

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Andrew J. French, Chairperson  
Dwight D. Keen  
Susan K. Duffy

In the Matter of the Investigation into the )  
Sustainability Transformation Plan of Evergy ) Docket No. 21-EKME-088-GIE  
Metro, Inc., Evergy Kansas Central, Inc., and )  
Evergy South, Inc. (collectively Evergy). )

**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 June 11, 2020, Commission Staff (Staff) filed a Petition for Order Initiating Investigation, to investigate Evergy's Agreement with Elliott Management L.P. (Elliott) to explore either a Modified Standalone Plan (STP) that would effectively cut operating and maintenance expenses and increase capital expenditures dramatically, or a Merger Transaction.<sup>1</sup> Elliott is an asset management firm<sup>2</sup> that at the time, owned an economic interest equivalent of 11.3 million shares in Evergy or approximately \$760 million in current market value.<sup>3</sup> On January 21, 2020, Elliott issued a press release advising it had engaged in private discussions with Evergy management on ways to maximize value for all of Evergy's key stakeholders.<sup>4</sup>

2. On June 18, 2020, the Commission issued an Order Opening General Investigation in Docket No. 20-EKME-514-GIE (20-514 Docket) to enable the Commission,

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<sup>1</sup> Petition of Commission Staff for Order Initiating Investigation (20-514 Petition), Docket No. 20-EKME-514-GIE, June 11, 2020, ¶ 5.

<sup>2</sup> *Id.*, ¶ 3.

<sup>3</sup> Staff Report and Recommendation, Docket No. 20-EKME-514-GIE, June 11, 2020, p. 1.

<sup>4</sup> 20-514 Petition, ¶ 4.

stakeholders, and customers to be fully informed of the analysis and rationale behind Evergy's decision to pursue either a Modified Standalone Plan that would effectively cut operating and maintenance expenses and increase capital expenditures dramatically, or a Merger Transaction.<sup>5</sup>

3. On August 13, 2020, Evergy filed its Notice of Filing Report to the Commission in the 20-514 Docket, informing the Commission that on July 23, 2020, its Board unanimously approved pursuing a Modified Standalone Plan.<sup>6</sup>

4. On August 19, 2020, Staff filed its Petition for Order Initiating Investigation to evaluate any Standalone Plan recommended by Evergy's Board of Directors and its potential impact on the core elements of the merger agreement approved by the Commission in the 18-KCPE-095-MER Docket (18-095 Docket).<sup>7</sup> On August 27, 2020, the Commission issued an Order Opening General Investigation to provide Staff, stakeholders, and Evergy an opportunity to collaborate and evaluate the STP.<sup>8</sup>

5. On November 19, 2020, the Commission issued an Order Establishing Procedural Schedule, which included four workshops, where Evergy made presentations to the Commission, and faced questions from the Commission, Commission Staff (Staff), and the intervenors. The topics of the workshops were: (1) grid modernization investments and related benefits; (2) operational efficiencies included in the STP (NFOM and Fuel and Purchase Power costs); (3) enhanced customer experience; and (4) update of the filed STP after incorporating feedback and results from earlier workshops and intervenor comments (with a discussion or adjustments for

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<sup>5</sup> Order Opening General Investigation, Docket No. 20-EKME-514-GIE, June 18, 2020, ¶ 4.

<sup>6</sup> Evergy's Notice of Filing Report to the Commission, Docket No. 20-EKME-514-GIE, Aug. 13, 2020, ¶ 1.

<sup>7</sup> Staff Report and Recommendation, Aug. 19, 2020, p. 2; Petition of Commission Staff for Order Initiating Investigation, Aug. 19, 2020, ¶ 5.

<sup>8</sup> Order Opening General Investigation, Aug. 27, 2020, ¶ 7.

potential impacts IRP could have on results).<sup>9</sup> All four workshops were livestreamed for the public.<sup>10</sup>

6. On April 16, 2021, Staff, the Citizens' Utility Ratepayer Board (CURB), the Sierra Club, Climate & Energy Project (CEP), the Kansas Industrial Consumers Group (KIC), Grain Belt Express, LLC, and AARP of Kansas filed their initial comments on the STP.

7. While Staff views the STP as a balanced and reasonable plan with the potential to improve Evergy's regional rate competitiveness and service reliability", Staff recommends Evergy: (1) try to reduce or eliminate the disparity in projected rate impacts of the STP between Evergy Kansas Central and Evergy Kansas Metro; (2) collaborate with its stakeholders to propose aggressive but achievable reliability metrics so the Commission can judge the success of the STP Grid Modernization investments, and provide tangible proof the investments are producing progress on reliability; (3) make quarterly compliance filings updating the progress towards developing reliability and performance metrics; (4) provide stakeholders with a transparent analysis on an annual basis, that demonstrates the planned Grid Modernization projects are the most efficient way of meeting the defined customer reliability metrics; (5) consider phasing in its FERC-jurisdictional Transmission investment over a longer time frame to reduce the rate impact on Evergy Kansas Central ratepayers or alternatively, Staff suggests Evergy consider shifting this investment towards additional Distribution projects, which: (a) have greater impact on customer reliability than Transmission investments; and (b) have lower ROEs, allowing more regionally competitive rates; and (6) report on a quarterly basis, its full list

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<sup>9</sup> Order Establishing Procedural Schedule, Nov. 19, 2020, ¶ 7.

