

**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)	Case No. ER-2024-0189
Increase for Electric Service)	

**OPPOSITION OF EVERGY MISSOURI WEST TO CLARKSDALE PUBLIC
UTILITIES COMMISSION’S APPLICATION TO INTERVENE**

Evergy Missouri West, Inc. (“Evergy Missouri West,” “EMW,” or the “Company”) states the following in opposition to the Application to Intervene Regarding a Particular Issue filed by the Clarksdale Public Utilities Commission (“Clarksdale”) on December 14, 2024, and in response to the Commission’s Order Directing Filing of December 17, 2024:

Introduction

1. The Application to Intervene should be denied because the concerns that Clarksdale raises are speculative and not ripe for any decision by the Commission regarding the Crossroads Energy Center in Mississippi. Clarkdale’s concerns relate to the Demobilization Study called for by Section 5 of the Unanimous Stipulation and Agreement (“Stipulation”)¹ which will evaluate the cost, procedures and schedule of relocating Crossroads to a site in the Southwest Power Pool footprint, and to Clarksdale’s interests in Crossroads and its agreements with Evergy Missouri West.

2. To the extent that Clarksdale has contractual agreements with the Company regarding Crossroads, any legal or other issues concerning those agreements are different from the transmission cost issues to be decided in this general rate case. Questions related to Clarksdale’s

¹ The Stipulation was submitted to the Commission on October 2, 2024, and approved by the Commission in its Report & Order issued December 4, 2024.

asserted “ownership of certain assets” of Crossroads and “right and title to said assets”² are beyond the Commission’s regulatory authority over electrical corporations that are public utilities under Chapters 386 and 393 of the Missouri Revised Statutes. Additionally, consideration of these issues now would be entirely hypothetical and not ripe for decision at this time.

3. The Commission’s Intervention Rule provides that a “motion to intervene” may be granted if the proposed intervenor “has an interest ... which may be adversely affected by a final order arising from the case” or “would serve the public interest.” See 20 CSR 4240-2.075(3)(A)-(B) (“Intervention Rule”). This Commission has not decided and cannot not decide any legal issue regarding EMW’s agreements with Clarksdale and its ownership rights related to Crossroads which are a matter of private interest, not public interest.

4. Although Clarksdale admits that it became aware of this case and the Crossroads Demobilization Study on November 4, 2024,³ it did not request intervention until late Saturday afternoon on December 14, 2024. Clarksdale’s eleventh-hour intervention request is not timely and fails to show good cause why it should be granted. See 20 CSR 4240-2.075(10).

5. In response to the Commission’s Order Directing Filing, the Company states that there is no basis for a new case file to be opened as Clarksdale’s Application raises no justiciable or ripe legal issue for the Commission to decide.

6. For all these reasons, as discussed in greater detail below, the Clarksdale Intervention Application should be denied.

Clarksdale Fails to meet the Requirements of the Intervention Rule

7. The Intervention Rule requires that a party desiring to intervene in a case demonstrate that it “has an interest ... which may be adversely affected by a final order arising

² Application to Intervene, ¶ 8 at 2 & ¶ 11 at 3.

³ Application to Intervene, ¶ 10 at 3.

from the case;” See Intervention Rule § (3)(A). However, the Stipulation filed by the parties to this case, as well as the Commission’s Report and Order approving the Stipulation, do not change or even seek to change any of the Company’s agreements with Clarksdale or any other entity regarding the ownership, management or operation of the Crossroads plant.

8. Clarksdale grossly exaggerates what the Stipulation provided for when it states that its “initial position in this case must be in opposition to the parties’ proposal to ‘relocate Crossroads to a site in the Southwest Power Pool (“SPP”) footprint”” because “its ownership rights have been disregarded by the parties.” See Application, ¶ 21 at 4. There has been no such proposal in the Stipulation, as a plain reading of its terms reveals. None of Clarksdale’s rights, whatever they may be, have been disregarded. The Stipulation simply calls for a Demobilization Study “to evaluate the cost, procedures and schedule of relocating Crossroads” to a site in SPP. See Stipulation, § 5(a) at 2.

9. Based on the Issues List filed by Staff, there are three Crossroads issues in this case.⁴ None of them concern the ownership of Crossroads. Issue 5.A is whether the transmission costs that EMW incurs to transmit energy from Crossroads to its Missouri service territory should be included in the Company’s revenue requirement, and if so, how much. Assuming that the Commission includes transmission costs in EMW’s revenue requirement, Issue 5.B asks at what value should the Commission include Crossroads in the Company’s rate base. Issue 5.C is whether the Commission should determine that it is prudent for the Company to renew its firm point-to-point transmission service agreement (“TSA”) with Entergy Corp. before it expires in February 2029. There is no issue in this case that relates in any way to Clarksdale’s ownership rights in Crossroads or to EMW’s agreements with Clarksdale.

