BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
EVIDENTIARY HEARING

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) File No. ER-2024-0189

THURSDAY, OCTOBER 3, 2024
9:29 a.m.

Governor Office Building
200 Madison Street, Room 310
Jefferson City, MO 65101

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RON PRIDGIN, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

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The following proceedings began at 9:29 a.m.:

JUDGE PRIDGIN: Thank you very much. Good morning. We are on the record. This is the evidentiary hearing in the matter of Evergy Missouri West, Incorporated, DBA Evergy Missouri West Request for Authority to Implement a General Rate Increase for Electric Service. I'm Ron Pridgin. I am the regulatory law judge assigned to preside over this hearing. It's being held on October 3rd, 2024 in the Governor Office Building in Jefferson City, Missouri. The time is 9:30 a.m.

I would like to give entries of appearance from counsel, please, beginning with Evergy Missouri West.

MS. WHIPPLE: Good morning, Jacqueline Whipple with Dentons US, LLP. We have Roger Steiner, and we have Jim Fisher as well. Thank you.

JUDGE PRIDGIN: Ms. Whipple, thank you. Any entry on behalf of the Staff of the commission.

MR. PRINGLE: Yes, good morning. This is Travis Pringle on behalf of Staff.

JUDGE PRIDGIN: Mr. Pringle, thank you.

Entry on behalf of the Public Counsel?

MR. CLIZER: John Clizer on behalf of the Public Counsel. My contact information is with the reporter.

REGULATORY LAW JUDGE PRIDGIN: Mr. Clizer, thank you. Any other parties wishing to enter an appearance?

MR. OPITZ: Tim Opitz on behalf of Midwest Energy Consumers group.

JUDGE PRIDGIN: Mr. Opitz, thank you. Any other counsel wishing to make an entry of appearance? All right, hearing none, the Commission received stipulations last night, and those stipulations will resolve most of the issues. I understand the parties wishes to make opening statements on one remaining issue, a fuel adjustment clause issue. And, then, I spoke with counsel before we went on the record, I understand counsel wish to simply submit some sort of pleading that will list the exhibit numbers that the parties wish to offer into evidence, and that would save some time rather than going through each one. Did I understand counsel correctly?

MR. PRINGLE: Yes, Judge.

JUDGE PRIDGIN: Very good.

MR. CLIZER: Yes, Judge.

REGULATORY LAW JUDGE PRIDGIN: Very good. Anything else from the bench or from the parties before we proceed to opening statements? Hearing none? All right. Evergy Missouri West, when you're ready. Ms. Whipple, when you're ready.

OPENING STATEMENT BY MS. WHIPPLE:

MS. WHIPPLE: Good morning. May it please the Commission. As previously stated, I'm Jackie Whipple with Dentons US, LLP, on behalf of Evergy Missouri West, and we also have Roger Steiner and Jim Fisher.

As the Commission is aware, the parties had entered into an unanimous stipulation involving a black box settlement with one remaining issue, which will be addressed in lieu of an evidentiary hearing in post-hearing briefing, but the parties have agreed to give opening statements to give an overview of their respective position on that remaining issue, which, of course, is not oral argument and will not be in evidence.

The remaining issue is -- has been

enumerated in the list of issues as issue 3-A. What sharing ratio between EMW and its customers should the Commission order as an incentive mechanism in EMW's FAC. It's important that Staff and EMW agree, that the Commission continue the current sharing mechanism of 95/5 percent.

EMW's witnesses would prefile testimony that will be admitted into record evidence are Darrin Ives, Evergy's Vice President, Regulatory Affairs and Kevin Gunn, Evergy's Vice President, State and Federal Regulatory Policy.

By way of short background, fuel adjustment clauses are a common rate-making tool to address fuel, purchase power and transmission expenses that are frequently volatile. FACs exist to true up actual total energy costs to those accounted for in base rates. Accordingly, in 2006, the Missouri General Assembly enacted MORESSTAT (sic) section 386.266, which is known as the FAC statute.

The FAC statute provides that the Commission may incentivize a utility to improve the efficiency and cost effectiveness of its fuel and purchase power procurement activities. The Commission's incentive must be reasonably designed to provide the utility with a sufficient opportunity to earn a fair return on equity.

The Commission's associated rule also provides that any incentive mechanism shall be structured to align the interests of the electric utility's customers and shareholders. After the statute was enacted, the following year in 2007, the Commission granted the first FAC to EMW's predecessor, Aquila. In doing so, the Commission specifically requested proposals for the FACs sharing mechanism to feature a 50/50 sharing split.

The Commission, instead, adopted the 95/5 split, which it has continued for the subsequent 17 years. The Commission found the 95/5 split would protect Aquila from extreme fuel and power cost fluctuations and allow it an opportunity to earn a fair return on its investment, all the while significantly incentivizing it to take all reasonable actions to keep those costs as low as possible.

Now, as a refresher, the 95/5 split is a cost pass-through that can, and has gone both ways. That means if EMW's actual total energy costs exceed the base rate amount, EMW recovers 95 percent of that difference through the FAC and absorbs the remaining five percent. If the scenario is the other way around, EMW's FAC credits customers with 95 percent of the difference and EMW retains the five percent.

In this case, as previously mentioned, Staff and the company are aligned in their recommendation that the Commission keep the FAC sharing mechanism at 95/5. In the testimony of Staff's witness, Brook Mastrogiannis, and EMW's witnesses Kevin Gunn and Darrin Ives, research indicated that the 75/25 sharing split, which is proposed by OPC's witness, Lena Mantle, would be a more extreme mechanism than the majority of the United States.

Staff and EMW agree that if the Commission changed the current 95/5 sharing split, the Commission would also run counter to a dozen or so of its own prior rulings regarding EMW, as well as the three other Missouri regulated utilities.

To be clear, OPC does not rebut that its proposal is extreme. OPC concedes that no other US state features a comparable 75/25 split. OPC also does not rebut that the majority of the United States has a 95 percent or higher customer-sharing mechanism. Examples of those states were given in the testimonies of Mr. Gunn and Ms. Mastrogiannis.

The consequences of adopting OPC's extreme proposed FAC split would be manifold and severe. If Missouri's regulatory oversight is perceived as punitive or nonproductive, that would necessary discourage future utility investment, hinder's EMW's ability to attract capital, stifle innovation, increase utility operation challenges and, ultimately, of course, raise costs for customers in Missouri.

Staff and the company therefore agree, it is clear that the Commission adopted Ms. Mantle's recommendation in this case, Missouri would become an outlier in rate-making policy and precedent in the nation.

In addition, the Commission's rulings in the past 17 years, which span seven past commissions, regarding the FAC's of Evergy, Ameren and Liberty have all consistently maintained the 95/5 sharing split.

In a dozen or so of those rulings, the Commission has even specifically struck down proposals for those regulating utilities FAC's to feature instead, sharing splits of 50/50,70/30, 85/15 or 90/10. In its prefile testimony, OPC, again, advanced the same arguments it has nearly in ten prior cases. Challenging EMW's resource planning, alleging that EMW has not acquired so-called insurance generation, criticizing EMW for having spent more on non-firm short-term energy than it received in revenues or incorrectly claiming that EMW has somehow manipulated the use of its FAC in rebasing.

