BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
EVIDENTIARY HEARING

In the Matter of the Application Of Evergy Metro, Inc. d/b/a Evergy Missouri Metro for Permission and Approval of a Certificate of Convenience And Necessity Authorizing It to Construct, Install, Own, Operate, Manage, Maintain, and Control a Natural Gas Electrical Production Facility	Case No.: EA-2026-0154

WEDNESDAY, OCTOBER 21, 2026

Governor Office Building
200 Madison Street, Room 310
Jefferson City, Missouri 65102

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KEN SEYER, Presiding
SENIOR REGULATORY LAW JUDGE

KAYLA HAHN, Chair,
MAIDA J. COLEMAN,
GLEN KOLKMEYER,
JOHN MITCHELL,
COMMISSIONERS

Reported by:

Laura Stewart

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(None marked.)

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(Proceedings commenced at 9:00 a.m.)

JUDGE SEYER: Let's bring this proceeding to order and go on the record. Good morning. Today is October 21st, 2026. The time is 9 o'clock a.m. The Commission has set this time for an evidentiary hearing in the case captioned as, In the matter of the application of Evergy Metro Incorporated, doing business as --

(Background noise.)

In the matter of the application of Evergy Metro Incorporated, doing business as Evergy Missouri Metro, for permission and approval of a certificate of convenience and necessity authorizing it to construct, install, own, operate, manage, maintain, and control a natural gas electrical generation facility. It is case number EA-2026-0154. My name is Ken Seyer, and I am the regulatory law judge, presiding over this hearing.

The hearing is taking place in the Public Service Commission hearing room, which is room 310 of the Governor Office Building in Jefferson City. Before we go any further, let's have counsel for the parties make their entries of appearance, beginning with Evergy Missouri Metro.

MS. WHIPPLE: Good morning Judge. Jacqueline Whipple with Dentons US, LLP. I am joined by Jim Fischer

of Fischer & Dority. Our information is on the record.

JUDGE SEYER: Thank you. For Renew Missouri?

MS. MERS: Yes. Nicole Mers, appearing on behalf of Renew Missouri, and my information is on the record.

JUDGE SEYER: Thank you. For the Staff of the Commission?

MS. KERR: Good Morning, Judge. My name is Carolyn Kerr. I'm attorney with the Missouri Public Service Commission. With me is Travis Pringle, and our information is also on the record.

JUDGE SEYER: And for the Office of the Public Counsel?

MR. Clizer: John Clizer, on behalf of the Office of the Public Counsel, and our address is consistent with the information on the record.

JUDGE SEYER: My understanding is this morning, the parties would like to present opening statements, and there will be no witnesses cross-examined today. Is that correct? As far as exhibits go, are there any objections to the admission of exhibits?

MR. Clizer: To clarify, you mean the pre-filed testimony exhibits?

JUDGE SEYER: Well, I've gotten an exhibit list from Staff and from Renew Missouri, I believe, and --

MR. Clizer: I definitely did not send you one. I apologize for that. The OPC does not object to the admission of pre-filed testimony exhibits. I don't know what other exhibits there are.

JUDGE SEYER: Okay.

MS. WHIPPLE: Judge, do you have the company's exhibit list?

JUDGE SEYER: I do not see an exhibit list from the company. I do have one from Staff.

MS. WHIPPLE: It should have come from Anthony Weston Kirchner as a shared file link because it contained the exhibits as well as the exhibit list, and it was too voluminous to send by regular email. We can certainly resend it, though.

JUDGE SEYER: Yes, I would appreciate that. I don't need the exhibits themselves emailed if they are already -- if they've already been filed in EFIS. But yes, an exhibit list that would assign exhibit numbers to the pre-filed testimony and so forth. And once I have those exhibit lists, then I'll be in a position to admit those exhibits into evidence. So as long as we can take care of that at some point, are the parties prepared to make their opening statements? Ms. Whipple, would you like to give the opening statement on behalf of Evergy? Thank you.

MS. WHIPPLE: Good morning. May it please the Commission. My name is Jackie Whipple. I'm here with Jim Fischer of Fischer & Dority, as we stated on the record. We represent Evergy Metro, Inc. d/b/a Evergy Missouri Metro, which I may refer to as Evergy Missouri Metro, the company or EMM.

This case involves EMM's request for a certificate of convenience and necessity or CCN, authorizing it to construct, install, own, operate, maintain, and otherwise control and manage the project known as Mullin Creek number 2, an advanced class 440 megawatt simple-cycle gas turbine located in Nodaway County, Missouri.

I will describe the project in more detail shortly. But first, on October 2nd, the company, Staff, Renew Missouri, and MECG filed a non-unanimous stipulation and agreement, which I will refer to as the agreement. Public counsel is the only party that did not sign the agreement. On October 9th, OPC objected to two of the agreement's 30 paragraphs. Paragraph 2, which recommends that the Commission grant the certificate of convenience and necessity requested by EMM in this case.

And paragraph 3, which recommends a finding of decisional prudence as to this project's generation type. Under the Commission's rule, that objection makes the

agreement the position of the signatories, and the issues remain for the Commission to decide on this record. The Commission may still adopt the provisions of the agreement, to which no party objected, as it did with the unopposed conditions in Evergy Missouri West's certificate case regarding Mullin Creek number 1 last year.

OPC did not object to any of the other provisions of the agreement in this case, including paragraph 4, which establishes the cost estimate for the project, and requires EMM to notify the Commission if the total cost changes by more than 15 percent. Paragraph 5 asks the Commission to establish a compliance docket for quarterly progress reports. Paragraph 6 adopts the in-service criteria Staff proposed in this case. And paragraph 8 recommends that the Commission grant the requested variances in the company's application.

