

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

In the Matter of the Joint Application of Evergy )  
Kansas Central, Inc. Evergy Kansas South, Inc. )  
and Evergy Metro, Inc. for Approval to Make ) Docket 23-EKCE-775-RTS  
Certain Changes in their Charges for Electric )  
Service )

**MOTION OF THE KANSAS INDUSTRIAL CONSUMERS GROUP, INC. (“KIC”) TO:  
(a) LIMIT THE AMOUNT OF RATE CASE EXPENSES IN THIS CASE THAT CAN BE  
RECOVERED FROM RETAIL RATEPAYERS OF EVERGY KANSAS METRO  
 (“EKM”) OR IN THE ALTERNATIVE, (b) DISMISS THE APPLICATION OF EKM,  
WITHOUT PREJUDICE TO A LATER REILING AT THE OPTION OF EKM**

COMES NOW, the Kansas Industrial Consumers Group, Inc. (“KIC”) and respectfully requests the State Corporation Commission of the State of Kansas (“KCC” or “Commission”) to order, one of the following, in the alternative:

- LIMIT THE AMOUNT OF RATE CASE EXPENSES IN THIS CASE THAT CAN BE RECOVERED FROM RETAIL RATEPAYERS OF EVERGY KANSAS METRO (“EKM”);  
OR IN THE ALTERNATIVE
- DISMISS THE APPLICATION OF EKM, WITHOUT PREJUDICE TO A LATER REILING AT THE OPTION OF EKM.

**Relevant Factual and Procedural History**

1. On April 25, 2023, the Evergy companies filed a Joint Application for Approval to Make Certain Changes in their Charges for Electric Service in the docket. The requested Rate Increase of EKM was 1.95%.

3. The April 25, 2023, EKM filing, included a request to the KCC to increase retail electric rates of EKM by 1.95% - - \$14.2 million dollars per year. This increase consists of a \$25.1 million increase in base rates less a \$10.9 million reduction in the property tax surcharge.

4. Subsequently, on July 7, 2023, counsel for Evergy notified the parties to this docket that EKM and the Evergy companies would no longer be seeking recovery of lost revenues from Covid-19, a claim that totaled an approximate \$7.8 million for EKM, or approximately 55% of the originally requested rate increase.

5. After removing the Covid-19 related revenues from the EKM Rate Increase Application, **the remaining amount of the EKM Rate Increase is \$6.4 million** - - a 55% decrease from the amount requested by EKM - - \$14.2 - - million on April 25, 2023.

6. EKM is now seeking a rate increase of 0.8775% – less than a 1% rate increase. Further, EKM Would Have to Prevail at a 100% Level on the Remaining Items for Which it Requests an Increase, to Recover the Remaining \$6.4 Million Rate Increase.

7. The remaining \$6.4 million Rate Increase of EKM is supported by 2 categories:

- **The EKM requested increase in Return on Equity (“ROE”)** – increasing from the current level of 9.30% to a level of 10.25%, is equal to approximately \$16.30 million – **each 10 basis point increase in ROE is equal to approximately \$1.716 million.**
- **The EKM requested increase for depreciation expense of \$1.9 million.**

8. EKM is seeking a change in depreciation rates which increases its 2022 depreciation expense by \$1.89 million (Exhibit REW-1, page 5). The change in depreciation rate for the Metro division is very small and, therefore, a discretionary adjustment to its cost of service.

**9. If the KCC orders to continue the ROE of 9.30% return on equity, the result would be a rate decrease of \$9 million for retail ratepayers of EKM, rather than an increase of \$6.4 million.**

10. It would be inequitable – knowing what we know at this stage of the EKM proceeding – for the KCC to order recovery of Rate Case Expenses from retail ratepayers of EKM, if the end result of this proceeding is either a Rate Reduction for EKM or a small increase (less than 1%) in retail rates.

11. The KCC did order EKM to file this Rate Case as a condition of the Merger Order, and a periodic update to depreciation schedules would be an appropriate project – which is likely to be a contested issue. As noted hereinafter, KIC is stating that the current level of EKM Rate Case Expenses, be amortized over a 3-year period – as a resolution that is fair to all Parties to the EKM Docket.

12. There is no regulatory requirement that a public service commission permit a utility to waste the money of retail ratepayers if there is a more reasonable path forward. It would be a terrible result for retail ratepayers in the EKM Case, would be a Retail Rate Reduction – that is materially offset, by Rate Case Expenses chargeable to retail ratepayers of EKM.

13. The KCC has established “KCC Precedent & Guidance Documents” in the area of Rate Case Expense Recovery, as a testament to the importance the Commission attaches to this area.<sup>1</sup>

14. The Commission has long held that it will only permit “fair and reasonable [rates] that include costs/expenses that are prudently incurred by a company.”<sup>2</sup>

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<sup>1</sup> See, <http://www.kcc.ks.gov/records-information/precedents-and-guidance-documents>.

<sup>2</sup> Order on Rate Case Expense, Docket No. 10-KCPE-415-RTS at ¶16 (Jan. 18, 2012).