But Staff and EMW remind the Commission that it has previously rejected OPC's, again, repeated argument. The Commission has never found EMW to be imprudent or ordered a disallowance associated with EMW's resource planning or alleged failure to acquire adequate generation. Staff also points out in the testimony of Ms. Mastrogiannis that Liberty Utilities has not always exceeded nonfirm short term energy. The Commission should stay consistent with its multiple past orders.

Now, looking forward as we really ought to be doing, there's a lot of exciting developments on the horizon. The parties have previously stipulated that Dogwood is in rate base. As a result of this case's stipulation, Crossroads is being studied so a solution can be reached. The consolidation, or potential consolidation, of EMM and EMW will have a non-contested docket. So far, EMW has filed two 60-days notices for CCNs, one for natural gas; one for solar; and, so, this shows that EMW needs no other incentive to build generation and acquire capacity. What EMW needs is to attract and maintain capital and investors.

So, in conclusion, in response to issue 3-A, the mission -- the Commission should continue the current sharing mechanism of 95/5 percent in EMW's FAC and reject OPC's extreme proposal that would immediately make Missouri a rate-making outlier, while increasing risks for EMW and its customers. Thank you.

JUDGE PRIDGIN: Ms. Whipple, thank you. Let me see if we have any bench questions. Ms. Chair, any questions? Commissioner Coleman?

QUESTIONS BY COMMISSIONER COLEMAN:

COMMMISSIONER COLEMAN: Hi, good morning.

MS. WHIPPLE: Morning.

COMMMISSIONER COLEMAN: I do have some questions, and, unfortunately, I was in that traffic, also, coming across the bridge this morning, evidently, what also looked like a very bad accident. So, I might have missed -- so I missed some of the stuff that you talked about. I did hear you mention OPC witness Lena Mantle, and I didn't get to hear exactly what you said, as I tried to look through the presentation, also. Off the top of your head, would you remind me what your comments were about her testimony?

MS. WHIPPLE: Ms. Mantle, on the remaining issue, Ms. Mantle is proposing to change EMW's FAC sharing split from its current 95/5 to 75/25, and the comments in that regard, Staff and EMW agree that that would be an unprecedented move in the United States. There's no other state that would feature a comparable 20 -- 75/25 percent sharing split and would drastically hinder EMW's ability to attract and maintain capital, ultimately increase the cost for customers, if that were to be adopted, instead of maintaining the current 95/5 percent sharing split.

COMMMISSIONER COLEMAN: So, you said something, I think also, about a 90/10 split? Did I hear that?

MS. WHIPPLE: In one of the prior cases that the Commission has -- has decided, a couple of years ago, one party -- it might have been Ms. Mantle, but I, you know, don't want to say that for sure, one party proposed a 90/10 percent; and the Commission, this was in Ameren's FAC proceedings, the Commission has rejected 85/15 as a proposed sharing split for Ameren, as well as 90/10 as a proposed sharing split for Ameren. And those numbers were the ER-2011-0028, ER-2014-0258 and ER-2021-0166.

COMMMISSIONER COLEMAN: Okay, thank you.

MS. WHIPPLE: Uh-huh.

COMMMISSIONER COLEMAN: Thank you.

REGULATORY LAW JUDGE PRIDGIN: All right, thank you. Any further Bench questions? Commissioner Holsman?

COMMISSIONER HOLSMAN: No thanks, Judge.

REGULATORY LAW JUDGE PRIDGIN: Thank you. Commission Kolksmeyer? Hearing none, Commissioner Mitchell, any questions?

COMMISSIONER MITCHELL: No, thank you, Judge.

REGULATORY LAW JUDGE PRIDGIN: All right, thank you, Commissioner. Ms. Whipple, thank you very much. I appreciate it. Any opening argument from Staff?

MR. PRINGLE: Yes, Judge.

REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle, when you're ready.

OPENING STATEMENT BY MR. PRINGLE:

MR. PRINGLE: Good morning, and may it please the Commission. The issue before you today is what sharing ratio between Evergy Missouri West and its customers should the Commission order as an incentive mechanism in EMW's fuel adjustment clause, also known as the FAC.

Staff and Evergy Missouri West recommend to continue the sharing mechanism that has been in place since the company first elected to have an FAC, and that mechanism is 95/5 percent. The way the ratio works is when there's an under recovery, the customers have to pay back 95 percent of the under-recovered cost while the company pays the other five percent. When this is an overrecovery, 95 percent goes back to the customers while the company gets to keep five percent of that overrecovery.

It is Staff's position that the current-sharing mechanism appropriately aligns company and customer risk. The Office of the Public Counsel is advocating for a change in that ratio to 75/25 percent. Staff strongly recommends that this Commission reject that proposal and continue with the 95/5 percent.

Changing the current sharing percentage would be inconsistent with prior Commission rulings and the sharing percentages ordered by the Commission for other Missouri-regulated utilities that have an FAC. The OPC has not provided sufficient evidence to justify a change of the sharing mechanism at this time. Staff's research shows that if the Commission were to order OPC's recommendation of a 75/25 sharing ratio, this would put Missouri at an extreme outlier nationwide.

As more fully explained in the rebuttal and surrebuttal testimonies of Staff's witness, Brooke Mastrogiannis, OPC's argument is based on the belief that Evergy Missouri West has been imprudent in its resource-planning decisions to rely on the SPP energy market to meet the energy needs of its customers. Instead of building or inquiring cost-effective generation. The Commission has never found Evergy Missouri West imprudent for this approach.

The last time the Commission made a ruling regarding FAC sharing mechanism for Evergy Missouri West was in ER-2012-0175, in which the Commission held that, quote, "The current FAC sharing percentages of 95/5 percent, better support safe and adequate service at just and reasonable rates than 85 percent 15 percent."

The Commission has ordered this same 95/5 split for both Ameren Missouri, lastly in ER-2019-0335 and Liberty in ER-2019-0374. A 75/25 sharing ratio would be more extreme than most other states.

As explained in Ms. Mastrogiannis's rebuttal testimony, many states have the ratio set at 95/5 or higher. Evergy witness, Kevin Gunn goes into it even further, pointing out that only eight of 52 US jurisdictions utilize a FAC sharing mechanism and none come close to the proposal put forward by OPC. This is in his rebuttal testimony.

Now, while Staff's position is that there is no reason to change the current 95/5 sharing mechanism, if this Commission truly believes that the current ratios do not align with the interests of Evergy Missouri West's customers and shareholders, then a more modest move would be appropriate, such as maybe 90/10. However, as discussed by Evergy's counsel, this Commission has also rejected that ratio in the past.

That being said, Staff does not believe there is sufficient evidence to support any change to the FAC's sharing mechanism at this time. Thank you for your time today, and I'm happy to take any questions you may have.

REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle, thank you. Any bench questions? Chair Hahn? Commissioner Coleman, when you're ready.

QUESTIONS BY THE COMMISSION:

COMMMISSIONER COLEMAN: Good morning, Mr. Pringle.

MR. PRINGLE: Good morning, Commissioner.

COMMMISSIONER COLEMAN: Okay, so I can't help but notice both you and Evergy's counsel is tossing around the word "extreme", and, you know, Missouri sure isn't a state that's out there on the forefront of much of anything in the many years that I have been a resident here. We tend, unfortunately I think often, to follow other -- other states. But I can't help but want to know why your thought is that we can't change what we've done before, even though 95/5 has been the norm, why it is so extreme for Missouri to want to make a change in that ratio?

