

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

Before Commissioners:     Andrew J. French, Chair  
                                  Dwight D. Keen  
                                  Annie Kuether

In the Matter of the Application of Evergy     )  
Kansas Metro, Inc for Authority to Cease     )  
Transacting the Business of an Electric Public     ) Docket No. 25-EKME-257-CCS  
Utility Specifically, in Section 02, Township     )  
15 South, Range 22 East in Johnson County,     )  
Kansas.     )

**ORDER GRANTING APPLICATION TO CEASE TRANSACTING  
THE BUSINESS OF AN ELECTRIC PUBLIC UTILITY**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”). Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.     On December 30, 2024, Evergy Kansas Metro, Inc. (“Evergy Metro”) filed an application requesting to cease transacting the business of an electric public utility in territory situated within Johnson County, Kansas (“Application”). Evergy Metro is an electric public utility as defined in K.S.A. 66-104.

2.     Evergy Metro requests the Commission issue an Order granting it authority to cease transacting the business of an electric public utility in the following described territory, to wit:

**JOHNSON COUNTY, KANSAS**

**ORDINANCE NO. 2623**

A tract of land described as commencing at the southwest corner of section 2, township 15, range 22, in Johnson county, Kansas; thence south 89 degrees 36' 15" east, along the south line of said section, 423.95 feet to a true point of beginning; thence south 89 degrees 36' 15" east, along the south line of said section, 2279.45 feet to the southeast corner of the southwest quarter of said section: thence due north along the east line of said southwest quarter, 2656.76 feet to the south right of way line of U.S. interstate highway no. 35; thence south 54 degrees 53' 18" west

along said right of way line, 431.39 feet; thence south 49 degrees 10' 40" west along said right of way line, 2038.08 feet to the point of curvature; thence on a curve to the right, having a radius of 11,609.16 feet, an arc distance of 497.53 feet thence departing said right of way, south 0 degrees 03' 55" 743 feet to the true point of beginning, in Johnson county, Kansas; except: commencing at the southwest corner of said section 2; thence south 89 degrees 36' 15" east along the south line of said section, 423.95 feet to the true point of beginning; thence continuing south 89 degrees 36' 15" east along said south line, 256.84 feet; thence north 0 degrees 03' 55" east, 954.76 feet to a point on the southerly right of way of U.S. highway no. 35; thence southwesterly along said right of way along a curve to the right, having a radius of 11,609.16 feet; an arc distance of 331.67 feet; thence departing said right of way, south 0 degrees 03' 55" west, 743.43 feet to the true point of beginning, and except that part in roads and highways other than those roads and highways specifically annexed.

#### **ORDINANCE NO. 2794**

A tract of land in the SW 1/4 of Section 2, Township 15 South, Range 22 East, in Gardner, Johnson County, Kansas, more particularly described as follows: Commencing at the Southwest corner of said Section 2; thence South 89 degrees 36 minutes 15 seconds East along the South line of said Section 423.95 feet to the True Point of Beginning; thence continuing South 89 degrees 36 minutes 15 seconds East along said South line 256.84 feet; thence North 0 degrees 03 minutes 55 seconds East, 954.76 feet to a point on the Southerly Right of way of U.S. Interstate Highway No. 35; thence Southwesterly along said Right of way along a curve to the right, having a radius of 11,609.16 feet; an arc distance of 331.67 feet; thence departing said right of way, south 0 degrees 03 minutes 55 seconds West, 743.43 feet to the True Point of Beginning; Also except that part deeded to The Secretary of Transportation of the State of Kansas by General Warranty Deed recorded June 28, 2019 in Book 201906 at Page 010666 and more particularly described as follows: A tract of land in the Southwest Quarter of Section 2, Township 15 South, Range 22 East of the 6th P.M., in Gardner, Johnson County, Kansas, described as follows: Commencing at the Southwest corner of said Quarter Section; thence on an assumed bearing of North 88 degrees 20 minutes 31 seconds East, 423.11 feet along the South line of said Quarter Section to the Southwest corner of a tract of land described in a deed recorded in Book 201103 at Page 005743 in the Register of Deeds Office, Johnson County, Kansas and the Point of Beginning; First Course, thence North 02 degrees 00 minutes 22 seconds West, 75.57 feet along the West line of said tract of land, Second Course, thence South 86 degrees 03 minutes 56 seconds East, 5.88 feet; Third Course, thence North 88 degrees 20 minutes 31 seconds East, 251.83 feet to the East line of said tract of land; Fourth Course, thence South 02 degrees 00 minutes 22 seconds East, 75.00 feet along said East line to said South line, Fifth Course, thence South 88 degrees 20 minutes 31 seconds West, 257.68 feet along said South line to the Point of Beginning, and the entire width of the right of way known as 199th Street adjacent to and immediately South of the above described property.

