

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

In the Matter of the Capitol Compliance Plan)
Docket for Kansas City Power & Light)
Company and Westar Energy, Inc.) Docket No.: 19-KCPE-096-CPL
Pursuant to the Commission’s Order)
in Docket No. 18-KCPE-095-MER)

**JOINT COMMENTS OF THE UNION OF CONCERNED SCIENTISTS AND CLEAN
AIR NOW REGARDING EVERGY KANSAS METRO AND EVERGY KANSAS 2021
INTEGRATED RESOURCE PLAN**

COMES NOW, CleanAirNow and Union of Concerned Scientists, pursuant to the schedule set forth in Order Adopting Integrated Resource Plan and Capital Plan Framework issued by the State Corporation Commission of the State of Kansas (Commission) in this docket on February 6, 2020, submits their joint comments regarding the Integrated Resource Plan of Evergy Kansas.

Docket Background

1. On May 24, 2018, the Commission issued an Order Approving Merger Application of Westar Energy, Inc. and Kansas Gas and Electric Company (“Westar”), Great Plains Energy Incorporated (“Great Plains”) and Kansas City Power & Light Company (“KCP&L”) to form Evergy. Order Approving Merger Application, Docket No. 18-KCPE-095-MER (May 24, 2018) (“Merger Order”).

2. On September 4, 2018, The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), Citizens’ Utility Ratepayer Board (“CURB”), and KCP&L filed a joint filing initiating a Capital Plan Reporting compliance docket to provide capital plan reports with the goal to determine the appropriate information and data to report and the format of such reporting pursuant to the Merger Order.

3. As part of the Merger Order, the Commission required Evergy to work with certain parties and develop a reporting format for an Integrated Resource Plan. A two-part reporting framework was developed, with one part consisting of a Capital Plan and the second consisting of an Integrated Resource Plan (“IRP”). Order Adopting Integrated Resource Plan and Capital Plan Framework, Docket No. 19-KCPE-096-CPL, ¶13 (Feb. 6, 2020) (Capital Plan / IRP Order). After a work study, comments on the proposed framework, and a Joint Supplement and Clarification to Compliance Filing by the Kansas Industrial Consumers Group, Inc. and the Sierra Club, the Commission approved the Capital Plan Reporting and IRP Process Framework submitted on September 9, 2019, by Commission Staff, the Citizens’ Utility Ratepayer Board, Westar, and KCP&L.¹

4. In February 2020, in Docket No. 18-KCPE-096-MER, the commission issued an order adopting a framework for an integrated resource plan (IRP) and capital plan.²

5. Additionally, the IRP Framework required Evergy to submit an annual update to its IRP by July 1, 2020. Thereafter, each annual update would be due three months after Missouri's annual update.³

6. On May 28th, 2021, Evergy Filed its 2021 Integrated Resource Plan for Evergy Kansas Central and Evergy Kansas Metro (“Evergy Kansas IRP”).⁴

7. In the IRP/CP Order, the commission provided intervenors 150 days after Evergy's filing date to identify any deficiencies in Evergy's compliance with the IRP framework, any major deficiencies in the methodologies or analyses required to be performed by the IRP

¹ Capital Plan / IRP Order, ¶ 4 through ¶14; See id. at ¶15.

² Order Adopting Integrated Resource Plan and Capital Plan Framework, Docket No. 19-KCPE-096- CPL, Feb. 6, 2020 (hereinafter “IRP/CP Order”).

³ IRP/CP Order, Attachment A, p. 4.

⁴ Docket 19-KCPE-096-CPL

framework, or any other deficiencies which the Parties determine would cause Evergy's resource acquisition strategy to fail to meet the requirements of the IRP framework.⁵

Organizations Background

8. On June 7th, 2021, UCS and CAN filed for intervenor status in the IRP Docket.

9. UCS's mission is "to use rigorous, independent science to solve our planet's most pressing problems. Joining with people across the country, UCS combines technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future." UCS pursues that mission by developing in-house analyses based on the best available information. UCS works with consultants and academic institutions to perform research and analysis of the energy sector. UCS share's the findings and recommendations of those analyses with its members, the general public, stakeholders, and decision-makers through our website, publications, blog posts, meetings, emails, conferences, and formal proceedings. UCS energy experts are established in their field and highly regarded by industry peers as conducting objective and robust analysis. Our experts are regularly called upon by Department of Energy (DOE) run national labs, the National Association of Regulated Utility Commissioners (NARUC), the national association of state utility consumer advocates (NASUCA), National Association of State Energy Offices (NASEO), the Federal Energy Regulatory Commission (FERC), the Environmental Protection Agency (EPA), the US Congress, state legislators, and public utility commissions to serve on advisory boards, conduct peer review, and present our latest analytical findings.

10. CleanAirNow is dedicated to improving air quality in Kansas City and the surrounding region, particularly in communities suffering the greatest health burden, and to

⁵IRP/CP Order, Att. A, p. 5

preventing and mitigating disease caused by air pollution. CleanAirNow is a nonprofit, community-based and community-driven equitable coalition and partnership of community groups, academia, researchers, environmental advocates and experts, health-service organizations, institutions, local government representatives, and individual members.

CleanAirNow was initiated by a neighborhood group concerned with fossil fuel and industrial pollution and environmental health inequities at the fenceline of industry. The geographic scope and service area of CleanAirNow is the 22 county Kansas City-Overland Park-Kansas City, MO-KS Combined Statistical Area, the 5 county Topeka Metropolitan Statistical Area, and Brown County. Inclusion of Brown County ensures we include the reservations of all Indigenous tribes within the boundaries of Kansas. The focus of CleanAirNow is to work with and uplift communities most threatened by air pollution; particularly those with vulnerable populations affected by multiple, disproportionate environmental health burdens. CleanAirNow aims to support and amplify the voice of these communities to increase their organizational capacity for effective participation in local, state, and federal policy in order to improve health and the quality of life in their communities.

11. On July 15, the Commission Granted intervenor status to UCS and CleanAirNow.

Summary of Comments on IRP

12. UCS and CleanAirNow are concerned by the Company's failure to address important issues related to energy justice, including a lack of an inclusive IRP process and insufficient attention to how the Company's decisions impact already overburdened communities in its service territory. In preparation for these comments, UCS and CleanAirNow commissioned Synapse Energy Economics (Synapse) to review the Evergy Kansas IRP and to review how other utilities and governments are proactively addressing energy justice, with a focus on resource

planning. The full Synapse report (Attachment A) provides details on many of these issues. One of their most important findings was that “many states also consider customer equity and whether investments are in the public interest.”⁶ The lack of these considerations in the Evergy IRP are notable.

13. We are further disturbed by Evergy’s recent announcement to effectively revise the stated plan as identified in the IRP as it is filed with the commission. If the company wishes to make revisions to its resource plan, those revisions should be made in the IRP proceeding and should include notice to all intervenors and the public at large. However, the company proposes these revisions in a separate proceeding, Docket No. 22-EKCE-141- PRE, where the company has proposed altering its plans at the Lawrence facility and revising the schedule of renewable energy build out. This is a tacit admission that the plan identified in the IRP is not a prudent course of action and raises serious questions about what actions the commission should take in response to the IRP filing. An IRP should represent the company’s most up-to-date resource plan and yet prior to this docket even being completed, the company has already suggested modifications to its plan. This action severely undermines the legitimacy of this and future IRPs while simultaneously eroding trust with stakeholders.

14. Our comments regarding the IRP deficiencies can be broken down into two broad categories: (1) a resource planning process that was not inclusive; and, (2) a resource plan that does not address equity or environmental justice. We conclude with recommendations to the Commission and the Company.

⁶ Synapse Report pg 10

Failure to conduct an inclusive process

15. Effective and meaningful stakeholder engagement is an important and necessary part of utility resource planning. Stakeholder engagement, specifically inclusive and proactive engagement, was an emerging topic years ago but is now well established as the norm and is expected of utilities in other jurisdictions that conduct resource planning. In 2019, the National Association of Regulated Utility Commissions (NARUC) held a joint task force with the National Association of State Energy Offices (NASEO) on the topic of comprehensive resource planning that included extensive conversations about stakeholder engagement.⁷ Then, in January of 2021, NARUC assembled a report on this issue that includes many best practices, including:

- *Communicate the purpose and goals to stakeholders early in the process.*
- *Engage stakeholders early and often throughout the process.*
- *Evaluate barriers to access that potential stakeholders may face and outline steps for eliminating or reducing these barriers to participation.*
- *Offer virtual options to enable increased participation.*
- *Consider meeting times outside of traditional business hours.*
- *Clearly communicate the timeline to stakeholders early in the engagement process. Include who will be engaged at each step, relevant outputs, and milestones*
- *Set [clear] intentions for how stakeholder[s] will contribute and give input to the development of interim and final process products.*
- *During the planning process, consider and set resources aside to continue follow-up discussions and activities.*

⁷ The Joint Task Force Library (which includes an entire section on stakeholder engagement) can be found here: <https://www.naruc.org/taskforce/comprehensive-electricity-planning-library>

- *Solicit input from stakeholders on the engagement process and use feedback to incorporate and demonstrate process improvements.*⁸

16. Note that the NARUC report does not limit stakeholders to just intervenors, as Evergy seems to have done in this proceeding. Instead, NARUC recognizes that legal barriers to formal intervention prevent large swaths of the local populous from participating in the decision-making process and as regulated monopolies, like Evergy, have an obligation to engage these communities proactively because those companies' decisions will significantly impact the livelihood of those communities. Evergy and the Commission would be wise to learn from these processes and best practices.