MR. PRINGLE: I don't necessarily think it's -- it'd be extreme to make any kind of change, it's more of this proposal for a 75/25 is an extreme change. In the list that Evergy's counsel had during their presentation, I'd like to point out the State of Wyoming, it has a 80/20, and that is maybe the most disparate one that we see right now in the country being 80/20. A 75/25, just no one has that and at this time, we do not believe there is evidence warranting such an extreme shift.

COMMMISSIONER COLEMAN: Okay, that helps for right now. Thank you.

MR. PRINGLE: No problem, Commissioner, thank you.

REGULATORY LAW JUDGE PRIDGIN: Commissioner thank you. Any further bench questions, Commissioner Holsman?

COMMISSIONER HOLSMAN: Thank you, Judge. Do you agree with the company that a change to 75/25 would affect the cost of capital and their ability to raise funds for future generation?

MR. PRINGLE: Staff does not have robust testimony on that, Commissioner, but at this time I'd have no reason to doubt that.

COMMISSIONER HOLSMAN: Okay. My second question is, in recent history, how often have we seen the FAC flow backwards? The company has mentioned that it's 95/5 in one direction, in 95/5 the other direction. How often is the direction in favor of the customer?

MR. PRINGLE: I don't have that off the top of my head, Commissioner, but I can include that in the brief if you would like to know that answer.

COMMISSIONER HOLSMAN: Yes, please. Thank you, Judge.

REGULATORY LAW JUDGE PRIDGIN: Commissioner Holsman, thank you. Any questions, Commissioner Kolkmeyer? Commissioner Mitchell, any questions?

COMMISSIONER MITCHELL: Thank you, Judge. The -- Ms. Mantle prepared what I think is a -- a thorough and thoughtful white paper on the history of the FAC charge in Missouri. In that white paper, she presents an illustration of -- it's on page 13, an illustration of what happens in terms of total FAC-build cost if the -- if the actual usage fluctuates, you know, plus or minus 15 percent. It is very informative, and it indicates that, you know, if the actual -- if the actual net energy costs wouldn't go up 15 percent, the actual build costs are only 98 percent of the total; and if it falls, the actual build costs are 105 percent of the total. So, I think in your brief, it would be informative to the Commission to repeat that mathematical exercise at the 75/25 split, so that you can -- so we can really see how those -- how the adjustment compares to the actual end. Yeah, I think that would be -- that would be nice to see in your briefs, just so we've got the numbers in front of us as to what the real impact is in terms -- in terms of billings would be in that split.

MR. PRINGLE: Per that, Commissioner Mitchell, we will endeavor to go ahead and try to cover that in the brief as well.

COMMISSIONER MITCHELL: Thank you.

REGULATORY LAW JUDGE PRIDGIN: Commissioner Coleman?

COMMMISSIONER COLEMAN: Let me just ask again: my notes took down, I think it noted -- I noted that Staff wants to keep the 95/5 ratio. Did I hear that correctly?

MR. PRINGLE: That's correct. That is Staff's position, Commissioner.

COMMMISSIONER COLEMAN: Okay. And I started writing down notes as to why you wanted to have that ratio established, but I can't even read my own handwriting. So, let me see, I wrote down a note that the current percentage sharing works best; Ameren and Liberty has the same split. Let me think just a little bit more as I'm listening to others about any other questions I have, okay.

MR. PRINGLE: All right. Not a problem, Commissioner. I am happy to take down any questions --

COMMMISSIONER COLEMAN: Thank you.

JUDGE PRIDGIN: -- after I step down as well.

REGULATORY LAW JUDGE PRIDGIN: All right, thank you. Any further Bench questions for Staff? All right, hearing none, Mr. Pringle, thank you.

MR. PRINGLE: One quick follow-up for Commissioner Holsman on his request for the brief. Commissioner Holsman, how far back would you like for us, I guess to, look? I guess the entirety of FAC's existence or is there a certain time period that you would like us to focus on?

COMMISSIONER HOLSMAN: I would say just the most recent history of -- you know, you've given us two examples with Ameren and Liberty where 90/10 was rejected. And, so, I just -- I just want to know how frequently, you know, we see it flow backwards.

MR. PRINGLE: Okay.

COMMISSIONER HOLSMAN: So, yeah, just go back, you know, whatever you think is appropriate.

MR. PRINGLE: Thank you, Commissioner. Thank you, Judge.

REGULATORY LAW JUDGE PRIDGIN: Mr. Pringle, thank you. Opening on behalf of the Office of the Public Counsel?

MR. CLIZER: Mr. Opitz comes before us --

REGULATORY LAW JUDGE PRIDGIN: Mr. Opitz, did you have an opening, I'm sorry?

MR. OPITZ: I have no opening on this --

REGULATORY LAW JUDGE PRIDGIN: Thank you. Mr. Clizer, when you're ready, sir.

MR. CLIZER: Thank you.

OPENING STATEMENT BY MR. CLIZER:

MR. CLIZER: Brian, I hope this clicker works. If it would please the Commission, good morning. John Clizer on behalf of the Missouri Office of the Public Counsel.

So, you know, before I get into the meat of the issue this morning, I actually just want to take a very brief moment to discuss something that hasn't been talked about, but I want to bring it up because I think it's something to worth mention: we've actually had a successful settlement in this case, and I just kind of want to bring that out. I know that we might end up doing it on the record later, but I want to highlight this to the Commissioner; when we filed that list of issues in front of the Commission we had 43 issues, 43 issues we wanted the Commission to decide on. Of those, we have settled 41.

Another way to look at that, is we had 126 sub issues; we settled 124 of them. That's fantastic. And I really do, I want to thank both the company and the staff, all the other intervenors who are working together, coming to the table and being able to reach that kind of agreement because it makes this a lot easier, and I greatly appreciate it.

So, right now, we have two issues remaining. You've heard everybody said one. It's not entirely true. There's technically two issues. It's just one of those, the Crossroads issue, we are postponing, and we're postponing it in the stipulation so we can do a little bit more research. We want to do a study. We want to get a better idea of kind of what the cost entails and come back to you to in a year or less to kind of figure out what the best course of action there is.

Today, though, we're giving our oral arguments -- not oral arguments, apologies, opening statements regarding the other remaining issue, which is the FAC incentive mechanism, of course.

Now, you've already heard from both of the others what the issue is. Just to kind of repeat what's up on the screen, that's what's stated in the list of the issues, you know. What should the incentive mechanism be? And I think it's been said, but just to make sure it's very clear, what the FAC does, right, when we set rates in a rate case, we include fuel as part of the company's cost. We include them at a base level.

What the FAC does is it comes back later and says, okay, what were the actual costs you incur? And the difference between the actual and base costs are what get flown through the

FAC. Only that difference. That's important; we'll come back to that. If actual costs are higher, the company collects the difference, and if they're lower, the company returns the difference.

Now, as it also has already been said, the FAC is a creature of statute. It's permitted under 386.266. And it's that statute very specifically that has a provision that allows the Commission to institute an incentive mechanism. To incent what? Cost effective and management of fuel and purchase power. And if you think about it, what we have in place right now, the 95/5 you heard about, what that is it says, if actual costs are above base costs, the company has to eat 5 percent; and if they're below, the company gets to retain that 5 percent. So, what does that do? It encourages the company to bring its actual costs below the base costs.

