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	)))))))	File No. EA-2025-0075

SIERRA CLUB'S REPLY BRIEF

Evergy proposes to build three gas units at a high cost, and in part, to meet speculative load growth at locations that call into question the units' ability to serve customers. Even settling parties—in particular, Staff—view the proposed generators to be high cost, stating that the Commission should not find these projects to be economically feasible "as no competent evidence has been provided by Evergy that its request to construct and operate the Projects is economically feasible."[1] The proposed plant locations are currently experiencing severe transmission congestion.[2] Such congestion could prevent the proposed generators from being able to earn energy market revenues as predicted by Evergy or even to deliver power when needed most.

Evergy's initial brief is long on rhetoric, but short on any citations to the record that support the notion that building these projects—at their proposed locations—is a good use of customers' money. The record indicates that Evergy has failed to satisfy three *Tartan* factors—need, economic feasibility, and public interest—and therefore the Commission should reject the

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[1] Staff's Brief, p. 11.
[2] Exhibit 600, Rebuttal Testimony of Michael Goggin at 13:7-16 [hereinafter "Goggin Rebuttal"].

Non-Unanimous Stipulation and Agreement (the "Stipulation") filed on May 29, 2025, and the certificates of public convenience and necessity ("CCNs") Evergy filed in this case.

The record evidence also indicates that going forward with these three power plants is not a prudent decision, given that Evergy sited these power plants in among the worst locations possible in the United States from a congestion and power price perspective.[3]

I. Evergy's position on the definition of "economic feasibility" is unreasonable and legally incorrect.

Evergy relies on an incorrect standard for "economic feasibility." The "economic feasibility" *Tartan* factor refers to cost-effectiveness: whether the spending from captive customers justifies the cost of the project.[4] In another case, the Commission has determined that a project is economically feasible because it "would lead to lower transmission congestion costs for utilities" and "the total delivered cost of energy from [the project] is less than other renewable or conventional energy alternatives;"[5]in other words, a project was 'economically feasible' because it was economically advantageous for customers.

Staff agrees that "[e]conomic feasibility relates to 'the degree to which the economic advantages of something to be made, done, or achieved are greater than the economic costs' and feasibility studies should assess whether a proposed project or solution is financially viable and cost-effective with respect to given alternative solutions."[6] Further, Staff has explained that accounting for location specifics, including transmission congestion and loss of efficiency, are important in determining whether a project is economically feasible.[7]

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[3] *See* Sierra Club's Initial Brief, p. 12.
[4] *In the Matter of the Application of Union Electric Company,* EA-2022-0245, Docket No. 150, p. 29.
[5] *Mo. Landowners All. v. Pub. Serv. Comm'n*, 593 S.W.3d 632, 638 (Mo. App. E.D. 2019).
[6] Staff's Brief, p. 12.
[7] Transcript Vol. II at 73:7-75:9.

Evergy fails to accurately articulate the "economic feasibility" standard in its initial brief. Evergy argues incorrectly that the "economic feasibility" factor is met because it has provided cost and revenues estimates that were reasonable at the time of application.[8] First, even under Evergy's standard, it has failed the test because its revenues estimates from the generators are unreliable due to the Company's failure to account for congestion. Second, and more importantly, Evergy's view on the meaning of "economic feasibility" is wrong as a matter of law. The question isn't whether Evergy has correctly estimated the costs and revenues, but instead whether considering the cost and revenues, the project is a cost-effective use of customers' money. Staff takes a similar position, explaining that Evergy "has conflated its flawed IRP analysis as a review of the economic feasibility of individual generating assets, and EMW has not shown that the economic advantages of the proposals are greater than the costs of proposals."[9] Sierra Club agrees with Staff that the feasibility criteria cannot be satisfied by merely providing estimates—reasonable or otherwise—of the cost of a power plant; instead, Evergy must proffer an analysis that addresses the value that customers would receive from a proposed power plant.

II. Evergy fails to point to evidence showing that the proposed generators are cost-effective.

The premise of Evergy's case on cost is pure speculation. Evergy speculates that future transmission buildout might address congestion at the location of the proposed generators, explaining that the "current system does not account for the planned transmission upgrades needed to support the firm, dispatchable power from the three new natural gas plants."[10] Evergy

[8] Evergy Brief, p. 13.
[9] Staff's Brief, p. 15.
[10] Evergy Brief, p. 6.

further speculates, without addressing the question, that the cost of those transmission upgrades combined with the cost of the generators themselves will be a good use of customers' money.[11] But Evergy does not offer any record evidence to support that finding. Staff has asserted, making an alternative argument, that the Commission should not find that the Projects are economically feasible because "no competent evidence has been provided" by Evergy related to the Projects themselves, and not just IRP portfolios.[12] Further, Evergy claims it would be difficult to address the location of the projects in modeling,[13] but this difficulty does not absolve Evergy from its failure to conduct such modeling, engage in other empirical analysis, or even reference public data, as discussed below.

