BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATEOF MISSOURI

In the Matter of the Fifth Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of Evergy Metro, Inc. d/b/a Evergy Missouri Metro	)	**Case No. EO-2023-0276**
In the Matter of the Eleventh Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of Evergy Missouri West, Inc. d/b/a Evergy Missouri West	)	**Case No. EO-2023-0277**

EVERGY MISSOURI METRO'S AND EVERGY MISSOURI WEST'S STATEMENT OF POSITIONS

Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("EMM") and Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("EMW") (collectively, the "Company"), by and through their counsel, hereby set forth the following *Statement of Positions* ("Position Statement"):

POSITIONS[1]

1. *Have the Staff and the Office of the Public Counsel applied the Commission recognized prudence standard in evaluating their proposed disallowances?*

Position: No, neither Staff nor OPC have applied the Commission-recognized prudence standard in evaluating their respective proposed disallowances. (E.g., Messamore, Ives, and Reed Surrebuttals.) This Commission has consistently reaffirmed the applicable prudence presumption and standard from Associated Natural Gas:

[1] The Company does not agree with the wording of some issues or inclusion of all of the issues set out herein. The inclusion of an issue and the Company's position thereon in the list below does not mean all parties agree with such issue's characterization, that such issue identified is actually in dispute, and/or that a Commission decision on such issue is proper or necessary in this case.

> All charges for gas service must be just and reasonable. [Mo. Rev. Stat. § 393.130.1]. . . . If a utility's costs satisfy the prudence standard, the utility is entitled to recover those costs from its customers. . . .
>
> A utility's costs are presumed to be prudently incurred. However, the presumption does not survive "a showing of inefficiency or improvidence." Where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent. . . .
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> In the [Union Electric] case, the PSC noted that this test of prudence should not be based upon hindsight, but upon a reasonableness standard:
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> The company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.

See State ex rel. Associated Natural Gas v. PSC, 954 S.W.2d 520, 528-529 (Mo. App. W.D. 1997) (internal citations and original alterations omitted).[2]

Crucially, in order for the Commission to disallow a utility's recovery of costs from its customers as OPC and Staff request, the Commission must first follow the established two-pronged test: (1) evaluate whether the utility acted imprudently (that is, did not act reasonably at the time under the circumstances); and (2) evaluate whether such imprudence was the direct cause of the harm (increased costs) to the utility's customers. See id. at 529. As a result, a party attempting to support a disallowance must supply competent evidence satisfying this two-prong test's associated burden of proof.

In this proceeding, both Staff and OPC explicitly rely on unlawful hindsight to then claim imprudence, and have ignored the two-pronged test along with their respective burdens of proof. (E.g., Mastrogiannis Rebuttal at 11; Mantle Surrebuttal at 4.) Specifically, Staff's recommended disallowance results only from a review of the costs incurred the decade after the Company made the decision to enter

[2] See, e.g., Report and Order, p. 19, Re: Eighth Prudence of Costs Subject to the Commission-Approved Fuel Adjustment Clause of KCP&L Greater Missouri Operations Company, File No. EO-2019-0067 (Nov. 6, 2019); Report and Order, pp. 13-14, Re: Third Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of KCP&L Greater Missouri Operations Company, File No. EO-2011-0390 (Sept. 4, 2012); Report and Order, pp. 13-15, Re: PGA Filing for Laclede Gas Company, Case No. GR-2004-0273 (June 28, 2007).

into the four wind energy Purchased Power Agreements ("PPAs") at issue. (E.g., Fortson Surrebuttal at 5.) By relying exclusively on hindsight and improperly contending that the Company's initial decision-making process regarding the PPAs is "irrelevant," Staff has actually conceded the prudence of the PPAs at the time in which they were entered. (E.g., Messamore Surrebuttal at 7; Reed Surrebuttal at 2-3.)

OPC's witnesses Marke and Mantle contradict each other's testimony as to the time period from which OPC's proposed disallowance arises. (See Marke Surrebuttal at 7; Mantle Surrebuttal at 19.) However, OPC makes clear that it continues to attack the Company's past resource-planning decisions beyond those made when entering into the PPAs, which thus necessarily involves inappropriate hindsight-based arguments. (E.g., Messamore Surrebuttal at 13-14; Ives Surrebuttal at 15-16.)

