

189 FERC ¶ 61,153

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie, David Rosner,
Lindsay S. See and Judy W. Chang

Evergy Kansas Central, Inc.	Docket Nos. ER24-3107-000
Evergy Kansas Central, Inc.	ER24-3108-000
Evergy Kansas Central, Inc. Evergy Kansas South, Inc. Southwest Power Pool, Inc.	ER24-3114-000
Evergy Metro Inc. Southwest Power Pool, Inc.	ER24-3115-000 EL25-19-000

ORDER ACCEPTING AND SUSPENDING DEPRECIATION RATES, SUBJECT TO
CONDITION, INSTITUTING SECTION 206 PROCEEDING, AND ESTABLISHING
A REFUND EFFECTIVE DATE AND HEARING AND SETTLEMENT JUDGE
PROCEDURES

(Issued November 29, 2024)

1. On September 25, 2024, pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission regulations,² Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively, Evergy Kansas Central)³ and Evergy Metro, Inc.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2024).

³ Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. are referred to collectively as Evergy Kansas Central because Evergy Kansas South, Inc. is a wholly owned subsidiary of Evergy Kansas Central, Inc., and together they provide transmission and generation services under the Evergy Kansas Central, Inc. tariffs. Transmittal at 1 n.3.

(Evergy Metro) (collectively, the Evergy Companies) submitted four separate proposed revisions to update depreciation rates⁴ in:⁵ (1) Evergy Kansas Central's formula rate templates contained in Evergy Kansas Central's wholesale power contracts;⁶ (2) Evergy Kansas Central's transmission formula rate in Attachment H-1 of Evergy Kansas Central's Open Access Transmission Tariff (OATT);⁷ (3) Evergy Kansas Central's transmission formula rate in Addendum 3 to Attachment H of SPP's OATT (SPP Tariff);⁸ and (4) Evergy Metro's formula rate contained in Addendum 10 to Attachment H of the SPP Tariff.⁹ In this order, we accept the Evergy Companies' proposed tariff revisions, subject to condition, suspend the revisions for a nominal period, to become effective December 1, 2024, subject to refund and the outcome of hearing and settlement judge

⁴ The Evergy Companies submit these proposed revisions (and submit identical transmittal letters) in Docket Nos. ER24-3107-000, ER24-3108-000, ER24-3114-000, and ER24-3115-000. In Docket Nos. ER24-3114-000 and ER24-3115-000, Southwest Power Pool, Inc. (SPP) submitted the proposed tariff revisions (and a supplemental cover letter) on behalf of Evergy Kansas Central and Evergy Metro, respectively. Transmittal citations herein reference Evergy Kansas Central's filing in Docket No. ER24-3107-000.

⁵ See Appendix for eTariff records.

⁶ The Evergy Companies state that these wholesale power contracts include FERC Rate Schedule No. 20 (Evergy Kansas Central's Full Requirements Electric Service Rate Schedule); FERC Rate Schedule No. 301 (with Kansas Electric Power Cooperative, Inc.); FERC Rate Schedule No. 326 (with Doniphan Electric Cooperative Association); FERC Rate Schedule No. 327 (with FreeState Electric Cooperative); FERC Rate Schedule No. 328 (with Nemaha Marshall Electric Cooperative Association); FPC Rate Schedule No. 127 (with the City of McPherson, Kansas, Board of Public Utilities (McPherson, Kansas)); and FERC Rate Schedule No. 336 (with Midwest Energy (Midwest Energy)). The Evergy Companies state that all but two of these rate schedules have substantially the same formula rate construct, known as the generation formula rate (GFR). The other two rate schedules (for McPherson, Kansas and Midwest Energy) use a different formula from the GFR. Transmittal at 2 n.6.

⁷ Evergy Kan. Cent., Inc., Open Access Transmission Tariff, attach. H-1 (Actual Gross Revenue Requirements) (4.0.1) (EKC Tariff); *id.*, attach. H-1 (A-8 Depreciation Calculation) (1.0.0).

⁸ Sw. Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Vol. No. 1, attach. H, add. 3, pt. 1 (Evergy Kansas Central, Inc. Formula Rate) (8.0.0).

⁹ *Id.*, attach. H, add. 10, pt. 1A (Evergy Metro, Inc. Rate Formula Template) (11.0.0).

procedures. We also institute a proceeding pursuant to section 206 of the FPA,¹⁰ establish a refund effective date, and direct the Evergy Companies to submit a compliance filing within 30 days of the date of this order.

I. Background

2. Evergy Kansas Central and Evergy Metro are wholly owned public utility subsidiaries of Evergy, Inc. (Evergy) that are primarily engaged in the generation, transmission, distribution, and sale of electricity in the state of Kansas, and, in the case of Evergy Metro, also in the state of Missouri. Evergy was formed in 2018 through the merger of Kansas City Power & Light (KCP&L) and Westar Energy. Evergy Metro previously operated as KCP&L, while Evergy Kansas Central previously operated as Evergy. Evergy Kansas South, Inc. is a wholly owned subsidiary of Evergy Kansas Central, Inc. and previously operated as Kansas Gas & Electric. The Evergy Companies are transmission-owning members of SPP and provide transmission services within SPP pursuant to a Commission-approved OATT that includes formula rates. Evergy Kansas Central has a separate OATT on file with the Commission. Evergy Kansas Central also provides long-term requirements service to several wholesale customers pursuant to the rate schedules on file with the Commission, all of which have formula rates.¹¹

II. Filing

3. The Evergy Companies request authorization to implement revised depreciation rates into Addendums 3 and 10 of the SPP Tariff, Attachment H-1 of the EKC Tariff, and specified full-service requirements contracts.¹² The Evergy Companies state that their proposed depreciation rates align with updated depreciation rates approved for retail rates by the Kansas Corporation Commission (KCC).¹³ The Evergy Companies explain that they conducted a depreciation study in 2022, which included generation, transmission, and general plant, that indicated a need for updated depreciation rates. The Evergy Companies state that the depreciation study formed the basis for their April 25, 2023 filing with the KCC requesting approval of revised depreciation rates.¹⁴

¹⁰ 16 U.S.C. § 824e.

¹¹ Transmittal at 3.

¹² *Id.* at 8.

¹³ *Id.* at 2.