<sup>10</sup> *Id.*, ¶ 8.

of Board and senior management level Key Performance Indicators (KPIs) to the Commission, so the Commission can monitor Evergy's STP performance and intervene if necessary.<sup>11</sup>

8. CURB expresses concern that the STP was motivated by a shareholder's desire to increase earnings<sup>12</sup> and offers its opinion that this Docket is informational since Evergy is not seeking Commission approval for the STP.<sup>13</sup> CURB recommends the Commission: (1) acknowledge the STP was designed to promote shareholder earnings;<sup>14</sup> (2) delay any final determination on ratemaking issues until the next general rate case;<sup>15</sup> and (3) provide guidance on the factors to consider once the rate moratorium ends and Evergy seeks recovery of the capital investments outlined in the STP.<sup>16</sup> Among the factors that CURB believes should be considered are the size of the requested rate increases and whether Evergy's rates are competitive with electric rates in neighboring states.<sup>17</sup> CURB remains concerned with the significant transmission spending in the STP, since the Commission has limited authority over the recovery of transmission costs.<sup>18</sup>

9. The Sierra Club believes Evergy should focus on avoiding any new gas infrastructure, retiring its coal plants, and raising funds via securitization to finance sustainable initiatives, like low-income weatherization.<sup>19</sup> Also, the Sierra Club favors increased public participation and transparency around utility resource planning processes and other programs.<sup>20</sup> The Sierra Club suggests the Commission: (1) consider paying community representatives to

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<sup>11</sup> Staff Comments on STP and Topics Addressed During Commission Workshops, Apr. 16, 2021, ¶ 11.

<sup>12</sup> Comments of the Citizens' Utility Ratepayer Board on Evergy's Sustainability Transformation Plan, Apr. 16, 2021, ¶ 20.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, ¶ 28.

<sup>15</sup> *Id.*, ¶ 30.

<sup>16</sup> *Id.*, ¶ 31.

<sup>17</sup> *Id.*, ¶ 67.

<sup>18</sup> *Id.*, ¶ 65.

<sup>19</sup> Sierra Club's Comments on Evergy's Sustainability Transformation Plan, Apr. 16, 2021, p. 3.

<sup>20</sup> *Id.*

facilitate low-income customer groups to make utility policy better for vulnerable Kansans,<sup>21</sup> and (2) engage or approve an independent facilitator to oversee a resource planning process in all future resource planning processes.<sup>22</sup>

10. CEP believes Evergy can immediately improve its STP plan by conducting a Value of Solar Study<sup>23</sup> to evaluate the benefits and costs relating to the operation of net metered facilities.<sup>24</sup> CEP points out the Missouri PUC has already ordered Evergy to conduct a Value of Solar Study in its future Missouri IRP special contemporary issue filings.<sup>25</sup> CEP strongly encourages Evergy to file a securitization action as soon as they are legally able to make it a key component of its STP.<sup>26</sup> CEP supports Evergy's transition to a greater reliance on wind and solar generation but is concerned the analysis inadequately evaluates geographic diversity of additional generation.<sup>27</sup> Thus, CEP encourages Evergy to: (1) take advantage of the Grain Belt Express Transmission line and embrace other grid enhancing technologies, like dynamic line ratings as a low cost means to increase transmission capacity and (2) support the construction of high voltage lines to move low-cost renewables from Evergy's service area and throughout SPP to load pockets to avoid outages in the SPP footprint.<sup>28</sup> Lastly, CEP advocates for the Equitable Access to Sustainable Energy (EASE) program for all customers regardless of their income, socioeconomic status, or credit worthiness.<sup>29</sup>

11. KIC claims the STP takes Kansas backwards and further away from regionally competitive electric rates and urges the Commission to set Evergy on a path that provides

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<sup>21</sup> *Id.*, ¶ 20.

<sup>22</sup> *Id.*, ¶ 22.

<sup>23</sup> A Value of Solar study is a comprehensive analysis of the cost avoided and benefits created for the grid, electricity customers, and society as result of the generation of solar energy.

<sup>24</sup> Comment of Climate + Energy Project, Apr. 16, 2021, ¶ 14.

<sup>25</sup> *Id.*, ¶ 15.

<sup>26</sup> *Id.*, ¶ 37.