Under paragraphs 9 and 22, until Evergy files its first IRP under Section 393.1900, the company will consider six and eight-hour batteries in its IRP analysis, and will not constrain its model to build one half of a combined cycle unit per year. Further, within 12 months, the company will develop a plan identifying potential opportunities for additional customer-sited nonthermal capacity resources.

There are a number of other provisions in the agreement that address fuel supply and transportation, backup fuel, the engineering, procurement, and construction or EPC statement of work, interconnection, fuel adjustment clause or FAC treatment, and as-built drawings. Paragraph 23 provides that no signatory is deemed to have approved or acquiesced in any method of cost allocation.

The Commission will recall Mullin Creek number 1, for which it approved a CCN last year in case EA-2025-0075, and which is owned by Evergy Missouri West. This second unit, Mullin Creek number 2 will be owned 100 percent by EMM. And Evergy Metro will assign it, and all of its costs to the Missouri jurisdiction. Mullin Creek number 2 will sit on the same site as Mullin Creek number 1. The two units will be functionally identical, built with the same owner's engineer, EPC contractor, and turbine manufacturer.

The unit can run on natural gas or on liquid fuel from an on-site tank, and commercial operation is targeted for October of 2030. The company is pursuing the CCN because Evergy Metro needs additional accredited capacity. Mullin Creek 2 will help supply it beginning in the winter of 2030 to 2031. That need comes primarily from rising reserve margin requirements at Southwest

Power Pool or SPP and from load growth. SPP sets minimum planning reserve margins for summer and for winter. Both are scheduled to rise.

The summer margin goes from 16 percent in summer of 2026 to 17 percent in summer of 2029. The winter margin goes from 36 percent to 38 percent by the winter of 2029 to 2030. SPP has also moved conventional resources to performance-based accreditation. SPP's changes were already a driver of the shortfall that called for a simple cycle unit in the 2024 and 2025 IRPs. Staff agrees that the need Tartan factor is satisfied in this case.

Its testimony on need concludes that, "The project is effectively a necessity because the lack of service is such an inconvenience." Renew Missouri's witness, Dr. Johnson agrees that Evergy has demonstrated a need for additional capacity resources. Evergy Metro also expects the market capacity available for purchase to decline dramatically beyond 2030, which reinforces its need to add owned dispatchable generation. The 2024 Triennial IRP scheduled 415 megawatts of thermal generation for 2032.

The 2025 IRP annual update identified a 440 megawatt simple-cycle gas turbine for 2031. And the 2026 annual updated evaluated Mullin Creek number 2

specifically. In both IRP updates, the 2031 combustion turbine was selected as part of the lowest cost plan in every scenario, in which it was tested. Every alternative plan without Mullin Creek number 2 had a higher net present value of revenue requirement or NPVRR. No party has identified a plan without Mullin Creek number 2 that would cost customers less.

Renew Missouri's witness, who originally questioned the choice of resource, testified that he is, "Not suggesting that Evergy failed to evaluate alternative resources." A simple-cycle unit suits the need because it costs less upfront than a combined-cycle unit, and is, "Well suited as a peaking resource that can deliver needed power during periods of peak demand or extreme weather."

As a firm fueled dispatchable unit, Mullin Creek 2, "Provides full accredited capacity in both summer and winter seasons." And because it is a twin of Mullin Creek number 1, it captures economies of scale that Staff recognizes, "Could partially offset some of the costs and beneficially impact the economic feasibility of the project." Importantly, there are key areas of agreement in this case. Every party except Public Counsel has signed the agreement asking the Commission to grant the CCN.

Public Counsel objected to paragraph 2, as I mentioned, but it acknowledges that the Commission has, within its power, the ability to issue an order, granting EMM the CCN it requests. There was no opposition at the September 10 local public hearing, where no member of the public testified. In contrast, last year at the local public hearing in Evergy Missouri West's certificate case, four members of the public testified, two of them opposing Mullin Creek number 1.

Sierra Club and Renew Missouri also objected to the agreement in that case, but here Renew Missouri has signed the agreement. There is no dispute that EMM is qualified to construct and operate the project, and no party has identified a deficiency in EMM's ability to finance it. Because Public Counsel objected to only two paragraphs of the agreement, no party has objected to the remaining paragraphs, including the company's requested variances, the in-service criteria, the reporting requirements, or the fuel supply provisions.

Public Counsel says that both of its objections are, "Not to take issue with the fundamentals of the underlying project, but rather a product of EMM's position on who should bear the risk of this investment and who ultimately should pay for it." That leaves the list of issues the parties jointly filed on October 9th

in this case. This slide sets them out as they are worded. Issue A asks whether the project is necessary or convenient for the public service. Issue A1 asks what need the project satisfies.

Issues B and C are OPC's issues. They ask whether the Commission should condition the certificate on LLPS customers funding the project's capital cost or bearing all of its costs. Again, only Public Counsel supports those two conditions in issues B and C. Issue D asks whether to make the decisional prudence determination set forth in the agreement's paragraph 3. Issue E asks the amount of construction work in project -- I'm sorry -- progress or CWIP that may be included in rate base.

I will take these issues now in order. Issues A and A1 ask whether the project is necessary or convenient for the public service and what need it satisfies the CCN rule in the Tartan factors. In issue B, OPC proposes to, "Require data centers to finance these investments in their entirety from day one." Under issue C, OPC would assign all of the project's costs to LLPS customers. But in pre-filed testimony, none of the out-of-state examples cited by Dr. Mark conditioned a certificate on customers funding a plant in advance of construction.

