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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
EVIDENTIARY HEARING

In the Matter of Evergy)
Missouri West, Inc. d/b/a) File No. ER-2024-0189
Evergy Missouri West's)
Request for Authority to)
Implement a General Rate)
Increase for Electric)
Service)

THURSDAY, OCTOBER 3, 2024
9:29 a.m.

Governor Office Building
200 Madison Street, Room 310
Jefferson City, MO 65101

VOLUME VIII

Pages 1 - 72

RON PRIDGIN, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

KAYLA HAHN, Chair,
MAIDA J. COLEMAN,
JASON R. HOLSMAN,
GLEN KOLKMEYER,
JOHN MITCHELL,

COMMISSIONERS

Reported By:
Colin Wallis, Lexitas Legal

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1 The following proceedings began at 9:29 a.m.:

2 JUDGE PRIDGIN: Thank you very much. Good
3 morning. We are on the record. This is the
4 evidentiary hearing in the matter of Evergy
5 Missouri West, Incorporated, DBA Evergy Missouri
6 West Request for Authority to Implement a
7 General Rate Increase for Electric Service. I'm
8 Ron Pridgin. I am the regulatory law judge
9 assigned to preside over this hearing. It's
10 being held on October 3rd, 2024 in the Governor
11 Office Building in Jefferson City, Missouri.
12 The time is 9:30 a.m.

13 I would like to give entries of appearance
14 from counsel, please, beginning with Evergy
15 Missouri West.

16 MS. WHIPPLE: Good morning, Jacqueline
17 Whipple with Dentons US, LLP. We have Roger
18 Steiner, and we have Jim Fisher as well. Thank
19 you.

20 JUDGE PRIDGIN: Ms. Whipple, thank you.
21 Any entry on behalf of the Staff of the
22 commission.

23 MR. PRINGLE: Yes, good morning. This is
24 Travis Pringle on behalf of Staff.

25 JUDGE PRIDGIN: Mr. Pringle, thank you.

1 Entry on behalf of the Public Counsel?

2 MR. CLIZER: John Clizer on behalf of the
3 Public Counsel. My contact information is with
4 the reporter.

5 REGULATORY LAW JUDGE PRIDGIN: Mr. Clizer,
6 thank you. Any other parties wishing to enter
7 an appearance?

8 MR. OPITZ: Tim Opitz on behalf of Midwest
9 Energy Consumers group.

10 JUDGE PRIDGIN: Mr. Opitz, thank you. Any
11 other counsel wishing to make an entry of
12 appearance? All right, hearing none, the
13 Commission received stipulations last night, and
14 those stipulations will resolve most of the
15 issues. I understand the parties wishes to make
16 opening statements on one remaining issue, a
17 fuel adjustment clause issue. And, then, I
18 spoke with counsel before we went on the record,
19 I understand counsel wish to simply submit some
20 sort of pleading that will list the exhibit
21 numbers that the parties wish to offer into
22 evidence, and that would save some time rather
23 than going through each one. Did I understand
24 counsel correctly?

25 MR. PRINGLE: Yes, Judge.

1 JUDGE PRIDGIN: Very good.

2 MR. CLIZER: Yes, Judge.

3 REGULATORY LAW JUDGE PRIDGIN: Very good.

4 Anything else from the bench or from the parties
5 before we proceed to opening statements?

6 Hearing none? All right. Every Missouri West,
7 when you're ready. Ms. Whipple, when you're
8 ready.

9 OPENING STATEMENT BY MS. WHIPPLE:

10 MS. WHIPPLE: Good morning. May it please
11 the Commission. As previously stated, I'm
12 Jackie Whipple with Dentons US, LLP, on behalf
13 of Every Missouri West, and we also have Roger
14 Steiner and Jim Fisher.

15 As the Commission is aware, the parties
16 had entered into an unanimous stipulation
17 involving a black box settlement with one
18 remaining issue, which will be addressed in
19 lieu of an evidentiary hearing in post-hearing
20 briefing, but the parties have agreed to give
21 opening statements to give an overview of their
22 respective position on that remaining issue,
23 which, of course, is not oral argument and will
24 not be in evidence.

25 The remaining issue is -- has been

1 enumerated in the list of issues as issue 3-A.
2 What sharing ratio between EMW and its
3 customers should the Commission order as an
4 incentive mechanism in EMW's FAC. It's
5 important that Staff and EMW agree, that the
6 Commission continue the current sharing
7 mechanism of 95/5 percent.

8 EMW's witnesses would prefile testimony
9 that will be admitted into record evidence are
10 Darrin Ives, Evergy's Vice President,
11 Regulatory Affairs and Kevin Gunn, Evergy's
12 Vice President, State and Federal Regulatory
13 Policy.

14 By way of short background, fuel
15 adjustment clauses are a common rate-making
16 tool to address fuel, purchase power and
17 transmission expenses that are frequently
18 volatile. FACs exist to true up actual total
19 energy costs to those accounted for in base
20 rates. Accordingly, in 2006, the Missouri
21 General Assembly enacted MORESSTAT (sic)
22 section 386.266, which is known as the FAC
23 statute.

24 The FAC statute provides that the
25 Commission may incentivize a utility to improve

1 the efficiency and cost effectiveness of its
2 fuel and purchase power procurement activities.
3 The Commission's incentive must be reasonably
4 designed to provide the utility with a
5 sufficient opportunity to earn a fair return on
6 equity.

7 The Commission's associated rule also
8 provides that any incentive mechanism shall be
9 structured to align the interests of the
10 electric utility's customers and shareholders.
11 After the statute was enacted, the following
12 year in 2007, the Commission granted the first
13 FAC to EMW's predecessor, Aquila. In doing so,
14 the Commission specifically requested proposals
15 for the FACs sharing mechanism to feature a
16 50/50 sharing split.

17 The Commission, instead, adopted the 95/5
18 split, which it has continued for the
19 subsequent 17 years. The Commission found the
20 95/5 split would protect Aquila from extreme
21 fuel and power cost fluctuations and allow it
22 an opportunity to earn a fair return on its
23 investment, all the while significantly
24 incentivizing it to take all reasonable actions
25 to keep those costs as low as possible.

1 Now, as a refresher, the 95/5 split is a
2 cost pass-through that can, and has gone both
3 ways. That means if EMW's actual total energy
4 costs exceed the base rate amount, EMW recovers
5 95 percent of that difference through the FAC
6 and absorbs the remaining five percent. If the
7 scenario is the other way around, EMW's FAC
8 credits customers with 95 percent of the
9 difference and EMW retains the five percent.

10 In this case, as previously mentioned,
11 Staff and the company are aligned in their
12 recommendation that the Commission keep the FAC
13 sharing mechanism at 95/5. In the testimony of
14 Staff's witness, Brook Mastrogiannis, and EMW's
15 witnesses Kevin Gunn and Darrin Ives, research
16 indicated that the 75/25 sharing split, which
17 is proposed by OPC's witness, Lena Mantle,
18 would be a more extreme mechanism than the
19 majority of the United States.

20 Staff and EMW agree that if the Commission
21 changed the current 95/5 sharing split, the
22 Commission would also run counter to a dozen or
23 so of its own prior rulings regarding EMW, as
24 well as the three other Missouri regulated
25 utilities.

1 To be clear, OPC does not rebut that its
2 proposal is extreme. OPC concedes that no
3 other US state features a comparable 75/25
4 split. OPC also does not rebut that the
5 majority of the United States has a 95 percent
6 or higher customer-sharing mechanism. Examples
7 of those states were given in the testimonies
8 of Mr. Gunn and Ms. Mastrogiannis.

9 The consequences of adopting OPC's extreme
10 proposed FAC split would be manifold and
11 severe. If Missouri's regulatory oversight is
12 perceived as punitive or nonproductive, that
13 would necessary discourage future utility
14 investment, hinder's EMW's ability to attract
15 capital, stifle innovation, increase utility
16 operation challenges and, ultimately, of
17 course, raise costs for customers in Missouri.

18 Staff and the company therefore agree, it
19 is clear that the Commission adopted
20 Ms. Mantle's recommendation in this case,
21 Missouri would become an outlier in rate-making
22 policy and precedent in the nation.

23 In addition, the Commission's rulings in
24 the past 17 years, which span seven past
25 commissions, regarding the FAC's of Evergy,

1 Ameren and Liberty have all consistently
2 maintained the 95/5 sharing split.

3 In a dozen or so of those rulings, the
4 Commission has even specifically struck down
5 proposals for those regulating utilities FAC's
6 to feature instead, sharing splits of
7 50/50, 70/30, 85/15 or 90/10. In its prefile
8 testimony, OPC, again, advanced the same
9 arguments it has nearly in ten prior cases.
10 Challenging EMW's resource planning, alleging
11 that EMW has not acquired so-called insurance
12 generation, criticizing EMW for having spent
13 more on non-firm short-term energy than it
14 received in revenues or incorrectly claiming
15 that EMW has somehow manipulated the use of its
16 FAC in rebasing.

