

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

The Staff of the Missouri Public Service Commission,
Complainant,
v.
Evergy Metro, Inc. d/b/a Evergy Missouri Metro; and Evergy Missouri West, d/b/a Evergy Missouri West, Inc.,
Respondents.

Case No. EC-2024-0092

MOTION TO DISMISS COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and files this *Motion to Dismiss Complaint* in this matter, and, in support thereof, hereby states:

1. On September 15, 2023, Staff filed its *Complaint* in the above-captioned case. Respondent Evergy Metro, Inc. d/b/a Evergy Missouri Metro, and Evergy Missouri West, d/b/a Evergy Missouri West, Inc. (“Evergy”) filed its *Answer* on October 18, 2023. On November 20, 2023, Staff filed its *Amended Complaint*.

2. On October 2, 2024, Staff and Evergy filed a *Unanimous Stipulation and Agreement* (“Stipulation”) in ER-2024-0189¹ resolving matters, including, but not limited to, the issues raised in this case. As part of that *Stipulation*, the parties agreed to dismiss the *Complaint* filed in this case within 30 days of receipt of a Commission order approving said agreement.²

¹ *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*, ER-2024-0189, filed 12/1/2023.

² See Paragraph 19 of the *Stipulation*, filed on 10/2/2024.

3. The Commission entered an Order approving the *Stipulation* filed in ER-2024-0189 on December 4, 2024. A true and accurate copy of said Order is attached hereto and made a part herein as Attachment A.

4. Based on that December 4, 2024, Order, and in accordance with the October 2, 2024 *Stipulation* in ER-2024-0189, Staff hereby moves to dismiss the *Complaint* filed in the above-captioned case.

WHEREFORE, for the reasons set forth herein Staff prays that the Commission grant this *Motion to Dismiss Complaint*, issue an order in accordance with this *Motion*, and grant such other and further relief as the Commission considers just and reasonable under the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

Carolyn H. Kerr

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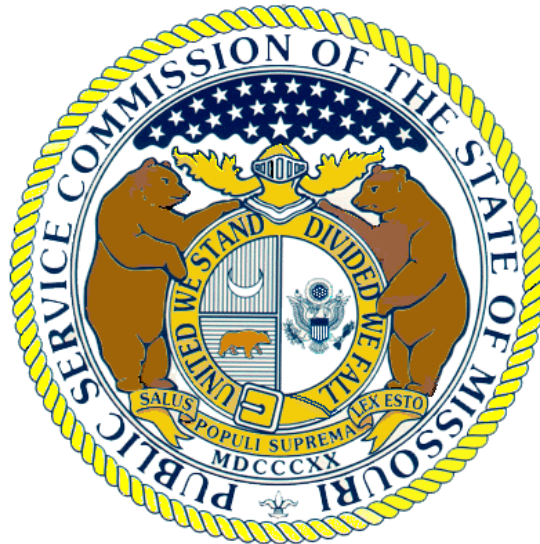
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, on this 11th day of December, 2024, to all counsel of record.

/s/ Carolyn H. Kerr

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



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)

File No. ER-2024-0189
Tracking No. JE-2024-0110

REPORT AND ORDER

Issue Date: December 4, 2024

Effective Date: December 14, 2024

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

In the Matter of Evergy Missouri West, Inc.)
d/b/a Evergy Missouri West’s Request for) **File No. ER-2024-0189**
Authority to Implement a General Rate) **Tariff No. JE-2024-0110**
Increase for Electric Service

REPORT AND ORDER

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VELVET TECH SERVICES, LLC:

Stephanie S. Bell, Marc H. Ellinger, 308 E. High Street, Jefferson City, MO 65101

REGULATORY LAW JUDGE: Ronald D. Pridgin, Deputy Chief

REPORT AND ORDER

I. Procedural History

A. Tariff Filings, Notice, and Intervention

On February 2, 2024, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (EMW) filed tariff sheets designed to implement a general rate increase for utility service. The tariff sheets bore an effective date of March 3, 2024. To allow sufficient time to study the effect of the tariff sheets and to determine if the rates established by those sheets are just, reasonable, and in the public interest, the tariff sheets were suspended until January 1, 2025.

The Commission directed notice of the filings and set an intervention deadline. The Commission granted intervention requests from: Midwest Energy Consumers Group; Renew Missouri; Velvet Tech Services, LLC; Sierra Club; and Google, LLC.

B. Local Public Hearings

The Commission conducted three in-person and two virtual local public hearings.¹

C. Stipulations and Agreements

On October 2, 2024, EMW and the Staff of the Commission (Staff) filed a *Non-Unanimous Stipulation and Agreement Regarding Pensions and Other Post-Employment Benefits* (Non-Unanimous Stipulation). Also on October 2, 2024, EMW, Staff, the Office of the Public Counsel (OPC), (MECG), and Renew Missouri filed a *Unanimous Stipulation and Agreement* (Stipulation) (collectively, “the Stipulations”). The Stipulations resolved all revenue requirement and rate design issues except for the Fuel Adjustment Clause (FAC) Incentive Mechanism and the renewal of EMW’s point-to-point service agreement with

¹ Tr. Vols. 3-7.

