

Exhibit C

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the Matter of the Application of NextEra)
Energy Transmission Southwest, LLC for a)
Certificate of Public Convenience and) Docket No.22-NETE-419-COC
Necessity to Transact the Business of a)
Public Utility in the State of Kansas.)

**ORDER GRANTING EVERGY INTERVENTION AND
PROTECTIVE AND DISCOVERY ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

I. Background

1. On February 28, 2022, NextEra Energy Transmission Southwest, LLC (“NEET Southwest”) filed an application for a certificate of convenience and necessity (“CCN”) pursuant to K.S.A. 66-131, requesting to operate as a public utility in Kansas for the purpose of constructing and operating the Wolf Creek to Blackberry Transmission Project (“Transmission Project”).

2. On March 11, 2022, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “Evergy Kansas Central”) and Evergy Metro, Inc. (“Evergy Kansas Metro”) (collectively “Evergy”), filed a Petition to Intervene and Motion for Discovery and Protective Order. Evergy is an electric utility which serves over one million retail customers as well as a large number of wholesale customers in Kansas.¹ Evergy is also a transmission-owning member of the Southwest Power Pool Regional Transmission Organization (“SPP RTO”) and owns and operates

¹ Petition to Intervene and Motion for Discovery and Protective order of Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. pg. 2 (March 11, 2022).

the Wolf Creek Nuclear Generating Station (“Wolf Creek”).² Because the Transmission Project will connect to Wolf Creek, Evergy claims there are considerations related to safety, planning, operations and the Nuclear Regulatory Commission (“NRC”) relevant to the construction, connection and operation of the Transmission Project which must be addressed.³ Evergy also claims an interest because NEET Southwest will recover the revenue requirement for the Transmission Project through the SPP Open Access Transmission Tariff, which is paid by customers served through the SPP, including Evergy’s customers.⁴

3. On March 21, 2022, NEET Southwest filed a Response in Limited Opposition to Evergy’s Intervention and Motion for Protective Order. NEET Southwest states that Evergy was its competitor in bidding for the Transmission Project.⁵ NEET Southwest expects to compete with Evergy in future SPP competitive bidding events.⁶ NEET Southwest requested that Evergy’s intervention be “limited to those issues within the scope of the Commission’s authority.”⁷ Specifically, NEET Southwest alleges that “Evergy’s petition indicates that it intends to issue discovery and attempt to litigate issues under the jurisdiction of the NRC and NERC (“North American Electric Reliability Corporation”) in this proceeding, even though those issues are outside of the scope of the Commission’s jurisdiction. In its filing, NEET Southwest acknowledges the Commission certainly has authority to evaluate whether it possesses the technical and managerial expertise required to construct the Project, but contends that inquiry is readily

² *Id.*

³ *Id.*

⁴ *Id.* at 3.

⁵ Response in Limited Opposition to Evergy’s Intervention and Motion for a Protective Order, pgs. 1-2 (March 21, 2022).

⁶ *Id.* at 3.

⁷ *Id.* at 2.

distinguishable from determining compliance with the regulatory requirements enforced by the NRC and NERC.”⁸

4. NEET Southwest also proposed that this proceeding be subject to a two-tier protective order. Under NEET Southwest’s proposed protective order, confidential documents would be classified as either “Confidential” or “Confidential-Competitive.” The Confidential-Competitive designation would be used for documents containing details from NEET Southwest’s confidential bid package and are competitively sensitive for the purpose of future bidding on SPP and other RTO projects. Any intervenor who signs a nondisclosure agreement would have access to Confidential documents. Whereas, for “competitor parties,”⁹ Confidential-Competitive documents would be provided only on an “outside-counsel and outside-expert-eyes-only” basis, and would be withheld from in-house attorneys and employees.¹⁰

5. NEET Southwest claims it would be competitively disadvantaged in future bidding processes if competing transmission providers like Evergy were able to access NEET Southwest’s confidential bidding strategies and raw input values used to package together bids.¹¹ Under SPP tariff provisions, some confidential information is kept from the public as well as other bidders.¹² NEET Southwest contends this two-tier approach would prevent an end-run around SPP’s confidentiality protections and maintains the integrity of the competitive bidding process which protects ratepayers.¹³

6. On March 31, 2022, Evergy filed its Response to Limited Opposition to Intervention and Motion for Protective Order. Evergy disagreed with NEET Southwest’s request

⁸ *Id.* at 2-3.

