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

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

STAFF’S REPLY BRIEF

Respectfully Submitted,

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November 15, 2024

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The purpose of a reply brief is to respond to the arguments made by party opponents. Rather than replying to every argument other parties make in their initial briefs, and having presented and argued its positions in its *Post-Hearing Brief*, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

The main contention point Staff wishes to address in this reply brief is the Office of the Public Counsel’s (“OPC”) contention that the current Fuel Adjustment Clause (“FAC”) sharing ratio of 95/5 has failed to incentivize Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or “Company”) to efficiently and cost-effectively manage its purchase power costs. The OPC asserts this is because the current FAC sharing ratio does not incentivize EMW to acquire sufficient generation for its customers.¹ Staff’s *Reply Brief* is organized to address this point; therefore, Staff will not address each and every sub-issue or argument made by the parties to this matter. Staff stands on the arguments made in its *Post-Hearing Brief*, and silence on any argument or position should not be taken as acceptance.

In determining this contested issue, the Commission should be mindful that the “burden of proof in its strict sense [is]...that of establishing the affirmative of the ultimate issue, which never shifts throughout the trail but remains upon the party asserting it[.]”²

¹ *Initial Brief of the Missouri Office of the Public Counsel*, pg. 21.

² *Been v. Jolly*, 247 S.W.2d 840, 854 (Mo. 1952).

The OPC asserts that the current FAC sharing ratio of 95/5 does not properly incentivize EMW to “prudently meet the energy needs of its customers.”³

However, as pointed out in the initial briefs of Staff and EMW, the Commission has never found EMW acted imprudently in its resource planning decisions, or ordered a disallowance against EMW for not acquiring enough generation to meet the energy needs of its customers in the context of the FAC.⁴

In addition, the OPC has not presented sufficient evidence that the current sharing ratio has caused EMW to not put “steel in the ground.”⁵ Though the OPC argues that “the Company’s longstanding failure to build or otherwise acquire sufficient generation...in favor of simply relying on the SPP energy market since it was granted an FAC”⁶ is proof that the 95/5 sharing ratio is not working, that is not reflective of what is happening today. The OPC argues that “Nothing short of changing the FAC sharing ratio...will get the Company to correct its behavior” and acquire more generation.⁷

Today, in order for EMW to acquire more generation, no change to the FAC sharing ratio is necessary. EMW has submitted or currently is in the process of submitting applications for certificates of convenience and necessity that would expand EMW’s generation fleet.⁸ With EMW now “entering into a generation build phase,”⁹ it makes little sense to change the current 95/5 sharing ration to incentivize building generation when EMW is already taking the necessary steps to do exactly that.

³ Ex. 300, *Direct Testimony of Lena Mantle*, pg. 8, ln. 5-7.

⁴ *Staff’s Post-Hearing Brief*, pg. 6; see also *Evergy Missouri West’s Initial Hearing Brief*, pg. 5-9.

⁵ *Initial Brief of the Missouri Office of the Public Counsel*, pg. 24.

⁶ *Id.*, pg. 5.

⁷ *Id.*, pg. 25.

⁸ Case No. EA-2024-0292, *In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West for Permission and Approval of Certificates of Convenience and Necessity Authorizing It to Construct, Install, Own, Operate, Manage, Maintain, and Control Two Solar Generation Facilities*; see also Case No. EA-2025-0075, *In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West and Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro for Permission and Approval of a Certificate of Convenience and Necessity for Natural Gas Electrical Production Facilities*. Staff has not yet made a recommendation in either case at this time, and this reply brief should not be viewed as a recommendation for approval in either case.

⁹ *Evergy Missouri West’s Initial Hearing Brief*, pg. 2.

Conclusion

Staff recommends that the Commission issue an order maintaining the current FAC sharing ratio of 95/5 for EMW. Such an order will be aligned with past Commission decisions, and be consistent with the Commission's treatment of the FAC sharing ratio for the other regulated electric utilities. Staff has not found sufficient evidence to support a recommendation to change the sharing mechanism at this time.

Respectfully submitted,

/s/ Travis J. Pringle

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all counsel and/or parties of record on this 15th day of November, 2024.

/s/ Travis J. Pringle