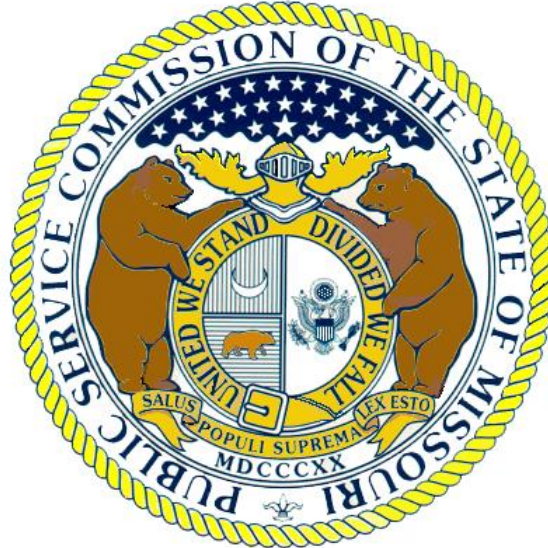


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Evergy)
Metro, Inc. d/b/a Evergy Missouri Metro for)
Authority to Implement Rate Adjustments)
Required by 20 CSR 4240-20.090(8) and)
the Company's Approved Fuel and)
Purchased Power Cost Recovery)
Mechanism)

File No. ER-2022-0025

REPORT AND ORDER

Issue Date: March 16, 2022

Effective Date: March 26, 2022

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OF THE STATE OF MISSOURI**

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Required by 20 CSR 4240-20.090(8) and)
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File No. ER-2022-0025

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Regulatory Law Judge: John T. Clark

REPORT AND ORDER

Procedural History

On July 30, 2021, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (Evergy Metro) filed a tariff revision (Tariff No. JE-2022-0024) and accompanying testimony to implement rate adjustments pursuant to its fuel adjustment clause (FAC). The FAC tariff filing included fuel and purchased power costs for the 12th Accumulation Period. The 12th Accumulation Period includes the six months of January 1, 2021, through June 30, 2021. Evergy Metro's FAC tariff filing also included an adjustment excluding "extraordinary costs and revenues" resulting from the mid-February 2021 cold weather event known as Winter Storm Uri.

Evergy Metro incurred increased fuel and purchased power costs during the 12th Accumulation Period due to Winter Storm Uri, but these costs were offset by increased off-system sales revenues related to Winter Storm Uri. Most Missouri electrical utilities sustained large losses from Winter Storm Uri (Including Evergy Missouri West), but Evergy Metro's off-system sales resulted in positive revenue of approximately \$32 million after applying Missouri's jurisdictional allocation. Evergy Metro's proposed FAC tariff sheet excluded this extraordinary revenue.

The Commission issued notice of Evergy Metro's FAC tariff filing and directed the Commission's Staff (Staff) to file a recommendation addressing it. Staff filed a recommendation on August 27, 2021, that the Commission reject the FAC tariff filing for failing to include revenues from Winter Storm Uri. The Commission directed Evergy Metro to respond to Staff's recommendation. Evergy Metro's response disagreed with Staff's

recommendation. On September 15, 2021, the Commission issued an order rejecting Evergy Metro's FAC tariff.

The Commission held a procedural conference on September 27, 2021, to determine how to proceed. Evergy Metro filed an FAC tariff revision (JE-2022-0066) containing amounts not in dispute, which was essentially the same as the rejected FAC tariff sheet, as the disputed amounts were the excluded extraordinary revenues. The Commission approved the interim FAC tariff sheet containing the undisputed amounts to take effect November 1, 2021.

The parties agreed to dispose of this case with a stipulation of facts and briefs due to the Commission's full hearing schedule and because this dispute involves the Commission's interpretation of the meaning of language within its own rule. The only issue for the Commission is whether Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI), which allows for the exclusion of extraordinary costs, also allows extraordinary revenues to be excluded from passing through Evergy Metro's FAC.

The parties submitted a joint stipulation of facts containing the facts that Evergy Metro, Staff, the Office of the Public Counsel (OPC), and Midwest Energy Consumers' Group (MECG) agreed were relevant to the determination of this issue. Evergy, Staff, and MECG filed initial briefs on December 22, 2021, and reply briefs on January 12, 2022. On January 13, 2022, Staff filed a request for oral arguments. The Commission granted that request and oral arguments were held on February 18, 2022. The Commission takes official notice of Evergy Metro's Fuel Adjustment Clause Rider, Evergy Missouri West's File No. ER-2022-0005, and also Evergy Metro's rejected proposed FAC tariff filing (Tariff No. JE-2022-0024) and interim FAC tariff sheet (Tariff No. JE-2022-0066).

Findings of Fact

On December 15, 2021, the parties jointly filed a Stipulation of Facts setting forth the relevant facts the parties do not dispute. The Commission finds the undisputed facts in the stipulation to be conclusively established. Those undisputed facts are incorporated into the findings of fact below.

