MISSOURI COURT OF APPEALS
WESTERN DISTRICT

OFFICE OF PUBLIC COUNSEL and MIDWEST ENERGY CONSUMERS GROUP; MISSOURI PUBLIC SERVICE COMMISSION,

Respondent,

v.

EVERGY MISSOURI WEST, INC. f/k/a KCP&L GREATER MISSOURI OPERATIONS COMPANY,

Appellant.

DOCKET NUMBER WD83319

Date: July 28, 2020

Appeal from:

Public Service Commission

Appellate Judges:

Division Two: Mark D. Pfeiffer, P.J., and Alok Ahuja and Gary D. Witt, JJ.

Attorneys:

Karl Zobrist, Jacqueline M. Whipple, Robert J. Hack, Roger W. Steiner, Kansas City, Missouri, for appellant

Shelley E. Brueggemann, John D. Borgmeyer, Jennifer L. Heintz, Jefferson City, Missouri, for PSC

Caleb Hall, Jefferson City, Missouri, for Office of Public Counsel

David L. Woodsmall, Jefferson City, Missouri, for Midwest Energy

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

OFFICE OF PUBLIC COUNSEL and MIDWEST ENERGY CONSUMERS GROUP; MISSOURI PUBLIC SERVICE COMMISSION, Respondent,
v.
EVERGY MISSOURI WEST, INC. f/k/a KCP&L GREATER MISSOURI OPERATIONS COMPANY, Appellant.

WD83319 Public Service Commission

Before Division Two Judges: Mark D. Pfeiffer, P.J., and Alok Ahuja and Gary D. Witt, JJ.

In November 2018, Evergy Missouri West, Inc. retired its Sibley coal-fired power plant – the largest generating facility in Evergy's system. At the time of the retirement, the largest generating unit at Sibley had more than 20 years remaining in the useful life Evergy had attributed to it in 2016, and the plant had a net book value of more than $140 million. Moreover, the costs associated with operating the Sibley plant had been considered in setting Evergy's rates in its 2018 rate case; those rates did not become effective until *after* the retirement of the plant. The rates set in Evergy's 2018 rate case are non-modifiable for a period of three years.

During Evergy's 2018 rate case, the Office of Public Counsel ("OPC") had argued that, because of the plant's impending retirement, "no [Sibley-related] operations or maintenance expense should be included in the costs of service used for setting rates in these cases." Evergy opposed OPC's suggestion, arguing that the Sibley plant retirement was not certain to occur.

The parties entered into a series of stipulations to resolve Evergy's 2018 rate case. In one of those stipulations, the parties acknowledged that costs associated with operating the Sibley plant were reflected in the rates established in the 2018 rate case. The parties agreed, however, that "[t]his Stipulation does not preclude any Signatory from proposing an accounting authority order ('AAO'), or any other ratemaking treatment, for the recovery of any . . . costs associated with" the Sibley retirement, should it occur.

After the tariffs resulting from Evergy's rate case were approved, and the Sibley retirement became effective, the Office of Public Counsel and Midwest Energy Consumers Group petitioned the Public Service Commission ("PSC") to

establish an AAO for the cost savings Evergy was experiencing as a result of the Sibley plant's retirement. The Commission granted the request, and ordered an AAO to be established.

Evergy appeals.

AFFIRMED.

Division Two holds:

Generally, under the Uniform System of Accounts which the PSC has prescribed for regulated utilities, net income must reflect all revenues and expenses experienced during a particular period. An exception exists for "extraordinary" items, which may be deferred for consideration in a future period.

The PSC lawfully and reasonably determined that the retirement of the Sibley plant was an "extraordinary" event, and that the cost savings from this extraordinary event should be captured in an AAO for consideration in Evergy's next general rate case. The aggregate financial impact of the plant's retirement exceeds five percent of Evergy's annual net income. Evergy had not retired *any* major generating facilities in the past 30 years. Moreover, the Commission also found that it was highly unusual to retire a generating plant with twenty years of remaining anticipated service life, and a net book value exceeding $100 million. The Commission also found that it was abnormal to retire a generating plant just after a rate case was resolved but before the new rates – which reflected the costs of operating the retired plant – became effective. Further, the parties in Evergy's 2018 rate case expressly contemplated that a party could seek imposition of an AAO for Sibley-related costs in the event the retirement of the plant actually occurred.

The PSC's Report and Order imposing an Accounting Authority Order is lawful, supported by sufficient and competent evidence, and consistent with the orders previously entered in Evergy's 2018 rate case. Moreover, the AAO does not modify the rates established by Evergy's 2018 rate case, or otherwise violate Missouri's forward-looking ratemaking principles.

Opinion by: Alok Ahuja, Judge July 28, 2020

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.