### **ORDINANCE NO. 2795**

The West 5 acres of the Southwest Quarter of Section 2, Township 15, Range 22, Johnson County, Kansas, lying South of Interstate 35, more particularly described as follows: Commencing at the Southwest corner of Section 2, Township 15, Range 22; thence North 00 degrees 03 minutes 55 seconds East along the West line of said Section 2, 57.00 feet; thence East 20.00 feet to the Point of Beginning, thence North 00 degrees 03 minutes 55 seconds East, parallel to the West line of said Section 2, 377.65 feet to a point in the South right-of-way line of interstate Highway 35; thence continuing along said South right-of-way line on a curve to the left, having a radius of 11,459.12 feet, an arc distance of 507.04 feet; thence South 00 degrees 03 minutes 55 seconds West parallel to the West line of said Section 2, 718.50 feet; thence North 89 degrees 36 minutes 15 seconds west, parallel to the south line of said section 2, 200.95 feet; thence North 80 degrees 37 minutes 20 seconds west, 205.71 feet to the Point of Beginning, EXCEPT that part dedicated in the Deed of Dedication recorded March 1, 20'18 in Book 20t803 at Page 000312, and EXCEPT that part conveyed in the General Warranty Deed recorded June 14, 2019 in Book 201906 at Page 004530, and, the entire width of the right of way known as 199th Street adjacent to and immediately South of the above described property.

3. On January 17, 2025, counsel for the City of Gardner confirmed with Staff that Gardner annexed the territory described in paragraph two (2), above, and intends to supply electric service in the annexed territory.

4. On February 5, 2025, the Commission Staff submitted its Report and Recommendation to the Commission, recommending Evergy Metro's Application be granted to cease operating as an electric public utility in the territory described in paragraph two (2) above. The Staff Report and Recommendation indicates the purpose of the Application is to acknowledge Gardner will be responsible for providing retail electric service within the territory to be ceded.

5. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. K.S.A. 66-1,170 et seq., the Retail Electric Suppliers Act ("RESA"), requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. Notwithstanding the mandated single electric provider service territories, RESA allows any city

annexing territory to select a retail electric service provider. In this circumstance, the Commission must certify the annexed territory to the electric supplier selected by the city.<sup>1</sup>

6. Staff states that it has reviewed the Application of Evergy Metro and determines that the legal description and map provided with these filings are accurate and not in conflict with the Commission's Certificate records. Staff recommends the Commission grant Evergy Metro's Application and find that the public convenience will be promoted by this transaction. Upon approval, the updated territory description will be reflected in the Commission's certified territory map.<sup>2</sup>

7. The Commission adopts Staff's analysis and recommendation of February 5, 2025, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Evergy Metro's Application should be granted, and that the public convenience will be promoted by issuing an Order authorizing Evergy Metro to cease transacting the business of an electric public utility in the territory described in paragraph two (2) above.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Application of Evergy Kansas Metro, Inc. is hereby approved, and Evergy Metro is authorized to cease transacting the business of an electric public utility in the territory described in paragraph two (2) above.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>3</sup>

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

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<sup>1</sup> K.S.A. 66-1,176(a)

<sup>2</sup> Report and Recommendation (Feb. 5, 2025), p. 2.

