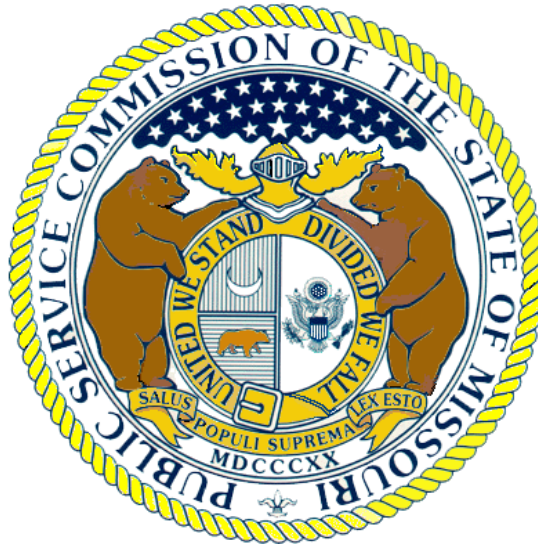


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 7th day of August, 2024.

In the Matter of the Eleventh Prudence)
Review of Costs Subject to the)
Commission-Approved Fuel Adjustment)
Clause of Evergy Missouri West Inc. d/b/a)
Evergy Missouri West)

File No. EO-2023-0277

REPORT AND ORDER

Issue Date: August 7, 2024

Effective Date: September 6, 2024

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APPEARANCES

EVERGY MISSOURI WEST:

Roger W. Steiner, 1200 Main Street, 16th Floor, P.O. Box 418679, Kansas City, Missouri 64105-9679

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:

Jeff Keevil, Deputy Counsel, Post Office Box 360, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102.

OFFICE OF THE PUBLIC COUNSEL:

John Clizer, Senior Counsel, P.O. Box 2230, Jefferson City, Missouri 65102.

REGULATORY LAW JUDGE: Ronald D. Pridgin, Deputy Chief

REPORT AND ORDER

I. Procedural History

A. Notice

On March 3, 2023, the Commission's Staff (Staff) filed its Notice of Start of Eleventh Prudence Review. Staff conducted a prudence review of the costs and revenues associated with Evergy Missouri West's (EMW) Fuel Adjustment Clause (FAC) for the period June 1, 2021 through November 30, 2022.

Staff filed its Prudence Review Report on August 30, 2023. In that report, Staff recommended the Commission order an Ordered Adjustment in the amount of \$2,076.20, plus interest, for transmission Southwest Power Pool (SPP) administrative fees, and \$13,989,508, plus interest, for purchased power costs, to be applied to EMW's next Fuel Adjustment Rate filing. The Office of the Public Counsel (OPC) recommended a disallowance of \$86,376,294. EMW requested a hearing.

B. Stipulation and Agreement

On March 11, 2024, Evergy Missouri Metro (EMM), EMW, and the Staff of the Commission (Staff) filed a Non-Unanimous Stipulation and Agreement (Stipulation).¹ The Stipulation resolved all issues between the signatories, leaving only OPC's issues with EMW.

¹ The Stipulation resolved issues between EMM and Staff in EMM's prudence review case, File No. EO-2023-0276.

C. Evidentiary Hearing

The evidentiary hearing was held on May 22, 2024.²

D. Case Submission

During the evidentiary hearing held at the Commission's offices in Jefferson City and via WebEx, the Commission admitted the testimony of six witnesses, received twenty exhibits into evidence, and took official notice of certain matters. Post-hearing briefs were filed according to the post-hearing procedural schedule. The final post-hearing briefs were filed on July 8, 2024, and the case was deemed submitted for the Commission's decision on that date.³

In addition, Exhibits 13C and 308 were offered during the hearing, and the Commission gave the parties time to object to their admission. No party objected. Thus, Exhibits 13C and 308 are admitted into evidence.

II. General Matters

A. General Findings of Fact

1. EMW is an "electrical corporation" and a "public utility" as those terms are defined in Section 386.020 RSMo. EMW is thus subject to the jurisdiction of the Commission.

2. OPC is a party to this case pursuant to Section 386.710(2), RSMo⁴, and by Commission Rule 20 CSR 4240-2.010(10).

² Tr. Vol. 1.

³ "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 20 CSR 4240-2.150(1).

⁴ Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016.

