

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

In the Matter of the Investigation into Evergy )  
Kansas Metro and Evergy Kansas Central )  
Regarding the February 2021 Winter Weather ) Docket No. 21-EKME-329-GIE  
Events, as Contemplated by Docket No. 21- )  
GIMX-303-MIS. )

**NGTCC AND KIC ANSWER TO EVERGY'S RESPONSE**

COMES NOW, the Natural Gas Transportation Customer Coalition (“NGTCC” or “Coalition”) and the Kansas Industrial Consumers Group, Inc. (“KIC”), and respectfully files its Answer to Evergy’s Response regarding the NGTCC and KIC’s intervention in the instant matter. In support thereof, the NGTCC and KIC state the following to the State Corporation Commission of the State of Kansas (“Commission”):

**I. CONDENSED PROCEDURAL BACKGROUND**

1. On July 14, 2021, the NGTCC and KIC Petitioned to Intervene in this docket. The NGTCC and KIC’s Petition to Intervene included all necessary information showing intervention was proper. Likewise, the NGTCC and KIC’s intervention was presented in a comparable manner to previously granted intervention requests. In addition to the NGTCC and KIC’s request to intervene, the NGTCC and KIC offered initial comments on a key issue particular to electric and natural gas supply coordination. From the outset, the NGTCC and KIC have sought intervention in the spirit of cooperation and pursuit of a common goal – reducing the likelihood ratepayers will be subject to fuel-based price spikes in the future.

2. On July 22, 2021, Evergy filed its Response to the NGTCC and KIC’s Petition to Intervene (“Response”). Evergy’s Response asserts the NGTCC did not meet the legal requirements for intervention, and KIC did not follow an existing obligation to name entities taking part in this matter through KIC. Both of Evergy’s assertions are incorrect.

## II. ANSWER SUPPORTING INTERVENTION

3. Evergy repeatedly notes the NGTCC's members are natural gas transportation customers. Because Evergy does not provide natural gas transportation service, Evergy claims the NGTCC do not have any legal interest that may be affected by this proceeding. It is disappointing to the NGTCC to see Evergy selectively quote the NGTCC's petition in such a puzzling and incomplete manner. To be clear, and as stated in the NGTCC's Petition to Intervene, the NGTCC:

- a. Was organized to participate in regulatory proceedings involving charges related to utility service affected by Winter Storm Uri;
- b. Is likely to be invoiced significant amounts for electric consumption due to historically high prices for natural gas used to generate electric energy in wholesale electricity markets and as charged to retail ratepayers of Evergy;
- c. Has a significant number of members that take electric service from Evergy;
- d. Like KIC, is made up of commercial and industrial members who depend on Evergy's facilities to meet their electricity needs; and
- e. Is made up of businesses and entities which are not represented by any other party.

4. Evergy chose to omit the NGTCC's stated rationale for intervening in this docket – conveniently presented in the NGTCC's Petition for Intervention under the "Rationale for Intervention" heading. It is no secret the NGTCC is comprised of natural gas transportation customers – it's in the coalition's name. This fact, however, does not undermine the NGTCC's stated rationale for intervening in this proceeding. The NGTCC has demonstrated how its legal rights, duties, privileges, immunities, and other legal interests will be substantially affected by this proceeding. The Commission should grant the NGTCC's intervention in the instant matter.

5. In a footnote, Evergy makes the baseless and wholly unsupported claim that the “real reason for NGTCC’s request to intervene in Evergy’s docket may be to gather information for outside litigation its members are currently engaged in.” The Commission should give Evergy’s baseless claim, no weight or consideration. If the NGTCC needs to “gather information” for litigation its members are engaged in, the NGTCC will use the statutory tools at its disposal to secure this information. The NGTCC does not need to participate in this proceeding to support any “outside” litigation – a subpoena for business records is equally as effective. If anything, Evergy (and any other jurisdictional utility for that matter) should be pursuing every avenue including litigation when appropriate to reduce costs associated with Winter Storm Uri. To date, we have seen no evidence of such activities by any Kansas jurisdictional utility, and the NGTCC should not be faulted for trying to save Kansans money. Evergy should be reminded that the Kansas Attorney General, the Missouri Attorney General, the KCC, and the Federal Energy Regulatory Commission are engaged in their own investigations that seek to determine the appropriateness and lawfulness of charges for natural gas and purchased power during Winter Storm Uri.