⁹ Defined by NEET Southwest as “those who participate in, or those who could reasonably be expected to participate in bidding in the next five years” *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.* at 3.

¹³ *Id.* at 5.

to limit Evergy's intervention and requested full intervenor status and that the Commission issue its standard protective order in this docket.¹⁴ Evergy argues that the Commission and parties may address issues that are within the jurisdiction of the NRC or NERC as part of a review of NEET Southwest's competence and capabilities to operate as an electric utility in Kansas and as part of the Commission's jurisdiction over the safety and reliability of the electric system in Kansas.¹⁵

7. Evergy also argues that NEET Southwest's request for a two-tier protective order is not fully supported by precedent and is unreasonable. Evergy cites two Commission Dockets in which a party requested a two-tier protective order and was denied, 11-GIME-492-GIE ("11-492" and 11-KCPE-581-PRE ("11-581"). Evergy also states that it is no longer a competitor of NEET Southwest, rather it is a load-serving entity, whose customers will be paying about 20% of the project, with territory across which the project will run, connecting to Evergy's facilities, including its nuclear power plant. Evergy has no intention of requesting the details on how NEET Southwest's bid algorithm works but wishes to understand aspects of NEET Southwest's contracting strategy and contract provisions that will impact project cost and reliability. Evergy states, "If Evergy's in-house experts...are prohibited from reviewing all the relevant information Evergy will be unable to ensure customers and the reliability of the system are protected to the greatest extent possible."¹⁶

8. On April 4, 2022, NEET Southwest filed a Reply to Evergy's Response to its Limited Opposition to Intervention and Motion for Protective Order. NEET Southwest first claims this Docket is distinguishable from the 11-492 and 11-581 Dockets. In 11-492 and 11-581,

¹⁴ Response of Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. to Limited Opposition to Intervention and Motion for Protective Order, pg. 2 (March 31, 2022).

¹⁵ *Id.* at 2-3.

¹⁶ *Id.* at 6.

KCP&L did not argue that there was an independent source of law, agreement, or contract that made more stringent confidentiality requirements necessary or fair.¹⁷

9. Here, NEET Southwest contends the SPP's confidentiality provisions provide an independent basis to determine that some competitively sensitive information should receive special protection, and, to do otherwise would negate the effectiveness of the SPP's confidentiality provisions.¹⁸

10. According to NEET Southwest, Evergy's claim that it is no longer a competitor of NEET Southwest seems to refer only to this project, whereas NEET Southwest maintains that enhanced confidentiality is necessary to protect their bids on future projects.¹⁹

11. NEET Southwest further notes that Evergy may still access Confidential-Competitive documents through their outside experts and outside counsel and the proposed Protective and Discovery Order allows Evergy to challenge a Confidential-Competitive designation.²⁰

12. NEET Southwest maintains that it seeks enhanced protection on only a very limited portion of its competitive bid and that Evergy is capable of assessing the Transmission Project's rate impacts, safety and reliability without its in-house personnel having access to that limited information.²¹

¹⁷ NextEra Energy Transmission Southwest, LLC's Reply to Evergy's Response to its Limited Opposition to Intervention and Motion for Protective Order, pgs. 2-3 (April 4, 2022).

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ Response in Limited Opposition to Evergy's Intervention and Motion for a Protective Order, Proposed Protective Order, paragraph 13 (March 21, 2022).

²¹ "...NEET Southwest is only seeking special protections for approximately one page of direct testimony total, one exhibit (Exhibit No. DM-1), and a portion of another exhibit (Exhibit No. AF-1). "NextEra Energy Transmission Southwest, LLC's Reply to Evergy's Response to its Limited Opposition to Intervention and Motion for Protective Order, pg. 4 (April 4, 2022).

