

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

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).)

PETITION TO INTERVENE OF CLIMATE AND ENERGY PROJECT

The Climate and Energy Project (“CEP”) files its Petition to Intervene pursuant to K.S.A. 77-521 and K.A.R. 82-1-225 and states the following in support of its Petition:

1. On August 27, 2020, the Kansas Corporation Commission (“Commission”) issued an Order opening the forgoing Docket 21-EKME-088-GIE (“Docket 21-088”). Docket 21-088 was opened to address and investigate Evergy’s Modified Standalone Plan (“MSP”) and Sustainability Transformation Plan (“STP”) with Elliott Management (“Elliott”), an asset management firm that on June 11, 2020, owned an economic interest equivalent of 11.3 million shares in Evergy (\$760 million in current market value).¹
2. On June 18, 2020, prior to the opening of Docket 21-088, the Commission issued an Order in Docket No. 20-EKME-514-GIE (“Docket 20-514”) “to enable the Commission, stakeholders, and customers to be fully informed of the analysis and rationale behind Evergy’s decision to pursue either a [MSP] that would effectively cut operating and maintenance expenses and increase capital expenditures dramatically, or a Merger Transaction.”² Evergy was directed to produce the Strategic Review and Operations Committee’s Report submitted to the Board and provide detailed explanations for:

¹ See Order Opening General Investigation, Docket No. 21-EKME-088-GIE, August 27, 2020 at ¶1 (hereinafter “21-088 Order”).

² 21-088 Order at ¶2 (citing Order Opening General investigation, Docket No. 20-EKME-514-GIE, June 18, 2020 at ¶4 (hereinafter “20-514 Order”).

- 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-19.³
3. On August 13, 2020, Evergy filed its Notice of Filing Report to the Commission in Docket 20-514, informing the Commission that Evergy’s Board unanimously approved pursuing a MSP with Elliott.⁴ The Notice contained a Sustainability Transformation Plan (“STP”) which documented Evergy’s MSP with Elliott.
4. On August 19, 2020, Commission Staff filed a Petition for Order Initiating Investigation to provide Staff, stakeholders, and Evergy an avenue to collaborate and fully vet the STP.⁵ In response, and in agreement with Commission Staff, the Commission opened Docket 21-088 to allow Staff, stakeholders, Evergy and additional intervenors an opportunity to collaborate and evaluate the STP.⁶ Interested parties were given until September 11, 2020 to intervene in Docket 21-088.⁷

³ *Id.* (citing 20-514 Order at ¶8).

⁴ *Id.* at ¶3 (citing Evergy’s Notice of Filing Report to the Commission, Docket 20-514, August 13, 2020 at ¶1).

⁵ Petition of Commission Staff for Order Initiating Investigation, August 19, 2020 at ¶5.

⁶ *Id.* at ¶6-7.

⁷ *Id.* at ¶7.

5. The Climate and Energy Project (“CEP”) is located in Hutchinson, Kansas. It began as a project of the highly-renowned Land Institute located in Salina, Kansas. CEP is now a separate, incorporated non-profit. Its goal is to support the cost-effective, sustainable deployment of energy efficient and renewable energy technologies in an effort to reduce greenhouse gases. The mission of CEP is to infuse the following core values into local, regional and national discussions: (1) stewardship of the Earth’s resources; (2) development of flexible energy systems; (3) balance of the benefits and burdens of energy technologies; and (4) support of creative implementation of energy efficient and renewable energy technologies that are environmentally and socially sustainable. CEP maintains an extensive website at <http://www.climateandenergy.org>, which helps it to pursue and accomplish its mission.
6. CEP sponsors and supports the Clean Energy Business Council (“CEBC”). CEBC’s mission is to “expand opportunities for business access to wind, solar, geothermal and waste-heat recovery systems and energy efficiency in Kansas and the Greater Kansas City Metro.” Collectively, CEBC members employ approximately 500 individuals in Kansas. CEBC members include Cromwell Solar, Good Energy Solutions, King Solar, Prosoco, Metropolitan Energy Center, Solar Design Studio, The Lawrence Chamber, BioStar Renewables, Stanion Wholesale Electric Company, Olsson Associates, Foley Equipment, Flint Hills Renewable Energy & Efficiency Cooperative, Inc. Green Factor Insulation, KansaSolar, Prosoco, Sisters of Charity, Martin Pringle, Gould Evans, Building Performance Association and the US Army as an ex-officio member. These businesses include vendors of goods and services related to energy conservation, electric vehicles, utility scale renewable energy and distributed solar generation.

7. Pursuant to K.S.A. 77-521(a), the Commission is required to grant intervention if: (1) it is in the interests of justice; (2) the intervention will not impair the orderly and prompt conduct of the proceedings; and (3) the party has stated facts demonstrating its legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding. CEP's intervention in the instant matter is in the interests of justice, will not impair the orderly and prompt conduct of the proceedings, and is supported by CEP's demonstrated potential that its legal interests may be affected by the proceeding.
- a. Evergy is required to provide detailed explanations for "how the MSP [and STP] achieves regionally competitive rates as desired by Substitute for Senate Bill 69 (SB69)."⁸ SB 69 required completion of a two-phase study of retail rates of Kansas' electric public utilities. CEP played a large role in the development and authorization of SB 69. CEP, through CEBC, joined a variety of stakeholders to negotiate and testify before the House and Senate Utilities committees in support of the bill. When the Phase I study was released, CEP submitted testimony to the Senate Utilities Committee to share its support for the key recommendations. CEP's more than year-long effort to create, negotiate, pass and testify on SB 69 demonstrates its engagement and expertise in the matter. Further, the Commission granted CEP's Petition to Intervene in Docket 20-068 regarding the general investigation of SB 69.⁹
- b. CEP's intervention is in the interest of justice because no other party represents CEP's interests. Evergy is required to provide detailed explanations for "how the

⁸ *Supra* n. 3.