Evergy's claim that the units are highly dispatchable and flexible is also wrong.[14] In reality, as Sierra Club witness Goggin shows, the two proposed combined cycle units in particular are designed for near-continuous operation, but the proposed locations will force them to either routinely operate at a loss or excessively cycle, with frequent starts and shutdowns.[15] These inflexible operational concerns, coupled with the generators' poor siting, further call into question the cost feasibility of Evergy's proposal.

Contrary to Evergy's assertion, Sierra Club does not contend that the Commission should never grant a CCN unless it can be shown that revenues from a proposed project's energy generation will always exceed the project's anticipated total costs.[16] This is a straw argument and simply not Sierra Club's position. Instead, Sierra Club is concerned that, in this proceeding,

[11] *See* Evergy Brief, pp. 18-19.
[12] Staff's Brief, p. 11.
[13] *See* Evergy Brief, p. 6.
[14] *See* Evergy Brief, p. 9.
[15] Goggin Rebuttal at 29:4-11.
[16] *See* Evergy Brief, pp. 13-14.

Evergy has failed to demonstrate any scenario under which the proposed plants could make money or generate adequate value for customers to compensate for the high cost of the proposed generators. Specifically, Mr. Goggin's analysis demonstrates that the plant revenues from this project would fall well short of what would be required to cover costs across all three scenarios and in each of the three years Evergy evaluated, even though the Company examined a wide range of fuel costs and power prices.[17]

Evergy further argues that Sierra Club's analysis is "entirely speculative and lacks support."[18] To the contrary, Sierra Club's expert Michael Goggin provided hundreds of megabytes of data analyzing the Company's projections across multiple years and scenarios.[19] Evergy offered no substantive rebuttal of any of that analysis. Sierra Club's analysis is not speculative, but instead based on long-standing patterns in Southwest Power Pool ("SPP") Locational Marginal Prices ("LMPs") that Mr. Goggin demonstrates may not improve, and in fact are likely to worsen, based on planned generation and transmission expansion.[20] Indeed, Evergy *agrees* that transmission upgrades will be necessary to ease transmission in the region, but has simply ignored the cost of that transmission in its proposal in this case.[21]

Evergy asserts that "the Signatories to the Agreement agreed that the Company 'shall bear the burden of proof to show that any amount it incurs in excess' of the project cost estimates 'is prudently incurred and is just and reasonable to recover from EMW customers.'"[22] But the risk of capital cost overruns on this project is large due to uncertainty regarding tariffs, firm gas

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[17] *See generally* Goggin Rebuttal at 8-31, Schedule MG-9.
[18] Evergy Brief, p. 18.
[19] Goggin Rebuttal at 6:9-12.
[20] Goggin Rebuttal at 28:5-19.
[21] Evergy Brief, p. 6.
[22] Evergy Brief, p. 15.

transportation costs, assigned interconnection and network upgrade costs, and other factors.[23] Evergy has not agreed to shield its customers from the cost of transmission upgrades needed to allow the proposed generators to operate efficiently. Under the prudence standard Evergy puts forward, the risk of cost overruns beyond the project contingency will be borne by ratepayers.[24] However, even that does not address the primary risk identified in Mr. Goggin's analysis: transmission congestion will cause low market prices that result in the gas plants being underutilized assets that can seldom be economically operated.[25] In other words, even if the proposed units face no cost increases at all, there is a likelihood that congestion would inhibit their ability to operate cost effectively for customers. Evergy bears none of that risk, which instead would be paid for by ratepayers, who will be forced to pay for plants that operate inefficiently due to transmission congestion.

Evergy's assertion that "much of Kansas, Nebraska, South Dakota, and northwest Oklahoma experienced the lowest congestion costs for the year" misinterprets the admittedly confusing language in the State of the Market Report, which actually has the opposite meaning of what Evergy claims.[26] The market report's reference to "lowest congestion costs" actually means much of Kansas has the lowest LMPs, which indicates these areas have the worst congestion in SPP.[27] This is confirmed by the maps on page 155 of the SPP 2024 State of the Market Report, which show western Kansas and northwest Oklahoma had very low LMPs in 2024.[28] Thus, Evergy's own brief confirms that the proposed gas generator sites had some of the

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[23] Goggin Rebuttal at 38:13-39:2.
[24] *Id.*
[25] *See generally* Goggin Rebuttal at 8-31, Schedule MG-9.
[26] Evergy Brief, p. 20.
[27] Goggin Rebuttal at 11:2-12:2.
[28] Goggin Rebuttal at 11:8, n. 5.

worst congestion in SPP in 2024, just as Mr. Goggin's testimony establishes they did in 2023.[29] Moreover, the national maps in Mr. Goggin's Schedule MG-7 and MG-8 show that the parts of western Kansas and northwest Oklahoma near Evergy's proposed gas combined cycle generators have the worst congestion in the country.[30]

