

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

In the Matter of the Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs. )	)	Docket No. 25-EKME-315-TAR
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**REPLY OF PROPOSED INTERVENORS  
TO EVERGY'S RESPONSE TO OBJECTIONS  
TO PROCEDURAL SCHEDULE**

COMES NOW the following Intervenors:

Lawrence Paper Company ("LPC");  
Occidental Chemical Corporation ("Occidental");  
Kansas Industrial Consumers Group, Inc. ("KIC");  
Shawnee Mission School District ("USD 512");  
Blue Valley School District ("USD 229");  
Spirit AeroSystems ("Spirit"); and  
De Soto School District ("USD 232") (collectively, "Proposed Intervenors")

and state to the State Corporation Commission of the State of Kansas ("Commission" or "KCC")  
as follows:

1. Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Central, Inc. ("Evergy") filed an Application (as defined below) in this Docket No. 25-EKME-315-TAR ("Docket") on February 11, 2025 entitled: "Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs ("Application")."

2. The Application states, as follows:

"By this Application, Evergy seeks an order from the Commission approving, on an expedited basis, the Company's Large Load Power Service ("LLPS") Rate Plan, all accompanying new and modified tariffs, as

well as any additional or conforming tariff changes that are identified through the course of this proceeding that are needed to implement the LLPS Rate Plan.”<sup>1</sup>

3. The Application in this Docket is large in scope and complex in implementation, and includes consideration, and requested KCC approval, of the following:

“As part of this filing, the Company requests approval of the following new and modified tariffs included in this filing:

- New Tariffs - Base Tariffs to the LLPS Rate Plan
  - Schedule LLPS (Large Load Power Service)
  
- New Tariffs – Complementary Riders to the LLPS Rate Plan
  - Schedule SR (System Support Rider)
  - Schedule CCR (Customer Capacity Rider)
  - Schedule DRLR (Demand Response & Local Generation Rider)
  
- New Tariffs – Renewable/Carbon Free Attribute Procurement Riders Within the LLPS Rate Plan
  - Schedule CER (Clean Energy Choice Rider)
  - Schedule RENEW (Renewable Energy Program Rider)<sup>1</sup>
  - Schedule AEC (Alternative Energy Credit Rider)
  - Schedule GSR (Green Solution Connections Rider)
  
- Modified Tariffs to accommodate LLPS Rate Plan
  - Schedule LPS (Large Power Service)
  - Schedule ECA (Energy Cost Adjustment)
  - Schedule ILP (Industrial & Large Power)
  - Schedule RECA (Retail Energy Cost Adjustment)
  - Rules and Regulations”<sup>2</sup>

4. The Application includes the Testimony of three Evergy witnesses, and such witness testimony is 324 pages in length.

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<sup>1</sup> Evergy Application, ¶ 4.

<sup>2</sup> Evergy Application, ¶ 7.

5. The Application is interrelated with Evergy’s Application for Rate Increase (KCC Docket No. 25-EKCE-294-RTS) and requests “Expedited Treatment” for the following stated reasons:

“ . . . that the Commission issue an order by June 20, 2025. As explained in Mr. Ives testimony, Evergy requests expedited treatment: (1) to provide clarity and certainty to new customers that are actively considering locating in Evergy’s jurisdiction; **(2) to provide clarity and certainty to existing customers and other stakeholders regarding rate treatment; and, (3) to coordinate this filing with EKC’s imminent general rate case to ensure the Company’s ability to appropriately adjust rates for the proposed LLPS class based on the outcome of that rate case.**<sup>3</sup>

6. The proposed procedural schedule (Exhibit A to the Application): (a) provides for no initial testimony filed on behalf of either Intervenors or Staff; (b) provides for no discovery; (c) provides for no responsive testimony by either Evergy, the KCC Staff, or Intervenors; (d) provides for no Hearing; and (e) is abbreviated from the typical 6 to 8-month procedural schedule of the Commission to a highly abbreviated procedural schedule of 4 months.<sup>4</sup>

7. Prior to the filing of its Application on February 11, 2025, Evergy engaged for an undefined period of time, with KCC Staff, CURB, and prospective large load customers to discuss versions of the tariffs and riders, the final versions of which were later filed in this Docket. However, current retail ratepayers and Proposed Intervenors, were not included in such discussions.

