

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Investigation into )  
Evergy Kansas Metro and Evergy Kansas )  
Central regarding the February 2021 Winter ) Docket No. 21-EKME-329-GIE  
Weather Events, as Contemplated by )  
Docket No. 21-GIMX-303-MIS )

**RESPONSE TO PETITION TO INTERVENE OF NATURAL GAS TRANSPORTATION  
CUSTOMER COALITION AND KANSAS INDUSTRIAL CONSUMERS GROUP, INC.**

COME NOW Evergy Kansas Central, Inc., Evergy Kansas South, Inc., (together as “Evergy Kansas Central”) and Evergy Metro, Inc. (“Evergy Kansas Metro”) (collectively, “Evergy”) and file their response to the Petition to Intervene of Natural Gas Transportation Customer Coalition (“NGTCC”) and Kansas Industrial Consumers Group, Inc. (“KIC”). In support of its Response, Evergy states:

1. On March 9, 2021, the Commission issued an order in Docket No. 21-GIMX-303-MIS adopting Staff’s recommendation to open a series of company-specific dockets to allow: (1) the utilities to file financial impact plans, and (2) Staff to tailor its investigation to match each utility’s unique circumstances. This order resulted in the creation of the above captioned docket for Evergy. The Commission directed “each utility to file its plan to minimize the financial effects of this cold weather event into its company-specific investigation docket.”<sup>1</sup>

2. On July 2, 2021, Evergy filed its Compliance Report in the above-captioned docket with its plan for Evergy Kansas Central to recover its regulatory asset related to Winter Storm Uri and for Evergy Kansas Metro to return the regulatory liability associated with Winter Storm Uri to customers.

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<sup>1</sup> Order Adopting Staff’s Report and Recommendation to Open Company-Specific Investigations; Order on Petitions to Intervene of Bluemark Energy, LLC and CURB; Protective and Discovery Order, Docket No. 21-GIMX-303-MIS, ¶ 10 (March 9, 2021).

3. On July 14, 2021, NGTCC and KIC filed their petition to intervene in Evergy’s company-specific docket. In their Petition, they state that NGTCC is an “unincorporated group of **natural gas transportation customers**” and that it was created to “evaluate, verify, dispute, challenge, and resolve issues impacting Coalition members regarding their use of **natural gas transportation service.**”<sup>2</sup> NGTCC and KIC then provide a list of entities that “are representative of those entities located throughout Kansas participating through the NGTCC and KIC in the instant matter.”<sup>3</sup> The Petition does not include a list of the specific entities participating in the docket – only entities representative of those participating – and does not indicate which group each of the entities is participating through.

4. K.A.R. 82-1-225 states that the presiding officer shall grant a petition for intervention if it meets certain conditions. K.A.R. 82-1-225(a)(2) includes the requirement that the petition state:

facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.<sup>4</sup>

5. NGTCC is a coalition of natural gas transportation customers. Evergy does not provide natural gas transportation service. The recovery plan proposed by Evergy in its Compliance Report in this docket proposes adjustments to rates paid by its electric customers and

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<sup>2</sup> NGTCC and KIC Petition to Intervene, ¶¶ 4 and 7 (emphasis added).

<sup>3</sup> *Id.* at ¶ 16.

<sup>4</sup> The Kansas Administrative Procedure Act contains identical language. K.S.A. 77-521(a)(2) states that the presiding officer shall grant intervention if, among other things:

the petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.

would have no impact whatsoever on rates paid by natural gas transportation customers. As a result, NGTCC and its members do not have any legal interest that may be affected by this proceeding.<sup>5</sup> Therefore, NGTCC’s Petition does not meet the legal requirements for intervention and should be denied.

6. Furthermore, NGTCC and KIC recognize that they are required to identify the entities participating through the two collective groups in order to be granted intervention.<sup>6</sup> However, NGTCC and KIC fail to meet this requirement in their Petition. They state that they are providing a list of entities that are “representative of” the entities participating in the docket, but they fail to identify the entities actually participating. They also fail to identify which group each of the entities listed is participating through – i.e., whether they are participating through NGTCC or KIC in the docket.

