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

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| 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** |

**STAFF'S POST-HEARING BRIEF**

Respectfully Submitted,


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Missouri Public Service Commission


November 1, 2024

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## STAFF'S POST-HEARING BRIEF

**COMES NOW** Staff of the Missouri Public Service Commission ("Staff"), by and through undersigned counsel, and for its *Post-Hearing Brief* states as follows:

## INTRODUCTION

In this general rate case, the Commission must exercise its delegated authority to set prospective rates for Evergy Missouri West, Inc. d/b/a Every Missouri West ("EMW" or the "Company") a task that involves balancing the interests of ratepayers, the utility, and a myriad of other intervening parties with disparate interests and differing ideas about the issues and policies presented. The Commission must weigh the evidence presented before it to come to its ultimate goal in setting rates that are "just and reasonable", which is a rate that provides sufficient revenue to cover EMW's costs in providing electric service, allows EMW shareholders a reasonable opportunity to earn a fair return on their investment, but is no more than necessary to meet those goals, which protects the rate-paying residents and businesses EMW serves.[1]

On October 2, 2024, the parties to this case filed a *Unanimous Stipulation and Agreement* and a *Non-Unanimous Stipulation and Agreement Regarding Pensions and Other Post-Employment Benefits*. These two filings resolved almost all of the issues

[1] Mo. Rev. Stat. § 393.130 and § 393.140.

submitted by the parties on September 19, 2024, with the exception of Issue No. 3.A, which involves the Company's Fuel Adjustment Clause ("FAC"). This issue asks:

> **What sharing ratio between EMW and its customers should the Commission order as an incentive mechanism in EMW's FAC?**

The Commission held an evidentiary hearing regarding this issue on October 3, 2024. Staff, EMW, the Office of the Public Counsel ("OPC"), and the Midwest Energy Consumers Group ("MECG") participated. Staff, EMW, and OPC put forward opening statements outlining the issue to the Commission, and requested the Commission resolve this issue on briefs.

In short, the Commission should order the current sharing ratio of 95/5 be continued, and reject OPC's recommendation of a 75/25 sharing ratio. While the Commission has the discretion to change the sharing ratio as it sees fit "to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities"[2] and to "align the interests of the electric utility's customers and shareholders,"[3] the record does not support any such change to the sharing ratio at this time.

## ARGUMENT

EMW is a public utility, and an electric corporation, as those terms are defined in Section 386.020(15) and (43), RSMo. As such, EMW is subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, RSMo.

[2] Mo. Rev. Stat. § 386.266.1, RSMo.
[3] Commission Rule 20 CSR 4240-20.090(14).

Guidance regarding how to set the sharing ratio under the FAC can be found under § 386.266, RSMo, and Commission Rule 20 CSR 4240-20.090. Section 386.266.1, RSMo states:

> The Commission may, in accordance with existing law, include in such rate schedules features designed to provide the electrical corporation with incentives **to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities**. (emphasis added)

Commission Rule 20 CSR 4240-20.090(14) states:

> Incentive Mechanism or Performance Based Program. During a general rate proceeding in which an electric utility has proposed establishment or modification of a [Rate Adjustment Mechanism], or in which a RAM may be allowed to continue in effect, any party may propose for the commission's consideration incentive mechanisms or performance-based programs to improve the efficiency and cost effectiveness of the electric utility's fuel and purchased power procurement activities and/or off-system sales activities. (A) The incentive mechanisms or performance-based programs may or may not include some or all components of base energy costs. **(B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders**. (emphasis added)

EMW's current sharing ratio is set at 95/5. The way the ratio works is, when there is an under recovery, the customers have to pay back 95% of the under-recovered costs, while the company pays the other 5%. When there is an over recovery, 95% goes back to the customers, while the company gets to keep 5% of the over recovery.[4]

EMW has employed the 95/5 ratio since the Commission first authorized the Company's use of a FAC in Case No. ER-2007-0004. To date, EMW has seen 34 accumulation periods since receiving authorization from the Commission for the FAC. The chart below illustrates the under- and over-recoveries experienced by EMW:

[4] Ex. 119, *Rebuttal Testimony of Kevin D. Gunn*, pg. 5, ln. 11-23.

