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

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| In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing It to Purchase, Own, Operate, Maintain and Otherwise Control and Manage an Existing Wind Generation Facility in Oklahoma | ) ) ) ) ) ) ) ) | **File No. EA-2022-0328** |

## REPORT AND ORDER

**Issue Date:** **April 6, 2023**

**Effective Date:** **April 16, 2023**

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## PARTIES & APPEARANCES

**EVERGY MISSOURI WEST:**

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**RENEW MISSOURI:**

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**REGULATORY LAW JUDGE:** Nancy Dippell

# REPORT AND ORDER

## I. Procedural History

On August 18, 2022, Evergy Missouri West, Inc. (EMW) filed an application with the Commission seeking an order granting a Certificate of Convenience and Necessity (CCN) pursuant to Sections 393.170.2 and 393.190.1, RSMo, and the Commission's Rules 20 CSR 4240-20.045 and 2.060. The requested CCN would authorize EMW to operate, manage, maintain, and control an existing and operational wind generation facility in Woodward, Ellis, and Dewey Counties (near the town of Vici) in Oklahoma known as Persimmon Creek Wind Farm (referred to herein as "Persimmon Creek"). Persimmon Creek is expected to serve EMW's customers in Missouri and EMW expects that the asset will be included in rate base used to set retail rates.

The Commission granted the application to intervene of Renew Missouri Advocates d/b/a Renew Missouri. On February 21-22, 2023, the Commission held an evidentiary hearing. During the evidentiary hearing, the parties presented evidence relating to the following issues identified by the parties:

**A. Does the evidence establish that granting an Operating CCN to EMW to own, operate, and maintain Persimmon Creek is necessary or convenient for the public service, pursuant to Section 393.170.2-.3, RSMo, and 20 CSR 4240-20.045(2)-(3)?**

**1. Is there a need for EMW to operate Persimmon Creek?**

**2. Does EMW have the financial ability to operate Persimmon Creek?**

**3. Is EMW qualified to operate Persimmon Creek?**

**4. Is EMW's proposed operation of Persimmon Creek economically feasible?**

**5. Does EMW's proposed operation of Persimmon Creek promote the public interest?**

**B. If the Commission grants an Operating CCN for the Project, what conditions, if any, should the Commission impose on the CCN?**

**1. Should a production tax credit tracker be established?**

**2. Should the Commission order that EMW track revenues produced by Persimmon Creek for ratemaking purposes?**

**C. Should the Commission Order EMW to provide resource-specific economic analysis utilizing reasonable assumptions beyond the IRP results, LCOE estimates, and installed capacity costs in support of future CCN applications?**

**D. What, if any, additional project-specific analysis requirements should the Commission Order from EMW for future CCN requests?**

**E. Does the evidence establish that authorizing EMW under Section 393.190.1 to complete the asset transfer and merger described in the Application so that it may own and operate Persimmon Creek is not detrimental to the public interest?**

Initial post-hearing briefs were filed on March 9, 2023, and reply briefs were filed on March 17, 2023.

The Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law.

## II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. EMW is a Delaware corporation with its principal office and place of business at 1200 Main Street, Kansas City, Missouri 64105.[1] EMW is an electrical

[1] EMW was formerly known as KCP&L Greater Missouri Operations Company (GMO).

corporation and public utility that provides electric service to the public in Missouri.[2] EMW is engaged in the generation, transmission, distribution, and sale of electricity in western Missouri, including the suburban Kansas City metropolitan area, St. Joseph, and surrounding counties.[3]

2. EMW is a wholly owned subsidiary of Evergy, Inc. The other public utilities wholly owned by Evergy, Inc. are Evergy Metro, Inc. and Evergy Kansas Central, Inc.[4]

3. EMW filed an application on August 18, 2022, seeking a CCN to operate, manage, maintain, and control Persimmon Creek. Persimmon Creek is an existing and operational wind generation facility in Woodward, Ellis, and Dewey Counties (near the town of Vici) in Oklahoma.

4. Staff is a party in all Commission investigations, contested cases, and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.[5] Staff participated in this proceeding.

5. Public Counsel is a party to this case pursuant to Section 386.710(2), RSMo, and by Commission Rule 20 CSR 4240-2.010(10).

6. Renew Missouri is a party after being granted intervention.[6]

7. The Inflation Reduction Act (IRA) was passed into law August 16, 2022,[7] and EMW filed its application for a CCN in this case two days later.

[2] File No. EA-2022-0328, *Application of Evergy Missouri West for an Operating Certificate of Convenience and Necessity*, (filed Aug. 18, 2022) ("Application").
[3] Application, paragraph 1.
[4] Application, para. 3.
[5] Commission Rules 20 CSR 4240-2.010(10) and (21) and 2.040(1).
[6] File No. EA-2022-0328, *Order Granting Intervention*, (issued Sept. 20, 2022).
[7] Inflation Reduction Act of 2022 Pub. L. 117-169 (Aug. 16, 2022).

**Persimmon Creek Wind Farm**

8. Persimmon Creek is an existing electric generating facility with 80 wind turbine generators. It has a nameplate capacity of 198.6 megawatts (MW) and spans approximately 17,000 acres in parts of Woodward, Ellis, and Dewey Counties in Oklahoma.[8]

9. Persimmon Creek became operational in August 2018 and is expected to have a 20-year life.[9]

10. Power from the turbines is collected at the Persimmon Creek-owned substation, stepped-up and transmitted over a Persimmon Creek-owned three-mile 345 kV overhead transmission line to the Guthrie Switchyard. At this switchyard the Persimmon Creek power is aggregated with the power output of another operating wind farm and is transmitted over approximately eleven more miles of transmission line to the point of interconnection at the Woodward District Substation owned by Oklahoma Gas and Electric Co.[10]

11. EMW expects to use Persimmon Creek to serve its customers, all of whom are in Missouri.[11]

12. As an owned resource, Persimmon Creek will be under EMW's operational control. EMW expects to recover its investment through base rates and operations and maintenance expense (O&M), as opposed to purchased power costs.[12]

13. To find Persimmon Creek, EMW conducted a competitive request-for-proposal (RFP) process of which Persimmon Creek was one option received. The RFP

[8] Exhibit 1, Dority Direct, page 3.
[9] Ex. 1, Dority Direct, p. 3.
[10] Ex. 1, Dority Direct, pp. 3-4.
[11] Ex. 1, Dority Direct, p. 5.
[12] Ex. 1, Dority Direct, p. 6.

evaluation process included comparative valuations of other similar projects that have been offered for sale.[13]

14. Persimmon Creek generates renewable energy that provides renewable energy certificates (RECs) and is eligible for currently available federal Production Tax Credits (PTCs).[14]

15. Persimmon Creek is attractive compared to alternative available projects from a permitting and supply chain perspective because it is already operational with the lowest congestion risk for delivery to Missouri customers.[15]

16. High-capacity factor wind generation from western Oklahoma is one of the cheapest forms of renewable energy in the United States.[16]

17. EMW signed a Membership Interest Purchase Agreement with GSQ, LLC on August 8, 2022 to purchase all the membership shares in Persimmon Creek and the shared facilities agreement for interconnection for a purchase price of $245,700,000 plus working capital adjustments and adjustments for PTC value, both to be finalized at closing.[17]

18. EMW intends to finance the $245,700,000 purchase price through EMW's available utility financing resources with the intent that Persimmon Creek will ultimately be included in rate base through the Commission's traditional ratemaking and cost of capital procedures.[18] No party disputed that EMW had the ability to finance the project.

