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Issue(s): Storm Reserve/Rate Case Expense
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Sponsoring Party: Public Counsel
Case No.: ER-2024-0189

SURREBUTTAL TESTIMONY

OF

MANZELL PAYNE

Submitted on Behalf of the Office of the Public Counsel

**EVERGY MISSOURI WEST, INC. D/B/A
EVERGY MISSOURI WEST**

CASE NOS. ER-2024-0189

September 10, 2024

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OF

MANZELL M PAYNE

EVERGY MISSOURI WEST, INC., D/B/A EVERGY MISSOURI WEST

CASE NO. ER-2024-0189

1 **Q. Please state your name, title, and business address.**

2 A. Manzell Payne, Utility Regulatory Auditor, Office of the Public Counsel (“OPC” or “Public
3 Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

4 **Q. Are you the same Manzell Payne who filed direct and rebuttal testimony for the OPC in
5 this case?**

6 A. Yes.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. The purpose of my surrebuttal testimony is to respond to Evergy Missouri West, Inc. d/b/a
9 Evergy Missouri West¹ witness, Ronald Klote’s rebuttal testimony on storm reserve, and
10 Company witness, Linda Nunn’s rebuttal testimony on rate case expense. I will also respond
11 to Staff witness, Karen Lyons’ rebuttal testimony concerning the Company’s storm reserve
12 tracker.

13 **STORM RESERVE**

14 **Q. For context, please explain your position on the proposed storm reserve Evergy
15 Missouri West has sought to include in this rate case.**

16 A. As stated in my direct testimony, my position on implementing a storm reserve is that the
17 Company does not need a storm reserve and the Commission should disallow any funds
18 associated with a requested reserve. Furthermore, it is inappropriate for the Company to be
19 allowed a storm reserve, as storms are a reoccurring cost of doing business for a utility. As
20 such, the costs associated with storms are already being accounted for in the Company’s rate
21 case and included in rates at a normalized level. Any attempt to track storm costs
22 independently would lead to a disjointed form of rate making; one that violates the matching

¹ Heretofore “Company”, “Evergy Missouri West”, or “EMW”

1 principle. Additionally, the use of the tracker unfairly shifts the risks from the utility onto
2 customers without any benefit to compensate ratepayers for the increased risk.

3 **Q. What is Staff's position on the storm reserve tracker for this case?**

4 A. Staff witness, Karen Lyons, states in rebuttal testimony:

5 EMW is asking its customers to pay in advance of potential storms occurring
6 in the future. It is Staff's opinion that regulatory concepts such as
7 annualizations and normalizations can be used to determine an appropriate
8 level of these costs. Listed below are the reasons Staff opposes EMW's
9 proposed storm reserve.

- 10 • The proposal is for unknown future storm costs.
- 11 • The threshold of \$200,000 described by Mr. Klote is not material when
12 compared to EMW's total operating expenses.
- 13 • Alternative regulatory mechanisms are available to EMW when
14 significant storm costs are incurred. These alternative mechanisms
15 provide ratepayers and shareholders sufficient protection from sporadic
16 storm costs. A storm reserve would only serve to provide shareholders
17 additional protection from storm risk.
- 18 • Storm costs are included in Staff's normalized level of distribution
19 maintenance expense.²

20 Ms. Lyons further states Staff's position as:

21 Staff opposes EMW's proposal to establish a storm reserve for potential future
22 storms. EMW's proposal violates the known and measurable concept by
23 asking its customers to pay in advance to fund a storm reserve for storms that
24 may or may not occur in the future. Staff utilized normal ratemaking methods
25 by including a normalized level of maintenance expense and, to the extent
26 EMW incurs significant storm costs in the future, other regulatory
27 mechanisms are available for possible recovery, such as an AAO.³

28 **Q. Do you agree with Staff's position on the Storm Reserve for this case?**

29 A. Yes. Staff's opposition to the storm reserve proposed by the Company aligns with my own
30 position. Both Staff and myself oppose the storm reserve proposal. Additionally, we agree
31 that the Company may file an AAO application in the event that any extraordinary storm
32 events occur. The same AAO that the Company has said that they will file in addition to
33 having a storm reserve if the Commission approves their proposal.

² Karen Lyons, Rebuttal Testimony, Page 12, Lines 16-29.

³ Karen Lyons, Rebuttal Testimony, Page 16, Lines 15-20.

1 **Q. How has Company witness Ronald Klote justified the request for a storm reserve in this**
2 **case in response to your direct testimony?**

3 A. Mr. Klote states in his rebuttal testimony:

4 The storm reserve will be used to levelize expenditures associated with
5 significant storms benefitting both the customers, through reduced rate
6 volatility and being served electricity from a financially stable utility covering
7 its costs from unpredictable storm activity, and the Company by lessening the
8 financial burden of a storm by smoothing of month-to-month expenditures
9 associated with unpredictable but likely significant storm events. The reserve
10 allows for recovery of storm costs at an established threshold and helps reduce
11 earnings volatility for investors which can help reduce the utility's cost of debt
12 benefitting customers.⁴

13
14 **Q. Do you agree with the Company's position on storm reserve?**

15 A. No. As I pointed out in my direct testimony, storms are a reoccurring cost of doing business
16 for a utility and these costs are already accounted for in the Company's rates. The benefit of
17 reduced rate volatility to customers come at the cost of increasing the rates initially for storms
18 that may not occur. Additionally, Staff's analysis of year-to-year storm costs are considered
19 in their analysis of maintenance costs. The smoothing of storm costs are normalized or
20 averaged from historical storm costs. Any significant storms that were to occur would not be
21 included as the company can file an AAO where those significant costs can be addressed. The
22 reserve allows for the Company and shareholders to have less skin in the game for their cost
23 of doing business. The reduced earnings volatility for investors comes at the price of
24 increasing rates to customers for storms that are not know and measurable.

