

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Petition of Evergy Kansas	]	
Central, Inc., Evergy Kansas South, Inc., and	]	
Evergy Metro, Inc. for Determination of the	]	
Rate-making Principles and Treatment that Will	]	Docket No. 25-EKCE-207-PRE
Apply to the Recovery in Rates of the Cost to be	]	
Incurred for Certain Electric Generation Facilities	]	
Under K.S.A. § 66-1239	]	

**BRIEF OF UNIFIED SCHOOL DISTRICT 259 IN OPPOSITION TO EVERGY'S  
PREDETERMINATION APPLICATION FOR GAS-FIRED GENERATING FACILITIES**

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Date: May 28, 2025

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PREDETERMINATION APPLICATION FOR GAS-FIRED GENERATING FACILITIES**

**I. Introduction**

Unified School District #259 Sedgwick County, Kansas (hereinafter "USD 259") comprises the Wichita Public School system and is the largest public school system in the state of Kansas, serving approximately 50,000 students. USD 259 is part of the public schools rate class, and is a significant user of electricity supplied by Evergy Kansas Central, having consumed approximately 74,004,463 kWh of electricity supplied at a cost of \$8,050,361.00 for the year 2023.

USD 259 is dependent primarily upon tax revenues to finance its mandated purpose of providing a quality education for Kansas students. The subject of the captioned docket could significantly impact USD 259 in how it deals with financing and structuring its budget in response to any order coming out of this docket. Addi Lowell, Chief Financial Officer of Wichita Public Schools, filed direct testimony in this docket on behalf of USD 259. Ms. Lowell's testimony generally outlined the difficult financial situations faced by public education institutions in Kansas that would result from the significant cost increase sought by Evergy in this docket and the detrimental results that an increase in electric utility rates would cause public schools.

Public Schools are already dealing with difficult budget issues: As discussed by Ms. Lowell, each Kansas school district has a local school board charged with a constitutional duty to

“maintain, develop and operate” local public schools.<sup>1</sup> School funding, however, has declined sharply at the same time as the school district is facing accelerating operating costs and increased education expectations.<sup>2</sup> Additionally, the end of historical federal pandemic relief funding has left USD 259, like many urban districts, experiencing enrollment decline with revenue shortfalls to make up for in limited budgeted funds.<sup>3</sup> USD 259 has already been forced to respond to increased costs by transferring funds from its General fund and Supplemental General fund just to cover the increasing costs of mandatory special education services, which leaves fewer dollars to support ongoing and increasing operational costs, let alone leave additional funds to meet staffing needs.<sup>4</sup>

Consequences of lower funding have and will continue to result in reductions in staff, increased class sizes per teacher, and cutting student activities and programs.<sup>5</sup> As it specifically relates to a high-needs school district like USD 259, it must offer better wages to attract well qualified teachers; however, USD 259 currently has almost 200 paraprofessional openings, 55 Special Education teacher vacancies, and 125 other teacher and support staff vacancies.<sup>6</sup> Increased overhead costs, such as paying higher utility rates, diverts limited funds from Kansas students and hinders USD 259’s ability to produce and educate a high skilled, high wage workforce.<sup>7</sup>

## **II. The Commission Should Deny Evergy’s Predetermination Application Related to the Gas-Fired Generating Facilities Because it is Not Supported By Substantial Evidence Indicating the Construction and Need for the Facilities is Reasonable, Reliable, and Efficient.**

Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “Evergy Kansas Central” or “EKC”) and Evergy Metro, Inc., d/b/a Evergy Kansas Metro (“Evergy Kansas Metro”

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<sup>1</sup> Addi Lowell Testimony (“AL-T”), 2:3-6.

<sup>2</sup> AL-T, 1:13-14.

<sup>3</sup> AL-T, 1:14-16.

<sup>4</sup> AL-T, 5:19-23.

<sup>5</sup> AL-T, 6:9-7-2.

<sup>6</sup> AL-T, 6:1-8; 8:16-21

<sup>7</sup> AL-T, 6:9-7-2.

or “EKM”) (EKC and EKM referred to together as “Evergy” or “Petitioners”) filed a Petition, pursuant to K.S.A. § 66-1239, with the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) requesting a determination of the ratemaking principles and treatment that will apply to the recovery in rates of the costs to be incurred in constructing and acquiring a 50% interest in a 710 MW combined cycle gas turbine (“CCGT”) located in Kansas near its Viola Substation (“Viola Generating Station” or “Viola Plant”) and a 50% interest in a second 710 MW CCGT located near Hutchinson, Kansas (“McNew Generating Station” or “McNew Plant”), as well as and its construction and ownership of approximately 200 MWDC (159 MWAC) of solar generation, known as the Kansas Sky generating resource (“Kansas Sky”). USD 259 does not oppose Evergy’s request related to the solar facility and has signed the Unanimous Settlement Agreement related to Kansas Sky. However, USD 259 opposes the requests related to the Viola Plant and McNew Plant (together the “Facilities”) as further stated herein.