<sup>27</sup> *Id.*, ¶ 38.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*, ¶ 58.



regionally competitive electric rates to Kansas' ratepayers and reasonable returns to shareholders.<sup>30</sup> According to KIC, the STP will raise rates by at least 10-11% by 2024 for the ratepayers in Westar's legacy territory, constituting the largest rate increase in Kansas history.<sup>31</sup> KIC characterizes the STP as an accelerated infrastructure replacement program.<sup>32</sup> KIC notes of the roughly \$5.6 billion allocated to Kansas under the STP, transmission alone is earmarked \$2 billion.<sup>33</sup> Since the Commission has less oversight over transmission, KIC claims Evergy would face less Commission scrutiny over its spending.<sup>34</sup> KIC states customers will not benefit from accelerating asset replacement because Evergy already provides fairly reliable service.<sup>35</sup>

12. Grain Belt suggests that Evergy should: (1) consider Grain Belt Express as a transmission and generation option; (2) accelerate, and consistently apply carbon price assumptions; and (3) model generation retirements as an economic function.<sup>36</sup> Also, Grain Belt urges the Commission to follow Missouri's approach with Ameren, and order Evergy to include Grain Belt Express in its Integrated Resource Planning (IRP) process as a supply side option.<sup>37</sup>

13. The AARP urges the Commission to insist that Evergy rethink its STP plans for increased spending initiatives that the AARP believes would unnecessarily raise the monthly household expenses of its captive residential customers in Kansas.<sup>38</sup> The AARP believes every aspect of the STP should be closely scrutinized for cost-effectiveness and Evergy should

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<sup>30</sup> Initial Comments of the Kansas Industrial Consumers Group, Inc., Apr. 16, 2021, ¶¶ 1-2.

<sup>31</sup> *Id.*, ¶ 11.

<sup>32</sup> *Id.*, ¶ 21.

<sup>33</sup> *Id.*, ¶ 27.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*, ¶ 35.

<sup>36</sup> Comments of Grain Belt Express LLC on Evergy's Sustainability Transformation Plan, Apr. 16, 2021, Attachment A, p. 1.

<sup>37</sup> *Id.*, pp. 1-2.

<sup>38</sup> Initial Comments of AARP Kansas, Apr. 16, 2021, p. 2.

minimize or postpone such plans wherever possible.<sup>39</sup> Lastly, the AARP recommends an evidentiary process to allow Evergy's STP to be fully evaluated by expert witnesses.<sup>40</sup>

14. On April 30, 2021, the Sierra Club, CEP, and CURB filed cross-answering comments and KIC filed reply comments.

15. The Sierra Club generally agrees with Staff's comments, but wants to establish quantifiable metrics to assure that grid modernization and transmission projects provide value to customers, and are consistent with a clean energy transition.<sup>41</sup> The Sierra Club also advocates for Performance-Based Ratemaking (PBR), which could incentivize deployment of demand-side management as a capacity resource and energy efficiency.<sup>42</sup>

16. CEP criticizes KIC for ignoring securitization, which offers Evergy the ability to close coal plants in a more cost-effective way and minimize the impact on ratepayers while also allowing Evergy to shift to cleaner, cheaper sources of energy generation.<sup>43</sup> CEP also criticizes Evergy for failing to give Kansans greater access to energy savings through expanded energy efficiency program, such as a new Kansas Energy Efficiency Investment Act (KEEIA) application, since the merger.<sup>44</sup> CEP recommends adopting Staff's recommendation that Evergy provide quarterly updates to the Commission and stakeholders regarding satisfaction of merger conditions, including progress towards energy efficiency programs.<sup>45</sup>

17. CURB reiterates Evergy's capital expenditures should be driven by customer need, rather than a desire to increase shareholder earnings, and that Evergy bears the burden of

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*, p. 3.

<sup>41</sup> Sierra Club's Cross-Answering Comments, Apr. 30, 2021, ¶ 2.

<sup>42</sup> *Id.*, ¶ 3.

<sup>43</sup> Cross Answer Comment of Climate + Energy Project, Apr. 30, 2021, ¶ 10.

<sup>44</sup> *Id.*, ¶ 16.

<sup>45</sup> *Id.*, ¶ 17.

proving the need for its proposed capital expenditures.<sup>46</sup> CURB shares KIC's and Staff's concerns over the disparity in projected rate impacts between Evergy Kansas Central and Evergy Kansas Metro.<sup>47</sup> CURB is troubled by the STP's lack of reliability metrics.<sup>48</sup> CURB contend Evergy has not shown either the amount of investment included in the STP or that the projects included in the STP is necessary to meet its service obligations.<sup>49</sup> Since this Docket is informational in nature, CURB believes the Commission may give general guidance to Evergy regarding the components of the STP, but Evergy must still demonstrate the necessity of the projects and the reasonableness of the underlying costs.<sup>50</sup> Rather than measuring the reasonableness of rates against inflation, CURB posits that Evergy's rates should be evaluated in comparison to retail rates in neighboring states.<sup>51</sup>

18. KIC complains the STP provides no guarantee ratepayers will receive material reliability improvements or savings, but guarantees ratepayers will become responsible for paying for the STP's enormous capital budget.<sup>52</sup> KIC reminds the Commission that the STP was initiated to address Elliott's desire to improve investor returns, not to address operational issues at Evergy.<sup>53</sup> KIC shares Staff's concerns that under the proposed STP, the capital investment is all but certain to occur, but the savings are merely projections.<sup>54</sup> The STP imposes no consequences on Evergy for failing to meet savings targets.<sup>55</sup> KIC advocates capturing any

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<sup>46</sup> Cross-Answering Comments of the Citizens' Utility Ratepayer Board on Evergy's Sustainability Transformation Plan, Apr. 30, 2021, ¶ 13.