EMM does not need customer capital to build this project, and Staff concluded that EMM can finance it on its own without customer contribution. Because the project is being built to serve all of EMM's customers, requiring a subset of those customers to finance the project would be inequitable and inappropriate.

In addition, how the project costs are allocated among customer classes is a ratemaking question. And the Commission decides such a question in a general rate case, in which the costs are presented for recovery, not in this case, which is only EMM's request for certificate. Staff agrees. Its witness Mr. Jennings testifies that Staff, "Is not recommending that the Commission decide on the allocation of the cost of the service of the project in this case."

Public Counsel acknowledged itself in Ameren Missouri's reformed solar case that, "The Commission typically does not make cost allocation decisions in CCN cases." The Commission reserved cost allocation for a future rate case in both Ameren Missouri's Big Hollow and reformed solar cases without objection from public counsel. The statute quoted in Dr. Mark's rebuttal testimony, Section 393.130.7, does not support his position; rather, that statute addresses large load cost responsibility through, "Schedules to include in the

electrical corporation service tariff."

As this Commission is aware, the Commission approved EMM's LLPS tariff in EO-2025-0154 and EMM's rates are before the Commission now in its rate case ER-2026-0143 where Public Counsel has raised related large load recommendations. Paragraph 3 of the agreement asks the Commission to make the kind of determination the Commission made for Evergy Missouri West's project in EA-2025-0075 including Mullin Creek number 1 that the decision is prudent as to generation type or fuel type.

The Commission based that finding on considerations that include the degree of need, the need for dispatchable generation, the flexibility of the simple cycle unit, and SPP's stated need for dispatchable generation. Each of these is also present in this record. The Commission's CCN rule preserves the Commission's later review of costs and timelines.

Public Counsel objects to paragraph 3, "To the extent it may be interpreted to mean that the fundamental decision to construct Mullin Creek number 2 is prudent." And its witness ties his opposition to how the company may propose to allocate costs in a future rate case. But a CCN determination on prudence is only as to generation type not cost allocation. On issue E, Section 393.135.2, parenthetical 1, provides that, "The Commission shall

determine in a proceeding under Section 393.170, the amount of construction work in progress that may be included in rate base." Public Counsel's note of concern contained within its written objection says that the Commission must make that determination here and EMM agrees.

EMM's CWIP request is pending in its rate case ER-2026-0143, and the amount of that CWIP follows from the cost estimate, which is confidential and stated in paragraph 4 of the agreement again to which no party objected, subject to the limits and the refund provisions of the statute. Dr. Mark describes CWIP as asking existing customers to, "Pay for an investment they do not need before it is used and useful." But the General Assembly authorized CWIP for new natural gas generating units in Senate Bill 4.

And the statute makes CWIP recovery subject to refund with interest if the Commission later determines that construction costs were imprudently incurred or that the project was not placed in service within a reasonable time. In conclusion, SPP has said that we need dispatchable generation for times when the wind isn't blowing and the sun isn't shining, and Mullin Creek number 2 provides the dispatchable generation that SPP has called for.

Staff, Renew Missouri, and MECG ask the Commission to grant the CCN by approving their agreement. And Public Counsel acknowledges that the Commission has the power to do so. The record establishes that Mullin Creek number 2 is necessary or convenient for the public service.

EMM respectfully asks the Commission to grant the certificate subject to the conditions and the agreement, but no other conditions or modifications to make the decisional prudence determination in paragraph 3 of the agreement, to determine the amount of CWIP on the basis of the confidential cost estimate contained in paragraph 4 of the agreement, to decline the conditions proposed in issues B and C on the list of issues added by OPC, and to issue its order by December 23rd, 2026. Thank you.

JUDGE SEYER: Thank you. Are there any questions from the commissioners? Chair Hahn?

MS. HAHN: Good morning.

MS. WHIPPLE: Good morning.

MS. HAHN: You cited two particular plants where the Commission had said that cost allocation determination was not needed in the certificate process. And both of those examples, neither of those requests included CWIP accounting treatment. CWIP accounting

treatment allows those dollars to go into rates now, and I want to make sure that the Commission is faithful to Senate Bill 4, which generally the intent was to try to make sure that costs for serving large loads in any way does not shift to other ratepayers.

I am curious what the cost allocation would be under Evergy's proposal. I think it would just be some general standard cost allocation to all ratepayers not -- so talk to me about that.

MS. WHIPPLE: And are you referring to the existing rate case, or are you talking about future recovery requests?

MS. HAHN: I think that these are all tied together unfortunately right now. And I have asked the same question of Staff in the rate case. But if the Commission were to authorize CWIP treatment, but also recognize that this plant, at least part of it, is being built to serve large loads, how we make sure that those costs for that incremental cost, outside of PRM, to serve large loads can be properly cost allocated?

MS. WHIPPLE: Well, there are protections contained in the LLPS tariff, so that the large loads customers do bear their share of the costs associated with their taking service.

MS. HAHN: Yeah, I understand that. It may be

a good question to ask if Google and Evergy have appropriately built in, in the stipulation agreement additional cost for this plant and the higher rates. What is your understanding of that?

MS. WHIPPLE: As to Mullin Creek number 2, I'm not sure of the specifics of the cost allocation and the number that the LLPS stipulation encompasses in the rate case. We can get an answer to that, though, in the rate case and in this case, and we can make sure that that's contained in the record and in the briefing.

MS. HAHN: That would be helpful. I think in order for us to faithfully follow the statute and also make sure we are not shifting risk to residential ratepayers. I want to make sure that this is a fair allocation. So we don't need all the allocation figured out now, but for the CWIP accounting treatment, we really do. It will be really helpful to have either in this case or the rate case information about that.