II. Evergy Petition to Intervene

13. The Commission shall grant intervention if the petition: (1) is submitted in writing and properly served; (2) states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and (3) that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.²² The Commission has discretion to grant intervention at any time where intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.²³ At any time during a proceeding, the Commission may impose limitations on an intervenor's participation, which may include limiting an intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition, limiting intervenor discovery, cross-examination and other procedures, and requiring intervenors to consolidate their participation in the proceedings.²⁴

14. Evergy submitted its petition in writing, properly served it in accordance with K.S.A. 77-521(a)(1), and stated facts demonstrating its legal rights and interests may be substantially affected by this proceeding under K.S.A. 77-521(a)(2). Evergy meets the requirements for intervention in K.S.A. 77-521 and K.A.R. 82-1-225, and therefore, is granted full intervention subject to its designation as a "Competitor" for the purposes of the Protective Order.

15. Evergy will be added to the official service list. Service of pleadings, communications, and correspondence should be delivered to counsel of record and Evergy's other designees, as follows:

²² K.S.A. 77-521(a); K.A.R. 82-1-225(a).

²³ K.S.A. 77-521(b); K.A.R. 82-1-225(b).

²⁴ K.S.A. 77-521(c); K.A.R. 82-1-225(c).

Anthony Westenkirchner
Senior Paralegal, Regulatory Affairs
One Kansas City Place
1200 Main Street, 16th Floor
Kansas City, MO 64105
(816) 556-22787
anthony.westenkirchner@evergy.com

Denise Buffington
Senior Director of Federal Regulatory Affairs
One Kansas City Place
1200 Main Street, 19th Floor
Kansas City, MO 64105
(816) 556-2683
denise.buffington@evergy.com

Leslie Wines
Administrative Assistant,
818 S. Kansas Ave.
Topeka, KS 66612
(785) 575-1584
Leslie.Wines@evergy.com

Derek Brown
Sr. Federal Regulatory Affairs, Manager
818 S. Kansas Ave.
Topeka, KS 66612
(785) 379-4453
Derek.Brown@evergy.com

16. The Commission denies NEET Southwest's request to limit Evergy's intervention to those issues which NEET Southwest believes are within the scope of the Commission's authority. Discovery is already limited to those issues which are "clearly relevant," and the Commission finds no further limitation is appropriate or necessary.²⁵

III. Evergy Motion for Discovery and Protective Order

17. The Commission agrees with NEET Southwest that some information related to a competitive bidding process may be entitled to enhanced protection not offered by the Commission's standard Protective Order. Maintaining confidentiality of such information helps ensure the integrity of the SPP competitive process and solicitations related to future projects. Therefore, disclosure of confidential information will be governed by a two-tier Protective Order, similar to that proposed by NEET Southwest. The exchange and treatment of information shall be governed by the Protective and Discovery Orders set forth below.

18. The Commission notes it employed a similar two-tier protective order in the 21-KGSG-332-GIG Docket where Kansas Gas designated information as either "Confidential" or

²⁵ K.A.R. 82-1-234a(a).

“Highly Confidential” where Highly Confidential information was defined as “any Confidential information which the designating party reasonably believes, in good faith, to be so competitively sensitive that it is entitled to extraordinary protections.”²⁶

IV. Protective Order

19. K.S.A. 66-1220a and K.A.R. 82-1-221a sets forth requirements for the designation and treatment of information deemed confidential in Commission proceedings. The Commission finds it appropriate to issue this Protective Order to establish procedures relating to confidential data and information.

20. K.S.A. 66-1220a limits disclosure of trade secrets or confidential commercial information of regulated utilities. Under K.S.A. 66-1220a(a)(4), the Commission is to consider alternatives to disclosure that will serve the public interest and protect the regulated entity. This Protective Order governs the treatment and handling of all confidential information in this Docket.

21. A party may designate as “Confidential” any information that it believes, in good faith, to be a trade secret or other confidential commercial information. A party may designate as “Confidential-Competitive” any confidential information that it believes, in good faith to be so competitively sensitive that it is entitled to special protections and meets the definition found in Paragraph 22. The party designating the information as Confidential or Confidential-Competitive must provide a written statement of the specific grounds for the designation at the time the designation is made.²⁷ The party claiming confidentiality has the burden of proving the confidential status of the information. Designating information as confidential does not establish that the information will be kept from disclosure after review by the Commission.²⁸

²⁶ See, Presiding Officer’s Amended Protective Order, Docket 21-KGSG-332-GIG (October 27, 2021).