¹⁴ *Id.* at 3 (citing Ex. EVE-0001 at Ex. REW-1 (Depreciation Study)).

4. The Evergy Companies state that during the proceeding before the KCC, the Evergy Companies, along with 27 other parties, including KCC staff, negotiated a unanimous settlement agreement resolving all issues in the proceeding, which the KCC approved in November 2023.¹⁵ The Evergy Companies state that the KCC order approving the settlement also approved an effective date of December 21, 2023, although the depreciation rates approved as part of the order did not take effect (and were not used) until January 1, 2024.¹⁶

5. The Evergy Companies explain that there were changes between the depreciation rates in the Evergy Companies' depreciation study and the rates included in the settlement agreement and that some of these changes were proposed by KCC staff as well as supported by the testimony submitted by KCC staff.¹⁷ The Evergy Companies state that some of these changes resulted in increases in the existing and/or proposed depreciation rates, while others resulted in decreases, but in all cases the rates were supported directly by the Evergy Companies' 2022 depreciation study. The Evergy Companies state that the revised depreciation rates proposed in the instant filings are those approved in the Order Approving Unanimous Settlement Agreement. The Evergy Companies assert that the methods used for the proposed rates represent rational methods for calculating depreciation rates and that adoption of the rates approved by the KCC are just and reasonable and consistent with the Commission's requirements and the Evergy Companies' tariffs.¹⁸

6. The Evergy Companies explain that Evergy Metro's transmission formula rate uses composite depreciation rates based on a weighted allocation of state-approved depreciation rates that remain static absent a Commission order.¹⁹ The Evergy Companies explain that because Evergy Metro's composite depreciation rates incorporate state-approved depreciation rates, each time the state depreciation rates are updated, Evergy Metro must update its formula rates on file with the Commission so that the depreciation rates used in the formula rates correspond to those used by the states for accounting purposes. The Evergy Companies assert that, absent such a change, Evergy Metro's formula rates would not reflect actual costs. The Evergy Companies state that

¹⁵ Ex. EVE-0003 (Order Approving Unanimous Settlement Agreement).

¹⁶ Transmittal at 3-4.

¹⁷ *Id.* at 4 (citing Ex. EVE-0005).

¹⁸ *Id.* (citing Ex. EVE-0002, Test. Lisa A. Starkebaum (Starkebaum Test.)).

¹⁹ *Id.* at 5.

the Commission has previously approved similar changes to Evergy Metro's depreciation rates for this purpose.²⁰

7. The Evergy Companies state that for the remaining Evergy Kansas Central formula rates that do not have a composite rate, to the extent there are corresponding state-approved rates for assets used to provide both state and federal jurisdictional service, adopting the state-approved rates will allow utilities to maintain depreciation rates that reflect actual costs. The Evergy Companies state that the Commission has previously approved changes to depreciation rates that reflect changes approved by state utility commissions under similar circumstances.²¹ The Evergy Companies assert that the Commission should therefore approve the proposed changes as just and reasonable and consistent with Order No. 618.²²

8. The Evergy Companies state that, in addition to the above changes, they are also proposing revisions to certain accounts that represent intangible plant used in providing transmission service. The Evergy Companies assert that the proposed revisions for these accounts are consistent with the Commission's rules concerning depreciation. The Evergy Companies state that these accounts include Accounts 30307, 30308, 30310, 30311, 30313, 30314, and 30316. The Evergy Companies explain that: Account 30307 is for installation of an isolation valve at the Hawthorn Generating Facility, Account 30308 is for a transmission line to move their electricity, Account 30310 captures the costs for state required highway repairs resulting from damage from construction vehicles during the build of the Iatan Generating Facility, Account 30311 captures the costs for state required highway repairs resulting from damage from construction vehicles while refitting the LaCygne Generating Facility, Accounts 30313 and 30314 capture radio frequencies Evergy Metro is required to purchase to support service, and Account 30316

²⁰ *Id.* (citing *Sw. Power Pool, Inc.*, Docket No. ER24-226-000, et al. (Mar. 19, 2024) (delegated order) (Evergy 2024 Letter Order); *Sw. Power Pool, Inc.*, Docket No. ER19-1861-000 (July 8, 2019) (delegated order) (KCP&L 2019 Letter Order); *KCP&L Greater Mo. Operations Co.*, Docket No. ER14-22-000 (Nov. 18, 2013) (delegated order); *KCP&L Greater Mo. Operations Co.*, Docket No. ER11-3226-000 (May 26, 2011) (delegated order)).

²¹ *Id.* (citing *Fla. Power Corp.*, 134 FERC ¶ 61,145, at P 19 (2011); *Westar Energy, Inc.*, 131 FERC ¶ 61,183, at P 20 (2010) (*Westar*); Evergy 2024 Letter Order; *Niagara Mohawk Power Corp.*, Docket No. ER12-1394-000 (May 29, 2012) (delegated order); *Empire District Elec. Co.*, Docket No. ER13-681-001 (Apr. 23, 2012) (delegated order)).

²² *Id.* (citing *Depreciation Acct.*, Order No. 618, FERC Stats. & Regs. ¶ 31,104 (2000) (cross-referenced at 92 FERC ¶ 61,078)).

captures certain Evergy Metro software applications that must be renewed every three years, with a depreciation rate of 33.3%.²³ The Evergy Companies state that the frequencies booked to Account 30313 are subject to a depreciation rate of 10.13%, and the costs for the frequencies booked to Account 30314 are subject to a depreciation rate of 5%.

9. The Evergy Companies argue that the proposed changes will have a minimal impact on their annual revenue requirement. The Evergy Companies provide Exhibit EVE-0006 to show the effect of the proposed depreciation rate changes on transmission formula rates included in the EKC Tariff and SPP Tariff. The Evergy Companies state that the proposed change in depreciation expense increases Evergy Kansas Central's total transmission revenue requirement by 1.5%, or \$5,446,496, compared to the actual 2023 rates.²⁴ The Evergy Companies state that, as shown in Exhibit EVE-0007, the new rates are expected to slightly increase Evergy Metro's depreciation expense and that this produces an increase in Evergy Metro's total transmission revenue requirement of 0.6%, or \$393,375, compared to the actual 2023 rates.²⁵

10. The Evergy Companies state that the proposed change in depreciation rates will also impact companies that use GFRs. The Evergy Companies state that Exhibit EVE-0008, which illustrates the revenue impact of proposed depreciation rates on GFR contracts, shows that the proposed change in depreciation expense increases Evergy Kansas Central's total demand revenue requirement by 2.9%, or \$25,737,106, compared to the actual 2023 rates.²⁶ The Evergy Companies state that GFR customers typically pay approximately 5% of the total demand revenue requirement, meaning that the increase in total rates charged to them is only approximately \$1.287 million per year.²⁷

11. The Evergy Companies state that, in addition to these GFR contracts, the proposed change in depreciation rates will increase the depreciation expense under Evergy Kansas Central's contracts with the city of McPherson, Kansas²⁸ and Midwest Energy.²⁹ The

²³ *Id.* at 6.