MS. WHIPPLE: Understood. And we'll get it for you.

MS. HAHN: Thank you.

JUDGE SEYER: Are there any other questions from the commissioners? Thank you.

MS. WHIPPLE: Thank you.

JUDGE SEYER: Would the Staff like to present

an opening statement?

MS. KERR: Yes, please.

JUDGE SEYER: Go ahead, Ms. Kerr.

MS. KERR: May it please the Commission. Good morning. My name is Carolyn Kerr, and I'm a Staff attorney with the Missouri Public Service Commission. I'm here today on behalf of Staff to tender our witnesses for Commissioner's questions and offer into evidence their pre-filed testimony in this case. (Coughing) Excuse me. Staff is a signatory to the non-unanimous stipulation and agreement filed in this case and asks the Commission to approve that stipulation and conditions found therein as it relates to the Mullin Creek number 2 CCN application filed by Evergy. Thank you.

JUDGE SEYER: Do the commissioners have any questions for Ms. Kerr?

MS. HAHN: Ms. Kerr, I did ask Ms. Whipple a set of questions about CWIP cost allocation, and since Staff are signatory to this agreement, I am curious how the Staff would propose allocating the cost for CWIP. Do you have anyone or testimony you can point me to or information that would be helpful?

MS. KERR: Well, first of all, a proper cost allocation Staff's position is that it should be determined in a future rate case. Sarah Lange's

testimony discusses that. And with regard to the CWIP -- to CWIP, our position is that CWIP must first be authorized in the CCN before it can be addressed in a rate case.

MS. HAHN: I'm trying to figure out how to allocate the CWIP accounting, not the overall plant, but for the CWIP that would go into rates prior to the plant going in service prior to a rate case. How to allocate the CWIP? And if the answer is a standard cost allocation because SPP is requiring it for PRM, then maybe that's the answer. But I'm not -- I can't be confident at this point that it is. So I need someone to help me with this.

MS. KERR: Well, I think --

MS. HAHN: It looks like Claire may be -- Ms. Eubanks may be willing to help us out.

MS. KERR: Yeah.

MS. HAHN: Thank you.

MS. KERR: I could call Ms. Eubanks up if you'd like to ask her some questions.

MS. EUBANKS: So I think Ms. Kerr discussed Staff's overall position that cost allocation should be done in a rate case, and the stipulation has some provisions around some of the things that we think we need to do in a future rate case or leading up to a

future rate case. I will point you to the rebuttal testimony of Sarah L.K. Lange, page 5. She does talk about in rate cases in which Mullin Creek 2 is recovered in rates, that it would be appropriate to recognize the cost causation of Mullin Creek 2 for enabling service to LLPS customers.

So Staff's overall position consistent with the stipulation is that we would do that in a future rate case.

MS. HAHN: Could Staff take a look at that rebuttal and file like Evergy just offered in the brief to look at the cost allocation specifically for the CWIP accounting treatment?

MS. EUBANKS: Yes, I think that's something Staff would be happy to do.

MS. HAHN: Thank you.

MS. EUBANKS: You're welcome.

MS. HAHN: I appreciate that.

JUDGE SEYER: And Ms. Eubanks, Could you, for the sake of the court reporter, identify yourself and your position?

MS. EUBANKS: I apologize. I'm Claire Eubanks, E-U-B-A-N-K-S, and I'm the division director for the industry analysis division.

For the Commission?

MS. EUBANKS: For the Commission, yes.

JUDGE SEYER: Thank you. Any other questions for Staff? Thank you.

MS. EUBANKS: Thank you.

JUDGE SEYER: Ms. Mers, would you like to give an opening statement?

MS. MERS: I would go ahead and waive my opening, but if there are any Commission questions, I am happy to answer those.

JUDGE SEYER: Are there any questions for Renew Missouri? Hearing none, Mr. Clizer, would you like to present an opening statement for the Office of the Public Counsel?

MR. Clizer: Good morning. And if it would please the Commission, John Clizer, on behalf of the Office of Public Counsel. And I just kind of want to start off by saying I find it kind of funny that the -- some of the other openings today seem to be dancing around the core issue for which I feel like we're really here. So I'm going to try and refocus us back on what I think the most important element of this case is, the real reason that we're here today, this morning. And I'm going to do that.

I'd like to start by simply posing a question to this Commission. Who should pay for the cost of

electricity to serve data centers? The OPC's position is that data centers should pay for their own cost of service. And this includes the cost of any new generation that is needed because a data center enters a utility service territory. Now, I would hope that is a very non-controversial statement. It is after all, just stating the longstanding principle of cost causation. I think Staff -- Ms. Eubanks referenced that a moment ago.

But let's just take a moment to consider the mandate that has been given to this Commission on this very subject to kind of reorient ourselves. And let's start with the legislative mandate. That starts with the recent changes to Missouri Revised Statute 393.130, sub 7, which required electric utilities appearing before this Commission to create tariffs designed to ensure that large load customers cover the cost utilities incurred to serve them.

And as you can see, that's pretty much exactly what I just described as the OPC's position. That's not the only mandate, though. We also have a presidential mandate. We have the White House Ratepayer Pledge, in which large energy users promised to cover their full cost of energy. And let me quote here common source statements made by President Donald Trump in describing this pledge. He said under this new agreement, big tech

companies are committing to fully cover the cost of increased electricity production required for AI data centers. This means the tech companies and the data centers will be able to get the electricity they need, all without driving up electricity costs for consumers.

