

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

In the Matter of the Application of Evergy)
Missouri West, Inc. d/b/a Evergy Missouri)
West and Evergy Metro, Inc. d/b/a Evergy)
Missouri Metro for Permission and)
Approval of a Certificate of Public)
Convenience and Necessity for Natural)
Gas Electrical Production Facilities)

Case No. EA-2025-0075

PUBLIC COUNSEL’S POSITIONS ON THE LISTED ISSUES

COMES NOW the Office of Public Counsel (Public Counsel) and states its positions on the listed issues as follows:

- A. Does the evidence establish that (1) the advanced 710 megawatt (“MW”) combined cycle gas turbine (“CCGT”) generating facility to be located in Sumner County, Kansas (“Viola”), (2) a 440 MW simple-cycle gas turbine (“SCGT”) generating facility located in Nodaway County, Missouri (“Mullin Creek #1”), and (3) the 710 MW CCGT generation facility to be located in Reno County, Kansas (“McNew”) (collectively, “Projects”) for which Evergy Missouri West is seeking a certificate of convenience and necessity (“CCN”) are necessary or convenient for the public service?

Public Counsel’s Position: The phrase “necessary or convenient for the public service” now is found in § 393.170.3, RSMo. Missouri courts have explained, “However, the term ‘necessity’ does not mean ‘essential’ or ‘absolutely indispensable’; rather, it requires that the evidence must show that the [addition] would be an improvement justifying its cost and that the inconvenience of the public occasioned by the lack of [the addition] is sufficiently great to amount to a necessity.”

State ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d 216, 219 (Mo. App. 1973). As rather exhaustively detailed in the direct testimony of its witness Jordan Seaver, Public Counsel and the Commission’s Staff have over what has stretched out into decades pointed out the inadequacies of

Evergy Missouri West's supply-side resources for providing low cost, reliable service. Further, Evergy Missouri West not only has recently added new data center load, it anticipates a sharp increase in that load. In Public Counsel's view the natural gas-fired combined cycle and combustion turbine generating plants that are the subject of Evergy Missouri West's certificate of convenience and necessity request are both "necessary" and "convenient" because of Evergy Missouri West's historical deficiencies in its supply-side resources and because of its projected new data center loads.

1. Should the Commission find that the Projects satisfy the first *Tartan* Factor of need?

Public Counsel's Position: Yes.

2. Should the Commission find that the Projects satisfy the second *Tartan* Factor of economic feasibility?

Public Counsel's Position: Public Counsel takes no position at this time.

3. Should the Commission find that the Projects satisfy the third *Tartan* Factor of ability to finance?

Public Counsel's Position: Public Counsel takes no position at this time.

4. Should the Commission find that the Projects satisfy the fourth *Tartan* Factor of qualified to construct?

Public Counsel's Position: Public Counsel takes no position at this time.

5. Should the Commission find that the Projects are in the public interest and satisfies the fifth *Tartan* Factor?

Public Counsel's Position: Public Counsel takes no position at this time.

- B. If the Commission grants the CCN for the Projects, what conditions, if any, should the Commission impose on the CCN?

Public Counsel's Position: The conditions that Staff recommends.

- C. Should the Commission grant Evergy Missouri West's request that its decision to acquire, construct, own and operate the Projects is prudent under Section 2(C) of Commission Rule 20 CSR 4240-20.045?

Public Counsel's Position: No. Public Counsel would not take the position that the Commission should issue the requested certificate if, based on the current information in this case, it viewed Evergy Missouri West's decision to acquire, construct, own and operate these natural gas-fired combined cycle and combustion turbine generating plants was imprudent; however, it is Public Counsel's position that the circumstances in which Evergy Missouri West made that decision are due to its earlier imprudent decisions and circumstances may change in the future that would render going forward with construction of one or more of these plants imprudent—those are issues for one or more future rate cases.

- D. Should the Commission grant Evergy Missouri West's requested variances from Commission Rules 20 CSR 4240-20.045(3)(C), 6(I), and 6(J) so that Evergy Missouri West's plans for restoration of safe and adequate service, as well as as-built drawings, can be provided closer to the time when the Projects will commence commercial operations?

Public Counsel's Position: Public Counsel does not oppose these requests.

- E. Should the Commission authorize Evergy Missouri West to implement construction accounting pursuant to Section 393.140(4), RSMo?

Public Counsel's Position: No, and this is not an issue because in prefiled testimony Evergy Missouri West has withdrawn this request.

Respectfully,

/s/ Nathan Williams

Nathan Williams
Chief Deputy Public Counsel
Missouri Bar No. 35512

Office of the Public Counsel
Post Office Box 2230
Jefferson City, MO 65102
(573) 526-4975 (Voice)
(573) 751-5562 (FAX)
Nathan.Williams@opc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of May 2025.

/s/ Nathan Williams