[13] Ex. 1, Dority Direct, p. 5.
[14] Ex. 1, Dority Direct, p. 6.
[15] Ex. 7, Dority Surrebuttal, p. 13.
[16] Ex. 7, Dority Surrebuttal, p. 13.
[17] Ex, 1, Dority Direct, p. 4.
[18] Ex. 1, Dority Direct, p. 6.

19. EMW provided detailed explanations of the series of transactions that will ultimately lead to EMW's ownership of Persimmon Creek.[19]

20. EMW also provided the general plans and specifications that were followed to construct Persimmon Creek.[20]

21. EMW has a long history of operating generation, transmission, and distribution facilities that provide electricity in Missouri through the construction, operation, and ownership of different power generation assets and methods, including wind generation.[21] No party disputed that EMW was qualified to own and operate Persimmon Creek.

22. Persimmon Creek offers EMW long-term ownership of an efficient and productive renewable resource at a competitive price with a reduced risk profile compared to the other alternatives evaluated.[22]

23. Due to its status as a monopoly, once the plant is included in rates, EMW's shareholders will be insulated from the risk that the revenues from Persimmon Creek do not exceed the costs. Instead this risk would be borne by the ratepayers.[23]

**The IRP Process**

24. The integrated resource planning (IRP) process is completed by electric utilities under the Commission's Rules found in Chapter 22 (20 CSR 4240-22). The IRP process results in the selection of a Preferred Plan which is the combination of supply-

[19] Ex. 1, Dority Direct, p. 6.
[20] Ex. 1, Dority Direct, p. 6.
[21] Ex. 1, Dority Direct, p. 8.
[22] Ex. 2, Humphrey Direct, p. 17.
[23] Ex. 104, Luebbert Rebuttal, p. 10; and Ex. 201, Mantle Surrebuttal, pp. 14-15.

side and demand-side resources which EMW will use to meet forecasted customer requirements for the next twenty years.[24]

25. The IRP process is not a contested case at the Commission and the Commission does not approve the plan chosen by the utility.

26. Although deficiencies and concerns may be raised by parties in IRP filings, no hearing is required under the Commission's Electric Utility Resource Planning rules found in Chapter 22 (20 CSR 4240-22). Therefore, these concerns and deficiencies often need to be brought in front of the Commission through other avenues that require a hearing.[25]

27. There are two primary needs which are evaluated through the IRP process to determine whether new resource additions are necessary. The first is capacity. As a load-serving entity, EMW's planning is built around maintaining sufficient accredited capacity resources to meet its forecasted peak load plus the planning reserve margin required by the Southwest Power Pool (SPP). The second need is energy. As a participant in the SPP Integrated Market, EMW does not provide energy from its resources (or power purchases) to match its load in every hour, as it would have when it operated as its own Balancing Authority before the advent of the SPP Integrated Market.[26]

28. EMW's capacity need is forecasted over the next 20 years based on its projected summer peak load plus SPP's planning reserve margin (historically 12%, however, SPP will increase the planning reserve margin to 15% beginning in the summer of 2023[27]). Each resource plan built in the IRP (also known as an Alternative Resource

[24] Ex. 6, Messamore Supplemental Direct, p. 3.
[25] Ex. 101, Fortson Rebuttal, p. 6.
[26] Ex. 6, Messamore Supplemental Direct, p. 5.
[27] Ex. 6, Messamore Supplemental Direct, p. 10.

Plan) meets this capacity requirement by ensuring the accredited capacity from the resource plan is at least equal to this requirement (112% of forecasted summer peak). If EMW's portfolio of existing accredited capacity is less than this requirement, new capacity is needed.[28]

29. EMW meets the SPP resource adequacy requirements on a combined basis with Evergy Missouri Metro.[29]

30. Through its 2021 and 2022 IRPs, EMW identified wind resources as part of its overall Preferred Plan. According to EMW's Preferred Plan analysis, wind resources added in the first five years of the Preferred Plan reduced costs for customers by $64 million over time compared to the other Alternative Resource Plans reviewed.[30]

31. Staff raised concerns that EMW had manually adjusted its inputs to influence its IRP modeling to get the outputs it wanted.[31]

32. Staff recommended in EMW's June 10, 2022 annual IRP update filing[32] that EMW allow its capacity expansion model to develop an optimized resource plan by selecting from an inventory of resource options, including both supply-side and demand-side resources.[33]

33. EMW performed and completed an All Source Request for Proposal and, after viewing the results, Kayla Messamore acknowledged that she manually changed EMW's IRP inputs in Plexos[34] from solar generation to wind generation by 2024.[35]

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[28] Ex. 6, Messamore Supplemental Direct, p. 5.
[29] Ex. 100, Eubanks Rebuttal, p. 4; Ex. 104, Luebbert Rebuttal, p. 9, footnote 8, and p. 45, fn. 62.
[30] Ex. 6, Messamore Supplemental Direct, p. 17.
[31] Ex. 101, Fortson Rebuttal, pp. 11-12.
[32] File No. EO-2022-0202, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's 2022 Integrated Resource Plan Annual Update Filing*.
[33] Ex. 101, Fortson Rebuttal, p. 3.
[34] Plexos is the program that creates capacity expansion models that are designed to optimize a utility's acquisition of assets.
[35] Ex. 6, Messamore Supplemental Direct, pp. 17-18.

