

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

The Staff of the Missouri Public Service Commission,)	
)	
)	Complainant,
vs.)	
Evergy Missouri West, Inc.,)	Case No. EC-2022-0315
)	
)	Respondent.

EVERGY MISSOURI WEST ANSWER TO STAFF COMPLAINT

COMES NOW, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or the “Company”) and for its response to the *Staff Complaint* (“Complaint”) filed to initiate the above-captioned docket on May 12, 2022, states as follows:

BACKGROUND

1. On July 12, 2019, EMW, then known as KCP&L Greater Missouri Operations Company (“GMO”) filed an Application seeking authority from the Commission to implement a special incremental load rate for a steel production facility in Sedalia, Missouri. The Application explained that EMW and Nucor Steel Sedalia, LLC, (Nucor) the owner of the steel production facility, have signed a Special Incremental Load (“SIL”) Rate Contract that establishes the rate and terms of service by which EMW intends to serve Nucor. Along with the Application, EMW filed a Special Incremental Load Tariff to implement the agreed-upon rate for Nucor.

2. EMW, the Staff of the Commission, and Nucor filed a non-unanimous stipulation and agreement on September 19, 2019. That stipulation and agreement purported to resolve all pending issues and would have the Commission approve the contract between EMW and Nucor, as well as an amended Special Incremental Load Tariff. Among other provisions, the stipulation and agreement required the filing of certain reports related to the Nucor contract to the Commission Staff and the Office of the Public Counsel (“Public Counsel”). The format of the reports were agreed to by the signatories to the stipulation and attached as Exhibit 1 to the Stipulation.

3. Following evidentiary hearings, the Commission approved the non-unanimous stipulation and agreement and the SIL tariff on November 19, 2010. The Commission found that the evidence showed that a special contract for Nucor is in the public interest. The Commission also found that the opening of the Nucor steel plant in Sedalia will provide unquestioned economic development benefits to that city and region, and to the State of Missouri as a whole. The Commission determined that the evidence also showed that the steel plant would not be viable without the certain and stable electric rates made available by this special contract and tariff. (*Report And Order*, p. 12, Re Application of Evergy Missouri West for Approval of a Special Rate for a Facility Whose Primary Industry is the Production or Fabrication of Steel in or Around Sedalia, Missouri, File No. EO-2019-0244.) On December 13, 2019, the Commission approved a revised SIL tariff to be effective on December 27, 2019.

ANSWER

4. The Company denies that it is “eva[ding]...its obligations under a Commission-approved *Stipulation and Agreement*, and therefore, its violation of the Commission’s Order approving that *Stipulation and Agreement*”¹ as stated in Paragraph 1.

5. As explained by 20 CSR 4240-2.070(1), “[a]ny person who feels aggrieved by an alleged violation of any tariff, statute, rule, order, or decision within the Commission’s jurisdiction may file a complaint.” In addition, formal complaints must be made “by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person, corporation or public utility, in violation or claimed to be in violation of any provision of law or of any rule

¹ See, Complaint, p. 1, ¶1.

order or decision of the commission.” 20CSR 4240-2.070(4). See also Sections 386.390 and 386.400, RSMo.

6. The Company admits it is an electrical corporation engaged in the generation, transmission, and sale of electricity within Missouri as alleged in Paragraph 3.

7. The Company admits the jurisdictional statements in Paragraphs 4-5.

8. The Company admits that the Commission has jurisdiction over the subject matter of this Complaint as stated in Paragraph 6, however, it denies the Company is in violation of a Commission order.

9. The Company admits the allegations in Paragraph 7.

10. The Company admits that it filed an application seeking a special incremental load rate as described in Paragraph 8 on July 12, 2019.

11. The Company admits that the Company, Staff, and Nucor Steel Sedalia, LLC (“Nucor”) filed a *Non-Unanimous Stipulation and Agreement* (“Agreement”) on September 19, 2019, which was approved by the Commission’s *Report and Order* (“*Report and Order*”) issued on November 13, 2019, as described in Paragraph 9.