<sup>3</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chair; Keen, Commissioner; Kuether, Commissioner

Dated: 03/04/2025



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Abigail D. Emery  
Acting Secretary to the Commission

BWB

Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

Laura Kelly, Governor

## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

**TO:** Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

**FROM:** Jason Kerr, Utility Engineering Technician  
Paul Owings, Chief Engineer  
Jeff McClanahan, Director of Utilities

**DATE:** February 5, 2025

**SUBJECT:** Docket No. - 25-EKME-257-CCS - In the Matter of the Application of Evergy Kansas Metro, Inc. for Authority to Cease Transacting the Business of an Electric Public Utility Specifically, in Section 02, Township 15 South, Range 22 East in Johnson County, Kansas.

### **EXECUTIVE SUMMARY:**

In Docket 25-EKME-257-CCS, Evergy Kansas Metro, Inc. (Evergy) is requesting to Cease Operating as an electric utility in three parcels of land in Section 02, Township 15 South, Range 22 East. These parcels were recently annexed into the City Limits of Gardner (Gardner or City) Kansas.<sup>1</sup>

Staff recommends that the Commission grant this Application and acknowledge Gardner will be responsible for providing retail electric service for future customer within the recently annexed territory.

### **BACKGROUND:**

Evergy filed Docket 25-EKME-257-CCS, on December 30, 2024, requesting to Cease out of three parcels of land that have been recently annexed by the City of Gardner.

In Evergy's Application, they state that Gardner will be filing a corresponding Application. Staff contacted the City on January 10, 2025, inquiring if a corresponding Application would be filed. On January 17, 2025, Staff received a response from the Attorney representing the City of Gardner

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<sup>1</sup> K.S.A. 66-1,176(a)(2).

acknowledging Evergy's Application to Cease from the three parcels and informing the Commission that the City intends to provide service to these properties.<sup>2</sup>

The Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas.<sup>3</sup> K.S.A. 66-1,170 et seq. the Retail Electric Suppliers Act (RESA) requires the State of Kansas to be divided into electric service territories in which only one retail electric supplier is established for a given territory. Notwithstanding the mandated single electric provider service territories, RESA allows any city annexing territory to select a retail electric service provider. Under these circumstances, the Commission is required to certify the annexed territory to the electric supplier selected by the city.<sup>4</sup>

### **ANALYSIS:**

Staff has reviewed Evergy's Applications and confirmed their legal descriptions match that of the City's Ordinances annexing each tract land. The legal descriptions are included as Attachment A to this Report and Recommendation.

When an area is annexed by a city, it is then within the city's corporate limits and neither K.S.A. 66-131, K.S.A. 66-1,171, nor K.S.A. 66-1,176 require the Commission to make a finding of public convenience in order to grant a certificate to such municipally owned or operated utility.<sup>5</sup>

### **RECOMMENDATION:**

Staff recommends that the Commission Grant Evergy's Applications to Cease and acknowledge the three annexations are now within the city's corporate limits, the city has chosen to itself as the retail electric supplier. Upon approval, the updated territory description will be reflected in the Commission's certified territory map.

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<sup>2</sup> Ordinance No. 2623, 2794, and 2795.

<sup>3</sup> K.S.A. 66-131.

<sup>4</sup> K.S.A. 66-1,176(a)

<sup>5</sup> See Lyon-Coffey 31 P. 3d 968

ATTACHMENT A  
Evergy Kansas Metro, Inc.  
Docket No. 24-EKCE-586-CCS

JOHNSON COUNTY, KANSAS

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tract of land; Fourth Course, thence South 02 degrees 00 minutes 22 seconds East, 75.00 feet along said East line to said South line, Fifth Course, thence South 88 degrees 20 minutes 31 seconds West, 257.68 feet along said South line to the Point of Beginning, and the entire width of the right of way known as 199th Street adjacent to and immediately South of the above described property.

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## **CERTIFICATE OF SERVICE**

25-EKME-257-CCS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/04/2025.

BRETT W. BERRY, LITIGATION COUNSEL  
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/S/ KCC Docket Room  
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