

BEFORE THE KANSAS CORPORATION COMMISSION

OF THE STATE OF KANSAS

In the Matter of the Petition of Evergy Kansas)	
Central, Inc., Evergy Kansas South, Inc., and)	
Evergy Metro, Inc. for Determination of the)	
Ratemaking Principles and Treatment that Will)	Docket No. 25-EKCE-207-PRE
Apply to the Recovery in Rates of the Cost to be)	
Incurred for Certain Electric Generation Facilities)	
under K.S.A. 66-1239.)	

APPEAL OF DENIAL

BY THE KANSAS CORPORATION COMMISSION

OF PETITION FOR INTERVENTION

BY SUSTAINABILITY ACTION NETWORK

Sustainability Action Network petitioned for leave to intervene in the above- captioned docket. This Petition to Intervene was filed pursuant to K.S.A. § 77-521 and K.A.R. § 82- 1-225. In support of this petition, S-A-N stated as follows:

1. Sustainability Action Network is a nonprofit corporation organized under the laws of Kansas with a local address of P.O. Box 1064, Lawrence, KS 66044. Sustainability Action Network has over 50 members in Kansas, most of whom are located in Northeast Kansas in both urban and rural areas, and most of whom are Evergy customers, including our Coordinator, Michael Almon, and our Assistant Coordinator, William Steele, both of whom reside in Lawrence, Kansas.

2. On November 6, 2024, Evergy Kansas Central, Inc. (EKC) , Evergy Kansas South, Inc. (EKS), Evergy Metro (EM), and Evergy Kansas Metro (EKM) (collectively, “Evergy”) filed a Petition for Predetermination of Ratemaking Principles and Treatment for what Evergy has denominated as (a) the “Viola Plant” - a 710 MW natural gas generation plant; (b) the “McNew Plant” - a 710 MW natural gas generation plant; and (c) the “Kansas Sky” - a 200 MW solar generation facility.

3. K.S.A. 66-1239(d)(2) provides that “In furtherance of such legislative intent, a public utility that intends to file a petition for a determination of ratemaking principles and treatment pursuant to this section shall provide notice to the commission of such public utility's intent to file such petition not less than 30 days before filing a petition pursuant to this section. Upon receipt of such notice, the commission shall provide notice of the public utility's intent to file a petition pursuant to this section to each person or entity that was a party to or an intervenor in the public utility's most recently concluded base rate case.”

Sustainability Action Network was on the Service List for 19-KCPE-096-CPLEnergy, Inc., which was the most recently concluded base rate case. Sustainability Action Network received notice of this present matter, 25-EKCE-207-PRE, on February 24, 2025, by indirect means, via postcard sent to Evergy ratepayers. No notification of this present matter was received from the Commission, as specified in the statutory section above, within the time limits given, making it impossible for Sustainability Action Network (“SAN”) to file a timely Petition to Intervene in this matter, and the Kansas Corporation Commission (“KCC”) denied said Petition, citing the statutory time limit. However, KCC violated K.S.A. 66-1239(d)(2) in not providing the advance notice specified in the statute. KCC thwarted the legislative intent of the statute by simply failing to provide proper notice, making it impossible for SAN to comply with the time limitation given. It was not the legislative intent of this statute that KCC could just ignore SAN so that they would go away, the intent was that citizens and citizens groups should have the right to participate in the regulation of state-created monopolies, whose actions might have ill effects

on their finances, and on their property, and on their persons.

4. Sustainability Action Network and its members are concerned about a range of issues raised by Evergy's Joint Application, including, but not limited to, how Evergy will meet the electricity needs of Kansans, the implication for Evergy ratepayers, the workings of any utility incentives package, the state's economic stability, the impact on ecological integrity, the costs of decommissioning and environmental restoration, and the health of all Kansans.

Sustainability Action Network is especially concerned about the impact on ratepayers of the possibility of destruction of a solar panel installation covering a large, flat land area in a location that has been adjacent to the paths, or in the path of windstorms, hailstorms, and tornadoes, which have been seen to increase in numbers and severity as the effects of anthropogenic climate change have intensified over the past few decades. In 2019, an EF-3 tornado, intensifying to an EF-4 tornado, passed within two miles of the proposed site in North Lawrence



Given the effects of an EF-2 tornado in Milton, Florida, on a similar installation, in light of the picture below:



Tornado damage to solar plant in Florida

Image: Duke Energy



the effects of an EF-3 or EF-4 tornado would be far greater, as the entire installation might be destroyed. The debris cloud, containing fragments of glass solar cells, would be potentially lethal for miles downwind. Those fragments which did not become airborne could be driven into the ground, and would require extensive and immediate remediation, to prevent toxic dopants from being leached into the prime agricultural soils underlying the installation. These remediation and replacement expenses would be borne by the ratepayers. Similar results could occur in severe hailstorms, but the effects would be strictly local, perhaps requiring more extensive local remediation, which might include scraping off the top six to eight inches of topsoil over the entire installation, and finding a safe place to dispose of it. Again, ratepayers would suffer the expense. Insurance companies are becoming less and less interested in covering hail damage to roofs in this area, and are taking measures to limit liability and payout. As time goes on and hazard increases, it might be difficult to find an insurer to write this kind of coverage - if it is not already. Betting that no such weather event - tornado, derecho, straight-line windstorm, or severe hailstorm - will occur over the useful life of ca. 25 years of such an installation, would be a bad bet for ratepayers, given the current trends in severe weather here in Northeast Kansas.