34. Capacity expansion models like Plexos can also be provided with an inventory of resource options, both specific resources and/or generic resources, which are then selected by the model through its optimization process based on their relative cost and operating characteristics. Resource plans derived in this manner are model outputs, rather than inputs.[36]

35. From October 18, 2021, to November 23, 2021, EMW conducted a wind RFP, resulting in EMW choosing Persimmon Creek as its best option. EMW filed a notice that it intended to file its application in this case on May 24, 2022.[37]

36. EMW filed an annual IRP update on June 10, 2022, in File No. EO-2022-0202, informing the Commission of changes in the EMW's resource acquisition schedule from the 120 MW of solar generation in its 2021 IRP to 150 MW of wind generation in 2024. This change resulted from Kayla Messamore manually adjusting the inputs in EMW's capacity expansion modeling program, Plexos.[38]

37. Staff, through its analysis of EMW's modeling, raised a number of concerns about similarities in the Alternative Resource Plans that led it to believe that EMW was influencing the modeling to get desired outputs by manually adjusting its inputs.[39]

38. On September 26, 2022, EMW filed a notice of changes to its Preferred Plan (Change to 2022 Updated IRP) along with its analysis after changing the IRP to reflect the acquisition of Persimmon Creek.[40]

39. In its Change to 2022 Updated IRP, EMW assumed Persimmon Creek would provide 20 MW of accredited capacity, leaving EMW's capacity need after

[36] Ex. 101, Fortson Rebuttal, p. 7.
[37] File No. EA-2022-0328, *Notice of Intended Case Filing,* (filed May 24, 2022).
[38] Ex. 6, Messamore Supplemental Direct, p. 18.
[39] Ex. 101, Fortson Rebuttal, p. 9-11.
[40] File No. EO-2023-0115, *Notice of Change in Plan,* (filed Sept. 26, 2022).

Persimmon Creek at 150 MW in 2024. Thus, Persimmon Creek would satisfy only a small part of EMW's need identified in the 2022 Annual Update to its Preferred Plan.[41]

40. According to EMW, the Updated Preferred Plan showed $66 million in additional customer savings because Persimmon Creek was a lower-cost, higher-output resource option than the more generic wind resources originally included in the IRP analysis.[42]

41. The IRP assesses the physical energy needs and the hourly import constraints are applied to ensure net market purchases in each hour do not exceed transmission capabilities. However, given the significant import capacity available with EMW's neighbors, a constraint on transmission is not typically a constraint that is evaluated in the IRP analysis.[43]

42. The resource options evaluated in EMW's Updated Preferred Plan to meet capacity and energy needs were wind, solar, natural gas, and market capacity purchases. Other resource types (such as battery energy storage) were excluded.[44]

43. The IRP evaluates energy needs through the calculation of all-in revenue requirements (including net fuel and purchased power costs as well as capital and O&M) for different resource plans.[45]

44. Historically, Alternative Resource Plans were created manually with incremental changes to additions or retirements made one at a time to identify the revenue requirement impact of each decision (i.e., whether the decision increased or decreased customer costs, all else being equal). In this approach, a mix of different

[41] Ex. 6, Messamore Supplemental Direct, p. 10.
[42] Ex. 6, Messamore Supplemental Direct, p. 17.
[43] Ex. 6, Messamore Supplemental Direct, p. 7.
[44] Ex. 6, Messamore Supplemental Direct, p. 13.
[45] Ex. 6, Messamore Supplemental Direct, p. 7-8.

resource types are evaluated one-by-one to assess which resource type is the most cost-effective. Beginning with its 2022 IRP, EMW supplemented this method with capacity expansion modeling.[46]

45. Capacity expansion modeling identifies the lowest-cost portfolio of resource additions given a specific market price scenario and forecasted capacity need. Both approaches are designed to meet EMW's forecasted capacity need while also building a portfolio of economic energy sources. Ultimately, whether a resource plan is the most economical solution to meet both capacity and energy needs is determined based on its overall cost (the net present value of revenue requirement (NPVRR)).[47]

46. NPVRR is calculated for each Alternative Resource Plan across each different scenario and a probability-weighted average (expected value) is calculated for each plan. These expected values are then compared across Alternative Resource Plans to identify the resource plan which is lowest cost on a risk-adjusted basis.[48]

47. Eleven EMW Alternative Resource Plans were developed for the 2022 IRP annual update. Of those eleven Alternative Resource Plans, ten of them included 150 MW of renewable wind resources in 2024. One Alternative Resource Plan differed in regard to wind by including 80 MW of renewable wind resources in 2025 and 80 MW of renewable wind resources in 2026. Another of the ten Alternative Resource Plans that included 150 MW of renewable wind resources in 2024 also included 24 MW of renewable wind resources in 2026 in addition to the 150 MW of renewable wind resources in 2024 and in 2025. Five of the Alternative Resource Plans also included 72 MW of renewable

[46] Ex. 6, Messamore Supplemental Direct, p. 9.
[47] Ex. 6, Messamore Supplemental Direct, p. 9.
[48] Ex. 6, Messamore Supplemental Direct, p. 9-10.

wind resources in 2026 in addition to the 150 MW of renewable wind resources in each 2024 and 2025.[49]

**The Energy Market**

48. EMW is currently in a high market price environment.[50]

49. EMW has a need for capacity by 2024.[51]

50. The accredited capacity in SPP for wind resources is based on ten percent of its listed nameplate capacity.[52]

51. In terms of energy, EMW has been a net purchaser from the SPP energy market since the market was created in 2014.[53]

52. There is an expectation of elevated gas and energy prices in the long-term.[54]

53. Due to Evergy Missouri West's participation in SPP, the Company will be responsible for market energy costs to serve the load of ratepayers regardless of the acquisition of Persimmon Creek.[55]

**Production Tax Credits**

54. Persimmon Creek will generate PTCs during the first ten years of operations, which began in 2018. If EMW is permitted to purchase the facility, it will own the remaining PTCs generated.[56]

[49] Ex. 101, Fortson Rebuttal, p. 9.
[50] Ex. 6, Messamore Supplemental Direct, p. 2.
[51] Ex. 6, Messamore Supplemental Direct, p. 10; and Ex. 9, Messamore Surrebuttal, p. 10.
[52] Tr. p. 143-144; Ex. 9, Messamore Surrebuttal, p.20.
[53] Ex. 6, Messamore Supplemental Direct, p. 2 and 11.
[54] Ex. 6, Messamore Supplemental Direct, p. 12.
[55] Ex. 104, Luebbert Rebuttal, p. 47.
[56] Ex. 106, Young Rebuttal, p. 4.

55. These PTCs are not currently available, or available at reduced rates, in projects which will go into service in future years.[57]

56. EMW admits it is willing to operate Persimmon Creek to sell power to SPP even at a negative price for a period of time in order to get the tax benefit of the PTCs and RECs.[58]

57. Staff's analysis indicates that Persimmon Creek's negative LMP has been increasing since the facility started operation. In 2022, Persimmon Creek had negative LMP in real-time and the day-ahead market 32% and 24% of the time, respectively.[59]

58. EMW's current rates are based on an annualized/normalized income tax expense and include $0 for PTC tax benefits. PTCs claimed in between rate cases are not captured by any existing trackers, riders, or other rate mechanisms.[60] EMW has indicated that it expects PTCs received between Persimmon Creek's acquisition and its addition to rate base will be allocated for shareholders to offset regulatory lag.[61]

59. The Commission issues its ratemaking decisions to strike an appropriate balance between all stakeholders after considering all relevant factors. These cost recovery mechanisms will be before the Commission while it is considering what is just and reasonable in EMW's next rate case. The tracking of the PTCs accrued on EMW's books would make them available for the Commission's consideration in EMW next rate case.[62]

[57] Ex. 3, Messamore Direct, p. 5; Ex. 1, Dority Direct, p. 8; and Ex. 5, Humphrey Direct, pp. 6-7.
[58] Tr. pp. 78, 130-131, and 472.
[59] Ex. 104, Luebbert Rebuttal, p. 28.
[60] Ex. 106, Young Rebuttal, p. 4.
[61] Ex. 7, Dority Surrebuttal, p. 26; Ex. 8, Humphrey Surrebuttal, p. 13; and Tr. p. 22.
[62] Ex. 106, Young Rebuttal, p. 5.