12. The Company admits the allegations in Paragraph 10.

13. The Company admits the allegations in Paragraph 11.

14. The Company admits that Paragraph 12 contains an accurate excerpt of §7(a)-(d) of the Agreement.

RESPONSE TO COUNT ONE

Evergy’s Alleged Violation of Paragraph 7 of the Stipulation and Agreement Approved by the Commission in Case No. EO-2019-0244

15. For its response to Paragraph 13, Evergy hereby realleges and adopts by reference its answers contained in Paragraphs 1 through 12 above, as though the same were herein set out in full.

16. The Company denies the allegations in Paragraph 14 that the Company “is not accounting for any capacity costs to serve Nucor and is not accounting for Nucor load as required by Paragraph 7.b of the *Stipulation and Agreement*.”

17. The Company submitted quarterly reports related to the Nucor contract to Staff and Public Counsel on the following [approximate] dates:

2021 Q4 3/3/2022
2021 Q3 11/19/2021
2021 Q2 8/20/2021
2021 Q1 6/3/2021
2020 Q4 3/12/2021
2020 Q3 11/24/2020
2020 Q2 August 2020
2020 Q1 5/22/2020

The email transmitting the quarterly reports indicated that the Company was available to answer any questions related to the quarterly reports.

18. Staff did not contact the Company about any concerns or deficiencies with regard to the filed reports until the discovery process in EMW’s pending rate case, File No. ER-2022-0130. On May 11, 2022, the Company filed its response to DR No. 248A (S1) in ER-2022-0130 which stated that the Company would submit revised quarterly reports that included net capacity costs.

19. On June 1, 2022, revised quarterly reports that included net capacity costs were filed in EFIS in response to Data Request No. 0248S2 in File No. ER-2022-0130. On June 7, 2022, the Company also submitted revised quarterly reports by email to Staff and Public Counsel which included net capacity costs. The ratemaking treatment of the Nucor SIL contract was discussed in responses to DR Nos. 250 and 251 filed on March 14, 2022.

20. The Company denies the allegations in Paragraph 15.

21. With regard to Paragraph 15 in the Complaint, EMW has already addressed these Staff allegations in its response to DR No. 294.1:

**
[Redacted]
**

22. Since Nucor is in its initial ramp-up phase, **
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
**

23. The Company further denies the allegations contained in Paragraph 16.

RESPONSE TO COUNT TWO

Authority to Seek Penalties

24. For its response to Paragraph 17, Evergy hereby realleges and adopts by reference its answers contained in Paragraphs 1 through 23, above, as though the same were herein set out in full.

25. In answer to Paragraph 18, the Company states that Section 393.570 RSMo speaks for itself and no further answer is required.

26. In answer to Paragraph 19, the Company states that Section 393.600 RSMo speaks for itself and no further answer is required.

27. The Company denies the allegations contained in Paragraphs 20 and 21.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

1. The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

2. EMW has performed its obligations under the Non-Unanimous Stipulation and Agreement filed in File No. EO-2019-0244 on September 19, 2019, and it is in compliance with the Commission's *Report and Order* issued on November 19, 2010 in the same file.

THIRD DEFENSE

3. The Complaint is moot since the Company has revised its quarterly reports to include net capacity costs and filed them in EFIS and submitted them to Staff and Public Counsel, and otherwise provided the requested information to Staff and Public Counsel related to the impact of the Nucor SIL contract on revenue requirements in the pending rate case.

WHEREFORE, EMW submits its answer to the complaint, and requests that the Commission dismiss the Complaint.

Respectfully submitted,

/s/ Roger W. Steiner

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Counsel for Evergy Missouri West

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed to counsel of record for all parties this 13th day of June 2022.

/s/ Roger W. Steiner

Roger W. Steiner