2. *Were Evergy Missouri Metro and Evergy Missouri West imprudent in entering into four fixed-price, wind energy Purchased Power Agreements ("PPAs")[3] with twenty-year terms and no clause permitting early cancellation in the event of adverse market conditions?*

Position: No, and the Company does not agree with the characterization of the PPAs in the above "issue." As discussed above, Staff and OPC fail to properly apply the prudence presumption and standard. Nonetheless, Staff concedes that the SPP market was not designed to guarantee recovery of all costs. (E.g., Mastrogiannis Rebuttal at 13.) In addition, Staff specifically does not dispute that the Company's decision to enter into the PPAs was prudent. (E.g., Mastrogiannis Rebuttal at 12, Fortson Rebuttal at 9). Staff also agrees that in this industry, it was not imprudent for the Company to enter into 20-year PPAs that do not contain written cancelation or re-negotiation clauses "in the event of adverse market conditions." (See generally, Mastrogiannis Direct.) In short, Staff does not provide evidence to support the alleged imprudence described in the above "issue."

Like Staff, OPC does not offer any competent evidence of imprudence in the Company's analysis of entering into the PPAs. The Company's decision to add the PPA assets was prudently based on its long-

[3] Denominated Cimarron 2, Spearville 3, Gray County, and Ensign.

term integrated planning analysis, and OPC, like Staff, has not shown otherwise. (Messamore Surrebuttal at 6.)

The Company entered into the PPAs to satisfy customers' needs without any expectation of rate recovery other than its prudently incurred PPA costs (no element of profit or gain)—and not for "economic reasons" or to acquire "energy for the sake of energy" as Staff and OPC declare. (See Reed Surrebuttal at 8; Ives Surrebuttal at 9-10.) Indeed, wind PPAs are economic in the SPP wholesale market as they provide near-zero or negative marginal costs compared to marginal-cost dispatch. (Messamore Surrebuttal at 22.)

3. Were Evergy Missouri Metro and Evergy Missouri West imprudent in not protecting their ratepayers from the high costs resulting from the four fixed-price, wind energy PPAs in adverse market conditions?

Position: No, and the Company does not agree with the inclusion of this "issue" or its wording. As discussed above, Staff and OPC fail to properly apply the prudence presumption and standard. Nonetheless, Staff concedes that the SPP market was not designed to guarantee recovery of all costs. (E.g., Mastrogiannis Rebuttal at 13.) In addition, Staff specifically does not dispute that the Company's decision to enter into the PPAs was prudent. (E.g., Mastrogiannis Rebuttal at 12, Fortson Rebuttal at 9.) Staff also agrees that in this industry, it was not imprudent for the Company to enter into 20-year PPAs that do not contain written cancelation or re-negotiation clauses "in the event of adverse market conditions." (See generally, Mastrogiannis Direct.) In short, Staff does not provide evidence to support the alleged imprudence described in the above "issue."

The Company entered into the PPAs to satisfy customers' needs without any expectation of rate recovery other than its prudently incurred PPA costs and (no element of profit or gain)—and not for "economic reasons" or to acquire "energy for the sake of energy" as Staff and OPC declare. (See Reed Surrebuttal at 8; Ives Surrebuttal at 9-10.) Indeed, wind PPAs are economic in the SPP wholesale market as they provide near-zero or negative marginal costs compared to marginal-cost dispatch. (Messamore Surrebuttal at 22.)

Although the Commission's prudence evaluation in this case properly must only consider the Company's decision-making at the time of entering into the PPAs, Staff attempts to quantify "losses" to customers during this review period via a flawed, hindsight analysis. (E.g., Fortson Surrebuttal at 5.) While Staff's deficient analysis must be ignored under established Missouri law, a holistic evaluation of the market's performance over the same period actually demonstrates an $11 million gain to customers. (Messamore Surrebuttal at 8-9.) Staff inappropriately ignores the capacity value of the PPAs, their Transmission Congestion Right ("TCR") value, and their associated Renewable Energy Credits ("RECs"). (Id.) In addition, Staff fails to take into account the benefits of these renewable resources as a hedge against fluctuating commodity prices or future carbon restrictions. (Id.)