60. After the PTCs expire there would be no financial reason to continue to operate Persimmon Creek at a negative Locational Marginal Price (LMP).[63]

61. On December 6, 2022, EMW's new rates went into effect following its most recent general rate case.[64] EMW must file its next rate case as required by its participation in the fuel adjustment clause (FAC) in the next one to three years.[65]

**Levelized Cost of Energy**

62. The primary financial evaluation methodology was the anticipated levelized cost of energy (LCOE) for each project.[66] An LCOE is an estimate of the revenue required per MWh generated to break even on an investment.[67] The LCOE takes into account total construction cost, time of progress payments, property taxes and tax incentives, internal labor, net capacity factor, depreciable life, anticipated operations and O&M, and other variables to determine a levelized cost of each megawatt hour of generation over the project life.[68]

63. A LCOE analysis does not consider the time of day energy is generated, when comparing generation options.[69]

64. The LCOE is not a perfect metric because it does not account for a lot of variables that will ultimately matter for the economics of Persimmon Creek.[70]

[63] Tr. pp. 62 and 434.
[64] File No. ER-2022-0130, *In the Matter of Evergy Missouri West, Inc. d/b/a Evergy Missouri West's Request for Authority to Implement A General Rate Increase for Electric Service*.
[65] Tr. p. 63.
[66] Ex. 5, Humphrey Supplemental Direct, p. 7.
[67] Ex. 104, Luebbert Rebuttal, p. 40.
[68] Ex. 5, Humphrey Supplemental Direct, p. 7; and Ex. 104, Luebbert Rebuttal, p. 40.
[69] Tr. p. 435.
[70] Tr. p. 440.

65. EMW's fixed costs of generation units are not reflected in the day-ahead or real-time LMP. The dispatch of generation units in SPP is based on short-run marginal costs.[71]

66. Variable renewable project viability depends on the energy and market values being sufficient to cover the LCOE. Staff's position is that this is not the case for Persimmon Creek.[72]

**PISA**

67. The Renewable Energy Standard Rate Adjustment Mechanism (RESRAM), property tax tracker, and Plant in Service Accounting (PISA) mechanisms ensure that cost increases are captured and deferred between rate cases so that the utility can recover the deferred costs from ratepayers in the future.[73]

68. EMW's predecessor, KCP&L Greater Missouri Operations Company elected to make the deferrals required under the terms of Section 393.1400.5, RSMo, through a notice filed with the Commission on December 31, 2018.[74]

69. PISA allows EMW to defer 85% of Persimmon Creek's depreciation expense, with carrying costs, until the asset can be reflected in a general rate case.[75]

70. The energy generated by Persimmon Creek will flow to EMW's customers and revenues from energy sales will be included in EMW's Fuel Adjustment Clause (FAC) once the CCN is approved and the purchase transaction is closed even though the return

[71] Tr. pp. 453-456.
[72] Tr. p. 437.
[73] Ex. 106, Young Rebuttal, p. 5.
[74] File No. EO-2019-0045, *Notice*, (filed Dec. 31, 2018).
[75] Ex. 106, Young Rebuttal, pp. 3-4; and Ex. 7, Dority Surrebuttal, p. 13.

and expenses associated with Persimmon Creek will not be reflected in rates until EMW's next rate case. PISA deferrals will also be recoverable in the next rate case.[76]

**Net Capacity Factor**

71. EMW claimed the historical average net capacity factor of Persimmon Creek during its four years of operation was 50.5%.[77] EMW's analysis of net capacity factor going forward, looked at all the remaining 16 years of the expected life of Persimmon Creek but did not account for lower levels of generation after the expiration of the PTCs.[78]

72. Staff's presentation of the annual historical net capacity factor shows an annual declining trend.[79]

73. Staff's analysis of the estimated historical capacity of Persimmon Creek, assuming curtailment during periods of negative LMPs, is representative of expected generation once PTCs expire. The table summarizing Staff's analysis has capacity factors substantially lower than those used by EMW in its modeling.[80]

74. After the PTCs expire, Staff's analysis indicates that the historical average revenue/MWh does not meet the revenue requirement/MWh for Persimmon Creek.[81]

75. A capacity factor is the selling of all energy produced. However, in reality the utility uses some of that energy for internal services at the plant. A net capacity factor is what actually goes on the grid. The net capacity factor, therefore, is a percentage of the full capability that is actually produced.[82]

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[76] Tr. pp. 443-446; and Ex. 14, Reply of Evergy Missouri West to Public Counsel's Response to Application.
[77] Ex. 1, Dority Direct, pp. 8-9.
[78] Tr. p. 474; and Ex. 104, Luebbert Rebuttal, pp. 36-37.
[79] Ex. 104 and 104C, Luebbert Rebuttal, p. 36 (the numbers in the table are "confidential");
[80] Ex. 104C, Luebbert Rebuttal, p. 37 (the numbers in the table are "confidential"); and Tr. pp. 472-474.
[81] Ex. 104C, Luebbert Rebuttal, p. 42 (the numbers are "confidential").
[82] Tr. p. 124.

76. The number of hours when negative prices have occurred at the Persimmon Creek generation node has increased every year. As soon as the PTCs expire, EMW will have no financial incentive to produce at negative prices and production will decrease from that point on.[83]

**Hedging**

77. Persimmon Creek has historically produced more energy during the overnight hours when EMW's load is relatively low. Conversely, the amount of energy produced by Persimmon Creek is relatively low during the periods of time when EMW's load is relatively high.[84]

78. Persimmon Creek is unlikely to provide a good hedge against high market costs to serve load because it is not dispatchable and because of its history of low energy production during the periods of highest demand and highest market prices.[85]

79. Wind resource generation is not available based on customer load or market prices. It is only available when the wind is blowing. Typically, when the wind is blowing, there is a lot of wind generation available to the SPP market. An abundance of supply from wind generation drives market prices down. In such circumstances, Persimmon Creek would not serve as an effective hedge because it would not be producing much, if any, revenue for its owner.[86]

[83] Tr. p. 472-474.
[84] Ex. 104, Luebbert Rebuttal, p. 13.
[85] Ex. 104, Luebbert Rebuttal, pp. 12-13 and 47-49; Ex. 201, Mantle Surrebuttal, pp. 6-7; and Tr. pp. 457 and 491.
[86] Ex. 201, Mantle Surrebuttal, p. 6.

