

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

In the Matter of the Capital Plan Compliance)
Docket for Kansas City Power & Light) Docket No. 19-KCPE-096-CPL
Company and Westar Energy, Inc. Pursuant)
to the Commission's Order in 18-KCPE-095-)
MER.)

**COMMENTS OF THE CITIZENS' UTILITY RATEPAYER BOARD REGARDING
EVERGY KANSAS METRO AND EVERGY KANSAS CENTRAL FEBRUARY 28, 2021
CAPITAL INVESTMENT PLAN UPDATE FILING**

COMES NOW, the Citizens' Utility Ratepayer Board (CURB) and, pursuant to the schedule set forth in *Order Adopting Integrated Resource Plan and Capital Plan Framework* issued by the State Corporation Commission of the State of Kansas (Commission) in this docket on February 6, 2020,¹ submits its comments regarding the Capital Investment Plan update filed on behalf of Evergy Kansas Metro and Evergy Kansas Central on February 26, 2021.²

Background

1. On May 24, 2018, the Commission issued an Order Approving Merger Application of Westar Energy, Inc. and Kansas Gas and Electric Company (Westar, now Evergy Kansas Central); Great Plains Energy Incorporated (Great Plains); and Kansas City Power & Light Company (KCP&L, now Evergy Kansas Metro) to form Evergy, Inc. (Evergy) in Docket No. 18-KCPE-095-MER (18-095 Docket).³

2. One of the conditions of the merger agreement included the creation and regular update of an Integrated Resource Plan (IRP) and a Capital Investment Plan in order to provide a five-year view of Evergy's capital expenditures for generation, environmental, transmission,

¹ Order Adopting Integrated Resource Plan and Capital Plan Framework, February 6, 2020.

² Capital Investment Plan Update – Public on Behalf of Evergy Metro, Inc., February 26, 2021. (“Capital Investment Plan Update”).

³ Order Approving Merger Application, Docket No. 18-KCPE-095-MER, May 24, 2018.

distribution, and information technology.⁴ The Commission accepted the framework for the IRP and Capital Plan, as laid out by various parties, on March 1, 2019.⁵ Subsequent annual filings by Evergy are to be due February 28 with 2021 being the first update.

3. On March 9, 2020, Evergy filed its 2020-2024 Kansas Capital Investment Plan.⁶

4. On March 16, 2020, the Commission issued an Emergency Order in Docket No. 20-GIMX-393-MIS (20-393 Docket), which discussed the global pandemic and suspended various tariffs related to disconnections, in response to the actions taken by the World Health Organization, Governor Kelly, and the President of the United States to address COVID-19.⁷ The Commission invoked its authority to suspend disconnections due to the pandemic in order to prevent or avoid immediate danger to the public health, safety, and welfare of Kansas under K.S.A. 77-536(b). The 20-393 Docket subsequently extended this Order and issued several more Orders related to the prevention of the spread of COVID-19 throughout the pandemic's duration. Utilities are also authorized to track extraordinary costs incurred as result of the pandemic for consideration to include them rate base in future rate cases after the end of the pandemic.

5. On September 4, 2020, CURB filed comments in the present docket on the initial 2020-2024 Capital Investment Plan.⁸ CURB made several recommendations to Evergy on the formatting and presentation of information to consider for the first annual update in 2021. CURB highlighted the importance of transparency by recommending that Evergy include information for particular expenditures once those costs cross certain thresholds or changes from year-to-year.⁹

⁴ Joint Filing Regarding Capital Plan and Integrated Resource Plan Reporting Format, September 4, 2018.

⁵ See Notice Of Compliance Filing, March 1, 2019.

⁶ Evergy's Capital Investment Plan, March 9, 2020.

⁷ Emergency Order Suspending Disconnects, Docket No. 20-GIMX-393-MIS, March 16, 2020.

⁸ Initial Comments of the Citizens' Utility Ratepayer Board Regarding Evergy Kansas Metro and Evergy Kansas Central Capital Investment Plan, September 4, 2020. (Initial CURB Comments).

⁹ Initial CURB Comments at pg. 8, ¶21.

CURB also suggested the use of short descriptions of expenditure categories that correspond to Evergy's IRP be added to the updates.

6. CURB also expressed concern at the level of capital expenditures that may rise above and beyond the levels needed to maintain sufficient and efficient service.¹⁰ CURB noted the Commission's statutory authority to disallow costs from rate recovery that are not required to be used to provide service or costs that results in generation of excess capacity. Projects under the Capital Investment Plan would invite such an inquiry if the spending amounted to an economic opportunity for shareholders.

