

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) Docket No. 21-EKME-088-GIE
Evergy Kansas South, Inc. (collectively Evergy))

**REPLY OF EVERGY METRO, INC., EVERGY KANSAS CENTRAL, INC. AND
EVERGY KANSAS SOUTH, INC. IN SUPPORT OF MOTION TO ENFORCE KIC’S
COMPLIANCE WITH THE PROTECTIVE ORDER**

COME NOW Evergy Metro, Inc. (“Evergy Kansas Metro”), Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “Evergy Kansas Central”) (collectively referred to herein as “Evergy” or the “Company”) and file their Reply in Support of Motion to Enforce the Kansas Industrial Consumers Group, Inc.’s (“KIC”) Compliance with the Protective Order. In support of its Motion, Evergy states as follows:

1. Evergy filed its Motion to Enforce Protective Order on January 28, 2021, and KIC filed its Answer to Evergy’s Motion on February 5, 2021. Evergy’s Motion expressed concerns about the adversarial nature of KIC’s participation in the Sustainability Transformation Plan (“STP”) docket and the activities of KIC’s attorneys acting through Kansans for Lower Electric Rates, Inc. (“KLER”) in social media attacking Evergy and the STP. Evergy also explained that it appears KIC’s attorney had discussed the existence of and summary of the contents of a confidential document with a reporter, violating the terms of the Protective Order. In its Answer, KIC argues that Evergy has made the document at issue public and that KLER’s social media posts are not an abuse of the discovery process because they are not based on materials obtained in discovery.

2. KIC fails to mention that there are multiple documents at issue, only one of which has been made public, and based on comments from the reporter and an open records request

subsequently made by the reporter, it appears that she is aware of the details of not only the public document but also the two documents that remain confidential. The three relevant documents are:

- A summary of projected rate impacts by operating company for 2024, produced in the supplemental materials filed after the second workshop in this docket, attached hereto as Exhibit A – this document was initially designated as confidential but Evergy did agree to make it public
- A ** [REDACTED] ** produced in response to discovery requests, attached hereto as Exhibit B – this docket is confidential and Evergy has not agreed to make it public, something Evergy represented to KIC counsel by email in response to his request to make the document public
- A * [REDACTED] ** produced in the supplemental materials filed after the second workshop in this docket, attached hereto as Exhibit C – this docket is confidential and Evergy has not agreed to make it public

3. The reporter's request to Evergy's representative made it clear she was aware of the more detailed document with ** [REDACTED] ** and not just the summary document Evergy agreed to make public. Additionally, on February 3, 2021, the reporter submitted a Kansas Open Records Act request, attached hereto as Exhibit D, making it clear that she is also aware of the document that includes ** [REDACTED] ** and the ** [REDACTED] ** which KIC has sought to make public but remain designated as confidential. The reporter could have only known to make these specific requests if someone aware of the details of the documents that remain confidential described them to her and guided the preparation of her request.

4. KIC does not deny talking to the reporter about these documents but instead attempts in its Answer to blur the line between the summary document that was made public and the detailed documents that remain confidential. Despite KIC's attempt to confuse the issue, the fact is that it appears that KIC's attorney talked to the reporter about the existence and contents of confidential materials and the reporter is now pressing for disclosure of those documents – both in conversations with Evergy representatives and through an open records request.

5. KIC also argues that its attorneys did not utilize discovery materials to prepare the KLER social media posts that were attached to Evergy's Motion, so it has not abused the discovery process. KIC misunderstands the purpose of Evergy's discussion of these social media posts. First, Evergy discussed these social media posts in order to demonstrate to the Commission the adversarial environment KIC's attorneys have created, in direct contrast to the non-adversarial, collaborative environment that Evergy desired to achieve for this proceeding.

6. Second, the fact that the attorneys for KIC are also attorneys and lobbyists for KLER illustrates why Evergy is rightfully concerned about what parties do with the documents they obtain through the discovery process in the docket. KIC attorneys have been given access to all of the materials produced in this docket – both public and confidential – and those materials contain detailed analyses of Evergy's operations, potential future business and financial strategies, and forecasted financial impacts. KIC's attorneys form their positions regarding the STP based on these materials. They then, on behalf of a different client – KLER – make social media posts disparaging Evergy and the STP, write opinion pieces in local newspapers, and lobby the legislature. While each and every social media post and article written may not contain specific details obtained through discovery, there is no way for KIC's attorneys to forget the information they obtained through discovery when preparing materials on behalf of their other client, KLER.