²⁷ K.A.R. 82-1-221a(a)(5).

²⁸ K.S.A. 66-1220a.

22. This Protective Order applies to all parties in this proceeding, unless specifically stated otherwise. The provisions of the Protective Order apply to Commission Staff (“Staff”), except that Staff is not required to sign nondisclosure certificates or view voluminous materials on site and is not required to return or destroy confidential information upon request at the conclusion of a proceeding. Outside experts and consultants used by Staff shall have access to information and voluminous materials on the same basis as Staff, except that outside Staff experts and consultants are required to read this Protective Order and to sign any applicable nondisclosure agreements as contained in Appendix A and Appendix B. Parties who do not sign a nondisclosure certificate will not be granted access to confidential information filed in this docket.

The following definitions shall apply:

Information: “Information” refers to all documents, data, including electronic data, studies and other materials furnished pursuant to requests for information or other modes of discovery, or any other information or documents that are otherwise a part of the Commission record.

Competitor: “Competitor” refers to parties who participate, or those reasonably expected to participate in the next 5 years, in a competitive bidding process sponsored by a regional transmission organization.

Confidential Information: “Confidential information” refers to information which, if disclosed, would likely result in harm to a party's economic or competitive interests or which would result in harm to the public interest, generally, and which is not otherwise available from public sources. "Confidential information" may include, but is not limited to: (1) material or documents that contain information relating directly to specific customers; (2) employee sensitive information; (3) marketing analyses or other markets

specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration; (6) contract negotiations; and, (7) information concerning trade secrets, as well as private technical, financial, and business information.

Confidential-Competitive Information: “Confidential-Competitive Information” exclusively means Confidential Information identified by NEET Southwest in Paragraph 11 of its April 4, 2022, *Reply to Evergy’s Response to its limited Opposition to Intervention and Motion for Protective Order*. Specifically “one page of direct testimony total, one exhibit (Exhibit No. DM-1), and a portion of another exhibit (Exhibit No. AF-1).”²⁹

23. A party designating information as Confidential or Confidential-Competitive shall make the information available to parties seeking access or discovery under the restrictions in this Protective Order, if such disclosure is not otherwise privileged or objectionable on other evidentiary grounds.

24. Disclosure of Confidential Information shall be made to attorneys of record and to authorized representatives, including outside experts, who are consulting with parties or intend to file testimony in this proceeding. Attorneys or authorized representatives seeking access to confidential information shall first read this Protective Order and sign a nondisclosure certificate as provided in Appendix A. The nondisclosure certificate shall contain the signatory’s name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of a party to this proceeding. The nondisclosure certificate shall be filed in the docket. The party claiming confidentiality shall provide legible copies of the Confidential Information to

²⁹ NextEra Energy Transmission Southwest, LLC’s Reply to Evergy’s Response to its Limited Opposition to Intervention and Motion for Protective Order, pg. 4 (April 4, 2022).

requesting parties by serving one copy upon counsel for the requesting party. The requesting party may copy the confidential information and make it available to its authorized representatives who have signed and filed nondisclosure certificates. If a response to a discovery request requires the duplication of voluminous material, or the material is not easily copied because of its binding or size, the furnishing party may require that the voluminous material be viewed on its own premises. If duplication of voluminous material can be accomplished without undue burden on the party disclosing the information, the voluminous material may be copied at the expense of the requesting party. Voluminous material shall include documents or materials comprised of 200 pages or more.

