

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

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

In the Matter of the Application of Evergy            )  
Kansas Metro, Inc., Evergy Kansas South,            )  
Inc., and Evergy Kansas Central, Inc. for            )     Docket No. 25-EKME-315-TAR  
Approval of Large Load Service Rate Plan and     )  
Associated Tariffs.    )

**ORDER GRANTING EVERGY’S  
MOTION TO MODIFY THE PROTECTIVE ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1.        On February 11, 2025, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (EKC) and Evergy Metro, Inc. d/b/a Evergy Kansas Metro (EKM) (EKC and EKM collectively referred to as Evergy) filed an Application seeking expedited approval of its Large Load Power Service (LLPS) Rate Plan, with a new tariffed rate offering for customers over 100 MW seeking to interconnect with Evergy.<sup>1</sup> Evergy proposes to file annual compliance report filings with the Commission to track the success of the LLPS Rate Plan.<sup>2</sup> Additionally, Evergy requests expediting an order by June 20, 2025.<sup>3</sup>

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<sup>1</sup> Evergy’s Application for Approval of Large Load Service Rate Plan and Associated Tariffs, Feb. 11, 2025 (Application).

<sup>2</sup> *Id.*, ¶9.

<sup>3</sup> *Id.*, ¶10.

2. On February 19, 2025, the Commission issued a Protective and Discovery Order, allowing the parties to designate information as confidential, and requiring parties seeking access to confidential information to file a non-disclosure certificate.<sup>4</sup>

3. On March 14, 2025, Evergy filed a Motion to Modify the Protective Order to add a “highly confidential” designation to protect certain categories of information from harmful disclosure, namely information regarding prospective customers, including prospective LLPS customers and projects in development..<sup>5</sup>

4. K.S.A. 66-1220a and K.A.R. 82-1-221a set forth requirements for the designation and treatment of information deemed confidential in Commission proceedings. The Commission grants Evergy’s Motion to Modify the Protective Order to maintain the confidentiality of commercially and competitively sensitive information.

5. K.S.A. 66-1220a limits disclosure of trade secrets or confidential commercial information of regulated utilities. Under K.S.A. 66-1220a(a)(4), the Commission is to consider alternatives to disclosure that will serve the public interest and protect the regulated entity. This Amended Protective Order governs the treatment and handling of confidential information in this Docket.

6. A party may designate as “Confidential” any information that it believes, in good faith, to be a trade secret or other confidential commercial information. A party may designate as “Highly Confidential” any information that it believes, in good faith, to be commercially sensitive and competitive information that would harm their economic interests if disclosed to other marketers or Evergy. The party designating the information as Confidential or Highly Confidential must provide a written statement of the specific grounds for the designation at the time the

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<sup>4</sup> Order Granting CURB’s Petition to Intervene, Protective Order and Discovery Order, Feb. 19, 2025, ¶ 9.

<sup>5</sup> Evergy’s Motion to Modify the Protective Order, Mar. 14, 2025, ¶ 4.

designation is made. The party claiming confidentiality has the burden of proving the confidential status of the information. Designating information as Confidential or Highly Confidential does not prevent the information from disclosure after review by the Commission.

7. This Amended Protective Order applies to all parties in this proceeding, unless specifically stated otherwise. The provisions of the Amended Protective Order apply to Commission Staff (Staff), except that Staff is not required to sign nondisclosure certificates or view voluminous materials on site and is not required to return or destroy confidential information upon request at the conclusion of a proceeding. Outside experts and consultants used by Staff shall have access to information and voluminous materials on the same basis as Staff, except that outside Staff experts and consultants are required to read this Protective Order and to sign nondisclosure certificates as contained in Appendix A. Parties who do not sign a nondisclosure certificate will not be granted access to confidential information filed in this Docket.

8. The following definitions shall apply:

**Information:** “Information” refers to all documents, data, including electronic data, studies and other materials furnished pursuant to requests for information or other modes of discovery, or any other information or documents that are otherwise a part of the Commission record.

**Confidential Information:** “Confidential Information” refers to information which, if disclosed, would likely result in harm to a party’s economic or competitive interests or which would result in harm to the public interest, generally, and which is not otherwise available from public sources. “Confidential information” may include, but is not limited to: (1) material or documents that contain information relating directly to specific customers; (2) employee sensitive information; (3)

marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration; (6) contract negotiations; and, (7) information concerning trade secrets, as well as private technical, financial, and business information.