3. Staff is a party to this case pursuant to Section 386.071, RSMo, and Commission Rule 20 CSR 4240-2.010(10).

4. The Commission finds that any given witness' qualifications and overall credibility are not dispositive as to each and every portion of that witness' testimony. The Commission gives each item or portion of a witness' testimony individual weight based upon the detail, depth, knowledge, expertise, and credibility demonstrated with regard to that specific testimony. Consequently, the Commission will make additional specific weight and credibility decisions throughout this order as to specific items of testimony as is necessary.⁵

5. Any finding of fact reflecting that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.⁶

B. General Conclusions of Law

A. EMW is a "electrical corporation" and a "public utility" as defined in Sections 386.020(15) and 386.020(43), RSMo, respectively, and as such is subject to the personal jurisdiction, supervision, control and regulation of the Commission under Chapters 386 and 393 of the Missouri Revised Statutes. The Commission's subject-matter jurisdiction over the prudence review request is established under Section 386.266.5(4), RSMo.

⁵ Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony." *State ex rel. Public Counsel v. Missouri Public Service Comm'n*, 289 S.W.3d 240, 247 (Mo. App. 2009).

⁶ An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence. *State ex rel. Missouri Office of Public Counsel v. Public Service Comm'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009).

III. Disputed Issues

Has OPC applied the Commission recognized prudence standard in evaluating their proposed disallowances?

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?

If Evergy Missouri West was imprudent, should there be a disallowance?

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?

A. Findings of Fact

6. The Commission granted EMW an FAC for EMW's predecessor, Aquila, Inc., in File No. EO-2007-0004.⁷

7. The current FAC has a 95%/5% sharing mechanism. This means that customers are responsible for, or receive the benefit of, any deviation in fuel and purchased power costs as defined in the FAC tariff from the base amount included in rates. That mechanism is a substantial incentive for EMW to make prudent resource planning decisions, as well as decisions related to the purchase of fuel and purchase power.⁸

⁷ Ex. 1, p. 4.

⁸ Ex. 5, p. 5.

8. With the advent of the SPP energy market, EMW is required to pay SPP for every megawatt-hour (MWh) of energy its customers require. In exchange, SPP pays EMW for every MWh of energy that EMW's resources generate.⁹

9. Both the cost EMW incurs for the energy purchased from the SPP energy market and the revenues generated by the energy EMW sells into the SPP energy market are ultimately recovered from or returned to customers through its FAC.¹⁰

10. The SPP market dispatches generators across 15 states to meet load based on economics. If evaluated over a long enough period of time, some utilities will be net-sellers (generation volumes exceeding load volumes) and some will be net-buyers (load volumes exceeding generation volumes). The status of net-buyer versus net-seller is typically driven by the composition of each utility's generation fleet, which is the product of long-term resource planning spanning over decades.¹¹

11. That is how a market balances, and it is this process that reduces the cost of meeting load requirements for the entirety of the pool. No pool participant will be worse off for having been active in pool transactions.¹²

12. The very nature of pooling is that greater efficiency is achieved based on a participant's substitution of more efficient pool resources for less efficient resources that would have been available on a stand-alone basis.¹³

⁹ Ex. 300, p. 2.

¹⁰ Ex. 300, p. 2.

¹¹ Ex. 6, p. 8.

¹² Ex. 7, p. 8.

¹³ Ex. 7, p. 8.

13. Implying that a “prudent resource mix” is a plan where actual economic dispatch is perfectly matched to customer loads is simply unachievable in today’s integrated market.¹⁴

14. The Commission’s Staff agrees that EMW has relied on the market at times to meet its customer’s energy needs. However, Staff has not alleged this as an imprudent decision in this case.¹⁵

15. When an imprudence is alleged, a quantification of that imprudence should be provided.¹⁶

16. The Commission’s Staff is unsure of what a reasonable disallowance would be based on the amount of variables one would have to consider when trying to quantify such a number, as well as the different variables associated with building new generation.¹⁷

17. In fact, EMW’s rates have been historically lower than EMM’s rates due to EMW not having the infrastructure investment that EMM has.¹⁸

18. There is no black-and-white definition of what constitutes over-reliance and under-reliance on the SPP market (or any market). Managing risk is neither static nor binary because it depends on: 1) the magnitude of your uncertainty about future outcomes; 2) the magnitude of your exposure to that uncertainty; and 3) the cost to mitigate the risk. All three of those factors change over time and that is the risk assessment performed through EMW’s Integrated Resource Plan (IRP) process.¹⁹

¹⁴ Ex. 6, p. 8.

¹⁵ Ex. 200, p.2.

¹⁶ Ex. 200, p. 2.

¹⁷ Ex. 200, p. 3.

¹⁸ Tr. Vol. 1, p. 134.

¹⁹ Ex. 9, p. 17; see Tr. Vol. 1, p. 133.