There's another concern which should be mentioned: the need for storage batteries to store energy from solar panel arrays. Solar power, like wind, is intermittent, it does not produce a steady, constant stream of electrical energy - and grids are dependent on steady and constant streams of electricity. Solar energy must therefore be stored, in order to even out the flow. And this is done, more and more, using lithium battery installations. Lithium batteries are fragile, if cells are damaged or pierced, they can catch on fire. If they overheat, a phenomenon known as thermal runaway can occur, which results in fires - and lithium battery fires continue until all of the lithium is consumed. They produce lots of very toxic smoke. If the battery installation is far from agricultural or urban areas, the hazard is only to local wildlife and fish, but if close to an urban area, that area may have to be evacuated and then decontaminated. Agricultural soils

may have to be remediated, perhaps by scraping off topsoil, depending on the amounts of local rainfall. The utility owning such a battery facility would be liable for the damages caused, which would be reflected in higher rates - and depending on the urban area, the damages could run into the hundreds of millions or billions of dollars. With wind coming out of the north, the City of Lawrence would be directly in the path of such a toxic cloud, with winds out of the west, Johnson County would bear the brunt of a toxic smoke cloud. Battery energy storage system (BESS) fires are not uncommon, a list of ten such fires in the last year can be found here:

https://storagewiki.epri.com/index.php/BESS_Failure_Incident_Database.

One example of such a fire occurred in January 2025 at Moss Landing in California:

“About 80% of the plant, and the lithium batteries it housed, were consumed in the fire, said Joel Mendoza, chief of the North Monterey County Fire Department, at a Saturday press conference. The plant, located across from Moss Landing Harbor on the site of a former PG&E power plant, holds tens of thousands of lithium batteries. Such battery fires are notoriously difficult to extinguish, can burn at high temperatures and emit toxic gases that can cause respiratory problems, skin burns and eye irritation. ... As of 2 p.m. Saturday, the flames were out and the smoke had died down, but heat remained inside the structure. And, because it’s normal for battery fires, in particular, to intensify again, first responders continued to keep U.S. Highway 1 closed in both directions between Highway 183 and Struve Road, officials said. There was no estimated time to reopen Highway 1. Fire crews did not engage with the fire, which was contained to the site, but let it burn out on its own. The flames continued to flare through Thursday and smoldered into Friday. Evacuation orders were lifted at about 6 p.m. Friday night, with officials advising returning residents to stay indoors, limit outdoor exposure and

turn off their ventilation systems.” <https://www.mercurynews.com/2025/01/18/residents-near-moss-landing-fire-return-home-after-officials-lift-evacuation-order/>

Moss Landing is in a rural area, whereas the proposed Evergy facility is directly adjacent to a large urban area, Lawrence, Kansas, with a large university. The cost of evacuating that area - and the economic damages caused - would be huge - and would be borne by Evergy's ratepayers.

The risks outlined above should be enough to put interested parties on notice of potential large liabilities which could be incurred in the course of operation of such a facility. For these reasons, SAN wishes to be allowed to intervene in this current matter.

5. Sustainability Action Network seeks to intervene in this proceeding in order that its members and others may benefit from properly crafted and promulgated policies that govern the location, construction, and operation of Evergy's assets, including, but not limited to, energy conservation, reduction of greenhouse gases, distributed electricity generation, renewable electricity, a range of electricity storage technologies, V2G interface capability, hazardous materials management, supporting and preserving the state's agricultural economy, public safety, and designing a fair rate structure.

6. Sustainability Action Network holds a unique position among Kansas environmental organizations in our independence from any national advocacy groups. While we collaborate on occasion with other regional or state organizations and businesses, we set our own agenda for our program activities. We will offer a perspective to the Commission's docket that reflects the interests of our membership and other interested Kansans, many of whom are Evergy customers and who would bear, at least, the financial impact of the occurrence of any or all of the hazards listed above.

7. Under K.S.A. 77-521(b) the Commission may grant intervention upon determining that such is in the interests of justice and will not interfere with the orderly and prompt disposition of the matter.

WHEREFORE, Sustainability Action Network respectfully requests that this appeal to the Kansas Corporation Commission be granted, and that it be permitted to intervene and be made a party to this docket for all purposes.

Respectfully submitted,

/s/Hudson H. Luce
Hudson H. Luce, SC#20693

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VERIFICATION

STATE OF KANSAS)
) ss:

COUNTY OF SHAWNEE)

I, Hudson H. Luce, have read the above and foregoing and state that the statements therein contained are true and correct according to my knowledge, information and belief.

/s/ Hudson H. Luce
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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2025, a copy of the above Appeal of KCC's Denial of
Petition to Intervene was sent via electronic mail to:

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