Entergy Corp. for the Crossroads Energy Center. For purposes of this rate case, the Signatories agree to an extension of Issue 5.C. from the Commission’s List of Issues regarding the renewal of the firm point-to-point transmission service agreement between EMW and Entergy Corp. that will permit a Demobilization Study (“Study”) related to the Crossroads Energy Center.

Although the Stipulations were not signed by all parties, the Commission can treat them as if they were unanimous because no party filed a timely objection.² The Commission has reviewed the Stipulations, and finds that approval of the Stipulations will result in just and reasonable rates. Thus, the Commission will approve the Stipulations.

D. Evidentiary Hearing

The evidentiary hearing was held on October 3, 2024.³

E. Case Submission

After the evidentiary hearing was held at the Commission’s offices in Jefferson City and via WebEx, the Commission admitted exhibits into evidence as requested by the parties.⁴ The final post-hearing briefs were filed on November 15, 2024, and the case was deemed submitted for the Commission’s decision on that date.⁵

² Commission Rule 20 CSR 4240-2.115(2).

³ Tr. Vol. 8.

⁴ Order Admitting Exhibits into Evidence, filed October 10, 2024.

⁵ “The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.” Commission Rule 20 CSR 4240-2.150(1).

II. General Matters

A. General Findings of Fact

1. EMW is a regulated utility subsidiary of Evergy, Inc. EMW serves 345,100 customers, consisting of 304,000 residential customers, 40,600 commercial customers and 500 industrial, municipal and other electric utility customers.⁶

2. EMW's electric service territory includes numerous counties in central, western and northwestern Missouri, including the cities of Lee's Summit, St. Joseph and Sedalia. EMW owns approximately 460 mega-watts ("MW") of base load generating capacity and approximately 1,200 MW of peak load capacity and 8 MW of renewable generating capacity.⁷

3. EMW is an "electrical corporation" and a "public utility" as those terms are defined in Section 386.020 RSMo. EMW is thus subject to the jurisdiction of the Commission.⁸

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

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

B. General Conclusions of Law

EMW is an "electrical corporation" and a "public utility" as defined in Sections 386.020(15) and 386.020(43), RSMo, respectively, and as such is subject to the personal jurisdiction, supervision, control and regulation of the Commission under

⁶ Ex. 124, p. 5.

⁷ Ex. 124, p. 5.

⁸ Ex. 124, p. 5.

Chapters 386 and 393 of the Missouri Revised Statutes. The Commission's subject-matter jurisdiction over EMW's rate increase request is established under Section 393.150, RSMo.

Sections 393.130 and 393.140, RSMo, mandate that the Commission ensure that all utilities are providing safe and adequate service and that all rates set by the Commission are just and reasonable. Section 393.150.2, RSMo, makes clear that at any hearing involving a requested rate increase the burden of proof to show the proposed increase is just and reasonable rests on the corporation seeking the rate increase. As the party requesting the rate increase, EMW bears the burden of proving that its proposed rate increase is just and reasonable. In order to carry its burden of proof, EMW must meet the preponderance of the evidence standard.⁹ In order to meet this standard, EMW must convince the Commission it is "more likely than not" that its proposed rate increase is just and reasonable.¹⁰

The Commission finds that any given witness's qualifications and overall credibility are not dispositive as to each and every portion of that witness' testimony. The Commission gives each item or portion of a witness' testimony individual weight based upon the detail, depth, knowledge, expertise, and credibility demonstrated with regard to that specific testimony.

⁹ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996), citing to, *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323, 329 (1979).

¹⁰ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 109-111 (Mo. banc 1996); *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

Consequently, the Commission will make additional specific weight and credibility decisions throughout this order as to specific items of testimony as is necessary.¹¹ Any finding of fact reflecting that the Commission has decided between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.¹²

III. Disputed Issue

3. Fuel Adjustment Clause

A. What sharing ratio between EMW and its customers should the Commission order as an incentive mechanism in EMW's FAC?

Findings of Fact

6. The Commission first authorized an FAC for EMW in its 2007 general electric rate proceeding (File No. ER-2007-0004) for EMW's two rate districts, then called Aquila Networks-MPS and Aquila Networks-L&P, with the original FAC tariff sheets becoming effective July 5, 2007.¹³

7. Actual FAC costs include: total booked costs as allocated for fuel consumed in their generating units; purchased power energy charges, including applicable transmission fees; Southwest Power Pool (SPP) variable costs; air quality control system consumables, such as anhydrous ammonia, limestone and powder activated carbon; and

¹¹ Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony". *State ex rel. Public Counsel v. Missouri Public Service Comm'n*, 289 S.W.3d 240, 247 (Mo. App. 2009).