<sup>47</sup> *Id.*, ¶ 14.

<sup>48</sup> *Id.*, ¶ 16.

<sup>49</sup> *Id.*, ¶ 19.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*, ¶ 23.

<sup>52</sup> Reply Comments of the Kansas Industrial Consumers Group, Inc., Apr. 30, 2021, ¶ 2.

<sup>53</sup> *Id.*, ¶ 5.

<sup>54</sup> *Id.*, ¶ 8.

<sup>55</sup> *Id.*



savings achieved under the STP and sharing them through the Earnings Review and Sharing Plan (ERSP), which was created during the merger.<sup>56</sup>

19. On May 6, 2021, the Commission established a public comment period, running from May 6, 2021 to July 7, 2021.<sup>57</sup>

20. On May 14, 2021, Evergy filed its response to Staff and intervenor comments, stating it has made significant progress in improving its regional rate competitiveness and expects the STP to advance regionally rate competitiveness.<sup>58</sup> Specifically, Evergy notes it has not had a base rate increase since 2017 in the Evergy Kansas Central service territory and 2015 in the Evergy Kansas Metro service territory.<sup>59</sup> Evergy also states, the average annual increase in rates in Evergy's combined Kansas service territories from 2017 through the end of the STP in 2024 is less than 1 percent (0.9 percent) a year.<sup>60</sup> Based on stakeholder feedback and Evergy's Integrated Resource Plan (IRP), Evergy has identified approximately \$100 million of Evergy Kansas Central FERC transmission to redirect to other types of investment, primarily solar, which will create direct fuel and purchased power savings for customers and will be subject to a lower rate of return than FERC transmission.<sup>61</sup> Evergy reminds the Commission that it is not asking to change rates, thus no Commission decision is required at the conclusion of the Docket.<sup>62</sup>

21. Evergy disagrees with KIC's claim that Evergy's rates, and bill impacts, are the highest in the region.<sup>63</sup> Evergy states the STP will build on the merger savings plan, which

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<sup>56</sup> *Id.*, ¶ 15.

<sup>57</sup> Order Establishing Public Comment Period, May 6, 2021, ¶ 8.

<sup>58</sup> Responsive Comments of Evergy Metro, Inc., Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., May 14, 2021, ¶ 2.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*, ¶ 3.

<sup>62</sup> *Id.*, ¶ 4.

<sup>63</sup> *Id.*, ¶ 10.

decreased Evergy's residential and industrial rates in Kansas, while the regional average increased in 2018 and 2019.<sup>64</sup> Evergy claims its commercial rates in Kansas also decreased more rapidly than the regional average over that period.<sup>65</sup> According to Evergy, from 2017 to 2019, Evergy's Kansas residential and industrial rates decreased 6.5% and 2.8%, respectively, while the regional average increased by 2.0% and 0.1% respectively.<sup>66</sup> For the same period, Evergy's Kansas commercial rates decreased by 3.3% while the regional average decreased by 1.2%. Evergy claims in 2019, electric rates for Kansans declined by 4.3%, -- the greatest price reduction of any state in the nation.<sup>67</sup> Similarly, Evergy explains that since the merger, five out of eight Transmission Delivery Charge changes have been decreases and four out of eight Fuel Adjustment Charge changes have been decreases.<sup>68</sup> In total, since the merger, Evergy claims rate adjustments have decreased Kansas customer rates by approximately \$275 million.<sup>69</sup>

22. While Evergy is continuing to evaluate the STP, it expects the compound annual growth rate (CAGR) of its retail rates for Evergy Kansas Central over the 2020 – 2024 time period to be under 1.8%, or at least 18% lower than projected in the August 2020 filed STP.<sup>70</sup> Evergy notes a significant portion of Evergy Kansas Central's transmission and substation infrastructure are nearing end of life, and are more than 50 years old, and without significant investment in replacing or upgrading aging assets, those assets will continue to degrade over time, increasing the likelihood of failure and customer outages.<sup>71</sup> Lastly, Evergy explains since no order is required in this Docket, it is inappropriate to require it to establish and commit to new

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<sup>64</sup> *Id.*, ¶ 14.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*, ¶ 15.

<sup>68</sup> *Id.*, ¶ 16.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*, ¶ 19.

