

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

IN THE MATTER OF THE JOINT]
APPLICATION OF EVERGY KANSAS]
CENTRAL, INC., EVERGY KANSAS SOUTH,]
INC., AND EVERGY METRO, INC. FOR] KCC DOCKET NO. 23-EKCE-588-TAR
APPROVAL OF TARIFF CHANGES]
RELATED TO WHOLESALE DEMAND]
RESPONSE PARTICIPATION.]

TESTIMONY IN SUPPORT OF NON-UNANIMOUS SETTLEMENT AGREEMENT

JOSH FRANTZ

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

SEPTEMBER 11, 2023

1 **I. Statement of Qualifications**

2 **Q. Please state your name, employer, and business address.**

3 A. My name is Joshua (Josh) P. Frantz. I am employed by the Citizens' Utility Ratepayer
4 Board ("CURB") as a Senior Regulatory Analyst. My business address is 1500 SW
5 Arrowhead Road, Topeka, Kansas 66604.

6
7 **Q. Please describe your educational background and qualifications.**

8 A. I earned a Master of Business Administration degree from Washburn University, located
9 in Topeka, Kansas. I also earned a Bachelor of Business Administration degree from
10 Washburn University. My undergraduate majors were finance, marketing, and
11 management.

12
13 **Q. Please describe your professional background and qualifications.**

14 A. From August 2015 through April 2019, I was employed by the Kansas Corporation
15 Commission ("KCC" or "Commission"). I began my employment with the KCC in the
16 Utilities division as a Senior Research Economist and was promoted to Managing Rate
17 Analyst.

18 Since April 2019, I have served in my current position as Senior Regulatory Analyst
19 with CURB.

1 **Q. Have you previously testified before the Commission?**

2 A. Yes. Over the course of my employment with CURB, I have offered written and live
3 testimony in several proceedings before the Commission. During my prior employment as
4 a member of KCC Staff, I also offered testimony in proceedings before the Commission
5 and submitted Report and Recommendations for the Commission's consideration. A list of
6 those filings is available, upon request.

7

8 **II. Summary of Testimony**

9 **Q. What is the purpose of your testimony?**

10 A. In this docket, Evergy Kansas Central, Inc.; Evergy Kansas South, Inc.; and Evergy Metro,
11 Inc. (collectively, "Evergy") is requesting to put in place a framework to process Southwest
12 Power Pool ("SPP") demand response ("DR") resource registrations and improve visibility
13 into wholesale DR participation in Kansas. My testimony supports the *Joint Motion to*
14 *Approve Non-Unanimous Settlement Agreement and Non-Unanimous Stipulation and*
15 *Agreement* ("Agreement"), filed together on August 10, 2023.

16

17 **Q. Please summarize your position.**

18 A. I believe the Agreement satisfies the Commission's established criteria for approval of non-
19 unanimous settlement agreements; therefore, I recommend that the Commission approve
20 the Agreement.

1 **III. Background**

2 **Q. Please provide a brief background of this proceeding.**

3 A. On January 25, 2023, Evergy filed its *Joint Application for Approval of Tariff*
4 *Changes Related to Wholesale Demand Response Participation* (“Application”). In its
5 Application, Evergy alleges that it has encountered challenges in reviewing Kansas DR
6 Resource registration and customer participation in the SPP marketplace through demand
7 response aggregators (“DRAs”), which Evergy believes are not sufficiently addressed by
8 its tariffs and which pose risks to the safety and reliability of Evergy’s retail distribution
9 system.¹ Evergy is seeking Commission approval of tariff changes in order to strike a
10 balance between (a) facilitating retail customers’ desires to utilize DR resources to
11 participate in SPP markets and (b) the transparency and the control Evergy needs to be able
12 to fulfill its distribution utility and retail service responsibilities in Kansas.²

13 In this docket, the Commission has granted intervention to CURB; Voltus, Inc.
14 (“Voltus”); the Empire District Electric Company (“Empire”); Southern Pioneer Electric
15 Company (“Southern Pioneer”); Sunflower Electric Power Company (“Sunflower”); and
16 Sierra Club and Vote Solar.

17 KCC Staff filed its Report and Recommendation on May 9, 2023. KCC Staff
18 initially recommended that the Commission approve the tariff changes proposed by
19 Evergy.³ However, KCC Staff noted it would listen to the concerns and recommendations

¹ Joint Application for Approval of Tariff Changes Related to Wholesale Demand Participation, p. 3 (Jan. 25, 2023).