In other words, it encourages the company to find ways to save money. And that's a great thing.

What we are asking for is to improve on that incentive mechanism, to change it to a

75/25. And in doing that, what I really want you to do, I kind of want to ask you to take a moment and just consider the hypothetical. Imagine that you are called before the state legislature. Imagine you're sitting before, you know, members of the US -- sorry, not US, the Missouri House, Missouri Senate, and they ask you a very simple question: has this incentive mechanism been effective? From where you're sitting today, can you honestly say that you think the existing 95/5 has properly incentivized Evergy Missouri West to cost effectively and efficiently manage its fuel and purchase power, because the OPC looks at this, we say, no, it hasn't.

And let's dig into why we reached that conclusion. Let's look at the 95/5 have been to date. So, right now, according to its 2023 IRP, Evergy West estimates that it can only generate about 56 percent of the energy that its consumers are going to need. The other 44 percent is going to have to just be purchased off the market at whatever the market price is.

That's going to expose customers to a lot of risk. It has already exposed customers to a lot of risk. Over it's last four prudent periods, this company has lost 748 million dollars. That's 748 million dollars where the costs exceeded what the company was able to sell into the market with the generation that it had, and that doesn't include an additional 300 plus million dollars for winter storm Uri.

What does that mean? That means that over last the four prudent periods, this company has lost one billion dollars. In other words, it has spent one billion dollars buying energy off the market, compared to what it was able to sell in. I mean, you heard both -- sorry, you heard both Staff and the company come up and talk about, oh, this is going to inhibit our ability to build generation. Just think how much generation we could have built already if we weren't spending this much money just buying energy from other players in the market.

Like this is ludicrous to us. And it's not as though what we're asking for is some great, foreign concept. What you see on the screen now is a cost comparison between Evergy West and Evergy Metro over those last four prudent periods.

Now, the black boxes are there because those numbers are considered confidential. There's a non-confidential version in Ms. Mantle's testimony if you really want to see them; but what you see on the far right, the totals, Evergy West, like I said, it's been losing all that money during those four prudent periods because it had to buy more than it sells. Evergy Metro was making money. They made 400 million dollars that same period .

So, this is two companies that are owned by the same parent, managed by the same people, operating in the same area, subject to the same weather and you have two completely different results, and those results are because of management decisions regarding how they manage fuel and purchase power. So, you look at this and say one of those two is effective. One of those two is efficient, and Evergy West isn't.

That's the problem. That's the reason the OPC has this concern. Now, I'm going to touch very briefly on how we got here, because I feel like the historical background is really important to that. And to do that, I'm going to actually start with a company called Aquila, Incorporated. Now, Aquila, Incorporated, is the company that was eventually purchased by, first, Great Plains Energy and then eventually became Evergy West. So, Aquila is the predecessor to Evergy West.

Way back in 2007, the last IRP Aquila fired before they were acquired, they predicted that they could generate 74 percent of what their customers need. Now, I want you to think about that. Way back in 2007, they were already 25, 26 percent in the hole. And that's only gotten substantially worse in the time since then.

Now, Aquila, in 2007, it looked at this and said, we have a problem. But we have a solution. They, as part of that IRP, planned to build 775 megawatts of generation in 2007. That generation was going to be natural gas; it was going to be nuclear power. Again, details are in Ms. Mantle's testimony. What happened? Did that generation come out? Did we get it?

No, because Aquila five months, just five months after that IRP, got its FAC, and as soon as it was acquired by the Company, the plans to build that generation was scrapped. Why? Well, because with an FAC and with the SPP Energy Market, the company will just buy the energy it needs and flow any excess costs onto customers. That was easier. And, so, that's what was done. You didn't get generation build because the FAC allowed them an out.

But that wasn't the end of the story either. In the intervening time, we had additional developments. In 2018, Evergy West retired the only coal plant that it had sole ownership of; that was the Sibley generating facility. That resulted in 400 megawatts of loss capacity. So, remember, you had 775 megawatts of expected build that got scrapped. You had 74 percent, which was what they could, and then they cut out another 400 megawatts of coal.

This is despite the fact that Evergy West was the only utility at the time with expected load growth. It was the only utility -- sorry. They had just spent 100 million dollars to extend the life of the Sibley plant, and here they are, shutting it down at a time when they're already in the hole.

Another major development is now time-use rates. Now, I want to caveat this; I'm not for a single second here to argue whether time-of-use rates is a good thing or a bad thing; but the Commission needs to understand how they've been examined as part of a company's IRP because this is really important. You see Evergy West's most recent IRP is predicting a 358 percent increase in its DSM savings. Those are demand-side management, okay? Where's that 358 increase coming from? They predicated time-of-use rates; the time-of-use rates being the rates that were originally put in effect by the Commission.

Now, we all know that those rates aren't what became the default. Again, not here to litigate that in any way, shape or form. But the base reality that is due to the adoption rates that we are seeing right now, that 358 percent increase is almost certainly not going to happen. That's touched upon in the testimony of Dr. Geoff Marke if you want more description.

That means the Company's IRP is already

massively estimating the DSM savings that we're expected to see, and that's a problem. If you look right now, this graph shows you, this is from Evergy West's IRP, and it shows you what the company's hourly load and generation is expected through the 20-year horizon. So, that's through 2043. That big red bar at the top, you can see, that's their load. And you can see they're getting towards it; they're moving towards it; but they're not going to reach it. Not even in 20 years they don't expect to reach it. And if you can see, I'm going to walk up to it really quick.

This gray part right here? That's your DSM. That's not happening. That's expansion, it ain't coming. Not with the adoption rate and time-of-use rates that we have right now. So, you are already, like I said, below where you are expected to be. And I want to be clear because Evergy talked in its opening how, you know, we have Dogwood coming online; we have these two new CCMs coming online. Those are in this graph. Those are already baked into this, and you're still below where you need to be.

So, you can see again, why the OPC is so concerned about this. Given everything I've talked about, given all the money that's been spent, given where the projected load is going, can you honestly sit there and say if you are called before the legislature that you think this incentive mechanism has done its job? That they have effectively and efficiently managed fuel and purchase power given what has happened? The OPC says no. We don't think that they have, and that's why we're asking for a change.

Now, I want to address a couple of concerns that you've already heard and you might hear in the briefing about this change. First of all, this is an incentive. It's not a punishment. It's not meant to be punitive. We have agreed on a revenue requirement. I am asking the Commission to approve the stipulation that includes that revenue requirement. Whatever the Commission decides on this issue right now has zero impact on that revenue requirement, okay? I want to make sure that's very clear. You can change the FAC; you can keep it the same; but no matter what you do, the revenue requirement that we've stipulated to remains the same.

That 75/25 split as is the 95/5 currently is also symmetrical. You've already heard the company will pay more if actuals are above base, but if the inverse occurs, if the actuals far fall below base, the company will retain more. There is an opportunity here for the company's bottom line to actually increase; for this to benefit shareholders if they can bring the actuals below the base costs.

And I want to make clear here, as part of the stipulation, parties agreed to adopt the company's fuel with some adjustments. I want to make sure I'm speaking clearly here; there were adjustments made to address some of the issues, but it's not like we are expecting them to be wrong.

I mean, we're hoping that Evergy did this correctly, because that's a major point. If the base is set correctly, the actual amount flowing to the FAC should be small; because your only difference is base between the actual and the base, right?