As stated by Evergy in its Application, K.S.A. § 66-1239 authorizes a public utility, prior to acquiring a stake in a generating facility, to file with the Commission a petition for a determination of ratemaking principles and treatment to be applied to the recovery in rates of the cost to be incurred by the utility in acquiring such stake in the facility. [Evergy Application, ¶7]. In considering the utility’s preferred plan and resource acquisition strategy “the [C]ommission may consider if the public utility issued a request for proposal from a wide audience of participants willing and able to meet the needs identified under the public utility’s preferred plan, and if the plan selected by the public utility is reasonable, reliable and efficient.” K.S.A. § 66-1239(c)(3).

Further, K.S.A. § 66-101b requires electric utilities to provide “reasonably efficient and sufficient service” and to establish “just and reasonable rates.” The Kansas Supreme Court has explained that a just and reasonable rate is one that is “fixed within the ‘zone of reasonableness’

after the application of a balancing test in which the interests of all concerned parties are considered.” *Kansas Gas and Electric Co. v. KCC*, 239 Kan. 483, 720 P.2d 1063 (1983). This balancing test must take into account: (1) the utility’s investors vs. the ratepayers; (2) the present ratepayers vs. the future ratepayers; and (3) the public interest. *Id.*

Evergy’s proposed construction and acquisition of 50% in each of the two Facilities is not a “reasonable, reliable and efficient” proposal because:

- (a) the “need” or “demand” for additional power is highly speculative. Evergy has submitted testimony alleging it has an “expanding demand of . . . customers”<sup>8</sup> and it must “meet needs related to load growth”<sup>9</sup>. However, Evergy fails to demonstrate what or where the “expanding demand” and “load growth” are coming from. This simply confirms Evergy does not have a commitment, a contract or any other reliable illustration that they have future customers of loads that are large and needed to justify these Facilities.<sup>10</sup>;
- (b) there is not substantial evidence to confirm reliability of these Facilities because Evergy has not demonstrated it has secured an available firm gas supply, or that one is expected to become available in the planning period that is needed to operate the new Facilities;<sup>11</sup>
- (c) the cost of natural gas is expected to rise exponentially by 2050, as compared to prices of coal (\$10+/MMBtu v. \$4+/MMBtu, respectively);<sup>12</sup> and

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<sup>8</sup> Direct Testimony of Darrin Ives (“DI-T”), 17:9-10.

<sup>9</sup> DI-T, 26:7-8; *see also* DI-T at 27:11-13 (“we **believe** that the addition of one or more of these large customers is **highly likely** within the next three-year period”); DI-T at 29:21-22 (“there is a **strong possibility** that Evergy Metro will experience customer growth”)

<sup>10</sup> *See* Direct Testimony of Colin T. Fitzhenry (“CF-T”), 14:1-4 (“Recent load forecasts do not suggest that EKC will experience a significant capacity shortfall in the near-term period. In addition, a large portion of the new capacity is being constructed for non-retail customers. As discussed previously, alternative plans exist that would reduce risk and cost impacts for EKC ratepayers.”).

<sup>11</sup> Cross Answering Testimony of Michael P. Gorman (“MG-T”), 7:9-25.

<sup>12</sup> Supplemental Testimony of Michael P. Gorman (“MG-T2”), 4:7-13

(d) The current market uncertainty, including unpredictable and fluctuating tariffs, makes the construction of these two Facilities very economically risky at this time. This financial risk should not be imposed on retail ratepayers while Evergy stockholders share little, if any, risks for the costs of the Facilities.

**III. If the Commission is Motivated to Accept Evergy's Application in Whole or In Part, then the Commission Should Put the Risk of Work-in-Progress Costs on Evergy Investors.**

As stated above, USD 259 opposes the construction and acquisition of both gas-fired generating Facilities. However, should the Commission be motivated to accept Evergy's Application in whole or in part, then it should stage or draw out the implementation of the costs of Facilit(ies) such that rate payers are not paying the work in progress payments until there are large load customers signed up for the power and the Facilities are in use and useful. As stated above, the highly uncertain and volatile economic period prior to Evergy obtaining signed contracts from large demand users should be risks borne by Evergy investors, not ratepayers.

Simply stated, Evergy provides no identifiable customers for "large loads", nor demonstrates a firm gas supply source for these Facilities, and these are concerning facts the Commission should take into account during this economically uncertain time.

**IV. Conclusion**

WHEREFORE, USD259 request that the Commission deny Evergy's Application related to the Facilities as filed. The Application related to the Facilities is not supported by substantial evidence and will result in unjust and unreasonable rates, contrary to Kansas law. USD 259 requests such other and further relief as the Commission deems just and equitable.

Respectfully submitted,

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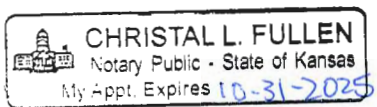
**VERIFICATION**


STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SEDGWICK    )

I, Timothy E. McKee, of lawful age, being first duly sworn, upon oath states: I am an attorney representing USD 259, and I have read the above BRIEF OF UNIFIED SCHOOL DISTRICT 259 IN OPPOSITION TO EVERGY'S PREDETERMINATION APPLICATION FOR GAS-FIRED GENERATING FACILITIES and know the contents and know that the statements made therein are true and correct, to the best of my knowledge and belief.

  
\_\_\_\_\_  
Timothy E. McKee, #07135

SUBSCRIBED AND SWORN to before me on this 22nd day of May 2025.



  
\_\_\_\_\_  
Notary Public

My Commission Expires: 10-31-2025



## **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 28th day of May, 2024, to the following:

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