<sup>71</sup> *Id.*, ¶ 25.

and different reliability metrics or reporting requirements for STP-related Key Performance Indicators.<sup>72</sup>

23. On June 29, 2021, Evergy submitted public and confidential versions of its Post-Work Study Informational Filing.

24. On July 13, 2021, the Commission's Office of General Counsel filed Notice of Filing of Public Comments, attaching a report summarizing the public comments received by the Office of Public Affairs and Consumer Protection (PACP).<sup>73</sup> The Commission received 1,472 public comments.<sup>74</sup> The majority of public comments were form letters that asked the Commission to consider:

MANY KANSANS STRUGGLE TO PAY THEIR BILLS ESPECIALLY THOSE WHO LIVE ON LOW OR FIXED INCOMES AND ARE OFTEN FACED WITH TOUGH CHOICES BETWEEN PAYING FOR FOOD, MEDICINE AND OTHER MONTHLY NECESSITIES. SOME OF OUR HOUSEHOLDS ARE STILL STRUGGLING BECAUSE OF JOB LOSS OR REDUCED INCOME DUE TO THE PANDEMIC. WE ALREADY SUFFER FROM HIGHER RESIDENTIAL ELECTRICITY RATES THAN NEIGHBORING STATES. EVERGYS NEW PROPOSED MASSIVE 5 BILLION SPENDING PLAN, THE SUSTAINABILITY TRANSFORMATION PLAN STP, COULD CAUSE OUR ELECTRIC BILLS TO INCREASE FURTHER AND WITHOUT A PUBLIC HEARING. EVERGY HAS ALREADY BEEN ALLOWED NUMEROUS SURCHARGES IN KANSAS THAT CAN INCREASE OUR ELECTRIC BILLS IN BETWEEN RATE CASES, AND THESE PROPOSED EXTRA INITIATIVES COULD RAISE OUR MONTHLY HOUSEHOLD EXPENSE AGAIN. PLEASE INSTITUTE A FORMAL PROCEEDING TO REVIEW THE REQUEST WHERE THE PUBLIC HAVE AN OPPORTUNITY TO SPEAK. PROGRAMS SHOULD ONLY BE APPROVED THAT ARE NECESSARY TO INCREASE RELIABILITY, DONE ON A SMALL PILOT BASIS, AND DEMONSTRATED TO BE TRULY COST EFFECTIVE. PLEASE OPEN A PROCEEDING TO REVIEW EVERGYS MASSIVE SPENDING PLAN.<sup>75</sup>

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<sup>72</sup> *Id.*, ¶ 37.

<sup>73</sup> Notice of Filing of Public Comments, July 13, 2021.

<sup>74</sup> On July 15, 2021, the Commission's Office of General Counsel filed an addendum, fixing miscellaneous typos and adding one comment inadvertently omitted from the previous filing, bringing the total number of public comments submitted to 1472. Notice of Filing of Addendum to Public Comments, July 15, 2021.

<sup>75</sup> *See Id.*, Attachment A, pp. 41-1307.

25. The Commission agrees with CURB's description of the purpose of this Docket:

CURB views this proceeding simply as an informational proceeding. Therefore, it is CURB's understanding that the STP will neither be accepted nor rejected by the KCC in this proceeding. However, it may be appropriate to establish some general guidelines to inform Evergy at this time regarding the factors that will be considered by the parties once the rate moratorium ends and the Company seeks recovery of the capital investments outlined in the STP.<sup>76</sup>

Thus, the Commission clarifies it is not making any decisions on the merits of the programs within the STP or the prudence of associated investments. Those decisions are reserved for Evergy's future rate cases. As CURB articulated, this Docket is investigatory in nature, rather than ratemaking. The investigation was necessary to give the Commission and stakeholders insight into the motivations and impacts of Evergy's STP; however, this proceeding has not created a sufficient evidentiary record to make granular determinations on the merits of Evergy's STP. The Commission finds its traditional ratemaking approach affording management discretion to the utility – with an after the fact prudence and cost-recovery review – will be the most protective for consumers in this situation. As CURB suggests, it is appropriate for the Commission to offer some general guidelines before Evergy files its next rate case. While not making any predetermination on the merits of the STP or its costs, before seeing actual capital expenditure commitments, the Commission has some concerns with the STP in its present form.

26. First, it is important for Evergy and other Kansas utilities to achieve and maintain regionally competitive retail rates, and it is unclear at this time whether the STP improves or worsens the trajectory of rates. Evergy claims that the average annual increase in rates in its combined Kansas service territories from 2017 through the end of the STP in 2024, will increase on average less than 1% (0.9%) a year, or less than half the average rate of inflation over the

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<sup>76</sup> Comments of the Citizens' Utility Ratepayer Board on Evergy's Sustainability Transformation Plan, ¶ 31.



same timeframe, which is projected to average 2.15% annually.<sup>77</sup> The Commission appreciates the STP's stated objective of keeping rate increases at or below inflation. However, in an era of rising inflation, prevailing rates of inflation may not be an acceptable benchmark for retail rate increases. Further, Evergy's projections of lower than inflation rate increases are merely that – projections. Actual rate impacts will be highly dependent on Evergy's commitment and execution over the next several years. The Commission will review the success of Evergy's execution in future rate cases.

