

190 FERC ¶ 61,159
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Evergy Kansas Central, Inc.	Docket Nos. ER24-3107-002
Evergy Kansas Central, Inc.	ER24-3108-001
Evergy Kansas Central, Inc. Evergy Kansas South, Inc. Southwest Power Pool, Inc.	ER24-3114-001
Evergy Metro Inc. Southwest Power Pool, Inc.	ER24-3115-001

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING,
AND SETTING ASIDE PRIOR ORDER, IN PART

(Issued March 20, 2025)

1. On November 29, 2024, the Commission issued an order that accepted the Evergy Companies'¹ proposed tariff revisions to update depreciation rates, subject to condition, suspended the revisions for a nominal period, to become effective December 1, 2024, subject to refund and the outcome of hearing and settlement judge procedures, instituted a proceeding pursuant to section 206 of the Federal Power Act (FPA),² established a refund effective date, and established hearing and settlement judge procedures.³ On December 23, 2024, Kansas Electric Power Cooperative, Inc., Kansas Municipal Energy Agency, KPP Energy, and McPherson, Kansas, Board of Public Utilities (McPherson, Kansas)

¹ The Evergy Companies are comprised of Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively, Evergy Kansas Central) and Evergy Metro, Inc. (Evergy Metro).

² 16 U.S.C. § 824e.

³ *Evergy Kan. Cent., Inc.*, 189 FERC ¶ 61,153 (2024) (Depreciation Rates Order).

(together, Kansas Customers) timely filed a request for rehearing of the Depreciation Rates Order.

2. Pursuant to *Allegheny Defense Project v. FERC*,⁴ the rehearing request filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 313(a) of the FPA,⁵ we are modifying the discussion in the Depreciation Rates Order and setting aside the order, in part, as discussed below.⁶

I. Background

3. On September 25, 2024, pursuant to FPA section 205⁷ and section 35.13 of the Commission's regulations,⁸ the Evergy Companies submitted four separate proposed revisions to update depreciation rates⁹ in: (1) Evergy Kansas Central's formula rate templates contained in Evergy Kansas Central's wholesale power contracts; (2) Evergy Kansas Central's transmission formula rate in Attachment H-1 of Evergy Kansas Central's Open Access Transmission Tariff (EKC Tariff);¹⁰ (3) Evergy Kansas Central's transmission formula rate in Addendum 3 to Attachment H of SPP's Open Access

⁴ 964 F.3d 1 (D.C. Cir. 2020) (en banc).

⁵ 16 U.S.C. § 825l(a) ("Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.").

⁶ *Allegheny Def. Project*, 964 F.3d at 16-17.

⁷ 16 U.S.C. § 824d.

⁸ 18 C.F.R. § 35.13 (2024).

⁹ The Evergy Companies submitted these proposed revisions (and 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.

¹⁰ Evergy Kan. Cent., Inc., Open Access Transmission Tariff, attach. H-1 (Actual Gross Revenue Requirements) (4.0.1); *id.* attach. H-1 (A-8 Depreciation Calculation) (1.0.0).

Transmission Tariff (SPP Tariff);¹¹ and (4) Evergy Metro's formula rate contained in Addendum 10 to Attachment H of the SPP Tariff.¹²

4. The Evergy Companies requested 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.¹³ The Evergy Companies stated that their proposed depreciation rates align with updated depreciation rates approved for retail rates by the Kansas Corporation Commission (KCC).¹⁴ The Evergy Companies explained 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 stated that the depreciation study formed the basis for their April 25, 2023 filing with the KCC requesting approval of revised depreciation rates.¹⁵

5. The Evergy Companies explained 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.¹⁶ The Evergy Companies explained 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 asserted that, absent such a change, Evergy Metro's formula rates would not reflect actual costs. The Evergy Companies stated that the Commission has previously approved similar changes to Evergy Metro's depreciation rates for this purpose.¹⁷

¹¹ 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).

¹² *Id.* attach. H, add. 10, pt. 1A (Evergy Metro, Inc. Rate Formula Template) (11.0.0).

¹³ Transmittal at 8.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3 (citing Ex. EVE-0001 at Ex. REW-1 (Depreciation Study)).

¹⁶ *Id.* at 5.