7. As the Commission has previously explained:

The Commission finds that without identification of the interests represented by KIC, it is unable to determine that the petition should be granted.

. . . . the Commission has an interest in the explicit identification of the interests represented by each intervening party. Likewise, the Commission finds it should order KIC to similarly identify the parties it represents for the same rationale underlying K.A.R. 2004 Supp. 82- 1 -204(i)(2).

Westar noted that upon identification by KIC of the entities it represents, Westar would withdraw its objection. The Commission

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<sup>5</sup> It appears that the real reason for NGTCC’s request to intervene in Evergy’s docket may be to gather information for outside litigation its members are currently engaged in. *See* NGTCC and KIC Petition to Intervene, ¶ 13. As Evergy has discussed with the Commission previously, in response to efforts by counsel for NGTCC and KIC to gather information in a regulatory proceeding for use in other proceedings, such conduct constitutes an abuse of the discovery process and would not be a proper basis on which to allow intervention. *See* Motion of Evergy Metro, Inc., Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. to Enforce KIC’s Compliance with Protective Order, Docket No. 21-EKME-088-GIE (Jan. 28, 2021).

<sup>6</sup> NGTCC and KIC Petition to Intervene, ¶ 16; *see also* Docket No. 05-WSEE-981-RTS, *Order Denying Petition to Intervene and Order Granting Petition to Intervene*, at ¶¶8-10 (May 20, 2005); Docket No. 18-WSEE-328-RTS, *Order Granting Intervention to Kansas Industrial Consumers Group, Inc.*, at ¶¶ 8-11 (March 20, 2018).

finds that KIC should have 10 days to amend its petition by identifying its membership and asserting that those members are entitled to intervention according to K.A.R. 82-1-225.<sup>7</sup>

8. The Commission should deny NGTCC's request for intervention, as discussed above, and should require KIC to identify which entities are actually participating in the docket as members of KIC in order to be granted intervention.<sup>8</sup>

WHEREFORE, Evergy respectfully requests that NGTCC's Petition to Intervene be denied and KIC be required to amend its Petition for Intervention to identify its members that are Evergy customers and participating in this matter. In the event that the Commission decides to grant NGTCC's intervention, it should also be required to amend its Petition to Intervene to identify its members that are participating in this matter.

Respectfully submitted,

*/s/ Cathryn J. Dinges*\_\_\_\_\_

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<sup>7</sup> *Order Denying Petition to Intervene and Order Granting Petition to Intervene*, Docket No. 05-WSEE-981-RTS, at ¶¶ 8-10 (May 20, 2005).

<sup>8</sup> In the event the Commission decides to allow NGTCC's intervention in the docket, it should be required to specifically identify the members participating in the docket – not just representative members – and whether they are participating through NGTCC or KIC.

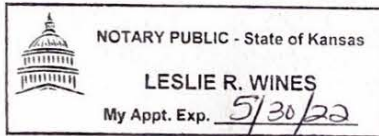
VERIFICATION

STATE OF KANSAS )  
 )  
COUNTY OF SHAWNEE ) ss:

Cathryn J. Dinges, being duly sworn upon his oath deposes and says that she is one of the attorneys for Everyg Kansas Central, Inc., and Everyg Metro, Inc.; that she is familiar with the foregoing **Motion of Everyg Kansas Central, Inc., Everyg Kansas South, Inc., and Everyg Metro, Inc. for Amendment of Protective Order**; and that the statements therein are true and correct to the best of her knowledge and belief.

*Cathryn Dinges*  
Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 22<sup>nd</sup> day of July, 2021.



*Leslie R. Wines*  
Notary Public

My Appointment Expires: *May 30, 2022*

## **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed, this 22<sup>nd</sup> day of July, 2021, to the following counsel of record:

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***/s/ Cathryn J. Dinges*** \_\_\_\_\_