17. The Evergy IRP process failed to create an inclusive process in several ways, including:

a) **The IRP stakeholder meetings were limited to formal intervenors meaning members of the general public were not in attendance.** Formal intervention in the IRP process requires legal representation which requires special expertise and or financial resources to pay for legal counsel. This is not a significant barrier for professionals in the industry whose job is to engage in regulatory process but makes it difficult, if not impossible, for everyday community members and smaller organizations who do not have access to legal representation and do not have funds to hire legal representation. However, having open and public meetings is an important and universally agreed upon request for stakeholder engagement.⁹

b) **All the stakeholder meetings occurred during traditional working hours (9am-5pm).**¹⁰ Holding meetings during traditional working hours creates a barrier

⁸ <https://pubs.naruc.org/pub/7A519871-155D-0A36-3117-96A8D0ECB5DA>

⁹ NARUC/NASEO Joint Task Force on Comprehensive Planning <https://www.naruc.org/taskforce/>

¹⁰ Company Response to Interrogatories UCS 1-3

to participation for those who have jobs that might prevent them from attending during these hours. The *Guidebook on Equitable Clean Energy Program Design for Local Governments and Partners* by the Urban Sustainability Directors Network suggests manageable levels of time commitment and meeting times during the evening or on a weekend.¹¹ Limiting stakeholder meetings to the 9-5 hours can severely limit the type of stakeholder that the Company (and by extension the Commission) will hear from. Specifically, professional advocates and intervenors are more than willing and capable of attending such meetings. Meanwhile, a working mother or student, as examples, would have a much harder time fitting in a meeting during those hours.

c) **The stakeholder meetings also lacked services that would facilitate participation.** Without providing services like translation services and family services (like child-care) there can be no expectation that all segments of the public will be able to participate.

d) **The utility resource plan was set prior to all stakeholder feedback making it impossible to incorporation of feedback.** There are several examples of where this type of feedback is required to be incorporated and reported on. The Synapse report provides one such example in New Hampshire where, “Plans must include a summary of stakeholder input, as well as how stakeholder recommendations are incorporated into the final plan or why a stakeholder recommendation was not incorporated into the final plan.”¹²

¹¹ Curti, J., F. Andersen, and K. Wright. 2018. “A Guidebook on Equitable Clean Energy Program Design for Local Governments and Partners.” Washington, DC: USDN. www.cadmusgroup.com/wp-content/uploads/2018/09/Cadmus-USDN-Equitable-CleanEnergy-Guidebook.pdf.

¹² Synapse Report at 16

e) **The IRP process lacked any sort of advisory board or stakeholder council.** There are several examples of advisory boards, stakeholder councils, or working groups that help create productive spaces for interested parties to participate in the process. The independent nature of these boards can also help lend credibility with stakeholders that have struggled to gain access or be heard in the past. According to the Synapse report:

i. The Hawaiian Electric Companies' website states that the Integrated Grid Planning (IGP) process enables the company to engage with community members and customers to gather their input and feedback throughout the IGP process. To this end, there is a "Stakeholder Council," working groups, and a technical advisory panel as well as broad public engagement. There were at least 13 meetings of the Stakeholder Council with meeting presentations and notes available on a public website.¹³

ii. Rhode Island launched an Equity Working Group to explore opportunities to improve the equity of its energy efficiency programs. The top five recommendations from the final report include benchmarking energy efficiency participation data for race, geography, socioeconomic status, language, age of home, age of owner, age of renter, heating fuel type, and type and age of heating, hot water, and cooling systems.¹⁴

18. Evergy has excluded the community's voice from the IRP process. The Company's failure to proactively engage or consult with CleanAirNow exemplifies one of the

¹³ See <https://www.hawaiianelectric.com/clean-energy-hawaii/integrated-gridplanning/stakeholder-engagement/stakeholder-council>.

¹⁴ *2021 Rhode Island Energy Efficiency Equity Working Group Report*. Prepared by Green & Healthy Homes Initiative for inclusion in National Grid's 2022 Annual Plan. September 2021.

many ways in which the company lacks community engagement or shows any interest in providing an equitable service to its customers or any interest in its customers value system -- in particular the customers and general public's value and need for a quick and smooth transition to clean energy. Evergy has had multiple opportunities, not only to engage with the communities it services but also with groups who have been vocal and insistent upon the company doing its work in a transparent and equitable manner. CleanAirNow has done extensive work around air pollution monitoring in the communities that Evergy serves and also in the communities where Evergy's facilities are located. CleanAirNow works with local state and federal government to advance equity and environmental justice in overburdened communities. One recent example is working with the Unified Government by providing environmental justice recommendations on the Armourdale Kansas Land Use General Plan, with recommendations that bring a direct benefit to the health of those impacted by multiple sources of pollution.¹⁵ Through their enhanced civic engagement and community-driven projects to educate, advocate, and give voices to those who have been systematically excluded from having a voice in the decision making process, CleanAirNow exemplifies effective civic engagement. CleanAirNow is an environmental justice organization taking action to bring systemic change in industry and government policies and practices to protect health and to promote justice. It brings attention to the environmental racism and inequity that perpetuates the unequal distribution of environmental pollution from fossil fuel related emissions and health hazards in fence-line communities in northeast Wyandotte County who are struggling to survive and simultaneously facing energy insecurity. CleanAirNow can help facilitate community engagement in communities that are overburdened with environmental

¹⁵ <https://ucs-documents.s3.amazonaws.com/misc/armourdale-general-plan.pdf>

hazards and air pollution, and Evergy should have been proactive in working with CleanAirNow to ensure this type of equitable conversation.

19. Issues pertaining to environmental justice, energy justice, equity, and inclusion are completely absent from the filed IRP. These words do not even show up in the IRP. Evergy's failure to define energy equity, environmental justice, and other key terms make it virtually impossible for the utility to meaningfully address these issues. As noted by the Company, "Evergy does not have definitions of equity, environmental justice, or disadvantaged community in the context of IRP analysis. The analyses in Evergy's Kansas IRP are consistent with the IRP framework included in the Commission's "Order Adopting Integrated Resource Plan and Capital Plan Framework".¹⁶ Based on this response, Evergy seems to be fixated on a narrow scope for the IRP wherein the commission's minimum standards become the de facto maximum boundaries. If that is the case, the Commission should set the minimum standards to be the best practices. Or, at the very least, elevate the standards to a much higher level.

20. There are plenty of good examples of other jurisdictions defining and addressing issues related to environmental justice and overburdened communities. The Synapse report identifies several examples that could be incorporated for future IRPs:

a) U.S. Tax Cut and Jobs Act of 2017 created the Opportunity Zone Program to provide incentives for investment in low-income communities throughout the country. The Synapse report identified multiple opportunity zones within Evergy's service territory including many near or encompassing existing fossil fuel infrastructure.

b) Energy equity can be assessed and improved in the context of the utility system and or utility planning by examining: (1) the distribution of costs and benefits and

¹⁶ Company Response to Interrogatories UCS 1-6

(2) the coincidence of costs and benefits with locations with higher energy burden. For example, the Northwest Power and Conservation Council periodically conducts its long-term IRP (called Power Plan) according to the Northwest Power Act, established by Congress in 1980.

c) Synapse report identifies several jurisdictions within Kansas, where the Company and Commission could use as a starting point for equity definitions.

Including:¹⁷

- *Kansas City transportation agencies addressed equity definitions in the 2050 Connected Kansas City Regional Transportation Plan. The plan included an analysis to identify environmental justice communities and evaluate whether the transportation investments included in the plan disproportionately burden or deny benefits to these communities.*¹⁸
- *The City of Lawrence, Kansas has also defined and mapped environmental justice communities to inform transportation planning.*¹⁹
- *The Kansas City metropolitan area outlined criteria for economically distressed neighborhoods with environmental concerns when it undertook a project with the U.S. EPA. The criteria included air quality, vacant and abandoned property, asthma, lead contamination, poor housing conditions, lack of clean water, flooding, lack of urban farming, illegal dumping and improper waste disposal, and children's health issues.*²⁰

21. Adjusting modeling inputs, scenarios, and analysis can be a critical way to address equity and environmental justice in an IRP. However, Evergy has never adjusted any

¹⁷ Synapse Report at 12-14

¹⁸ *2050 Connected KC Regional Transportation Plan*. <https://connectedkc.org/>.