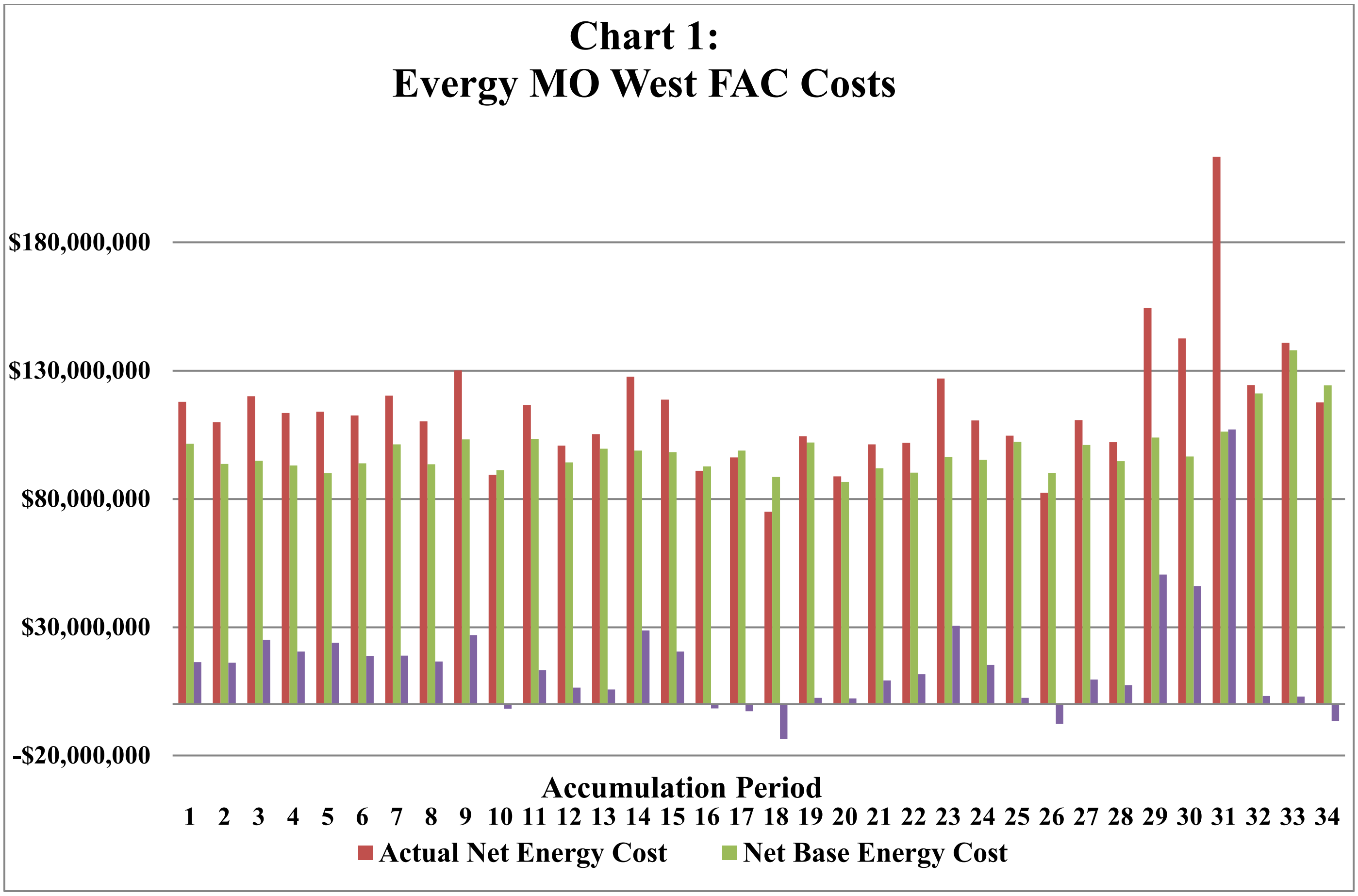
Chart 1:
Evergy MO West FAC Costs
$180,000,000
$130,000,000
$80,000,000
$30,000,000
-$20,000,000
Accumulation Period
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34
Actual Net Energy Cost
Net Base Energy Cost