27. The Commission is also concerned with new Evergy projections of future spending increases. When Evergy's 2021 Investor Day Presentation added an additional year to its 5-year spending projections, a new significant increase in CapEx spending was identified in 2025.<sup>78</sup> The original STP envisioned \$8.9 billion in CapEx spending from 2020 through 2024.<sup>79</sup> However, in its September 21, 2021 Investor Presentation, Evergy extended its CapEx projections through 2025, increasing its proposed 5-year CapEx spending to \$10.4 billion.<sup>80</sup> The Commission recognizes not all capital spending will increase rates, and certain investments may actually achieve customer savings. Given Evergy's apparent plans for large future investments, additional transparency is warranted. Accordingly, the Commission directs Evergy to file with its next Capital Plan Report filing an explanation of: (1) the projected increased spending levels, and (2) the impact those spending levels will have on the trajectory of retail rates.

28. The overwhelming majority of public comments expressed concerns over the costs associated with the STP and potential impact on retail rates. The Commission shares those

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<sup>77</sup> Responsive Comments of Evergy Metro, Inc., Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., ¶ 2.

<sup>78</sup> September 2021 Investor Update, Sept. 21, 2021, p. 63 (<https://investors.evergy.com/static-files/65ad24f6-7c78-4f8c-a0e1-86258b951704>).

<sup>79</sup> September 2020 Investor Update, Sept. 10, 2020, p. 8 (<https://investors.evergy.com/static-files/3cc92ad1-df50-4afc-88ee-7861a00a573a>).

<sup>80</sup> September 2021 Investor Update, p. 64.



concerns. In this Order, the Commission is not prejudging the prudence of the STP or whether its costs should be recovered from Kansas ratepayers. But, the Commission remains concerned over Elliott's role in encouraging and developing the STP. These concerns were heightened by Evergy's February 26, 2021 announcement that it entered into agreements with Bluescape Energy Partners LLC (Bluescape) and Elliott to appoint C. John Wilder, Executive Chairman of Bluescape, and former U.S. Senator Mary L. Landrieu, to Evergy's Board of Directors.<sup>81</sup> Evergy stated, it "looks forward to working with Wilder and Landrieu to implement the STP and to optimize the plan to generate industry-leading performance across the Company's operating performance, financial performance and customer service functions."<sup>82</sup> This Commission has no intention to interfere with Evergy's investor relationships, nor does it intend to insert itself into decisions by Evergy regarding its Board structure or management discretion. However, given the continued influence of investor groups on Evergy's utility operations, the Commission emphasizes decisions of what constitutes "sufficient and efficient service" should be driven by customer needs and the public interest of the state of Kansas. As a regulated utility, Evergy's investment decisions, including the timing of investments, should not prioritize shareholder interests to the detriment of ratepayer interests. Upsetting this balance of interests could result in diminished returns to the company and/or the disallowance of certain investments.

29. The Commission adopts Staff's recommendation that Evergy report its Board and senior management level KPIs on a quarterly basis to the Commission in a compliance docket, and once a year provide a more comprehensive report tracking the granular execution level Key Performance Indicators to allow the Commission to evaluate whether Evergy is executing its

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<sup>81</sup> Fourth Quarter 2020 Earnings Call February 26, 2021, p. 12 (<https://investors.evergy.com/static-files/77dd727d-d723-40d7-b560-2323e04af8f3>).

<sup>82</sup> See <https://www.businesswire.com/news/home/20210226005147/en/Evergy-Appoints-Utility-Industry-Veteran-C.-John-Wilder-and-Former-U.S.-Senator-Mary-L.-Landrieu-to-Board-of-Directors>.

STP successfully, and making progress towards regionally competitive rates and reliable electric service.<sup>83</sup> The Commission agrees with Staff's characterization that the Commission should not manage Evergy's day-to-day business activities. However, the Commission has a shared responsibility under K.S.A. 66-101b to ensure that Evergy is providing efficient and sufficient service at just and reasonable rates.<sup>84</sup>

**THEREFORE, THE COMMISSION ORDERS:**

A. In its next Capital Plan filing, Evergy is directed to explain the increased spending in its CapEx projections, and the impact that increased spending will have on the trajectory of rates.

B. The Reporting requirements recommended in Staff Comments on STP and Topics Addressed During Commission Workshops are adopted. Evergy is directed to quarterly report its Board and senior management level Key Performance Indicators in a compliance docket and annually provide a more comprehensive report tracking the granular execution level KPI to allow the Commission to evaluate whether Evergy is executing its STP successfully, and making progress towards regionally competitive rates and reliable electric service.

C. This Docket is closed.

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

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 11/23/2021



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Lynn M. Retz  
Executive Director

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<sup>83</sup> See Staff Comments on STP and Topics Addressed During Commission Workshops, ¶ 90.

<sup>84</sup> See *Id.*

## CERTIFICATE OF SERVICE

21-EKME-088-GIE

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 11/23/2021.