¹⁹ City of Lawrence. *Environmental Justice*. <https://lawrenceks.org/mpo/environmental-justice/>.

²⁰ U.S. Environmental Protection Agency. *Environmental Justice Showcase Communities by Region*. <https://www.epa.gov/environmentaljustice/environmental-justice-showcase-communities-region#tab-7>.

modeling inputs or scenarios to reflect or analyze equity.²¹ This stands in sharp contrast to best practices in utility resource planning. As explained by the Synapse report:

Utilities can reflect the results of energy efficiency, renewable energy, and electric vehicle program participation studies conducted at the census tract level with other data sources to quantify levels of inequity by assessing the distributions of certain customer-sited technologies and solutions... Utilities can align remedies for past inequities with the level of disparity experienced by the community. Also, utilities can address potential future inequities proactively...Utilities can propose equity-related enhancements to their IRPs such as workforce development strategies and investments for communities adjacent to retiring fossil fuel plants.²²

22. The Synapse report further offers several specific examples of state utility commissions addressing these issues in resource planning dockets. For example, Arizona Public Service is proposing to invest \$144 million in three tribal communities with retiring coal-burning power plants. The plan will retrain workers, electrify regions that are off the power grid, and develop solar and wind plants.²³ Another example is in Michigan, where the PSC directed its staff to coordinate with the Department of Environment, Great Lakes, and Energy (EGLE) on the inclusion of appropriate public health and environmental justice considerations in future IRP cases.²⁴ EGLE developed an environmental justice screening tool that utilities could use to identify where there are vulnerable populations within their service territory as one way to start to identify vulnerable loads.²⁵ As noted by the Synapse report, “Such a tool would allow users to assess the impact fossil-fuel generation resources have on communities.” And, in Michigan, that

²¹ Company Response to Interrogatories UCS 1-13

²² Synapse Report at 19

²³ Ibid.

²⁴ State of Michigan. Before the Michigan Public Service Commission. In the matter, on the Commission’s own motion, to commence a collaborative to consider issues related to integrated resource and distribution plans. Case No. U-20633. August 20, 2020. <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t00000DcfXjAAJ>.

²⁵ Great Lakes Environmental Law Center Comments to the Michigan Public Service Commission. *U-20633 – Incorporating Environmental Justice Considerations in Future IRP Cases*. April 28, 2021. <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t00000NmsbtAAB>.

type of demographic analysis was performed for the communities living within three miles of every fossil-fuel generation resource owned or operated by DTE Energy. The analysis of demographic information of people who living within three miles of coal- and gas-fired generation resources demonstrated that a disproportionate amount of people of color live close to and are affected by fossil fuel fired generation resources (as compared to those that live elsewhere in the state).

23. Another way utilities are addressing issues of energy justice and/or equity is through performance metrics. There are several examples in the Synapse report where state commissions have mandated reporting on and/or consideration of performance metrics.

a) Maine’s statute requires the Maine Public Utilities Commission to assess how to maximize social welfare in its policy options which is accomplished by weighing market costs and benefits with the monetized values of societal benefits in a benefit-cost analysis.²⁶

b) The Minnesota Public Utilities Commission is statutorily mandated to consider externalities for all proceedings.²⁷

c) The Northwest Power and Conservation Council (NWPCC) recently launched a major initiative to incorporate equity in its IRP process.²⁸ Some of the notable recommendations regarding equity metrics include: revisiting the Council's cost-effectiveness methodology and framework to potentially integrate health, economic,

²⁶ Paul, Iliana, Peter Howard, Ph.D., and Jason A. Schwartz. Institute for Policy Integrity. New York University School of Law. *The Social Cost of Greenhouse Gases and State Policy: A Frequently Asked Questions Guide*. October 2017. https://policyintegrity.org/files/publications/SCC_State_Guidance.pdf.

²⁷ Ibid.

²⁸ Information on this webinar is available at: <https://www.nwcouncil.org/meeting/sif-2021-power-plan-and-dei-february-19-2021>.

equity, resilience, and societal costs and benefits into the Council's calculations;²⁹ and recommending that utilities segment their conservation and demand response potential by customer demographic characteristics and location to account for equity issues.

d) Rhode Island is also beginning to consider equity in utility planning processes, with a focus on incorporating equity in energy efficiency planning³⁰

24. However, performance metrics are another example wherein the minimum standards set forth by the Commission has become the maximum boundary for the Company when executing the IRP. The company does not have any performance metrics related to equity in the context of the IRP.³¹ The company explains its decision in response to discovery:

Public health, environmental, and/or social impacts are assessed when environmental regulations are established. Each alternative resource plan considered by the Company is based on resources that comply with environmental regulations. As such, no additional assessments in those areas are needed to evaluate alternative plans. Jobs impacts are not a component of the IRP framework included in the Commission's "Order Adopting Integrated Resource Plan and Capital Plan Framework" and thus are not included in IRP analyses.³²

25. Another element of addressing energy equity and energy justice is to deploy utility capital in such a way that targets and prioritizes those funds towards overburdened communities and helps ensure that the Company is proactive in attempting to alleviate those customers' burdens. This requires the IRP process to identify areas of need (such as communities that are overburdened by high energy bills and/or high levels of pollution) and develop strategies

²⁹ Empower Dataworks. 2021. *Diversity, Equity, and Inclusion – System Integration Forum Debrief Memo*. Prepared for the Northwest Power and Conservation Council. Available at: <https://www.nwcouncil.org/meeting/sif-2021-power-plan-and-dei-february-19-2021>.

³⁰ Synapse Report at 22

³¹ Company Response to Interrogatories UCS 1-8 and 1-9

³² Company Response to Interrogatories UCS 1-11

to alleviate the specific burdens faced by those communities. For example, an analysis of the cumulative emissions exposure might reveal that a community located near industrial facilities has been overburdened by sources of pollution outside of the direct control of Evergy, but that Evergy's continued reliance on fossil fuels has compounded the cumulative impacts of other sources of pollution. As a result, Evergy could look to preferentially reduce the output of power plants that contribute to local air pollution impacting that community through targeted deployment of replacement with zero emissions resources. An energy burden analysis might reveal that certain neighborhoods suffer from particularly acute energy burden and that additional low-income energy efficiency measures, targeted to those areas, might be helpful in alleviating that issue. As noted above, Evergy Kansas has an Income Eligible Weatherization (IEW) program for qualified residential customers. However, it does not appear that there is dedicated funding for this program. Dedicated funding needs to be provided to the IEW program to ensure the utility invests in these customers.³³

26. The IRP is the best venue for that type of analysis to take place. Then, as pointed out by the Synapse report, “[o]ther utility planning proceedings such as energy efficiency planning, non-wires alternatives, and grid modernization should address siting of resources agreed upon in the IRP.”³⁴ As is the case in New York, where utilities are required to provide information that allows DER developers to offer non-wires alternatives.³⁵

³³ Synapse Report at 32

³⁴ Synapse Report at 29

³⁵ Ibid.

Recommendations

27. Evergy seems to be fixated on the narrowest possible scope for the IRP wherein the commission's minimum standards have become the de facto maximum boundaries. With that in mind, the Commission should elevate the minimum standards to better reflect current best practices in resource planning. Unless the Company is willing expand the scope of the IRP to reflect the needs and desires of stakeholders, explicit regulatory standards are the only way to ensure that Kansas IRPs reflect industry best practices. The ability for the Commission to set new standards for the IRP framework are well within its regulatory authority. The Company implicitly recognizes that the commissions' ability to change the framework to incorporate equity.³⁶ In order to accomplish this, UCS and CleanAirNow recommend that for future IRPs that KCC directs Evergy to modify IRP framework to:

- a) Hold stakeholder meetings that are open to the public and not limited to formal intervenors,
- b) Remove barriers to intervening in the IRP process including modifying rules that require legal representation to participate in the IRP process,
- c) Have stakeholder meetings occur at various hours of the day to accommodate varied schedules, including meetings after 5pm to accommodate individuals that might work 9-5 jobs,
- d) Have translation services at all or most of the public stakeholder meetings,
- e) Provide other services to stakeholder participants such as financial compensation or family care services,

³⁶ Company Response to Interrogatories UCS 1-14

- f) Form a stakeholder advisory board that includes local members of the community or individuals that serve as representatives to overburdened communities,
- g) Include a dedicated chapter in the IRP related to issues around equity, environmental justice, and energy affordability. This chapter should include: Definitions of key terms including environmental justice and overburdened community; identification and measurement of performance metrics; and, detailed analysis, including geospatial analysis, of how the company plans will impact communities in the Evergy service territory.
- h) Prioritize preferred scenarios with consideration of equity-related metrics and/or environmental justice metrics,
- i) Hold a stakeholder meeting, open to the public and not limited to intervenors, prior to commission order.

