly predict whether a disaster is likely to strike the home nor does a disaster even need to occur for the decision to acquire insurance to be prudent...”³⁰ EMW, like any other utility in the country, cannot perfectly predict future energy prices in the SPP market, so it evaluates the information known “at the time” to determine the most prudent decision through its Commission-mandated IRP process.³¹

From this, OPC attempts a segway that EMW’s alleged failure to “match” energy costs with revenue from generation output sold into the SPP energy market has somehow resulted in a \$300 million loss—the marginal difference between EMW’s Non-Firm Short Term Energy and its Off System Sales Revenue—during this prudence review.³² However, OPC again drastically over-generalizes all of the complex variables occurring at any given point of time in an RTO.³³

Perfectly “matching” generation revenue to costs is “unachievable in an integrated market,” as the energy generated is the product of the SPP’s short-run margin economic optimization model dispatching the most economic generating assets.³⁴ Contrary to OPC’s statement, EMW is not “uninsured” because it could purportedly only generate 62% of its retail customer load requirement.³⁵ EMW had the capability to dispatch its fossil fuel fleet to cover its customers’ energy needs, but EMW prudently decided to rely “on the more economic wholesale market to provide energy” that was “cheaper than the operating costs” of EMW’s facilities.³⁶

WL 1452749, at *13 (Feb. 28, 2018) (stating “It is very easy to look back at [market prices] with perfect 20-20 hindsight to say that [an electric utility’s] decision . . . has cost its ratepayers a definite amount of money.”).

³⁰ EMW Initial Brief at 6-7.

³¹ Id. at 7.

³² OPC Initial Brief at 23-4.

³³ EMW Initial Brief at 12.

³⁴ Id.

³⁵ Id.

³⁶ Id. at 14; OPC Initial Brief at 31 (citing Ex. 306C, Messamore Direct EA-2023-0291).

Further, OPC’s hindsight-based current-market price comparison again ignores ownership and investment costs.³⁷ OPC claims that EMW should have “taken actions to protect itself” from market volatility, but makes no effort to specify what those “actions” would have been during the audit period.³⁸ If EMW had ignored its Preferred Plan just to pursue OPC’s principle of “matching” generation revenue to costs via some sort of increased capital investment, EMW would have had to develop a higher net present value revenue requirement (“NPVRR”), and likely would have faced opposition in a future rate case.³⁹ The Company’s IRP process, at that time, did not say “build.”⁴⁰ Exhibit 13, which is undisputed, demonstrates EMW was indeed “meeting its load requirements at SPP per peak load plus reserve margin” during this FAC prudence review period.⁴¹

Likewise, OPC referring to “other utilities” in the state, such as Liberty or EMM. are inappropriate and unhelpful as there is no expert analysis factoring in all known variables. OPC’s analytical failings are particularly apparent when comparing EMW to EMM during this review period. Unlike EMW, EMM’s assets were efficient and “in the money,” so the SPP market dispatched them during the audit period.⁴² Again, relying on the SPP energy market when a utility’s assets are “out of the money” is not imprudent, and OPC does not dispute this.⁴³ EMW utilized its IRP process, the only substantive, competent evidence regarding EMW’s decisions during this prudence review.⁴⁴

The same is true for OPC’s obvious mischaracterizations of EMW’s witnesses’ testimony, which in no way demonstrate any “overreliance” on the SPP energy market or any admission that

³⁷ Tr. 103:4-8.

³⁸ OPC Initial Brief at 12.

³⁹ Ex. 303, Marke Surrebuttal at 2.

⁴⁰ EMW Initial Brief at 14.

⁴¹ Ex. 13C; Tr. 129:10-24 (Ives); EMW Initial Brief at 14.

⁴² Id.

⁴³ Id. at 31 (citing Ex. 306C, Messamore Direct EA-2023-0291).

⁴⁴ Ex. 10, Messamore Surrebuttal at 19-20; EMW Initial Brief at 13.

purchasing from the SPP market is an “unduly risky method for meeting [EMW’s] customers” energy requirements.⁴⁵ OPC claims Mr. Ives concedes that “market purchases ... are akin to playing the Lotto,” but it would be unreasonable and illogical “to use [EMW’s] pending application for a CCN for the Dogwood facility to assert that it was imprudent for Evergy Missouri West to rely upon the energy market in the past when the Company used the best information available at that time to make its resource planning decisions.”⁴⁶ Current need to build or acquire generating assets does not equate to past needs—this is hindsight logic.⁴⁷ EMW’s current IRP process forecasts a need for wind, solar, and a natural gas-fired resource, but the past Preferred Plan in effect during this case’s audit period in this case did not.⁴⁸ A prudent utility has a diversified asset portfolio, which includes buying from the SPP energy market when the utility can take advantage of “economies of scale,” as during the audit period.⁴⁹ Once more, this is all evaluated and controlled for when determining EMW’s Preferred Plan.⁵⁰