ERNEST KUTZLEY, KS ADVOCACY DIRECTOR  
AARP  
6220 SW 29th St.  
Suite 300  
TOPEKA, KS 66614  
ekutzley@aarp.org

JOSEPH R. ASTRAB, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
j.astrab@curb.kansas.gov

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
d.nickel@curb.kansas.gov

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
s.rabb@curb.kansas.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
d.smith@curb.kansas.gov

DOROTHY BARNETT  
CLIMATE & ENERGY PROJECT  
PO BOX 1858  
HUTCHINSON, KS 67504-1858  
barnett@climateandenergy.org

ASHLEY M. BOND, ATTORNEY  
DUNCAN & ALLEN  
1730 RHODE ISLAND AVENUE NW  
SUITE 700  
WASHINGTON, DC 20036-3155  
amt@duncanallen.com

GREGG D. OTTINGER, ATTORNEY  
DUNCAN & ALLEN  
1730 RHODE ISLAND AVENUE NW  
SUITE 700  
WASHINGTON, DC 20036-3155  
gdo@duncanallen.com

CATHRYN J. DINGES, SR DIRECTOR & REGULATORY  
AFFAIRS COUNSEL  
EVERGY KANSAS CENTRAL, INC  
818 S KANSAS AVE  
PO BOX 889  
TOPEKA, KS 66601-0889  
cathy.dinges@evergy.com

## CERTIFICATE OF SERVICE

21-EKME-088-GIE

ROBERT J. HACK, LEAD REGULATORY COUNSEL  
EVERGY METRO, INC  
D/B/A EVERGY KANSAS METRO  
One Kansas City Place  
1200 Main St., 19th Floor  
Kansas City, MO 64105  
rob.hack@evergy.com

ROGER W. STEINER, CORPORATE COUNSEL  
EVERGY METRO, INC  
D/B/A EVERGY KANSAS METRO  
One Kansas City Place  
1200 Main St., 19th Floor  
Kansas City, MO 64105  
roger.steiner@evergy.com

TERRY M. JARRETT, ATTORNEY AT LAW  
HEALY LAW OFFICES, LLC  
3010 E BATTLEFIELD  
SUITE A  
SPRINGFIELD, MO 65804  
terry@healylawoffices.com

HEATHER H STARNES, ATTORNEY  
HEALY LAW OFFICES, LLC  
12 Perdido Circle  
Little Rock, AR 72211  
heather@healylawoffices.com

BRIAN NOLAND  
IBEW LOCAL 304, KANSAS CITY, MO  
117 W. 20th St., Ste. 201  
Kansas City, MO 64108  
noland.brian@gmail.com

JOHN GARRETSON, BUSINESS MANAGER  
IBEW LOCAL UNION NO. 304  
3906 NW 16TH STREET  
TOPEKA, KS 66615  
johng@ibew304.org

ORIJIT GHOSHAL, SENIOR MANAGER REGULATORY  
AFFAIRS  
INVENERGY LLC  
101 17TH STREET SUITE 1100  
DENVER, CO 80202  
oghoshal@invenergyllc.com

TYRONE H. THOMAS, DEPUTY GENERAL COUNSEL,  
LEGAL  
INVENERGY LLC  
ONE SOUTH WACHER DRIVE SUITE 1800  
CHICAGO, IL 60606  
tthomas@invenergy.com

JOHN B. COFFMAN, ATTORNEY AT LAW  
JOHN B. COFFMAN  
871 Tuxedo Blvd.  
St. Louis, MO 63119  
john@johncoffman.net

KIMBERLY B FRANK, COUNSEL  
K&L Gates, LLP  
1601 K STREET NW  
WASHINGTON, DC 20006  
kimberly.frank@klgates.com

TERESA A. WOODY  
KANSAS APPLESEED CENTER FOR LAW AND JUSTICE,  
INC.  
211 E. 8th Street  
Suite D  
Lawrence, KS 66044  
twoody@kansasappleseed.org

SUSAN ALIG, ASSISTANT COUNSEL  
KANSAS CITY KANSAS BOARD OF PUBLIC UTILITIES  
701 N 7TH STREET  
Suite 961  
KANSAS CITY, KS 66101  
salig@wycokck.org

## CERTIFICATE OF SERVICE

21-EKME-088-GIE

ANGELA LAWSON, DEPUTY CHIEF COUNSEL  
KANSAS CITY KANSAS BOARD OF PUBLIC UTILITIES  
540 MINNESOTA AVENUE  
KANSAS CITY, KS 66101-2930  
alawson@bpu.com

BRIAN G. FEDOTIN, GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
b.fedotin@kcc.ks.gov

MICHAEL NEELEY, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
m.neeley@kcc.ks.gov

TERRI PEMBERTON, CHIEF LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
t.pemberton@kcc.ks.gov

SUSAN B. CUNNINGHAM, SVP, REGULATORY AND  
GOVERNMENT AFFAIRS, GENERAL COUNSEL  
KANSAS ELECTRIC POWER CO-OP, INC.  
600 SW CORPORATE VIEW  
PO BOX 4877  
TOPEKA, KS 66604-0877  
scunningham@kepco.org