And, is this point I think Commissioner Mitchell got to earlier so I'm going to address that very carefully here, Evergy will still be able to recover more than 90 percent of its total fuel and purchase power cost even under our split.

Now, you hear that and you might think that doesn't make sense mathematically, so let's dig into that a little bit here. Let's talk about this graph. This is a representation of the graph that, again, Commissioner Mitchell referenced earlier. This is in the testimony of Ms. Lena Mantle if you want to get more into it. So, how does this graph work? The wide axis, the vertical axis is the percent of total fuel costs that the company is going to recover from customers.

And the X axis, the horizonal axis, is the difference between actual and base. How far apart they are, right? The red line, can you see, with the triangles is what the 95/5 currently is and the green line with the circles is what our projected 75/25 is. Now, both of those lines converge at zero, right? What is that? Because at zero, there's no difference between actual and base, so the company recovers exactly what's in the base.

Pretty obvious. Let's go to the right now. Let's go to the far right even. 50 percent. What does that mean? That means the actual costs are 50 percent of what's in base. They're 50 percent higher, I should say, sorry. Another way of saying that is, you know, actual costs are -- the base -- yeah, are doubled. So, what happens in that scenario?

Under the existing FAC, as Ms. -- as Commissioner Mitchell said earlier, that resulted in 98 percent. Under the existing 95/5, the company recovers 98 percent of its fuel and purchase power even in that extreme scenario. Under the OPC's, it's about 92. Again, this was testimony of Ms. Mantle. So, even under a 75/25 split, the company is going to recover 92 percent of its total fuel and power costs. But let's go the opposite direction now. What happens if somehow the actual falls below the base, you know, they manage to save money?

Well, under that scenario, under a 95/5, the company gets to make that five percent back; but it actually massively increases under the 75/25. It radically increases to the point where the company makes a whole lot more money for shareholders if it can drive actuals below the base.

So, again, I hope this answers Commissioner Mitchell's question and any other questions you might have on this; but this is kind of the math behind this. And, again, is deed in -- everything I just said is detailed in the testimony of Ms. Lena Mantle.

Now, I want to touch on this one, because this is very important. One of the things you heard from both Evergy and Staff is they kept coming back to this idea that said nobody else does this. Nobody else has anything higher than 95/5. This is an extreme position, extreme position. We've heard that a lot, right? Well, here's the secret. Evergy West is different than everybody else, all right? No witness in this case can sit here and tell you, point to any other company that is putting as much risk on customers, is relying as heavily on the SPP Market Place that Evergy West is. And if you're going to have an extreme attitude from the Commission -- from the company, maybe that requires you to consider something outside the norm from the Commission's perspective, right?

It's like if you teaching a class, and one unruly student is acting out and you send them to detention, and says why did you send my son to detention, you know, that was an extreme position. It's, like, your son was the only one acting out. I'm sorry; that's just how it is.

So, yes, it is different. We concede that point. Evergy is a hundred percent correct there. But it's only because Evergy West is different. And you know what? If Evergy West changes its behavior; if it gets back to where all the contemporaries are, then, yeah, the Commission can come back and review this whole thing again. I'm going to mention very briefly for a second here, it was brought up, I think, in the opening for the Evergy West, that Liberty was in same boat. It had increased. That was for one prudent period, and that's because Staff included winter storm Uri costs. So, a little bit different of a comparison there.

Also, I want to mention the fact that, you know, they've talked about a lot of cases that have been brought up and said, you know, oh, the Commission has heard this multiple times, hasn't made a decision. The vast majority of those cases were settled cases. The Commission wasn't really asked to settle it. There were a couple that I will acknowledge that the Commission made a decision, but this is another important part I want to bring in: this has never been set in stone, and it was never intended to be set in stone.

Aquila, the former party for Evergy West was the first Missouri utility to get an FAC, and when it did, when it got its FAC, the parties had put forward competing opinions and, guess what? The Commission, it didn't go with what any of the parties had suggested. Instead, it came up with the 95/5 on its own. It wasn't based on evidence; it wasn't based on theory. It picked that number because that's the number it felt was correct. And there's a quote from the chair at the time, Jeff Davis, who filed a concurring opinion in the case, who stated, "Absent certainty of fuel cost variances, some aspects of rate setting are like rate design in that they are more art than science. Although, the parties may be commended for coming to an agreement of how to -- how the process should work, their extreme positions left the Commission in the position of having to try to develop an FAC mechanism that would be just and reasonable to all parties."

But Chair Jeff Davis went on, too. He also said, "Aquila should be very mindful that the majority of this Commission took a bold step in awarding Aquila a fuel adjustment mechanism. The Commission and the General Assembly will be watching. If Aquila fails to adopt proper hedging strategy, fails to follow its hedging strategy or abuses the discretion given to it by this Commission in any other way, the Commissioner -- this Commissioner will not hesitate to modify or reject Aquila's FAC application in future proceedings."

So, again, you can see when the Commission first came to us with this, they acknowledged the reality that, hey, we're coming for the 95/5, but if things change, if something goes awry, we'll come back; we'll review this; and that is exactly what the OPC is asking you to do. It's to come back and say has this worked? Have we incentivized proper management? And if not, let's try something different.

Because, and again this is a secret, it's not about 75/25. Granted, that is absolutely what the OPC is asking for, and it's still asking for that. But this Commission is free to choose, you know. You can do an 80/20. You can do an 85/15. 90/10. You could even go past that. Just as with the original, the Commission has the authority and the ability to make a determination on what it thinks just and reasonable rates are. And I want to repeat that statement from Chair Jeff Davis, absent certainty, this is more art than science.

Now, as one last brief thing I'm going to touch on, I want to just kind of give you a little background on who our witness is. I know her name has already been brought up before. The OPC witness on this is Ms. Lena Mantle. Just a bit of background, she's a professional engineer, over 40 years of experience, working first for the Staff, then for the OPC. She was heavily involved in drafting the Commission's rules regarding electric utility resource planning, and was also identified, is an author of a white paper on that subject. She also was instrumental in developing the Commission's FAC rules; and, again, we're going to have a white paper on that subject as well.

I want to say, there is no hyperbole; it cannot be stressed, no hyperbole, that there's no one in this building who works here who probably knows more about the FAC than Ms. Mantle does. She, more or less, literally, wrote the book on this. So, I strongly encourage the Commission to kindly read her testimony carefully and consider her arguments. I guess -- I guess that sums up my position. So, I thank you very much for listening to that. I'm here to take any questions if you have them.

REGULATORY LAW JUDGE PRIDGIN: Mr. Clizer, thank you. Any bench questions? Chair Hahn?

QUESTIONS BY THE BOARD

CHAIR HAHN: Good morning, Mr. Clizer.

MR. CLIZER: Good morning.

CHAIRPERSON HAHN: In your presentation,

you kind of went over some timelines. In 2007, you spoke to the utilities' plan to build additional generation, which would have been gas and nuclear, and you said that was scrapped because of the FAC.

Can you speak to projected load growth at the time and if that changed.

MR. CLIZER: Again, I want to stress to you that at that time, the company was already below the line. They were 26 below the line. It's my understanding, like I said, that Evergy West has an expected load growth. I don't know at that exact amount in time whether or not that was the case. Let me double check. I was handed some notes here, but I don't know that they discussed necessarily load growth.