²⁴ *Id.* (citing Ex. EVE-0006).

²⁵ *Id.* at 7 (citing Ex. EVE-0007).

²⁶ *Id.* (citing Ex. EVE-0008).

²⁷ *Id.*

²⁸ *Id.* (citing Ex. EVE-0009).

²⁹ *Id.* at 8 (citing Ex. EVE-0010).

Evergy Companies state that the change in depreciation expense produces an increase in Evergy Kansas Central's total generation revenue requirement under the McPherson, Kansas contract and Midwest Energy contract of 4.4% and 0.5%, respectively, compared to the actual 2023 rates. The Evergy Companies state that they also propose certain ministerial and administrative revisions to these contracts.³⁰

12. The Evergy Companies request that the Commission accept the proposed changes with an effective date of December 1, 2024, and request such waivers as are appropriate to allow the Evergy Companies to include the revised depreciation rates for the entire 2024 calendar-year rate year in their annual true-up of 2024 rates. The Evergy Companies argue that this proposal is consistent with Commission precedent that has allowed public utilities to reflect revised depreciation rates for the entire calendar year for annual true-ups that are submitted after the filing of the revised depreciation rates.³¹ The Evergy Companies assert that true-ups for Evergy Metro's transmission formula rate, and annual rate updates for the GFR, and McPherson, Kansas, and Midwest Energy contracts, will be submitted on or before June 1, 2025, and true-ups for Evergy Kansas Central's transmission formula rate will be submitted on or before June 15, 2025. The Evergy Companies state that those filings will be based on their FERC Forms No. 1 for 2024 that will be submitted to the Commission in April 2025.³² To the extent necessary, the Evergy Companies argue that good cause exists for the Commission to waive the 60-day prior notice requirement under 18 C.F.R. § 35.11 (2024) because, if the depreciation rates applicable to the formula rate do not correspond to the depreciation rates the Evergy Companies use for accounting purposes, then their respective formula rates will not reflect their actual costs.³³ The Evergy Companies also request waiver of any provisions in 18 C.F.R. § 35.13 that would require them or SPP to submit any additional cost-of-service data.³⁴

III. Notice of Filing and Responsive Pleadings

13. Notice of Evergy Kansas Central's filings in Docket Nos. ER24-3107-000 and ER24-3108-000 was published in the *Federal Register*, 89 Fed. Reg. 79905 (Oct. 1,

³⁰ *Id.*

³¹ *Id.* at 2 & n.9 (citing Evergy 2024 Letter Order; KCP&L 2019 Letter Order; *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202, at P 18 (2019); *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043, at P 20 (2010)).

³² *Id.* at 2-3.

³³ *Id.* at 11 & n.26.

³⁴ *Id.* at 10.

2024), with interventions and protests due on or before October 16, 2024. Notice of SPP's filings on behalf of the Evergy Companies in Docket Nos. ER24-3114-000 and No. ER24-3115-000 was published in the *Federal Register*, 89 Fed. Reg. 80550 (Oct. 3, 2024), with interventions and protests due on or before October 16, 2024. On October 16, 2024, the deadline for filing any protests and comments in these proceedings was extended to October 28, 2024.

14. Kansas Electric Power Cooperative, Inc., Kansas Municipal Energy Agency, Kansas Power Pool,³⁵ and McPherson, Kansas (collectively, the Kansas Customers) filed timely motions to intervene and a joint protest. On October 17, 2024, the KCC filed a notice of intervention. On November 12, 2024, the Evergy Companies filed an answer to the protest. On November 21, 2024, the Kansas Customers filed an answer.

A. The Kansas Customers' Protest

15. The Kansas Customers argue that the Evergy Companies have failed to adequately support their proposed depreciation rate increase or otherwise show that the proposed rates are just and reasonable. The Kansas Customers argue that the depreciation study the Evergy Companies filed with the retail rate application to the KCC, and accompanying testimony describing the KCC proceeding, do not adequately explain why or how the Evergy Companies' proposed rates are justified for inclusion in their transmission and wholesale rates. The Kansas Customers argue that the KCC retail rate settlement is irrelevant here because the Commission is not bound by the findings of the state commission and, in any event, the rates were part of a black box settlement of the retail rate case and not specifically reviewed by the KCC.³⁶ The Kansas Customers argue that the testimony provided by the Evergy Companies is missing substantive explanation and analysis regarding the justness and reasonableness of the proposed depreciation rates and offers instead only conclusory statements about how the rates were approved at the state-level and need to be adopted in the Evergy Companies' formula rate to reflect actual costs.³⁷ The Kansas Customers state that these statements about state-level adoption of depreciation rates are irrelevant because the Commission must independently determine whether the Evergy Companies' proposed rates are just and reasonable.³⁸ The Kansas

³⁵ Kansas Power Pool filed this motion to intervene, but the motion to intervene itself refers to KPP Energy as the filing party.

³⁶ Protest at 7 (citing *Westar*, 131 FERC ¶ 61,183 at P 20; *Va. Elec. & Power Co.*, 128 FERC ¶ 61,026, at P 30 (2009); *Piedmont Mun. Power Agency v. Duke Energy Carolinas, LLC*, 162 FERC ¶ 61,109, at P 32 (2018); *Ala. Mun. Elec. Auth. v. Ala. Power Co.*, 119 FERC ¶ 61,286, at P 39 (2007)).

³⁷ *Id.* at 8 (citing *Starkebaum Test.* 6:2-5).