² Joint Application for Approval of Tariff Changes Related to Wholesale Demand Participation, pp. 9–10 (Jan. 25, 2023).

³ Report and Recommendation from KCC Staff, p. 11 (May 9, 2023).

1 of other intervenors and was not foreclosed from alternative solutions to those presented
2 by Evergy.⁴ Therefore, KCC Staff reserved the right to modify or revise its
3 recommendation through the course of this Docket.⁵

4 Responsive comments and/or testimony were filed by all intervening parties.
5 Voltus, a DRA, was particularly critical of Evergy's proposal. CURB expressed some
6 concerns with Evergy's proposal, but generally concurred with KCC Staff that there is a
7 need to revise Evergy's tariffs to provide reasonable protection for Evergy ratepayers
8 against certain practices of Kansas retail customers and DRAs that may detrimentally affect
9 the reliability of Evergy's system at significant costs.

10 A settlement conference was held on July 26, 2023, and settlement discussions
11 continued thereafter, through the early part of August. A non-unanimous settlement
12 agreement was filed on August 10, 2023. The signatories to the Agreement are Evergy,
13 KCC Staff, CURB, Voltus, Empire, Southern Pioneer, and Sunflower. Sierra Club and
14 Vote Solar have indicated that they object to the Agreement.

15
16 **Q. Please describe the key aspects of the Agreement.**

17 **A.** Although not an exhaustive summary, under the Agreement:

- 18 ■ Evergy's express written consent is necessary for a customer to participate in the SPP's
19 Integrated Marketplace DR program. To obtain and maintain Evergy's consent, a
20 customer must submit an initial Customer Registration and Consent Form (Schedule 1

⁴ Report and Recommendation from KCC Staff, p. 11 (May 9, 2023).

⁵ Report and Recommendation from KCC Staff, pp. 11–12 (May 9, 2023).

1 or 1A, depending upon DRA status) and a quarterly report of Operating Data for
2 Demand Response Resources (Schedule 2). Additionally, if a customer discontinues
3 participation, they must provide notice to Evergy.

- 4 ■ In the event Evergy wishes to make any non-clerical changes to Schedules 1, 1A, or 2,
5 as approved by the Commission, Evergy will seek an amendment to the Agreement,
6 allowing the Signatories the opportunity to object to the contemplated change.
- 7 ■ Voltus agrees it will use commercially reasonable efforts to support Evergy and
8 participating customers in various ways, primarily through the provision of data and
9 data verification.
- 10 ■ Evergy agrees to make three annual compliance filings which will include summaries
11 of (a) the number of customer registrations and (b) objections that Evergy has submitted
12 to SPP regarding a customer's registration and/or participation in the market.

13 14 **IV. Evaluation**

15 **Q. What criteria does the Commission generally consider when reviewing non-**
16 **unanimous settlement agreements?**

17 A. Generally, the Commission will accept a non-unanimous settlement agreement if the
18 following five criteria are met: 1) the agreement conforms to applicable law; 2) there was
19 an opportunity for opposing parties to be heard on their reasons for opposition to the
20 agreement; 3) the agreement is supported by substantial competent evidence; 4) the
21 agreement results in just and reasonable rates or charges; and 5) the results of the agreement

1 are in the public interest.⁶

2
3 **Q. Does the Agreement conform to applicable law?**

4 A. It is CURB's position that the Agreement conforms to applicable law. As I am not an
5 attorney, I will defer further discussion of this criterion to CURB's forthcoming legal brief
6 in support of the Agreement, to be filed by September 22, 2023.

7
8 **Q. Have opposing parties been provided an opportunity to be heard?**

9 A. Yes, opposing parties have been and will be provided opportunities to be heard. Sierra Club
10 and Vote Solar were allowed to, and did, file comments and suggestions in response to
11 KCC Staff's R&R. In addition, opponents of the Agreement have the opportunity to file
12 testimony in opposition of the Agreement, just as proponents are given the opportunity to
13 file testimony in support of it. Moreover, a settlement conference was held on July 26,
14 2023, and settlement discussions continued from that date through the early part of August
15 2023. Although the Agreement is non-unanimous, all intervenors participated in the
16 settlement process and had every opportunity to vet concerns. Importantly at that settlement
17 conference, Sierra Club and Vote Solar stated that the dispute they had with the Agreement
18 was a question of legality, which could be addressed by legal briefs filed by all parties.
19 Therefore, Sierra Club and Vote Solar waived an evidentiary hearing. They, and any other
20 opposing party, has the opportunity to file legal briefs by September 22, 2023. Thus, all

⁶ See *Order Approving Contested Settlement Agreement*, ¶11, Docket No. 08-ATMG-280-RTS, May 12, 2012.

