

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 Central, Inc. and Evergy Kansas South,    )        Docket No. 25-EKCE-294-RTS  
Inc. for Approval to Make Certain Changes in    )  
their Charges for Electric Service.                    )

**ORDER DENYING EVERGY’S MOTION FOR LEAVE TO FILE LEGAL ANALYSIS  
REGARDING STANDARDS FOR DETERMINING CAPITAL STRUCTURE**

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 January 31, 2025, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively, Evergy Kansas Central or EKC) filed a Joint Application requesting a net increase in its revenue requirement of \$196.4 million, after costs included in the property tax surcharge are netted out.<sup>1</sup> This represents an actual base rate requested change of \$192 million, or 8.64% percent in total retail revenues.<sup>2</sup> EKC believes a capital structure of 48.03% debt and 51.97% equity should be used to calculate its revenue requirement.<sup>3</sup> Darrin Ives, Evergy’s Vice President Regulatory Affairs, testified that the Commission decision to use a consolidated capital structure in Evergy’s most recent rate case translated into a \$25 million reduction in EKC’s requested revenue requirement.<sup>4</sup> EKC’s Joint Application is supported by testimony from 16 witnesses.<sup>5</sup>

<sup>1</sup> Evergy Kansas Central’s Joint Application, Jan. 31, 2025.

<sup>2</sup> *Id.*, ¶ 2.

<sup>3</sup> *Id.*, 6.

<sup>4</sup> Direct Testimony of Darrin R. Ives, Jan. 31, 2025, p. 27.

<sup>5</sup> *Id.*, ¶ 25.

2. Concurrent with its Joint Application, EKC filed a Motion for Leave to File Legal Analysis Regarding Standards for Determining Capital Structure, noting the capital structure adopted in a rate case is a major issue representing millions of dollars in revenue requirement.<sup>6</sup> EKC explains there are established legal guidelines for determining an appropriate capital structure, which would be better presented to the Commission in a legal memorandum.<sup>7</sup> EKC also requests modification of the procedural schedule to allow the issue of capital structure to be addressed in advance of the evidentiary hearing.<sup>8</sup>

3. Of the 16 witnesses that filed direct testimony in support of EKC's Application, David Campbell,<sup>9</sup> Darrin Ives,<sup>10</sup> Geoffrey Ley,<sup>11</sup> and Ann Bulkley<sup>12</sup> addressed the need for the Commission to adopt a reasonable capital structure and advocated for the use of EKC's standalone actual capital structure to calculate its revenue requirement. As Evergy's CEO David Campbell acknowledges, "Mr. Geoffrey Ley and Ms. Ann Bulkley address the standards applicable to the Commission's decision on ROE and capital structure *in detail* in their direct testimonies."(emphasis added)<sup>13</sup> Ley's testimony explains why adopting EKC's actual capitalization ratio is essential to determining a fair rate of return; and EKC's concerns with other proposed approaches to capital structure in Evergy's most recent rate case.<sup>14</sup> All told, Evergy witnesses devote roughly 44 pages of direct testimony on the subject of capital structure. In addition, EKC's internal staff and outside capital market consultants made a presentation on capital

---

<sup>6</sup> Motion of Joint Applicants for Leave to File Legal Analysis Regarding Standards for Determining Capital Structure (EKC Motion), Jan. 31, 2025, ¶ 2.

<sup>7</sup> *Id.*, ¶ 5.

<sup>8</sup> *Id.*, ¶ 6.

<sup>9</sup> Direct Testimony of David Campbell (Campbell Direct), Jan. 31, 2025, pp. 15, 18-22.

<sup>10</sup> Direct Testimony of Darrin R. Ives (Ives Direct), pp. 4, 24-36.

<sup>11</sup> Direct Testimony of Geoffrey T. Ley (Ley Direct), Jan. 31, 2025, pp. 4-5, 20-31.

<sup>12</sup> Direct Testimony of Ann E. Bulkley, Jan. 31, 2025, pp. 9-10, 52-59.

<sup>13</sup> Campbell Direct, p. 21.

<sup>14</sup> Ley Direct, p. 4.

structure at a Commission workshop on November 20, 2024.<sup>15</sup> The Commissioners and Commission Staff (Staff) attended the workshop and asked questions of the presenters.