28. UCS and CAN further recommends specific modification to Evergy programs that the KCC should require Evergy to implement:

- a) Dedicated funding needs to be provided to the IEW program to ensure the utility invests in these customers,
- b) Solar and storage programs designed to address the specific barriers faced by overburdened customers. These programs should be part of Evergy's strategy for addressing system constraints and needs. All these programs should have funding allocations to ensure investments are consistently provided at appropriate levels.³⁷
- c) Carve outs to any current or future residential energy efficiency, solar, or storage programs for low-income customers that are reflective of the percent of low-income

³⁷ Synapse Report at 30

customers served by Evergy. As a point of reference, 11.4 percent of Kansans live in poverty.³⁸

29. Considering the Company's actions in Docket No. 22-EKCE-141- PRE, where the company has proposed altering its plans at the Lawrence facility and revising the schedule of renewable energy build out, it seems evident to UCS and CleanAirNow that the Company believes that the current resource plan, as filed with the commission in this docket, is not prudent or reasonable. The Company's action in Docket No. 22-EKCE-141-PRE severely undermines the legitimacy of this IRP and erodes trust with stakeholders. As such, UCS and CleanAirNow's final recommendation is that the Commission should reject the current IRP on file and order the company to re-start the IRP process, including stakeholder engagement. And that this IRP re-start include the recommendations and provisions outlined in these comments.

/s/Joseph Daniel

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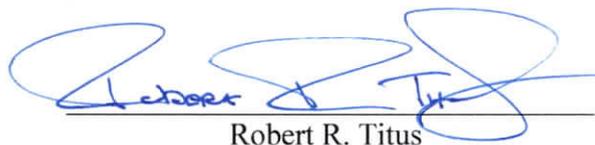
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³⁸ <https://www.census.gov/quickfacts/KS>

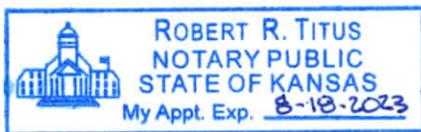
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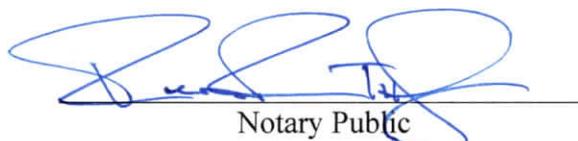
STATE OF KANSAS)
) cc.
COUNTY OF JOHNSON)

I, Robert R. Titus, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Union of Concerned Scientists and CleanAirNow; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge and belief.


Robert R. Titus

Subscribed and sworn to before me this 26th day of October 2021.




Notary Public

My Commission Expires: 8-18-2023

CERTIFICATE OF SERVICE

I do hereby certify that on this 27th day of October 2021, the foregoing Joint Comments of The Union Of Concerned Scientists and Clean Air Now Regarding Evergy Kansas Metro and Evergy Kansas 2021 Integrated Resource Plan was electronically filed with the Kansas Corporation Commission and that one copy was delivered electronically to all parties on the service list as follows:

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Opportunities for Evergy Kansas to Address Energy Equity within its Integrated Resource Plan and Other Planning Processes

Final report

**Prepared for the Union of Concerned Scientists and
CleanAirNow**

September 21, 2021

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CONTENTS

EXECUTIVE SUMMARY	I
1. BACKGROUND	1
1.1. Report Purpose and Organization	1
1.2. Overburdened Customers and Environmental Justice Communities.....	2
1.3. Impacts of Inequities	4
1.4. Federal and State Actions to Address Inequities	5
2. EQUITY AND THE EVERGY KANSAS IRP	9
3. INCORPORATING EQUITY CONSIDERATIONS INTO UTILITY PLANNING PROCESSES.....	11
3.1. Equity Definitions	12
3.2. IRP Requirements	15
3.3. Performance Mechanisms and Evaluation	21
3.4. Programs Specifically Designed to Reach Overburdened Customers	26
3.5. Funding Allocations for Overburdened Customers	31
4. RECOMMENDATIONS	32

EXECUTIVE SUMMARY

Explicitly addressing energy equity in energy planning processes and practices is a new and emerging topic for utilities and their regulators. Energy equity involves a just distribution of costs and benefits of the energy system. It ensures the accessibility of affordable and clean energy across customers in a utility service territory. Energy equity also involves the ability of customers to participate in, provide input on, and influence decision-making processes that impact them.

There are already a wide range of practices in use in jurisdictions across the country that can be applied in Kansas. This report characterizes the current landscape of energy equity practices, identifies leading states, describes their policies and practices, and provides resources with more detailed information on the policies and practices. We identify the 16 state governments that have enacted environmental justice regulations or policies including: Arkansas, California, Colorado, Delaware, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Virginia, and Washington. We also find and describe approaches to improve energy equity used by utilities in 23 states including: California, Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, New Hampshire, New York, Nevada, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Washington, and West Virginia.

With this information in hand, Evergy and the Kansas Corporation Commission (KCC or Commission) should work together to improve the consideration of equity in their electricity-related policies, practices, and decision-making, with a focus on opportunities in the utility's 2021 integrated resource plan (IRP). Evergy's Kansas IRP filing does not mention equity as a goal, does not identify strategies to improve equity, does not include a resource planning scenario with higher investments in strategies that improve equity, does not select scenarios with consideration of equity-related metrics among other metrics, and does not include differential treatment for overburdened customers and environmental justice communities. As the stakeholders involved in the process were limited to the approved intervenors, it is not evident that overburdened customers and environmental justice communities participated in the development of the IRP. An intervenor is a party who has perspectives essential to a determination and whose standing has been granted by a Commission for all or a portion of the proceedings.

States that lead the country in addressing equity: (1) identify and prioritize the goal of equity; (2) define the meaning of equity; (3) cease inequitable practices and establish protections to ensure the inequities do not continue; (4) direct investments to remedy inequities and address gaps in services; (5) proactively identify and engage community members and partners who can drive equitable outcomes; (6) streamline and coordinate efforts to maximize the impact of limited available time and resources and provide clarity, consistency, and transparency; and (7) establish ways to evaluate progress on equity.

With these objectives in mind, we recommend the following initial steps for the KCC and Evergy:



1. Evergy should work with local organizations such as CleanAirNow, community members, and regulators to define the terms *overburdened customer*, *environmental justice community*, and *equity*, and map these definitions. Evergy, the KCC, and other community members should review the relevant approaches and select a definition and criteria appropriate for application to the entire state. Evergy should then evaluate its existing plants and programs relative to this definition. Also, utilities commonly maintain a *do not disconnect* list, which is a list of customers with life-sustaining assistive technologies and medical devices that operate on electricity or batteries; there may be devices not currently included and customers left off the list. Evergy should review and update its *do not disconnect* list with community input.
2. There are many opportunities related to the IRP requirements. To start, the KCC should immediately hold an equity-focused work study session that is open to the public and publicly noticed, invite representatives of overburdened customers and environmental justice communities to this session, and document all comments received during this session for application to this proceeding and others. The KCC should also identify dates by which Evergy needs to respond to comments and a final filing date by which Evergy needs to provide its final IRP to the KCC, and then direct Evergy to respond to and incorporate the comments into its IRP.

Next, we recommend Evergy: (1) add a scenario to its IRP with higher distributed energy resource (DER) program investment focused on serving overburdened customers and environmental justice communities; (2) for locations in or near environmental justice communities, avoid siting fossil fuel resources and prioritize fossil fuel plant retirements and site redevelopment with clean energy solutions; and (3) support just and equal transitions from large centrally located power plants to more distributed, clean energy resources through proactive strategies such as workforce development and employment for those who live and work in environmental justice communities. To support the higher DER program investment scenario in its IRP, we suggest Evergy develop a suite of programs to bring cost-effective and rate-based distributed solar, storage, and efficiency measures (such as weatherization, heat pumps and appliances, and electric vehicles) to overburdened communities that do not typically have access to these types of resources.

Finally, the KCC should also update its IRP requirements to expand content in key areas and incorporate emerging best practices such as: (1) explicitly including equity as a goal; (2) laying out an open and public process that allows for frequent and diverse community participation with reasonable timing, time commitments, and schedules; (3) directing Evergy to respond to and incorporate the feedback received from community members during the public engagement efforts and from written comments; (4) including an independent facilitator to coordinate community participation and ensure documentation and consideration of community input; and (5) requiring inclusion of an equity chapter and expanded implementation plan in the IRP.

3. The KCC should require identification of equity metrics, documentation of differential strategies and solutions for overburdened customers and environmental justice communities, and application of scoring/ranking of investments in strategies and solutions for overburdened customers and environmental justice communities. A new equity chapter and expanded implementation plan in Evergy's IRP should incorporate



the equity metrics and results of the scoring/ranking of strategies and solutions. The Commission should also work with community members to set targets and actions to achieve the targets in areas where performance is lacking.