17 But Staff and EMW remind the Commission
18 that it has previously rejected OPC's, again,
19 repeated argument. The Commission has never
20 found EMW to be imprudent or ordered a
21 disallowance associated with EMW's resource
22 planning or alleged failure to acquire adequate
23 generation. Staff also points out in the
24 testimony of Ms. Mastrogiannis that Liberty
25 Utilities has not always exceeded nonfirm short

1 term energy. The Commission should stay
2 consistent with its multiple past orders.

3 Now, looking forward as we really ought to
4 be doing, there's a lot of exciting
5 developments on the horizon. The parties have
6 previously stipulated that Dogwood is in rate
7 base. As a result of this case's stipulation,
8 Crossroads is being studied so a solution can
9 be reached. The consolidation, or potential
10 consolidation, of EMM and EMW will have a
11 non-contested docket. So far, EMW has filed
12 two 60-days notices for CCNs, one for natural
13 gas; one for solar; and, so, this shows that
14 EMW needs no other incentive to build
15 generation and acquire capacity. What EMW
16 needs is to attract and maintain capital and
17 investors.

18 So, in conclusion, in response to issue
19 3-A, the mission -- the Commission should
20 continue the current sharing mechanism of
21 95/5 percent in EMW's FAC and reject OPC's
22 extreme proposal that would immediately make
23 Missouri a rate-making outlier, while
24 increasing risks for EMW and its customers.
25 Thank you.

1 JUDGE PRIDGIN: Ms. Whipple, thank you.

2 Let me see if we have any bench questions.

3 Ms. Chair, any questions? Commissioner Coleman?

4 QUESTIONS BY COMMISSIONER COLEMAN:

5 COMMISSIONER COLEMAN: Hi, good morning.

6 MS. WHIPPLE: Morning.

7 COMMISSIONER COLEMAN: I do have some
8 questions, and, unfortunately, I was in that
9 traffic, also, coming across the bridge this
10 morning, evidently, what also looked like a very
11 bad accident. So, I might have missed -- so I
12 missed some of the stuff that you talked about.
13 I did hear you mention OPC witness Lena Mantle,
14 and I didn't get to hear exactly what you said,
15 as I tried to look through the presentation,
16 also. Off the top of your head, would you
17 remind me what your comments were about her
18 testimony?

19 MS. WHIPPLE: Ms. Mantle, on the remaining
20 issue, Ms. Mantle is proposing to change EMW's
21 FAC sharing split from its current 95/5 to
22 75/25, and the comments in that regard, Staff
23 and EMW agree that that would be an
24 unprecedented move in the United States.
25 There's no other state that would feature a

1 comparable 20 -- 75/25 percent sharing split and
2 would drastically hinder EMW's ability to
3 attract and maintain capital, ultimately
4 increase the cost for customers, if that were to
5 be adopted, instead of maintaining the current
6 95/5 percent sharing split.

7 COMMISSIONER COLEMAN: So, you said
8 something, I think also, about a 90/10 split?
9 Did I hear that?

10 MS. WHIPPLE: In one of the prior cases
11 that the Commission has -- has decided, a couple
12 of years ago, one party -- it might have been
13 Ms. Mantle, but I, you know, don't want to say
14 that for sure, one party proposed a
15 90/10 percent; and the Commission, this was
16 in Ameren's FAC proceedings, the Commission has
17 rejected 85/15 as a proposed sharing split
18 for Ameren, as well as 90/10 as a proposed
19 sharing split for Ameren. And those numbers
20 were the ER-2011-0028, ER-2014-0258 and
21 ER-2021-0166.

22 COMMISSIONER COLEMAN: Okay, thank you.

23 MS. WHIPPLE: Uh-huh.

24 COMMISSIONER COLEMAN: Thank you.

25 REGULATORY LAW JUDGE PRIDGIN: All right,

1 thank you. Any further Bench questions?

2 Commissioner Holsman?

3 COMMISSIONER HOLSMAN: No thanks, Judge.

4 REGULATORY LAW JUDGE PRIDGIN: Thank you.

5 Commission Kolksmeyer? Hearing none,

6 Commissioner Mitchell, any questions?

7 COMMISSIONER MITCHELL: No, thank you,

8 Judge.

9 REGULATORY LAW JUDGE PRIDGIN: All right,

10 thank you, Commissioner. Ms. Whipple, thank you

11 very much. I appreciate it. Any opening

12 argument from Staff?

13 MR. PRINGLE: Yes, Judge.

14 REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle,

15 when you're ready.

16 OPENING STATEMENT BY MR. PRINGLE:

17 MR. PRINGLE: Good morning, and may it

18 please the Commission. The issue before you

19 today is what sharing ratio between Evergy

20 Missouri West and its customers should the

21 Commission order as an incentive mechanism in

22 EMW's fuel adjustment clause, also known as the

23 FAC.

24 Staff and Evergy Missouri West recommend

25 to continue the sharing mechanism that has been

1 in place since the company first elected to
2 have an FAC, and that mechanism is
3 95/5 percent. The way the ratio works is when
4 there's an under recovery, the customers have
5 to pay back 95 percent of the under-recovered
6 cost while the company pays the other five
7 percent. When this is an overrecovery,
8 95 percent goes back to the customers while the
9 company gets to keep five percent of that
10 overrecovery.

11 It is Staff's position that the
12 current-sharing mechanism appropriately aligns
13 company and customer risk. The Office of the
14 Public Counsel is advocating for a change in
15 that ratio to 75/25 percent. Staff strongly
16 recommends that this Commission reject that
17 proposal and continue with the 95/5 percent.

18 Changing the current sharing percentage
19 would be inconsistent with prior Commission
20 rulings and the sharing percentages ordered by
21 the Commission for other Missouri-regulated
22 utilities that have an FAC. The OPC has not
23 provided sufficient evidence to justify a
24 change of the sharing mechanism at this time.
25 Staff's research shows that if the Commission

1 were to order OPC's recommendation of a 75/25
2 sharing ratio, this would put Missouri at an
3 extreme outlier nationwide.

4 As more fully explained in the rebuttal
5 and surrebuttal testimonies of Staff's witness,
6 Brooke Mastrogiannis, OPC's argument is based
7 on the belief that Evergy Missouri West has
8 been imprudent in its resource-planning
9 decisions to rely on the SPP energy market to
10 meet the energy needs of its customers.
11 Instead of building or inquiring cost-effective
12 generation. The Commission has never found
13 Evergy Missouri West imprudent for this
14 approach.

15 The last time the Commission made a ruling
16 regarding FAC sharing mechanism for Evergy
17 Missouri West was in ER-2012-0175, in which the
18 Commission held that, quote, "The current FAC
19 sharing percentages of 95/5 percent, better
20 support safe and adequate service at just and
21 reasonable rates than 85 percent 15 percent."

22 The Commission has ordered this same 95/5
23 split for both Ameren Missouri, lastly in
24 ER-2019-0335 and Liberty in ER-2019-0374. A
25 75/25 sharing ratio would be more extreme than

1 most other states.

2 As explained in Ms. Mastrogriannis's
3 rebuttal testimony, many states have the ratio
4 set at 95/5 or higher. Evergy witness, Kevin
5 Gunn goes into it even further, pointing out
6 that only eight of 52 US jurisdictions utilize
7 a FAC sharing mechanism and none come close to
8 the proposal put forward by OPC. This is in
9 his rebuttal testimony.

10 Now, while Staff's position is that there
11 is no reason to change the current 95/5 sharing
12 mechanism, if this Commission truly believes
13 that the current ratios do not align with the
14 interests of Evergy Missouri West's customers
15 and shareholders, then a more modest move would
16 be appropriate, such as maybe 90/10. However,
17 as discussed by Evergy's counsel, this
18 Commission has also rejected that ratio in the
19 past.

20 That being said, Staff does not believe
21 there is sufficient evidence to support any
22 change to the FAC's sharing mechanism at this
23 time. Thank you for your time today, and I'm
24 happy to take any questions you may have.

25 REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle,

1 thank you. Any bench questions? Chair Hahn?
2 Commissioner Coleman, when you're ready.

3 QUESTIONS BY THE COMMISSION:

4 COMMISSIONER COLEMAN: Good morning, Mr.
5 Pringle.

6 MR. PRINGLE: Good morning, Commissioner.

7 COMMISSIONER COLEMAN: Okay, so I can't
8 help but notice both you and Evergy's counsel is
9 tossing around the word "extreme", and, you
10 know, Missouri sure isn't a state that's out
11 there on the forefront of much of anything in
12 the many years that I have been a resident here.
13 We tend, unfortunately I think often, to follow
14 other -- other states. But I can't help but
15 want to know why your thought is that we can't
16 change what we've done before, even though 95/5
17 has been the norm, why it is so extreme for
18 Missouri to want to make a change in that ratio?