MARK DOLJAC, DIR RATES AND REGULATION  
KANSAS ELECTRIC POWER CO-OP, INC.  
600 SW CORPORATE VIEW  
PO BOX 4877  
TOPEKA, KS 66604-0877  
mdoljac@kepco.org

REBECCA FOWLER, MANAGER, REGULATORY AFFAIRS  
KANSAS ELECTRIC POWER CO-OP, INC.  
600 SW CORPORATE VIEW  
PO BOX 4877  
TOPEKA, KS 66604-0877  
rfowler@kepco.org

MARK CHESNEY, CEO & GENERAL MANAGER  
KANSAS POWER POOL  
100 N BROADWAY STE L110  
WICHITA, KS 67202  
mchesney@kansaspowerpool.org

JAMES GING, DIRECTOR ENGINEERING SERVICES  
KANSAS POWER POOL  
100 N BROADWAY STE L110  
WICHITA, KS 67202  
jging@kansaspowerpool.org

LARRY HOLLOWAY, ASST GEN MGR OPERATIONS  
KANSAS POWER POOL  
100 N BROADWAY STE L110  
WICHITA, KS 67202  
lholloway@kansaspowerpool.org

TIMOTHY J LAUGHLIN, ATTORNEY  
LONG & ROBINSON, LLC  
1800 BALTIMORE AVENUE STE 500  
KANSAS CITY, MO 64108  
tlaughlin@longrobinson.com

TIMOTHY S. MAIER, GENERAL MANAGER  
MCPHERSON BOARD OF PUBLIC UTILITIES  
401 W KANSAS AVE  
PO BOX 768  
MCPHERSON, KS 67460  
timm@mcphersonpower.com



## CERTIFICATE OF SERVICE

21-EKME-088-GIE

WILLIAM DOWLING, VP ENGINEERING & ENERGY  
SUPPLY  
MIDWEST ENERGY, INC.  
1330 CANTERBURY DRIVE  
PO BOX 898  
HAYS, KS 67601-0898  
bdowling@mwenergy.com

PATRICK PARKE, CEO  
MIDWEST ENERGY, INC.  
1330 Canterbury Rd  
PO Box 898  
Hays, KS 67601-0898  
patparke@mwenergy.com

ASHOK GUPTA, EXPERT  
NATIONAL RESOURCES DEFENSE COUNCIL  
20 N WACKER DRIVE SUITE 1600  
CHICAGO, IL 60606  
agupta@nrdc.org

PAUL T. DAVIS  
PAUL DAVIS LAW FIRM, LLC  
932 Massachusetts St.  
Suite 301  
Lawrence, KS 66044  
pdavis@pauldavislawfirm.com

ANNE E. CALLENBACH, ATTORNEY  
POL SINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
acallenbach@polsinelli.com

FRANK A. CARO, JR., ATTORNEY  
POL SINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
fcaro@polsinelli.com

ANDREW O. SCHULTE, ATTORNEY  
POL SINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
aschulte@polsinelli.com

SUNIL BECTOR, ATTORNEY  
SIERRA CLUB  
2101 WEBSTER, SUITE 1300  
OAKLAND, CA 94312-3011  
sunil.bector@sierraclub.org

CONNOR A. THOMPSON  
SMITHYMAN & ZAKOURA, CHTD.  
7421 WEST 129th STREET  
OVERLAND PARK, KS 66213-2634  
connor@smizak-law.com

JAMES P. ZAKOURA, ATTORNEY  
SMITHYMAN & ZAKOURA, CHTD.  
7421 WEST 129th STREET  
OVERLAND PARK, KS 66213-2634  
jim@smizak-law.com

ROBERT TITUS, ATTORNEY  
TITUS CONNORS, LLC  
6600 W 95TH STREET, SUITE 200  
OVERLAND PARK, KS 66212  
rob@tituslawkc.com

J.T. KLAUS, ATTORNEY  
TRIPLETT, WOOLF & GARRETSON, LLC  
2959 N ROCK RD STE 300  
WICHITA, KS 67226  
jtklaus@twgfirm.com

**CERTIFICATE OF SERVICE**

21-EKME-088-GIE

KACEY S MAYES, ATTORNEY  
TRIPLETT, WOOLF & GARRETSON, LLC  
2959 N ROCK RD STE 300  
WICHITA, KS 67226  
ksmayes@twgfirm.com

TIMOTHY E. MCKEE, ATTORNEY  
TRIPLETT, WOOLF & GARRETSON, LLC  
2959 N ROCK RD STE 300  
WICHITA, KS 67226  
temckee@twgfirm.com

THOMAS R. POWELL, GENERAL COUNSEL  
UNIFIED SCHOOL DISTRICT 259  
201 N WATER ST RM 405  
WICHITA, KS 67202-1292  
tpowell@usd259.net

BRIAN WOOD  
WICKHAM & WOOD, LLC  
107 W. 9th St., 2nd Flr.  
Kansas City, MO 64105  
brian@wickham-wood.com

/s/ DeeAnn Shupe

---

DeeAnn Shupe