15. The Kansas Supreme Court has held that in setting rates, “the Commission must consider and balance interests of the following parties: (1) The investors vs. the ratepayers; (2) the present ratepayers vs. the future ratepayers; and (3) the public interest.”<sup>3</sup>

16. In this matter, a significant portion, if not all of the remaining requested increase to EKM’s rates, appears to be a result of EKM’s request to increase its Return on Equity, offset only minimally by the increased depreciation.

17. Essentially, EKM’s remaining case is simply an attempt to obtain a higher ROE, with no other overall areas of cost increases.

18. The EKM Rate Case Expenses are likely significant at this point in time. The KCC should issue an Order requiring EKM to disclose its current amount of Rate Case Expenses and provide an estimate of the full amount of EKM Rate Case Expenses in the event that the EKM Case is litigated to a conclusion in December 2023.

19. Retail ratepayers of EKM should not be required to finance a Rate Increase case that was small in amount in the first instance, has been voluntarily further reduced by 55%, and may well end up as an EKM Rate Reduction.

20. EKM must have some of the proverbial “skin in the game.” All of the financial risk of prosecuting this case should not be placed on the retail ratepayers of EKM.

21. In fairness to retail ratepayers, and to preserve equity in the regulatory process for them – the KCC should take, either one of the following two actions:

- Limit EKM Rate Case Expenses to a reasonable amount that is commensurate to a Request for a Rate Increase of less than 1%; **OR**

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<sup>3</sup> *Kansas Gas & Electric v. Kansas Corp. Comm’n*, 239 Kan. 488 (1986).

- Dismiss the EKM Application for Rate Increase – without prejudice to EKM refileing at a later time when increased costs compel a filing; and permitting EKM to recover its current Rate Case Expenses in this Docket, amortized over three years as a regulatory asset.

***The Expenses to Parties to Pursue the Evergy Kansas Metro, Inc.  
Rate Application are Unnecessary.***

22. “Historically in Kansas the general rule has been to consider prudently incurred rate case expenses among the reasonably necessary expenses a public utility is entitled to recover as part of its revenue requirement in a rate case.”<sup>4</sup> Generally, the purpose of the rate case is to establish just and reasonable rates.<sup>5</sup>

23. While other dockets have dealt with the reasonableness of rate case expenses in the context of submissions of expenses following a rate case, the underlying consideration before the Commission has always been whether the rate case expenses, and the underlying rate case generally, results in just and reasonable rates.

24. Here, the situation before the Commission is one in which the relatively small rate increase sought by EKM can almost certainly be accounted for by the request to increase EKM’s return on equity.

25. In fact, without the increase in return on equity, it appears as though EKM’s revenue requirements since the last rate case have decreased.

26. Experience from previous rate cases shows the Commission, and all parties, that the likely expenses to pursue the EKM rate case further, will likely result in millions of dollars of expenses billed to ratepayers for the time and efforts of Evergy, the Commission, and CURB.

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<sup>4</sup> Order on Rate Case Expense, Docket No. 10-KCPE-415-RTS at ¶16 (Jan. 18, 2012), citing *Home Tel. Co. v. Kansas Corp. Comm’n*, 31 Kan. App. 2d 1002, 1015 (2003).

<sup>5</sup> K.S.A. 66-101b.

27. Similarly, parties like KIC and the numerous other intervenors will expend significant funds in pursuing a rate case where the underlying increase can almost wholly be accounted for by only increasing the return on equity.

28. These expenses, in light of EKM's apparent lack of need for increased revenues are unnecessary, imprudent, unreasonable, and unjust.

29. Raising rates, for an increase limited to EKM's return on equity – while correspondingly increasing the expenses incurred by the Commission, CURB, and EKM – must surely be against public policy.

30. Therefore, KIC requests that the Commission relieve EKM of any real or perceived duty to pursue EKM's rate increase following the rate moratorium, and either (i) limit recovery of Rate Case Expenses in this EKM Case, or (ii) dismiss EKM's Rate Increase Application, while deferring to a regulatory asset account, the current amount of Rate Case Expenses – with amortization over a 3-year period.

Respectfully submitted,

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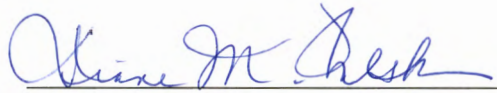
**VERIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF JOHNSON    )

James P. Zakoura, being duly sworn upon his oath, deposes and states that he is the Attorney for Kansas Industrial Consumers Group, Inc., and its Participating Members, and that he has read and is familiar with the foregoing *Motion of KIC to Limit the Amount of Rate Case Expenses in this Case that Can be Recovered from Retail Ratepayers of Evergy Kansas Metro ("EKM") or in the Alternative Dismiss the Application of EKM, Without Prejudice to a Later Refiling at the Option of EKM*, and that the statements therein are true to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
James P. Zakoura

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of July 2023.

  
\_\_\_\_\_  
Notary Public

My Appointment Expires:





**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of July 2023, the foregoing 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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