³⁸ *Id.* at 8-9 (citing Order No. 618, FERC Stats. & Regs. ¶ 31,104 at 31,695 n.25;

Customers maintain that the Commission precedent cited by the Evergy Companies demonstrates that cost recovery on the wholesale level does not depend on cost recovery at the retail level.³⁹

16. The Kansas Customers further assert that the depreciation study provided was outdated because it contains data from December 31, 2021, and in 2022 and 2023, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. made significant transmission investments of over \$334 million and \$362 million, respectively. The Kansas Customers state that such an investment tends to decrease depreciation rates because they increase the average remaining life of physical assets, so further information is needed to determine the effect of the capital additions since 2021.⁴⁰

17. The Kansas Customers argue that the depreciation study is also incomplete, as it does not contain enough information to understand the life and net salvage analyses, and it is impossible to scrutinize the analysis without access to full data. Additionally, the Kansas Customers assert that the Evergy Companies have not sponsored testimony from a witness that supports the justness and reasonableness of changing the depreciation rates and have failed to include testimony from the experts who conducted the depreciation study and the decommissioning analysis to support the retail rate application. The Kansas Customers state that without the opportunity to scrutinize the decommissioning study and the underlying workpapers and other data, the proposed rates cannot be found to be just and reasonable. The Kansas Customers therefore request that the Commission require the Evergy Companies to file a supplement to include all relevant information, including testimony and workpapers.⁴¹ The Kansas Customers argue that the absence of such materials combined with the proposed depreciation rates having been determined by a black box settlement process raises issues of material fact that are more appropriately addressed by the Commission's hearing and settlement judge procedures.⁴²

18. The Kansas Customers also argue that the Evergy Companies fail to provide support for their proposed inclusion of new intangible plant accounts. The Kansas Customers assert that it is not clear whether the Evergy Companies took these new accounts into consideration when calculating the revenue impact of the depreciation rate

Westar, 131 FERC ¶ 61,183 at P 20).

³⁹ *Id.* at 9 (citing *Westar*, 131 FERC ¶ 61,183 at P 20; *Fla. Power Corp.*, 134 FERC ¶ 61,145 at P 19).

⁴⁰ *Id.* at 10.

⁴¹ *Id.* at 11-12.

⁴² *Id.* at 15.

changes, nor have the Evergy Companies explained why they are requesting this change.⁴³

19. The Kansas Customers also argue that certain aspects of the Evergy Companies' proposal may require further investigation. The Kansas Customers state that the Evergy Companies rely on the fact that their proposal incorporates depreciation rates approved by the KCC for retail rates, but the KCC witness did not address Evergy Kansas Central transmission depreciation rates during the KCC proceeding because those rates are addressed by the Commission, and Evergy Kansas Central removed all transmission depreciation expenses from the Kansas revenue requirement.⁴⁴ The Kansas Customers argue that the transmission depreciation rates proposed by the Evergy Companies are the same rates initially proposed in the Kansas state rate case that were never vetted by KCC staff.⁴⁵

20. With respect to Evergy Metro, the Kansas Customers state that the KCC witness conducted an analysis recommending a 0.05% decrease to Evergy Metro's then-currently effective depreciation rate, whereas Evergy Metro proposed a 0.22% increase to its then-currently effective depreciation rate.⁴⁶ The Kansas Customers assert that the KCC recommendation is not explained and could be consistent with a substantial amount of transmission investment being placed into service, so more information is needed to determine whether the decrease to depreciation rates is sufficient. The Kansas Customers further argue that given Evergy Kansas Central's substantial transmission investments in 2022 and 2023, additional information is needed to determine whether there should also be an adjustment to decrease their proposed transmission depreciation rates.⁴⁷

21. The Kansas Customers argue that the Evergy Companies' use of weighted exposure also needs further investigation. The Kansas Customers state that Schedule D for Account 365 indicates that the Iowa curves selected to match the Evergy Companies' retirement data were weighted based on exposures (i.e., the dollar value of plant exposed to retirement during a given age).⁴⁸ The Kansas Customers argue that this approach

⁴³ *Id.* at 16.

⁴⁴ *Id.* (citing Ex. EVE-0004, Test. Roxie McCullar, at 3:6-11, 4:3-8 (McCullar Test.)).

⁴⁵ *Id.* at 16-17.

⁴⁶ *Id.* at 17 (citing McCullar Test. 5:4-5).

⁴⁷ *Id.* at 17-18.

⁴⁸ *Id.* at 18.

indicates that the curve-fitting process used to match the Evergy Companies' retirement data to the best fitting average service and curve shape is weighted by the exposure associated with each data point, but the Evergy Companies do not provide an explanation for this weighting assumption or procedure.⁴⁹

22. Next, the Kansas Customers assert that the use of adjusted plant records needs further investigation. The Kansas Customers state that Schedule C for Account 365 shows unadjusted and adjusted plant records and that it appears that the Evergy Companies' expert has adjusted plant records to best reflect the data for future forecasting purposes without explanation. The Kansas Customers contend, however, that this process of adjusting sales, transfers, and adjustments is not common accounting practice and is not supported by Commission precedent.⁵⁰

23. With respect to the proposed effective date, the Kansas Customers argue that the Evergy Companies can only apply any new depreciation rates that the Commission may accept in the instant proceeding on a prospective basis.⁵¹ The Kansas Customers contend that when the Evergy Companies calculate their true-up of estimated 2024 transmission revenue requirements to actual 2024 costs in June 2025, they must calculate actual costs using the formula that was in effect for the applicable time period, and the revisions cannot be applied to the 2024 transmission formula rate true-up prior to December 1, 2024.⁵² The Kansas Customers argue that the Evergy Companies cannot apply revised depreciation rates for the entire 2024 calendar year without running afoul of the filed-rate doctrine and the rule against retroactive ratemaking, because if the Evergy Companies were to apply revised rates for the entire 2024 rate year, they would be charging customers a rate that is different from the rate in effect for the period prior to December 1, 2024.⁵³

24. The Kansas Customers further ask that, if the Commission does not reject the proposal as unjust and unreasonable, the Commission should suspend the proposal for the maximum five-month period, subject to refund, and set the proposal for hearing and settlement judge procedures. The Kansas Customers contend that the Commission

⁴⁹ *Id.* at 18-19.

⁵⁰ *Id.* at 19-20.

⁵¹ *Id.* at 21 (citing *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094, at P 29 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,020, at PP 7-8 (2017)).