4. We recommend the KCC, if allowed by law, implement an energy assistance program in place of or in addition to the Low-Income Energy Assistance Program to provide better support to the broader group of overburdened customers and tie support to the ability to pay. We also recommend that Evergy partner with trusted local organizations advancing solutions for overburdened customers in environmental justice communities (including CleanAirNow) to help enroll these customers in the program.
5. Evergy should add services to supplement the weatherization offered under the Weatherization Assistance Program and Income Eligible Weatherization programs to address the energy-related economic and health inequities suffered by environmental justice communities. For example, the KCC can require Evergy to implement comprehensive energy efficiency, solar, storage, and electric vehicle programs that are designed to address the specific barriers faced by overburdened customers. These programs should be part of Evergy's strategy for addressing system constraints and needs. All these programs should have funding allocations to ensure investments are consistently provided at appropriate levels.
6. While the Cold Weather Rule provides short-term protection against disconnection, we recommend it not be limited to more specific time periods. Instead, it should be revised to increase protections against shutoffs for overburdened customers or prohibit service disconnections for non-payment for the entire summer and winter seasons.

In states making progress on equity, leadership and coordination is paramount to success. Kansas is no different; the state would benefit from better coordination of equity-related efforts in transportation, energy, and other social services across the state. Leaders can also facilitate statewide definitions of overburdened customers and environmental justice communities, along with maps of these populations, to ensure greater consistency and enable more collaboration. And finally, leaders can reduce financial barriers to participation in decision-making processes. For example, an executive order or legislation granting intervenor funding to community members or a community advisory board comprised of those living in environmental justice communities would enable greater participation by overburdened customers. Acting together, leaders and decision-makers in Kansas can use these recommendations to make quicker and more meaningful change.



1. BACKGROUND

1.1. Report Purpose and Organization

The purpose of this report is to guide Evergy Kansas and the Kansas Corporation Commission in improving equity in their electricity-related policies, practices, programs, and decision-making, with a focus on opportunities related to the utility's recently filed IRP. Within the energy system, equity involves a just distribution of costs and benefits of investments in the electric grid and other energy infrastructure and the accessibility of affordable and clean energy across customers in a utility service territory. Energy equity also involves the ability of customers to participate in, provide input on, and influence decision-making processes that impact them.

Energy equity is an emerging topic and explicitly addressing energy equity in energy planning processes and practices is relatively new for utilities and their regulators. The practices employed by leading utilities and states to date highlight the following deficiencies regarding energy equity in Evergy's Kansas IRP filing: the IRP filing does not mention equity as a goal, it does not identify strategies to improve equity, it does not include a resource planning scenario with higher investments in strategies that improve equity, it does not select scenarios with consideration of equity-related metrics among other metrics, and it does not include differential treatment for environmental justice communities and overburdened customers.

Review of the filing materials highlight opportunities to improve Evergy's stakeholder process. The Evergy 2021 Integrated Resource Plan Overview states that the Preferred Plan was "developed through an extensive stakeholder process to meet the diverse needs of our customers and communities."¹ This process is further described as follows:

Beginning in early April 2020, we involved stakeholders in each step of developing this Plan – refining assumptions and planning uncertainties, gathering inputs, conducting analysis, and reviewing results. We did this through six stakeholder meetings in both Kansas and Missouri, which involved all parties participating in the IRP docket. Beyond the regulatory process, we gathered customer sentiment through ongoing customer research to ensure we understood our customers' priorities, which continue to align with our efforts to provide safe, reliable, affordable power while responsibly transitioning toward sustainable options.²

It is important to note that stakeholders invited into this process appear to be limited to the formal intervenors in the proceeding. In other words, the meetings were not open to the public. As the

¹ Evergy. *2021 Integrated Resource Plan Overview*. April 2021. <https://www.evergy.com/-/media/documents/smart-energy/evergy-2021-irp-overview.pdf?la=en>. Page 3.

² Id. Page 14.



stakeholders involved in the process were limited to the approved intervenors, it is not evident that overburdened customers and environmental justice communities participated in the development of the IRP.

There are a wide range of policies and practices in use to improve equity in jurisdictions across the country that can be applied in Kansas. This report seeks to characterize the current landscape of policies and practices, identify jurisdictions leading the way, provide resources with more information on how to improve equity, and leverage this information to recommend some initial steps for Evergy in Kansas.

This report contains three main sections:

- This first section, *Background*, defines the terms *overburdened customer* and *environmental justice community*, describes the reasons for inequity, explains the impacts of inequity, and summarizes federal and state actions to address inequities.
- The second section, *Overview of the Evergy Kansas IRP*, provides a high-level overview of Evergy's Kansas IRP, including goals, process, timing, and content.
- The third section, *Incorporating Equity Considerations into Utility Planning Processes*, describes five types of opportunities to incorporate equity considerations into utility planning processes. The section also contains recommended next steps for each opportunity type.
- The third section, *Recommendations*, synthesizes the recommendations from each opportunity into a concrete and succinct list of initial actions that can be implemented by Evergy Kansas to improve equity in its IRP, as well as in other planning processes to come.

The recommendations in this report provide a useful starting point in a rapidly evolving environment. However, accomplishing these actions should not be viewed as an end point. Monitoring and evaluation of performance will provide valuable insight into additional next steps and inform a longer-term approach.

1.2. Overburdened Customers and Environmental Justice Communities

Until recently, investments proposed by utilities in integrated planning proceedings such as IRPs were presented for regulatory review in an aggregated and generalized way across the jurisdiction. These plans offered little to no detail on how utilities were considering the wide range of geographies and customer types across their service territories. While many utilities and regulators identified fairness or equity as one of several priorities or goals, typically alongside reliability and cost efficiency, they applied these terms differently than recommended by this report: they charge most customers the same rates and most customers receive the same service offerings.

However, all residential customers, or even low-income customers, are not the same. Customers:



- face different levels of discrimination and institutional racism, which result in or exacerbate problems such as inability to access energy-efficient, safe, and healthy housing;
- experience different risks when it comes to shutoffs, service disconnections, and service terminations;
- encounter different types of energy infrastructure sited near where they live and work, with different health and environmental impacts due to this infrastructure;
- have different levels of trust in government and institutions; and
- confront different challenges related to employment.

Overburdened customers and environmental justice communities bear disproportionately higher costs and health and environmental impacts of the energy system. Overburdened customers and environmental justice communities can include:

- low- and moderate-income customers;
- people of minority cultures and ethnicities;
- people of color;
- individuals whose primary spoken and/or written language is not English;
- more vulnerable customers such as seniors, veterans, individuals with disabilities, children, and individuals with certain medical conditions (including those that depend on life-sustaining medical devices that run on electricity or batteries);
- individuals living in unsafe and inefficient housing;
- individuals living in geographic areas facing frequent, high-consequence weather events;
- customers residing in multi-family building types; and
- renters.

Overburdened customers and environmental justice communities also have fewer opportunities, such as less ability to access affordable and clean energy resources. These customers have less time and fewer resources to engage in decision-making that could improve their condition. And these customers and communities tend to be most likely to experience the worsening impacts of climate change, less able to move out of harm's way, and less able to recover quickly.³

In the past, utilities often used low-income customers as a proxy for overburdened customers. At best, federal, state, and utility practices focused on addressing equity within discounted rates, energy assistance, and energy efficiency programs with a focus on low-income customers. Utilities also maintain lists of customers with life-sustaining assistive technologies and medical devices such as breathing machines, power wheelchairs, and scooters that need electricity or batteries to operate. But the definition of *overburdened customer* is broader than *low-income customer* and can also include race, age, health, mobility, location, and living conditions, among other demographic and sociographic factors. While low-income customers are important, utilities should address more overburdened

³ Yancey-Bragg, N'dea and Rick Jervis. February 2021. "Texas' winter storm could make life worse for Black and Latino families hit hard by power outages." *USA Today*. <https://www.usatoday.com/story/news/nation/2021/02/20/texas-ice-storm-blackouts-minorities-hardest-hit-recovery/4507638001/>.

customers. Utilities can be explicit and intentional about targeting investments such that they benefit those who have endured the highest cumulative energy system impacts.

1.3. Impacts of Inequities

Overburdened customers often pay a greater percentage of their income for electricity service (referred to as energy burden); bear higher health impacts from the air, soil, and water pollution associated with providing electricity; and face greater environmental health hazards from electric utility reliance on fossil fuels. The sections below provide more detail on each inequity.

Energy Burden. Overburdened customers often spend a larger portion of their income on energy bills, which is commonly referred to as energy burden. The inefficient, run-down housing conditions common in many environmental justice communities cause higher energy use which—when coupled with lower incomes—contributes to higher energy burden.⁴ High energy burden is an economic, social, and public health concern: those with high energy burdens report having to choose between necessities such as healthcare, food, and home heating or cooling.⁵

Households in predominantly minority communities have much higher energy burdens (as much as 27 percent higher) than households with comparable income levels in predominantly white, non-Hispanic neighborhoods.⁶ Nationwide, roughly 50 percent of African American families report having received a disconnection notice, sacrificing necessities to pay energy bills, or keeping the home at an unhealthy or unsafe temperature (collectively, energy insecurity events⁷) as compared to less than 30 percent of white households.⁸

In the West North Central part of the United States, including Kansas, rural white households spend 3.9 percent of income on energy in the home, compared to 5.4 percent for rural non-white households. The upper quartile of energy burden for rural non-white households in this region is 12.1 percent, which is well over one threshold commonly cited for energy affordability (6 percent of income).⁹ Energy burdens

⁴ Hernandez, D. "Understanding 'energy insecurity' and why it matters to health." Published online 2016 Aug 21. doi: 10.1016/j.socscimed.2016.08.029.