¹² An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence. *State ex rel. Missouri Office of Public Counsel v. Public Service Comm'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009).

¹³ Ex. 205, p. 3.

net emission allowance costs. Actual FAC costs are offset by actual revenue from Off-System Sales and actual revenue from the sale of Renewable Energy Credits.¹⁴

8. EMW's current sharing ratio is set at 95/5. When there is an under recovery, the customers have to pay back 95% of the under-recovered costs, while the company pays the other 5%. When there is an over recovery, 95% goes back to the customers, while the company gets to keep 5% of the over recovery.¹⁵

9. EMW has filed for and received approval of changes to its Fuel Adjustment Rate for 33 completed accumulation periods. EMW's Actual Net Energy Cost has exceeded the Base Factors multiplied by monthly usage billed to EMW's customers' in 28 out of the 33 completed accumulation periods.¹⁶

10. The Commission has never found EMW imprudent for resource planning decisions that rely on the SPP integrated energy marketplace to meet the Company's energy needs in lieu of building or acquiring cost-effective generation.¹⁷

11. Changing the current sharing percentage from 95/5 to OPC's recommended 75/25 is inconsistent with prior Commission rulings and the sharing percentages of other Missouri regulated utilities with FACs.¹⁸

12. A 75/25 sharing mechanism would be more extreme than most other US states. Most states have sharing mechanisms of 95% or even higher.¹⁹

13. Additionally, most states have no sharing provisions in their FAC, and 100% of the costs that flow through the FAC are eligible for recovery.²⁰

¹⁴ Ex. 205, p. 5.

¹⁵ Ex. 119, pg. 5.

¹⁶ Ex. 205, p. 4.

¹⁷ Ex. 238, pp. 5-7.

¹⁸ Ex. 238, p. 8.

¹⁹ Ex. 238, p. 12.

²⁰ Ex. 120, p. 3.

14. A 75/25 sharing mechanism would likely discourage investors from investing in EMW.²¹

Conclusions of Law

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

The Commission has the discretion to change the sharing ratio between the company and its ratepayers as it sees fit "to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities"²² and to "align the interests of the electric utility's customers and shareholders".²³

Decision

The Commission finds that EMW's FAC sharing mechanism should remain at 95/5. The Commission is mindful of the fact that EMW must compete against other electric utilities for investment dollars. In fact, EMW is currently attempting to build more capacity to serve its customers.²⁴ If the Commission changed the FAC sharing mechanism to 75/25 as requested by OPC, then EMW would likely have a more difficult time attracting capital to build the capacity needed.

²¹ Ex. 119, pp. 10-11; Ex. 125, pp. 21-22.

²² Section 386.266.1 RSMo.

²³ Commission Rule 20 CSR 4240-20.090(14).

²⁴ File Nos. EA-2024-0292, EA-2025-0075.

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

Additionally, EMW provides safe and adequate service, and the Commission concludes, based upon its review of the whole record and the Stipulations that the rates approved as a result of this order are just and reasonable and support the continued provision of safe and adequate service. The revenue increase approved by the Commission is no more than what is sufficient to keep EMW's utility plants in proper repair for effective public service and provide to EMW's investors an opportunity to earn a reasonable return upon funds invested.

By statute, orders of the Commission become effective in thirty days, unless the Commission establishes a different effective date.²⁵ Because the Stipulation anticipates that new rates will go into effect on January 1, 2025, the Commission will make this order effective in less than thirty days.

THE COMMISSION ORDERS THAT:

1. The Stipulations are approved, and their signatories are ordered to comply with their terms.
2. The tariff sheets submitted on February 2, 2024, assigned Tracking No. JE-2024-0110, are rejected.

²⁵ Section 386.490.3, RSMo.

3. EMW is authorized to file tariff sheets sufficient to recover revenues approved in compliance with this order.

4. EMW shall file the information required by Section 393.275.1, RSMo, and Commission Rule 20 CSR 4240-10.060 no later than December 16, 2024.

5. This Report and Order shall become effective on December 14, 2024.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

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

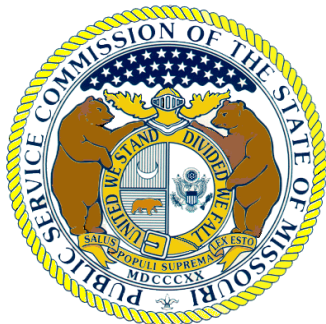
Pridgin, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

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

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 4th day of December 2024.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 4, 2024

File/Case No. ER-2024-0189

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

Sincerely,

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

**Nancy Dippell
Secretary**

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