⁵² *Id.* (citing *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094 at P 29; *Wis. Elec. Power Co.*, 167 FERC ¶ 61,163, at PP 20-22 (2019)).

⁵³ *Id.* at 21-22.

should rule that it lacks an evidentiary basis to conclude that at least \$3.75 million of the Evergy Companies' request is not excessive, meriting a maximum suspension to allow for a more thorough review of the proposed rates and their impacts on the Kansas Customers.⁵⁴

25. The Kansas Customers also request that the Commission direct the Evergy Companies to make just and reasonable modifications to the GFRs to flow back to customers the full net excess deferred taxes created by the Tax Cuts and Jobs Act of 2017.⁵⁵ The Kansas Customers state that such changes can be made as part of these proceedings on the Evergy Companies' single-issue filings because there is a nexus between the depreciation rates that the Evergy Companies propose to change and the excess accumulated deferred income tax that they have not returned.⁵⁶ Specifically, the Kansas Customers contend that changes to depreciation rates directly impact the accumulation of deferred tax liabilities recorded on a utility's books and the flow back of protected excess deferred taxes under the Internal Revenue Service's average rate assumption method, and, therefore, evaluating tariff changes for revised depreciation rates and excess deferred taxes is logical and not unprecedented. Accordingly, the Kansas Customers ask the Commission to direct the parties to address return of excess deferred taxes in the GFRs in hearing and settlement judge procedures.⁵⁷

26. Finally, the Kansas Customers request that if the Commission does not reject the Evergy Companies' proposal and grants their request for waiver under 18 C.F.R. § 35.13, the Commission should find that the proposal may be unjust and unreasonable, set the matter for hearing and settlement judge procedures, and clarify that the Administrative Law Judge will be able to provide for appropriate discovery of information related to the proposal. The Kansas Customers state that the Commission has made this ruling in prior proceedings and, for the same reasons, such clarification about discovery is appropriate in this case.⁵⁸

⁵⁴ *Id.* at 23.

⁵⁵ *Id.* at 24 (citing Tax Cuts & Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054 (2017)).

⁵⁶ *Id.* (citing *Indicated RTO Transmission Owners*, 161 FERC ¶ 61,018, at P 13 (2017); *Promoting Transmission Inv. through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, at P 29, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007)).

⁵⁷ *Id.* at 24-25.

⁵⁸ *Id.* at 25 (citing *Evergy Kan. Cent., Inc.*, 181 FERC ¶ 61,001, at P 36 (2022)).

B. The Evergy Companies' Answer

27. The Evergy Companies dispute the notion that they have failed to provide sufficient information to support the proposed depreciation rates. The Evergy Companies assert that the Kansas Customers' argument substantially resembles arguments rejected by the Commission in *Westar*, wherein customers similarly alleged that a depreciation study submitted in the retail case was not sufficient support for the proposed depreciation rates.⁵⁹ The Evergy Companies maintain that, as in *Westar*, they have provided the depreciation study submitted to the KCC, along with a copy of the supporting testimony submitted to the KCC, providing sufficient justification for the proposed depreciation rates. The Evergy Companies note that both here and in *Westar* some of the rates in the depreciation study were modified as part of a state-level settlement, but here the Evergy Companies have also provided schedules showing the rate impact of the revised depreciation rates. The Evergy Companies further argue that although, unlike in *Westar*, some of the rate increases requested here are above what was called for by the depreciation study, these increases were adopted in the retail rate proceeding based on the KCC's recommendation, and the rate increases are justified by the supporting testimony.⁶⁰ The Evergy Companies ask the Commission to find that, as in *Westar*, there is no need to file a new wholesale depreciation study in lieu of the retail depreciation study, and "[t]he assumptions in the study are reasonable and sufficient for the Commission to make a determination on this filing, and the protests raise no basis for challenging the assumptions or results of the study."⁶¹

28. The Evergy Companies contend that the Kansas Customers do not identify a single depreciation rate that they argue is unreasonable, but instead offer unsubstantiated allegations that the proposed depreciation rates *may* not be just and reasonable, without any demonstration that they are. The Kansas Customers argue that these unsubstantiated claims and mere assertions of a need for additional information do not warrant rejecting the filings or establishing a hearing.⁶²

29. The Evergy Companies further argue that using a depreciation study that was submitted based on data as of two calendar years prior (i.e., December 31, 2021) is consistent with Commission precedent, particularly given the difficulty of finalizing data

⁵⁹ Evergy Companies Answer at 6 (citing *Westar*, 131 FERC ¶ 61,183 at P 20).

⁶⁰ *Id.* at 7 (citing McCullar Test. 23:11-19).

⁶¹ *Id.* at 8 (quoting *Westar*, 131 FERC ¶ 61,183 at P 20).

⁶² *Id.* at 2-3, 9 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,108, at P 14 (2006)).

sets to be used during a state proceeding.⁶³ The Evergy Companies maintain that the fact that they made transmission investments in the intervening period—as utilities always do—does not undermine using the recent study. The Evergy Companies assert that the Kansas Customers do not explain why the proposed depreciation rates would no longer be reasonable in light of new investments, as these investments are offset by retirements or adjustments, and the Evergy Companies will reflect all transmission investments made subsequent to the last depreciation study in the next depreciation study scheduled for 2028.⁶⁴

30. The Evergy Companies further argue that the Kansas Customers fail to support their requests for additional testimony, noting that the Commission has approved an application for revised depreciation rates even where no testimony was provided.⁶⁵ The Evergy Companies also assert that there is no need under Commission precedent for them to “supplement [the] filing[s]” with further workpapers, discovery responses, and other supporting data.⁶⁶ The Evergy Companies assert that, contrary to the Kansas Customers’ claims otherwise, they did include intangible accounts in their analysis.⁶⁷ The Evergy Companies state that the intangible plant caused no impact on depreciation expense for Evergy Kansas Central⁶⁸ and caused a slight increase to depreciation expense for Evergy Metro.⁶⁹ The Evergy Companies also state that intangible account data detailed in the filing are based on data recorded in the FERC Form No. 1.⁷⁰ The Evergy Companies

⁶³ *Id.* at 10 (citing *Transource Wis., LLC*, 154 FERC ¶ 61,010, at P 20 (2016); *Midwest Power Transmission Ark., LLC*, 152 FERC ¶ 61,210, at P 30 (2015); *Fla. Power Corp.*, 134 FERC ¶ 61,145 at PP 3-4).