My recommendation would be to review the testimony of Ms. Mantle. I'm not sure if she directly covers that, but, again, I'm going to have to stand on the fact that: A, they were below where they needed to be; and, B, I know that Evergy West, in particular, has expected load growth at least in most recent time periods, but I can't speak back that far, I apologize.

CHAIRPERSON HAHN: To your knowledge, has the Commission ever made a finding of imprudence placed on not having enough capacity in the past, especially around 2007 or even 2018, you also focused on the Sibley retirement.

MR. CLIZER: Not to my immediate knowledge, but that is a topic very briefly here, because we're not asking the Commission to make a decision of imprudence in this case, and we don't believe that a change needs to be made based on a decision of imprudence. The real issue before you isn't was the company necessarily prudent or not; it's just, has this worked as an incentive mechanism? Can you sit here and say to yourself, I think that they have the proper incentive to do a good job managing fuel and purchase power given where we are, given the facts that we're seeing. So, again, we're not here to argue imprudence. That was never part of our case. It was literally just, this is not incenting them. We don't think it's working.

CHAIR HAHN: To my knowledge, there's been notice on two CCNs for West, which, I think was highlighted in Counsel -- West Counsel's opening remarks for both gas and solar. Knowing that Evergy West is short on capacity, I am interested in what OPC positions in those particular cases are given that we're here having this argument about capacity.

MR. CLIZER: So, a couple of different things, I think, specifically, the two CCNs that you're identifying were just -- just gas. I believe there are other additional plans in their IRP to build solar beyond just those two CCNs. I want to make sure that that's correct. To give them benefit of that, I don't think it's -- yeah. The honest trust is we haven't actual seen anything. We have the notice of the CCNs, but we have literally no information on them.

We are, obviously, keenly aware of the company's need to build, so I'm hoping that they put forward something we can definitely get behind, but the devil's in the details, right? It's literally going to be questions of, are we putting these in the right place, you know? To give sort of an obtuse example, we had a case a while back with Ameren which was they were putting up a windfall, right, and we said, you know, we're fine with the windfall farm but the place you're putting it in is going to cause problems, because you're putting it in place that, you know, bats are flying through. That turned out to be a major issue with the situation. So, like I said, I would love, love, to be able to get a point where we think, yep, we are on board with that. But the devil is going to be in the details, and we just need to see what they're actually planning before I can commit to anything.

CHAIRPERSON HAHN: I had another question. With regard to the split that's proposed by OPC, is there any other state or utility -- state commission or utility that has been subjected to a 75/25 split, to your knowledge, anywhere in the US?

MR. CLIZER: I do not believe to my knowledge. And, yeah, so, again, this is different, and we will concede that point. We think it's warranted given how different Evergy West is behaving, you know, compared to its relative sister states in this utility. But, yeah, I will readily concede that this is not something that another person has specifically done.

CHAIR HAHN: What's the highest split that you've seen in any other state?

MR. CLIZER: I believe 80/20 was mentioned by Commission Staff, for Wyoming.

CHAIR HAHN: Are there any other examples outside of the Wyoming example of 80/20?

MR. CLIZER: You know, I apologize. I don't know off the top of my head. I believe that might be something that would be actually found in the testimony of Staff or the company, though. They appear to --

CHAIR HAHN: I have theirs; I was just curious. I think that's all I have at the moment.

REGULATORY LAW JUDGE PRIDGIN: Thank you, Chair Hahn. Commissioner Coleman?

COMMMISSIONER COLEMAN: Yes, thank you. Would you find this?

MR. CLIZER: Can I borrow a copy of the Staff -- thank you. What's the title at the top?

COMMMISSIONER COLEMAN: Aquila.

MR. CLIZER: Yes.

COMMMISSIONER COLEMAN: The nice white and green banner.

MR. CLIZER: Yep.

COMMMISSIONER COLEMAN: All right. So, one of the -- the note I wrote here is that you talked about the energy. You said the company can buy the energy needs and flow it to the customers. So, am I correct in hearing with that comment, if I wrote that down correctly because you're looking --

MR. CLIZER: No, no, I am listening.

COMMMISSIONER COLEMAN: Okay. Since purchase power flows through the FAC and rate payers pay 95 percent of those purchase power costs, isn't it a disincentive then for the utility to build generation rather than to buy power to meet the needs of its customers demands.

MR. CLIZER: To answer the question directly, I mean, that's the position of the OPC. That's our belief, and that's the testimony I think that we have put forward. We believe based on the historical facts that we kind of lay out in testimony and as I've addressed in this opening, is that appears to be what has in fact happened. I want to make sure, you know, the high level, I'm aware that commissioners are probably aware of this, but I like to make sure everybody is talking on the same page, obviously they're part of an energy market: Southwest Power Pool. For the record, that's when -- every time, I say SPP, it's Southwest Power Pool.

They buy of all of the energy they need from Southwest Power Pool. They sell all the energy they generate in the Southwest Power Pool, and the difference is what's basically being flow through the FAC; the net of that. Where was I going with this? I'm not sure. But, I guess, to circle back to your original answer, it's our opinion that, yes -- oh, that's where I was going to go with this. The key factors is something you touched on. The fact that purchase power, that those costs are allowed to flow through the FAC is exactly what allows the company to off load all of that risk onto customers and allows the company to really kind of sit back and, say, we don't need to worry about building; we don't need to worry about shuting down a power plant that we are already short on capacity on, because that risk is going to fall on customers. At least, that's is our position.

COMMMISSIONER COLEMAN: Thank you. Thank you, Judge.

REGULATORY LAW JUDGE PRIDGIN: Commissioner Coleman, thank you. Any questions, Commissioner Holsman?

COMMISSIONER HOLSMAN: Yes, Judge. Thank you. Mr. Clizer, you had said in the very beginning of your testimony, you asked the question, would we testify that the FAC has been successful? And your conclusion was that in this instance, it has not. Would you encourage the OPC if the same question were posed to testify that the FAC should be gotten rid of, and that it should be decoupled, and another system of maybe performance-based rates or going back to the old way, would be a better solution than what we're currently doing now with the FAC? Would you encourage the legislature to stop the FAC?

MR. CLIZER: So, a couple of different things. Before I directly answer that question, I want to clarify: when I was posing that question, it's the FAC incentive mechanism, because there's a difference here between the FAC and the actual incentive mechanism component of it. Now, you know, has the FAC been successful? Well, if you approach it from the standard of has it maintained or decreased the volatility of costs being flown before the company, you know, from the company's perspective, yeah, it probably has been successful in that regard; but the incentive encouraging the company to act prudently when it comes to acquiring fuel for making purchase-power decisions, that's what's not been effective.

Now, to the meat of your question, though, I have to caveat every thing I'm gong to say, obviously, with the fact I'm not the OPC. That would be Mark Poston upstairs, so I don't have the authority to speak on his behalf, you know. I might say something and he says, no, no, Mr. Clizer, that's not the position we're going to take. We would have to examine that is the short version. I mean, is having an FAC in the customer's best interests? I'm not sure. I don't know if I've delved deeply enough into that, and, honestly, if we were to take this to hearing, that's something I probably would ask you to ask of my witnesses because I think they would be better equipped to kind of make that kind of heady policy decision.

So, I apologize for the nonanswer, but I'm standing here right now today, I don't know that I would completely be able to commit to that; and I certainly can't speak for Mr. Poston, so I don't want to give the wrong impression. I'm sorry.