19 MR. PRINGLE: I don't necessarily think
20 it's -- it'd be extreme to make any kind of
21 change, it's more of this proposal for a 75/25
22 is an extreme change. In the list that Evergy's
23 counsel had during their presentation, I'd like
24 to point out the State of Wyoming, it has a
25 80/20, and that is maybe the most disparate one

1 that we see right now in the country being
2 80/20. A 75/25, just no one has that and at
3 this time, we do not believe there is evidence
4 warranting such an extreme shift.

5 COMMISSIONER COLEMAN: Okay, that helps
6 for right now. Thank you.

7 MR. PRINGLE: No problem, Commissioner,
8 thank you.

9 REGULATORY LAW JUDGE PRIDGIN: Commissioner
10 thank you. Any further bench questions,
11 Commissioner Holsman?

12 COMMISSIONER HOLSMAN: Thank you, Judge.
13 Do you agree with the company that a change to
14 75/25 would affect the cost of capital and their
15 ability to raise funds for future generation?

16 MR. PRINGLE: Staff does not have robust
17 testimony on that, Commissioner, but at this
18 time I'd have no reason to doubt that.

19 COMMISSIONER HOLSMAN: Okay. My second
20 question is, in recent history, how often have
21 we seen the FAC flow backwards? The company has
22 mentioned that it's 95/5 in one direction, in
23 95/5 the other direction. How often is the
24 direction in favor of the customer?

25 MR. PRINGLE: I don't have that off the top

1 of my head, Commissioner, but I can include that
2 in the brief if you would like to know that
3 answer.

4 COMMISSIONER HOLSMAN: Yes, please. Thank
5 you, Judge.

6 REGULATORY LAW JUDGE PRIDGIN: Commissioner
7 Holsman, thank you. Any questions, Commissioner
8 Kolkmeier? Commissioner Mitchell, any
9 questions?

10 COMMISSIONER MITCHELL: Thank you, Judge.
11 The -- Ms. Mantle prepared what I think is a --
12 a thorough and thoughtful white paper on the
13 history of the FAC charge in Missouri. In that
14 white paper, she presents an illustration of --
15 it's on page 13, an illustration of what happens
16 in terms of total FAC-build cost if the -- if
17 the actual usage fluctuates, you know, plus or
18 minus 15 percent. It is very informative, and
19 it indicates that, you know, if the actual -- if
20 the actual net energy costs wouldn't go up
21 15 percent, the actual build costs are only
22 98 percent of the total; and if it falls, the
23 actual build costs are 105 percent of the total.
24 So, I think in your brief, it would be
25 informative to the Commission to repeat that

1 mathematical exercise at the 75/25 split, so
2 that you can -- so we can really see how
3 those -- how the adjustment compares to the
4 actual end. Yeah, I think that would be -- that
5 would be nice to see in your briefs, just so
6 we've got the numbers in front of us as to what
7 the real impact is in terms -- in terms of
8 billings would be in that split.

9 MR. PRINGLE: Per that, Commissioner
10 Mitchell, we will endeavor to go ahead and try
11 to cover that in the brief as well.

12 COMMISSIONER MITCHELL: Thank you.

13 REGULATORY LAW JUDGE PRIDGIN: Commissioner
14 Coleman?

15 COMMISSIONER COLEMAN: Let me just ask
16 again: my notes took down, I think it noted -- I
17 noted that Staff wants to keep the 95/5 ratio.
18 Did I hear that correctly?

19 MR. PRINGLE: That's correct. That is
20 Staff's position, Commissioner.

21 COMMISSIONER COLEMAN: Okay. And I
22 started writing down notes as to why you wanted
23 to have that ratio established, but I can't even
24 read my own handwriting. So, let me see, I
25 wrote down a note that the current percentage

1 sharing works best; Ameren and Liberty has the
2 same split. Let me think just a little bit more
3 as I'm listening to others about any other
4 questions I have, okay.

5 MR. PRINGLE: All right. Not a problem,
6 Commissioner. I am happy to take down any
7 questions --

8 COMMISSIONER COLEMAN: Thank you.

9 JUDGE PRIDGIN: -- after I step down as
10 well.

11 REGULATORY LAW JUDGE PRIDGIN: All right,
12 thank you. Any further Bench questions for
13 Staff? All right, hearing none, Mr. Pringle,
14 thank you.

15 MR. PRINGLE: One quick follow-up for
16 Commissioner Holsman on his request for the
17 brief. Commissioner Holsman, how far back would
18 you like for us, I guess to, look? I guess the
19 entirety of FAC's existence or is there a
20 certain time period that you would like us to
21 focus on?

22 COMMISSIONER HOLSMAN: I would say just the
23 most recent history of -- you know, you've given
24 us two examples with Ameren and Liberty where
25 90/10 was rejected. And, so, I just -- I just

1 want to know how frequently, you know, we see it
2 flow backwards.

3 MR. PRINGLE: Okay.

4 COMMISSIONER HOLSMAN: So, yeah, just go
5 back, you know, whatever you think is
6 appropriate.

7 MR. PRINGLE: Thank you, Commissioner.
8 Thank you, Judge.

9 REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle,
10 thank you. Opening on behalf of the Office of
11 the Public Counsel?

12 MR. CLIZER: Mr. Opitz comes before us --

13 REGULATORY LAW JUDGE PRIDGIN: Mr. Opitz,
14 did you have an opening, I'm sorry?

15 MR. OPITZ: I have no opening on this --

16 REGULATORY LAW JUDGE PRIDGIN: Thank you.
17 Mr. Clizer, when you're ready, sir.

18 MR. CLIZER: Thank you.

19 OPENING STATEMENT BY MR. CLIZER:

20 MR. CLIZER: Brian, I hope this clicker
21 works. If it would please the Commission, good
22 morning. John Clizer on behalf of the Missouri
23 Office of the Public Counsel.

24 So, you know, before I get into the meat
25 of the issue this morning, I actually just want

1 to take a very brief moment to discuss
2 something that hasn't been talked about, but I
3 want to bring it up because I think it's
4 something to worth mention: we've actually had
5 a successful settlement in this case, and I
6 just kind of want to bring that out. I know
7 that we might end up doing it on the record
8 later, but I want to highlight this to the
9 Commissioner; when we filed that list of issues
10 in front of the Commission we had 43 issues, 43
11 issues we wanted the Commission to decide on.
12 Of those, we have settled 41.

13 Another way to look at that, is we had 126
14 sub issues; we settled 124 of them. That's
15 fantastic. And I really do, I want to thank
16 both the company and the staff, all the other
17 intervenors who are working together, coming to
18 the table and being able to reach that kind of
19 agreement because it makes this a lot easier,
20 and I greatly appreciate it.

21 So, right now, we have two issues
22 remaining. You've heard everybody said one.
23 It's not entirely true. There's technically
24 two issues. It's just one of those, the
25 Crossroads issue, we are postponing, and we're

1 postponing it in the stipulation so we can do a
2 little bit more research. We want to do a
3 study. We want to get a better idea of kind of
4 what the cost entails and come back to you to
5 in a year or less to kind of figure out what
6 the best course of action there is.

7 Today, though, we're giving our oral
8 arguments -- not oral arguments, apologies,
9 opening statements regarding the other
10 remaining issue, which is the FAC incentive
11 mechanism, of course.

12 Now, you've already heard from both of the
13 others what the issue is. Just to kind of
14 repeat what's up on the screen, that's what's
15 stated in the list of the issues, you know.
16 What should the incentive mechanism be? And I
17 think it's been said, but just to make sure
18 it's very clear, what the FAC does, right, when
19 we set rates in a rate case, we include fuel as
20 part of the company's cost. We include them at
21 a base level.

22 What the FAC does is it comes back later
23 and says, okay, what were the actual costs you
24 incur? And the difference between the actual
25 and base costs are what get flown through the

1 FAC. Only that difference. That's important;
2 we'll come back to that. If actual costs are
3 higher, the company collects the difference,
4 and if they're lower, the company returns the
5 difference.

6 Now, as it also has already been said, the
7 FAC is a creature of statute. It's permitted
8 under 386.266. And it's that statute very
9 specifically that has a provision that allows
10 the Commission to institute an incentive
11 mechanism. To incent what? Cost effective and
12 management of fuel and purchase power. And if
13 you think about it, what we have in place right
14 now, the 95/5 you heard about, what that is it
15 says, if actual costs are above base costs, the
16 company has to eat 5 percent; and if they're
17 below, the company gets to retain that 5
18 percent. So, what does that do? It encourages
19 the company to bring its actual costs below the
20 base costs.