Finally, OPC pronounces that EMW and its shareholders “are not exposed to the risk of price volatility” since the Company’s costs flow through the FAC to customers, and so there was “no motivation to change” EMW’s decision to purchase energy from the SPP market.⁵¹ OPC fails to mention the following : (1) the Missouri legislature has provided the opportunity for electric utilities in the state to utilize an FAC; (2) ALL electric utilities regulated by the Commission utilize very similarly structured FACs; and (3), virtually all jurisdictions in the country that regulate electric utilities employ FAC mechanisms, with the significant majority structured to more effectively pass through market volatility to retail customers than the Missouri FAC structure . The

⁴⁵ Ex. 5, Ives Rebuttal at 4-5.

⁴⁶ Id.

⁴⁷ Id.; Ex. 10, Messamore Surrebuttal at 19-20.

⁴⁸ Id.

⁴⁹ EMW Initial Brief at 12-13.

⁵⁰ EMW Initial Brief at 13-14.

⁵¹ OPC Initial Brief at 18.

OPC then over-reaches to describe the “moral hazard” of the application of the FAC by EMW and how, differently than every other Missouri electric utility and electric utilities across the country, EMW has allegedly utilized the FAC to shift all risk of supply to retail customers and chosen this “risk-shifting” approach over building generation (steel-in-the-ground), even though rate base investment is the only cost to serve customers that EMW shareholders can make money (earn a return) on. The OPC ignores the true reality that the concept of “moral hazard” is not applicable here, because EMW and its shareholders are not even logically incentivized by high energy prices. There is no benefit to shareholders when gas prices are higher, as fuel and purchased power costs are a pass-through only to retail customers whether reflected in base rates or in an FAC. Shareholders do not benefit (earn a return) on any cost to serve customers except for steel-in-the-ground asset investments. OPC’s twisted argument to suggest that EMW has somehow considered its utilization of the legislature’s approved FAC differently in its resources planning than all other utilities utilizing an FAC in Missouri and across the country is a red herring and should be ignored by the Commission. It is not founded in facts or reality, is not supported by any evidence-based analysis, and is not even grounded in sound regulatory theory in considering management and shareholder motivations. Rather, the “FAC is an example of good regulatory policy utilized by substantially all state regulatory jurisdictions with vertically integrated electric companies, to ensure that customers’ rates track the increasing and decreasing fuel and purchase power costs.”⁵² As EMW has demonstrated in this proceeding, adopting “OPC’s position in this case would be a major disincentive for Evergy to continue investing ... in any new generation resources in the SPP

⁵² Ex. 5, Ives Rebuttal at 5.

market.”⁵³ “[A]ny action taken against” EMW “to financially harm its shareholders... would constitute bad regulatory policy and be clearly inconsistent with the regulatory compact.”⁵⁴

OPC has failed its burden of proof under the prudence presumption and standard.

8. *If Evergy Missouri West was imprudent with respect to Issue 6, above, should there be a disallowance?*
 - a. *If so, how much should the disallowance be?*
 - b. *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?*

For the reasons discussed herein and in EMW’s Initial Brief, the Commission should not find EMW imprudent nor adopt OPC’s proposed disallowance of \$86,376,294 with interest. As discussed previously and above, OPC has not established a causal connection underpinning its proposed disallowance. Instead of providing any evidence-based analysis of the “costs” actually incurred during this FAC prudence review and any associated potential disallowance, OPC yet again resorts to an underdeveloped hypothetical or analogy.⁵⁵

Inexplicably, OPC’s Initial Brief ignores the testimony of EMW’s witnesses about EMW’s resource planning, and the Company’s corporate governance and operations. Although EMM and EMW have the same parent company and engage in some joint resource planning as mandated by 4 CSR 240-22.010, this does not affect their statuses as separate legal entities. Evergy, Inc. only conducts joint IRP processes to evaluate any potential inconsistencies between the affiliated companies.⁵⁶ Each company then selects and implements its own Preferred Plan on a stand-alone

⁵³ Ex. 8, Ives Surrebuttal at 17.