Finally, we have the gubernatorial mandate from our governor. Missouri governor Mike Kehoe issued an executive order this year, EO-26-02, which once again instructed regulators to, "Ensure the construction and operation of data centers and other large power users do not result in higher energy rates for residential and small business Missourians," in accordance with the principle that large users should cover their full cost of electricity and infrastructure service.

So what do these things all have in common? Well, the common thread running through all of them is very clear. We should be following the principle of cost causation. Where data centers cause a cost to be incurred, those data centers need to bear the cost. So hopefully I have your full agreement on that point.

Now, let's consider how that applies in this particular case. Why am I focusing so much on that? And to do that, I'm going to take a somewhat unorthodox text. I'm going to quote the company's position statement. You see, Evergy defines the OPC's position as saying the OPC

asked the Commission to find that the project is to be built only because the data center customers, and it ties that contention expressly to its position on who should pay for the projects.

And you know what? They are 100 percent accurate. That is the OPC's position. These data centers -- sorry, this project is being built solely to serve three new data centers and those data centers should be the ones solely responsible for paying for the project. The company then goes on to say that the record show this is not the case. And that is utterly false. So let's take a moment and walk through the facts and consider, why are these -- why is this project being built?

Let's start with the most basic, the one that we know for sure, the load increases. Evergy is bringing on a huge amount of new load from just three data centers. In fact -- actually it's not completely true. It's really two data centers and one large manufacturer. The two data centers make up 90 percent of the load, the large manufacturer, the rest -- the last 10 percent. I'm going to keep using the term data center for simplicity's sake.

Together, these three larger customers are projected to be approximately 900 megawatts at steady

state. That's where we have coming online. These three customers alone are 900 megawatts. And I want to stress to you this is Evergy's testimony, not mine, not Staff's, Evergy. Now, the single most important question in this case is the one that Staff witness Trevor Rucker was asked in rebuttal. Would Evergy need the Mullin Creek 2 project if there were no large load projects in the service territory? And his answer, as you can see, is no.

Evergy Metro would have sufficient capacity without the project for both the summer and winter planning seasons. Now, earlier we had some questions regarding planning reserve margin and the idea that this was potentially needed to meet those planning reserve margins. Again, that is simply not true. This company has sufficient capacity to meet its legacy customers' requirements, even with the shift in planning reserve margin and accreditation, using its existing legacy generation.

This project is only needed because of the capacity requirements imposed by these three customers. Again, let's dive into that a little bit. Let's talk about the accreditation changes. And the reason we're talking about that is because Evergy brought it up. They want to rely on those accreditation changes to the

justification for why we need this project. So let's see what Evergy actually has to say on this subject.

OPC witness Jordan Seaver reviewed the company's most recent IRP filing and found this statement with regard to the impact the SPP accreditation change has had on Evergy's capacity needs. "Effective load carrying capability calculations for existing renewable resources and PPAs show a small increase in forecasted summer capacity accreditation. There is also a small increase in the capacity balance attributable to slightly lower reserve margin requirements than forecasted in the 2025 annual update."

So again, these questions posed about whether or not we need this for planning reserve margin. We clearly don't. But John, I hear you say, that's just the summer. What about the winter? Well, it turns out that we have a quote from the winter too. And again, I'm just going to quote whatever Evergy placed in its own IRP. Evergy Metro's revised winter capacity balance reflects gains from increased accreditation from existing thermal resources.

However, the quote then goes on to talk about how these increases were outweighed. Outweighed by what you ask? By the large load additions. It is the large load additions that are creating the capacity shortfall

that is needed for this project. Not performance-based accreditation, not the planning reserve margin changes. It is these large load customers only. Let's talk about the IRP too because that was mentioned by Evergy as another justification for why they think they need this.

First of all, the 2024 IRP had no thermal additions in 2031. Instead as Evergy itself acknowledges in testimony the need for this project was first identified -- first identified in Evergy Metro's 2025 annual IRP. Again, that is a quote from Evergy. Why is that significant? Because the largest of these three data center customers was first incorporated in 2025 IRP.

So again, the first time that Evergy identified a need for this project was also the first time they incorporated these data centers, which further cements the singular argument. These data centers are needed solely to serve -- sorry, this project is needed solely to serve these data centers. In summation, Evergy needs Mullin Creek 2 to meet capacity requirements only if the data center customers are added to its system.

The change to accreditation standards of SPP benefit Evergy. It is not the large load customers driving the need. And the need for the project was first identified in the same IRP that modeled the largest of the three data centers being added to Evergy's system.

And as I've already said, there is only one possible logical conclusion that you can reach if you follow the facts and that is that Mullin Creek 2 is being built only because of these data centers.

And at the end of the day, all this case really comes down to, is whether this Commission is willing to accept the basic objective reality of this truth or if you're going to buy into the falsehoods that Evergy is peddling. Let's assume for a moment that Evergy or the Commission does accept the facts. Well, in that case, your mandate is crystal clear. The data center customers need to pay for their own generation. That means they need to cover the cost of the Mullin Creek 2 project.

Now, I want to address, this can be done using either the conditions that we are putting forward in the CCN or in the rate case. And I will speak to that issue as the chair has asked several questions before this about where best to address that. But the reason the OPC is standing here is because we see this issue as so important, so monumental in its scale that we needed to take a belt and suspenders approach by arguing it in both cases. Now, the OPC has offered two conditions that we offered specifically to address this concern of making sure the data centers pay for themselves.

The first is by far the most easiest. And that

is to place a condition on the CCN requiring the three identified customers to pay the entire upfront capital cost of the project before Evergy moves forward. I want to have a quick aside really quick. In its opening, Evergy mentioned that this is -- that they don't need the capital. That's not the point. This is not whether or not Evergy needs the capital. This is about making sure that these customers pay for themselves by providing the capital. I want to make sure that is very clear.