19. Many variables, including future market prices, the impact of demand-side resources, and customer load requirements, determine not only the market price but also how much EMW purchases from the market.²⁰

20. EMW ensures it has sufficient generation by complying with the resource adequacy requirements established by SPP. These requirements establish the amount of capacity that EMW has to maintain so that there will be sufficient generation (energy) available to meet its peak needs.²¹

21. The purpose of the IRP rules is to assure that the utility collects, reviews, and analyzes certain data. It is the minimum that the utility should do in its resource planning process. It is the goal that if the utility decision makers have good data and the results of good analysis, they will make prudent decisions.²²

22. The IRP process assesses the cost of meeting customers' long-term hourly energy needs across a wide variety of potential scenarios. This factors in the economics of EMW's fleet compared to a large variety of SPP market conditions and assesses the all-in costs of different resource plans which meet EMW customer requirements.²³

23. In an IRP, EMW assesses the all-in (fixed and variable) long-term costs of different resource plans in meeting customer energy requirements across a twenty-year period in order to select a resource plan using minimization of long-run utility costs as the primary selection criterion.²⁴

²⁰ Ex. 200, p. 2.

²¹ Ex. 6, p. 9.

²² Ex. 6, pp. 9-10; Ex. 8, pp. 17-18; Ex. 301, pp. 14-15.

²³ Ex. 6, pp. 9-10.

²⁴ Ex. 9, pp. 14-15.

24. The IRP is used to model ways to meet forecasted energy and capacity needs of utility customers. The Commission does not preapprove prudence of any potential methods to meet energy or capacity needs identified in the IRP process. The Commission states in its order that the utility has met the requirements of the IRP rule.²⁵

25. The difficulty of quantifying a prudence disallowance relying on variables of different scenarios led OPC to the use of actual amounts from both EMM and EMW. OPC considers the Evergy IRP to be a combined joint planning of energy and capacity needs of all Evergy utilities. OPC allocated EMM's generation plant in part to EMW to compensate for the rate differentials.²⁶

26. The combined energy sold as a percentage of energy bought from EMM and EMW, when combined, nearly meets the energy requirements of both utilities through the prudence review period.²⁷

27. The mix of market utilization that EMW has come out as the lowest-cost resource plan modeled by EMW, and it was included in the IRP that was brought in front of the Commission each year.²⁸

28. EMW determined, through its RFP process, that the availability of existing electric generation resources is limited. There have been challenges for construction of generation resources with both supply chain and construction restrictions increasing the timeline for the completion of electric generation projects.²⁹

²⁵ Tr. Vol. 1, pp. 171-72.

²⁶ Tr. Vol. 1, pp. 166-168.

²⁷ Tr. Vol. 1, pp. 174-75.

²⁸ Tr. Vol. 1, p. 75.

²⁹ Tr. Vol. 1, pp. 76-77.

29. The combination of EMM and EMW would require the unwinding of debt instruments that are at the individual level, including the recent securitization of EMW Winter Storm Uri costs. Because EMM serves customers in Kansas, as well as Missouri, it would also require approval from the KCC.³⁰

30. OPC's methodology underlying its \$86M disallowance is not tied to any given decision. Rather, it suggests that EMW's costs should be disallowed simply because they differ from the EMM/EMW system average costs.³¹

31. This \$86M disallowance starts with the weighted average variable costs for EMW and EMM compared to EMW's actual net energy costs. OPC repeats this exercise for fixed costs, and the disallowance is equal to the decrease in variable costs less the increase in fixed costs. This weighting methodology completely ignores that the inverse impact would need to be true for EMM. Any lowering of costs for EMW customers would necessarily increase costs for EMM customers.³²

B. Conclusions of Law

B. Section 386.266 RSMo allows electrical corporations to apply for an FAC. An FAC is a mechanism established in a general rate case that allows periodic rate adjustments, outside a general rate proceeding, to reflect increases and decreases in an electric utility's prudently incurred fuel and purchased power costs.³³

C. The Commission approved EMW's FAC in File No. ER-2007-0004. The FAC is 95%/5%, meaning customers are responsible for, or receive the benefit of, 95% of any

³⁰ Tr. Vol. 1, pp. 76-77.

³¹ Ex. 3, p. 23.

³² Ex. 7, pp. 8-9.

³³ File No. ER-2014-0370, Report and Order, p. 22 (Sept. 2, 2015).

deviation in fuel and purchased power costs as defined in the FAC tariff from the base amount included in rates.

D. The FAC tariff requires Commission prudence reviews of the company's FAC costs no less frequently than every eighteen months. The standard for prudence reviews is whether the company's conduct was reasonable at the time, under all the circumstances.³⁴

E. A utility's costs are presumed to be prudently incurred. However, the presumption does not survive "a showing of inefficiency or improvidence." Where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent.