⁴ See List of Issues, Order of Opening Statements, Order of Cross-Examination and Motion for Extension to file Order of Witnesses at 3 (Sept. 19, 2024).

10. Section 5 of the Stipulation requires a Demobilization Study. As indicated by its name, the Study will result in information and, potentially, recommendations. The study is not designed to effect change at this time, nor could it. Although the Signatories agreed only to an extension of time regarding Issue 5.C (whether it would be prudent for EMW to renew the TSA with Entergy), any decision by the Commission on that question relates only to the prudence, *not* to the rights and obligations of the parties to that agreement. In any event, these kinds of questions are speculative at this time because no one knows what the recommendation of the Demobilization Study will be or what the response of Entergy and the other parties to the study will be. Consequently, there is no basis for the Commission to consider issues regarding Clarksdale's asserted interest as "an owner with legal title to certain Crossroads assets"⁵ because there is no case or controversy that is ripe for determination. See Ameren Transmission Co. of Ill. v. PSC, 467 S.W.3d 875, 879 (Mo. App. W.D. 2015).

11. In the context of this rate case, the Ripeness Doctrine assesses whether a decision by the Commission would be "sufficiently binding and sufficiently clear in scope and implications to be susceptible to judicial evaluation" See Missouri Soybean Ass'n v. Missouri Clean Water Comm'n, 102 S.W.3d 10, 26 (Mo. en banc 2003). For a controversy to be ripe for adjudication, there must be a "sufficient immediacy" for a formal administrative decision where its effects are "felt in a concrete way by the challenging" party. Id., *citing* Abbott Laboratories, Inc. v. Gardner, 387 U.S. 136, 148-49 (1967). "Ripeness does not exist when the question rests solely on a probability that an event will occur." Missouri Soybean Ass'n v. Missouri Clean Water Comm'n, 102 S.W.3d at 26, *citing* Buechner v. Bond, 650 S.W.2d 611, 614 (Mo. en banc 1983).

⁵ Application, ¶ 19 at 4.

12. Clarksdale has failed to demonstrate under Subsection (3)(A) of the Intervention Rule that it has any interest “which may be adversely affected by a final order arising from” this proceeding. Clarksdale’s contractual rights with EMW regarding Crossroads are asserted in the context of a *potential* recommendation that may be contained in the Demobilization Study and *possible* action by the Company (which may be agreed to or opposed by the Signatories). These issues are not sufficiently immediate because they are entirely hypothetical at this time. See Missouri Soybean Ass'n v. Missouri Clean Water Comm'n, 102 S.W.3d at 25-26 (“hypothetical or speculative situations that may never come to pass” are not ripe for determination). Accord Schweich v. Nixon, 408 S.W.3d 769, 778 (Mo. en banc 2013).

13. Section (3)(B) of the Intervention Rule also states that intervention may also be granted by the Commission if it “would serve the public interest.” Clarksdale presents no facts showing why its intervention would serve the public interest other than a vague assertion that granting its request would be “protecting the legal rights of all interested entities.” See Application, ¶ 20 at 4. However, whatever legal rights Clarksdale possesses regarding Crossroads are private rights that serve its interest, not the public interest.

14. Moreover, those private rights held by Clarksdale under its agreements with Evergy Missouri West cannot be interpreted, adjudicated, or protected by this Commission. As “a creature of statute,” the Commission’s “powers are limited to those conferred by statute [under Chapters 386 and 393], either expressly or by clear implication as necessary to carry out the powers specifically granted.” State ex rel. PSC v. Bonacker, 906 S.W.2d 896, 899 (Mo. App. S.D. 1995). The powers granted to it “do not, however, clothe the Commission with the general power of management” and the “utility retains the lawful right to manage its own affairs” City of O’Fallon v. Union Elec. Co., 462 S.W.3d 438, 444 (Mo. App. W.D. 2015).

15. Additionally, Clarksdale's Application to Intervene is untimely. Clarksdale became aware of this proceeding on November 4, 2024, 40 days before filing of its Application on December 14, 2024. See Application to Intervene at ¶ 10. That 40-day period included the ten days between the Report and Order's issue date of December 4, 2024, and when it became effective as of 12:01 a.m. on December 14, 2024. Clarksdale filed its Application at 4:03 p.m. on December 14.

16. In response to Clarksdale's statement that it "welcomes discussion with the parties" (Application, ¶ 21 at 4), Evergy Missouri West states that it has been in contact with Clarksdale and has agreed to provide Clarksdale with a copy of the Demobilization Study after it is completed. Additionally, EMW will continue to confer with Clarksdale regarding the future of Crossroads.

WHEREFORE, Evergy Missouri West, Inc. requests that the Commission deny Clarksdale's Application to Intervene as it raises issues that are speculative and not ripe for decision, and fails to comply with the Commission's Intervention Rule, 20 CSR 4240-2.075.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 30th day of December 2024, by EFIS filing and notification, and/or e-mail.

/s/ Roger W. Steiner

Roger W. Steiner