

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

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

**MOTION OF SIERRA CLUB, CLIMATE AND ENERGY PROJECT, AND
KANSAS INDUSTRIAL CONSUMERS GROUP, INC.
TO ENHANCE TRANSPARENCY**

Sierra Club, Climate and Energy Project, and Kansas Industrial Consumers Group, Inc. (collectively “Joint Movants”) respectfully move for the State Corporation Commission of the State of Kansas (“Commission”) to adopt the following recommendations to facilitate stakeholder participation in the forthcoming workshops. It is critical that the Commission grant Evergy’s customers and stakeholders transparent and open access to Evergy’s Sustainability Transformation Plan (“STP”) and into this docket’s investigation. Customers and other stakeholders should have an opportunity to provide input into a Plan that will likely impact customers’ rates and the well-being of the communities Evergy serves. To enhance transparency and public input in this docket and into Evergy’s STP, the Joint Movants state:

I. PROCEDURAL BACKGROUND

1. On August 27, 2020, the Commission adopted Commission Staff’s (“Staff”) Report and Recommendation and opened this general investigation into Evergy’s STP.¹ The Commission directed parties to collaborate and recommend a procedural schedule, with Staff filing a proposed schedule and format after consulting all of the parties.²

¹ Order Opening General Investigation, p. 5, Ordering Clauses (A) and (B) (Aug. 27, 2020) (Order).

² See *id.* at Ordering Clause (C).

2. On November 6, 2020, Staff filed its Motion to Approve Procedural Schedule in this proceeding (“Staff’s Motion”).³ As Staff noted, this investigation is intended to evaluate the STP’s potential impact on the core elements of the merger agreement approved in Docket No. 18-KCPE-095-MER, and to understand how the STP will affect Evergy’s service and rate trajectories.⁴ As Staff observed, not only should this docket allow stakeholders to understand the details of the STP (as proposed), but it should also allow stakeholders the opportunity to propose modifications to the STP.⁵

3. Staff’s Motion cements Sierra Club’s desire for public engagement and dialogue.⁶ Specifically, Sierra Club requested the public be able to participate in workshops and committed to filing a pleading suggesting best practices for Evergy and the Commission to facilitate robust public engagement.⁷ To ensure the public may be adequately informed and a robust evaluation of the STP occur, the Joint Movants respectfully request the Commission require workshops and presentations be constructed with transparency as a key priority and provide an opportunity for public input into the STP.

II. MOTION FOR ENHANCED TRANSPARENCY

4. The STP represents a marked change in direction for Evergy. To ensure the public is informed about how the STP will impact rate trajectories, it is essential the STP’s drivers be subject to public scrutiny. While Evergy provided a report in Docket No. 20-EKME-514-GIE detailing what the STP aimed to achieve, the analysis behind the STP’s goals remains shrouded in secrecy.

³ Staff’s Motion to Approve Procedural Schedule (Nov. 6, 2020) (Staff’s Motion).

⁴ *See id.* at ¶1.

⁵ *See id.*

⁶ Staff’s Motion, n. 7.

⁷ *See id.*

5. At present, Evergy has marked everything in its data room related to the STP as confidential. The most relevant information in Evergy’s data room for analyzing the STP is a report prepared by Boston Consulting Group (“BCG Report”).⁸ The Joint Movants recognize the need to protect Evergy’s confidential information.⁹ Still, withholding utility planning information from the public harms the ability of customers and other stakeholders to understand and have input into transformational decisions that impact them. After all, the STP is all but certain to impact the costs that Evergy will seek to charge customers in electric rates.

6. To ensure all stakeholders and customers can be educated about the STP, open and collaborative discussions may transpire, and projected energy-savings opportunities are achievable, the Joint Movants respectfully request the Commission consider and issue an order adopting the following best practices to facilitate stakeholder participation in this docket:

a. All meetings and workshops in this docket should be public, with any discussions regarding necessarily redacted confidential information siloed at the end of each meeting.

b. Limit, to the greatest extent possible, the use of confidential designations during workshops and presentations. The public should be able to review, understand, and comment on the STP, and parties should be able to examine core elements of the STP, without obtaining the services of an attorney or signing nondisclosure certificates. If possible, information that remains

⁸ Evergy has publicly stated that the BCG Report resulted in the STP. *See, e.g.*, Evergy Notice of Filing Sustainability Transformation Plan (Aug. 26, 2020), Missouri Public Service Commission Docket No. EO-2021-0032, available at https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=EO-2021-0032&attach_id=2021002405.