21 In other words, it encourages the company
22 to find ways to save money. And that's a great
23 thing.

24 What we are asking for is to improve on
25 that incentive mechanism, to change it to a

1 75/25. And in doing that, what I really want
2 you to do, I kind of want to ask you to take a
3 moment and just consider the hypothetical.
4 Imagine that you are called before the state
5 legislature. Imagine you're sitting before,
6 you know, members of the US -- sorry, not US,
7 the Missouri House, Missouri Senate, and they
8 ask you a very simple question: has this
9 incentive mechanism been effective? From where
10 you're sitting today, can you honestly say that
11 you think the existing 95/5 has properly
12 incentivized Evergy Missouri West to cost
13 effectively and efficiently manage its fuel and
14 purchase power, because the OPC looks at this,
15 we say, no, it hasn't.

16 And let's dig into why we reached that
17 conclusion. Let's look at the 95/5 have been
18 to date. So, right now, according to its 2023
19 IRP, Evergy West estimates that it can only
20 generate about 56 percent of the energy that
21 its consumers are going to need. The other
22 44 percent is going to have to just be
23 purchased off the market at whatever the market
24 price is.

25 That's going to expose customers to a lot

1 of risk. It has already exposed customers to a
2 lot of risk. Over it's last four prudent
3 periods, this company has lost 748 million
4 dollars. That's 748 million dollars where the
5 costs exceeded what the company was able to
6 sell into the market with the generation that
7 it had, and that doesn't include an additional
8 300 plus million dollars for winter storm Uri.

9 What does that mean? That means that over
10 last the four prudent periods, this company has
11 lost one billion dollars. In other words, it
12 has spent one billion dollars buying energy off
13 the market, compared to what it was able to
14 sell in. I mean, you heard both -- sorry, you
15 heard both Staff and the company come up and
16 talk about, oh, this is going to inhibit our
17 ability to build generation. Just think how
18 much generation we could have built already if
19 we weren't spending this much money just buying
20 energy from other players in the market.

21 Like this is ludicrous to us. And it's
22 not as though what we're asking for is some
23 great, foreign concept. What you see on the
24 screen now is a cost comparison between Evergy
25 West and Evergy Metro over those last four

1 prudent periods.

2 Now, the black boxes are there because
3 those numbers are considered confidential.
4 There's a non-confidential version in Ms.
5 Mantle's testimony if you really want to see
6 them; but what you see on the far right, the
7 totals, Evergy West, like I said, it's been
8 losing all that money during those four prudent
9 periods because it had to buy more than it
10 sells. Evergy Metro was making money. They
11 made 400 million dollars that same period .

12 So, this is two companies that are owned
13 by the same parent, managed by the same people,
14 operating in the same area, subject to the
15 same weather and you have two completely
16 different results, and those results are
17 because of management decisions regarding how
18 they manage fuel and purchase power. So, you
19 look at this and say one of those two is
20 effective. One of those two is efficient, and
21 Evergy West isn't.

22 That's the problem. That's the reason the
23 OPC has this concern. Now, I'm going to touch
24 very briefly on how we got here, because I feel
25 like the historical background is really

1 important to that. And to do that, I'm going
2 to actually start with a company called Aquila,
3 Incorporated. Now, Aquila, Incorporated, is
4 the company that was eventually purchased by,
5 first, Great Plains Energy and then eventually
6 became Evergy West. So, Aquila is the
7 predecessor to Evergy West.

8 Way back in 2007, the last IRP Aquila
9 fired before they were acquired, they predicted
10 that they could generate 74 percent of what
11 their customers need. Now, I want you to think
12 about that. Way back in 2007, they were
13 already 25, 26 percent in the hole. And that's
14 only gotten substantially worse in the time
15 since then.

16 Now, Aquila, in 2007, it looked at this
17 and said, we have a problem. But we have a
18 solution. They, as part of that IRP, planned
19 to build 775 megawatts of generation in 2007.
20 That generation was going to be natural gas; it
21 was going to be nuclear power. Again, details
22 are in Ms. Mantle's testimony. What happened?
23 Did that generation come out? Did we get it?

24 No, because Aquila five months, just five
25 months after that IRP, got its FAC, and as soon

1 as it was acquired by the Company, the plans to
2 build that generation was scrapped. Why?
3 Well, because with an FAC and with the SPP
4 Energy Market, the company will just buy the
5 energy it needs and flow any excess costs onto
6 customers. That was easier. And, so, that's
7 what was done. You didn't get generation build
8 because the FAC allowed them an out.

9 But that wasn't the end of the story
10 either. In the intervening time, we had
11 additional developments. In 2018, Evergy West
12 retired the only coal plant that it had sole
13 ownership of; that was the Sibley generating
14 facility. That resulted in 400 megawatts of
15 loss capacity. So, remember, you had 775
16 megawatts of expected build that got scrapped.
17 You had 74 percent, which was what they could,
18 and then they cut out another 400 megawatts of
19 coal.

20 This is despite the fact that Evergy West
21 was the only utility at the time with expected
22 load growth. It was the only utility -- sorry.
23 They had just spent 100 million dollars to
24 extend the life of the Sibley plant, and here
25 they are, shutting it down at a time when

1 they're already in the hole.

2 Another major development is now time-use
3 rates. Now, I want to caveat this; I'm not for
4 a single second here to argue whether
5 time-of-use rates is a good thing or a bad
6 thing; but the Commission needs to understand
7 how they've been examined as part of a
8 company's IRP because this is really important.
9 You see Evergy West's most recent IRP is
10 predicting a 358 percent increase in its DSM
11 savings. Those are demand-side management,
12 okay? Where's that 358 increase coming from?
13 They predicated time-of-use rates; the
14 time-of-use rates being the rates that were
15 originally put in effect by the Commission.

16 Now, we all know that those rates aren't
17 what became the default. Again, not here to
18 litigate that in any way, shape or form. But
19 the base reality that is due to the adoption
20 rates that we are seeing right now, that 358
21 percent increase is almost certainly not going
22 to happen. That's touched upon in the
23 testimony of Dr. Geoff Marke if you want more
24 description.

25 That means the Company's IRP is already

1 massively estimating the DSM savings that we're
2 expected to see, and that's a problem. If you
3 look right now, this graph shows you, this is
4 from Evergy West's IRP, and it shows you what
5 the company's hourly load and generation is
6 expected through the 20-year horizon. So,
7 that's through 2043. That big red bar at the
8 top, you can see, that's their load. And you
9 can see they're getting towards it; they're
10 moving towards it; but they're not going to
11 reach it. Not even in 20 years they don't
12 expect to reach it. And if you can see, I'm
13 going to walk up to it really quick.

14 This gray part right here? That's your
15 DSM. That's not happening. That's expansion,
16 it ain't coming. Not with the adoption rate
17 and time-of-use rates that we have right now.
18 So, you are already, like I said, below where
19 you are expected to be. And I want to be clear
20 because Evergy talked in its opening how, you
21 know, we have Dogwood coming online; we have
22 these two new CCMs coming online. Those are in
23 this graph. Those are already baked into this,
24 and you're still below where you need to be.

25 So, you can see again, why the OPC is so

1 concerned about this. Given everything I've
2 talked about, given all the money that's been
3 spent, given where the projected load is going,
4 can you honestly sit there and say if you are
5 called before the legislature that you think
6 this incentive mechanism has done its job?
7 That they have effectively and efficiently
8 managed fuel and purchase power given what has
9 happened? The OPC says no. We don't think
10 that they have, and that's why we're asking for
11 a change.

12 Now, I want to address a couple of
13 concerns that you've already heard and you
14 might hear in the briefing about this change.
15 First of all, this is an incentive. It's not a
16 punishment. It's not meant to be punitive. We
17 have agreed on a revenue requirement. I am
18 asking the Commission to approve the
19 stipulation that includes that revenue
20 requirement. Whatever the Commission decides
21 on this issue right now has zero impact on that
22 revenue requirement, okay? I want to make sure
23 that's very clear. You can change the FAC; you
24 can keep it the same; but no matter what you
25 do, the revenue requirement that we've

1 stipulated to remains the same.

2 That 75/25 split as is the 95/5 currently
3 is also symmetrical. You've already heard the
4 company will pay more if actuals are above
5 base, but if the inverse occurs, if the actuals
6 far fall below base, the company will retain
7 more. There is an opportunity here for the
8 company's bottom line to actually increase; for
9 this to benefit shareholders if they can bring
10 the actuals below the base costs.

11 And I want to make clear here, as part of
12 the stipulation, parties agreed to adopt the
13 company's fuel with some adjustments. I want
14 to make sure I'm speaking clearly here; there
15 were adjustments made to address some of the
16 issues, but it's not like we are expecting them
17 to be wrong.

18 I mean, we're hoping that Evergy did this
19 correctly, because that's a major point. If
20 the base is set correctly, the actual amount
21 flowing to the FAC should be small; because
22 your only difference is base between the actual
23 and the base, right?

24 And, is this point I think Commissioner
25 Mitchell got to earlier so I'm going to address

1 that very carefully here, Everygy will still be
2 able to recover more than 90 percent of its
3 total fuel and purchase power cost even under
4 our split.