⁹ Order Granting Intervention to Empire, KIC, and Climate and Energy Project, Docket No. 20-GIME-068-GIE, July 28, 2020 at ¶10.

MSP [and STP] achieves regionally competitive rates as desired by Substitute for Senate Bill 69 (SB69).”¹⁰ Phase II of the rate study examined “consequential energy issues materially affecting Kansas electric rates” including a number of issues that have a direct impact on renewable energy and energy efficiency; specifically, electric vehicle charging stations and advanced energy solutions, including micro grids, electric vehicles, customer generation, battery storage and transactive energy. CEP’s unique ability to creatively and constructively provide valuable information (specifically regarding energy efficiency and renewable energy generation) is unique among parties in this Docket. In fact, the Commission has previously found that CEP has special expertise in the area of energy conservation and renewable energy technologies.¹¹ CEP’s intervention is in the interest of justice because no other party can represent CEP’s specific interests.

- c. CEP’s intervention will not impair the orderly and prompt conduct of the proceedings. CEP has consolidated the interests of multiple individual and business enterprises interested in implementing renewable energy assets and energy efficient practices as practical businesses solutions. For these reasons, CEP’s intervention will not impair the orderly and prompt conduct of the proceedings.
- d. CEP’s legal rights, duties, privileges, immunities, and other legal interests will be substantially affected by the proceeding. Evergy is required to explain what level

¹⁰ *Supra* n. 3, 8.

¹¹ Order Granting Petition to Intervene of Climate and Energy Project, Docket No. 16-KCPE-446-TAR at ¶9 (May 17, 2016) (“The Commission finds that CEP’s expertise in energy efficiency matters will lead to a more thorough and accurate record and is therefore in the interest of justice.”).

of additional savings are achievable and determine the increased amount of discretionary cap-ex growth that will come as a result of its MSP with Elliott. Elliott owned an economic interest equivalent of 11.3 million shares (\$760 million) in Evergy.¹² Given the substantial interest Elliott had in Evergy, the issues related to how Evergy and Elliott's MSP and STP will achieve regionally competitive rates for renewable energy producers desired by SB 69 will have a direct bearing on electric rates paid by CEP and CEBC member businesses and the ability of these businesses to ultimately implement renewable energy practices. Further, CEP's unique interest in promoting energy efficiency and renewable energy technology will, in turn, benefit the long-term public health and economic interests of the people of Kansas.

8. Pursuant to K.S.A. 77-521(b), the Commission *may* grant a petition for intervention when the intervention sought is in the interest of justice and will not impair the orderly and prompt conduct of the proceedings. As indicated above, CEP's participation in Docket 21-088 is in the interest of justice and would not impair the orderly and prompt conduct of the proceedings.
9. CEP requests full rights of participation, including, but not limited to, the right to relevant discovery, the right to present and sponsor witnesses, the right to present evidence, the right to cross-examine witnesses, the right to file briefs, and the right to offer oral argument and participate in hearings.
10. In addition to undersigned counsel, please include the following CEP representatives with all electronic notices, pleadings, and correspondence regarding Docket 21-088 as follows:

¹² 21-088 Order at ¶1.

Dorothy Barnett
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WHEREFORE, for the reasons stated above, CEP respectfully requests that the Commission grant its Petition to Intervene in this Docket.

Respectfully Submitted,

/s/ Timothy Jason Laughlin

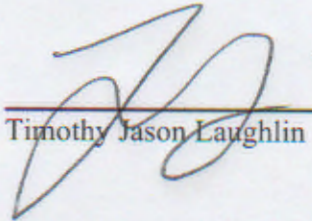
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VERIFICATION

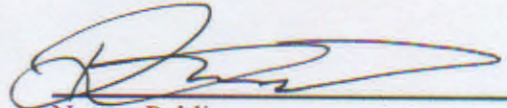
STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

Timothy Jason Laughlin, being duly sworn upon his oath, deposes and states that he is the Attorney for the Climate and Energy Project, that he has read and is familiar with the foregoing *Petition to Intervene of Climate and Energy Project*, and the statements therein are true to the best of his knowledge, information, and belief.

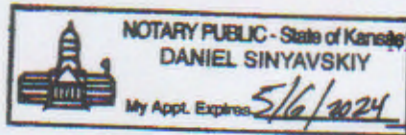


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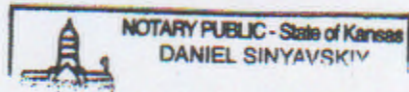
SUBSCRIBED AND SWORN to before me this 11th day of September, 2020.



Notary Public



My Appointment Expires: _____



CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2020, the foregoing *Petition to Intervene of Climate and Energy Project*, was electronically filed with the Kansas Corporation Commission and that one copy was delivered electronically to all parties on the service list as follows:

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