**Highly Confidential Information:** “Highly Confidential Information” refers to information which is of a highly confidential, commercial and competitive nature, and the disclosure of which threatens to substantially harm one or more party’s economic or competitive interests, and which has not been made public, but has been maintained as highly sensitive and confidential information by its owners and is entitled to extraordinary protections. This category specifically includes: “Highly Confidential Development Information” - information regarding prospective customers and projects, which are at various stages of development and pre-development planning, and could include information related to development plans, preliminary discussion and negotiations, and other information regarding future projects

9. A party designating information as “Confidential” or “Highly Confidential” shall make the “Confidential” or “Highly Confidential” Information available under the restrictions in this Amended Protective Order, if such disclosure is not otherwise privileged or objectionable on other evidentiary grounds.

10. Disclosure of Confidential Information shall be made to attorneys of record and to authorized representatives, including outside experts, who are consulting with parties or intend to file testimony in this proceeding. Attorneys or authorized representatives seeking access to

Confidential Information shall first read this Amended Protective Order and sign a nondisclosure certificate as provided in Appendix A. The nondisclosure certificate shall contain the signatory's name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of a party to this proceeding. The nondisclosure certificate shall be filed in the Docket. The party claiming confidentiality shall provide legible copies of the Confidential Information to requesting parties by serving one copy upon counsel for the requesting party. The requesting party may copy the Confidential Information and make it available to its authorized representatives who have signed and filed nondisclosure certificates. If a response to a discovery request requires the duplication of voluminous material, or the material is not easily copied because of its binding or size, the furnishing party may require that the voluminous material be viewed on its own premises. If duplication of voluminous material can be accomplished without undue burden on the party disclosing the information, the voluminous material may be copied at the expense of the requesting party. Voluminous material shall include documents or materials comprised of 200 pages or more.

11. Disclosure of Highly Confidential Information shall be made pursuant to the terms applying to Confidential information set forth above, but with the following additional protections:

- a. Highly Confidential Development Information shall not be disclosed directly or indirectly to any employee of any intervenors or parties in any manner that identifies any prospective customer, prospective project or project location or projected demand figures associated with any particular prospective customer or project.
- b. Disclosure of materials or information designated as "Highly Confidential Development Information" by Evergy, may only be made available to representatives of Staff, CURB, outside retained counsel of intervenors, and

outside consultants to the proceeding and have executed a Commission-approved Nondisclosure Agreement for Highly Confidential Information.

- c. Before receiving Highly Confidential Information, the individual intending to receive Highly Confidential Information must file a copy of the Commission-approved Nondisclosure Agreement for Highly Confidential Information, attached hereto as Appendix A. Representatives of Staff and CURB who have executed a Commission-approved Nondisclosure Agreement for Confidential Information, do not need to file a separate Nondisclosure Agreement to access Highly Confidential Information.

12. Consistent with K.A.R. 82-1-221a(b)(1), parties are required to route their requests for access to “Confidential” or “Highly Confidential” material through the party seeking to maintain the confidential status of the information.

13. A party may designate pre-filed testimony and exhibits as Confidential or Highly Confidential pursuant to this Protective Order. The specific grounds for the Confidential or Highly Confidential designation shall be stated in writing at the time the designation is made or the testimony filed. Any party obtaining Confidential or Highly Confidential Information may use or refer to such Information in pre-filed or oral testimony provided that the confidentiality is maintained, unless otherwise ordered by the Commission.

14. If Information to be disclosed in response to a data request contains Confidential or Highly Confidential Information designated by another party in this Docket, the furnishing party shall maintain the confidential status by marking the information as Confidential or Highly Confidential and only provide response to parties that have signed nondisclosure certificates. If Information that a party intends to use in this proceeding or that would be disclosed in response to

a data request contains Confidential or Highly Confidential Information obtained from a source outside of this proceeding, the party intending to use or provide the Confidential or Highly Confidential Information must notify the original source which claimed Confidential or Highly Confidential status to allow that entity to decide whether to claim confidentiality in this proceeding.

15. When pleadings, pre-filed testimony, or exhibits include Confidential or Highly Confidential Information, the parties are to follow these procedures:

- a. File a copy of the complete document, including all Confidential or Highly Confidential Information. The cover is to clearly state “CONFIDENTIAL VERSION” or “HIGHLY CONFIDENTIAL VERSION.” Confidential or Highly Confidential pages shall be stamped “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” and the specific Confidential or Highly Confidential Information shall be identified by being underlined.
- b. File one copy with the Confidential or Highly Confidential portions redacted, for use as a public document. The cover is to clearly state “PUBLIC VERSION.”