4. On February 10, 2025, Staff filed its Answer in Opposition to Joint Applicants' Motion for Leave to File Legal Analysis Regarding Standards for Determining Capital Structure, recommending: (1) denial of EKC's Motion and (2) using traditional rate case procedures to determine the appropriate capital structure.<sup>16</sup> Staff is concerned that EKC is trying to subvert the traditional rate case process by limiting scrutiny of EKC's preferred capital structure.<sup>17</sup> Staff claims EKC fails to demonstrate any legitimate basis to expedite a Commission order on capital structure to April 30, 2025,<sup>18</sup> or that there is any confusion over the existing standard.<sup>19</sup> Lastly, Staff contends EKC overstates the extent to which the determination of capital structure requires legal analyses,<sup>20</sup> especially since several EKC witnesses are sponsoring testimony on the same legal precedent.<sup>21</sup>

5. EKC points to *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Company*, 320 U.S. 391(1944) as the leading cases offering guidance on setting just and reasonable rates by way of a fair and reasonable rate of return.<sup>22</sup> There is no dispute over whether *Hope* and *Bluefield* apply, nor is there any suggestion that the Commission is unfamiliar with either case. Therefore, the Commission questions the need for additional legal briefing.

---

<sup>15</sup> Ives Direct., pp. 29-30.

<sup>16</sup> Staff's Answer in Opposition to Joint Applicants' Motion for Leave to File Legal Analysis Regarding Standards for Determining Capital Structure (Staff's Opposition), Feb. 10, 2025, p. 15.

<sup>17</sup> *Id.*, pp. 1-2.

<sup>18</sup> *Id.*, ¶ 10.

<sup>19</sup> *Id.*, ¶ 11.

<sup>20</sup> *Id.*, ¶ 19.

<sup>21</sup> *Id.*, ¶ 20.

<sup>22</sup> EKC Motion, Attachment A, p. 9.

6. The Commission is capable of making legal determinations and has dealt with issue of capital structure in dozens of rate cases. EKC advocates using the Standalone Approach, which treats a subsidiary operating utility as an independent legal entity operating utility, entitled to have its rates computed based on the actual cost of capital under its own capital structure, without attribution of its parent's capital costs.<sup>23</sup> EKC contends that the Standalone Approach is consistent with the Commission's capital structure policy articulated in Docket No. 16-KCPE-593-ACQ and with the financial merger conditions approved by the Commission in Docket No. 18-KCPE-095-MER.<sup>24</sup> That argument can be advanced without legal briefing. EKC has not offered any compelling argument that the Commission is incapable of evaluating the Standalone Approach without additional legal memoranda. Additionally, EKC has offered no compelling need to address the issue of capital structure months ahead of the evidentiary hearing. Thus, the Commission see no reason to deviate from its traditional approach to rate cases.

7. Both EKC and Staff agree the Commission's longstanding policy is to adopt a "capital structure that will result in the lowest overall cost of capital that is representative of utility operations."<sup>25</sup> This agreement undercuts EKC's argument that the Commission's policy is confusing. Similarly, it undercuts EKC's claim that legal briefing is needed to address any confusion.

8. As Staff explains, expediting consideration of the applicable capital structure raises due process concerns.<sup>26</sup> EKC's proposes a February 28, 2025 deadline for Staff and intervenors to file their legal briefs on capital structure.<sup>27</sup> To date, only the Citizens' Utility Ratepayer Board

---

<sup>23</sup> *Id.*, pp. 2-3.

<sup>24</sup> *Id.*, p. 2.

<sup>25</sup> EKC Motion ¶ 4; Staff's Opposition, ¶ 2.

<sup>26</sup> *Id.*, ¶ 10.

<sup>27</sup> EKC Motion, Attachment B.

and HF Sinclair El Dorado Refining LLC have petitioned to intervene. In EKC's last rate case that did not involve Evergy Kansas Metro, Docket No. 18-WSEE-328-RTS, roughly 25 parties intervened. EKC's expedited schedule would likely prejudice potential intervenors by denying them the opportunity to address capital structure, which Staff expects to be roughly \$30 million of requested revenue requirement.<sup>28</sup> EKC has not provided sufficient justification for an expedited process that may limit debate over capital structure, a significant component of EKC's requested revenue requirement. Accordingly, the Commission finds EKC's proposed expedited process is not in the public interest and is, therefore, denied.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Motion of Joint Applicants for Leave to File Legal Analysis Regarding Standards for Determining Capital Structure is denied.

B. This Order is procedural and constitutes non-final agency action.<sup>29</sup>

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/20/2025



---

Abigail D. Emery  
Acting Secretary to the Commission

BGF

---

<sup>28</sup> See Staff Opposition, ¶ 1.