25. Disclosure of Confidential-Competitive Information shall be made pursuant to the terms of Paragraph 24, but with the following additional protections:

- a. Disclosure of materials or Information designated by a party as Confidential-Competitive may be made available to only the following individuals who have executed the Commission-approved Competitive Nondisclosure Agreement attached as Appendix B: (a) outside retained attorneys of record for Competitors; (b) outside consultants for Competitors; (c) representatives of Staff and CURB, and other non-Competitor parties to the proceeding, except that Staff is not required to sign nondisclosure certificates.
- b. No Confidential-Competitive Information may be provided directly or indirectly to any other person, including in-house counsel, other than as specified in part (a) above except as specifically authorized by the Commission.

26. A party may designate pre-filed testimony and exhibits as Confidential or Confidential-Competitive pursuant to this Protective Order. The specific grounds for any such designation shall be stated in writing at the time the designation is made or the testimony filed.

Any party obtaining confidential information may use or refer to such information in pre-filed or oral testimony provided that the confidentiality is maintained, unless otherwise ordered by the Commission.

27. If information to be disclosed in response to a data request contains Confidential or Confidential-Competitive information designated by another party in this docket, the furnishing party shall maintain the confidential status by marking the information as “Confidential” or “Confidential-Competitive” and only provide the response to parties that have signed nondisclosure certificates appropriate for the type of information requested. If information that a party intends to use in this proceeding or that would be disclosed in response to a data request contains Confidential Information obtained from a source outside of this proceeding, the party intending to use or provide the Confidential Information must notify the original source which claimed confidential status to allow that entity to decide whether to claim confidentiality in this proceeding.

28. When pleadings, pre-filed testimony, or exhibits include Confidential or Confidential-Competitive information, the parties are to follow these procedures:

a. File seven³⁰ copies of the complete document, including all confidential information.

i. In cases where there is both Confidential-Competitive and Confidential information, the cover is to clearly state "CONFIDENTIAL-COMPETITIVE." Confidential-Competitive pages shall be stamped "CONFIDENTIAL-COMPETITIVE," and the specific Confidential-Competitive information shall be identified by being underlined, bolded,

³⁰ Only one copy must be submitted when a party utilizes electronic filing.

and highlighted. Any information that is Confidential but not Confidential-Competitive shall be identified by being underlined.

- ii. In cases where there is only Confidential information, the cover is to clearly state "CONFIDENTIAL." Confidential pages shall be stamped "CONFIDENTIAL," and the specific Confidential information shall be identified by being underlined.

b. File one copy with the Confidential-Competitive and/or Confidential portions redacted, for use as a public document. The cover is to clearly state "PUBLIC VERSION."

c. File one copy of the pages that contain Confidential-Competitive and/or Confidential information in a separate envelope marked "CONFIDENTIAL" or "CONFIDENTIAL-COMPETITIVE."³¹ This filing will be maintained in the docket room file under seal. If there are multiple pages with confidential information and it is impracticable to separate the pages with the confidential information, the party may file instead one copy of the entire document that is stamped ""CONFIDENTIAL" or "CONFIDENTIAL-COMPETITIVE."

29. Confidential and Confidential-Competitive testimony may be offered or subject to cross-examination at hearings. Parties have the right to object to the admissibility of Confidential Information on standard evidentiary grounds such as relevance. Confidential and Confidential-Competitive Information that is received into evidence will be kept under seal. Confidential Information shall be discussed only after the hearing is closed to all persons except the Commission, its Staff, hearing examiners, court reporters, attorneys of record and individuals to whom the designated information is available under the terms of this Protective Order.

³¹ Envelopes are not required when a party utilizes electronic filing, but electronically filed documents must be clearly labeled.

Confidential-Competitive information shall be discussed only after the hearing is closed to all persons except the Commission, its Staff, hearing examiners, court reporters, attorneys of record and individuals who are permitted to receive Confidential-Competitive information as specified in this Order. Parties shall make every effort at hearings to ask and answer questions in such a ways to preserve the confidentiality of the information without the need to close the hearing. The transcript of live testimony or oral argument disclosing Confidential-Competitive and/or Confidential information shall be kept under seal and copies provided only to persons entitled to access the Confidential-Competitive and/or Confidential information. Neither the parties nor their attorneys shall disclose or provide copies of the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order.