COMMISSIONER HOLSMAN: But you -- but you clearly in your presentation were saying the incentive portion of the FAC is not successful.

MR. CLIZER: Right, and, again, I'm not asking that to change in the statute. I'm asking the Commission to change the incentive that it has ordered; but, yes, it is very clear, in my opinion, the incentive has failed to achieve its objective. At least for Evergy West --

COMMISSIONER HOLSMAN: Okay.

MR. CLIZER: -- and I want to specify, you know, we're only here about Evergy West.

COMMISSIONER HOLSMAN: You know we've have -- we've have this sort of reoccurring macro theme or concern about West versus Metro. You presented a graph that showed the net results of purchases for West versus sales for Metro. Identifying that they're in the same, you know, parent company, that -- that was basically decisions made in the territories that lead to that. You gave a little history of Aquila and how the FAC might have impacted those decisions. And we've discussed in previous cases how perhaps it would be beneficial for the customers that West and Metro were to consolidate, had witnesses to discuss the timing, how long that might take and the difficulty in that, why it hasn't occurred yet, and, you know, potential benefits and challenges of that consolidation occurring; but wouldn't it be fair to say that the incentive portion of this, you would not have the same grounds for arguments for Metro that you're making for West, just as a function of it in itself?

MR. CLIZER: Yeah, as things stand right this instance, no. What I mean by that is that as of right this instant, I believe that Metro currently had generation exceeding its need. I would encourage all the Commissioners to take a look at the comments that the OPC filed in the IRP dockets for both Evergy West and Evergy Metro, because the sad state of affairs is that's not expected to continue. Metro is expected to fall below that line, too, and we are hoping that the company is coming forward to solutions to that as well.

A couple other of things that I kind of were addressed to that; I want to flag to your attention and, again, to the rest of the Commission's attention, one of the components in the larger stipulation is actually requesting the company to open a docket to pursue consolidation. So, we're still interested in that. If the Commission is still interested in that, we're hoping that is something, you know, moving forward, we can get to some kind of agreement on.

And I would also throw out there, and this is my personal opinion, I believe the change in the incentive mechanism for Evergy West would further encourage consolidation for the simple fact that if Evergy Metro is at 95/5 and Evergy West isn't, then the company will have every incentive to merge Evergy West into Evergy

Metro to reclaim the 95/5. And that might have been the point I think you were driving at, but I'm not going to speculate. So, did that answer your question? I kind of jumped around a little bit --

COMMISSIONER HOLSMAN: Yes. No, no, I think that, you know, that macro issue I think needs to be discussed further here, which we've done. I want to -- the last area of conversation I'd like to have with you is, is this idea of cost to capital. Would you agree that oftentimes investors are influenced by perception and that the market is, for better or worse, all the graphs and math and statistics that you can use to buttress a position, the reality is is that investors and shareholders and potential future investors are influenced by the perception of outcomes? Would that be a fair statement?

MR. CLIZER: I mean, obviously, a lot of different investors are going to look at different things. Some investors, for example, you have the chart analysts who just look at, you know, what's the chart doing, to kind of come to some kind of idea of what they think the market is going to be. But there are definitely investors, and I concede this point readily, who do kind of look at the perception of how things are happening. But because you brought the subject up, I'd like to just for a moment push back on this notion that changing the FAC incentive mechanism is going to somehow cripple the ability of this company to acquire capital.

Again, from the get-go, I'd like to reiterate this point: we're not asking for a change in the revenue requirement. We are expecting that the base rates that would have been put in for fuel are going to be accurate; and if they are accurate, the company isn't going to have these huge losses flow through the FAC.

In addition to that, the company stands to potentially make money if it flows through the FAC. I also want to reiterate this idea that this company is in a position where it needs to build, and building is how utilities make a profit. You are in a position where you have an excellent grounds for growth, and they can point to this and, say, look, we have to start growing as a result of this decision as justification for explaining why we should expect, you know, a higher return for investors in the future.

So, you know, I disagree with this notion that it is just going to absolutely cripple Evergy's ability to generate --

COMMISSIONER HOLSMAN: Well, I think -- so I don't want to debate the word "cripple" with you, but if we -- if the Commission and all stakeholders agree that the new generation is going to be a part of a future solution, would you agree that access to that capital and the expense of that generation could largely be predicated on an investor's willingness to provide, you know, that capital, and that the perception of, you know, the -- the incentive could potentially affect that perception and lead to higher cost for the generation that we perhaps agree needs to happen?

MR. CLIZER: It shouldn't have that profound of an impact. Evergy is not traded at Evergy West-Evergy Metro level. It's traded at the parent company level. So, you're going to be automatically going to be, you know, mixing the two different subsets in order to determine investors' likelihood -- in fact, it's influenced at the Kansas level, too, you know. Evergy's largest recent dip in their stock prices was predominantly driven, if you go read the actual analyst-investor reports, predominantly driven by the decision that they made in Kansas. So, if you're sitting here and you're telling, like, well we can't make a determination here -- like what happens when Kansas hands out a decision and their stock drops and you have no ability to control over that?

Again, I don't think that this particular decision is going to have as profound an impact as you suggest, given what I just explained --

COMMISSIONER HOLSMAN: Well, hold on. Mr. Clizer, Mr. Clizer? I'm asking questions; I'm not suggesting. The company is suggesting.

MR. CLIZER: Okay.

COMMISSIONER HOLSMAN: I'm asking you to verify, whether their suggestion is accurate in your perspective.

MR. CLIZER: My apologizes. I did not mean -- I mean, yeah, I see what you mean. No, I mean, in my opinion that's not going to --

COMMISSIONER HOLSMAN: The last -- the last sort of, you know, dot on this I would be, let's look at Wyoming. They're 80/20. What kind of influence has -- has that incentive had on their cost to capital? It is more expense to generate new power in Wyoming because of this incentive, or does it have no impact? I think that we -- we will not be able to draw an exact extrapolation, but we should be able to get some insight into -- help -- do we know how long Wyoming has been at 80/20?

MR. CLIZER: I don't know off the top of my head. I imagine that information can be gleaned from Staff's filings, so, no.

COMMISSIONER HOLSMAN: Well, I would just suggest -- I would just suggest that we take a peak at Wyoming's 80/20 and determine if that has any impact at all on the cost of capital, because I think that what we have heard is that even by minute decisions that the Commission makes, can and does impact an investor's willingness and ability to provide the capital necessary for this new generation that I think we all do agree is necessary. So, that's something that we don't to want gloss over, and we want to make sure that we get that portion of it, at least, fully discussed.

MR. CLIZER: I'm going to say this, and I'm going to immediately hate myself for saying this, but to the extent that the Commission wants to bring that information in, your best choice would be to ask the parties to late file something with regard to that specific issue, potentially.

I don't want to, you know, damage the existing settlement. I don't want to cause more problems, but I hear what you're saying; I think that's a good idea. It's not in the record as it stands currently. And that option is available to you. I would stress caution, though, on asking parties to present additional information on this topic, but I definitely hear what you're saying.

COMMISSIONER HOLSMAN: All right. Well, thank you, Mr. Clizer, and thank you, Judge.

REGULATORY LAW JUDGE PRIDGIN: Commissioner Holsman, thank you. Any questions, Commissioner Kolksmeyer?