1. Evergy Metro is an electrical corporation and a regulated public utility that provides electricity for customers in Missouri and Kansas.¹

2. Evergy Metro is subject to the jurisdiction of the Commission.²

3. Evergy Metro's tariff authorizes its FAC.³

4. Evergy Metro filed tariff sheets to adjust rates pursuant to its approved FAC on July 30, 2021, with an effective date of October 1, 2021.⁴

5. Evergy Metro's FAC tariff sheets sought to adjust rates to reflect costs and revenues from the six-month period of January 2021 through June 2021, also known as the 12th Accumulation Period.⁵

6. Evergy Metro's FAC tariff sheets did not include extraordinary credits/revenues from off-system sales revenues accrued from the February 2021 cold weather event known as Winter Storm Uri.⁶

7. Evergy Metro's only extraordinary fuel-related revenue for its 12th Accumulation period is from Winter Storm Uri.⁷

¹ Joint Stipulation of Facts, filed December 15, 2021.

² Joint Stipulation of Facts, filed December 15, 2021.

³ PSC Mo. No. 7, Fourth Revised Sheet No. 50 through Sixth Revised Sheet no. 50.31.

⁴ Joint Stipulation of Facts, filed December 15, 2021.

⁵ Joint Stipulation of Facts, filed December 15, 2021.

⁶ Joint Stipulation of Facts, filed December 15, 2021.

⁷ Joint Stipulation of Facts, filed December 15, 2021.

8. After applying the Missouri-Kansas jurisdictional allocation percentage, the net benefit to Evergy Metro's customers due to Winter Storm Uri is approximately \$32 million.⁸

9. The Commission rejected Evergy Metro's proposed FAC tariff sheets filed July 30, 2021.⁹

10. The Commission approved Evergy Missouri West's FAC rate adjustment tariff authorizing the exclusion of extraordinary costs.¹⁰

11. The parties (Evergy Metro, Staff, OPC, and MCECG) agree that the disputed amount is the difference between Evergy Metro's three-year average of its actual FAC includable fuel costs for 2018-2020, and what Evergy Metro booked for its fuel and purchased power costs for February 2021.¹¹

12. Evergy Metro filed an interim FAC tariff sheet on September 30, 2021, that contained the amounts not in dispute in this proceeding. That tariff sheet became effective on November 1, 2021.¹²

Conclusions of Law

A. Evergy Metro is a Missouri corporation, an "electrical corporation," and a "public utility" as defined by Section 386.020, RSMo and is authorized to provide water and sewer service to portions of Missouri.

B. Section 536.070(6), RSMo provides that Agencies shall take official notice of all matters of which the courts take judicial notice.

⁸ Joint Stipulation of Facts, filed December 15, 2021.

⁹ Joint Stipulation of Facts, filed December 15, 2021.

¹⁰ File No. ER-2022-0005, Order Approving Fuel Adjustment True-Up and Approving Tariff to Change Fuel Adjustment Rates, issued August 18, 2021.

¹¹ Joint Stipulation of Facts, filed December 15, 2021.

¹² Joint Stipulation of Facts, filed December 15, 2021, and Tariff No. JE-2022-0066.

C. The Commission has the authority to promulgate rules pursuant Section 386.250(6), RSMo.

D. The power of the Commission to make rules includes the power to determine any reasonable interpretation and application of such rules.¹³

E. Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI), provides that extraordinary costs are not to be passed through the FAC if such costs are an insured loss, or are subject to reduction due to litigation or for any other reason.

F. Commission Rule 20 CSR 4240-20.090(1)(B) provides that actual net energy costs (ANEC) are prudently incurred fuel and purchased power costs net of fuel-related revenues of a RAM during the accumulation period.

G. Section 386.266 RSMo, authorizes the Commission to allow a Rate Adjustment Mechanism (RAM) permitting periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred costs for fuel and purchased power. It also authorizes the Commission to approve incentives, such as the 95 percent/five percent sharing mechanism, to improve the efficiency and cost-effectiveness of fuel and purchased-power procurement.

H. Evergy Metro's FAC Rider, authorizes its FAC and the 95 percent/5 percent sharing mechanism, by which Evergy passes 95 percent of all prudent fuel and purchased power costs and savings to customers.¹⁴

I. Section 386.266.6 RSMo, provides once a RAM is approved by the Commission under this section, it shall remain in effect until such time as the

¹³ *Deaconess Manor Association v. Public Service Commission*, 994 S.W.2d 602, 609 (Mo. App. W.D. 1999).

¹⁴ PSC Mo. No. 7, Fourth Revised Sheet No. 50 through Sixth Revised Sheet no. 50.31.

Commission authorizes the modification, extension, or discontinuance of the mechanism in a general rate case or complaint proceeding.

J. Section 386.266.9, RSMo provides that, once established, an incentive plan is binding on the Commission for the term of the plan.

Decision

Does Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI), allow extraordinary revenues to be excluded from passing through Evergy Metro's FAC?

This case is one of several involving Evergy Metro's off-system sales revenues from Winter Storm Uri. In File No. EU-2021-0283 Evergy Metro and Evergy Missouri West are requesting an accounting authority order to defer extraordinary costs from Evergy Missouri West's FAC and extraordinary revenues from Evergy Metro for consideration in a future rate case. File No. ER-2022-0206 is Evergy Metro's FAC filing for the 13th Accumulation Period, which also does not include the 12th Accumulation Period extraordinary revenues and has yet to be addressed by the Commission.

Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI), provides that extraordinary costs are not to be passed through the FAC if those extraordinary costs are due to an insured loss, subject to a reduction due to litigation, or for any other reason. The first two reasons for excluding extraordinary costs are logical; costs for an insured lost will be recovered from the insurer and costs that could be reduced because of litigation are uncertain. The basis for the exclusion of extraordinary costs for any other reason is less clear, but the Commission is given the ability to allow for the exclusion of extraordinary costs from passing through the FAC if there is a good reason to do so.

Under traditional cost-of-service ratemaking, rates are only changed in a general rate case. An FAC permits adjustments of rates based upon fuel and purchased power

costs between general rate cases. FACs reduce regulatory lag with respect to fuel costs, and thus reduces its impact on both the utility and customer. Utilities benefit in having an FAC by being able to recover any increases in fuel and purchased power costs between rate cases. Likewise, customers benefit by receiving credits for fuel and purchased power costs that prove less than expected. Utilities are not required to have an FAC. FACs are specific to the utility and their terms are contained within the utility's tariff. A utility's FAC is approved in a general rate case and is subsequently modified or continued in future rate cases. Similar to the establishment or modification of an FAC, the Commission has no authority to modify a utility's FAC outside of a general rate case.

Evergy Metro has an incentive, or performance based, Commission approved sharing mechanism as part of its FAC. Under that sharing mechanism Evergy Metro recovers 95 percent of any fuel and purchased power costs through its FAC and returns 95 percent of any revenues from fuel and purchased power costs for a given Accumulation Period. Section 386.266.9 RSMo, states that if the Commission approves an incentive plan it is binding on the Commission for the entire term of the incentive plan.

Evergy Metro argues that Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI), which allows for the exclusion of extraordinary costs, is inclusive of revenues. Evergy Metro argues that because the FAC addresses both fuel and purchased power costs and revenues, this particular rule provision does as well. Evergy Metro cites numerous provisions of the Commission's FAC rule that mention both costs and revenues. Evergy Metro also argues that it is fundamentally unfair that the Commission's rule would apply to extraordinary costs and not revenues. Evergy Metro notes that the Commission

allowed exclusion of both extraordinary costs and net revenues for Evergy Missouri West's FAC rate adjustment tariff filing.

Staff argues that if the Commission had meant to include extraordinary revenues in this rule it would have explicitly done so. Staff argues that, when netted, a positive outcome is a revenue, and a negative outcome is a cost. Staff's proposition is logical. If the Commission is allowing the exclusion of Winter Storm Uri costs for Evergy Missouri West, it is appropriately netting those costs against revenues from that same event. Addressing costs and revenues for particular categories as separate results in illogical outcomes.

Staff states: "Evergy Missouri Metro, a large regulated utility, is appropriately positioned to mitigate the impact of extraordinary costs to customers through a deferral, but any concurrent action to defer revenues will result in an adverse financial impact on customers as a whole."¹⁵ Staff's statement explains why the Commission's rule explicitly lists extraordinary costs and not extraordinary revenues; a large regulated utility is less likely to be impacted by costs that result from an event like Winter Storm Uri. Evergy Missouri West was allowed to exclude those extraordinary costs from its FAC rate adjustment tariff so that they could be addressed outside of the FAC and therefore not immediately create a hardship for Evergy Missouri West's customers. Evergy Missouri West's off-system sales revenue was less than its fuel and purchased power costs from Winter Storm Uri. Evergy Metro's off-system sales revenue exceed its costs for Winter Storm Uri. There is no hardship for Evergy Metro's customers to bear and there is no

¹⁵ Staff's Reply Brief, p. 5.

good reason to exclude 95 percent of Evergy Metro's off-systems sales revenue from being returned to customers.

There is no provision in Evergy Metro's FAC rider that would allow it to defer off-system sales revenue from passing through its FAC rate adjustment tariff. The Commission finds that the plain language of its rule does not permit Evergy Metro to defer extraordinary revenues from its FAC adjustment tariff. Evergy Metro will be ordered to file an FAC adjustment tariff inclusive of off-system sales revenues from Winter Storm Uri, with any applicable interest. So not to further delay any FAC adjustment tariff sheet inclusive of Winter Storm Uri off-system sales revenue, the Commission finds it reasonable to make this order effective in less than thirty days.

THE COMMISSION ORDERS THAT:

1. Extraordinary revenues from Winter Storm Uri May not be excluded from an FAC pursuant to Commission Rule 20 CSR 4240-20.090(8)(A)2.A.(XI).
2. Evergy Metro shall file an FAC adjustment tariff that complies with this order no later than March 31, 2022.
3. This Report and Order shall become effective on March 26, 2022.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

Clark, Senior 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 16th day of March, 2022.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 16, 2022

File/Case No. ER-2022-0025

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

Sincerely,



Morris L. Woodruff
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.