25 **Q. If the Commission were to include a storm reserve for the Company, how should the**
26 **reserve be treated in the cost of service?**

27 A. The balance of the storm reserve tracker should be treated as a prepaid item by the customer
28 and therefore be a reduction to rate base and provided the same Weighted Average Cost of
29 Capital ("WACC") that the company receives. In doing so, the Company is not receiving
30 additional money on top of a tracker that benefits them more than the customer.

⁴Ronald Klote, Rebuttal Testimony, Page 19, Lines 2-9.

1 **Q. Please summarize your recommendation on the Company's proposed storm reserve.**

2 A. I recommend that the Commission disallow the storm reserve tracker. This recommendation
3 is in alignment with Staff. The storm reserve proposed by the Company is not appropriate as
4 it shifts the risks from the Company on to customers with no benefit to customers. The
5 Company benefits from having the money up front which reduces risk solely for the Company
6 and their shareholders. Additionally, the normal ratemaking methods of including a
7 normalized level of maintenance expense that have the storm costs built in provide rate
8 stability.

9 **RATE CASE EXPENSE**

10 **Q. What is the Company's position on Rate Case Expense for this case?**

11 A. Company witness, Linda Nunn is in partial agreement with Staff's adjustment to rate case
12 expense after discussing an error with the test year amount used by Staff. The Company agrees
13 with Staff's 3 case average that was used. However, the Company does not agree with the
14 50/50 sharing mechanism of the costs. Linda Nunn states:

15 Staff has an error in its test year amount, but we expect based on conversations
16 with Staff that it will be corrected. Averaging the total rate case expense
17 expended over cases allows for the fact that much of the rate case expenses
18 incurred are paid after the cut-off for including those expenses in the current
19 case. Therefore, the Company does agree with using an average of the
20 expenses over the last three cases, but disagrees with taking 50% of those
21 averaged costs. As stated below, rate case expenses are a necessary part of
22 doing business as a regulated electric utility and should therefore be recovered
23 in the utility's cost of service.⁵

24 The Company has also disagreed with my recommendation for a 50/50 sharing mechanism
25 and the total disallowance of certain attorney and consultant fees.

26 **Q. Do you disagree with the Company's position on rate case expense?**

27 A. For the most part yes. I will agree with Staff and the Company's use of a three-case average
28 for rate case expense. I do not agree with the Company's position to be allowed 100%
29 recovery of discretionary rate case expense. The Company should only be allowed 50% of
30 discretionary rate case expense, which is Commission precedent. The Commission has found

⁵Linda Nunn, Rebuttal Testimony, Page 17, Lines 2-9.

1 that it is just and reasonable for both the rate payer and the shareholder who both benefit from
2 a rate case to share in the costs. As stated in my direct testimony, the Commission's most
3 recent relevant decision on rate case expenses was in the Spire Missouri Rate Case Nos. GR-
4 2017-0215 and GR-2017-0216, where the Commission held Spire Missouri to a 50/50 sharing
5 mechanism with customers. In its Amended Report and Order, the Commission found:

6 Therefore, it is just and reasonable that the shareholders and the ratepayers
7 who both benefited from the rate case, share in the rate case expense. The
8 Commission finds that in order to set just and reasonable rates under the
9 specific facts in this case, the Commission will require Spire Missouri
10 shareholders to cover half of the rate case expense and the ratepayers to
11 cover half with the exception of the cost of customer notices and the
12 depreciation study.

13 On February 9, 2021, the Missouri Supreme Court affirmed the Commission's decision.⁶

14 **Q. Does the Company disagree with your disallowance of exclusion of 1/5 of the**
15 **depreciation study from 2022?**

16 A. No. Company witness, Linda Nunn did not state in her rebuttal testimony whether she agreed
17 or disagreed with the exclusion of 1/5 of the depreciation study. Ms. Nunn of only disagreed
18 with the 50/50 sharing mechanism and the recommendation of total disallowance for certain
19 attorney and consultant fees. The inclusion of only 4/5 of the depreciation study is due to the
20 Company only needing to perform a depreciation study every five years. Since the Company
21 did not perform a new on for this case, the amount included should only be the amount that
22 has not already been repaid. The Company should only be allowed 4/5 or 80% of the
23 depreciation study to be included in this case.

24 **Q. What is your recommendation for rate case expense in this case?**

25 A. I recommend that the Commission accept Staff's position for a three-case average for rate
26 case expense, as neither I nor Company have disagreed with this method. Additionally, both
27 mine and Staff's recommendation for a 50/50 sharing mechanism should be accepted by the
28 Commission. I further recommend that only the unpaid portion of depreciation study expense
29 be included for this case. In using the three-case average that Staff has utilized for this case,
30 my concerns for certain attorney and consultant fees have been alleviated for this case.

⁶ Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225, 233 (Mo. banc 2021).

1 **Q. Does this conclude your surrebuttal testimony?**

2 A. Yes, it does.