Evergy's assertion that it provided evidence in support of these projects through its IRP is misdirection, and further fails to evaluate congestion in this CCN proceeding.[31] First, as Staff observes in its brief, Evergy's IRP evaluated portfolios of resources, but not individual power plants alone.[32] Second, Evergy still cannot get around the fact that, in this proceeding, the Company failed to evaluate congestion in the generator siting study that led to the selection of the proposed gas generator sites. Typical practice is to use production cost modeling to evaluate the economic viability of proposed generator sites by assessing dispatch and locational market prices across all hours in a year, which Evergy did not do.[33] Even without modeling, public data clearly show low and negative prices in the entire area around the proposed generator sites, as Evergy's initial brief discloses.[34] Evergy cannot pin its hopes on undetermined network upgrades resolving this congestion because, as Sierra Club's Initial Brief explains, SPP network upgrades are not designed to resolve year-round congestion that limits the ability of the generators to profitably operate.[35] If the upgrades were large enough to resolve the massive congestion in the parts of SPP where Evergy has decided to locate its gas generators, the network upgrade cost

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[29] Goggin Rebuttal at 10:10-12:2.
[30] *See* Goggin Rebuttal, Schedule MG-7 and Schedule MG-8.
[31] *See* Evergy Brief, p. 12.
[32] Staff's Brief, pp. 12-15
[33] Goggin Rebuttal at 26:14-17, 30:23-31:3.
[34] Evergy Brief, p. 20.
[35] Sierra Club Initial Brief, p. 7; Goggin Rebuttal at 11:3-7.

assigned to Evergy's proposed gas generators might be prohibitive.[36] As Mr. Goggin explained, the economic modeling in the IRP also failed to adequately model chronological dispatch patterns, which would have shown the value of batteries' ability to charge during low and negative price periods.[37] Evergy argues that Sierra Club's concerns regarding the transmission congestion issue at the sites are a red herring and ignores SPP price node modeling.[38] However, the only SPP price node modeling presented in this case was offered by Mr. Goggin, and it showed that very low prices greatly inhibit the economic dispatch and profitability of a gas generator at all three of Evergy's proposed sites.[39] In fact, because the proposed generators are so poorly located, they may not improve or enhance service for customers at all.[40]

III. Evergy's understanding of "need" misses half of the equation, and Evergy has not satisfied either the need or public interest criteria for these projects.

Evergy and Staff seem to rest their case for "need" entirely on the fact that the Company is projecting capacity shortfalls.[41] But Missouri law is clear that a proposed plant that does not "improve" service does not meet the "need" requirement.[42] In sum, the identification of a need—no matter how dire—is not sufficient to satisfy this *Tartan* factor: the utility must also propose a project that addresses such need.

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[36] Sierra Club Initial Brief, pp. 7-8; Goggin Rebuttal at 43:9-14.
[37] Goggin Rebuttal at 26:14-19.
[38] Evergy Brief, p. 8.
[39] Goggin Rebuttal at 18:1-20:12.
[40] Goggin Rebuttal at 29:4-11.
[41] *See generally* Staff's Brief, Evergy Brief.
[42] *See*, *State ex re. Eldon Miller, Inc, v. Public Service Com.*, 471 S.W.2d 483, 488 (Mo. App. W.D. 1971) ("[T]he case law of Missouri requires that an applicant for a certificate of public convenience and necessity show by evidence that the public convenience will be *enhanced*") (emphasis added); *Office of Pub. Counsel v. Mo. PSC*, 515 S.W.3d 754, 759 (Mo. App. W.D. 2016) (Explaining that necessity means "that an additional service would be an i*mprovement justifying its cost*") (emphasis added).

Sierra Club agrees that Evergy needs new generation, but improperly sited and planned generation does not address the need. The sited projects are not a reasonable solution to meet this need as transmission congestion will preclude the plants from meeting capacity needs. Transmission congestion in the vicinity of the proposed plants would create grid instability, unreliability, inefficiency, and higher cost, and are therefore not in the public interest. The Company has further failed to demonstrate that it has met the Tartan factors of economic feasibility or need. The PSC should reject the CCNs and Non-Unanimous Stipulation and Agreement filed on May 29, 2025, and it should not approve any of the proposed generators until Evergy has come forward with modeling using location-specific data to determine how congestion and LMPs affect the economic dispatch of the proposed units. Moreover, if the Commission were to find that the costs of these projects are reasonable—which we think it should not due to lack of evidence—then the Commission should also document in its order that Evergy's shareholders shall exclusively bear the burden of any costs in excess of those projections. Finally, as discussed in Sierra Club's Initial Brief, the Commission should postpone any prudence review until the requisite rate case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Sierra Club's Initial Brief was electronically filed on this date via the Missouri PSC's electronic filing system. Notice of this filing will be served upon all parties of record who have registered through this electronic filing system.

Date: July 8, 2025

/s/ Sarah Rubenstein
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