5 Now, you hear that and you might think
6 that doesn't make sense mathematically, so
7 let's dig into that a little bit here. Let's
8 talk about this graph. This is a
9 representation of the graph that, again,
10 Commissioner Mitchell referenced earlier. This
11 is in the testimony of Ms. Lena Mantle if you
12 want to get more into it. So, how does this
13 graph work? The wide axis, the vertical axis
14 is the percent of total fuel costs that the
15 company is going to recover from customers.

16 And the X axis, the horizontal axis, is the
17 difference between actual and base. How far
18 apart they are, right? The red line, can you
19 see, with the triangles is what the 95/5
20 currently is and the green line with the
21 circles is what our projected 75/25 is. Now,
22 both of those lines converge at zero, right?
23 What is that? Because at zero, there's no
24 difference between actual and base, so the
25 company recovers exactly what's in the base.

1 Pretty obvious. Let's go to the right now.
2 Let's go to the far right even. 50 percent.
3 What does that mean? That means the actual
4 costs are 50 percent of what's in base.
5 They're 50 percent higher, I should say, sorry.
6 Another way of saying that is, you know, actual
7 costs are -- the base -- yeah, are doubled.
8 So, what happens in that scenario?

9 Under the existing FAC, as Ms. -- as
10 Commissioner Mitchell said earlier, that
11 resulted in 98 percent. Under the existing
12 95/5, the company recovers 98 percent of its
13 fuel and purchase power even in that extreme
14 scenario. Under the OPC's, it's about 92.
15 Again, this was testimony of Ms. Mantle. So,
16 even under a 75/25 split, the company is going
17 to recover 92 percent of its total fuel and
18 power costs. But let's go the opposite
19 direction now. What happens if somehow the
20 actual falls below the base, you know, they
21 manage to save money?

22 Well, under that scenario, under a 95/5,
23 the company gets to make that five percent
24 back; but it actually massively increases under
25 the 75/25. It radically increases to the point

1 where the company makes a whole lot more money
2 for shareholders if it can drive actuals below
3 the base.

4 So, again, I hope this answers
5 Commissioner Mitchell's question and any other
6 questions you might have on this; but this is
7 kind of the math behind this. And, again, is
8 deed in -- everything I just said is detailed
9 in the testimony of Ms. Lena Mantle.

10 Now, I want to touch on this one, because
11 this is very important. One of the things you
12 heard from both Evergy and Staff is they kept
13 coming back to this idea that said nobody else
14 does this. Nobody else has anything higher
15 than 95/5. This is an extreme position,
16 extreme position. We've heard that a lot,
17 right? Well, here's the secret. Evergy West
18 is different than everybody else, all right?
19 No witness in this case can sit here and tell
20 you, point to any other company that is putting
21 as much risk on customers, is relying as
22 heavily on the SPP Market Place that Evergy
23 West is. And if you're going to have an
24 extreme attitude from the Commission -- from
25 the company, maybe that requires you to

1 consider something outside the norm from the
2 Commission's perspective, right?

3 It's like if you teaching a class, and one
4 unruly student is acting out and you send them
5 to detention, and says why did you send my son
6 to detention, you know, that was an extreme
7 position. It's, like, your son was the only
8 one acting out. I'm sorry; that's just how it
9 is.

10 So, yes, it is different. We concede that
11 point. Evergy is a hundred percent correct
12 there. But it's only because Evergy West is
13 different. And you know what? If Evergy West
14 changes its behavior; if it gets back to where
15 all the contemporaries are, then, yeah, the
16 Commission can come back and review this whole
17 thing again. I'm going to mention very briefly
18 for a second here, it was brought up, I think,
19 in the opening for the Evergy West, that
20 Liberty was in same boat. It had increased.
21 That was for one prudent period, and that's
22 because Staff included winter storm Uri costs.
23 So, a little bit different of a comparison
24 there.

25 Also, I want to mention the fact that, you

1 know, they've talked about a lot of cases that
2 have been brought up and said, you know, oh,
3 the Commission has heard this multiple times,
4 hasn't made a decision. The vast majority of
5 those cases were settled cases. The Commission
6 wasn't really asked to settle it. There were a
7 couple that I will acknowledge that the
8 Commission made a decision, but this is another
9 important part I want to bring in: this has
10 never been set in stone, and it was never
11 intended to be set in stone.

12 Aquila, the former party for Evergy West
13 was the first Missouri utility to get an FAC,
14 and when it did, when it got its FAC, the
15 parties had put forward competing opinions and,
16 guess what? The Commission, it didn't go with
17 what any of the parties had suggested.
18 Instead, it came up with the 95/5 on its own.
19 It wasn't based on evidence; it wasn't based on
20 theory. It picked that number because that's
21 the number it felt was correct. And there's a
22 quote from the chair at the time, Jeff Davis,
23 who filed a concurring opinion in the case, who
24 stated, "Absent certainty of fuel cost
25 variances, some aspects of rate setting are

1 like rate design in that they are more art than
2 science. Although, the parties may be
3 commended for coming to an agreement of how
4 to -- how the process should work, their
5 extreme positions left the Commission in the
6 position of having to try to develop an FAC
7 mechanism that would be just and reasonable to
8 all parties."

9 But Chair Jeff Davis went on, too. He
10 also said, "Aquila should be very mindful that
11 the majority of this Commission took a bold
12 step in awarding Aquila a fuel adjustment
13 mechanism. The Commission and the General
14 Assembly will be watching. If Aquila fails to
15 adopt proper hedging strategy, fails to follow
16 its hedging strategy or abuses the discretion
17 given to it by this Commission in any other
18 way, the Commissioner -- this Commissioner will
19 not hesitate to modify or reject Aquila's FAC
20 application in future proceedings."

21 So, again, you can see when the Commission
22 first came to us with this, they acknowledged
23 the reality that, hey, we're coming for the
24 95/5, but if things change, if something goes
25 awry, we'll come back; we'll review this; and

1 that is exactly what the OPC is asking you to
2 do. It's to come back and say has this worked?
3 Have we incentivized proper management? And if
4 not, let's try something different.

5 Because, and again this is a secret, it's
6 not about 75/25. Granted, that is absolutely
7 what the OPC is asking for, and it's still
8 asking for that. But this Commission is free
9 to choose, you know. You can do an 80/20. You
10 can do an 85/15. 90/10. You could even go
11 past that. Just as with the original, the
12 Commission has the authority and the ability to
13 make a determination on what it thinks just and
14 reasonable rates are. And I want to repeat
15 that statement from Chair Jeff Davis, absent
16 certainty, this is more art than science.

17 Now, as one last brief thing I'm going to
18 touch on, I want to just kind of give you a
19 little background on who our witness is. I
20 know her name has already been brought up
21 before. The OPC witness on this is Ms. Lena
22 Mantle. Just a bit of background, she's a
23 professional engineer, over 40 years of
24 experience, working first for the Staff, then
25 for the OPC. She was heavily involved in

1 drafting the Commission's rules regarding
2 electric utility resource planning, and was
3 also identified, is an author of a white paper
4 on that subject. She also was instrumental in
5 developing the Commission's FAC rules; and,
6 again, we're going to have a white paper on
7 that subject as well.

8 I want to say, there is no hyperbole; it
9 cannot be stressed, no hyperbole, that there's
10 no one in this building who works here who
11 probably knows more about the FAC than
12 Ms. Mantle does. She, more or less, literally,
13 wrote the book on this. So, I strongly
14 encourage the Commission to kindly read her
15 testimony carefully and consider her arguments.
16 I guess -- I guess that sums up my position.
17 So, I thank you very much for listening to
18 that. I'm here to take any questions if you
19 have them.

20 REGULATORY LAW JUDGE PRIDGIN: Mr. Clizer,
21 thank you. Any bench questions? Chair Hahn?

22 QUESTIONS BY THE BOARD

23 CHAIR HAHN: Good morning, Mr. Clizer.

24 MR. CLIZER: Good morning.

25 CHAIRPERSON HAHN: In your presentation,

1 you kind of went over some timelines. In 2007,
2 you spoke to the utilities' plan to build
3 additional generation, which would have been gas
4 and nuclear, and you said that was scrapped
5 because of the FAC.

6 Can you speak to projected load growth at
7 the time and if that changed.

8 MR. CLIZER: Again, I want to stress to you
9 that at that time, the company was already below
10 the line. They were 26 below the line. It's my
11 understanding, like I said, that Evergy West has
12 an expected load growth. I don't know at that
13 exact amount in time whether or not that was the
14 case. Let me double check. I was handed some
15 notes here, but I don't know that they discussed
16 necessarily load growth.

17 My recommendation would be to review the
18 testimony of Ms. Mantle. I'm not sure if she
19 directly covers that, but, again, I'm going to
20 have to stand on the fact that: A, they were
21 below where they needed to be; and, B, I know
22 that Evergy West, in particular, has expected
23 load growth at least in most recent time
24 periods, but I can't speak back that far, I
25 apologize.