⁵ Drehobl, A., L. Ross. 2016. *Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities*. ACEEE. <https://aceee.org/>.

⁶ Kontokosta, C., V. Reina, and B. Bonczak. 2019. "Energy Cost Burdens for Low-Income and Minority Households." *Journal of the American Planning Association*, DOI: 10.1080/01944363.2019.1647446.

⁷ Energy insecurity is the inability to adequately meet basic household energy needs (Hernandez, D., 2016).

⁸ U.S. Energy Information Administration. 2018. "One in three U.S. households faces a challenge in meeting energy needs." *Today in Energy*, September.

⁹ Ross, L. A. Drehobl, and B. Stickles. 2018. *The High Cost of Energy in Rural America: Household Energy Burdens and Opportunities for Energy Efficiency*. ACEEE. <https://aceee.org/>.



are also very high for urban, non-white households. African American households in the Kansas City metropolitan area have a median energy burden of 7.9 percent.¹⁰

Health Impacts. Exposure to air, soil, and water pollution from electric generation and ground transportation (especially from heavy freight diesel-powered vehicles) carries significant health impacts, including increased morbidity and mortality. Fine particulate air pollution exposure presents a major health risk and varies among different demographic groups, including along race and ethnicity lines.¹¹ African Americans experience more deaths associated with health impacts from coal, natural gas, and other fossil fuel electric generation in the United States than other racial and ethnic groups.¹²

Health may also be affected by energy affordability and insecurity. Populations with lower socioeconomic status are more vulnerable to mortality during extreme heat events.¹³ As noted above, low-income and African American populations are more likely to report keeping their homes at unhealthy or unsafe temperatures.

Environmental Impacts. Climate change is causing and will likely continue to cause negative health impacts, which are particularly concerning for populations and communities that have reduced mobility and capacity to cope with climate variability. These populations include low-income households, some communities of color, immigrant groups, Indigenous peoples, children and pregnant women, the elderly, and persons with disabilities or chronic medical conditions.¹⁴ The high energy burdens and energy-related environmental and public health burdens characteristic of environmental justice communities mean that they face increased risk from climate-related impacts; they typically do not have the economic means to move out of harm's way during an extreme weather event or relocate to areas with less climate risk. In addition, climate change is expected to lead to more intense heat waves, leaving lower income communities more vulnerable to heat-stress related health impacts.

1.4. Federal and State Actions to Address Inequities

Energy justice is an increasingly important part of legislative and regulatory proceedings at both the federal and state levels. The topics of discussion and policy often include reducing emissions, lessening energy burden, and providing employment.

¹⁰ Drehobl, A., L. Ross. 2016. *Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities*. ACEEE. <https://aceee.org/>.

¹¹ Thind, M., C. Tessum, I. Azevedo, and J. Marshall. 2019. "Fine Particulate Air Pollution from Electricity Generation in the US: Health Impacts by Race, Income, and Geography." *Environ. Sci. Technol.* 2019, 53, 23, 14010-14019. November 20, 2019. <https://doi.org/10.1021/acs.est.9b02527>.

¹² Ibid.

¹³ Curriero, F., K. Heiner, J. Samet, S. Zeger, L. Strug, J. Patz. "Temperature and Mortality in 11 Cities of the Eastern United States." *American Journal of Epidemiology*, Volume 155, Issue 1, 1 January 2002, Pages 80–87, <https://doi.org/10.1093/aje/155.1.80>.

¹⁴ U.S. Global Change Research Program. *Climate and Health Assessment: Populations of Concern*. <https://health2016.globalchange.gov/populations-concern>, accessed August 5, 2021.



Federal Actions. In 2021, two Executive Orders and the *Public Engagement at FERC Act* were signed to address equity. On January 20, 2021, President Biden signed an *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (Executive Order 13985). The Order defines equity as:

“ the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities¹⁵ that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.”¹⁶

The Order: (1) establishes a government-wide initiative to advance diversity, equity, inclusion, and accessibility in the federal workforce; (2) charges all agencies with assessing the current state of diversity, equity, inclusion, and accessibility within their workforces, and with developing strategic plans to eliminate any barriers to success; (3) directs agencies to seek opportunities to establish or elevate Chief Diversity Officers; (4) expands diversity, equity, inclusion, and accessibility training; (5) addresses workplace harassment, including sexual harassment; (6) reduces the federal government’s reliance on unpaid internships; (7) advances pay equity; (8) advances equity in the workplace for individuals with disabilities; (9) advances equity in the workplace for LGBTQ+ public servants; (10) builds a more diverse pipeline into public service through new recruitment partnerships; (11) expands federal employment opportunities for formerly incarcerated individuals; (12) advances equity in professional development; and (13) improves the collection of demographic data about the federal workforce.¹⁷

The Office of Management and Budget (OMB), in partnership with the heads of agencies, is responsible for identifying effective methods for assessing whether agency policies and actions (equitably serve all eligible individuals and communities, particularly those that are underserved. In July, OMB released a report identifying equity-assessment methods and approaches for inclusion in agency Equity Action Plans.¹⁸ The OMB is also responsible for producing a set of recommendations for improving regulatory review. These recommendations are intended to provide concrete suggestions on how the regulatory review process can promote public health and safety, economic growth, social welfare, racial justice,

¹⁵ The term underserved communities is defined as: “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.”

¹⁶ White House Briefing Room. *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

¹⁷ White House Briefing Room. *FACT SHEET: President Biden Signs Executive Order Advancing Diversity, Equity, Inclusion, and Accessibility in the Federal Government*. June 25, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/25/fact-sheet-president-biden-signs-executive-order-advancing-diversity-equity-inclusion-and-accessibility-in-the-federal-government/>.

¹⁸ *Study to Identify Methods to Assess Equity: Report to the President*. July 2021. https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-Report-on-E013985-Implementation_508-Compliant-Secure-v1.1.1.pdf.

environmental stewardship, human dignity, equity, and the interests of future generations. The recommendations will also include proposals that would ensure that regulatory review serves as a tool to affirmatively promote regulations that advance these values and will be informed by public engagement with community members.¹⁹

Signed on January 27, 2021, the *Executive Order on Tackling the Climate Crisis at Home and Abroad* established the policy that the federal government will “lead the Nation’s effort to combat the climate crisis by example — specifically, by aligning the management of Federal procurement and real property, public lands and waters, and financial programs to support robust climate action.”

The Order: (1) establishes a White House Environmental Justice Interagency Council and a White House Environmental Justice Advisory Council to prioritize environmental justice and ensure a whole-of-government approach to addressing environmental injustices; (2) creates a government-wide Justice40 Initiative with the goal of delivering 40 percent of the overall benefits of relevant federal investments to environmental justice communities; and (3) initiates the development of a Climate and Environmental Justice Screening Tool.^{20,21}

Also at the federal level, U.S. Code 825q-1, also known as the *Public Engagement at FERC Act*, established that eligible energy customers could receive compensation for participating in FERC proceedings and can allow a more diverse set of voices, both institutions and individuals, to participate in FERC proceedings. To receive compensation, eligible customers must demonstrate that participating in the proceeding is a financial hardship. Furthermore, the applicable proceeding must be deemed significant, and the total compensation must be approved by the advisory committee. The Act also established the Office of Public Participation and Consumer Advocacy to represent energy customers in select proceedings.

State Legislation. States around the country have enacted various legislation to support energy justice. Inherently a wide-ranging topic, this legislation varies in its focus. Common topics include workforce development and jobs; funding for select groups; and addressing energy burden, emissions, and health.

Illinois recently introduced the Clean Energy Jobs Act (CEJA) to promote clean energy and to diversify its workforce.²² The goal of CEJA is to “improve air quality, which reduces risk and susceptibility to COVID-19 and put people back to work, especially in communities of color and places where coal-fired electricity plants operate.”²³ Key items in the proposal include 100 percent carbon-free power by 2030,

¹⁹ Modernizing Regulatory Review § 2(a), 86 Fed. Reg. 7223 (Jan. 20, 2021). 4 Id. § 2(b)(3).

<https://www.federalregister.gov/documents/2021/01/26/2021-01866/modernizing-regulatory-review>.

²⁰ White House Briefing Room. *Executive Order on Tackling the Climate Crisis at Home and Abroad*. January 27, 2021.

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

²¹ For more information, see <https://www.epa.gov/ejscreen>.

²² H.B. 3624. 101st General Assembly. Clean Energy Jobs Act. (2021) Available at:

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3624&GAID=15&DocTypeID=HB&SessionID=108&GA=101>.