Like Staff, OPC does not offer any competent evidence of imprudence in the Company's analysis of entering into the PPAs. The Company's decision to add the PPA assets was prudently based on its long-term integrated planning analysis, and OPC, like Staff, has not shown otherwise. (Messamore Surrebuttal at 6.) Finally, both Staff and OPC unfairly ignore that over the life of the PPAs, the Company has, in fact, re-negotiated when possible to increase the contracts' customer value. (Id. at 3.) Even so, under Missouri precedent, the Company cannot be punished for changed market conditions outside its (or any other utility's) control. (Id.)

4. Were Evergy Missouri Metro and Evergy Missouri West imprudent in not mitigating the impact on their ratepayers of the high costs resulting from the four fixed-price, wind energy PPAs in adverse market conditions?

Position: No, and the Company does not agree with the inclusion of this "issue" or its wording. As discussed above, Staff and OPC fail to properly apply the prudence presumption and standard. Nonetheless, Staff concedes that the SPP market was not designed to guarantee recovery of all costs. (E.g., Mastrogiannis Rebuttal at 13.) In addition, Staff specifically does not dispute that the Company's decision to enter into the PPAs was prudent. (E.g., Mastrogiannis Rebuttal at 12, Fortson Rebuttal at 9). Staff also agrees that in this industry, it was not imprudent for the Company to enter into 20-year PPAs that do not

contain written cancelation or re-negotiation clauses "in the event of adverse market conditions." (See generally, Mastrogiannis Direct.) In short, Staff does not provide evidence to support the alleged imprudence described in the above "issue."

The Company entered into the PPAs to satisfy customers' needs without any expectation of rate recovery other than its prudently incurred PPA costs (no element of profit or gain)—and not for "economic reasons" or to acquire "energy for the sake of energy" as Staff and OPC declare. (See Reed Surrebuttal at 8; Ives Surrebuttal at 9-10.) Indeed, wind PPAs are economic in the SPP wholesale market as they provide near-zero or negative marginal costs compared to marginal-cost dispatch. (Messamore Surrebuttal at 22.)

Although the Commission's prudence evaluation in this case properly must only consider the Company's decision-making at the time of entering into the PPAs, Staff attempts to quantify "losses" to customers during this review period via a flawed, hindsight analysis. (E.g., Fortson Surrebuttal at 5.) While Staff's deficient analysis must be ignored under established Missouri law, a holistic evaluation of the market's performance over the same period actually demonstrates an $11 million gain to customers. (Messamore Surrebuttal at 8-9.) Staff inappropriately ignores the capacity value of the PPAs, their Transmission Congestion Right ("TCR") value, and their associated Renewable Energy Credits ("RECs"). (Id.) In addition, Staff fails to take into account the benefits of these renewable resources as a hedge against fluctuating commodity prices or future carbon restrictions. (Id.)

Like Staff, OPC does not offer any competent evidence of imprudence in the Company's analysis of entering into the PPAs. The Company's decision to add the PPA assets was prudently based on its long-term integrated planning analysis, and OPC, like Staff, has not shown otherwise. (Messamore Surrebuttal at 6.) Finally, both Staff and OPC unfairly ignore that over the life of the PPAs, the Company has, in fact, re-negotiated when possible to increase the contracts' customer value. (Id. at 3.) Even so, under Missouri precedent, the Company cannot be punished for changed market conditions outside its (or any other utility's) control. (Id.)

5. *Were Evergy Missouri Metro and Evergy Missouri West imprudent in that their shareholders did not share any part of the high costs (minus the 95%/5% FAC sharing mechanism) resulting from the four fixed-price, wind energy PPAs in adverse market conditions?*

Position: No, and the Company does not agree with the inclusion of this "issue" or its wording. Importantly, no party in this case disputes the Company's prudence in actually entering into the PPAs. (See generally, Ives Surrebuttal.) No party alleges the Company was imprudent in not breaching the PPAs, in not terminating the PPAs, or in not including re-negotiation/termination clauses in the PPAs. (Id.)

