

**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	)	<b><u>File No. ER-2023-0011</u></b>
West for Authority to Implement Rate	)	Tracking No. JE-2023-0005
Adjustments Required by	)	
20 CRS 4240-20.090(8) and the Company's	)	
Approved Fuel and Purchased Power Cost	)	
Recovery Mechanism	)	

**INITIAL BRIEF**

**Introduction and Background**

On July 1, 2022, Evergy Missouri West (“EMW”) filed a proposed revised tariff sheet with a revised fuel adjustment rate and bearing an effective date of September 1, 2022; on the same day, EMW initiated a rate adjustment mechanism true-up<sup>1</sup>, to be included in the proposed revised fuel adjustment rate. On July 28, 2022, Staff filed its recommendation that the Commission approve EMW’s true-up filing but reject the proposed tariff rate sheets. Staff also recommended that EMW be ordered to include the \$31 million costs in the current 30<sup>th</sup> Accumulation Period. Following response from EMW and the Office of Public Counsel, a procedural schedule was set and a hearing took place on September 30, 2022.

- 1. Should the Commission approve Evergy Missouri West’s request to defer \$31 million of FAC-fuel and purchased power costs for further treatment in a subsequent general rate case?**

No. The Commission should order EMW to include the \$31 million in the FAC during this current Accumulation Period 30.<sup>2</sup> Further information to support this position is detailed below.

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<sup>1</sup> Case No. EO-2023-0010

<sup>2</sup> Ex. 100, *Rebuttal Testimony of Brooke Mastrogiannis*, p. 3.

2. **Should the Commission consider the FAC rate adjustment mechanism's requirement that fuel and purchased power costs will be rebased in EMWs general rate case (Case No. ER-2022-0130) in determining the amount of EMW's requested deferral in this FAC proceeding?**

No. Per Section 393.1655.3 RSMo, the computation of Plant in Service Account ("PISA") caps shall use "the electrical corporation's average overall rate as of the date new base rates are set in the electrical corporation's most recent general rate proceeding **concluded** prior to the date the electrical corporation gave notice under section 393.1400..." (emphasis added). This statutory language points to Case No. ER-2018-0146, as Case No. ER-2022-0130 is currently pending and has not yet **concluded**.<sup>3</sup>

Staff's position is derived from the Merriam-Webster definition of "conclude," meaning, "to bring to an end especially in a particular way or with a particular action." The Court in **Campbell v. County Commission of Franklin County**, 453 S.W.3d 762, 768 (Mo. banc 2015) found that:

In the absence of a statutory definition or established judicial interpretation, analysis \* \* \* begins with the proposition that "[t]he primary rule of statutory interpretation is to give effect to legislative intent as reflected in the plain language of the statute." **Gash v. Lafayette County**, 245 S.W.3d 229, 232 (Mo. banc 2008), quoting **State ex rel. Burns v. Whittington**, 219 S.W.3d 224, 225 (Mo. banc 2007). "[T]o discern legislative intent, the Court looks to statutory definitions or, if none are provided, the text's 'plain and ordinary meaning,' which may be derived from a dictionary."

Staff is unable to perceive any way in which Section 393.1655.3 RSMo could be read to mean that a case (ER-2022-0130) without a final Commission order could be considered concluded before the date Evergy gave notice that it was electing PISA in this case

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<sup>3</sup> While some stipulations have been approved in Evergy's current rate case, the Commission has not yet issued an order on issues that were litigated; most importantly, new base rates will not be in effect until December 6, 2022.

(ER-2023-0011), which was filed on July 1, 2022, with a proposed effective date of September 1, 2022, both of which were before the effective date of new base rates in ER-2022-0130 of December 6, 2022, or when the Stipulations were approved on September 30, 2022.

**3. What is the full amount of the current FPA for the 30th accumulation period?**

The full amount of the current FPA for the 30th accumulation period is \$44,604,020.<sup>4</sup>

**4. If EMW's current FAC rate is changed to allow for full recovery of the FPA for the 30th accumulation period and no other changes were made to the rates currently in effect, what would the resulting average overall rate for EMW be?**

The average overall rate for EMW would be 9.14%.<sup>5</sup>

**a. What is the percentage difference between this rate and EMW's average overall rate as of the date new base rates were set in EMW's most recent general rate proceeding concluded prior to the date that EMW gave notice under section 393.1400?**

The average overall rate cap as of September 1, 2022, the original proposed effective date of rates in this case, was 11.69%.<sup>6</sup> Therefore, the average overall rate is 2.54% lower than the annual compound growth rate cap from the date base rates were set in EMW's most recent general rate proceeding, Case No. ER-2018-0146.

**5. Does allowing for recovery of the full FPA for the 30th accumulation period through EMW's FAC result in a change in the rates charged under EMW's FAC that would cause EMW's average overall rate to exceed the 3% annual compound growth rate cap set forth in section 393.1655.3 RSMo?**

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<sup>4</sup> *Id.* at p. 5, l. 16.

<sup>5</sup> *Id.* at p. 4, l. 20.

<sup>6</sup> *Id.* at p. 4, l. 5.

No. By including the full FPA for the 30th accumulation period, EMW's average overall rate cap is only 9.14%, and by using the proposed effective date of September 1, 2022, the average overall rate cap is 11.69%. Therefore, EMW's FAC average overall rate does not exceed the 3% annual compound growth rate cap.

**6. Should EMW be permitted to defer any portion of the costs related to the 30th accumulation period on the basis of the company's claim that those costs are extraordinary?**

No. These costs are not extraordinary.<sup>7</sup> According to Staff witness Brooke Mastrogiannis:

...these increased fuel costs are, unfortunately, the norm for all utilities for the current time period and not uniquely extraordinary or unusual for Evergy Missouri West. In fact, the prior Accumulation for Evergy Missouri West...had a fuel and purchased power adjustment ("FPA") of \$47,488,718, which is \$2,884,698 *higher* than this current AP 30 FPA amount of \$44,604,020.

To Staff's knowledge, EMW did *not* claim that increased fuel costs in AP 29 were extraordinary. Other Missouri utilities, specifically Ameren Missouri and Liberty, have also experienced increased fuel costs as reflected in their recent FAR filings.<sup>8</sup> When increased costs are sustained over time and are a common experience, Staff does not see how such costs could be considered extraordinary.

**a. If so, what accounting treatment should the deferral receive?**

N/A.

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<sup>7</sup> Ex. 100, *Rebuttal Testimony of Brooke Mastrogiannis*, p. 5.

<sup>8</sup> *Id* at p. 5, ln 16-18.

Respectfully submitted,

**/s/ Casi Aslin**

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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record on this 14<sup>th</sup> day of October, 2022.

**/s/ Casi Aslin**