7. As Evergy has previously explained, the STP process was designed to be non-adversarial, with workshops scheduled to facilitate an open discussion among the parties and Commissioners. However, KIC's tactics discourage the open exchange of information because of the risk that the KIC attorneys will not appropriately keep materials confidential and that they will use materials in discovery for purposes other than the docket pending before the Commission. The KIC attorneys' conduct in this docket and – on behalf of a different client, KLER, that is not a party to this docket – in social media posts and with the media is causing the process in the STP docket to become adversarial and disincentivizes Evergy's open and transparent participation. Unless controlled, KIC's conduct has the potential to have a chilling effect on Evergy's and other utilities' willingness to participate in these types of proceedings, including any future work study sessions related to other topics of interest to the Commission.

8. KIC's disclosure of the existence of and summary of confidential documents obtained through discovery constitutes a violation of the Protective Order and an abuse of the discovery process and KIC's conduct has the potential to impact the effectiveness of this proceeding and similar proceedings in the future.

9. Therefore, Evergy requests that the Commission (1) issue an order admonishing KIC and its attorneys to refrain from disclosing the existence of or contents of confidential material obtained through the discovery process to anyone who has not signed a non-disclosure agreement in the docket, including reporters, and reminding KIC and its attorneys of their obligations under the Protective Order; (2) restrict KIC's access going forward to allow them access to only public material and not material designated as confidential; and (3) approve Evergy's request made in prior pleadings to make it clear that the prohibition against using materials obtained through

discovery for purposes other than the docket applies to both public and confidential materials, unless Evergy itself has utilized the document publicly in other forums.

Respectfully submitted,

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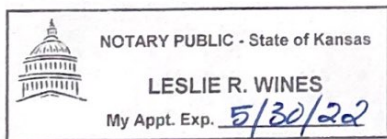
VERIFICATION

STATE OF KANSAS)
) ss
COUNTY OF SHAWNEE)

The undersigned, Cathryn Dinges, upon oath first duly sworn, states that she is Corporate Counsel for Evergy Metro, Inc. Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., that she has reviewed the foregoing pleading, that she is familiar with the contents thereof, and that the statements contained therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges
Cathryn Dinges

Subscribed and sworn to before me this 10th day of February 2021.



Leslie R. Wines
Notary Public

My appointment expires: May 30, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2021, the foregoing Response was electronically served on the following parties of record:

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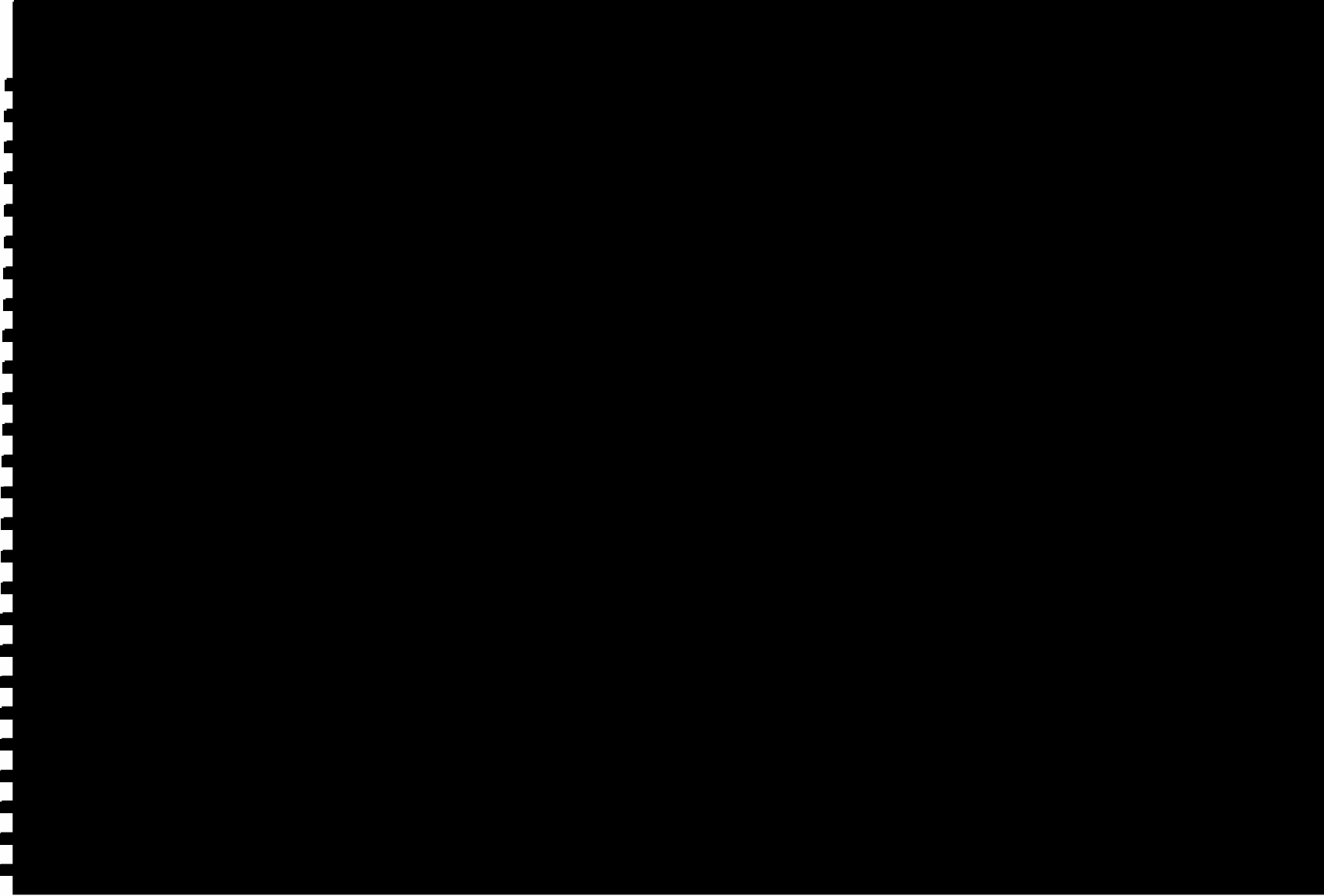