80. Purchasing Persimmon Creek to hedge against market prices is not an efficient use of customers' money because it would typically produce revenues at times when market prices are low.[87]

**Other Benefits of Persimmon Creek**

81. EMW has set a goal to achieve net-zero $CO_2$ emissions by 2045, with an interim goal of a 70% reduction in such emissions from 2005 levels by 2030.[88]

82. Persimmon Creek's resources would provide a diversified energy resource for EMW in terms of type of generation and ownership structure.[89]

83. Persimmon Creek was chosen as a result of a competitive RFP process designed specifically for wind generation resources. Persimmon Creek had the lowest LCOE of all the projects submitted under the RFP.[90]

84. Persimmon Creek is less risky from a permitting and supply chain perspective because it is already built and has been operational for the past four years.[91]

85. Wind resources, including Persimmon Creek, could help EMW meet its current need for an economic energy source while providing some accredited capacity towards meeting EMW's need for capacity by 2024.[92]

86. During Persimmon Creek's four years of operation, it had the lowest congestion risk for delivery to EMW's customers of the projects submitted in the RFP.[93]

[87] Ex. 201, Mantle Surrebuttal, p. 7.
[88] Ex. 1, Dority Direct, pp. 9-10.
[89] Ex. 1, Dority Direct, p. 8-10.
[90] Ex. 5, Humphrey Supplemental Direct, p. 26.
[91] Ex. 1, Dority Direct, pp. 8-9; and Ex. 5, Humphrey Supplemental Direct, p. 19.
[92] Ex. 6, Messamore Supplemental Direct, p. 2 and 11.
[93] Ex. 1, Dority Direct, pp. 8-9.

87. Wind generation helps corporations in Missouri perform more competitively, as there is an emergence of corporate customer interest in renewable energy and corporations are seeking increased access to renewable power.[94]

88. The Commission has previously recognized benefits that renewable generation provides to the public such as the public's interest in improving the environment and reducing the amount of carbon dioxide released into the atmosphere.[95]

89. Additionally, the Commission has previously recognized the public policy of the state to diversify energy supply to support renewables.[96]

**Wildlife**

90. EMW is aware of the risk of future wildlife mitigation efforts in Oklahoma. A post-commercial operation facility monitoring study conducted in 2018-2019 showed higher rates of bat mortality were observed, but no additional action was taken by the Oklahoma Department of Wildlife and Conservation. Persimmon Creek has continued to operate since 2018 and no wildlife mitigation actions have been proposed.[97] No further study has been done.[98]

91. This study was provided and warned about the slight possibility of wildlife mitigation in the form of an Incidental Take Permit (ITP) or a Habitat Conservation Plan

[94] File No. EA-2019-0010, *Report and Order*, (issued June 19, 2019), p. 21.
[95] File No. EA-2019-0010, *Report and Order*, (issued June 19, 2019), p. 32 (citing Sections 393.1025 and 393.1030 [Renewable Energy Standard]; and Section 393.1075 [Missouri Energy Efficiency Investment Act]).
[96] File No. EA-2019-0010, *Report and Order*, (issued June 19, 2019), p. 32 (citing Sections 393.1025 and 393.1030 [Renewable Energy Standard]; and Section 393.1075 [Missouri Energy Efficiency Investment Act].)
[97] Tr. p. 128; Ex. 8 and 8C, Humphrey Surrebuttal, pp.8-9. See also for additional details, Ex. 5 and 5C, Humphrey Supplemental Direct, Schedule 10 (Confidential), p. 29, and 31-32.
[98] Tr. p. 127.

(HCP).[99] Currently, Persimmon Creek is in compliance with all environmental regulations and has been during its four-year operation.[100]

92. Staff provided confidential evidence of similar environmental concerns as those created by the location of Persimmon Creek that have resulted in significant operational changes to a generation facility and additional expenses.[101]

**Proposed Conditions**

93. Staff recommends that, if the certificate is granted, any monies lost due to the loss of PTCs or market energy sales related to curtailment, and upgrades required for resource adequacy and wildlife mitigation efforts be borne by shareholders.[102]

94. OPC requests that the Commission order EMW to track Persimmon Creek revenues so that this information is available to the Commission and other parties for ratemaking purposes.[103]

95. Staff also recommends that if a CCN is granted that the Commission order the in-service criteria contained in Shawn Lange's rebuttal testimony at Schedule SEL-R2 be used to determine if the facility is fully operational and used for service.[104]

## III. Conclusions of Law

A. EMW is an "electric corporation" and a "public utility," as those terms are defined by Section 386.020, RSMo. As such, EMW is subject to the jurisdiction, supervision, control, and regulation of the Commission, as provided in Chapters 386 and 393, RSMo.

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[99] Ex. 8 and Ex. 8C, Humphrey Surrebuttal, p. 9; and Ex. 7, Dority Surrebuttal, p. 17.
[100] Ex. 7, Dority Surrebuttal, p. 20.
[101] Ex.103C, Lange Rebuttal, p. 6.
[102] Tr. p. 128; Tr. p. 97 (*In Camera*); Tr. p. 112 (*In Camera*); and Tr. p. 357-359 (*In Camera*).
[103] Ex. 201, Mantle Surrebuttal, p. 2
[104] Ex. 103, Lange Rebuttal, Schedule SEL-r2

B. Section 393.170.1, RSMo 2000, provides, in part, that "[n]o . . . electrical corporation . . . shall begin construction of a . . . electric plant . . . without first having obtained the permission and approval of the commission."

C. Section 393.170.3, RSMo 2000 provides that:

> [t]he commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. . . ."

D. Section 393.170, RSMo, sets the legal standard by which the Commission must determine whether to grant EMW the certificate of convenience and necessity it seeks. In interpreting the meaning of that legal standard in a 1993 decision, the Missouri Court of Appeals said:

> The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is 'necessary or convenient for the public service' (*citing* section 393.170.3). The term 'necessity' does not mean 'essential' or absolutely indispensable', but that an additional service would be an improvement justifying its cost (*citing State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W. 2nd at 219). … Furthermore, it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award of the certificate. (*Citing State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n*, 527 S.W.2d 390, 392 (Mo. App. 1975).[105]

E. Commission Rule 20 CSR 4240-20.045 requires an electric corporation to obtain a CCN prior to operating "[a]n electric generating plant . . . that is expected to serve Missouri customers and be included in the rate base used to set their retail rates regardless of whether the item(s) to be constructed or operated is located inside or outside the electric utility's certificated service area or inside or outside Missouri[.]"

[105] *State ex rel. Intercon Gas, Inc. v Pub. Serv. Comm'n,* 848 S.W.2nd 593, 597-598 (Mo. App. W.D. 1993).

