

**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 Proposed)
Indebtedness of Evergy South, Inc. of up) Docket No. 25-EKSE-272-SEC
to \$650,000,000 and Issuance of First)
Mortgage Bonds.)

ORDER PURSUANT TO K.S.A. 66-125

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and determination. Having reviewed its files and records, the Commission finds and concludes:

I. Procedural History

1. On January 10, 2025, Evergy Kansas South, Inc. ("EKS"), a subsidiary of Evergy Kansas Central, Inc. and Evergy, Inc. filed an application pursuant to K.S.A. 66-125 seeking as the first step a certificate from the Commission for regulatory authority to issue securities and other evidence of indebtedness of up to \$650 million by entering into one or more transactions for the issuance and sale of first mortgage bonds.¹

2. On January 23, 2025, the Commission granted intervention to the Citizens' Utility Ratepayer Board ("CURB").²

3. On February 17, 2025, the Commission Staff filed a Report and Recommendation concerning EKS's application.³

4. CURB does not oppose EKS's application.

¹ Evergy South, Inc. Application (Jan. 10, 2025) ("Application").

² Order Granting CURB's Petition to Intervene; Protective and Discovery Order (Jan. 23, 2025).

³ Notice of Filing of Staff's Report and Recommendation (Feb. 17, 2025) ("R&R").

II. Jurisdiction and Standard of Review

5. The Commission holds full power, authority and jurisdiction to supervise and control EKS as an electric public utility pursuant to K.S.A. 66-101.

6. As part of the regulatory process of utilities under state law, K.S.A. 66-125 permits any investor-owned electric utility in Kansas to issue stocks, bonds, notes, or other evidence of indebtedness for a variety of reasons, including but not limited to the discharge or lawful refunding of its obligations.

7. K.S.A. 66-125(b)(1) describes part of the procedure for a utility to issue stocks, certificates, bonds, notes or other evidence of indebtedness for money only. K.S.A. 66-125(b)(1) predicates approval of such a transaction on the submission of a statement to the Commission from the applicant showing:

- a) The amount and character of the proposed stocks, certificates, bonds, notes or other evidence of indebtedness;
- b) The general purposes for which they are to be issued;
- c) The terms on which they are to be issued;
- d) The total assets and liabilities of the public utility or common carrier; and
- e) That the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidence of indebtedness is necessary and required for such purposes and will be used thereafter.

8. K.S.A. 66-125(c) provides upon full compliance by the applicant with K.S.A. 66-125(b)(1), the Commission shall issue a certificate stating the amount, character, purposes, and terms upon which such stocks, certificates, bonds, notes, or other evidence of indebtedness is proposed to be issued, as set out in the application.

III. Application Verification

9. EKS represents to the Commission in its application that it will negotiate the specific provisions of the bonds with prospective purchasers, including issue date, interest rate, or rates, within the following parameters of K.S.A. 66-125(b)(1):

a. The aggregate principal amount of the bonds issued shall not to exceed \$650,000,000. EKS intends to sell the bonds through a private placement or a Rule 144A offering, either of which would be negotiated at arm's length with unaffiliated third parties.⁴

b. EKS will use the net proceeds from the sale of the bonds for general corporate purposes, the repayment of advances from its parent, Evergy Kansas Central, Inc., and payment of dividends to Evergy Kansas Central.⁵

c. The bonds will be issued under EKS's Mortgage and Deed of Trust dated as of April 1, 1940, as amended and supplemented. The bonds will have a maturity of not more than 20 years. Bonds issued will use a fixed interest rate not to exceed 175 basis points above the yield on United States Treasury Securities with a maturity of 20 years as quoted in the actively traded secondary market on the date the bond purchase agreement or underwriting agreement is executed. The aggregate of all placement of underwriting fees will not exceed 0.875% of the aggregate principal amount of the bonds issued and sold to the prospective purchaser(s).⁶

d. EKS has submitted a balance sheet, Exhibit A to its application representing its total assets and liabilities for 2022 and as of September 30, 2024.⁷

⁴ Application, p. 2.

⁵ *Id.*, p. 1.

⁶ *Id.*, p. 2.

⁷ *Id.*, Exhibit A.

e. The capital sought to be secured by the issuance of the bonds is necessary and required for the purposes stated in the application, will be used therefor, and will not adversely affect EKS's ability to provide sufficient and efficient utility service.⁸

10. Staff verified that the representations in EKS's application are consistent with the information required by K.S.A. 66- 125(b)(1).⁹ Ultimately, Staff recommended the Commission approve EKS's application for a securities certificate as defined by K.S.A. 66-125.¹⁰

IV. Findings and Conclusions

11. The Commission finds the standard of review for filings under K.S.A. 66-125 is a verification that the applicant provided the Commission with the security's terms and the proposed use of the proceeds.¹¹

12. The Commission finds that the statute does not require or even allow the Commission to decide on the reasonableness of the securities or the use of the proceeds.¹²

13. The Commission verifies and finds EKS complied with K.S.A. 66- 125(b)(1), and therefore, as instructed by K.S.A. 66-125(c), the Commission authorizes the issuance of EKS's certificate to issue and sell up to \$650,000,000 of first mortgage bonds all within the parameters set forth in EKS's application and subject to compliance with all other relevant federal and state laws.

14. Since EKS is issuing bonds in exchange for money, the Commission also finds that K.S.A. 66-125(b)(1) Sections A through E apply to EKS's application.¹³

15. Based on the Staff's recommendation, the Commission further finds that K.S.A. 66-125 does not guarantee any specific regulatory treatment of the costs of the securities or

⁸ Application, p. 3.

⁹ R&R., p. 3.

¹⁰ *Id.*

¹¹ *Id.* and K.S.A. 66-125.

¹² *Id.*

¹³ *Id.*, p. 2.

return on related property financed by securities, and those may be addressed during a rate proceeding when the applicant desires to recover costs from consumers.¹⁴

16. The Commission reserves judgment on the reasonableness of the securities, use of the proceeds, interest rate, and costs until the next EKS rate case.¹⁵

THEREFORE, THE COMMISSION ORDERS:

A. Pursuant to K.S.A. 66-125, the Commission hereby authorizes the issuance of a certificate for EKS's indebtedness in the form of first mortgage bonds in the principal amount not to exceed \$650,000,000 on terms and subject limitations set for in the application and compliance with all other relevant federal and state laws. The bonds will be issued under EKS's Mortgage and Deed of Trust dated as of April 1, 1940, as amended and supplemented. The bonds will have a maturity of not more than 20 years. Bonds issued will use a fixed interest rate not to exceed 175 basis points above the yield on United States Treasury Securities with a maturity of 20 years as quoted in the actively traded secondary market on the date the bond purchase agreement or underwriting agreement is executed. The aggregate of all placement of underwriting fees will not exceed 0.875% of the aggregate principal amount of the bonds issued and sold to the prospective purchaser(s).

B. EKS shall file its board's authorization document with the Commission in this docket within 30 days of receipt.

C. If at any time Staff has reason to believe there is a problem or concern with the securities issued by EKS, Staff will investigate the matter and report back to the Commission.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(l).

¹⁴ R&R, p. 4.

¹⁵ *Id.*, p. 3-4.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 02/25/2025



Abigail D. Emery
Acting Secretary to the Commission

PJH

CERTIFICATE OF SERVICE

25-EKSE-272-SEC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 02/25/2025.

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