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<sup>3</sup> Evergy Application, ¶ 10.

<sup>4</sup> February 11, 2025 Application filing date with a Commission Order date of June 20, 2025.

“We also worked to specifically focus on large load rate designs or rate-related agreements approved in other jurisdictions or agreed to by large load customers themselves, looking for existing or emerging industry practices and to ensure all aspects of large load customer service were being accounted for in the designs. With this information, we prepared initial drafts of the LLPS tariff and the associated riders. Versions of these tariffs and riders were shared, followed by stakeholder meetings with the Staff of the MPSC, Staff of the Kansas Corporation Commission, the Office of Public Council, the Citizens Utility Ratepayer Board, and prospective large load customers to discuss the designs. This interaction and feedback helped us to refine all parts of the LLPS Rate Plan.”<sup>5</sup>

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“Yes, the Company engaged with existing and potential large load customers to understand their expectations. Through its engagement with large load customers, the Company identified the various objectives I mentioned above as being some of the most important aspects of any offering the Company created.”<sup>6</sup>

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<sup>5</sup> Testimony of Evergy witness, Bradley D. Lutz, February 11, 2025, at p. 6. <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202502111454474408.pdf?Id=e2b7cad6-d907-4ddb-87ce-097112f74120> (emphasis added).

<sup>6</sup> Testimony of Evergy Witness, Jeff Martin, February 11, 2025, at pp. 6 – 7. <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202502111453473430.pdf?Id=eff0e137-7d2b-4c78-8fcd-b4b3e159cc60> (emphasis added).

**“Yes, the Company also engaged with the Commission Staff in both Kansas and Missouri, the Citizens’ Utility Ratepayer Board (“CURB”), and the Missouri Office of Public Counsel to get their input on a new rate offering for large load customers.”<sup>7</sup>**

8. The Citizens’ Utility Ratepayer Board (“CURB”) filed a Petition to Intervene in this Docket on February 13, 2025, stating in part as follows:

“The residential and small commercial ratepayers whose interests CURB represents will be bound by any Commission order or activity in this proceeding. The rates paid and the services received by residential and small commercial ratepayers may be substantially affected by any Commission order or activity in this proceeding with respect to Evergy’s proposed LLPS Rate Plan and associated tariffs, as described in its application.”<sup>8</sup>

CURB further stated in its Petition for Intervention, as follows:

“CURB therefore requests that the Commission grant CURB’s Petition to Intervene and participate fully in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings.”<sup>9</sup>

9. The Proposed Intervenors noted the following as to their stated interests in this Docket:

“This entitled Docket will involve both new tariff offerings and consideration of cost assignment for LLPS Rate Plan customers. Therefore,

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<sup>7</sup> *Id.* (emphasis added).

<sup>8</sup> CURB Petition for Intervention, ¶ 5.

<sup>9</sup> CURB Petition for Intervention, ¶ 9.

this Docket will directly affect the retail electric rates of all retail ratepayers currently on Evergy Kansas Metro, Evergy Kansas South, Inc., and Evergy Kansas Central, Inc.”<sup>10</sup>

10. On February 19, 2025, Wichita Public Schools filed its Petition for Intervention, stating in part as follows:

“The Application requests a significant increase in retail electric rates "for customers over 100 MW seeking to interconnect Evergy's Kansas systems." This docket will involve both new tariff offerings and consideration of cost assignment for LLPS Rate Plan customers. Therefore, this Docket will directly affect the retail electric rates of all retail ratepayers currently on EKC and EKM.”<sup>11</sup>

11. On February 20, 2025, KCC Staff filed its “STAFF’S RESPONSE TO EVERGY’S PROPOSED EXPEDITED PROCEDURAL SCHEDULE.” In its Response, KCC Staff stated in part as follows:

“Staff believes the proposed schedule is more expedited than tenable given several ongoing and anticipated major proceedings this year in the Utilities’ division. Staff requests more time be allowed for the Parties, several of whom have pending petitions for intervention, to attempt to collaborate before the Commission issues a decision on a procedural schedule. Staff’s hope is that the Parties will be able to confer in the coming weeks as interventions are processed and present an agreed-upon schedule, which may include an expedited timeframe depending on Staff, intervener, and

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<sup>10</sup> Proposed Intervenor’s Petition for Intervention, ¶ 3.