As discussed above, Staff and OPC fail to properly apply the prudence presumption and standard. The only "imprudence" alleged by Staff is that it believes shareholders should absorb costs of the PPAs that, in hindsight, exceed energy revenues from the SPP, by voluntarily lowering the FAC rates. (Mastrogiannis Rebuttal at 17.) Staff's position is against the regulatory construct in Missouri, and appears to recommend violation of the FAC statutes and Commission Rules. (Ives Surrebuttal at 8-9.) Staff's proposal that shareholders bear PPA costs from the halfway point to the end of the Cimarron 2 and Spearville 3 contracts (for EMM) and the Gray County and Ensign contracts (for EMW) is entirely untethered to the prudence standard and Missouri law, especially since the Commission has rejected so-called "risk-sharing alternatives" to the prudence standard in past cases. (Reed Surrebuttal at 4, 7.)

Further, Staff's hindsight methodology fails to and cannot possibly compare actual costs to those that would have somehow been achievable by the Company through its decision-making at the time of entering into the PPAs, which was undisputedly prudent. (See id.) Moreover, a holistic evaluation of the market's performance during this review period actually demonstrates a $11 million gain to customers. (Messamore Surrebuttal at 8-9.) Staff inappropriately ignores the capacity value of the PPAs, their Transmission Congestion Right ("TCR") value, and their associated Renewable Energy Credits ("RECs"). (Id.) In addition, Staff fails to take into account the benefits of these renewable resources as a hedge against fluctuating commodity prices or future carbon restrictions. (Id.)

Like Staff, OPC does not offer any competent evidence of imprudence in the Company's analysis of entering into the PPAs. The Company's decision to add the PPA assets was prudently based on its long-term integrated planning analysis, and OPC, like Staff, has not shown otherwise. (Messamore Surrebuttal at 6.) Finally, both Staff and OPC unfairly ignore that over the life of the PPAs, the Company has, in fact, re-negotiated when possible to increase the contracts' customer value. (Id. at 3.) Even so, under Missouri precedent, the Company cannot be punished for changed market conditions outside its (or any other utility's) control. (Id.)

6. *Was Evergy Missouri West's continuing decision to not acquire sufficient generation to protect its customers from the risks of the energy market and instead to rely on the energy market to meet a substantial portion of its customers' load requirements imprudent?*

Position: No, and the Company does not agree with the inclusion of this "issue" or its wording. As discussed above, OPC fails to properly apply the prudence presumption and standard. The only "imprudence" alleged by OPC in this case constitutes repetition of already-rejected attacks on the Company's IRP process. (See Mantle Surrebuttal at 18-19.) For example, OPC made the same argument about the Company not acquiring what OPC considers to be adequate generation in File No. EF-2022-0155, but the Commission disagreed. (Ives Surrebuttal at 16.) Contrary to OPC's simplistic attempt to equate generation acquisition to home-owners' insurance, owning generating assets has often proven to be a money-losing proposition as compared to buying energy in the market. (Reed Surrebuttal at 10.) Case in point, EMW's fossil fuel fleet was theoretically capable of producing enough energy during the prudence period, but market energy was more cost-effective. (See Mantle Surrebuttal Schedule LMM-S-13 (Messamore response to DR 8064); Reed Surrebuttal at 10.)

7. *Did Evergy Missouri West improperly and imprudently recover through the FAC $2,076.20 for SPP administrative fees, under Schedules 1 and 1a?*

   A. *If so, Should the Commission adopt Staff's proposed ordered adjustment of $2,076.20, plus interest, for transmission and SPP administrative fees to be applied to Evergy Missouri West's next FAR filing?*

Position: No, and the Commission should not adopt Staff's proposed ordered adjustment. As discussed above, Staff and OPC fail to properly apply the prudence presumption and standard.