1 parties have been provided opportunities to be heard as to the subject matter of this docket,
2 and in particular, with respect to the Agreement.
3

4 **Q. Is the Agreement supported by substantial and competent evidence?**

5 A. Yes, the Agreement is supported by substantial and competent evidence on the record. The
6 record contains substantial documentation, comments, and testimony from qualified,
7 competent witnesses. Included in the record are the testimony and exhibits of Evergy, KCC
8 Staff's R&R, the comments of intervenors, and testimony in support/opposition of the
9 Agreement. In short, the record contains sufficient evidence upon which the Commission
10 can make its decision.
11

12 **Q. Will the Agreement result in just and reasonable charges?**

13 A. Yes, the Agreement will result in just and reasonable charges. Although the policies
14 effectuated through the Agreement do not set rates or charges directly, low-cost DR
15 Resources can have a beneficial impact upon wholesale electricity prices. During periods
16 of peak demand, consumers who can respond by reducing consumption therein reduce the
17 need to operate more expensive generation. However, unbridled bidding of DR into SPP
18 markets could result in inefficiencies in the distribution system, whereby eroding the
19 aforementioned beneficial price impacts.

20 I believe the Agreement presents an appropriate middle-ground between a laissez-
21 faire approach to allowing DR into wholesale markets and a statewide opt out of

1 participation. (For context, 16 out of 19 states within the Midcontinent Independent System
2 Operator and SPP regions have chosen to opt out of wholesale market participation.⁷) The
3 Agreement provides an opportunity for the reduction of wholesale energy costs through
4 DR, but reasonably protects Evergy's distribution system by increasing transparency to the
5 bidding process, thereby providing for just and reasonable energy charges.

6
7 **Q. Is the Agreement in the public interest?**

8 A. Yes, the Agreement is in the public interest, primarily for the same reasons as stated above.
9 The Agreement is signed by parties representing a wide range of interests: Evergy, Empire,
10 and Southern Pioneer, representing electric public utilities; Sunflower, representing
11 electric distribution cooperatives; CURB, representing residential and small ratepayers;
12 Voltus, a DRA; and KCC Staff, representing the public, generally.

13 I believe the Agreement presents an appropriate middle-ground between the
14 divergent initial positions of Evergy and Voltus, and a better path forward than a statewide
15 opt out of participation for DR resources in wholesale markets.

16 The compliance reporting requirement of the Agreement is in the public interest
17 because Evergy's reports will allow the Commission and other parties to monitor the initial
18 effects of the Agreement on the number of new wholesale DR registrations among
19 Evergy's customers.

⁷ Forrester, Sydney P., et al., Lawrence Berkeley National Laboratory, "Aggregations in Opt Out States," NREL DER Interconnection Workshop 1 (December 15, 2022).

1 Furthermore, because the parties were able to close the gap on many issues through
2 the settlement process, the parties have agreed to forego an evidentiary hearing, resulting
3 in significant cost savings to ratepayers and other represented clientele. The opposing
4 parties' issue is legal in nature and all parties have agreed it can be efficiently addressed
5 via written briefs.

6

7 **Q. What is your final recommendation?**

8 A. I support the Agreement and believe it satisfies the Commission's established criteria for
9 approval of a non-unanimous settlement agreement. Therefore, I recommend the
10 Commission approve the Agreement.

11

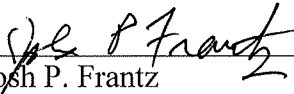
12 **Q. Does this conclude your testimony?**

13 A. Yes, thank you.

VERIFICATION


STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

I, Josh P. Frantz, of lawful age and being first duly sworn upon my oath, state that I am a Senior Regulatory Analyst 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.



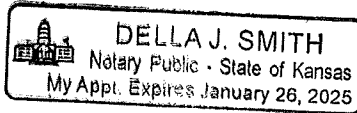
Josh P. Frantz

SUBSCRIBED AND SWORN to before me this 11th day of September, 2023.



Notary Public

My Commission expires: 01-26-2025.



CERTIFICATE OF SERVICE

23-EKCE-588-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 11th day of September, 2023, to the following:

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