⁹ Pursuant to the Protective and Discovery Order issued in this docket, KIC informally requested Evergy re-evaluate confidential designations regarding: (1) Board of Directors meeting minutes and materials, (2) agreements with Elliott Management, and (3) the BCG Report. Evergy has completed this review and is opposed to publicly disclosing the BCG Report. KIC inquired whether Evergy could tie relevant portions of the BCG Report to the presentations to be made in this docket. Evergy is working to determine whether that is possible.

confidential can be replaced with anonymized categories and ranges of data to retain the meaning of the information to the fullest extent possible. Any justifications used to deem information confidential must comply with applicable Kansas law and Commission precedent.

c. Evergy should provide public versions of the BCG Report and subsequently derived planning models, redacting only truly confidential information for which a justification is provided, and releasing other information for public hearings and education sessions.¹⁰

d. Evergy should provide open access to system planning inputs, outcomes and assumptions around cost and value opportunities from owned vs. PPA efficiency, distributed generation, renewable all-source RFPs, storage, capacity and gas contracts.¹¹

e. The Commission should allow non-intervening stakeholders, including all customers, to participate in all scheduled meetings or webinars in this docket. The Commission should establish a process for submission of public comments on the STP, and Evergy should be required—and stakeholders offered the opportunity—to respond to pertinent public comments.

f. The Commission should work with Evergy to procure and install the necessary technology for public webinar streaming with recordings and

¹⁰ The Commission has long recognized its focus is the protection of the public, particularly when a public utility's board takes action in the interest of its shareholders. *See* Order on Reconsideration, Docket No. 01-WRSE-949-GIE, ¶7 (Oct. 3, 2001). Since the STP was created from a process to enhance the long-term value of shareholders, it is critical the Commission allow the public to fully vet the STP.

¹¹ Regulatory Assistance Project, *Best Practices in Electric Utility Integrated Resource Planning Examples of State Regulations and Recent Utility Plans* (2015).

transcripts made publicly available and without cost.¹² It is also a best practice in a public engagement process for the utility to fund an independent facilitator to manage public stakeholder meetings, comments, education efforts, stakeholder presentations and public feedback surveys to understand the preferences of individuals to be considered alongside the utility's documents.¹³

7. Good governance means including the voices of those most impacted and allowing the two-thirds of Kansans who have an interest in the planning process access to basic planning information. The diverse interests within the residential and small commercial communities cannot be fully represented by intervening parties unable to share information with their stakeholders. All intervening stakeholders should be able to proactively engage the communities they represent around specifics in Evergy's plans. "The Commission has an affirmative duty to seek out facts and take positive measures to protect the public interest."¹⁴ A transparent, open, and public vetting of the STP ensures the public interest remains protected. If requested, the Joint Movants can provide research in an appendix including examples of good-governance outreach processes from the legislative AECOM¹⁵ report and other states.

WHEREFORE, the Joint Movants respectfully request the Commission adopt the aforementioned best practices in this matter.

¹² Such costs can be assessed to Evergy, if necessary, pursuant to the Commission's Order Assessing Costs (Aug. 27, 2020).

¹³ *The Future of Electricity Resource Planning*, Energy and Environmental Economics, Inc.; Lawrence Berkeley National Laboratory (2016).

¹⁴ Order Denying Reconsideration of Discovery Order, Docket No. 01-WSRE-949-GIE, ¶4 (Jun. 22, 2001).

¹⁵ Kansas Electric Rate Study Part 2 submitted by AECOM (lightly redacted), Docket No. 20-GIME-068-GIE (Sep. 28, 2020).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 16th day of November, 2020, a true and correct copy of the above and foregoing Sierra Club Petition to Intervene was electronically delivered to the following individuals:

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