

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

In the Matter of the Application of Evergy)
Metro, Inc. Evergy Kansas Central, Inc. and)
Evergy Kansas South, Inc. for Adjustment of) Docket No. 21-EKME-050-RTS
Base Rates to Comply with HB No. 2585.)

CURB'S RESPONSE TO STAFF'S REPORT AND RECOMMENDATION

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and submits its Response to the Report and Recommendation (R&R) filed by the Staff of the Kansas Corporation Commission ("Staff") in the above-captioned docket on September 18, 2020.¹

I. Background

1. On July 31, 2020, Evergy Metro, Inc., Evergy Kansas Central, Inc., and Evergy Kansas South, Inc. (collectively "Evergy") filed an application to adjust their base rates to account for the elimination of the state income tax pursuant to the changes in law associated with House Bill (HB) 2585.²

2. CURB filed a Petition for Intervention on July 31, 2020 and the Kansas Corporation Commission ("Commission") granted the intervention on August 18, 2020.

II. CURB's Response to Staff's R&R

3. CURB supports the recommendations made by Staff in their R&R regarding the analysis of Evergy's calculations of the appropriate amount to remove from rates for both Evergy Metro and Evergy Central. Furthermore, CURB is supportive of Staff's recommendation to modify the timing of Evergy Central's reductions to be a 25/50/25 split over the next two years. However, CURB notes that Staff's R&R proposes that Evergy should be free to file a petition seeking an

¹ Notice of Filing of Staff's Report and Recommendation, September 18, 2020.

² Application for Evergy, July 31, 2020.

adjustment of the \$10.8 million decrease in January 2022 (50% of the total rate reduction) if over the next year Evergy's financial projections change to a point where the CFO Pre-WC to Debt ratio falls below the 18% level. While CURB does not disagree with that recommendation, CURB believes that Evergy's financial projections could also improve to a point where more than \$10.8 million of the rate decrease could be made in 2022 without putting the CFO Pre-WC to Debt ratio at risk of falling below 18%. Therefore, CURB would ask that the Commission require Evergy to file its financial projections in time for parties to determine if an upward adjustment is practical regarding the amount of the rate reduction for 2022. If financial projections change, all parties should be free to file a petition with the Commission for an appropriate adjustment to the rate reduction amounts for 2022 and 2023 in line with the statute. It also adds transparency and symmetry to the implementation process.

4. CURB believes that one of the overarching policy goals of HB 2585 is to reduce rates for ratepayers in response to the reality that Kansas utilities were not necessarily paying the taxes that they were collecting from ratepayers. CURB believes that equity considerations should weigh in favor of the ratepayers on this issue and the Commission should lean towards the option that provides rate relief sooner rather than later. To that end, CURB agrees with Staff's approach of finding the way that gives the reductions to the ratepayers sooner than proposed by Evergy.

5. Section (3)(d)(1) of HB 2585 identifies a two-year implementation period of current period rate changes to maintain the credit quality of the utility as a non-exclusive means of providing "due consideration" to the common interests of the utility and its customers required of the Commission. CURB suggests that the Commission should also consider the timing of implementation to ensure that the current customers who have been paying the pertinent income

taxes receive the benefit of this reduction and credit. Staff's recommendation to move 50% of the reduction to 2022 is an acceptable modification to account for this factor, at a minimum.

6. Both Evergy and Staff note that credit rating metrics are dependent on a multitude of factors and considerations, prone to subjective judgment. Any number of external factors could push Evergy's CFO Pre-WC to debt below 18% aside from the elimination of the state income tax. Credit rating agencies have not commented on the impacts of HB 2585 and the record's insight to possible credit rating scenarios is limited.³ CURB does not perceive that Staff has asserted that the Commission must conform its analysis to eliminating every possibility of impairing a utility's current credit rating based on a threshold. Instead, the Commission should analyze these applications on a case-by-case basis with sufficient facts and conclusions. To that end, CURB believes that, in this case, the Commission could consider the even split rate reduction as laid out on page 4 of Staff's R&R or some other implementation method that further expedites the reductions for ratepayers. By allowing any party to request that the amount of the rate change for 2022 be adjusted based upon changes to the CFO Pre-WC to Debt ratio for the applicable period, the Commission would allow the rate changes to be made as quickly as practical without endangering Evergy's credit metrics.

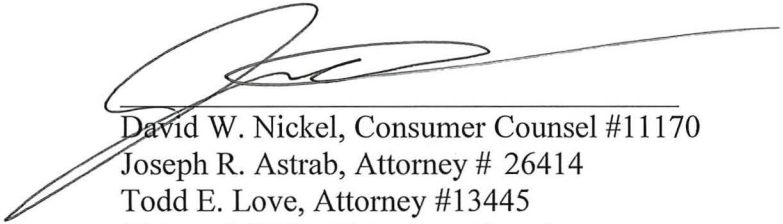
7. CURB agrees with Staff and Evergy that implementing the pertinent rate changes without a phase-in would likely cause a deterioration of Evergy's credit rating. However, if the Commission adopts a two-year implementation for Evergy Central, then CURB notes that the statute requires Evergy Central to create a regulatory liability that tracks the overcollection of income tax expenses from rates from the phase-in of the rate reduction during the period where rates still include a portion of the state income tax. CURB would recommend a recitation of this

³ Direct Testimony of Lori Wright on Behalf of Evergy, pg. 9, Ins. 3-5, July 31, 2020.

obligation be contained in the Commission's order. This is to ensure compliance with the entirety of Section (3)(d)(1) in the event that a retail rate change is implemented over a period of time. According to this section, this tracked amount will accrue interest at the utility's weighted average cost of capital and must be refunded to ratepayers in the next full general rate case. CURB believes that either proposal by Evergy or Staff will result in rates being collected over the two-year implementation period that contain leftover income tax reductions yet to be realized, thereby triggering this requirement.

8. WHEREFORE, CURB submits this response and notifies the parties that CURB supports the R&R filed by Staff, but further requests consideration of alternative distribution methods and the creation of a regulatory liability for the overcollection of income tax expenses during any kind of phase-in of the rate change.

Respectfully submitted,



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VERIFICATION

STATE OF KANSAS

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SS:

COUNTY OF SHAWNEE

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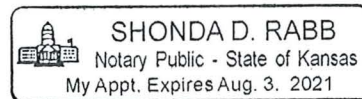
I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge,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

Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 24th day of September, 2020.

Notary Public

My Commission expires: 8-3-2021



CERTIFICATE OF SERVICE

21-EKME-050-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 24th day of September, 2020, to the following:

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Shonda Rabb
Public Service Administrator