The specific monetary amounts under- or over-recovered can be seen in the table below:[5]

| Accumulation Period | Actual Net Energy Cost | Net Base Energy Cost | Under - (Over-) Recovery |
|---|---|---|---|
| 1 | $ 117,809,819 | $ 101,478,006 | $ 16,331,813 |
| 2 | $ 109,847,375 | $ 93,671,092 | $ 16,176,284 |
| 3 | $ 120,039,008 | $ 94,873,470 | $ 25,165,538 |
| 4 | $ 113,440,222 | $ 92,972,325 | $ 20,467,897 |
| 5 | $ 113,995,856 | $ 90,058,212 | $ 23,937,644 |
| 6 | $ 112,560,410 | $ 93,894,400 | $ 18,666,010 |
| 7 | $ 120,235,031 | $ 101,303,473 | $ 18,931,558 |
| 8 | $ 110,179,611 | $ 93,494,876 | $ 16,684,735 |
| 9 | $ 130,073,430 | $ 103,139,748 | $ 26,933,682 |
| 10 | $ 89,353,904 | $ 91,159,423 | $ (1,805,519) |
| 11 | $ 116,678,200 | $ 103,409,930 | $ 13,268,270 |
| 12 | $ 100,794,426 | $ 94,293,223 | $ 6,501,203 |
| 13 | $ 105,241,602 | $ 99,512,692 | $ 5,728,910 |
| 14 | $ 127,613,259 | $ 98,839,605 | $ 28,773,654 |
| 15 | $ 118,720,804 | $ 98,188,263 | $ 20,532,541 |
| 16 | $ 90,987,167 | $ 92,664,547 | $ (1,677,380) |
| 17 | $ 96,132,466 | $ 98,898,811 | $ (2,766,345) |
| 18 | $ 74,963,107 | $ 88,606,049 | $ (13,642,942) |
| 19 | $ 104,450,813 | $ 101,945,204 | $ 2,505,609 |
| 20 | $ 88,811,581 | $ 86,646,151 | $ 2,165,430 |
| 21 | $ 101,262,789 | $ 91,974,053 | $ 9,288,736 |
| 22 | $ 101,881,736 | $ 90,247,688 | $ 11,634,048 |
| 23 | $ 126,967,988 | $ 96,388,090 | $ 30,579,898 |
| 24 | $ 110,543,085 | $ 95,264,354 | $ 15,278,731 |
| 25 | $ 104,627,314 | $ 102,180,758 | $ 2,446,556 |
| 26 | $ 82,423,213 | $ 90,121,271 | $ (7,698,058) |
| 27 | $ 110,662,965 | $ 101,046,332 | $ 9,616,633 |
| 28 | $ 102,054,285 | $ 94,667,941 | $ 7,386,344 |
| 29 | $ 154,378,423 | $ 103,877,144 | $ 50,501,279 |
| 30 | $ 142,587,458 | $ 96,513,978 | $ 46,073,480 |
| 31 | $ 213,325,427 | $ 106,268,999 | $ 107,056,428 |
| 32 | $ 124,394,491 | $ 121,175,931 | $ 3,218,560 |
| 33 | $ 140,873,518 | $ 137,973,113 | $ 2,900,405 |
| 34 | $ 117,620,217 | $ 124,225,291 | $ (6,605,074) |

[5] This table does not include Winter Storm Uri costs during AP28, and AP31 includes $85,420,087 of actual costs that were instead deferred for recovery during AP32 (Case No. ER-2023-0444) and AP33 (Case No. ER-2024-0205).

While the above numbers do not take into account a sharing ratio, EMW has over-recovered only six times since receiving authorization for its FAC, and under-recovered 28 times.

In her direct testimony, OPC witness Lena Mantle states that "the current sharing mechanism of 95% customers/5% Evergy West [sic] has not provided Evergy West enough of an incentive to prudently meet the energy needs of its customers."[6] This argument is a continuation of one Ms. Mantle has brought up in previous prudence review cases regarding EMW's FAC, specifically that EMW "has been imprudent in its resource planning decisions to rely on the SPP [Southwest Power Pool] energy market to meet the energy needs of its customers instead of building or acquiring cost-effective generation."[7]

Despite Ms. Mantle's concerns, the Commission has never found EMW imprudent for resource planning decisions that rely on the SPP energy market to meet the Company's energy needs in lieu of building or acquiring cost-effective generation.[8] While EMW has seen three disallowances since the inception of its FAC, none were specific to EMW not acquiring enough generation to meet the energy needs of its customers.[9]