7. Regional rate competitiveness should also play a role in Evergy's plans for capital expenditure from CURB's perspective. CURB reviewed the 2018 Staff of the Kansas Corporation Commission (Staff) Rate Study and the 2019 study by London Economics International and their discussions on Kansas's potential to achieve regionally competitive rates.¹¹ The study by Staff indicated that disparities in rates between Kansas and neighboring states was attributable to capital investments in plants for various load growth forecasts, regulatory-required retrofits of existing coal-fired generating units, and economical advantages associated with new renewable generation facilities.¹² This was contrasted with the study by London Economics, which stated that load growth for Evergy had grown relatively little compared to the growth of rate base from 2010-2018.¹³

8. CURB also recounted the events behind the 2020 agreement between Evergy and Elliott Management (Elliott) which ultimately led to a discussion on Evergy's potential to increase its capital expenditures beyond that of its previous projections through a Modified Standalone Plan

¹⁰ Initial CURB Comments at pg. 9-10, ¶25.

¹¹ *Id.* at pg. 11-12, ¶¶ 28-34.

¹² *Id.* at pg. 11, ¶ 30.

¹³ *Id.* at pg. 12, ¶ 33.

or to pursue a merger agreement with another entity.¹⁴ In response to the Evergy/Elliott agreement, Staff requested that the Commission open a docket to monitor the progress of this particular decision and also the announcement by Evergy to invest an additional \$1.5 billion in capital expenditures above its 2019-2024 projections. The Commission then opened Docket No. 20-EKME-514-GIE to learn more about Evergy's decisions and to monitor the progress.¹⁵ CURB echoed concerns raised by Staff regarding the announced increase before a recommendation by the Commission had been made.¹⁶ On August 13, 2020, Evergy filed its Sustainability Transformation Plan (STP) after electing to pursue a standalone plan on July 23, 2020. This plan eventually resulted in the opening of Docket No. 21-EKME-088-GIE (21-088 Docket) for the purpose of reviewing the STP and as a repository for information related to the plan.¹⁷ CURB discussed the value in sharing the costs of additional capital expenditures between shareholders and ratepayers, as both groups are being represented as receiving benefits under the Capital Investment Plan.¹⁸

9. During the month of February 2021, Kansas experienced abnormally cold weather for extended periods of time. This had the effect of driving up consumption and the price of natural gas until it hit a fever pitch from February 13th to 20th where natural gas prices soared to levels hundreds of times their normal prices in response to problems from extreme frigid temperatures. On February 14th, Governor Kelly issued a State of Disaster Emergency for Kansas due to the cold weather and the stress on every level of the utility supply chain. In response, the Commission opened Docket No. 21-GIMX-303-MIS on February 15th and directed all jurisdictional utilities to

¹⁴ CURB Initial Comments at pg. 13, ¶ 40.

¹⁵ Order Opening General Investigation, Docket No. 20-EKME-514-GIE, June 18, 2020.

¹⁶ *Id.* at pg. 13-14, ¶38.

¹⁷ Order Opening General Investigation, Docket No. 21-EKME-088-GIE, August 27, 2020.

¹⁸ CURB Initial Comments at pg. 10, ¶ 27.

take all reasonably feasible, lawful, and appropriate actions to ensure services to non-jurisdictional utility customers and to also do everything necessary to continue providing service during this period (Winter Event).¹⁹

10. Utilities were also authorized to record extraordinary costs incurred to provide service during the Winter Event in a regulatory asset, including the cost of natural gas. As temperatures returned to manageable conditions and prices began to fall, utilities and customers learned that they had incurred billions of dollars in natural gas costs due to shortages and supply constraints and market prices. Utilities have been assigned individual dockets in order for the Commission to review the total costs incurred by each company and their respective financial plans to mitigate the rate impact on their customers.

11. On February 26, 2021, Evergy filed its annual update to the Capital Investment Plan with its 2021-2025 projections, and a corrected version filed on March 1, 2021.²⁰

12. On April 16, 2021, CURB and numerous intervenors filed comments in the 21-088 Docket regarding the STP after attending workshops hosted by Evergy.²¹ CURB recollected the events that led up to the 2020 agreement between Evergy and Elliott. In essence, CURB held serious reservations about the STP and the role of Elliott in driving its creation around the concern about diminished shareholder returns. CURB viewed the significant increases to generation and transmission projects to be concerning due to their discretionary nature and lack of regulatory authority and control over recovery of those costs by the Commission.²² CURB also spoke generally about the necessity of investments into various areas such as enhanced customers service

¹⁹ Emergency Order, Docket No. 21-GIMX-303-MIS, February 15, 2021.