⁶⁴ *Id.* at 10-11.

⁶⁵ *Id.* at 11-12 (citing *Interstate Power & Light Co.*, 162 FERC ¶ 61,134, at P 16 (2018)).

⁶⁶ *Id.* at 12 (quoting *Fla. Power Corp.*, 134 FERC ¶ 61,145 at P 3).

⁶⁷ *Id.* (citing Exs. EVE-0006 & EVE-0007).

⁶⁸ *Id.* at 12-13 (citing Ex. EVE-0006, 1.4).

⁶⁹ *Id.* at 13 (citing Ex. EVE-0007, 1.4).

⁷⁰ *Id.*

maintain that the Kansas Customers' "speculative and unsubstantiated" concerns alone do not justify setting a matter for hearing.⁷¹

31. The Evergy Companies argue that rejecting the proposed depreciation rates would result in Kansas retail customers incurring a disproportionate share of depreciation expenses. The Evergy Companies argue that the Commission should weigh this consideration when determining if the proposed rates are just and reasonable.⁷²

32. The Evergy Companies further argue that, with respect to depreciation filings, Commission precedent supports allowing the revised rates to be effective for the entire year. The Evergy Companies assert that there is no retroactive effect when the depreciation rates are used as part of the true-up process, and other entities had notice because the Evergy Companies' formula rates all refer to FERC Form No. 1 data to populate depreciation, and the 2024 FERC Form No. 1 data will reflect the new depreciation rates, effective January 1, 2024, when the FERC Form No. 1 is filed in April of next year.⁷³ The Evergy Companies further argue that the Commission has rejected the Kansas Customers' exact same argument in a prior proceeding.⁷⁴

33. The Evergy Companies argue that the Kansas Customers have not offered substantive argument as to why a five-month suspension is necessary, let alone demonstrate that the proposed regulatory assets are excessive or not cost-justified.⁷⁵ Lastly, the Evergy Companies argue that the issue of deferred income taxes is beyond the scope of this proceeding. The Evergy Companies assert that the Commission has previously rejected attempts by the Kansas Customers to introduce unrelated issues in past proceedings and should do the same in this instance.⁷⁶

C. The Kansas Customers' Answer

34. The Kansas Customers state that, under section 205 of the FPA, the Evergy Companies bear the burden of proof to show that their proposed rates are just and reasonable and that the Evergy Companies did not adequately respond to the Kansas

⁷¹ *Id.* (quoting *Citizens Utils. Co.*, 61 FERC ¶ 61,364, at 62,455 n.12 (1992)).

⁷² *Id.* at 14.

⁷³ *Id.* at 15 (citing *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20).

⁷⁴ *Id.* at 16 (citing *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 18).

⁷⁵ *Id.* at 17-18 (citing *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,375 (1982)).

⁷⁶ *Id.* at 18-20 (citing *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,070, at P 45 (2020)).

Customers' protest. The Kansas Customers state that the Evergy Companies did not address their questions about weighting assumptions and methodology used in the depreciation study, the absence of testimony and workpapers, or provide reasoning as to why it is just and reasonable to base the proposed depreciation rates on data collected before the Evergy Companies made significant transmission investments.⁷⁷ The Kansas Customers argue that the Evergy Companies' statement that the Kansas Customers must show that the Evergy Companies' proposed depreciation rates "are improper or inconsistent with Commission guidelines"⁷⁸ represents an impermissible shift of the burden of proof from the Evergy Companies to the Kansas Customers.⁷⁹

35. The Kansas Customers argue that the Evergy Companies' reliance on *Westar* is misplaced because, unlike in that case, the Kansas Customers have identified several aspects of the rate proposal that lack adequate support and have pointed to several flaws in the depreciation study. Furthermore, the Kansas Customers argue that, unlike in *Westar*, some of the rate increases requested here are above what was called for by the depreciation study, and there is insufficient information to assess whether the KCC recommendations are consistent with this Commission's policies on depreciation ratemaking.⁸⁰ The Kansas Customers also assert that the assumptions in the Evergy Companies' studies are not "reasonable and sufficient for the Commission to make a determination" in this proceeding.⁸¹

36. The Kansas Customers assert that the Evergy Customers still provide no support for proposed tariff revisions to intangible plant accounts. The Kansas Customers further argue that rejecting the Evergy Companies' proposal would not result in Kansas retail customers incurring a disproportionate share of depreciation expenses because the Commission is responsible for independently evaluating wholesale rates. The Kansas Customers state that the settlement package approved by the KCC does not set wholesale rates that are subject to jurisdiction of the Commission.⁸²

⁷⁷ Kansas Customers Answer at 3-5.

⁷⁸ *Id.* at 6 (citing Evergy Companies Answer at 9).

⁷⁹ *Id.* (citing *City of Winnfield v. FERC*, 744 F.2d 871, 877 (D.C. Cir. 1984); *Tenn. Gas Pipeline Co.*, 25 FERC ¶ 61,020, at 61,107 n.38 (1983)).

⁸⁰ *Id.* at 7-9.

⁸¹ *Id.* at 10 (quoting *Westar*, 131 FERC ¶ 61,183 at P 20).

⁸² *Id.* at 11.

37. The Kansas Customers maintain that applying the revised depreciation rates for the entire transmission rate year during the 2025 true-up would result in a retroactive revision to its formula rates which, in turn, would result in the retroactive recovery of costs related to a past service. The Kansas Customers assert that in recent years the Commission has consistently ruled against these types of proposals.⁸³ The Kansas Customers contend that charging transmission customers more for the transmission service they used before December 1, 2024 by including in the reconciliation amount a charge for depreciation expense that reflects the new depreciation rates effective December 1, 2024 constitutes retroactive application of the rate change in violation of the filed rate doctrine and the rule against retroactive ratemaking.⁸⁴

38. The Kansas Customers argue that it is not beyond the scope of this proceeding for the Commission to direct the Evergy Companies to make just and reasonable changes to its GFR to flow back to customers the full net excess accumulated deferred income taxes created by the Tax Cuts and Jobs Act of 2017 because changes to depreciation rates directly impact the accumulation of deferred tax liabilities. The Kansas Customers state that this request is also consistent with the Commission's tax normalization rules.⁸⁵

IV. Discussion

A. Procedural Matters

39. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to these proceedings.

40. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the Evergy Companies' answer and the Kansas Customers' answer because they have provided information that assisted us in our decision-making process.

⁸³ *Id.* at 14 (citing *Sw. Power Pool, Inc.*, 180 FERC ¶ 61,080, at PP 11, 30 (2022); *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094 at P 29; *Midcontinent Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,090, at P 22 & n.28 (2020); *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,093, at P 26 & n.37 (2020); *Balt. Gas & Elec. Co.*, 173 FERC ¶ 61,289, at P 31 (2020)).

⁸⁴ *Id.* at 14-15.

⁸⁵ *Id.* at 15 (citing 18 C.F.R. §35.24(c) (2024)).

B. Substantive Matters

41. Our preliminary analysis indicates that the Evergy Companies' proposed depreciation rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The Evergy Companies' filings raise issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures ordered below. Accordingly, we accept the proposed tariff revisions, subject to condition,⁸⁶ suspend them for a nominal period, to become effective December 1, 2024, subject to refund, and establish hearing and settlement judge procedures.⁸⁷ Further, because a further rate decrease may be appropriate, we also institute a proceeding pursuant to section 206 of the FPA in Docket No. EL25-19-000 to determine whether the depreciation rates included in the EKC Tariff, SPP Tariff, and the wholesale power contracts referenced herein⁸⁸ may be unjust, unreasonable, unduly discriminatory or preferential.

42. As all parties acknowledge, the Commission is not bound by an order on depreciation rates of a state commission in a retail ratemaking proceeding.⁸⁹ Instead, the Commission must evaluate, on its own, whether the proposed depreciation rates are just and reasonable and not unduly discriminatory or preferential. While there is no need for the Evergy Companies to file a wholesale depreciation study in lieu of the retail depreciation study that was filed,⁹⁰ we find that the proposed depreciation rates raise issues of material fact that cannot be resolved based on the record before us and are best

⁸⁶ See *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017) (discussing the Commission's authority to propose modifications to a utility's FPA section 205 rate proposal).

⁸⁷ In *W. Tex. Utils. Co.*, 18 FERC at 61,374-75 (*West Texas*) the Commission explained that, when its preliminary analysis indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months). In the instant proceeding, our preliminary analysis indicates that the proposed rates may not be substantially excessive, as defined in *West Texas*, and therefore we deny the Kansas Customers' request for a maximum suspension.

⁸⁸ See *supra* P 1 n.6; Appendix.

⁸⁹ *Westar*, 131 FERC ¶ 61,183 at P 20 (citing *Midwest Power Sys. Inc.*, 67 FERC ¶ 61,076, at 61,210 (1994)).

⁹⁰ *Id.*

addressed in a hearing.⁹¹ The Evergy Companies rely on *Westar*, but whereas in *Westar*, where the protests raised no basis for challenging the assumptions or results of the study, and the proposed depreciation rates were equal to or lower than the rates supported by the depreciation study,⁹² the same is not true here. For example, the Evergy Companies do not provide support for the results of the depreciation study as noted by the Kansas Customers, nor do the Evergy Companies explain why some of the rate increases requested here are above what was called for by the depreciation study.

43. In addition, our review indicates that the Evergy Companies did not submit revised tariff sheets for Rate Schedule No. 336, even though they propose to adopt the revised depreciation rates to populate the formula rate in that contract.⁹³ While we acknowledge that the formula rate in Rate Schedule No. 336 currently does not state the depreciation rates used therein, the Commission has clarified that depreciation rates, unlike the variable components of a formula rate, “are fixed components of the rate, and as such, they should be included in tariff or rate schedules for public inspection pursuant to FPA section 205(c).”⁹⁴ Accordingly, we direct the Evergy Companies to submit, within 30 days of the date of this order, revisions to Rate Schedule No. 336 to reflect the proposed depreciation rates.⁹⁵

44. Nevertheless, we agree with the Evergy Companies that acceptance of the revised depreciation rates on a prospective basis effective December 1, 2024, does not run afoul of either the filed rate doctrine or the rule against retroactive ratemaking. Consistent with Commission precedent, the Evergy Companies may reflect the revised depreciation rates for the entire 2024 calendar-year rate year in the true-up of 2024 transmission rates to be posted on June 2025, as proposed.⁹⁶ We therefore grant waiver of the prior notice

⁹¹ *Mich. Pub. Power Agency v. FERC*, 963 F.2d 1574, 1578-79 (D.C. Cir. 1992) (finding that the Commission has discretion to mold its procedures to the exigencies of the particular case); *Woolen Mill Assocs. v. FERC*, 917 F.2d 589, 592 (D.C. Cir. 1990) (the decision as to whether to conduct an evidentiary hearing is in the Commission's discretion).

⁹² *Westar*, 131 FERC ¶ 61,183 at P 20.

⁹³ Transmittal at 9 n.22.

⁹⁴ *Old Dominion Elec. Coop.*, 133 FERC ¶ 61,261, at P 5 (2010).

⁹⁵ *Entergy Ark., LLC*, 179 FERC ¶ 61,068, at P 4 (2022).

⁹⁶ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20 (finding that use of revised depreciation rates in a formula rate true-up period that predated the filing did not run afoul of the rule against retroactive ratemaking because customers had notice that the utility's formula required the true-up based on the prior year's FERC Form No. 1); *Sw.*

requirement and establish an effective date of December 1, 2024.⁹⁷ We also grant the Evergy Companies' request for waiver of the filing requirements under section 35.13 of the Commission's regulations.⁹⁸ Furthermore, we deny the Kansas Customers' request that the Commission direct the parties to address the return of excess deferred taxes in the GFRs in hearing and settlement judge procedures. We agree with the Evergy Companies that such a request is beyond the scope of these proceedings, which addresses only whether the proposed depreciation rates changes are just and reasonable.⁹⁹ The Kansas Customers' concerns regarding excess accumulated deferred income taxes created by the Tax Cuts and Jobs Act of 2017 are not integral to the Evergy Companies' proposed changes¹⁰⁰ and thus are not properly before the Commission in these FPA section 205 proceedings.¹⁰¹

45. Because Docket Nos. EL25-19-000, ER24-3107-000, ER24-3108-000, and ER24-3114-000 may raise common issues of fact and law, we direct the Chief Administrative Law Judge to consider and decide whether to consolidate these proceedings for purposes of settlement, hearing, and decision.¹⁰² In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA

Power Pool, Inc., 167 FERC ¶ 61,202 at P 18; *see also* Evergy 2024 Letter Order; KCP&L 2019 Letter Order.