Even though the Commission has rejected this argument in the past, OPC is recommending an extreme sharing ratio of 75/25. This is a departure not just from the norm, but the most recent Commission order regarding EMW's sharing ratio from Case No. ER-2012-0175, in which an alternative sharing ratio of 85/15 was proposed. In its *Report and Order*, the Commission concluded that:

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[6] Ex. 300, *Direct Testimony of Lena Mantle*, pg. 8, ln. 5-7.
[7] Ex. 238, *Rebuttal Testimony of Brooke Mastrogiannis*, pg. 7, ln. 1-4.
[8] *Id*, ln. 5-7; See also *Report and Order*, Case No. EO-2023-0277.
[9] *Id*, ln. 10-18; See also *Report and Order*, Case No. EO-2020-0262, and *Report and Order*, Case No. EO-2022-0065.

> … GMO's current FAC sharing percentages of 95%-5% better support safe and adequate service at just and reasonable rates than 85%-15%, so the Commission will order GMO's current percentages for GMO's FAC.[10]

This same split has also been consistently ordered by the Commission for the state's other investor-owned, regulated electric utilities. In regards to Union Electric Company d/b/a Ameren Missouri ("Ameren"), the Commission has rejected past proposals to adjust the FAC sharing mechanism from 95/5 to 90/10 and 85/15.[11] In the Commission's most recent decision for Ameren regarding a 95/5 sharing mechanism, Case No. ER-2019-0335, the Commission ruled that:

> Fuel costs are regularly lower than estimated and there was no evidence that the 85/15 sharing percentages would improve the company's efficiencies…The Commission determines that the 95/5 sharing mechanism remains appropriate for all the same reasons it was found appropriate in those prior Commission decisions.[12]

In regards to The Empire District Electric Company d/b/a Liberty ("Empire"), the Commission found in Case No. ER-2019-0374 that "the 95/5 sharing ratio provides Empire sufficient incentive to operate at optimal efficiency and still provides an opportunity for Empire to earn a fair return on its investment."[13]

As shown above, 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 with a FAC. The OPC has not provided sufficient evidence to justify a change of the sharing mechanism at this time.

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[10] *Id*, pg. 8, ln. 7-12. See also *Report and Order* in Case No. ER-2012-0175, pgs. 61-62. EMW was known as KCP&L Greater Missouri Operations ("GMO") at the time of the above case.
[11] *Report and Order*, Case No. ER-2019-0335, pg. 7, para. 8 and pg. 13.
[12] *Id*, pgs. 12-13.
[13] *Report and Order*, Case No. ER-2019-0374, pg. 62.

Further, under both Section 386.266.1, RSMo and Commission Rule 20 CSR 4240-20.090(14), the clear guidance is to ensure that the mechanism aligns the interests of the electric utility's shareholders and customers. A 75/25 sharing ratio would be more extreme than most other states. [14] As explained in Staff witness Brooke Mastrogiannis' rebuttal testimony, many states have the ratio set at 95/5 or higher.[15] Evergy witness Kevin Gunn goes into even further detail regarding other states in his rebuttal testimony, pointing out that only 8 of 52 US jurisdictions utilize a FAC sharing mechanism, and none come close to reflecting the proposal put forward by OPC.[16]

Ms. Mantle included an illustration of total FAC-build cost in her direct testimony.[17] Per Commissioner Mitchell's request,[18] below are tables showing an illustrative example of how EMW's FAC may work at OPC's requested 75/25 sharing ratio:

| **Change in ANEC** | **NBEC** | **ANEC** | **FAC amount billed** | **Total billed** | **FAC cost recovered** |
|---|---|---|---|---|---|
| 50% decreased | $ 1,000,000 | $ 500,000 | $ (375,000) | $ 625,000 | 125% |
| 40% decreased | $ 1,000,000 | $ 600,000 | $ (300,000) | $ 700,000 | 117% |
| 30% decreased | $ 1,000,000 | $ 700,000 | $ (225,000) | $ 775,000 | 111% |
| 20% decreased | $ 1,000,000 | $ 800,000 | $ (150,000) | $ 850,000 | 106% |
| 10% decreased | $ 1,000,000 | $ 900,000 | $ (75,000) | $ 925,000 | 103% |
| same | $ 1,000,000 | $ 1,000,000 | $ - | $ 1,000,000 | 100% |
| 10% increase | $ 1,000,000 | $ 1,100,000 | $ 75,000 | $ 1,075,000 | 98% |
| 20% increase | $ 1,000,000 | $ 1,200,000 | $ 150,000 | $ 1,150,000 | 96% |
| 30% increase | $ 1,000,000 | $ 1,300,000 | $ 225,000 | $ 1,225,000 | 94% |
| 40% increase | $ 1,000,000 | $ 1,400,000 | $ 300,000 | $ 1,300,000 | 93% |
| 50% increase | $ 1,000,000 | $ 1,500,000 | $ 375,000 | $ 1,375,000 | 92% |