²⁰ Capital Investment Plan Update – Public on Behalf of Evergy Metro, Inc., February 26, 2021; Corrected Capital Investment Plan Update, March 1, 2021 (Capital Investment Plan Update).

²¹ Comments of The Citizens' Utility Ratepayer Board on Evergy's Sustainability Transformation Plan, Docket No. 21-EKME-088-GIE, April 16, 2021. (CURB STP Comments).

²² *Id.* at pg. 18, ¶¶ 43-44.

and auxiliary electric services. Most notably, CURB discussed the complex nature of calculating the STP's benefits due to overlaps between the STP and the savings associated with the merger, and the subjective social costs of carbon and increased reliability.²³

13. On June 3, 2021, Evergy filed its revised IRP with the Commission.²⁴ CURB intends to file comments regarding the IRP separately, but will address aspects of the IRP as it relates to capital expenditures.

Capital Investment Plan Format

14. At the onset, CURB has reviewed the Commission-approved framework for the Capital Investment Plan and concludes that Evergy's 2021 update does comply with filing requirements. Therefore, CURB does not object to the current format as presented. CURB is also pleased to see that Evergy has independently adopted CURB's previous recommendation to include short descriptions for variances above certain thresholds.²⁵ The additional section in each table provides the reader with a quick way to take notice of such changes in plans. While the explanations are typically a few words, they are succinct enough to provide information about the project to determine whether follow up discovery is necessary. CURB credits this result with the ability to be able to talk with Evergy about new ideas and suggestions. Certainly, these modifications adopted by Evergy illustrate the value in collaboration among stakeholders.

15. CURB intends to continue reaching out to Evergy and others to provide feedback and listen to new ways to exchange information. One area CURB views as an opportunity to refine Evergy's presentation of information is in regards to new projects not included or contemplated in prior updates. The Capital Investment Plan update provides a side-by-side comparison of prior

²³CURB STP Comments at pg. 20, ¶ 49.

²⁴ Evergy Kansas Central and Evergy Metro 2021 Integrated Resource Plan Revised, June 3, 2021. (Evergy 2021 IRP).

²⁵ See CURB Initial Comments at pg. 8, ¶ 21.

plans and projections from year-to-year. The projects are organized based on the alphabetical order of the project's assigned title within Evergy's system. As a result, new projects are mixed among the forecasted ones. This presents difficulties in evaluating changes in investment strategy compared to adherence with prior projections. Evergy should consider separating new projects into their own subsection for a given category to emphasize the number of new projects compared to a prior year's update. CURB recognizes the advantages of commingling new and forecasted projects in determining a grand total for each category in terms of viewing the larger picture. Again, continued collaboration on the Capital Investment Plan's layout will be sought out to further refine the presentation.

16. CURB believes that a portfolio of this nature must be flexible enough to adapt to changes of customers' needs. CURB recognizes Evergy's capabilities to moderate its investment plans and make necessary adjustments, as laid out in its Actual vs. Plan sections of the Capital Investment plan update. With projects that can last months or years, diverting funds and resources may not be feasible. Changes in larger policy directions and considerations for customer impact should also factor into decisions on altering projections and adjusting them.

17. One recommendation that CURB has on this issue is to include a short narrative for each Capital Investment Plan update for each of the two jurisdictions about policy drivers for their investment decisions and how it comports with operational goals and deviations from the prior projections. Much like CURB's previous suggestion for short explanations on deviances above certain thresholds, this recommendation seeks to gain a high-level understanding about policy considerations and the Company's approach to engaging challenges by way of investment. While the IRP contains more detailed information about the reasoning for some capital expenditures and resource acquisition, there should be some sort of clear link between the priorities of the Company

and the decision to pursue certain expenditures. CURB intends to explore the potential upside to these recommendations, but do not intend for any of them to be considered a criticism of Evergy's compliance with filing requirements.