1 CHAIRPERSON HAHN: To your knowledge, has
2 the Commission ever made a finding of imprudence
3 placed on not having enough capacity in the
4 past, especially around 2007 or even 2018, you
5 also focused on the Sibley retirement.

6 MR. CLIZER: Not to my immediate knowledge,
7 but that is a topic very briefly here, because
8 we're not asking the Commission to make a
9 decision of imprudence in this case, and we
10 don't believe that a change needs to be made
11 based on a decision of imprudence. The real
12 issue before you isn't was the company
13 necessarily prudent or not; it's just, has this
14 worked as an incentive mechanism? Can you sit
15 here and say to yourself, I think that they have
16 the proper incentive to do a good job managing
17 fuel and purchase power given where we are,
18 given the facts that we're seeing. So, again,
19 we're not here to argue imprudence. That was
20 never part of our case. It was literally just,
21 this is not incenting them. We don't think it's
22 working.

23 CHAIR HAHN: To my knowledge, there's been
24 notice on two CCNs for West, which, I think was
25 highlighted in Counsel -- West Counsel's opening

1 remarks for both gas and solar. Knowing that
2 Everygy West is short on capacity, I am
3 interested in what OPC positions in those
4 particular cases are given that we're here
5 having this argument about capacity.

6 MR. CLIZER: So, a couple of different
7 things, I think, specifically, the two CCNs that
8 you're identifying were just -- just gas. I
9 believe there are other additional plans in
10 their IRP to build solar beyond just those
11 two CCNs. I want to make sure that that's
12 correct. To give them benefit of that, I don't
13 think it's -- yeah. The honest truth is we
14 haven't actual seen anything. We have the
15 notice of the CCNs, but we have literally no
16 information on them.

17 We are, obviously, keenly aware of the
18 company's need to build, so I'm hoping that
19 they put forward something we can definitely
20 get behind, but the devil's in the details,
21 right? It's literally going to be questions
22 of, are we putting these in the right place,
23 you know? To give sort of an obtuse example,
24 we had a case a while back with Ameren which
25 was they were putting up a windfall, right, and

1 we said, you know, we're fine with the windfall
2 farm but the place you're putting it in is
3 going to cause problems, because you're putting
4 it in place that, you know, bats are flying
5 through. That turned out to be a major issue
6 with the situation. So, like I said, I would
7 love, love, to be able to get a point where we
8 think, yep, we are on board with that. But the
9 devil is going to be in the details, and we
10 just need to see what they're actually planning
11 before I can commit to anything.

12 CHAIRPERSON HAHN: I had another question.
13 With regard to the split that's proposed by OPC,
14 is there any other state or utility -- state
15 commission or utility that has been subjected to
16 a 75/25 split, to your knowledge, anywhere in
17 the US?

18 MR. CLIZER: I do not believe to my
19 knowledge. And, yeah, so, again, this is
20 different, and we will concede that point. We
21 think it's warranted given how different Evergy
22 West is behaving, you know, compared to its
23 relative sister states in this utility. But,
24 yeah, I will readily concede that this is not
25 something that another person has specifically

1 done.

2 CHAIR HAHN: What's the highest split that
3 you've seen in any other state?

4 MR. CLIZER: I believe 80/20 was mentioned
5 by Commission Staff, for Wyoming.

6 CHAIR HAHN: Are there any other examples
7 outside of the Wyoming example of 80/20?

8 MR. CLIZER: You know, I apologize. I
9 don't know off the top of my head. I believe
10 that might be something that would be actually
11 found in the testimony of Staff or the company,
12 though. They appear to --

13 CHAIR HAHN: I have theirs; I was just
14 curious. I think that's all I have at the
15 moment.

16 REGULATORY LAW JUDGE PRIDGIN: Thank you,
17 Chair Hahn. Commissioner Coleman?

18 COMMISSIONER COLEMAN: Yes, thank you.
19 Would you find this?

20 MR. CLIZER: Can I borrow a copy of the
21 Staff -- thank you. What's the title at the
22 top?

23 COMMISSIONER COLEMAN: Aquila.

24 MR. CLIZER: Yes.

25 COMMISSIONER COLEMAN: The nice white and

1 green banner.

2 MR. CLIZER: Yep.

3 COMMISSIONER COLEMAN: All right. So, one
4 of the -- the note I wrote here is that you
5 talked about the energy. You said the company
6 can buy the energy needs and flow it to the
7 customers. So, am I correct in hearing with
8 that comment, if I wrote that down correctly
9 because you're looking --

10 MR. CLIZER: No, no, I am listening.

11 COMMISSIONER COLEMAN: Okay. Since
12 purchase power flows through the FAC and rate
13 payers pay 95 percent of those purchase power
14 costs, isn't it a disincentive then for the
15 utility to build generation rather than to buy
16 power to meet the needs of its customers
17 demands.

18 MR. CLIZER: To answer the question
19 directly, I mean, that's the position of the
20 OPC. That's our belief, and that's the
21 testimony I think that we have put forward. We
22 believe based on the historical facts that we
23 kind of lay out in testimony and as I've
24 addressed in this opening, is that appears to be
25 what has in fact happened. I want to make sure,

1 you know, the high level, I'm aware that
2 commissioners are probably aware of this, but I
3 like to make sure everybody is talking on the
4 same page, obviously they're part of an energy
5 market: Southwest Power Pool. For the record,
6 that's when -- every time, I say SPP, it's
7 Southwest Power Pool.

8 They buy of all of the energy they need
9 from Southwest Power Pool. They sell all the
10 energy they generate in the Southwest Power
11 Pool, and the difference is what's basically
12 being flow through the FAC; the net of that.
13 Where was I going with this? I'm not sure.
14 But, I guess, to circle back to your original
15 answer, it's our opinion that, yes -- oh,
16 that's where I was going to go with this. The
17 key factors is something you touched on. The
18 fact that purchase power, that those costs are
19 allowed to flow through the FAC is exactly what
20 allows the company to off load all of that risk
21 onto customers and allows the company to really
22 kind of sit back and, say, we don't need to
23 worry about building; we don't need to worry
24 about shutting down a power plant that we are
25 already short on capacity on, because that risk

1 is going to fall on customers. At least,
2 that's is our position.

3 COMMISSIONER COLEMAN: Thank you. Thank
4 you, Judge.

5 REGULATORY LAW JUDGE PRIDGIN: Commissioner
6 Coleman, thank you. Any questions, Commissioner
7 Holsman?

8 COMMISSIONER HOLSMAN: Yes, Judge. Thank
9 you. Mr. Clizer, you had said in the very
10 beginning of your testimony, you asked the
11 question, would we testify that the FAC has been
12 successful? And your conclusion was that in
13 this instance, it has not. Would you encourage
14 the OPC if the same question were posed to
15 testify that the FAC should be gotten rid of,
16 and that it should be decoupled, and another
17 system of maybe performance-based rates or going
18 back to the old way, would be a better solution
19 than what we're currently doing now with the
20 FAC? Would you encourage the legislature to
21 stop the FAC?

22 MR. CLIZER: So, a couple of different
23 things. Before I directly answer that question,
24 I want to clarify: when I was posing that
25 question, it's the FAC incentive mechanism,

1 because there's a difference here between the
2 FAC and the actual incentive mechanism component
3 of it. Now, you know, has the FAC been
4 successful? Well, if you approach it from the
5 standard of has it maintained or decreased the
6 volatility of costs being flown before the
7 company, you know, from the company's
8 perspective, yeah, it probably has been
9 successful in that regard; but the incentive
10 encouraging the company to act prudently when it
11 comes to acquiring fuel for making
12 purchase-power decisions, that's what's not been
13 effective.

14 Now, to the meat of your question, though,
15 I have to caveat every thing I'm gong to say,
16 obviously, with the fact I'm not the OPC. That
17 would be Mark Poston upstairs, so I don't have
18 the authority to speak on his behalf, you know.
19 I might say something and he says, no, no,
20 Mr. Clizer, that's not the position we're going
21 to take. We would have to examine that is the
22 short version. I mean, is having an FAC in the
23 customer's best interests? I'm not sure. I
24 don't know if I've delved deeply enough into
25 that, and, honestly, if we were to take this to

1 hearing, that's something I probably would ask
2 you to ask of my witnesses because I think they
3 would be better equipped to kind of make that
4 kind of heady policy decision.

5 So, I apologize for the nonanswer, but I'm
6 standing here right now today, I don't know
7 that I would completely be able to commit to
8 that; and I certainly can't speak for
9 Mr. Poston, so I don't want to give the wrong
10 impression. I'm sorry.

11 COMMISSIONER HOLSMAN: But you -- but you
12 clearly in your presentation were saying the
13 incentive portion of the FAC is not successful.