16. Confidential or Highly Confidential testimony may be offered or subject to cross-examination at hearings. Parties have the right to object to the admissibility of Confidential or Highly Confidential Information on standard evidentiary grounds such as relevance. Confidential or Highly Confidential Information that is received into evidence will be kept under seal. Confidential or Highly Confidential Information shall be discussed only after the hearing is closed to all persons except the Commission, its Staff, court reporters, attorneys of record and individuals to whom the designated information is available under the terms of this Amended Protective Order. Parties shall make every effort at hearings to ask and answer questions in such a way as to preserve

the confidentiality of the information without the need to close the hearing. The transcript of live testimony or oral argument disclosing Confidential or Highly Confidential Information shall be kept under seal and copies provided only to persons entitled to access to Confidential or Highly Confidential Information. Neither the parties nor their attorneys shall disclose or provide copies of the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Amended Protective Order.

17. If a party disagrees with a claim that information is Confidential or Highly Confidential or should not be disclosed, the parties shall first attempt to resolve the dispute on an informal basis. If the parties cannot resolve the dispute informally, the party contesting the Confidential or Highly Confidential treatment may file a motion with the Commission. Staff should also be prepared to challenge a confidential designation when it believes the information does not meet the definition of Confidential or Highly Confidential Information. When a dispute concerning confidentiality is brought before the Commission, the Commission will review the matter to determine (1) if the party claiming confidentiality has met its burden of establishing the confidential designation is proper, and (2) whether disclosure is warranted under K.S.A. 66-1 220a. The contested information shall not be disclosed pending the Commission's ruling.

18. All persons who are afforded access to Confidential or Highly Confidential Information under the terms of this Amended Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and litigation of this proceeding. During the course of this proceeding, parties shall keep Confidential or Highly Confidential Information secure in accordance with the purposes and intent of this Order. At the conclusion of this proceeding, including judicial review, a party claiming that information was Confidential or Highly Confidential may require that other persons



in possession of its Confidential or Highly Confidential Information return or destroy all such Confidential or Highly Confidential Information and all notes, tapes, documents, and any other medium containing, summarizing, or otherwise embodying such Confidential or Highly Confidential Information. If the party claiming confidentiality requests destruction, the person destroying the information shall certify its destruction within thirty (30) days of any such request. Counsel shall be entitled to retain memoranda or pleadings including or embodying Confidential or Highly Confidential Information to the extent reasonably necessary to preserve a file on this proceeding.

19. Except as specifically provided, the terms, conditions, and limitations of this protective order shall survive the termination of this action.

**THEREFORE, THE COMMISSION ORDERS:**

A. The provisions of this Amended Protective Order shall govern the treatment and handling of confidential and highly confidential information in this Docket.

B. This Order is procedural and constitutes non-final agency action.<sup>6</sup>

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/20/2025



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Abigail D. Emery  
Acting Secretary to the Commission

BGF

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<sup>6</sup> K.S.A. 77-607(b)(2).

**APPENDIX A**

Docket No. 25-EKME-315-TAR  
THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

**HIGHLY CONFIDENTIAL NONDISCLOSURE CERTIFICATE**  
*(To Access Highly Confidential Information)*

I, \_\_\_\_\_, have been presented a copy of the Amended Protective Order issued in Docket No. 25-EKME-315-TAR on the \_\_\_\_ day of \_\_\_\_\_, 2025.

I have requested review of highly confidential information produced in the above-mentioned docket on behalf of \_\_\_\_\_.

I am an employee of \_\_\_\_\_ acting as \_\_\_\_\_ [state role from list of eligible persons from Paragraph 11(b) of the Amended Protective Order] for \_\_\_\_\_; and I hereby certify that I have read the above-mentioned Amended Protective Order and agree to abide by its terms and conditions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party/Employer

\_\_\_\_\_  
Address (Include City, State and ZIP)

\_\_\_\_\_  
Email

## CERTIFICATE OF SERVICE

25-EKME-315-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/20/2025.

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25-EKME-315-TAR

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**CERTIFICATE OF SERVICE**

25-EKME-315-TAR

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