Now, I know this is certainly a break from convention. But again, reconsider the mandate that has been given to this Commission and in us by proxy in many respects. We believe it's completely justified to ask for this. In addition, it is also consistent with at least one of these large-load customers have proposed in another state. Google in Virginia actually filed testimony. And by the way, I want to point out, Google is one of the three large-load customers we are talking about here.

They actually request the local Commission allow them to fund distribution and transmission infrastructure costs directly. They argued that by doing so, it would reduce the total rate base, which in turn would reduce rates for all customers. So here you have at least one data center customer trying to do what is

right and pay its own way at least for distribution and transmission costs. And all the OPC is asking for in this case is for that same principle to be extended to generation.

I also need to point out that this would not be the first time a Commission took issue with a CCN application for generation needed to serve data centers. On September 17th, the Arkansas Public Service Commission denied Entergy Arkansas' initial payment structure for a proposed 600 megawatt solar and 350 megawatt battery storage facility. In a ruling that they determined that the accounting model prioritized the interests of Entergy Arkansas and Google over the general public.

Now, what's really fascinating about this decision -- and all of this is in the testimony of Dr. Jeff Mark if you want specifics -- is under the proposed agreement Google had actually agreed to pay $526 million upfront to fund construction alongside another $190 million for transmission and substation upgrades. However, Entergy Arkansas simultaneously tried to introduce a strategic investment rider that would shift the remaining financing costs onto general rate payers and so the Arkansas Commission still denied the application.

Just a day later on September 18th, the North

Carolina Utility Commission denied Duke Energy's proposal to build a 255 megawatt natural gas combustion turbine that would have cost $584 million. The Commission cited the staggering costs and uncertain project necessity. They also emphasized the utility failed to adequately demonstrate actual demand or shield everyday ratepayers from the financial risk related to anticipated data center growth.

And let's take a moment to talk about that financial risk from anticipated data center growth cited by the North Carolina Commission. To start, I feel like it's important that we remind ourselves the sheer scale that we're dealing with when we look at this kind of build. What you have in front of you right here is a slide. It's really the only slide from a presentation, an investor presentation that Evergy gave concerning its Evergy Metro rate case. This is available on their website.

And I want to highlight the rate base amount in here, where they indicate that Evergy Metro's current rate base -- again, this is the publicly available investor facing information -- is just shy of $4 billion. This slide comes from the company's publicly available fourth quarter investor report, and shows the projected capital expenditures for Metro over the next five years.

And I want to highlight new generation renewables is projected at $2 billion. That's half of their existing entire rate base for just new generation renewables.

The total, meanwhile, is just under $6 billion. In total, the company is projecting to more than double its rate base in the same five-year period. That is insane, the amount of money that we're talking about. The size and scale of investment that we're discussing here is massive. And let's also take a moment to consider the risk associated with the industry, for which so much of this capital is being expended.

This graph is one of several from the combined testimony of OPC witness Dr. Jeff Mark. And it shows the Bain consulting firm identified as the combined revenue that would be necessary for the current capital outlays behind AI to break even. What this shows is that there is a $4.2 trillion gap that the AI industry needs to clear. I need you to stop and think about that. This industry needs to make $4.2 trillion above existing revenues just to break even.

Given this information, the idea that any one of these data centers might ultimately be shelved before the end of its expected life is very well within the realm of possibility. And remember, this project, Mullin Creek 2, that we're talking about, is being built in its

entirety to serve three -- really only two data centers. Do you see the issue with spending north of a billion dollars to serve effectively just two customers and the risks associated with that. The risk here is astronomical. And that's why the OPC has taken the position as its primary recommendation that these data centers should pay the entire upfront capital costs.

Having them do that, will have -- it will shield not only the company, but all legacy rate payers from the catastrophic risk just one data center could have of leaving the company's system. Now, what makes it the best possible outcome? But let's say that the Commission does not choose the first condition. Let's say they instead want to -- well, in that case the OPC points to its backup condition.

The OPC's backup condition, which is -- that they should place a condition that requires the data center customers, the LLPS customer class to recover the -- to pay for the full cost of this investment through a direct allocation. In the alternative, the Commission could just order that direct allocation in its currently pending rate case.

And I also want to point out, although I think -- I believe Chair Hahn, you've already hit the nail on the head with this. The CWIP issue is live in that rate

case. It's the first opportunity for that to be allocated. So yes, that is absolutely where it needs to start. It's the CWIP issue being allocated in that rate case. Now, one thing before I want to wrap this up, moving on to my final thoughts, I want to point out just how similar this position that the OPC has taken is to what utilities have argued in the past.

In 2010, Ameren Missouri requested the Commission order the Noranda aluminum smelter, which was then in operation, to use a take or pay rate structure. That take or pay structure would have charged Noranda 100 percent of its cost, which is effectively close to what the OPC is asking here. Moreover, Ameren was making that request because Noranda presented just 6 percent of Ameren's retail revenues. So again, Ameren wanted a hundred percent guardrail for a customer that made up 6 percent of its retail revenues. The OPC is asking for the same guardrail for customers that stand to make up substantially more than 6 percent.

So moving on, final thoughts, just a couple of things. I want to start with the LLPS tariff because this was mentioned in response that Evergy gave to the chair's question. The LLPS tariff is important. And it does have some good customer protections. It does not solve this issue at all.

And I want to be very careful in explaining exactly why that is. What we are discussing here is the issue of cost allocation, which, as a general reminder to everybody, that's effectively, once you've developed the revenue requirement, that's the pie. Now we're trying to decide how we've split up the pie amongst different class of customers. So in this case, let's call the Mullin Creek 2 project the pie. Let's say that that's the cost of the project.