14 MR. CLIZER: Right, and, again, I'm not
15 asking that to change in the statute. I'm
16 asking the Commission to change the incentive
17 that it has ordered; but, yes, it is very clear,
18 in my opinion, the incentive has failed to
19 achieve its objective. At least for Evergy
20 West --

21 COMMISSIONER HOLSMAN: Okay.

22 MR. CLIZER: -- and I want to specify, you
23 know, we're only here about Evergy West.

24 COMMISSIONER HOLSMAN: You know we've
25 have -- we've have this sort of reoccurring

1 macro theme or concern about West versus Metro.
2 You presented a graph that showed the net
3 results of purchases for West versus sales for
4 Metro. Identifying that they're in the same,
5 you know, parent company, that -- that was
6 basically decisions made in the territories that
7 lead to that. You gave a little history of
8 Aquila and how the FAC might have impacted those
9 decisions. And we've discussed in previous
10 cases how perhaps it would be beneficial for the
11 customers that West and Metro were to
12 consolidate, had witnesses to discuss the
13 timing, how long that might take and the
14 difficulty in that, why it hasn't occurred yet,
15 and, you know, potential benefits and challenges
16 of that consolidation occurring; but wouldn't it
17 be fair to say that the incentive portion of
18 this, you would not have the same grounds for
19 arguments for Metro that you're making for West,
20 just as a function of it in itself?

21 MR. CLIZER: Yeah, as things stand right
22 this instance, no. What I mean by that is that
23 as of right this instant, I believe that Metro
24 currently had generation exceeding its need. I
25 would encourage all the Commissioners to take a

1 look at the comments that the OPC filed in the
2 IRP dockets for both Evergy West and Evergy
3 Metro, because the sad state of affairs is
4 that's not expected to continue. Metro is
5 expected to fall below that line, too, and we
6 are hoping that the company is coming forward to
7 solutions to that as well.

8 A couple other of things that I kind of
9 were addressed to that; I want to flag to your
10 attention and, again, to the rest of the
11 Commission's attention, one of the components
12 in the larger stipulation is actually
13 requesting the company to open a docket to
14 pursue consolidation. So, we're still
15 interested in that. If the Commission is still
16 interested in that, we're hoping that is
17 something, you know, moving forward, we can get
18 to some kind of agreement on.

19 And I would also throw out there, and this
20 is my personal opinion, I believe the change in
21 the incentive mechanism for Evergy West would
22 further encourage consolidation for the simple
23 fact that if Evergy Metro is at 95/5 and Evergy
24 West isn't, then the company will have every
25 incentive to merge Evergy West into Evergy

1 Metro to reclaim the 95/5. And that might have
2 been the point I think you were driving at, but
3 I'm not going to speculate. So, did that
4 answer your question? I kind of jumped around
5 a little bit --

6 COMMISSIONER HOLSMAN: Yes. No, no, I
7 think that, you know, that macro issue I think
8 needs to be discussed further here, which we've
9 done. I want to -- the last area of
10 conversation I'd like to have with you is, is
11 this idea of cost to capital. Would you agree
12 that oftentimes investors are influenced by
13 perception and that the market is, for better or
14 worse, all the graphs and math and statistics
15 that you can use to buttress a position, the
16 reality is is that investors and shareholders
17 and potential future investors are influenced by
18 the perception of outcomes? Would that be a
19 fair statement?

20 MR. CLIZER: I mean, obviously, a lot of
21 different investors are going to look at
22 different things. Some investors, for example,
23 you have the chart analysts who just look at,
24 you know, what's the chart doing, to kind of
25 come to some kind of idea of what they think the

1 market is going to be. But there are definitely
2 investors, and I concede this point readily, who
3 do kind of look at the perception of how things
4 are happening. But because you brought the
5 subject up, I'd like to just for a moment push
6 back on this notion that changing the FAC
7 incentive mechanism is going to somehow cripple
8 the ability of this company to acquire capital.

9 Again, from the get-go, I'd like to
10 reiterate this point: we're not asking for a
11 change in the revenue requirement. We are
12 expecting that the base rates that would have
13 been put in for fuel are going to be accurate;
14 and if they are accurate, the company isn't
15 going to have these huge losses flow through
16 the FAC.

17 In addition to that, the company stands to
18 potentially make money if it flows through the
19 FAC. I also want to reiterate this idea that
20 this company is in a position where it needs to
21 build, and building is how utilities make a
22 profit. You are in a position where you have
23 an excellent grounds for growth, and they can
24 point to this and, say, look, we have to start
25 growing as a result of this decision as

1 justification for explaining why we should
2 expect, you know, a higher return for investors
3 in the future.

4 So, you know, I disagree with this notion
5 that it is just going to absolutely cripple
6 Evergy's ability to generate --

7 COMMISSIONER HOLSMAN: Well, I think -- so
8 I don't want to debate the word "cripple" with
9 you, but if we -- if the Commission and all
10 stakeholders agree that the new generation is
11 going to be a part of a future solution, would
12 you agree that access to that capital and the
13 expense of that generation could largely be
14 predicated on an investor's willingness to
15 provide, you know, that capital, and that the
16 perception of, you know, the -- the incentive
17 could potentially affect that perception and
18 lead to higher cost for the generation that we
19 perhaps agree needs to happen?

20 MR. CLIZER: It shouldn't have that
21 profound of an impact. Evergy is not traded at
22 Evergy West-Evergy Metro level. It's traded at
23 the parent company level. So, you're going to
24 be automatically going to be, you know, mixing
25 the two different subsets in order to determine

1 investors' likelihood -- in fact, it's
2 influenced at the Kansas level, too, you know.
3 Evergy's largest recent dip in their stock
4 prices was predominantly driven, if you go read
5 the actual analyst-investor reports,
6 predominantly driven by the decision that they
7 made in Kansas. So, if you're sitting here and
8 you're telling, like, well we can't make a
9 determination here -- like what happens when
10 Kansas hands out a decision and their stock
11 drops and you have no ability to control over
12 that?

13 Again, I don't think that this particular
14 decision is going to have as profound an impact
15 as you suggest, given what I just explained --

16 COMMISSIONER HOLSMAN: Well, hold on.
17 Mr. Clizer, Mr. Clizer? I'm asking questions;
18 I'm not suggesting. The company is suggesting.

19 MR. CLIZER: Okay.

20 COMMISSIONER HOLSMAN: I'm asking you to
21 verify, whether their suggestion is accurate in
22 your perspective.

23 MR. CLIZER: My apologizes. I did not
24 mean -- I mean, yeah, I see what you mean. No,
25 I mean, in my opinion that's not going to --

1 COMMISSIONER HOLSMAN: The last -- the last
2 sort of, you know, dot on this I would be, let's
3 look at Wyoming. They're 80/20. What kind of
4 influence has -- has that incentive had on their
5 cost to capital? It is more expense to generate
6 new power in Wyoming because of this incentive,
7 or does it have no impact? I think that we --
8 we will not be able to draw an exact
9 extrapolation, but we should be able to get some
10 insight into -- help -- do we know how long
11 Wyoming has been at 80/20?

12 MR. CLIZER: I don't know off the top of my
13 head. I imagine that information can be gleaned
14 from Staff's filings, so, no.

15 COMMISSIONER HOLSMAN: Well, I would just
16 suggest -- I would just suggest that we take a
17 peak at Wyoming's 80/20 and determine if that
18 has any impact at all on the cost of capital,
19 because I think that what we have heard is that
20 even by minute decisions that the Commission
21 makes, can and does impact an investor's
22 willingness and ability to provide the capital
23 necessary for this new generation that I think
24 we all do agree is necessary. So, that's
25 something that we don't to want gloss over, and

1 we want to make sure that we get that portion of
2 it, at least, fully discussed.

3 MR. CLIZER: I'm going to say this, and I'm
4 going to immediately hate myself for saying
5 this, but to the extent that the Commission
6 wants to bring that information in, your best
7 choice would be to ask the parties to late file
8 something with regard to that specific issue,
9 potentially.

10 I don't want to, you know, damage the
11 existing settlement. I don't want to cause
12 more problems, but I hear what you're saying; I
13 think that's a good idea. It's not in the
14 record as it stands currently. And that option
15 is available to you. I would stress caution,
16 though, on asking parties to present additional
17 information on this topic, but I definitely
18 hear what you're saying.

19 COMMISSIONER HOLSMAN: All right. Well,
20 thank you, Mr. Clizer, and thank you, Judge.

21 REGULATORY LAW JUDGE PRIDGIN: Commissioner
22 Holsman, thank you. Any questions, Commissioner
23 Kolksmeyer?

24 COMMISSIONER KOLKMEYER: No questions,
25 Judge. Thank you.

1 REGULATORY LAW JUDGE PRIDGIN: Thank you,
2 Commissioner. Commissioner Mitchell, any
3 questions?

4 COMMISSIONER MITCHELL: Thank you, Judge.
5 Just -- just a couple. And I do think that the
6 incentive mechanism really has -- has had the
7 effect of disincentivizing construction of
8 new -- new capacity, especially for West; and
9 you mentioned in your presentation that the two
10 new CCNs were already baked into the load
11 forecast and that the load forecast still shows
12 the demand will outpace the ability to generate
13 it, so how much is that difference?