⁹⁷ 16 U.S.C. § 824d(d); 18 C.F.R. § 35.11.

⁹⁸ However, to the extent that participants at the hearing can show the relevance of additional information needed to evaluate the proposal, the Administrative Law Judge can provide for appropriate discovery of such information.

⁹⁹ *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,070 at P 45; Evergy Companies Answer at 18.

¹⁰⁰ *Indicated RTO Transmission Owners*, 161 FERC ¶ 61,018 at P 13 (“[A]n unchanged component of a rate would be subject to reevaluation under section 205 in connection with a proposed rate increase only ‘if the unchanged component is integral to the justness and reasonableness of the proposed increase.’”) (quoting *Sw. Pub. Serv. Co.*, 152 FERC ¶ 61,126, at P 13 (2015)).

¹⁰¹ *Potomac-Appalachian Transmission Highline, LLC*, 158 FERC ¶ 61,050, at P 222 (2017) (“[W]hen a public utility proposes a rate change under section 205, the Commission must proceed under section 206 in order to require that the utility modify its existing rates in a way that the utility did not propose in its filing.”); *accord Emera Me.*, 162 FERC ¶ 61,131, at P 25 (2018).

¹⁰² 18 C.F.R. § 385.503 (2024).

requires that the Commission establish a refund effective date that is no earlier than the date of publication by the Commission of notice of its intention to initiate such proceeding nor later than five months after the publication date. In such cases, in order to give maximum protection to customers, and consistent with our precedent, we have historically tended to establish the section 206 refund effective date at the earliest date allowed by section 206, and we do so here as well.¹⁰³ That date is the date of publication of notice of initiation of the section 206 proceeding in Docket No. EL25-19-000 in the Federal Register.

46. Section 206(b) of the FPA also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of the section 206 proceeding, the Commission shall state the reason why it has failed to render such a decision and state its best estimate as to when it reasonably expects to make such a decision. As we are setting the section 206 proceeding in Docket No. EL25-19-000 for hearing and settlement judge procedures, we expect that, if the proceeding does not settle, we would be able to render a decision within eight months of the date of filing of briefs opposing exceptions to the Initial Decision. Thus, if the Presiding Judge were to issue an Initial Decision by May 31, 2025, we expect that, if the proceeding does not settle, we would be able to render a decision by March 31, 2026.

47. While we are setting these matters for a trial-type evidentiary hearing,¹⁰⁴ we encourage efforts to reach settlement before hearing procedures commence. To aid settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹⁰⁵ If parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.¹⁰⁶ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement

¹⁰³ See, e.g., *Idaho Power Co.*, 145 FERC ¶ 61,122 (2013); *Canal Elec. Co.*, 46 FERC ¶ 61,153, *order on reh'g*, 47 FERC ¶ 61,275 (1989).

¹⁰⁴ Trial Staff is a participant in the hearing and settlement judge procedures. See 18 C.F.R. § 385.102(b), (c) (2024).

¹⁰⁵ 18 C.F.R. § 385.603 (2024).

¹⁰⁶ If parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<https://www.ferc.gov/available-settlement-judges>).

judge on the status of settlement discussions. Based on this report, the Chief Judge shall provide additional time to continue settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) The Evergy Companies' proposed tariff revisions are hereby accepted for filing, subject to condition, and suspended for a nominal period, to become effective December 1, 2024, subject to refund, as discussed in the body of this order.

(B) The Evergy Companies are hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Evergy Companies' proposed tariff revisions, as discussed in the body of this order. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2024), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within 45 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If parties decide to request a specific judge, they must make their request to the Chief Judge within five days of the date of this order.

(E) Within 60 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of participants' progress toward settlement.

(F) The Chief Administrative Law Judge is authorized to consider whether to consolidate Docket Nos. EL25-19-000, ER24-3107-000, ER24-3108-000, ER24-3114-000, and ER24-3115-000 for purposes of settlement, hearing, and decision.

(G) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 45 days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426, or remotely (by telephone or electronically), as appropriate. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) Any interested person desiring to be heard in Docket No. EL25-19-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), within 21 days of the date of issuance of this order. The Commission encourages electronic submission of interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may file by U.S. mail addressed to Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, N.E., Washington, DC 20426, or by hand (including courier) delivery to Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

(I) The Secretary shall promptly publish in the Federal Register a notice of the Commission's initiation of the proceeding under section 206 of the FPA in Docket No. EL25-19-000.

(J) The refund effective dates in Docket No. EL25-19-000, established pursuant to section 206 of the FPA, shall be the date of publication in the Federal Register of the notice discussed in Ordering Paragraph (I) above.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

Appendix – e-Tariff Records

Docket No. ER24-3107-000

- Evergy Kansas Central, Inc., Cost-Based Tariffs, Rate Schedules and Other Agreements, Worksheet S, Depreciation Rates (7.0.0), FPC No 127, Exh I Base Load Capacity Cost (7.0.0) , RS No. 326, Doniphan Attach D, GFR Worksheet S (7.0.0), RS No. 328, Nemaha-Marshall Attach D, GFR Worksheet S (7.0.0), RS No. 301, KEPCo Attach D, Wrksht S (7.0.0), RS No. 327, FreeState Attach D, GFR Worksheet S (7.0.0).

Docket No. ER24-3108-000

- Evergy Kansas Central, Inc., Open Access Transmission Tariff, Attachment H-1, H-1 Actual Gross Revenue Requirements (4.0.1), Attachment H-1, A-8 Depreciation Calculation (1.0.0).

Docket No. ER24-3114-000

- Southwest Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Volume No. 1, Attachment H Add. 3 Pt. 1, Attachment H Addendum 3 (EKC & EKS) Part 1 (8.0.0).

Docket No. ER24-3115-000

- Southwest Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Volume No. 1, Att. H Add. 10 Pt 1A, Attachment H Addendum 10 (Evergy Metro, Inc.) Part 1A (11.0.0).

Document Content(s)

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