And here is the same table showing the same illustrative example of how EMW's FAC works at the current 95/5 sharing ratio:

[14] Ex. 238, pg. 12, ln. 1-3.
[15] *Id*, ln. 3-4.
[16] Ex. 261, *Surrebuttal Testimony of Brooke Mastrogiannis*, pg. 3, ln.13-16; see also Ex. 119, pg. 9-10.
[17] Ex. 300, pg. 21.
[18] Transcript Vol. VIII, pg. 20, ln. 10-25 and pg. 21, ln. 1-8.

| Change in ANEC | NBEC | ANEC | FAC amount billed | total billed | FAC cost recovered |
|---|---|---|---|---|---|
| 50% decreased | $ 1,000,000 | $ 500,000 | $ (475,000) | $ 525,000 | 105% |
| 40% decreased | $ 1,000,000 | $ 600,000 | $ (380,000) | $ 620,000 | 103% |
| 30% decreased | $ 1,000,000 | $ 700,000 | $ (285,000) | $ 715,000 | 102% |
| 20% decreased | $ 1,000,000 | $ 800,000 | $ (190,000) | $ 810,000 | 101% |
| 10% decreased | $ 1,000,000 | $ 900,000 | $ (95,000) | $ 905,000 | 101% |
| same | $ 1,000,000 | $ 1,000,000 | $ - | $ 1,000,000 | 100% |
| 10% increase | $ 1,000,000 | $ 1,100,000 | $ 95,000 | $ 1,095,000 | 100% |
| 20% increase | $ 1,000,000 | $ 1,200,000 | $ 190,000 | $ 1,190,000 | 99% |
| 30% increase | $ 1,000,000 | $ 1,300,000 | $ 285,000 | $ 1,285,000 | 99% |
| 40% increase | $ 1,000,000 | $ 1,400,000 | $ 380,000 | $ 1,380,000 | 99% |
| 50% increase | $ 1,000,000 | $ 1,500,000 | $ 475,000 | $ 1,475,000 | 98% |

The net base energy costs are already built into base rates and charged to customers monthly. Fuel adjustment rates ("FAR") are filed and updated on a bi-annual basis. So, for example, $1,000,000 is already built into base rates. But for that particular FAR filing, costs decreased 50%, and only $500,000 of actual net energy costs were incurred.

If EMW had a 75/25 sharing mechanism, customers would receive $375,000 back in a FAR, for a total amount billed of $625,000 ($1,000,000 collected with base rates, minus the $375,000 returned in the FAR filing).

On the other hand, if EMW had a 95/5 sharing mechanism, customers would receive $475,000 back in a FAR, for a total amount billed of $525,000 ($1,000,000 collected with base rates, minus the $475,000 returned in the FAR filing).

In another example, costs increased 50%, so $1,500,000 of actual net energy costs were incurred. If EMW had a 75/25 sharing mechanism, customers would pay $375,000 back to the Company through a FAR filing, for a total amount billed of $1,375,000 ($1,000,000 collected with base rates, plus another $375,000 in the FAR filing).

On the other hand, if EMW had a 95/5 sharing mechanism, customers would pay $475,000 back to the Company through a FAR filing, for a total amount billed of $1,475,000 ($1,000,000 collected with base rates, plus another $475,000 in the FAR filing).

## CONCLUSION

Staff recommends that the Commission issue an order maintaining the current FAC sharing ratio of 95/5 for EMW. Such an order will be aligned with past Commission decisions, and be consistent with the Commission's treatment of the FAC sharing ratio for the other regulated electric utilities. Staff has not found sufficient evidence to support a recommendation to change the sharing mechanism at this time.

Respectfully submitted,

**/s/ Travis J. Pringle**
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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all parties and/or counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 1st day of November, 2024.

**/s/ Travis J. Pringle**