F. In evaluating applications for certificates of convenience and necessity, the Commission has frequently considered five factors first described in a Commission decision regarding an application for certificate of convenience and necessity filed by Tartan Energy Company, LC, d/b/a Southern Missouri Gas Company.[106] The *Tartan* factors, as they have become known, are: "(1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest."[107]

G. While the *Tartan* factors are frequently cited in Commission decisions regarding applications for certificates of convenience and necessity, they are merely guidelines for the Commission's decision, and are not part of the legal standard set forth by the controlling statute. Moreover, the *Tartan* decision concerned an application for a certificate to provide natural gas service to a particular service area. As a result, the described factors are not precisely applicable to EMW's applications to construct the Wind Projects. Nevertheless, they provide some guidance and are specifically referenced in the list of issues set forth by the parties for resolution by the Commission.

H. It is the public policy of this state to diversify the energy supply through the support of renewable and alternative energy sources.[108] The Commission has also previously expressed its general support for renewable energy generation because it provides benefits to the public.[109]

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[106] *In the Matter of the Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company,* 3 Mo. P.S.C. 3d, 173 (1994).
[107] *Tartan Energy*, at 177.
[108] Sections 393.1025 and 393.1030 (Renewable Energy Standard); and Section 393.1075 (Missouri Energy Efficiency Investment Act).
[109] *See, In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, File No. EO-2018-0092, Report and Order, p. 20 (MoPSC July 11, 2018) (citing to Report

I. Subdivision 393.1400.2.(1), RSMo, which is referred to as the Plant in Service Accounting (PISA) statute, states:

> Notwithstanding any other provision of this chapter to the contrary, electrical corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense and return associated with all qualifying electric plant recorded to plant-in-service on the utility's books commencing on or after August 28,2018, if the electrical corporation has made the election provided for by subsection 5 of this section by that date, or on the date such election is made if the election is made after August 28, 2018. In each general rate proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate-base cutoff date shall be included in the electrical corporation's rate base without any offset, reduction, or adjustment based upon consideration of any other factor, other than as provided for in subdivision (2) of this subsection, with the regulatory asset balance arising from deferrals associated with qualifying electric plant placed in service after the rate-base cutoff date to be included in rate base in the next general rate proceeding. The expiration of this section shall not affect the continued inclusion in rate base and the amortization of regulatory asset balances that arose under this section prior to such expiration.

J. Subdivision 393.1400.2.(2), which is referenced in subdivision 393.1400.2.(1), states:

> The regulatory asset balances arising under this section shall be adjusted to reflect any prudence disallowances ordered by the commission. The provisions of this section shall not be construed to affect existing law respecting the burdens of production and persuasion in general rate proceedings for rate-base additions.

K. Per 20 CSR 4240-22.010(2), "the fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services

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and Order, *In the Matter of Union Electric Company d/b/a Ameren Missouri's Voluntary Green Program/Pure Power Program Tariff Filing,* File No. EO-2013-0307, April 24, 2013, pp. 14-15; Report and Order, *In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri,* File No. EA-2015-0256, March 2, 2016, pp. 15-16; Report and Order, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Convenience and Necessity Authorizing it to Offer a Pilot Distributed Solar Program and File Associated Tariff,* File No. EA-2016-0208, December 21, 2016, pp. 19-20).

that are safe, reliable, and efficient, at just and reasonable rates, and in a manner that serves the public interest and is consistent with state energy and environmental policies."

L. The PISA statute does not allow for immediate recovery of depreciation expense and return. Instead, those amounts are to be deferred in a regulatory asset for recovery in rates that will be established in a subsequent general rate case. The PISA statute applies to all depreciation expense and return associated with qualifying electric plant.

M. Subsection 393.1400.5, RSMo, which is also referenced in Subdivision 393.1400.2.(1), RSMo, indicates the PISA statute applies only to an electrical corporation that files notice with the Commission of its intent to be subject to that statute. As the Commission found in Finding of Fact No. 63, EMW has chosen to be subject to the PISA statute.

## IV. Decision

EMW requests permission, approval, and a certificate of convenience or necessity to purchase, own, acquire, construct, operate, control, manage, and maintain an existing wind generation facility in Oklahoma (Persimmon Creek). Traditionally, in determining whether a certificate is "necessary or convenient for the public service," the Commission looks to five criteria referred to as the *Tartan* factors.[110] The Tartan factors contemplate: (1) the need for service, (2) the utility's qualifications, (3) the utility's financial ability, (4) the feasibility of the proposal, and (5) promotion of the public interest.

After reviewing all the evidence and arguments of the parties, the Commission determines that the certificate should be granted but with the condition that the ratepayers

[110] *In re Tartan Energy*, Report and Order, 3 Mo.P.S.C. 3d 173 (issued September 16, 1994).

and the shareholders share equally any costs that exceed market revenues, off system sales and the market value of the energy that serves EMW's customer load associated with owning and operating Persimmon Creek, including but not limited to those related to PISA treatment and any required wildlife mitigation that exceeds the ratepayer realized revenues and ratepayer realized tax benefits as explained further below.

**The Tartan Factors**

Two of the five factors need not be considered further. There is no dispute that EMW is qualified to own and operate Persimmon Creek. There is also no dispute that EMW is capable of financing the purchase of Persimmon Creek. However, Staff and OPC do object to granting the certificate arguing there is not a need for this particular energy facility which would produce energy at the wrong time to serve EMW's customers and would not be economically feasible for the captive ratepayers after the expiration of the PTCs. EMW and Renew Missouri argue that there is a need to provide more renewable energy to EMW's customers and the state of Missouri and that Persimmon Creek is an economical resource as shown by its low LCOE when compared to other generation facilities EMW examined through its RFP.

The Need for Service

The first issue (and first Tartan factor) centers around the "need" for Persimmon Creek. EMW proposes to acquire Persimmon Creek arguing that it will help meet its current need for an economic energy source and to provide part of the accredited capacity it will need by 2024. EMW argues that Persimmon Creek's generation portfolio is consistent with the Preferred Plan of its IRP and that this shows that Persimmon Creek will provide benefits to customers. EMW also argues that Persimmon Creek would be a valuable resource addition because of its long-term low-cost energy, its renewable

capacity, and that EMW will own the generating asset. EMW's evidence centers on its argument that the IRP options and results show that the addition of Persimmon Creek to its generation fleet is projected to reduce customer costs through long-term, low-cost energy and capacity.

Staff and OPC objected to granting the CCN based on need. They presented evidence that EMW's customers do not need Persimmon Creek because it is uneconomic, inefficient, and carries other risks and issues that EMW does not appear to consider (such as potential wildlife mitigation issues).

