

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

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

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 OPENING GENERAL INVESTIGATION**

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 and conclusions:

1.        On June 11, 2020, Commission Staff (Staff) filed a Petition for Order Initiating Investigation, to investigate Evergy’s Agreement with Elliott Management (Elliott) to explore either a Modified Standalone Plan 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> In its Order, the Commission directed Evergy to provide a report to the Commission within two weeks of its Board deciding how to proceed.<sup>6</sup> Evergy was also directed to produce the Strategic Review and Operations Committee's Report submitted to the Board and provide detailed explanations for:

- why the Modified Standalone Plan was selected;
- what level of additional O&M savings have been identified that are achievable; the specific areas of additional O&M savings; the analysis performed to determine the increased amount of discretionary cap-ex growth, including all documents supporting the benefit/cost analysis of the discretionary cap-ex growth and identifying additional projects by type (e.g., generation, transmission, or distribution);
- how the Modified Standalone Plan will comply with merger conditions;
- how the Modified Standalone Plan achieves regionally competitive rates as desired by Substitute for Senate Bill 69 (SB 69); and
- how does the Modified Standalone Plan balance the needs of customers and shareholders given both the realized and potential impacts of COVID-19.<sup>7</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

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

<sup>6</sup> *Id.*, ¶ 8.

<sup>7</sup> *Id.*

approved pursuing a Modified Standalone Plan.<sup>8</sup> Evergy's Notice contained two appendices. Appendix I is Evergy's report documenting its Modified Standalone Plan, dubbed the Sustainability Transformation Plan or "STP."<sup>9</sup> Appendix II contains Evergy's responses to the questions posed in the Commission's Order.<sup>10</sup>

4. On August 19, 2020, Staff filed its Petition for Order Initiating Investigation to provide Staff, stakeholders, and Evergy an avenue to collaborate and fully vet the STP.<sup>11</sup> Staff's Petition included its Report and Recommendation, explaining that the 20-514 Docket was investigatory in nature, requiring no affirmative action by the Commission, and noting that in its Report and Recommendation in the 20-514 Docket, it advised that it would seek to open a new docket 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>12</sup>

5. Staff is recommending the Commission open a separate general investigation into the STP to evaluate the potential impact on the core elements of the merger agreement approved in the 18-095 Docket and to gain an understanding of how the STP will effect service and rate trajectories.<sup>13</sup> Staff envisions the investigation will allow the Commission and stakeholders to understand the details of the STP as proposed, but also provide an opportunity to address any proposed modifications to the STP as stakeholders analyze the STP and reach conclusions on its impact in Kansas.<sup>14</sup>

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<sup>8</sup> Evergy's Notice of Filing Report to the Commission, Docket No. 20-EKME-514-GIE, Aug. 13, 2020, ¶ 1.

<sup>9</sup> *Id.*, ¶ 7.

<sup>10</sup> *Id.*

<sup>11</sup> Petition of Commission Staff for Order Initiating Investigation, Aug. 19, 2020, ¶ 5.

<sup>12</sup> Staff Report and Recommendation, Aug. 19, 2020, p. 2.

<sup>13</sup> *Id.*, p. 4.

<sup>14</sup> *Id.*

6. Staff's Report and Recommendation recommends the general investigation into Evergy's Modified Standalone Plan should include all parties that intervened in the 20-514 Docket and should require any additional intervenors to intervene within 15 days of the opening of this Docket.<sup>15</sup> The proposed 15-day deadline is designed to allow the stakeholders to recommend a procedural schedule within 45 days of opening the general investigation.<sup>16</sup> Since major segments of the capital expenditures contemplated in the STP will be specifically modeled and analyzed in Evergy's 2021 Triennial IRP, Staff recommends adopting a procedural process to determine how to incorporate the relevant information from the 2021 Triennial IRP into the STP general investigation and develop a complete record.<sup>17</sup>

7. The Commission agrees with Staff that a new investigative docket to provide Staff, stakeholders, and Evergy an opportunity to collaborate and evaluate the STP is warranted. Therefore, the Commission grants Staff's Petition to Initiate an Investigation. Furthermore, the Commission adopts Staff's Report and Recommendation in its entirety. Entities granted intervention in the 20-514 Docket are automatically intervened in this Docket and do not need to seek intervention again. Other interested parties may file Petitions to Intervene by September 11, 2020. The parties to this Docket shall collaborate to recommend a procedural schedule by October 8, 2020 (45 days from opening the general investigation). Staff is directed to file a proposed schedule and format after consultation with all of the parties.

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<sup>15</sup> *Id.*, p. 5.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

**THEREFORE, THE COMMISSION ORDERS:**

A. Staff's Petition to initiate an investigation of the Sustainability Transformation Plan (STP) is granted.

B. Staff's Report and Recommendation is adopted in its entirety. Specifically, all entities granted intervention in the 20-514 Docket are automatically intervened in this Docket. Other interested parties may file Petitions to Intervene by September 11, 2020.

C. By October 8, 2020, the parties shall collaborate to recommend a procedural schedule. Staff is directed to file a proposed schedule and format after consultation with all of the parties.

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

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 08/27/2020



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Lynn M. Retz  
Executive Director

BGF

## 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 08/27/2020.

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