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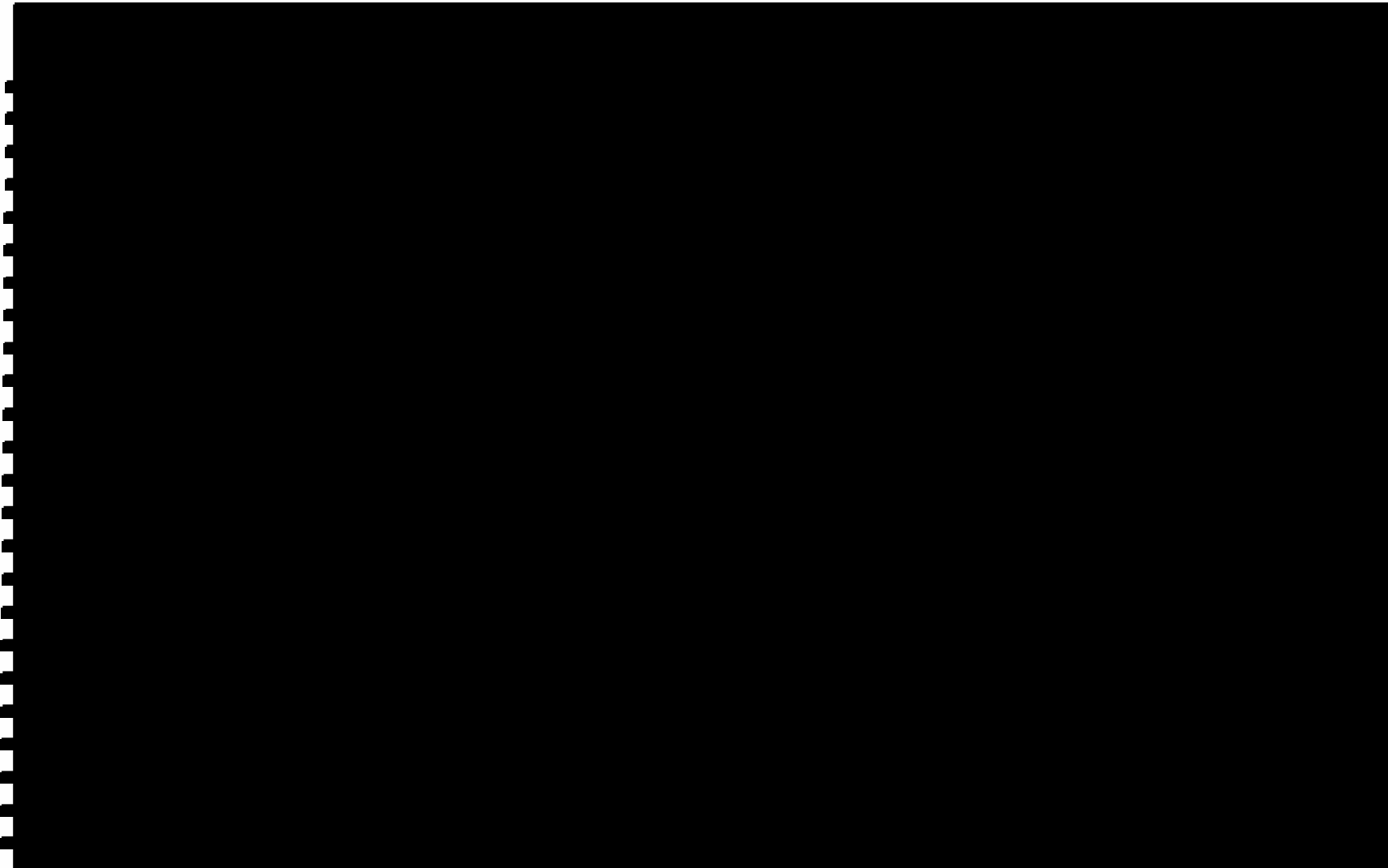