Staff also argued that the corporate renewable energy goals of EMW should not be misconstrued as a need which will be paid for by all EMW ratepayers, unless that goal can be fulfilled without financial harm to the ratepayers. The evidence also showed that due to EMW's participation in SPP, EMW will be responsible for market energy costs to serve the load of ratepayers regardless of the acquisition of Persimmon Creek. Staff and OPC presented evidence that Persimmon Creek is unlikely to provide a good hedge against high market costs to serve load due to the historically low energy production during the periods of highest demand and highest market prices. Ultimately, Staff's and Public Counsel's positions are that this project is uneconomic for ratepayers and places unnecessary risk on the ratepayers for the benefit of the shareholders.

Staff Witness Fortson testifies that the "capacity need" is not supported by the IRP as alleged by EMW. Staff's and OPC's testimony suggests that EMW manipulated the IRP process, by the resources it input to the evaluations, to show that Persimmon Creek will be advantageous to the ratepayers, when in reality the energy provided will not match the energy needed. The evidence clearly showed that Persimmon Creek will not generate

much energy during the peak summer months when that energy is needed most by EMW's ratepayers.

Staff's evidence showed that ten of the eleven Alternative Resource Plans EMW used in completing its IRP included 150 MW of renewable wind resources for 2024. Thus, the inclusion of a generic wind resource was essentially a foregone conclusion in the June 2022 IRP Update. Staff further argues that none of the integrated resource analysis done by EMW actually considers the specific characteristics of Persimmon Creek. Rather the Preferred Plan included the virtually certain selection of generic wind resources, and the Updated Preferred Plan assumed the acquisition of a wind resource named Persimmon Creek, but was modeled without Persimmon Creek's key characteristics.

In summary, the evidence shows that EMW has a need for accredited capacity in 2024, and that Persimmon Creek could meet at least a small portion of this need, even though there is a strong possibility that the energy produced at Persimmon Creek will not actually be available when EMW customers need that energy.

Economic Feasibility

The next question is whether the costs associated with the project are reasonable given the minor capacity gains it would afford, that is, is the project economically feasible? EMW's evidence regarding economic feasibility centered on its argument that Persimmon Creek is a high net capacity factor wind generation from western Oklahoma. As such, EMW argued that it is one of the cheapest forms of renewable energy in the United States. EMW relies heavily on its RFP process that was conducted because its Preferred Plan showed the need for 150 MW of wind generation. The RFP considered both building new projects and purchasing existing projects. Persimmon Creek was selected because it had the lowest LCOE of all projects in the RFP.

EMW also points out that Persimmon Creek is attractive, compared to the alternative projects in the RFP, from a permitting and supply chain perspective. Because Persimmon Creek is already operating, it also has the lowest congestion risk for delivery of energy to Missouri customers. Further, EMW presented testimony that Persimmon Creek is one of the most advanced and efficient wind generating facilities now in operation.

Staff and OPC argued that the proposed operation of Persimmon Creek is not economically feasible and, therefore, does not promote the public interest. OPC and Staff noted that EMW intends to take possession and begin operating Persimmon Creek before its costs are included in rates, potentially several years before rate recovery, which is one to three years away. As proposed by EMW, during the time between the closing on Persimmon Creek and when it will be incorporated into rates, the PISA statute will protect EMW shareholders from 85% of the regulatory lag associated with the $246 million purchase price because EMW will defer 85% of the depreciation and associated return until the wind farm is included in rate base. After it is included in rate base, EMW shareholders will recover 100% of depreciation and return associated with the Persimmon Creek acquisition.[111] Thus, the PTCs from Persimmon Creek would initially benefit only EMW shareholders, and not ratepayers, because these items will not be included in the calculation of EMW's revenue requirement until after the next rate case. This creates an imbalanced benefit for EMW shareholders in that the ratepayers will be required to pay higher rates in the future for this deferred depreciation and return, but EMW has not proposed to also defer the PTCs that will be realized in the initial years.

[111] Section 393.1400.2(1), RSMo.

EMW also claimed that Persimmon Creek had an operational aggregate net capacity factor of approximately 50% over the past four years. Staff presented evidence that EMW's net capacity factor was significantly overestimated due to the likelihood of negative LMP prices continuing after the PTCs expire. Staff showed that, given the historically negative pricing at the Persimmon Creek SPP node, once the PTCs expire it would be uneconomic for Persimmon Creek to generate when a negative LMP price occurs at the node.

To determine the economic feasibility of Persimmon Creek, the Commission has to consider those benefits presented by EMW showing that Persimmon Creek will result in net benefits to shareholders and ratepayers, as well as Staff and OPC's evidence regarding the plant operational data, knowledge of wildlife concerns, PISA treatment, and the impact of PTC expiration. This renewable energy project will generate power and is generally one of the cheapest forms of renewable energy in the U.S. However, when reviewing the economic feasibility of the project the Commission must evaluate the benefits and risks. As discussed further in the Conditions set out below, the Commission finds that Persimmon Creek is economically feasible only where certain risks associated with the continued operation of this facility are captured and tracked to review in a future rate case and equally shared between the ratepayers and shareholders. Here, the risks associated with Persimmon Creek include wildlife protection (that may not materialize), operational concerns regarding timing of generation, PTC expiration, and other accounting treatment and deferrals.

Based on the evidence presented, Persimmon Creek is likely to be economically feasible to the ratepayers through the expiration of the PTCs (after ten years of operation)

provided the tax credit benefits of the PTCs are tracked from the time Persimmon Creek is purchased until it can be included in rate base.

The Commission agrees with Staff and OPC that under EMW's proposal once the PTCs expire a substantial risk remains that the captive ratepayers will bear the cost of a generating resource that does not produce energy when the customers actually need it and may be an uneconomic means of adding accredited capacity or hedging market energy costs. Where other benefits exist, some risk of Persimmon Creek resulting in additional costs is acceptable; however, the ratepayers should not bear all the risks. The risks associated with operation of Persimmon Creek can be mitigated where potential benefits and costs are shared between shareholders and ratepayers, as set out in the Conditions below.

Promote the Public Interest

Staff and OPC argue that as proposed by EMW, virtually all risks for the failure of the project to perform as assumed will fall on ratepayers. Meanwhile, EMW is insulated from not only those risks of failure to perform, because it will collect PTCs and then roll the cost of the project into rate base, but also because the cost associated with regulatory lag will be deferred because of its PISA election. The Commission agrees that deciding to move forward with the acquisition based upon the results of a flawed IRP analysis introduces unnecessary risk for ratepayers. Additionally, Staff and OPC presented convincing evidence that Persimmon Creek carries the risk of negative impact to wildlife in its immediate surroundings and that risk has not been properly accounted for in EMW's analyses.