⁵⁴ *Id.*

⁵⁵ *E.g., State Ex rel. Praxair, Inc. v. PSC*, 328 S.W.3d 329, 341 (Mo. App. WD 2010) (“But because OPC presents no such concrete evidence, removed from mere hypothetical, we must deny this Point.”); *Brinker v. Miller*, 162 S.W.2d 295, 301 (Mo. App. 1942) (“It is a well-established rule that a judgment based upon evidence which amounts only to speculation or guess cannot be sustained.”).

⁵⁶ EMW Initial Brief at 17.

basis, and always has.⁵⁷ OPC's argument that Evergy, Inc. "deliberately favors" EMM over EMW because EMM maintains generating resources that would balance out the "lack" of resources owned by EMW if they were combined is undisguised (and incorrect) conjecture.⁵⁸

Further, Evergy, Inc. does not automatically obtain authority over the separate companies to consolidate and then distribute EMM's and EMW's combined total capital and assets as it sees fit, just because it is the parent company. Virtually all of the owned or contracted for generation resources currently in place for each company were contracted for prior to having common ownership.⁵⁹ OPC's supposed distribution of capital would first require EMW and EMM to actually merge, which would take approximately 10 years.⁶⁰ Even though it was the subject of much hearing testimony and bench questions, OPC's Initial Brief sidesteps the complexity of any potential merger, including jurisdictional issues, simultaneous rate cases in Missouri and Kansas to reconcile secured debt, and ensuring that EMM and EMW customers would not have to pay or benefit from costs incurred by the other entity.⁶¹ Additionally, OPC fails to acknowledge the \$532 million in costs that EMM customers would incur, when examining the Companies' all-in retail rates, through OPC's hypothetical merger.⁶² Contrary to OPC's bare denials, OPC's analogy unavoidably creates a zero-sum game in which OPC's proposed disallowance would substantially harm EMM customers.⁶³

Lastly, permitting OPC's disallowance would not incentivize EMW into building or acquiring generation assets like Dogwood, because it would constrain the Company's access to

⁵⁷ *Id.* at 17, 19.

⁵⁸ OPC Initial Brief at 26-7.

⁵⁹ EMW Initial Brief at 17, 19; OPC Initial Brief at 25.

⁶⁰ Tr. 88:21 (Ives); EMW Initial Brief at 18.

⁶¹ OPC Initial Brief at 25; EMW Initial Brief at 17-9.

⁶² EMW Initial Brief at 19.

⁶³ OPC Initial Brief at 38.

capital.⁶⁴ This in turn would hinder the Company's future ability to satisfy the SPP's increased reserve margin. These points are completely uncontested by OPC, even though the SPP reserve margin is expected to increase again to 17% by 2026.⁶⁵ Additionally, OPC ignores EMW's current Preferred Plan and its capacity need for wind, solar, and a natural gas-fired resource by 2029 to service new anticipated load.⁶⁶

The Commission's and all parties' resources would be better directed to collaborative discussions of planning considerations arising out of the Company's IRP process and filings. The Commission should make clear that it will summarily dismiss any twelfth or later edition of OPC's same arguments, so that EMW will have adequate assurance of recovery of future investments and OPC will be incentivized to supply timely IRP commentary from an evidence-based analysis, not unsupported speculation, conjecture, and hindsight.

CONCLUSION

OPC has failed to raise a serious doubt to rebut EMW's presumption as to the prudence of its audit period decision-making process, because EMW prudently relied on its IRP process, the only substantial, competent evidence in this proceeding.⁶⁷ Additionally, OPC fails the prudence standard, improperly supplanting it with analogy, hypotheticals, speculation, and ungrounded personal opinion. For the foregoing reasons, the Commission should reject OPC's proposed disallowance of \$86,376,294 with interest. EMW respectfully requests all such further relief as the Commission deems just and proper.

⁶⁴ EMW Initial Brief at 20-22.

⁶⁵ Tr. at 95:18-96:10 (Ives); EMW Initial Brief at 22.

⁶⁶ EMW Initial Brief at 22.

⁶⁷ "Staff agrees that Evergy Missouri West has relied on the market at times to meet its customers' energy needs. However, Staff does not consider this to be imprudent and is unsure of what a reasonable disallowance would be based on the number of variables that would need to be considered when trying to quantify such a number." *Staff's Amended Statement of Positions*, EO-2023-0267 & EO-2023-0277, 1-2 (Mar. 15, 2024).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 8th day of July 2024, by EFIS filing and notification, and/or e-mail.

/s/ Roger W. Steiner

Roger W. Steiner