¹⁷ *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); *Kan. City Power & Light Co.*, Docket No. ER14-22-000 (Nov. 18, 2013) (delegated order); *Kan. City Power & Light*

6. The Evergy Companies stated 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 stated that the Commission has previously approved changes to depreciation rates that reflect changes approved by state utility commissions under similar circumstances.¹⁸ The Evergy Companies asserted that the Commission should therefore approve the proposed changes as just and reasonable and consistent with Order No. 618.¹⁹

7. The Evergy Companies requested that the Commission accept the proposed changes with an effective date of December 1, 2024, and requested 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 asserted that true-ups for Evergy Metro's transmission formula rate, and annual rate updates for the generation formula rate, 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 stated that those filings will be based on their FERC Form No. 1s for 2024 that will be submitted to the Commission in April 2025.²⁰ To the extent necessary, the Evergy Companies argued that good cause existed 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 did not correspond to the depreciation rates the Evergy Companies use for accounting purposes, then their respective formula rates would not reflect their actual costs.²¹

Co., Docket No. ER11-3226-000 (May 26, 2011) (delegated order)).

¹⁸ *Id.* (citing *Fla. Power Corp.*, 134 FERC ¶ 61,145, at P 19 (2011); *Westar Energy, Inc.*, 131 FERC ¶ 61,183, at P 20 (2010); Evergy 2024 Letter Order; *Niagara Mohawk Power Corp.*, Docket No. ER12-1394-000 (May 29, 2012) (delegated order); *Empire Dist. Elec. Co.*, Docket No. ER13-681-001 (Apr. 23, 2013) (delegated order)).

¹⁹ *Id.* (citing *Depreciation Acct.*, Order No. 618, FERC Stats. & Regs. ¶ 31,104 (2000) (cross-referenced at 92 FERC ¶ 61,078)).

²⁰ *Id.* at 2-3.

²¹ *Id.* at 11 & n.26.

II. Depreciation Rates Order

8. In the Depreciation Rates Order, the Commission accepted the Evergy Companies' proposed tariff revisions, subject to condition, and suspended the revisions for a nominal period, to become effective December 1, 2024, subject to refund and the outcome of hearing and settlement judge procedures.²² In particular, the Commission instituted a proceeding pursuant to FPA section 206 in Docket No. EL25-19-000 to determine whether the depreciation rates included in the EKC Tariff, SPP Tariff, and the wholesale power contracts may be unjust, unreasonable, unduly discriminatory or preferential.²³

9. The Commission also determined that the 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.²⁴ The Commission stated that 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 in June 2025.²⁵ The Commission granted waiver of its prior notice requirement and established an effective date of December 1, 2024.²⁶

III. Discussion

A. Request for Rehearing

10. Kansas Customers argue on rehearing that the Commission's determination to allow the Evergy Companies to apply the revised depreciation rates for the entire 2024 rate year violates the filed rate doctrine and the rule against retroactive ratemaking.²⁷ Kansas Customers assert that, by allowing the Evergy Companies to apply revised rates for the entire 2024 rate year, the Commission is "effectively permitting [the Evergy Companies] to charge transmission customers rates for service taken prior to

²² Depreciation Rates Order, 189 FERC ¶ 61,153 at P 1.

²³ *Id.*

²⁴ *Id.* P 44 & n.96 (citing *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043, at P 20 (2010); *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202, at P 18 (2019) (*Southwest Power Pool*)).

²⁵ *Id.*

²⁶ *Id.*

²⁷ Request for Rehearing at 6-10.

December 1, 2024 that are higher than the rates in effect at the time that they received service.”²⁸ Kansas Customers assert that the Commission failed to articulate a satisfactory explanation addressing Kansas Customers’ argument that applying the Evergy Companies’ revised depreciation rates for the entire rate year violates the filed rate doctrine and the rule against retroactive ratemaking. Kansas Customers also claim that the Commission failed to meaningfully respond to Kansas Customers’ argument that the Evergy Companies cannot charge a rate for a service that it already provided to customers and then retroactively change the rate for that service through a subsequent true-up.²⁹

11. Kansas Customers submit that the Commission has previously determined that applying a revised tariff rate to an annual true-up for any portion of the year prior to the effective date of the revisions would violate the filed rate and constitutes retroactive ratemaking.³⁰ Kansas Customers argue that the Commission did not address why applying the revised depreciation rates to the entire rate year (before the December 1, 2024 effective date), does not constitute retroactive application of the rate change.³¹ Kansas Customers contend that waiver of the Commission’s prior notice requirement was unnecessary to authorize a December 1, 2024 effective date, which was more than 60 days from the date of the Evergy Companies’ filing.³² Kansas Customers contend, therefore, that the grant of the waiver “indicates that the [Depreciation Rates Order] does not simply accept [the Evergy Companies’] revised depreciation rates ‘on a prospective basis.’”³³

12. Kansas Customers argue that the Commission’s determination should be reversed because it fails to explain its departure from prior precedent.³⁴ Kansas Customers assert

²⁸ *Id.* at 7.