<sup>11</sup> USD 259 Petition for Intervention, ¶ 2.

Commission availability. Staff will work with the Parties to coordinate such discussions and will endeavor to provide an update or a recommended procedural schedule to the Commission by March 11, 2025.”<sup>12</sup>

**Response of Proposed Intervenors to Evergy**

12. Evergy first contends that if the new large load customers are forced to endure “the standard procedural schedule,” they might be forced to locate elsewhere.

13. It is impossible to prove or disprove whether a large load customer “might chose to locate elsewhere.” On its face, this language is highly conditional. Proposed Intervenors do not know the identities of these prospective large load customers.

14. Further, the record in this Docket does not indicate the beginning date of the process, that culminated in the filing of the proposed tariffs. The record indicates that discussions among Evergy and others prior to its filing of February 11, 2025. What is not known, is the duration of time of those discussions.

15. What Evergy does not say, is that this Docket is just as important (perhaps more so) to the one million customers of Evergy in Kansas, than it is to the perhaps 10 or so large customers – most of whom are likely data centers with 25 or fewer employees.

16. No reasonable person would consider this Docket so important to a few large customers, that the rights of one million retail ratepayers of Evergy in Kansas would be compromised.

17. Evergy proposed the following Procedural Schedule:

- February 11, 2025 – Filing of Application
- March 4, 2025 – Technical Conference / Initial Settlement Discussions
- April 4, 2025 – Staff Report and Recommendations
- April 16, 2025 – Intervenors Responses to Staff’s R & R

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<sup>12</sup> KCC Staff’s Response, ¶ 2.

- May 7, 2025 – Evergy’s Response to Staff and Intervenors
- May 14, 2025 - Settlement Conference
- May 23, 2025 – Submit Settlement Agreement
- June 20, 2025 – Requested Commission Order

18. **The Commission typically requires a 30-day period to consider the record and issue an order. Here, the Evergy proposed Procedural Schedule is four months in duration to consider thirteen new tariffs that, in Evergy’s estimation, would apply to “six gigawatts of incremental large load customer demand.”**

19. The Proposed Intervenors have not yet been admitted to this Docket by the Commission, and no discovery is proposed by Evergy or currently permitted in the Docket.

20. The Evergy proposed Procedural Schedule includes a Technical Conference and Initial Settlement Discussions to take place before potential intervenors have a reasonable opportunity to petition for intervention. Without the reasonable opportunity for discovery, the only information available for Initial Settlement Discussions is provided by Evergy.

21. There is no opportunity for Intervenors to present Testimony on the thirteen tariffs as filed in this Docket. Intervenors are limited by the Evergy proposed Procedural Schedule to what Evergy describes as “Intervenors Responses to Staff’s R & R.”

22. Evergy’s Response regarding the Occidental and Spirit cases are both inapplicable, as well as incorrect.

23. The Occidental and Spirit cases are contract cases specifically permitted under Kansas statutes.

24. With regard to Occidental, in KCC Docket No. 18-KG&E-303-CON, Evergy filed the Application for Occidental Contract approval, for a single customer. The Application was filed on January 16, 2018, and the KCC Order was issued on November 20, 2018 – a ten month



period of time. Mr. Luce of Evergy indicated that 12-month average use was slightly under 100 MW at an 88% load factor.

25. The Occidental Contract was for about 100 MW, and not 6,000 MW, the capacity at issue in this Docket and involves the consideration of thirteen new tariffs.

26. In addition to Evergy and Occidental, the Parties in KCC Docket No. 18-KG&E-303-CON were KCC Staff and CURB.

27. In KCC Docket No. 24-EKSE-249-CON, Evergy filed its Application for Occidental Contract approval on September 12, 2023, and the KCC issued its Order on June 18, 2024, a nine (9) month period of time.

28. In addition to Evergy and Occidental, the Parties to KCC Docket No. 24-EKSE-249-CON were KCC Staff and CURB.

29. In KCC Docket No. 20-KG&E-112-CON, Evergy filed the Spirit Contract for KCC approval on September 6, 2019, and the KCC approved the Contract on April 21, 2020 – a period of 7 months.