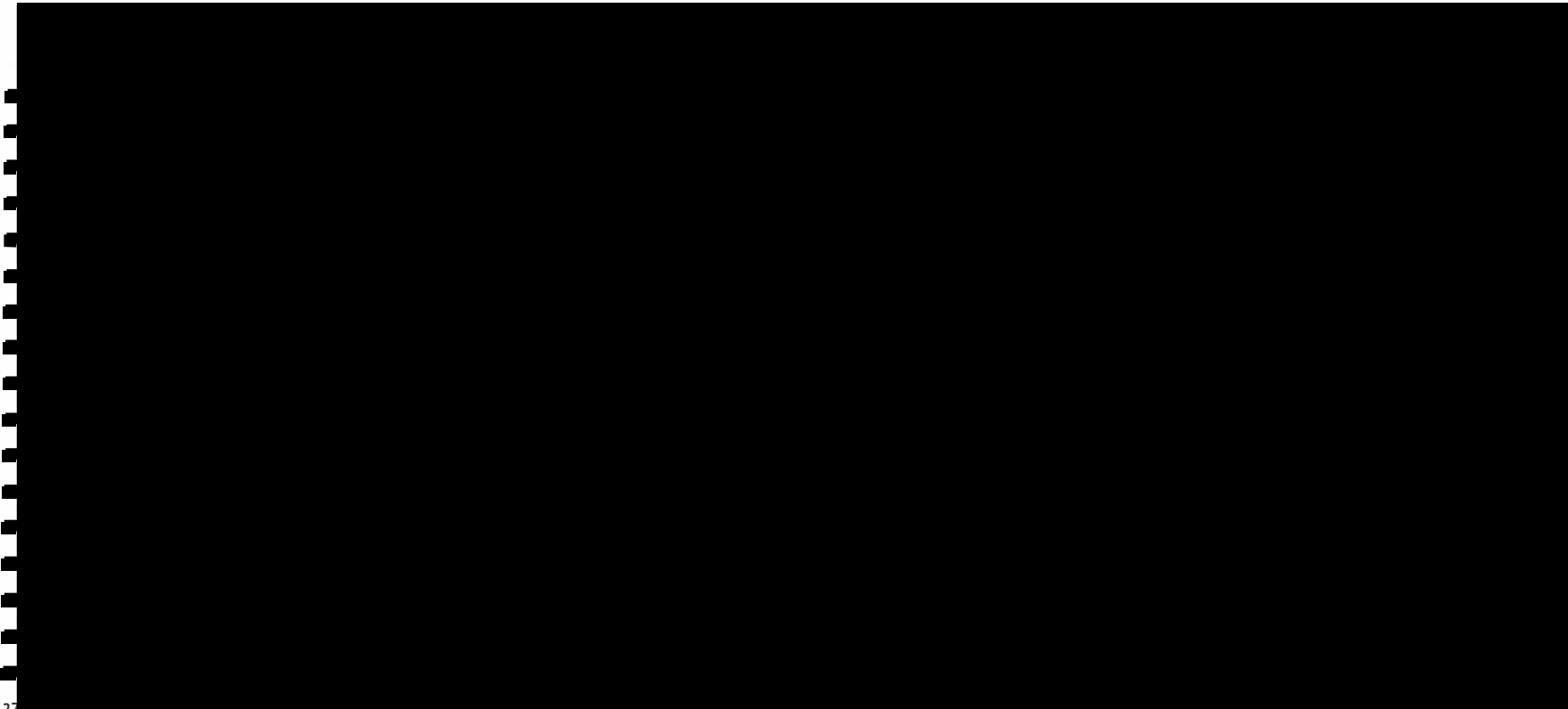
Rate Impact by Jurisdiction - Kansas

Kansas Central				
STP Retail Average Rate c/kWh	Projected 2020	Projected 2024	20-24 change	20-24 CAGR
BASE	6.61	6.69	0.08	0.3%
RECA	2.16	2.04	(0.12)	-1.5%
TDC	1.33	2.04	0.71	11.3%
SPE	-	0.11	0.11	n/a
PTS	0.10	0.24	0.15	26.1%
DSIM	0.02	0.02	(0.00)	-3.0%
Average Retail Rate per kWh	10.22	11.14	0.93	2.2%

Kansas Metro				
STP Retail Average Rate c/kWh	Projected 2020	Projected 2024	20-24 change	20-24 CAGR
BASE	8.99	9.26	0.27	0.7%
ECA	1.76	1.20	(0.56)	-9.1%
TDC	0.63	0.62	(0.01)	-0.5%
PTS	0.11	0.20	0.09	16.7%
Average Retail Rate per kWh	11.49	11.29	(0.21)	-0.5%