²³ Illinois Clean Jobs Coalition. Illinois Clean Jobs Act. <https://ilcleanjobs.org/who-we-are/clean-energy-jobs-act/>.



increased efficiency programs, and expanded access to clean energy careers across the state.²⁴ Illinois is not the first to consider such legislation. Other states, including Colorado,²⁵ Washington,²⁶ and Rhode Island²⁷ have also introduced or passed legislation that included policies related to diversifying the future of clean energy and environmental employment.

In addition to focusing on the workforce, there is a growing movement to target environmental justice communities with state funding—with goals like the Justice40 Initiative. New York passed the Climate Leadership and Community Protection Act (CLCPA) in 2019.²⁸ This legislation establishes the goal of 100 percent zero-emission electricity by 2040 and stipulates that "actions undertaken by New York state to mitigate greenhouse gas emissions should prioritize the safety and health of disadvantaged communities, control potential regressive impacts of future climate mitigation and adaptation policies on these communities, and prioritize the allocation of public investments in these areas."²⁹ Furthermore, it requires that at least 35 percent of the "overall benefits of spending on clean energy and energy efficiency programs, projects or investments" go to disadvantaged communities. Washington State³⁰ is expected to pass legislation with the same goal in the near term, and California³¹ passed legislation in 2012 requiring 25 percent of funds to benefit overburdened communities.

Other states have also recently passed equity-related legislation. New Jersey Senate Bill 232 allows the New Jersey Department of Environmental Protection to deny a permit for a new facility if it would affect an already overburdened community.³² It simultaneously requires a list of these communities be published online. Similarly, in North Carolina, House Bill 784 would allow the North Carolina Department of Environmental Quality to deny a permit for a waste management facility based on environmental

²⁴ Citizens Utility Board. "What is the Clean Energy Jobs Act." Accessed August 12, 2021. Available at: <https://www.citizensutilityboard.org/clean-energy-jobs-act/>.

²⁵ Colorado Department of Labor and Employment. 2020. *Colorado Just Transition Action Plan*. Available at: <https://cdle.colorado.gov/sites/cdle/files/documents/Colorado%20Just%20Transition%20Action%20Plan.pdf>

²⁶ S.B. 5116. Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future. (2019). Available at: <https://app.leg.wa.gov/bills/summary?BillNumber=5116&Initiative=false&Year=2019>.

²⁷ S. 0078. Relating To State Affairs and Government - 2021 Act on Climate. (2021) Available at: <http://webserver.rilin.state.ri.us/BillText/BillText21/SenateText21/S0078.pdf>.

²⁸ S.B. S6599. Relates to the New York State Climate Leadership and Community Protection Act. (2019). Available at: <https://www.nysenate.gov/legislation/bills/2019/s6599>.

²⁹ Id. p. 3

³⁰ S.B. 5126. Concerning the Washington Climate Commitment Act. (2021) Available at: <https://app.leg.wa.gov/bills/summary?BillNumber=5126&Initiative=false&Year=2021>.

³¹ S.B. 535. An act to add Sections 39711, 39713, 39715, 39721, and 39723 to the Health and Safety Code, relating to climate change. (2012). Available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0501-0550/sb_535_bill_20120930_chaptered.pdf.

³² S. 232. Requires DEP to evaluate environmental and public health stressors of certain facilities on overburdened communities when reviewing certain permit applications. (2020) Available at <https://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=S232>.



justice designations.³³ Other states, including Oregon,^{34,35} Massachusetts,³⁶ Virginia,³⁷ and Connecticut³⁸ are also considering or enforcing programs or policies related to energy and environmental justice.

Lastly, nine states provide intervenor funding for customers who want to participate in utility proceedings, including: California, Colorado, Hawaii, Idaho, Maine, Michigan, New Hampshire, Oregon, and Wisconsin.³⁹

2. EQUITY AND THE EVERGY KANSAS IRP

Evergy's April 2021 IRP for Missouri and Kansas is the first IRP filed by the utility in these two service territories. On May 24, 2018, the Commission issued *An Order Approving Merger Application of Westar Energy, Inc. and Kansas Gas and Electric Company (Westar), Great Plains Energy Incorporated (Great Plains) and Kansas City Power & Light Company (KCP&L) to form Evergy, Inc* in Docket No. 18-KCPE-05-MER. In paragraph 94 of its merger order, the Commission required Westar and KCP&L to work with the parties to develop and submit to the Commission a reporting format for the IRP process.

On September 4, 2018, the Citizens' Utility Ratepayer Board (CURB), Commission Staff (Staff), KCP&L, and Westar submitted their *Joint Filing Regarding Capital Plan and Integrated Resource Plan Reporting Format*, proposing KCP&L and Westar jointly file a report with two sections: (1) capital plan reporting and (2) IRP reporting. Below is a summary of the IRP requirements and guidance in this framework with a focus on goals, process, timing, and content.

³³ H.B. 784. An Act to Require Consideration of The Cumulative Impact of a Proposed Environmental Permitting Decision on Minority or Low-Income Communities and to Provide Enhanced Public Participation Opportunities for Permitting Decisions Impacting Overburdened Communities. (2021) Available at: <https://www.ncleg.gov/Sessions/2021/Bills/House/PDF/H784v1.pdf>.

³⁴ State of Oregon. "Utility Bill Payment Assistance." Accessed August 12, 2021. Available at: oregon.gov/ohcs/energy-weatherization/Pages/utility-bill-payment-assistance.aspx.

³⁵ S.B. 286 A. Relating to environmental justice; creating new provisions; amending ORS 182.535, 182.538, 182.542, 182.545, 182.550 and 183.333; and prescribing an effective date. (2021) Available at: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB286/A-Engrossed>.

³⁶ S.9. An Act creating a next-generation roadmap for Massachusetts climate policy. (2021) Available at: <https://malegislature.gov/bills/192/S9>.

³⁷ S.B. 883. A Bill to amend the Code of Virginia by adding in Chapter 26 of Title 2.2 an article numbered 36, consisting of sections numbered 2.2-2699.8 through 2.2-2699.13, relating to environmental justice council. (2020) Available at: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB883>.

³⁸ H.B. 7008. An Act Concerning Enhancements to The State's Environmental Justice Law. (2020). Available at: https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB07008&which_year=2020.

³⁹ Low Income Solar Policy Guide. *State Intervenor Compensation*. <https://www.lowincomesolar.org/wp-content/uploads/2020/12/State-Intervenor-Compensation.pdf>.



Goals. Though many IRP processes have focused on ensuring reliability and reasonable rates, an IRP process can include more than two objectives. For example, many states also consider customer equity and whether investments are in the public interest. The *Capital Plan Reporting & IRP Process Framework* adopted by the KCC on May 24, 2018 states that “[t]he resource modeling identifies the portfolio of resources that meets customer requirements at the lowest reasonable cost given an uncertain future.”⁴⁰ The framework establishes that the purpose of the IRP process is to “provide (1) resource modeling that identifies the portfolio of resources that meets customer requirements at the lowest reasonable cost given an uncertain future, and (2) to provide an optimal portfolio that is flexible and robust as determined by input sensitivity analyses and contingent scenario analyses.” To ensure that the framework does not limit the goals of the utility to solely reliability and least-cost procurement, the framework also clarifies that, “[n]othing in the process describe[d] herein shall in any way limit Staff and CURB’s right to evaluate the prudence of any property in accordance with 66-128, et seq. or to determine whether a return on investment should be included in any allowed recovery.” The IRP framework does not mention equity as a goal, nor does the framework offer any explicit direction related to equity.

Process. The KCC rejected a request from Sierra Club for direct involvement in the development of a reporting format for the IRP, thereby limiting the stakeholders responsible for producing the draft to the utility, consumer advocate, and Commission. However, the KCC allowed comments from the Sierra Club and other parties on the reporting format and allocated time in the process for parties to provide comments. Comments were collected through formal filing of written responses as well as less formally through a working group session. This session consisted of a presentation providing an overview of the IRP filing format and the opportunity for parties to ask questions about the IRP filing format. Evergy is also required to host a working group session with community members within 30 days of an IRP filing. Community members and intervenors then have 150 days to submit written comments on the IRP filing. However, the framework does not allow for community input prior to the development of the IRP nor does the framework provide guidance on the process by which the utility will consider and incorporate community feedback into its IRP or the timeline for any updates.⁴¹

Timing. The capital plan provides a five-year view of capital expenditures including the preceding calendar year, the current calendar year, and the next three calendar years. The capital plan is updated on an annual basis. The IRP plan provides a 10-year view and will be updated every three years. Between triennial filings, Evergy will provide an annual update.

Content. The framework states that the IRP includes the preferred generating resource plans, including any contingency plans, with sufficient detail to identify major investments or resource acquisitions. The IRP also includes a “stress test” on major investments, evaluating the potential impact of critical

⁴⁰ Kansas State Corporation Commission. 2018. *Order Adopting Integrated Resource Plan and Capital Plan Framework. Appendix A.* Docket No. 19-KCPE-096-CPL.