²⁹ *Id.* at 7-9.

³⁰ *Id.* at 8 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,020, at PP 7-9 (2017); *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094, at P 29 (2020); *Wis. Elec. Power Co.*, 167 FERC ¶ 61,163, at PP 20-22 (2019); *PJM Interconnection, L.L.C.*, 150 FERC ¶ 61,189, at P 20 (2015); *Sw. Power Pool, Inc.*, 180 FERC ¶ 61,080, at PP 11, 30 (2022)).

³¹ *Id.* at 9.

³² *Id.* at 10.

³³ *Id.*

³⁴ *Id.* at 11 (citing *Sw. Power Pool, Inc.*, 180 FERC ¶ 61,080 at PP 11, 30; *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094 at P 29; *Midcontinent Indep. Sys. Operator,*

that “the Commission has consistently held that a utility cannot apply tariff revisions that have gone into effect after service was provided and retroactively change the rate for that service via a subsequent true-up in other proceedings.”³⁵ Kansas Customers argue that, consistent with Commission precedent, the Evergy Companies must use the depreciation rates in effect for the applicable time period that the transmission customers took service when calculating the true-up of estimated 2024 transmission revenue requirements (i.e., only apply the revised depreciation rates for service taken after December 1, 2024).³⁶

13. Kansas Customers argue that the cases relied upon by the Commission in determining that the Evergy Companies may apply the revised depreciation rates in a subsequent true-up are inapposite.³⁷ Kansas Customers state that in *South Carolina Electric & Gas Co.*, “the Commission found that the formula rate required the utility to use its FERC Form No. 1 data for the most recent calendar year when calculating its Annual Update and concluded that customers had notice that such data would be used.”³⁸ Kansas Customers argue that here, the Evergy Companies’ formula rates specify a depreciation rate for each account, and customers therefore had no notice that the Evergy Companies intended to apply revised rates to service that was already provided until after the Evergy Companies filed their applications.³⁹ Kansas Customers assert that Worksheet A-8 in Evergy Kansas Central’s transmission formula rate contemplates a time when depreciation rates will be different than those used in FERC Form No. 1.⁴⁰

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); *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,289, at P 31 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,020 at PP 7-9; *Wis. Elec. Power Co.*, 167 FERC ¶ 61,163 at PP 20-22).

³⁵ *Id.* at 11-12 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,020 at PP 7-8; *Wis. Elec. Power Co.*, 167 FERC ¶ 61,163 at PP 20-22).

³⁶ *Id.* at 13-14.

³⁷ *Id.* at 14-15 (citing *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202; *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043); *id.* at 14-15 (asserting that the other cases cited by the Commission are letter orders in uncontested proceedings with no precedential value (citing *Midcontinent Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,020 at P 9)).

³⁸ *Id.* at 15.

³⁹ *Id.* (citing EKC Tariff, attach. H-1 (A-8 Depreciation Calculation) (1.0.0)).

⁴⁰ *Id.* at 14.

14. Kansas Customers request that the Commission issue an order finding that the Evergy Companies cannot reflect the revised depreciation rates in their true-up for service taken prior to December 1, 2024, or explain the legal basis for finding that charging a rate that is different from the rate in effect prior to December 1, 2024 does not constitute a violation of the filed rate doctrine or the rule against retroactive ratemaking.⁴¹

B. Commission Determination

15. We are not persuaded by Kansas Customers' arguments on rehearing and continue to find that the Evergy Companies' revised depreciation rates are not being given retroactive effect and that applying the revised depreciation rates for the Annual True-Up for the 2024 calendar year does not run afoul of either the filed rate doctrine or the rule against retroactive ratemaking.⁴² As the Commission has explained, when a formula rate requires a utility to use its FERC Form No. 1 data for the most recent calendar year when calculating its annual update, using depreciation rates in the true-up process that were updated after transmission service has been provided does not run afoul of the filed rate doctrine or the rule against retroactive ratemaking.⁴³ This is because customers had notice that the most recent FERC Form No. 1 data would be included in the true-up process.⁴⁴ While utilities are required to obtain Commission approval before making updated depreciation rates effective for rate purposes, utilities are permitted to change their depreciation rates for accounting purposes without prior Commission approval.⁴⁵ The Commission is not giving retroactive effect when it approves updated depreciation rates for rate purposes because the updated depreciation rates are merely being used as a component of the calculation of the annual update and the resulting transmission rates.⁴⁶

16. Here, the Evergy Companies' formula rates require that the Evergy Companies use their FERC Form No. 1 data for the most recent calendar year when calculating their Annual Update, which includes the true-up for the 2024 calendar year, and the resulting

⁴¹ *Id.* at 16-17.