The OPC's position is that 100 percent of that pie, that project needs to go to the LLPS customer class. Why? Because of all the facts I said earlier that show that this customer -- these customers are the sole reason that project is being built. Evergy's position is that the LLPS should only get a small share of that pie. That the rest of the customers should pay for the rest of the project, which again we view as a direct violation of the mandate that has been given to this Commission by the legislature, by the governor, and by the president.

Now, the LLPS tariff includes minimum bills. What those minimum bills are due is that they guarantee that the company -- sorry -- the customer will pay the majority of the slice that has been assigned to them. So if you look at this, that glowing triangle you see right there, that's what the minimum bill does. It says

however much has been assigned to that particular customer class, you are going to pay about 80 percent, I believe, roughly 80 percent of that slice.

But again, the critical component here is that it comes down to how the pie is divided. If you allocate less than the fair share to those LLPS customers, the minimum bill requirements in the tariff do not fix that and cannot fix that. The way you do fix this -- and this directly responds to the question the chair has posed to the other attorneys -- is that you properly allocate the cost of Mullin Creek 2 to the LLPS class. Starting with CWIP in the rate case and then with the remaining balance when it comes due in a later rate case.

And as to the percentage, it should be 100 percent. It should be 100 percent because of all the facts that I have put forward up to this point that show conclusively that this project is being built solely to meet the need of those customers and for no other reason.

Now, I also want to point out we know right now what this project is going to cost customers if you don't do the proper allocation. The graph that you see in front of you -- well, let me be clear. The graph that's shown on this screen that the public can see has a large confidential block on it. That's because the numbers themselves have been claimed by Evergy as confidential.

So I can't show them to you. However, the copies that I have handed out have that confidential blocks removed so you can see the numbers for yourself. And I won't discuss them in the open obviously, but what those numbers show is what Evergy's residential customers will pay for this generation asset with and without the large load customers coming onto the system under Evergy's proposal.

Remember that the facts clearly established that this project is only being built to serve those data center customers and are not needed otherwise. So these numbers are what residential customers will pay down to the per month amount solely in order for Evergy to provide electric service to these three data center customers under Evergy's proposal. This is a clear and complete violation of the mandate that has been given to this Commission. And that is the reason the OPC has objected. So there it is. We've reached the end and now the rest is all up to this Commission.

You four and you four alone have the power to protect Evergy's ratepayers, their legacy ratepayers, from having to subsidize data centers. This is the first time this issue has come before you. It was mentioned in the opening of Evergy how we hadn't objected to the Ameren one. Well, we didn't because Ameren isn't

requesting CWIP. So the issue has not yet come before this Commission. But as the chair already identified earlier, CWIP is a live issue in the rate case. So this is now the first time this issue is before the Commission. It really is down to this.

And the last thing I will say is simply this, there is a lot of concern right now regarding data centers and who pays for them. It is in the news. It is in the mind of our citizens across this state. The OPC's proposal is a very easy solution and quite possibly the best opportunity this Commission has to quell those concerns.

This solution again is quite simply to have 100 percent of the Mullin Creek costs allocated to the LLPS customer class either by having them pay the costs up front or through direct allocation in the rate case beginning with CWIP. I hope the Commission has taken everything I've said to heart. And with that, I stand ready to answer any questions you might have and otherwise, thank you for your time.

JUDGE SEYER: Chair Hahn?

MS. HAHN: Thank you, Mr. Clizer. One of the issues with assigning all of the cost to a large load for this particular plant -- for a particular generating resource is that if we do that and we assign 100 percent

of the cost of each new plant that we build to serve data centers, the legacy ratepayers, the residential ratepayers end up owning the old generating units and then those generating units would need replaced.

And I would be -- I guess I'm curious your response as to how these resources operate as a portfolio to serve all customers so that residential ratepayers don't end up owning old assets. Do you think that's an issue?

MR. Clizer: Well, frankly, no, I don't. I think that the existing fleet is safely able to meet the needs of its existing customers. I'll start by again pointing out the testimony of Mr. Rucker in this case. It identifies the existing fleet is already sufficient to meet the capacity requirements imposed by SPP. So let's move that right off the table. The second question is, are we experiencing significant growth that would require additional generation assets outside of these data centers?

And again, I don't believe the evidence suggests or supports that either. It would appear that the existing generating fleet is going to be sufficient to meet customer needs moving forward if you don't have the data centers in the equation. As for the replacement of existing fleet, that is a concern. However, I don't

see that being one that's necessarily going to meet the immediates. I'm not familiar with any immediate need to retire existing fleet that would need to have those kind of replacements.

And again, I would point out, I'm going to quote here sort of from the testimony of Evergy's witness. "The problem that we're facing right here is that there is a substantial run on the market with regard to the cost of existing energy." And again, I'm going to quote directly from Evergy's witness. "Costs for new gas turbines have increased substantially due to supply chain constraints, inflation, limited manufacturing capacity, and a strong demand growth driven by data center investments nationwide."

So you're already in a world where the data centers are not only driving up the cost of the generation needed to serve them, they're driving up the cost of the generation needed to serve everybody. So at this point in time, if I was legacy customer, I would basically be telling the company wait. Wait until either we get the existing data centers taken care of or this bubble bursts, whichever is going to happen first.

And we're in a world where those -- because I can easily see a situation where we have a substantial reduction in overall capacity requirements due to a

lessening of data center consumption in the near term, given the perils surrounding this market as described in the testimony of Dr. Mark. And if that occurs, I have a strong suspicion that there's going to be a pick of the litter situation for the existing legacy customers to get their energy needs meet without having to spend a dime more. Does that fully answer your question or would you like me to go into further detail?