6. Evergy asserts the Commission should deny KIC’s intervention until KIC names which members are participating in this docket. KIC believed it had made this known in its Petition to Intervene but recognizes how Evergy could have misinterpreted the NGTCC and KIC’s “representative” language. To be clear, the following initial entities have chosen to take part through the NGTCC and KIC in the instant matter:

Initial Participants Through NGTCC:

- a. 178 school districts located throughout Kansas who utilize the Kansas Joint Utility Management Program (“KJUMP”) for natural gas transportation service offered by the Kansas Association of School Boards (“KASB”)

- b. The Archdiocese of Kansas City in Kansas and certain member parishes and schools;
- c. Associated Wholesale Grocers, Inc. (Kansas City, Kansas);
- d. Henke Manufacturing Corporation (Leavenworth, Kansas);
- e. Chance Rides Manufacturing, Inc. (Wichita, Kansas); and
- f. Femco, Inc. (McPherson, Kansas).

Initial Participants through Kansas Industrial Consumers Group, Inc., a Kansas Corporation in Good Standing – Business I.D. Number 3771185:

- a. Associated Purchasing Services Corporation, the group purchasing organization of the member medical facilities of the Kansas Hospital Association, located throughout Kansas

7. It is important to note KIC is the only organization repeatedly required to individually identify members participating through it in order to be granted intervention. The Commission and Evergy's strict application of K.A.R. 82-1-204(i)(2) against KIC is inappropriate. K.A.R. 82-1-204(i)(2) states "No **unincorporated association** shall obtain party status in a proceeding without identifying its membership." (Emphasis added). KIC is not an "unincorporated association" and this regulation is inapplicable to KIC.<sup>1</sup> Unilaterally subjecting KIC to a requirement, which by its definition is inapplicable to KIC, is arbitrary, capricious, and unduly discriminatory to say the least. KIC is not requested (but her done so) to identify its members participating in this proceeding, and the NGTCC has clarified which members are participating in this matter in satisfaction of K.A.R. 82-1-204(i)(2). If there is any requirement a party should follow, it is the requirement to serve pleadings of affected entities.. Evergy did not

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<sup>1</sup> KIC notes that in KCC Docket No. 21-EKME-088-GIE, the Commission granted Intervention to AARP, the Climate & Energy Project, IBEW Local Union No. 304, Kansas Appleseed Center for Law and Justice, Inc., the Sierra Club – all without any requirement to list the members thereof; and in KCC Docket No. 19-KCPE-096-CPL the Commission granted Intervention to the National Resource Defense Council, The Council for the New Energy Economics, and the Union of Concerned Scientists and Clean Air Now, all without any requirement to list the members thereof.

serve its Response herein, to any NGTCC or KIC counsel. The NGTCC and KIC only became aware of Evergy's pleading after performing a routine check of recent KCC docket filings.

WHEREFORE, for the reasons stated above, the NGTCC and KIC respectfully requests the Commission grant their pending Petition to Intervene, deny Evergy's objections to the same, and any other relief the Commission deems just and reasonable.

Respectfully submitted,

/s/ James P. Zakoura

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**VERIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF JOHNSON    )

James P. Zakoura, being duly sworn upon his oath, deposes and states that he is the Attorney for the Natural Gas Transportation Customer Coalition (“NGTCC”) and Kansas Industrial Consumers Group, Inc. (“KIC”), that he has read and is familiar with the foregoing *Answer to Evergy’s Response*, and that the statements therein are true to the best of his knowledge, information, and belief.

  
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James P. Zakoura

SUBSCRIBED AND SWORN to before me this 28th day of July, 2021.

  
\_\_\_\_\_  
Notary Public

My Appointment Expires:



**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of July, 2021, the foregoing *NGTCC and KIC Answer to Evergy's Response*, was electronically filed with the Kansas Corporation Commission and that one copy was delivered electronically to all parties on the service list as follows:

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