There are benefits to adding Persimmon Creek to EMW's generation assets. Persimmon Creek will add some geographic and generation diversity to EMW's generation resources. It will also add some accredited capacity to EMW's portfolio, if not the actual energy needed at the time the ratepayers need it. Also, by purchasing an already built facility, supply chain issues and other uncertainties are eliminated. Further, additional wind generation helps corporations in Missouri perform more competitively, as there is an emergence of corporate customer interest in renewable energy and corporations are seeking increased access to renewable power. The Commission has previously recognized that renewable generation provides other benefits to the public such as promoting the public's interest in improving the environment and reducing the amount of carbon dioxide released into the atmosphere.[112] Additionally, the Commission has previously recognized the public policy of the state to diversify energy supply to support renewable generation.[113] Even so, these benefits cannot completely outweigh the risks to the ratepayers as proposed by EMW. Therefore, the Commission finds it necessary to condition the grant of a certificate on some added protection for those captive ratepayers. The benefits in conjunction with the conditions, outlined below, promote the public interest.

Conditions

In order to protect the ratepayers from assuming all the risks that Persimmon Creek will not provide the needed energy or capacity, the Commission finds certain conditions are reasonable and necessary for the grant of the certificate to own

[112] File No. EA-2019-0010, *Report and Order*, p. 32 (citing Sections 393.1025 and 393.1030 [Renewable Energy Standard]; and Section 393.1075 [Missouri Energy Efficiency Investment Act]).
[113] File No. EA-2019-0010, *Report and Order*, p. 32 (citing Sections 393.1025 and 393.1030 [Renewable Energy Standard]; and Section 393.1075 [Missouri Energy Efficiency Investment Act].)

and operate Persimmon Creek. First, any costs associated with owning and operating Persimmon Creek, including but not limited to those related to PISA treatment and any required wildlife mitigation, that exceed the ratepayer realized market revenues including the market value of energy serving EMW's customer load and ratepayer realized tax benefits shall be shared equally between EMW shareholders and ratepayers. To accomplish this, all PTCs EMW recognizes for income tax purposes related to Persimmon Creek shall be tracked and credited to ratepayers in future rate proceedings and included in the rate payer realized tax benefits. Further, EMW shall track all revenue derived from the operation of Persimmon Creek including the market value of energy serving EMW's customer load.

In order to determine a sharing of costs, EMW must first be able to track the benefits occurring from Persimmon Creek generation, whether revenues or avoided purchased power costs. Thus, Evergy shall track all Persimmon Creek generation and corresponding energy pricing, and whether energy purchases or sales occurred in meeting EMW load requirements.

The Commission will direct its Staff to work with EMW in developing reporting in appropriate formats that will allow a determination of costs and benefits associated with Persimmon Creek. The reporting shall include access to source documents including SPP invoices that allow Staff on a quarterly basis to validate the reporting. The initial cost and benefit report form shall be filed in this case within 90 days of any closing on Persimmon Creek. The cost and benefit reports shall be provided as set out in the ordered paragraphs below. OPC shall also have access to the reporting.

The Commission will further direct its Staff to maintain a report of the cumulative costs and benefits of Persimmon Creek from the date it is included in EMW's fleet so that

the report can be reviewed in EMW's next rate case. Additionally, EMW shall track all expenses related to the operation of Persimmon Creek. EMW shall provide a document containing the calculation of any Persimmon Creek related PTCs that are used for consolidated income tax purposes on an annual basis. A listing of source documents used in calculating the PTCs shall also be included. This information shall be provided through on an annual basis as set out below.

EMW or any other party may propose modifications to or the elimination of these tracking requirements and/or the sharing mechanism set out in this order in the first general rate proceeding filed after the expiration of the PTCs related to Persimmon Creek or at any time following an event that materially effects the revenues derived from, or costs associated with, the operation of Persimmon Creek.

The Commission does not find any other proposed conditions to be reasonable or necessary. With the above reasonable and necessary conditions, the Commission finds that granting EMW a certificate to operate Persimmon Creek is reasonable and in the public interest. The Commission also finds it reasonable to make this report and order effective in less than 30 days to avoid potential adverse commercial consequences that could be caused by a delay in issuing this decision.

**THE COMMISSION ORDERS THAT:**

1. EMW is authorized to acquire and is granted a certificate of convenience and necessity to own, operate, maintain, and otherwise control and manage Persimmon Creek with the conditions set out below.

2. The certificate of convenience and necessity for Persimmon Creek is conditioned on:

a. Any costs associated with owning and operating Persimmon Creek, including but not limited to those related to PISA treatment and any required wildlife mitigation, that exceed the ratepayer realized market revenues and ratepayer realized tax benefits shall be shared equally between EMW shareholders and rate payers including the market value of energy serving EMW customers.

b. All PTCs EMW recognizes for income tax purposes related to Persimmon Creek shall be tracked and credited to rate payers in future rate proceedings and included in the rate payer realized tax benefits.

c. EMW shall track all revenue derived from the operation of Persimmon Creek. In order to determine a sharing of costs, EMW must first be able to track the benefits occurring from Persimmon Creek generation, whether revenues or avoided purchased power costs.

d. EMW shall track all Persimmon Creek generation and corresponding market energy pricing at the corresponding time, and energy purchases or sales occurring at the corresponding time in meeting EMW load requirements.

e. Staff shall work with EMW in developing reporting formats that will allow a determination of costs and benefits associated with Persimmon Creek. The reporting shall include access to source documents including SPP invoices that allow Staff on a quarterly basis to validate the reporting. The initial cost and benefit report form shall be filed in this case within 90 days of any closing on Persimmon Creek.

f. The cost and benefit reports shall be provided through EFIS as non-case related submissions on a quarterly basis not later than 60 days after the end of the quarter. OPC shall also have access to information when reported. Staff shall maintain a report that can be reviewed in EMW's next rate case of the cumulative costs and benefits of Persimmon Creek from the date it is included in EMW's fleet.

g. EMW shall track all expenses related to the operation of Persimmon Creek. EMW shall provide a document containing the calculation of any Persimmon Creek related PTCs that are used for consolidated income tax purposes on an annual basis. A listing of source documents used in calculating the PTCs shall also be included. This information shall be provided through EFIS as a non-case related submission on an annual basis within 60 days of the filing of EMW's federal income taxes with the Internal Revenue Service.

3. EMW or any other party may propose modifications to or the elimination of the tracking requirements and/or the equal sharing mechanism set out in this order in the first general rate proceeding filed after the expiration of the PTCs related to Persimmon Creek or at any time following an event that materially effects the revenues derived from, or costs associated with, the operation of Persimmon Creek.

4. EMW is authorized to do and perform, or cause to be done and performed all such acts and things, as well as make, execute, and deliver any and all documents as may be necessary, advisable, and proper to the end that the intent and purposes of the approved transactions may be fully effectuated.

5. This report and order shall become effective on April 16, 2023.

**BY THE COMMISSION**

Nancy Dippell
Secretary

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

Dippell, Chief 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 6th day of April, 2023.**

Nancy Dippell

**Nancy Dippell**
**Secretary**

MOPSC

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***MISSOURI PUBLIC SERVICE COMMISSION***

***April 6, 2023***

**File/Case No. EA-2022-0328**

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

***Sincerely,***

Nancy Dippell

***Nancy Dippell***
***Secretary***

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.