⁴² Depreciation Rates Order, 189 FERC ¶ 61,153 at P 44.

⁴³ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at PP 19-20.

⁴⁴ *Id.* P 20; *see also Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16 (using data contained in previous year's KCC Annual Report).

⁴⁵ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 19; Order No. 618, FERC Stats. & Regs. ¶ 31,104.

⁴⁶ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20; *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16.

rate.⁴⁷ Kansas Customers therefore had notice, before the Evergy Companies' September 25, 2024 filing, that the depreciation rates set forth in the Evergy Companies' 2024 FERC Form No. 1 data would be included in the true-up process and applied to the entire calendar year.⁴⁸ Accordingly, accepting the updated depreciation rates for rate purposes, effective December 1, 2024, does not give them retroactive effect, since the Evergy Companies are applying the updated depreciation rates found on their 2024 FERC Form No. 1 as a component of the calculation of the Annual Update and the resulting transmission rates that go into effect thereafter under the terms of the Evergy Companies' Tariffs.⁴⁹

17. We are not persuaded by Kansas Customers' argument that *South Carolina Electric & Gas Co.* and *Southwest Power Pool* are inapposite.⁵⁰ Here, like in *South Carolina Electric & Gas Co.*, the Evergy Companies' formula rate implementation protocols require them to use the FERC Form No. 1 data for the most recent calendar year when calculating the Annual Update.⁵¹ Similarly, in *Southwest Power Pool*, the

⁴⁷ EKC Tariff, attach. H-2 (Formula Rate Implementation Protocols) (0.0.0), § I.8(a) (stating that the Annual True-Up shall “[b]e based on FERC Form No. 1 data for the prior calendar year”); SPP Tariff, attach. H, add. 3, pt. 2 (Evergy Kansas Central, Inc. Formula Rate Implementation Protocols) (5.0.1), § I.8(a) (same); SPP Tariff, attach. H, add. 10, pt. 2 (Evergy Metro Inc. Formula Rate Implementation Protocols) (6.0.0), § I.4(a) (stating that the True-Up Adjustment for the prior Rate Year shall “[b]e based upon EMe’s FERC Form No. 1 for that Rate Year”). This includes updates to depreciation rate expense variables based on depreciation expenses that are recorded in FERC Form No. 1 and approved by the Commission for use in the Evergy Companies' rates. *See, e.g.*, SPP Tariff, attach. H, add. 3, pt. 1 (Evergy Kansas Central, Inc. Formula Rate) (8.0.0), at lines 12-14a; EKC Tariff, attach. H-1 (A-8 Depreciation Calculation) (1.0.0); Evergy Kansas Central, Inc., Cost-Based Tariffs, Rate Schedules and Other Agreements, attach. D, item 4 (Demand Related Expenses) (5.0.0), at line 7 n.5.

⁴⁸ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20; *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16. The Evergy Companies state that their 2024 FERC Form No. 1 data will reflect the updated depreciation rates, effective January 1, 2024, when the FERC Form No. 1 is filed in April 2025. Evergy Companies' November 12, 2024 Answer at 16.

⁴⁹ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20; *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16; *see also* Evergy 2024 Letter Order.

⁵⁰ *See* Request for Rehearing at 14-15.

⁵¹ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20 & n.25; *see also supra* note 47.

applicable formula rate required use of the data contained in the previous year's KCC Annual Report, and therefore applying the revised depreciation rates in the annual true-up based on the data in the previous year's KCC Annual Report did not give them retroactive effect.⁵² Like in *South Carolina Electric & Gas Co.*, and similar to *Southwest Power Pool*, the Evergy Companies' formula rate protocols utilize the data on the 2024 FERC Form No. 1 in the true-up of 2024 transmission rates to be posted in June 2025, and Kansas Customers were therefore on notice that the depreciation rates contained in the Evergy Companies' FERC Form No. 1 would be used in the true-up process for the entire 2024 calendar year.⁵³