Necessity of Investments

18. In line with CURB's initial comments on Evergy's Capital Investment Plan, CURB will again discuss its view of expenditures as they relate to providing sufficient and efficient service for ratepayers. Previously, CURB expressed its concerns with the increasing level of capital expenditure projections for a number of reasons.²⁶ By and large, these concerns remain relevant and applicable to this Capital Investment Plan update. According to Evergy's 2021 IRP filing, residential customer load growth has been slowly declining, despite increases in the number of customers through 2019.²⁷ Evergy attributes some of this phenomenon to the prevalence of more energy efficient end-use products. Evergy's forecast of load growth appears to partially contingent on factors outside of Evergy's control, such as extreme weather conditions and electric vehicle proliferation.²⁸ While CURB reserves the right to provide a more detailed analysis on Evergy's IRP in a separate filing, it serves the point here by highlighting the type of societal shifts that may need to occur in order to see a reversal of current trends. The Capital Investment Plan and its projections on expenditures should be commensurate with the needs of utility customers or risk being disallowed from rates.

19. As the COVID-19 pandemic and February 2021 Winter Event have demonstrated, circumstances can change quickly and dramatically, even for something as forward-looking as

²⁶ CURB Initial Comments at pg. 14, ¶42. ("CURB's concern is amplified for three primary reasons: 1) load growth has flattened, indicating that increased investment in new generation may not be necessary to serve customers; 2) recent studies have shown Evergy's rates to be regionally uncompetitive; and 3) Evergy is currently facing extreme pressure to increase shareholder value through growth-related capital investment, perhaps, arguably, to the detriment of its customers.").

²⁷ Evergy 2021 IRP at pg. 23.

²⁸ *Id.* at pg. 34; See Docket No. 21-EKME-320-TAR.

utility regulation. Even now, it is still unclear just how these events will impact utility rates and regulation in the future. Investigations into the Winter Storm are still ongoing and it is probable that the findings will present ideas on how utilities prepare and operate during emergency situations. The lessons from these events alone will affect current and future policy considerations when it comes to expenditures to meet challenges. However, an official “end” to the COVID-19 pandemic or the related dockets has not been declared and investigations over the Winter Event are happening across the Midwest. It would be beneficial if subsequent expenditure plans reflected these dynamic considerations as more information becomes available, especially heading towards the end of Evergy’s rate moratorium and subsequent general rate proceeding.

Regionally Competitive Rates

20. CURB believes that setting regionally competitive rates has become one of the top priorities of many interested parties, and any expenditures that do not further that goal warrant additional scrutiny before adding the costs to rates. “Achieving regional rate competitiveness” is a phrase that has made its way into virtually every conversation about utility regulation in Kansas in some form or fashion. In addition to the various rate studies conducted by Staff and London Economics, the Kansas Legislature took steps in 2021 to improve its own understanding and access to information by introducing Senate Bill 81, which would require Staff to provide annual reports on average electric rates for Kansas.²⁹ Interested groups, including Evergy and Staff, are generally supportive of providing the Legislature more data about rates and regional rate competitiveness.³⁰ While not explicitly stated in the IRP, Evergy’s support for achieving regionally competitive rates

²⁹ Senate Bill 81, Introduced January 26, 2021. Accessed at http://www.kslegislature.org/li/b2021_22/measures/documents/sb81_00_0000.pdf.

³⁰ See Minutes of SB 81-Committee on Utilities, February 11, 2021. Accessed at http://www.kslegislature.org/li/b2021_22/measures/minutes/agenda_item_2021021010279235061.

is more recently echoed in its comments regarding the STP in the 21-088 Docket.³¹ However, it appears that the conversation may have shifted away from the importance of having regionally competitive rates to a discussion on how competitive Kansas's rates must be.³²

21. To that end, it is important to acknowledge that the Capital Investment Plan is not the only factor that will affect rates. The STP itself is a significant capital expenditure plan that not only includes its own distinct investments and objectives, but it may also overlap with the Capital Investment Plan moving forward. Additionally, the use of securitization presents a new opportunity for cost recovery outside of rate cases. With Evergy's plans to retire plants in its coal fleet, customers may see new surcharges on bills in the near future. Similarly, the 2021 Winter Event is a potential candidate for securitization, as Evergy works through filing a financial plan to mitigate the impacts of the extraordinary costs incurred. Even if the Company elects another strategy for these costs, ratepayers are going to see their bills increase as a result of spikes in the natural gas market during that time. Finally, once the COVID-19 pandemic ends, utilities who incurred additional costs or experienced reduced revenue may begin making requests to collect on those amounts. All of this is to say that customers' bills will be getting bigger, and with varying levels of returns on improved service and reliability in the future.