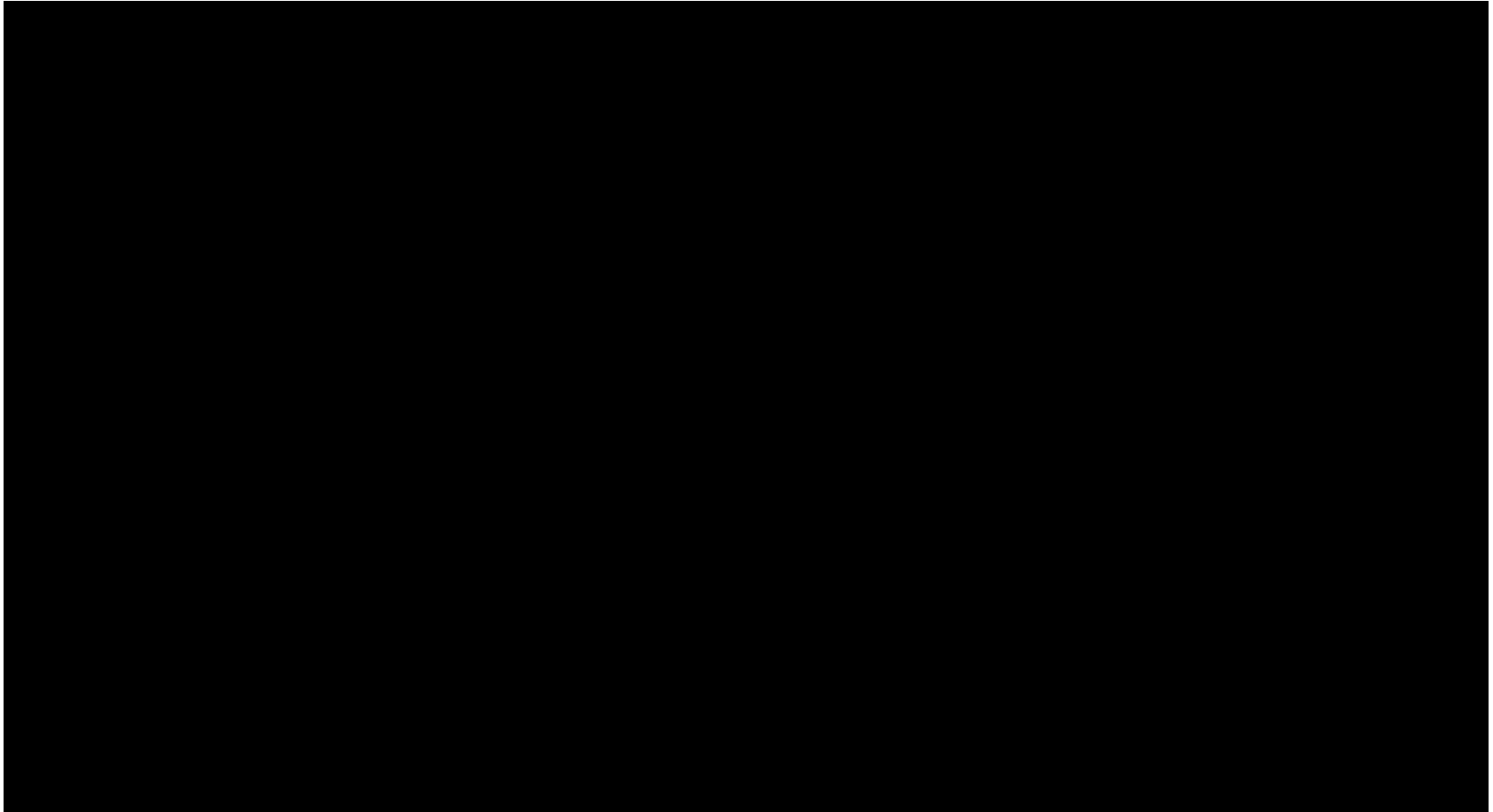




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Overview of Capital Expenditures by State



From: kora_request@kcc.state.ks.us
To: [Open Records Group](#)
Subject: KORA Request 1612398969
Date: Wednesday, February 3, 2021 6:36:10 PM

Wed Feb 3 18:36:09 2021

A KORA request was submitted with these parameters:

Name: Sarah Spicer
Address: 330 N Mead.
City: Wichita
State: Kansas
Zip: 67202
Daytime phone: 6207161252
E-mail: sspicer@wichitaeagle.com
Best contact: E-mail
Receive documents: E-mail

Description:

Dear Custodian of Records,
Under the Kansas Open Records Act ASS 45-215 et seq., I am requesting an opportunity to inspect or obtain copies of public records that detail the rate impacts of Evergy's Sustainability Transformation Plan, including the Boston Consulting Group Report and a presentation given by Evergy during the second Sustainability Transformation Plan Workshop on December 21, 2021. The presentation included information on the overall capital expenditures by state, rate impacts by Kansas jurisdiction and service territory and Evergy's clean energy transition. If there are any fees for searching or copying these records, please inform me if the cost will exceed ~20. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of current and future electric rates. I am a representative of the media, working for The Wichita Eagle, and my request is related to news gathering purposes. This information is not being sought for commercial purposes.

The Kansas Open Records Act requires a response time within three business days. If access to the records I am requesting will take longer than that time period, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Thank you for considering my request.
Sincerely,
Sarah Spicer

Specific information:
Docket No. 21-EKME-088-GIE