18. We also disagree with Kansas Customers' argument that the Commission failed to explain its departure from precedent.⁵⁴ As discussed above, the Commission's determination in the Depreciation Rates Order is consistent with Commission precedent where the Commission has determined that applying revised depreciation rates does not run afoul of the filed rate doctrine or the rule against retroactive ratemaking where the customers had notice that the most recent FERC Form No. 1 data would be included in the true-up process.⁵⁵ Notably, none of the cases cited by Kansas Customers in support of their argument involve formula rate revisions for depreciation rate changes where the depreciation variables are tied to the most recent FERC Form No. 1 data in the annual true-up process.⁵⁶

⁵² *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16.

⁵³ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20; *see also Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16.

⁵⁴ *See* Request for Rehearing at 11-17.

⁵⁵ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at P 20; *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,202 at P 16.

⁵⁶ *See, e.g., Sw. Power Pool, Inc.*, 180 FERC ¶ 61,080 at P 30 (finding it inappropriate for the projection of the 2023 rate year, that is based on 2021 data, to incorporate depreciation rates that were not effective in 2021 because the annual depreciation expense for 2021 did not incorporate the updated depreciation rates); *PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,094 at P 1 (tariff revisions concerning the treatment of Materials and Supplies); *Midcontinent Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,090 at P 1 (tariff revisions to address recovery of costs associated with Materials and Supplies); *Wis. Elec. Power Co.*, 167 FERC ¶ 61,163 at P 2 (tariff revisions to implement rate treatment for unamortized rate base balance remaining after retirement of specific plant).

19. Nor are we persuaded by Kansas Customers' argument that the Evergy Companies' formula rate "specifies a depreciation rate for each account" or "contemplates a time when the depreciation rates will be different than those used in the FERC Form [No.] 1."⁵⁷ While Worksheet A-8 states that "[t]his Worksheet will only be used if the depreciation rates used to determine the depreciation expenses shown in Form 1 differ from the depreciation rates shown below for [Evergy Kansas Central],"⁵⁸ the Evergy Companies may update their depreciation rates for accounting purposes to be consistent with the depreciation rates approved for rate purposes in the Depreciation Rates Order and reflected in Worksheet A-8. To the extent that the Evergy Companies' 2024 FERC Form No. 1 reflects the updated depreciation rates accepted by the Commission in the Depreciation Rates Order, then Worksheet A-8 is not operative.⁵⁹ Accordingly, as discussed above, applying the revised depreciation rates to the Annual True-Up does not run afoul of the filed rate doctrine or the rule against retroactive ratemaking.⁶⁰

20. Finally, we agree with Kansas Customers that waiver of the prior notice requirement was unnecessary to authorize an effective date of December 1, 2024.⁶¹ The Evergy Companies submitted their filings on September 25, 2024, more than 60 days prior to the requested effective date.⁶² Accordingly, we set aside the Commission's granting of waiver of the prior notice requirement and set aside the Depreciation Rates Order, in part. As discussed above, however, the application of the updated depreciation rates to the 2024 true-up does not violate the filed rate doctrine or the rule against

⁵⁷ Request for Rehearing at 14-15 (citing EKC Tariff, attach. H-1 (A-8 Depreciation Calculation) (1.0.0)).

⁵⁸ EKC Tariff, attach. H-1 (A-8 Depreciation Calculation) (1.0.0).

⁵⁹ We note that if, in the course of the hearing and settlement judge procedures ordered in the Depreciation Rates Order, it is determined that the proposed depreciation rates are not just and reasonable, the Evergy Companies' use of such depreciation rates will be subject to refund even if the Evergy Companies booked their rates effective January 1, 2024.

⁶⁰ *S.C. Elec. & Gas Co.*, 132 FERC ¶ 61,043 at PP 19-20.

⁶¹ See Request for Rehearing at 10; Depreciation Rates Order, 189 FERC ¶ 61,153 at P 44 (citing 16 U.S.C. § 824d(d); 18 C.F.R. § 35.11).

⁶² 16 U.S.C. § 824d(d) ("Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public.").

retroactive ratemaking,⁶³ and, contrary to Kansas Customers' assertions, the Commission did not rely on its authority to waive the prior notice requirement in support of such a finding.⁶⁴

The Commission orders:

In response to Kansas Customers' request for rehearing, the Depreciation Rates Order is hereby modified and set aside, in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

⁶³ *See supra* PP 15-17.

⁶⁴ Request for Rehearing at 10.