MS. HAHN: That's good. Thank you.

JUDGE SEYER: Do any other commissioners have questions? Hearing none, thank you, Mr. Clizer.

MR. FISCHER: Judge, with due deference, this is Jim Fischer. I might refer to the chair and commissioners to our position statement in the rate case on the CWIP issue. We will be addressing that question in our brief. But in that position statement, we do suggest that the number of $64 million is the amount of CWIP that we're requesting to be included in the rates. We also suggest that there is no evidence in the record that -- contrary to Mr. Clizer's discussion that this plant is being built solely for the large load customers.

And in the rate case, there is a revenue allocation issue, which is live before the Commission. Several of the parties have suggested an across-the-board increase in the rates. Evergy and MECG have a

stipulation that would also suggest an alternative allocation of the rate increase. It would be our position that a standard allocation based upon the cost-of-service studies that are included in that rate should be used for allocating the rate increase and not a specific allocation of CWIP in this case.

So that's our position. And we'll brief that in more detail. But if you go to page 18 of our position statement, you'll see a synopsis of our argument there.

MS. HAHN: I understand that position, but I'm asking questions about it.

MR. FISCHER: Certainly. And we want to answer those.

MS. HAHN: Thank you.

MR. FISCHER: I'd also mention, Judge Seyer, that we did send you the exhibit list. If you don't get that, let me know.

JUDGE SEYER: Right. I did receive that and --

MR. Clizer: On that note, Judge, I apologize. John Clizer for the court reporter. To save myself the trouble, can I just ask to mark my three exhibits really quick? Because it'll take me about less time to do that right now than to have you send that.

JUDGE SEYER: Sure.

MR. Clizer: I have Exhibit number 200. Is

that correct?

JUDGE SEYER: Let me go back. Yes.

MR. Clizer: Yeah. So I would ask that 200 -- or, sorry, the rebuttal testimony of Jordan Siever be marked 200, the rebuttal tech testimony of Dr. Jeff Mark be 201, and the surrebuttal testimony of Dr. Jeff Mark be 202. That's all.

JUDGE SEYER: And am I correct, though, in that the exhibit list that has been submitted, you are asking that all those exhibits listed on those lists be entered as exhibits in this case, correct? And none of the parties have objections to those exhibits?

MR. Clizer: Again, I apologize. I've been very busy and haven't had a chance to check. Are there any requests for exhibits that are not pre-filed testimony?

MS. WHIPPLE: Judge, there aren't, but I'm not sure. In previous cases, sometimes the RLJ has wanted the stipulation that's been filed in a case to be its own exhibit, and in other instances, that's not been necessary. That would be the only question I would have, but otherwise the exhibit list only contain the pre-filed testimony at this time.

MR. Clizer: Yeah. Once again, the OPC does not object to any of the pre-filed testimony. And with

regard to the exhibit -- sorry -- the stipulation having been objected to, the position of the party is no different than a position statement. I mean, I don't think it needs to be an exhibit.

JUDGE SEYER: I agree with that. I tell you what? What I would like to do is, let's say by the end of business tomorrow, if there are any objections to the exhibit list that have been filed, you can submit your objections by that timeline or by that deadline, I should say. And I don't believe there's anything further, correct?

MR. PRINGLE: Judge, this is Travis Pringle on behalf of Staff. Just kind of, as a result of some of the questions this morning and the interplay of this case and the Metro rate case, I'm not quite sure the best way to do this because this isn't the Metro rate case, but it sounds to me like it'd be a good idea to take administrative notice of this docket in that case. I'm just not quite sure how -- the best way to go about that at this time. The entire case, because this -- as you kind of pointed out in your opening and some of the Commission questions, they are tied together pretty, pretty tightly.

MS. WHIPPLE: You're trying to tie the two evidentiary records together? That's what you're saying,

Travis, that parties can cite to the evidence in one case and/or the other case.

MR. PRINGLE: Pretty much. Yeah.

MS. WHIPPLE: Okay.

JUDGE SEYER: I think I would leave that to the judge in the rate case.

MR. PRINGLE: Yeah, because I also know we don't have all the parties to the rate case in here today, but it does seem that may be a good idea that we may have to explore.

JUDGE SEYER: Again, I would suggest you pursue that in the rate case. Anything further this morning? I will remind the parties that initial briefs are due on November 16th and reply briefs November 24th. Anything further?

MS. WHIPPLE: Judge, I know the transcripts have been expedited. Do we have a date?

JUDGE SEYER: I think typically it is within seven days.

MS. WHIPPLE: That'd be fine.

JUDGE SEYER: If there is nothing further, then I'll adjourn the hearing, and we'll go off the record. Thank you.

(Proceedings concluded at 10:07 a.m.)

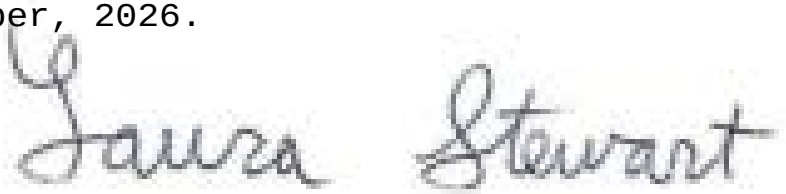
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Commission Expires: October 27, 2028

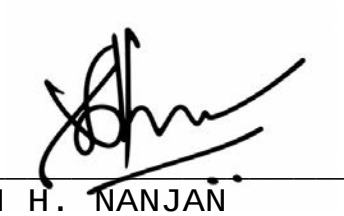
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