The company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.³⁵

F. In order to disallow a utility's recovery of costs from its ratepayers in the context of a statutory prudence review, a regulatory agency must find both that the utility acted imprudently, and that such imprudence resulted in harm to the utility's ratepayers.³⁶

³⁴ *State ex. rel. Union Elec. Co. v. PSC*, 399 S.W.3d 467, 491 (Mo. App. W.D. 2013).

³⁵ See *State ex re. Associated Natural Gas v. PSC*, 954 S.W.2d 520, 528-529 (Mo.App. 1997).

³⁶ See *State ex. rel. Associated Natural Gas v. PSC*, 954 S.W.2d 520, 529-30 (Mo.App. 1997).

G. A finding by the Commission that an IRP complies with the Chapter 22 rules is not approval of the utility's resource plans, resource acquisition strategies, or investment decisions.³⁷

H. The Commission may only acknowledge an IRP plan. Commission acknowledgment of an IRP plan shall not be construed to mean or constitute a finding as to the prudence, pre-approval, or prior Commission authorization of any specific project or group of projects.³⁸

IV. Decision

In making this decision, as described above, the Commission has considered the positions and arguments of all of the parties. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the material was not dispositive of this decision.

A utility's expenditures are presumed prudent unless another party creates a "serious doubt" as to that expenditure. The Commission finds that OPC's evidence created a "serious doubt" such that EMW's decisions were no longer entitled to a presumption of prudence. However, EMW's evidence was enough to overcome that serious doubt. Some of OPC's evidence in support of the proposed disallowance was from a time other than the audit period. OPC's evidence also was based upon speculation of the SPP market's volatility. Based upon what EMM knew at the time it made its

³⁷ Commission Rule 20 CSR 4240-22.010(1).

³⁸ Commission Rule 20 CSR 4240-22.010(1).

decisions, EMM did not act imprudently. Furthermore, even if EMM were imprudent, the Commission does not find OPC's quantification of imprudence convincing. Thus, the Commission will deny OPC's request for a disallowance.

While acknowledging the potential complexities and issues to sort through, the Commission would encourage EMW and EMM to consider merging these two companies to greater take advantage of economies of scale. This would give EMW customers greater access to EMM's generation capacity, and should thereby reduce FAC costs for EMW customers.

THE COMMISSION ORDERS THAT:

1. EMW's FAC costs for the period June 1, 2021 through November 30, 2022 are prudent.
2. OPC's request for a disallowance is denied.
3. This Report and Order shall become effective on September 6, 2024.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Hahn, Ch., Coleman, Holsman, Kolkmeier,
and Mitchell CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

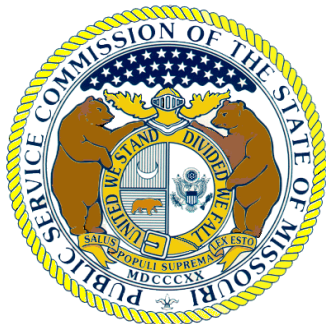
Pridgin, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7th day of August 2024.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 7, 2024

File/Case No. EO-2023-0277

MO PSC Staff

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

**Office of the Public Counsel
(OPC)**

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@psc.mo.gov

ChargePoint, Inc.

Legal Department
254 East Hacienda Avenue
Campbell, CA 95008
matthew.deal@chargepoint.com

Evergy Missouri West

James Fischer
2081 Honeysuckle Lane
Jefferson City, MO 65109
jfischerpc@aol.com

Evergy Missouri West

Chandler Hiatt
1444 Grand Blvd
1815
kansas city, MO 64106
chandler.hiatt@dentons.com

Evergy Missouri West

Roger Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@evergy.com

Evergy Missouri West

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

Evergy Missouri West

Karl Zobrist
4520 Main Street, Suite 1100
Kansas City, MO 64111
karl.zobrist@dentons.com

Google LLC

Legal Department
1600 Amphitheatre Parkway
Mountain View, CA 94043

**Midwest Energy Consumers
Group**

Legal Department
308 E. High Street, Suite B101
Jefferson City, MO 65101
tim.opitz@opitzlawfirm.com

**Missouri Industrial Energy
Consumers (MIEC)**

Legal Department
130 S. Bemiston, Suite 200
St. Louis, MO 63105
dplescia@chgolaw.com

MO PSC Staff

Jeff Keevil
200 Madison Street
Jefferson City, MO 65101
jeff.keevil@psc.mo.gov

**Office of the Public Counsel
(OPC)**

John Clizer
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
john.clizer@opc.mo.gov

Renew Missouri

Legal Department
915 East Ash
Columbia, MO 65201

Sierra Club

Legal Department
2101 Webster St., Ste. 1300
Oakland, CA 94612

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

A handwritten signature in black ink that reads "Nancy Dippell". The signature is written in a cursive, flowing style.

**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.