22. CURB also remains troubled by the level of Federal Energy Regulatory Commission-jurisdiction investments (FERC), which are only reviewed by the KCC for compliance with FERC directives. This update shows large increases of capital expenditures for investments "subject to FERC" versus "subject to KCC." For Evergy Kansas Central, the comparison is an additional \$521 million increase versus \$227 million for the 2021-2025 forecast

³¹ Responsive Comments of Evergy Metro, Inc., Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., Docket No. 21-EKME-088-GIE, pgs. 9-12, ¶¶14-19, May 14, 2021.

³² See Id. at pg. 2, ¶2; Public Initial Comments of the Kansas Industrial Consumers Group, Inc., Docket No. 21-EKME-088-GIE, April 16, 2021.

over the 2020-2024.³³ From CURB’s perspective, such an amount of money outside of the purview of Kansas stakeholders should create measurable benefits for the ratepayer. The potential overlap in strategy with the Capital Investment Plan and the STP warrants some concern that these 2021 increases may be spurred on by a desire to enhance shareholders’ return on their investments.

21-088 Docket and Elliott

23. The events surrounding the STP raise a unique consideration when it comes to capital expenditures about the influence of outside entities on high-level utility decisions. The case with Elliott is curious in that it has illustrated the potential influence that large shareholders have in adjusting Commission-reviewed plans. The question still remains on what happens the next time a shareholder is dissatisfied with certain aspects of Evergy’s management and operations. Are STP-level modifications expected to become a cyclical occurrence? CURB would like to see additional clarification on the role of the Capital Investment Plan in light of the current STP model and the potential for similar influence on Evergy’s decision-making by intervening shareholders.

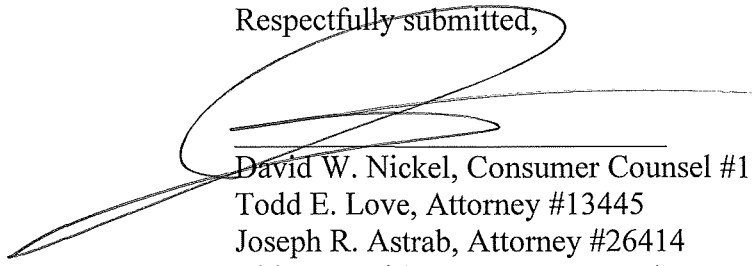
24. CURB certainly recognizes that the introduction of the STP into Evergy’s spending strategy may be considered a flexible approach for capital expenditures. However, such flexibility needs to be tempered with the considerations stated above regarding the necessity of investments and the needs of customers to provide service at a reasonable price. CURB has previously stated its view that the STP’s foundation of building up shareholder earnings through expanding rate base is not a stable one upon which to allow rates to reach a regionally competitive level for Kansas. Moving ahead with an investment plan of the STP’s magnitude presents a risk that ratepayers may be saddled with huge costs while being unable to recognize meaningful benefits from the same.

³³ Capital Investment Plan Update at pg. 1, “Schedule 1 – Current Five-Year Plan and Comparisons to Prior Five-Year Plan by Category.”

Conclusion

WHEREFORE, CURB submits its comments on Evergy's 2021 Capital Investment Plan update in the hopes of providing feedback and suggestions in a collaborative manner. CURB requests that the Commission take these comments and those of other parties into consideration and to take any action as it sees fit to do.

Respectfully submitted,

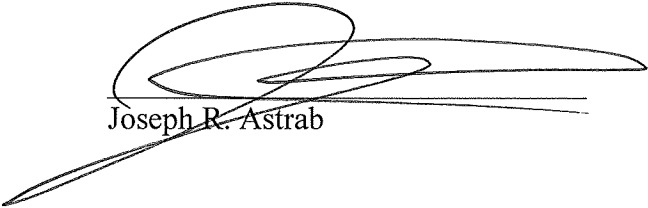


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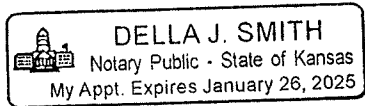
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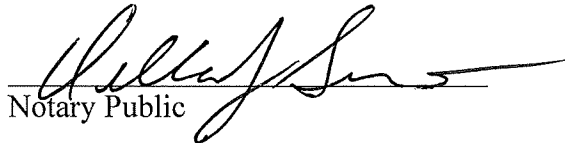
STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.


Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 29th day of June, 2021.




Notary Public

My Commission expires: 01-26-2025.

CERTIFICATE OF SERVICE

19-KCPE-096-CPL

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 29th day of June, 2021, to the following:

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