<sup>29</sup> K.S.A. 77-607(b)(2).

## CERTIFICATE OF SERVICE

25-EKCE-294-RTS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 02/20/2025.

JOSEPH R. ASTRAB, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
joseph.astrab@ks.gov

COLE A BAILEY, CORPORATE COUNSEL DIRECTOR  
EVERGY KANSAS SOUTH, INC.  
D/B/A EVERGY KANSAS CENTRAL  
818 S KANSAS AVE, PO Box 889  
TOPEKA, KS 66601-0889  
cole.bailey@evergy.com

MELISSA M. BUHRIG, EXEC. VICE PRESIDENT, GEN.  
COUNSEL & SECRETARY  
CVR REFINING CVL, LLC  
2277 Plaza Dr., Ste. 500  
Sugar Land, TX 77479  
mmbuhrig@cvrenergy.com

GLENDA CAFER, MORRIS LAING LAW FIRM  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
800 SW JACKSON STE 1310  
TOPEKA, KS 66612-1216  
gcafer@morrislaing.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

Constance Chan, SENIOR CATEGORY MANAGER -  
ELECTRICITY & BUSINESS TRAVEL  
HF SINCLAIR EL DORADO REFINING LLC  
2323 Victory Ave. Ste 1400  
Dalla, TX 75219  
constance.chan@hfsinclair.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

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

JAMES G. FLAHERTY, ATTORNEY  
ANDERSON & BYRD, L.L.P.  
216 S HICKORY  
PO BOX 17  
OTTAWA, KS 66067-0017  
jflaherty@andersonbyrd.com

## CERTIFICATE OF SERVICE

25-EKCE-294-RTS

JASON T GRAY, ATTORNEY  
DUNCAN & ALLEN  
1730 Rhode Island Ave., NW  
Suite 700  
Washington, DC 20036  
jtg@duncanallen.com

PATRICK HURLEY, CHIEF LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
patrick.hurley@ks.gov

DARRIN IVES, VP - REGULATORY AFFAIRS  
EVERGY METRO, INC  
D/B/A EVERGY KANSAS METRO  
One Kansas City Place  
1200 Main St., 19th Floor  
Kansas City, MO 64105  
darrin.ives@evergy.com

JARED R. JEVONS, ATTORNEY  
POL SINELLI PC  
900 W 48TH PLACE STE 900  
KANSAS CITY, MO 64112  
jjevons@polsinelli.com

RONALD A. KLOTE, DIRECTOR, REGULATORY AFFAIRS  
EVERGY METRO, INC  
D/B/A EVERGY KANSAS METRO  
ONE KANSAS CITY PLACE  
1200 MAIN, 19TH FLOOR  
KANSAS CITY, MO 64105  
ronald.klote@evergy.com

Jon Lindsey, CORPORATE COUNSEL  
HF SINCLAIR EL DORADO REFINING LLC  
550 E. South Temple  
Salt Lake City, UT 84102  
jon.lindsey@hfsinclair.com

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
todd.love@ks.gov

RITA LOWE, PARALEGAL  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
300 N MEAD STE 200  
WICHITA, KS 67202-2745  
rlowe@morrislaing.com

CARLY MASENTHIN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
carly.masenthin@ks.gov

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
shonda.rabb@ks.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
della.smith@ks.gov

VALERIE SMITH, ADMINISTRATIVE ASSISTANT  
MORRIS LAING EVANS BROCK & KENNEDY  
800 SW JACKSON  
SUITE 1310  
TOPEKA, KS 66612-1216  
vsmith@morrislaing.com

**CERTIFICATE OF SERVICE**

25-EKCE-294-RTS

LESLIE WINES, SR. EXEC. ADMIN. ASST.  
EVERGY KANSAS CENTRAL, INC  
818 S KANSAS AVE  
PO BOX 889  
TOPEKA, KS 66601-0889  
leslie.wines@evergy.com

TREVOR WOHLFORD, ATTORNEY  
MORRIS LAING EVANS BROCK & KENNEDY  
800 SW JACKSON  
SUITE 1310  
TOPEKA, KS 66612-1216  
twohlford@morrislaing.com

WILL B. WOHLFORD, ATTORNEY  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
300 N MEAD STE 200  
WICHITA, KS 67202-2745  
wwohlford@morrislaing.com

Greg Wright  
Priority Power Mgt.  
12512 Augusta Dr  
Kansas City, KS 66109  
gwright@prioritypower.com

/S/ KCC Docket Room

KCC Docket Room