30. In addition to Evergy and Spirit, the Parties to KCC Docket No. 20-KG&E-112-CON were KCC Staff and CURB.

31. Neither the KCC Staff, nor any of the Proposed Intervenors support the schedule dates included in the Procedural Schedule of Evergy. CURB and the Wichita Public Schools have not yet taken a position on the matter.

32. The Evergy proposed Procedural Schedule does not include the opportunity for discovery and does not include a Hearing.<sup>13</sup>

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<sup>13</sup> K.S.A. 66-101b. *See also* Overview of the Role and Jurisdiction of the KCC, Jan. 12, 2023, [https://www.kcc.ks.gov/images/PDFs/presentations-and-legislative-testimony/2023\\_KCC\\_Role\\_and\\_Jurisdiction\\_Presentation\\_House\\_Energy\\_January\\_12.pdf](https://www.kcc.ks.gov/images/PDFs/presentations-and-legislative-testimony/2023_KCC_Role_and_Jurisdiction_Presentation_House_Energy_January_12.pdf).

33. Discovery is available to Parties to a KCC Docket, unless restricted or eliminated by KCC Order.<sup>14</sup>

34. The procedures for Hearing at the KCC are set forth in detail at K.A.R. 82-1-230. A Hearing is available unless restricted or eliminated by KCC Order.

35. While the Commission may appropriately determine the manner that it manages its Docket, there are constitutional limitations that protect the rights of due process of law for the one million retail ratepayers of Evergy.

36. Certain minor matters included in an Application do not call for material discovery of facts or a Hearing. However, if an Application may materially affect the terms of service and retail electric rates of ratepayers, the opportunity to conduct discovery and present evidence is required.

37. In *Mobil Exploration Producing U.S. v. Kan. Corp. Comm'n.*, the Kansas Supreme Court stated: "[a]n administrative body empowered to investigate facts, weigh evidence, draw conclusions as a basis for official actions, and exercise discretion of a judicial nature is acting in a quasi-judicial capacity...[w]e have stated that the full rights of due process present in a court of law do not automatically attach to a quasi-judicial hearing...[h]owever, we have also held that '[t]he right to the cross-examination of witnesses in quasi-judicial or adjudicatory proceedings is one of fundamental importance and is generally, if not universally, recognized as an important requirement of due process'."<sup>15</sup>

38. In this Docket, Evergy is proposing a truncated Procedural Schedule with no discovery and no Hearing in an Application that prospectively affects 6,000 MW of new large

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<sup>14</sup> K.A.R. 82-1-234a.

<sup>15</sup> 258 Kan. 796, 821 (1995). See also *Farmland Industries, Inc. v. Kansas Corp. Comm'n.*, 25 Kan. App. 2 (Kan. Ct. App. 1999).

load customer sales, on a system that currently has approximately 7.432 MW of Total Summer Net Capacity and 6.244 MW of Total Winter Net Capacity.<sup>16</sup>

39. Therefore, Proposed Intervenors object to the proposed procedural schedule because it is inconsistent with and violates the due process rights of Evergy's retail ratepayers.

Respectfully submitted,



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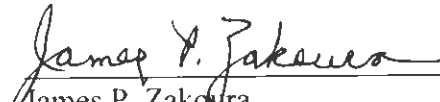
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<sup>16</sup> 2025 Utilities and Common Carriers, Kan. Corp. Comm'n, p. 33, [https://www.kcc.ks.gov/images/PDFs\\_legislative-reports/2025\\_Utilities\\_Common\\_Carriers.pdf](https://www.kcc.ks.gov/images/PDFs_legislative-reports/2025_Utilities_Common_Carriers.pdf).

VERIFICATION

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF JOHNSON    )

James P. Zakoura, being duly sworn upon his oath, deposes and states that he is the Attorney for the Kansas Industrial Consumers Group, Inc. and its Participating Members, that he has read and is familiar with the foregoing *Reply of Proposed Intervenors to Evergy's Response to Objections to Procedural Schedule*, and that the statements therein are true to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
James P. Zakoura

SUBSCRIBED AND SWORN to before me this 25th day of February 2025.

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

My Appointment Expires:



## CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February 2025, the above and foregoing was electronically filed with the Kansas Corporation Commission and that one copy was delivered electronically to all parties on the service list as follows:

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