Further, the Company indicated a line item for short-term firm transmission service purchased to facilitate physical power imports from the MISO RTO into the SPP RTO, which accounted for $38,911. (Starkebaum Direct at 3.) Of this amount, $2,076.20 was for SPP administrative fees (under Schedule 1 for $1,149.80 and 1a for $926.40). (Id.) While these fees are generally not recoverable, exceptions for unusual circumstances apply. (Starkebaum Surrebuttal at 2-3.) Weather alerts for the operating days of February 3 and February 4 necessitated short-term procurement of transmission paths by EMW. (Id.) As a result, the Company viewed this event in total as a non-SPP short-term transaction used to make purchases needed for customer load, which fell outside of the normal course of SPP transmission costs, and was therefore recoverable under the FAC. (Id.)

8. *If Evergy Missouri Metro and Evergy Missouri West were imprudent with respect to any of the decisions listed in Issues 2 through 6, above, should there be a disallowance?*

   A. *If so, how much should the disallowance be?*

   B. *Should the Commission adopt Staff's proposed ordered adjustment of $12,401,229, plus interest, to be applied to Evergy Missouri Metro's next Fuel Adjustment Rate ("FAR") filing?*

   C. *Should the Commission adopt Staff's proposed ordered adjustment of $13,989,508, plus interest, for purchased power costs to be applied to Evergy Missouri West's next FAR filing?*

   D. *Should the commission adopt OPC's proposed ordered adjustment of $86,376,294, with interest, to be applied in Evergy Missouri West's next FAR filing?*

Position: As discussed above and below, no party has shown with competent evidence any imprudence by the Company. Staff's and OPC's attempts to argue "imprudence" violate the Commission's established prudence presumption and standard. Accordingly, no disallowance should be ordered by the Commission, and the Company should recover its prudently-incurred costs.

The Commission should not adopt Staff's proposed ordered adjustment of $12,401,229 (plus interest) to be applied to EMM's next FAR filing, or Staff's related proposed ordered adjustment of $13,989,508 (plus interest) to be applied to EMW's next FAR filing. Staff's proposals stem from its own invention that shareholders should bear PPA costs from the halfway point to the end of the Cimarron 2 and Spearville 3 contracts (for EMM) and the Gray County and Ensign contracts (for EMW). (E.g., Fortson Rebuttal at 2.) Detailed above and below, such proposed disallowances are improperly based on hindsight, fail to be grounded at all in the Commission's prudence standard, and violate Missouri's regulatory construct. (E.g., Reed Surrebuttal at 8; Ives Surrebuttal at 8-9.) Per Staff, the "going forward" costs method compares new information to information as of 10 years ago, which is illogically circular and would not allow the Company to recover the prudently incurred costs of providing service to its customers. (Id.) Staff also fails to consider the value and revenue streams of the wind PPAs, which would be a holistic evaluation that results in an $11 million gain to customers, as detailed above. (Messamore Surrebuttal at 2.) The Commission has rejected so-called "risk-sharing alternatives" to the prudence standard in past cases, and should not alter its historic approach here. (Reed Surrebuttal at 4, 7.)

Likewise, the Commission should not adopt OPC's proposed ordered adjustment of $86,376,294 (with interest) to be applied in EMW's next FAR filing. This proposal stems from OPC's past-rejected allegations that EMW was imprudent for not providing a hedge against energy markets with its own cost-effective generation, and that EMW and EMM should be combined utilities as a result. (See, e.g., Mantle Surrebuttal at 6-7.) Discussed above, Contrary to OPC's simplistic attempt to equate generation acquisition to home-owners' insurance, owning generating assets has often proven to be a money-losing proposition as compared to buying energy in the market. (Reed Surrebuttal at 10.) Further, OPC's hypothetical assumptions underpinning its claim that EMW and EMM should be combined actually create a zero-sum game in which EMW customers would benefit while EMM customers would receive a detriment in the same amount. (Messamore Rebuttal at 15.) Even Staff

disagrees with OPC's recommended disallowance, since there are too many variables that determine market price as well as too many variables associated with EMW building new generation. (See Hull Rebuttal at 2; Messamore Surrebuttal at 19.)

9. *Should the Commission order that any losses incurred for these PPAs going forward be borne by the Companies' shareholders?*

Position: No, for all of the reasons discussed above, and the Company does not agree with the inclusion of this "issue" or its wording.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon counsel for all parties on this 31st day of January 2024, by either e-mail or U.S. Mail, postage prepaid.

/s/ Roger W. Steiner

Roger W. Steiner