

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

In the Matter of Evergy Missouri West, Inc.)
d/b/a Evergy Missouri West’s Request for) **File No. ER-2024-0189**
Authority to Implement a General Rate)
Increase for Electric Service)

CLARKSDALE PUBLIC UTILITIES COMMISSION
APPLICATION TO INTERVENE REGARDING A
PARTICULAR ISSUE

The Clarksdale Public Utilities Commission (“CPUC”), hereby moves pursuant to 20 CSR 4240-2.075 to Intervene in the above referenced case regarding Issue No. 5 “Crossroads” as identified in the “Unanimous Stipulation and Agreement” filed herein on October 2, 2024, and incorporated by reference at Pages 5 and 11 of this Commission’s Report and Order issued December 4, 2024, effective December 14, 2024. In support, the CPUC states the following:

1. On February 2, 2024, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“Evergy”) filed this general rate case.
2. On February 5, 2024, the Commission issued its “Order Giving Notice, Setting a Deadline to Intervene, Setting a Deadline to Respond to the Test Year, and Directing a Proposed Schedule.” The Order set a deadline of February 20, 2024 for all applications to intervene.
3. CPUC did not receive Notice of this case, and to this date has not received legal Notice of this case.
4. CPUC is the commission created by the Board of Mayor and Commissioners of the City of Clarksdale, Mississippi, pursuant to the Municipally Owned Utilities Act of Mississippi, Section 21-27-11 *et seq*, Mississippi Code 1972, to operate, maintain, control and manage the electric utility systems (as well as the other utility systems) of the City of Clarksdale, Mississippi. The City of Clarksdale is a member of the Mississippi Delta Energy Agency (“MDEA”), a joint action agency of the State of Mississippi created pursuant to the Joint Municipal Electric Power and

Energy Law, Section 77-5-701, Mississippi Code of 1972. Pursuant to the Joint Ownership Contract dated June 15, 2001, CPUC and MDEA planned, constructed and own the properties forming the Crossroads Project, which consists of the Crossroads Project Generation, title to which is in the City of Clarksdale, Mississippi, and the Crossroads Project Transmission, title to which is in MDEA, with CPUC in its individual capacity acting as agent for MDEA. CPUC's contact information is: 416-420 Third Street, P.O. Box 70, Clarksdale, MS 38614, 662-627-8401, website: <http://cdpu.net>.

5. Correspondence, communications, orders, and the decision in this matter should be addressed to:

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6. At Page 6 of Evergy's "Statement of Positions" filed herein on September 23, 2024, Evergy stated that "Crossroads is an owned plant and not a PPA...."

7. However, although CPUC and Evergy's predecessor Aquila, Inc. executed their "Generation Option Agreement" on March 28, 2008, in which the parties acknowledged that Aquila expressed an interest in acquiring an option to acquire title to CPUC's Project Generation, and CPUC expressed an interest in granting Aquila that Option, said Option has never been exercised.

8. CPUC thus retains ownership of certain assets of the Crossroads Project Generation.

9. Further, Section 8.3 of the "Generation Option Agreement" mandates the application of Mississippi law in Mississippi state or federal courts for any litigation arising between its parties, while Exhibit E to that Agreement evidences the parties' intent that the Crossroads facility remain at its location in Mississippi even if the Option is exercised.

10. On November 4, 2024, CPUC acquired knowledge (rather than legal Notice) of this case via an email from an Evergy employee. In the time since November 4, 2024, CPUC has had to locate and retain Missouri counsel to represent its interests in this case.

11. Given that CPUC retains ownership of certain assets of the Crossroads Project Generation, CPUC's right and title to said assets are now threatened by the "Unanimous Stipulation and Agreement" filed by the parties in this case and incorporated by reference into this Commission's Report and Order, which details a process for "relocating Crossroads to a site in the Southwest Power Pool ('SPP') footprint."

12. Said "Unanimous Stipulation and Agreement," as incorporated within this Commission's Report and Order, establishes an open docket and open record of evidence regarding this "Crossroads Issue" that continues through November 7, 2025.

13. Consequently, given the open docket, open record of evidence and 11-month time period established for this "Crossroads Issue," CPUC reasonably argues that its application to intervene is timely because not precluded by the February 20, 2024 deadline originally set for all issues in this case which was filed as a general rate case.

14. Alternatively, CPUC seeks intervention in this case outside of the original time period established for such intervention pursuant to 4 CSR 240-2.075(10) which authorizes the Commission to grant this Application to Intervene at this time "upon a showing of good cause," and CPUC references the facts set forth in Paragraphs 4 and 6 - 13 herein as evidence of said "good cause."

15. CPUC understands that this Commission's jurisdiction, supervision powers and duties are statutorily established, and limited to "persons or corporations owning, leasing, operating or controlling" the "manufacture, sale or distribution of ...electricity...within the state" of Missouri. Section 386.250, *Revised Statutes of Missouri*.

16. CPUC, as a commission created by the Board of Mayor and Commissioners of the City of Clarksdale, Mississippi, pursuant to the Municipally Owned Utilities Act of Mississippi,

Section 21-27-11 *et seq*, Mississippi Code 1972, a member of MDEA, a joint action agency established pursuant to the Joint Municipal Electric Power and Energy Law, Section 77-5-701 *et seq*, Mississippi Code 1972, and an owner of certain Crossroads Project assets located in Mississippi, is not therefore subject to the jurisdiction of this Commission.

17. However, solely for this case and the purposes identified herein, CPUC submits to this Commission’s jurisdiction as a “person entitled to be heard” under this Commission’s authority via Section 386.420.1, *Revised Statutes of Missouri*.

18. Once a prospective party “first challenges the court’s jurisdiction, he may then ‘enter and probe into the merits of the case without the necessity of making the time-honored special appearance’ or reserving the jurisdictional point at each stage of the procedure.” *Farris v. Boyke*, 936 S.W.2d 197, 203 (Mo. App. S.D. 1996).

19. As an owner with legal title to certain Crossroads assets, CPUC’s interests in this case are unique and cannot be reasonably represented by any other entity.

20. CPUC’s requested intervention would serve the public interest by protecting the legal rights of all interested entities, and by providing a full and fair record of evidence on this issue in this case upon which this Commission could enter a lawful and reasonable Report and Order.

21. Given that its ownership rights have been disregarded by the parties, CPUC’s initial position in this case must be in opposition to the parties’ proposal to “relocate Crossroads to a site in the Southwest Power Pool (“SPP”) footprint.” However, CPUC welcomes discussion with the parties.

22. CPUC hereby affirmatively accepts the record established in this case to date with the understanding that the record of evidence remains open. CPUC also accepts the requirements of all orders of the Commission that predate this Application to Intervene, on the understanding that the Commission has not entered a final order regarding the “Crossroads Issue” and will not do so until

the expiration of the discovery and hearing process set forth at Pages 2 – 4 of the parties’ “Unanimous Stipulation and Agreement” which was incorporated by reference into the Commission’s Report and Order. Furthermore, given the 11-month ongoing time period established for this “Crossroads Issue,” CPUC’s intervention will not unduly delay or prejudice the adjudication of the rights of the current parties.

WHEREFORE, the Clarkdale Public Utilities Commission requests that it be granted intervention as requested herein.

Respectfully submitted,

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Dated: December 14, 2024

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 14th day of December, 2024.

/s/ Peggy A. Whipple
Peggy A. Whipple