30. If a party disagrees with a claim that information is Confidential or Confidential-Competitive or should not be disclosed, the parties shall first attempt to resolve the dispute on an informal basis. If the parties cannot resolve the dispute informally, the party contesting the confidential treatment may file a motion with the Commission. Commission Staff should also be prepared to challenge a Confidential or Confidential-Competitive designation when Staff believes the information does not meet that definition. When a dispute concerning confidentiality is brought before the Commission, the Commission will review the matter to determine (1) if the party claiming confidentiality has met its burden of establishing the confidential or confidential-competitive designation is proper, and (2) whether disclosure is warranted under K.S.A. 66-1220a. The Commission may determine that disclosure is warranted under K.S.A. 66-1220a despite being properly classified as Confidential-Competitive. The contested information shall not be disclosed pending the Commission's ruling.

31. All persons who are afforded access to Confidential Information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and litigation of this proceeding. During the course of this proceeding, parties shall keep Confidential Information secure in accordance with the purposes and intent of this order. At the conclusion of this proceeding, including judicial review, a party claiming that information was Confidential may require that other persons in possession of its confidential information return or destroy all such confidential information and all notes, tapes, documents, and any other medium containing summarizing, or otherwise embodying such confidential information. If the party claiming confidentiality requests destruction, the person destroying the information shall certify its destruction. Counsel shall be entitled to retain memoranda or pleadings including or embodying confidential information to the extent reasonably necessary to preserve a file on this proceeding.

V. Discovery Order

32. The Commission finds that formalizing discovery procedures and clarifying the obligations of the parties will help ensure a full and efficient investigation of the issues in this docket. This Discovery Order will govern the conduct of discovery until further order of the Commission. Parties may request modified or additional discovery procedures or may request that the Commission schedule a discovery pre-hearing conference.

33. General procedures. Discovery in Commission proceedings is limited to matters that are “clearly relevant.”³² Pursuant to K.S.A. 66-131, the Commission must find the “public convenience and necessity will be promoted” before granting a certificate. The Commission has historically utilized certain standards to make this determination and such standards will define the

³² K.A.R. 82-1-234a(a).

scope of “clearly relevant” matters in this proceeding.³³ For example, “clearly relevant” matters will include inquiries regarding the effect of the project on customers (including rates), the impact of the project on public safety and the effect of the project on reliability of service. After a docket is opened, any party may serve upon any other party written discovery or data requests. These data requests shall identify with reasonable particularity the information or documents sought. Data requests must be designed to elicit material facts within the knowledge of the parties. Data requests that require conclusions of law or answers to hypothetical questions are generally not permitted. Cross-examination through the use of data requests is not appropriate. Copies of data requests shall be served upon all other parties to the proceeding, unless a party requests otherwise. Data requests and responses may be served by facsimile transmittal or electronic mail if agreed to by the parties. Data requests that are sent by a party after 5:00 p.m. shall be deemed to have been received the following business day.³⁴

34. Data Request Responses. Responses to Staff data requests are due within seven days.³⁵ Responses to all other data requests are due within 10 days. In computing the period of time for responding, the day on which the data request was issued is not counted. Furthermore, for purposes of calculating all discovery-related deadlines, intermediate Saturdays, Sundays, and legal holidays shall be excluded.³⁶ Parties may agree to extensions or reductions of time in which to respond or object to a data request. Responses to data requests shall be verified and shall identify

³³ See, Docket No. 11-GBEE-624-COC, Order Approving Stipulation and Agreement and Granting Certificate, pgs. 22-24 (December 7, 2011).

³⁴ See K.A.R. 82-1-205 (providing Commission Office Hours).

³⁵ Per K.A.R. 82-1-217, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.”

³⁶ This constitutes an explicit limited waiver of K.A.R. 82-1-217(a). This waiver is consistent with the Commission’s precedential *Order Granting Petition for Reconsideration of Discovery Order*, issued November 10, 2016, in Docket No. 17-KPPE-092-COM.

the person(s) who actually prepared the response and can answer additional questions relating to the response. Each data request shall be answered separately and preceded by the request to which the answer pertains. Responses shall be clearly identified and, if consisting of several pages, shall be labeled and organized in a manner that makes review of the pages convenient. Parties are under a continuing duty to supplement their discovery responses upon learning that the information disclosed is incomplete or incorrect in any material respect. If a response to a data request requires the duplication of voluminous material or of material that is not easily copied because of its binding or size, a party may require that any party other than Commission Staff review the voluminous material on its own premises. If duplication of voluminous material can be accomplished without undue burden, the voluminous material may be copied at the expense of the requesting party. Voluminous material is defined as documents comprised of 200 pages or more.

