

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

In the Matter of a General Investigation )  
into the Confidential Status of Certain ) Docket No. 24-GIMX-376-GIV  
Documents Related to Costs Incurred )  
During Winter Storm Uri. )

**RESPONSE OF EVERGY KANSAS CENTRAL, INC.,  
EVERGY KANSAS SOUTH, INC. AND EVERGY METRO, INC.  
TO PETITION FOR CLARIFICATION**

Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. (collectively, “Evergy”) response as follows to the Petition for Clarification and Reconsideration (“Petition”) filed by James P. Zakoura (“Requestor”) on November 13, 2023. Evergy files this response for the purposes of (1) correcting factual errors alleged by Requestor, and (2) responding to the suggestion that public disclosure of the confidential information is necessary to protect the public interest.

**I. Correction of Factual Errors**

1. Requestor cites from a Commission Order in the Kansas Gas Service Uri docket<sup>1</sup> where the Commission ordered KGS to file public versions of its supplier contracts and invoices relevant to the winter weather event period and specifically identify and provide justifications where trade secrets or commercially sensitive information is redacted. (Petition, p. 5, ¶14.) Requestor then concludes that “... Evergy Kansas Central ... [has] not filed any information that is available to the public that identifies [its] natural gas suppliers in February 2021, nor [has Evergy] quantified the amount that each supplier sold to [it] in February 2021.” (Petition, p. 6,

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<sup>1</sup> Docket No. 21-KGSG-332-GIG (“KGS Uri Docket”).

¶ 15.) “[Evergy has] been in direct violation of KCC Orders in the Winter Storm Uri Docket since at least mid-2021.” (Petition, p. 6, ¶ 17.)

2. Requestor’s allegation is baseless. An Order issued to KGS in a KGS docket is not applicable to Evergy and Evergy cannot be found to be in violation of any such Order. There was no similar Order issued in Evergy’s Uri Docket.<sup>2</sup> Evergy complied with all discovery submitted in Evergy’s Uri Docket and there were no allegations made otherwise in that docket. Requestor fails to explain how Evergy could be in “direct violation” of a Commission Order that applied only to KGS. Evergy was never ordered by the Commission to file its invoices publicly - redacted or unredacted.

3. Requestor also asserts that neither KGS nor its customers have been harmed by releasing the suppliers’ names and total amount paid to each. (Petition, p. 7, ¶23.) This is an unfounded conclusion, as there is no evidence in the record on this question. Just because the Commission has since found KGS’ purchasing practices to be prudent does not mean KGS’ purchases or rates were unaffected by the release of the confidential information.

## **II. Balanced Approach to Addressing Requestor’s Need**

4. Requestor is asking the Commission to publicly release information previously found by the Commission in the Uri dockets to be highly confidential. (Petition, p. 3, ¶7.) Requestor claims the information needs to be made public so that he can use it to determine which gas marketers to file civil lawsuits against under the Kansas Consumer Protection Act (“KCPA”). Although Requestor had access to this confidential information as a party to the Uri dockets, (as did the Kansas Attorney General’s Office, the party statutorily charged with protecting the public under the KCPA), Requestor claims the Commission’s Protective Order

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<sup>2</sup> Docket No. 21-EKME-329-GIE (“Evergy Uri Docket”).

issued in the Uri dockets prohibits him from using the information for any purpose other than preparation for and litigation in the Commission docket. (Petition, pp. 7-8, ¶27.) Therefore, he cannot use it to identify the defendants for his civil lawsuits, which could result in forfeiture of the KCPA claims when the three-year statute of limitations expires next February. (Petition, p. 4, ¶¶ 10 and 11.)

5. Requestor's problem is not that the sensitive information in the invoices is not public; rather, his problem is that the Commission's Protective Order restricts him from using the information for purposes of identifying the appropriate defendants to name in his civil lawsuits. As such, Evergy suggests the problem is most easily resolved by modification of the Protective Orders in the Uri dockets to state that, because of the unique circumstances in these cases and the need to seek public redress in civil court due to the Commission's lack of jurisdiction over gas marketers, the information produced in the Uri dockets regarding the identity of the suppliers can be used for the purpose of identifying the appropriate parties to be named as defendants in any civil or criminal actions commenced to recover money for retail ratepayers that was wrongfully charged during the Uri storm event. Once the civil lawsuit(s) is filed, Requestor can then resort to the civil court discovery procedures to obtain from the defendant(s) any other information needed and the district court will determine what protections may be necessary for that information.

6. Evergy's suggested resolution reflects a balancing of the interests at play in this matter, recommending "alternatives to disclosure that will serve the public interest and protect the corporation, partnership or sole proprietorship", as required by K.S.A. 66-1220a. In the circumstances presented by Requestor, modification of the Protective Order grants Requestor

the ability to move forward without going so far as to release to the public, including competitors in the natural gas marketing industry, this competitively sensitive information.

Respectfully submitted,

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*/s/ Glenda Cafer*

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  ) ss:  
COUNTY OF SHAWNEE    )

**VERIFICATION**

I, Glenda Cafer, verify under penalty of perjury that I have caused the foregoing pleading to be prepared; that I have read and reviewed the same; and that the contents thereof are true and correct to the best of my information, knowledge, and belief.

*Glenda Cafer*\_\_\_\_\_

**CERTIFICATE OF SERVICE**  
24-GIMX-376-GIV

I, the undersigned, do hereby certify that a true copy of the attached **Energy Response to Petition for Reconsideration** has been served to the following by means of electronic service on this 22<sup>nd</sup> day of November, 2023:

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