COMMISSIONER KOLKMEYER: No questions, Judge. Thank you.

REGULATORY LAW JUDGE PRIDGIN: Thank you, Commissioner. Commissioner Mitchell, any questions?

COMMISSIONER MITCHELL: Thank you, Judge. Just -- just a couple. And I do think that the incentive mechanism really has -- has had the effect of disincentivizing construction of new -- new capacity, especially for West; and you mentioned in your presentation that the two new CCNs were already baked into the load forecast and that the load forecast still shows the demand will outpace the ability to generate it, so how much is that difference?

MR. CLIZER: So, other than just pointing back to the graph, I'm not sure that I come up with the numerical value off the top of my head. I would strongly encourage you to examine the testimony of Ms. Mantle, because she goes into detail of that graph, as well as several others that are identified in there that kind of explain what those differences are. I would also, again, encourage you to review the IRP that has been filed by Evergy West, which is where that graph originates from and you can give more background there. As long as -- as well as the comments that have been filed in that case by OPC. I think Staff has filed comments as well as any other intervenors. So, sorry I can't give you an exact number off the top of my head, but that's the places where you would be best suited to find them.

COMMISSIONER MITCHELL: Thank you. And, also, I think -- I think that one possible outcome is that the incentive mechanism may incent (sic) the overstatement of, you know, the net base energy costs. So, I hope in our -- in your negotiations and the stipulation that there was a keen focus on what the -- what that estimate was and trying to be as accurate as possible in that estimate; and that's really not a question, I guess, just an expression of my concern about it.

MR. CLIZER: Sir, sometimes things are said that, boy, I'd love to comment at length on that, because what you just said is a fascinating topic, and it's actually addressed in testimony. I think both Mr. Ives on behalf of Evergy and Ms. Mantles on behalf of the OPC, have testimony alluding to concerns with parties, I'm going to use the term that was used in testimony, "manipulating" the base factor in ways that benefit one or both parties.

I could go on at length about what you just said, but I will not for the sake of everybody here.

MR. MITCHELL: Well, it's -- I mean, it's my hope that we have, you know, tightened that number down just as much as possible, because I think that has as big of an impact on anything we're talking about here, as does the split. Thank you.

REGULATORY LAW JUDGE PRIDGIN: Commissioner Mitchell, thank you. Any further Bench questions? Chair Hahn?

CHAIRPERSON HAHN: Sorry, as I got going, I kept thinking of more. Appreciate your indulgence, Mr. Clizer. We're talking about Evergy Missouri West, and it seems like to me where we are looking at this particular company clearly in this case; but I'm trying to keep the broader picture in mind. And the broader picture to me is that perhaps that Evergy Missouri West is not unique, in fact, in being short on capacity. And, so, whenever we're talking about decisions from 2007 or 2018, I'm trying to put those in context as how those decisions would also relate to any other utility and any other utility decision maker at the time. I had already asked about 2007, but, now, I'm going to ask about 2018, when Sibley was retired.

Tell me about load growth and load growth protections at the time.

MR. CLIZER: And that was the case where I can say authoritatively that, yes, Evergy Missouri West was expecting or experiencing load growth at that period of time. Now, I'm going to caution this: the Sibley issue was heavily litigated, and there are a number of strong feelings on every side with regard to this.

I don't intend to rehash our position, especially given that, you know, Evergy hasn't had a chance to come up and tell their side of story on that; so, I'm going to -- I'm cautious -- I'm tiptoeing around here because I don't want to get into the weeds, if you'll pardon me on that. But to answer the direct question, load growth was expanding at that point in time.

CHAIR HAHN: I just to keep that -- I

wanted to know that because generally load growth for that entire decade was flat. So, I'm trying to understand -- I'm just trying to understand the context. The other part, and Commissioner Holsman mentioned it a little bit, but in your response to Commissioner Holsman, you had mentioned Evergy West in Evergy's credit profile in the downgrade; and, particularly, highlighted the Kansas decision on that credit profile. But I think there are several other factors that went into that credit profile downgrade, specifically the Evergy storm Uri securitization appeal was also noted in that downgrade; and the regulator lag and unregulatory environments in which the company operates.

And, so, I think whenever we're making these decisions, I want to try to make sure that we keep the broader picture in mind. They're going to be building a couple gas plants; they're going to have capital. If they have to attract capital at a higher cost, that will impact rate payers. Do you view that similarly or differently?

MR. CLIZER: So, first of all, you know, I think a couple of reasonable minds are going to disagree on what exactly is driving the cost of that impact. The report that I think I'm referring to, if I remember correctly, was a Bank of America report, and I will absolutely concede with you that the discussion of the appeal or, rather, the delay in recovery of winter storm Uri costs was a line in that; however, the majority of the report focused primarily on the impact of Kansas. And we can further expect that would be the primary cost driver for the simple reason that Uri was a one-time cost. It was something, you know, that hit their books, but then would have eventually gone off. Whereas in Kansas, what you had is a decrease in ongoing costs, and the primary thing, you know, thing an analysis is going to look at in determining the health of a company is what they're ongoing revenues versus expenses are.

So, I appreciate, and I think, you know, we're going to agree to disagree on what was primarily driving that downgrade. I don't want to get too into the weeds on that. At a high level, would increasing costs or capital result in increases to customers? You know, if the Commission were to allow those increase of cost of capitals to flow through in a higher ROR, then technically, yes.

But, again, I push back strenuously on the argument that is actually going to have that results. I think that when you're viewing Evergy as a hole, the actual issue and the company, the impact this decision will have will be minimal compared to other decisions for other components and factors related to their ability to sell themselves in the market. I also, again, stress to you this idea that the company is free to change its position, and the Commission is free to change its decision after the fact.

We're just asking for the Commission to do something to encourage the company to take a different approach in how its managing fuel and purchase power to solve this problem that we think has existed and persisted for well over a decade. Does that answer your question?

CHAIRPERSON HAHN: I think I got, we view it differently.

MR. CLIZER: I think we view the very

specific issue of why exactly investor analysts may have downgraded Evergy differently, yes.

CHAIRPERSON HAHN: Thank you.

REGULATORY LAW JUDGE PRIDGIN: Chairman Hahn, thank you. Any further Bench questions? All right, hearing none, Mr. Clizer, thank you very much. Is there anything further either from counsel or from the Bench before we go off the record?

MS. WHIPPLE: Not for the company, thank you.

REGULATORY LAW JUDGE PRIDGIN: Thank you. And, again, I understand the parties plan on filing a pleading, as I understand it, that will simply list the exhibits that they wish to have admitted into the record rather than take that up here; is that correct?

MR. PRINGLE: Yes, Judge. Thank you.

REGULATORY LAW JUDGE PRIDGIN: I will look forward to seeing that pleading, and anything further from counsel or from the Bench before we go off the record? All right --

COMMISSIONER MITCHELL: Nothing, Judge.

REGULATORY LAW JUDGE PRIDGIN: All right, thank you very much. Hearing nothing, that concludes this hearing. Thank you so much. We are off the record.

·(Whereupon, the hearing adjourned at 10:48 a.m.)

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EXHIBITS

(No exhibits proffered.)

I, Colin Wallis, in and for the State of Missouri do hereby certify that the witness whose testimony appears in the foregoing Examination Under Oath was duly sworn by me; that the testimony of the said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this examination was taken, and further that I am not relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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