35. Objections to Data Requests. If the parties have agreed to electronic service, and a party objects to answering a particular data request, the party shall object in writing to the party which issued the data request within five days of the data request.³⁷ If the parties have not agreed to electronic service, and a party objects to answering a particular data request, the objecting party shall object in writing to the issuing party within five days after service, plus three days if service is by mail. The written objection shall specifically explain all grounds relied upon for objecting to each data request. Any objections not provided at this time will be considered to be waived. If an objection pertains only to part of a question, that part shall be clearly identified and the responding party shall provide any non-objectionable information covered by the remainder of the data request. Parties shall negotiate in good faith to resolve discovery disputes. If resolution is not possible, the party seeking discovery may file a motion to compel with the Commission. Motions

³⁷ As noted above, intermediate Saturdays, Sundays, and legal holidays shall be excluded when calculating discovery-related deadlines, which constitutes a limited waiver of K.A.R. 82-1-217(a).

to compel must have the data request and response at issue attached. Motions to compel are required to be served by hand delivery, electronic mail, facsimile, or next-day delivery service. Responses to motions to compel are to be filed within three days after the motion is received.³⁸ The Commission may act immediately on motions to compel if necessitated by time constraints or the procedural schedule in the docket.

36. Limitations on Discovery. The Commission may limit discovery to protect a party against unreasonable, cumulative, or duplicative discovery requests; to prevent undue delay in the proceeding; to avoid unnecessary burden, expense, or harassment; or to otherwise maintain the orderly and efficient progress of the proceeding. Upon finding that a party has abused the discovery process, the Commission may deny the right to continue discovery.

37. Sanctions. A motion for sanctions for discovery violations may be filed at any time during the proceeding or may be initiated by the Commission. A motion is to contain sufficient factual allegations to detail the violation and must specify the relief requested. Motions for sanctions are required to be served by hand delivery, electronic mail, facsimile, or next-day delivery service. Responses to motions for sanctions are to be filed within 10 days.³⁹

- a. The Commission will consider any relevant factors when reviewing a motion for sanctions, including whether discovery has been conducted in bad faith or for an improper purpose such as causing unnecessary delay or needless increase in the cost of the proceeding; whether the discovery process has been abused in seeking or resisting discovery; and whether parties have failed to obey Commission Orders.

³⁸ See fn. 35 above.

³⁹ See fn. 35 above.

- b. Sanctions imposed by the Commission may include limiting or disallowing further discovery; holding that designated facts be deemed admitted for purposes of the proceeding; refusing to allow a party to support or oppose a claim or defense or prohibiting the party from introducing designated matters in evidence; disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; striking pleadings or testimony; staying further proceedings until an order is obeyed; disallowing a party's right to participate in the proceeding; dismissing the application or filing with or without prejudice; requiring the offending party to pay the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and imposing any other sanction or remedy available to the Commission by law.

THEREFORE, THE COMMISSION ORDERS:

- A. The provisions of this Protective and Discovery Order shall govern the treatment and handling of confidential information in this docket.
- B. Evergy's petition to intervene is granted.
- C. The parties have 15 days from the date this Order was electronically served to petition for reconsideration.⁴⁰
- D. The Commission retains jurisdiction over the subject matter and parties to enter further orders as it deems necessary.

⁴⁰ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French Commissioner.

Dated: 04/21/2022.

Lynn M. Retz

Lynn M. Retz
Executive Director

DGC

APPENDIX A

Docket No. 22-NETE-419-COC
THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS
NONDISCLOSURE CERTIFICATE
(To Access Confidential Information)

I, _____, have been presented a copy of the Protective Order issued in Docket No.22-NETE-419-COC on the ____day of _____, 2022.