14 MR. CLIZER: So, other than just pointing
15 back to the graph, I'm not sure that I come up
16 with the numerical value off the top of my head.
17 I would strongly encourage you to examine the
18 testimony of Ms. Mantle, because she goes into
19 detail of that graph, as well as several others
20 that are identified in there that kind of
21 explain what those differences are. I would
22 also, again, encourage you to review the IRP
23 that has been filed by Evergy West, which is
24 where that graph originates from and you can
25 give more background there. As long as -- as

1 well as the comments that have been filed in
2 that case by OPC. I think Staff has filed
3 comments as well as any other intervenors. So,
4 sorry I can't give you an exact number off the
5 top of my head, but that's the places where you
6 would be best suited to find them.

7 COMMISSIONER MITCHELL: Thank you. And,
8 also, I think -- I think that one possible
9 outcome is that the incentive mechanism may
10 incent (sic) the overstatement of, you know, the
11 net base energy costs. So, I hope in our -- in
12 your negotiations and the stipulation that there
13 was a keen focus on what the -- what that
14 estimate was and trying to be as accurate as
15 possible in that estimate; and that's really not
16 a question, I guess, just an expression of my
17 concern about it.

18 MR. CLIZER: Sir, sometimes things are said
19 that, boy, I'd love to comment at length on
20 that, because what you just said is a
21 fascinating topic, and it's actually addressed
22 in testimony. I think both Mr. Ives on behalf
23 of Evergy and Ms. Mantles on behalf of the OPC,
24 have testimony alluding to concerns with
25 parties, I'm going to use the term that was used

1 in testimony, "manipulating" the base factor in
2 ways that benefit one or both parties.

3 I could go on at length about what you
4 just said, but I will not for the sake of
5 everybody here.

6 MR. MITCHELL: Well, it's -- I mean, it's
7 my hope that we have, you know, tightened that
8 number down just as much as possible, because I
9 think that has as big of an impact on anything
10 we're talking about here, as does the split.
11 Thank you.

12 REGULATORY LAW JUDGE PRIDGIN: Commissioner
13 Mitchell, thank you. Any further Bench
14 questions? Chair Hahn?

15 CHAIRPERSON HAHN: Sorry, as I got going, I
16 kept thinking of more. Appreciate your
17 indulgence, Mr. Clizer. We're talking about
18 Evergy Missouri West, and it seems like to me
19 where we are looking at this particular company
20 clearly in this case; but I'm trying to keep the
21 broader picture in mind. And the broader
22 picture to me is that perhaps that Evergy
23 Missouri West is not unique, in fact, in being
24 short on capacity. And, so, whenever we're
25 talking about decisions from 2007 or 2018, I'm

1 trying to put those in context as how those
2 decisions would also relate to any other utility
3 and any other utility decision maker at the
4 time. I had already asked about 2007, but, now,
5 I'm going to ask about 2018, when Sibley was
6 retired.

7 Tell me about load growth and load growth
8 protections at the time.

9 MR. CLIZER: And that was the case where I
10 can say authoritatively that, yes, Evergy
11 Missouri West was expecting or experiencing load
12 growth at that period of time. Now, I'm going
13 to caution this: the Sibley issue was heavily
14 litigated, and there are a number of strong
15 feelings on every side with regard to this.

16 I don't intend to rehash our position,
17 especially given that, you know, Evergy hasn't
18 had a chance to come up and tell their side of
19 story on that; so, I'm going to -- I'm
20 cautious -- I'm tiptoeing around here because I
21 don't want to get into the weeds, if you'll
22 pardon me on that. But to answer the direct
23 question, load growth was expanding at that
24 point in time.

25 CHAIR HAHN: I just to keep that -- I

1 wanted to know that because generally load
2 growth for that entire decade was flat. So, I'm
3 trying to understand -- I'm just trying to
4 understand the context. The other part, and
5 Commissioner Holsman mentioned it a little bit,
6 but in your response to Commissioner Holsman,
7 you had mentioned Evergy West in Evergy's credit
8 profile in the downgrade; and, particularly,
9 highlighted the Kansas decision on that credit
10 profile. But I think there are several other
11 factors that went into that credit profile
12 downgrade, specifically the Evergy storm Uri
13 securitization appeal was also noted in that
14 downgrade; and the regulator lag and
15 unregulatory environments in which the company
16 operates.

17 And, so, I think whenever we're making
18 these decisions, I want to try to make sure
19 that we keep the broader picture in mind.
20 They're going to be building a couple gas
21 plants; they're going to have capital. If they
22 have to attract capital at a higher cost, that
23 will impact rate payers. Do you view that
24 similarly or differently?

25 MR. CLIZER: So, first of all, you know, I

1 think a couple of reasonable minds are going to
2 disagree on what exactly is driving the cost of
3 that impact. The report that I think I'm
4 referring to, if I remember correctly, was a
5 Bank of America report, and I will absolutely
6 concede with you that the discussion of the
7 appeal or, rather, the delay in recovery of
8 winter storm Uri costs was a line in that;
9 however, the majority of the report focused
10 primarily on the impact of Kansas. And we can
11 further expect that would be the primary cost
12 driver for the simple reason that Uri was a
13 one-time cost. It was something, you know, that
14 hit their books, but then would have eventually
15 gone off. Whereas in Kansas, what you had is a
16 decrease in ongoing costs, and the primary
17 thing, you know, thing an analysis is going to
18 look at in determining the health of a company
19 is what they're ongoing revenues versus expenses
20 are.

21 So, I appreciate, and I think, you know,
22 we're going to agree to disagree on what was
23 primarily driving that downgrade. I don't want
24 to get too into the weeds on that. At a high
25 level, would increasing costs or capital result

1 in increases to customers? You know, if the
2 Commission were to allow those increase of cost
3 of capitals to flow through in a higher ROR,
4 then technically, yes.

5 But, again, I push back strenuously on the
6 argument that is actually going to have that
7 results. I think that when you're viewing
8 Evergy as a hole, the actual issue and the
9 company, the impact this decision will have
10 will be minimal compared to other decisions for
11 other components and factors related to their
12 ability to sell themselves in the market. I
13 also, again, stress to you this idea that the
14 company is free to change its position, and the
15 Commission is free to change its decision after
16 the fact.

17 We're just asking for the Commission to do
18 something to encourage the company to take a
19 different approach in how its managing fuel and
20 purchase power to solve this problem that we
21 think has existed and persisted for well over a
22 decade. Does that answer your question?

23 CHAIRPERSON HAHN: I think I got, we view
24 it differently.

25 MR. CLIZER: I think we view the very

1 specific issue of why exactly investor analysts
2 may have downgraded Evergy differently, yes.

3 CHAIRPERSON HAHN: Thank you.

4 REGULATORY LAW JUDGE PRIDGIN: Chairman
5 Hahn, thank you. Any further Bench questions?
6 All right, hearing none, Mr. Clizer, thank you
7 very much. Is there anything further either
8 from counsel or from the Bench before we go off
9 the record?

10 MS. WHIPPLE: Not for the company, thank
11 you.

12 REGULATORY LAW JUDGE PRIDGIN: Thank you.
13 And, again, I understand the parties plan on
14 filing a pleading, as I understand it, that will
15 simply list the exhibits that they wish to have
16 admitted into the record rather than take that
17 up here; is that correct?

18 MR. PRINGLE: Yes, Judge. Thank you.

19 REGULATORY LAW JUDGE PRIDGIN: I will look
20 forward to seeing that pleading, and anything
21 further from counsel or from the Bench before we
22 go off the record? All right --

23 COMMISSIONER MITCHELL: Nothing, Judge.

24 REGULATORY LAW JUDGE PRIDGIN: All right,
25 thank you very much. Hearing nothing, that

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concludes this hearing. Thank you so much. We
are off the record.

·(Whereupon, the hearing adjourned at 10:48 a.m.)

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EXHIBITS

(No exhibits proffered.)

1 I, Colin Wallis, in and for the State of
2 Missouri do hereby certify that the witness
3 whose testimony appears in the foregoing
4 Examination Under Oath was duly sworn by me;
5 that the testimony of the said witness was
6 taken by me to the best of my ability and
7 thereafter reduced to typewriting under my
8 direction; that I am neither counsel for,
9 related to, nor employed by any of the parties
10 to the action in which this examination was
11 taken, and further that I am not relative or
12 employee of any attorney or counsel employed by
13 the parties thereto, nor financially or
14 otherwise interested in the outcome of the
15 action.

16 _____
17 within and for the State of Missouri

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