I have requested review of confidential information produced in the above-mentioned docket on behalf of _____.

I hereby certify that I have read the above-mentioned Protective Order and agree to abide by its terms and conditions.

Dated this _____ day of _____, 2022.

Printed name and title

Signature

Party/Employer

Address (City, State and ZIP)

Telephone

Email

APPENDIX B

Docket No. 22-NETE-419-COC
THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS
NONDISCLOSURE CERTIFICATE
(To Access Confidential-Competitive Information)

I, _____, have been presented a copy of the Protective Order issued in Docket No.22-NETE-419-COC on the ____ day of _____, 2022.

I have requested review of Confidential-Competitive information produced in the above-mentioned docket on behalf of _____.

I am an employee of _____ acting as _____ [state role from list of eligible persons from Paragraph 24 of the Protective Order] for _____; and I hereby certify that I have read the above-mentioned Protective Order and agree to abide by its terms and conditions.

Dated this _____ day of _____, 2022.

Printed name and title

Signature

Party/Employer

Address (City, State and ZIP)

Telephone

Email

CERTIFICATE OF SERVICE

22-NETE-419-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 04/21/2022.

JOSEPH R. ASTRAB, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
j.astrab@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
d.nickel@curb.kansas.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
s.rabb@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
d.smith@curb.kansas.gov

DEREK BROWN, SR. FEDERAL REG. AFFAIRS,
MANAGER
EVERGY KANSAS CENTRAL, INC
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
derek.brown@evergy.com

DENISE M. BUFFINGTON, DIR. FED REG. AFFAIRS
EVERGY METRO, INC
D/B/A EVERGY KANSAS METRO
One Kansas City Place
1200 Main St., 19th Floor
Kansas City, MO 64105
denise.buffington@evergy.com

ANTHONY WESTENKIRCHNER, SENIOR PARALEGAL
EVERGY METRO, INC
D/B/A EVERGY KANSAS METRO
One Kansas City Place
1200 Main St., 19th Floor
Kansas City, MO 64105
anthony.westenkirchner@evergy.com

TERRY M. JARRETT, ATTORNEY AT LAW
HEALY LAW OFFICES, LLC
3010 E BATTLEFIELD
SUITE A
SPRINGFIELD, MO 65804
terry@healylawoffices.com

DAVID COHEN, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
d.cohen@kcc.ks.gov

CERTIFICATE OF SERVICE

22-NETE-419-COC

BRIAN G. FEDOTIN, GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
b.fedotin@kcc.ks.gov

JARED JEVONS, LITIGATION ATTORNEY
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
j.jevons@kcc.ks.gov

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

LESLIE WINES, ADMINISTRATIVE ASST.
KCP&L AND WESTAR, EVERGY COMPANIES
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
leslie.wines@evergy.com

WILLIAM P. COX, SENIOR ATTORNEY
NEXTERA ENERGY TRANSMISSION, LLC
700 Universe Blvd
Juno Beach, FL 33408
will.p.cox@nexteraenergy.com

TRACY C DAVIS, SENIOR ATTORNEY
NEXTERA ENERGY TRANSMISSION, LLC
5920 W WILLIAM CANNON DR, BLDG 2
AUSTIN, TX 78749
tracyc.davis@nexteraenergy.com

MARCOS MORA, EXECUTIVE DIRECTOR,
DEVELOPMENT
NEXTERA ENERGY TRANSMISSION, LLC
700 Universe Blvd
Juno Beach, FL 33408
marcos.mora@nexteraenergy.com

BECKY WALDING, EXECUTIVE DIRECTOR,
DEVELOPMENT
NEXTERA ENERGY TRANSMISSION, LLC
700 Universe Blvd
Juno Beach, FL 33408
becky.walding@nexteraenergy.com

ANNE E. CALLENBACH, ATTORNEY
POLSINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY, MO 64112
acallenbach@polsinelli.com

ANDREW O. SCHULTE, ATTORNEY
POLSINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY, MO 64112
aschulte@polsinelli.com

/s/ DeeAnn Shupe
DeeAnn Shupe