⁴¹ Kansas Corporation Commission. *Order Adopting Integrated Resource Plan and Capital Plan Framework.* In the Matter of the Capital Plan Compliance Docket for Kansas City Power & Light Company and Westar Energy, Inc. Pursuant to the Commission’s Order in 18-KCPE-095-MER. Docket No. 19-KCPE-096-CPL. February 6, 2020.

uncertain factors (such as significant changes in retail load growth). However, there is no specific requirement for equity-focused scenarios in the IRP, scenarios are not evaluated using any equity-related metrics, and there are no geographical or customer type considerations apparent in resource selection. Further, the capital plan is broader than the IRP and includes major investments in generation, environmental, transmission, distribution, and information technology. Geographical and customer type considerations are inherent in the planning of some of these types of investments, such as distribution planning. Since the IRP and capital investment plans should be coordinated, geographies and customer types should be considered in both.

In summary, Evergy's Kansas IRP filing does not:

- include equity as a goal;
- discuss strategies to improve equity;
- feature an equity-focused resource planning scenario, with higher investments in strategies that improve equity;
- prioritize preferred scenarios with consideration of equity-related metrics among other metrics; and
- incorporate differential treatment for environmental justice communities and overburdened customers.

Also, the stakeholders involved in the process were limited to the approved intervenors. Therefore, it is not evident that overburdened customers and environmental justice communities participated in the development of the IRP.

3. INCORPORATING EQUITY CONSIDERATIONS INTO UTILITY PLANNING PROCESSES

Kansas can draw from a wide range of practices across the country to improve energy equity in its utility planning process. This section describes the current landscape, identifies leading jurisdictions, and provides additional resources. It then recommends some initial steps for Evergy Kansas based on this information. These steps involve: (1) equity definitions, (2) IRP requirements, (3) performance mechanisms and evaluation, (4) programs specifically designed to reach overburdened customers, and (5) funding allocations for overburdened customers. Each section describes an opportunity for improvement, along with examples of jurisdictions making progress, before providing recommendations for ways Evergy Kansas could make progress in each area.



clean water, flooding, lack of urban farming, illegal dumping and improper waste disposal, and children's health issues.⁴²

Also, Kansas City transportation agencies addressed equity definitions in the *2050 Connected Kansas City Regional Transportation Plan*. The plan included an analysis to identify environmental justice communities and evaluate whether the transportation investments included in the plan disproportionately burden or deny benefits to these communities.⁴³ The plan applies the U.S. Department of Transportation (DOT) definition of environmental justice, which is “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The plan:

- considers people of color and people with low income;
- evaluates impacts, adverse effects, and benefits to environmental justice communities at a regional, system-wide level;
- considers the distribution of proposed investments to prevent the denial, reduction, or significant delay in the receipt of benefits by people of color and people with low income;
- examines how transportation investments impact populations with disabilities, older adults, veterans, households with no vehicle available, and people who use public transportation to get to work; and
- examines system-level impacts for transportation safety and uses its travel demand model to forecast demographic, trip, and travel time statistics to assess potential for disproportionately high and adverse impacts resulting from the recommendations of the plan.⁴⁴

The City of Lawrence, Kansas has also defined and mapped environmental justice communities to inform transportation planning.⁴⁵ The City uses the U.S. DOT definition from above with criteria for designation which includes individuals with low to moderate incomes and areas with higher minority populations.

Additionally, the U.S. *Tax Cut and Jobs Act of 2017* created the Opportunity Zone Program to provide incentives for investment in low-income communities throughout the country. An Opportunity Zone is a designated geographic area in which individuals can gain favorable tax treatment on their capital gains by investing those funds into economic activities in the area. The governor of each state can nominate up to 25 percent of its low-income census tracts (LIC) to be designated as Opportunity Zones. There are

⁴² U.S. Environmental Protection Agency. *Environmental Justice Showcase Communities by Region*. <https://www.epa.gov/environmentaljustice/environmental-justice-showcase-communities-region#tab-7>.

⁴³ *2050 Connected KC Regional Transportation Plan*. <https://connectedkc.org/>.

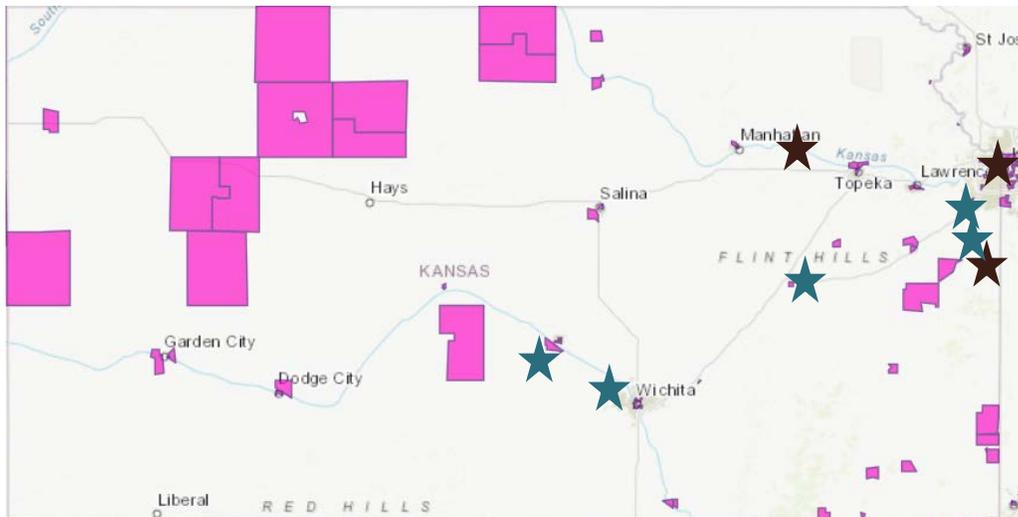
⁴⁴ *2050 Connected KC Regional Transportation Plan. Environmental Justice Analysis*. <https://connectedkc.org/wp-content/uploads/2020/04/Environmental-Justice-analysis.pdf>.

⁴⁵ City of Lawrence. *Environmental Justice*. <https://lawrenceks.org/mpo/environmental-justice/>.



8,764 census tracts classified as opportunity zones in the United States. Figure 2 shows a map of Kansas' opportunity zone census tracts. Evergy's coal plants are represented by brown stars and gas and gas/oil plants are represented by blue stars.

Figure 2. Map of Kansas Opportunity Zones and Fossil Fuel Plants



Source: U.S. Housing and Urban Development. "Opportunity Now." Opportunity Zones. <https://opportunityzones.hud.gov/>

Energy equity can be assessed and improved in the context of the utility system and or utility planning by examining: (1) the distribution of costs and benefits and (2) the coincidence of costs and benefits with locations with higher energy burden. For example, the Northwest Power and Conservation Council periodically conducts its long-term IRP (called Power Plan) according to the *Northwest Power Act*, established by Congress in 1980. The *Northwest Power Act* identifies the equitable distribution of benefits as a key goal and defines the goal as follows:

"839d(k). Equitable distribution of benefits. In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this chapter and the Administrator's obligations to particular customer classes, **insure that benefits under this section**, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, **are distributed equitably throughout the region.** [*Northwest Power Act* §6(k), 94 Stat. 2722.] [emphasis added]"⁴⁶

Recommendations

Evergy should define the terms *overburdened customer*, *environmental justice community*, and *energy equity* and map its definitions with community and regulatory review and input. While Kansas has

⁴⁶ Northwest Power Act. Section 839d. Available at: https://www.nwcouncil.org/reports/poweract/6_conservation.

neither adopted a state statute pertaining to equity nor defined and identified environmental justice communities, Kansas City and the City of Lawrence have environmental justice definitions and maps of the environmental justice census tracts within their communities that they use to evaluate transportation investments. The Opportunity Zone Program provides another approach for consideration. State leaders, Evergy, the KCC, and other community members should work together to establish a common statewide definition. Evergy should then evaluate its existing plants and programs relative to this definition.

Evergy also should review and update its *do not disconnect* list with community input. There may be devices not currently included and customers left off the list. For example, the list should include: all oxygen-related medical devices including respirators and ventilators; all positive airway pressure devices, including but not limited to nebulizers; all power mobility devices; and suction equipment including but not limited to equipment used in dialysis.

3.2. IRP Requirements

Description and Examples

IRP requirements provide direction to utilities on what to include in their IRPs. IRP requirements often include guidance on goals, process (including community involvement), timing, and content, among other topics. The sections below provide examples of equity-related requirements in IRPs for each topic area.

Goals. In Michigan, several cases before the Michigan Public Service Commission (PSC) have raised the potential impact of utility plans on public health. Also, Governor Whitmer created the Michigan Inter-Agency Environmental Justice Response Team, of which the PSC is an active participant, to ensure that all Michigan residents benefit from the same protections from environmental hazards. In an August 2020 order, the PSC directed its staff to coordinate with the Department of Environment, Great Lakes, and Energy (EGLE) on the inclusion of appropriate public health and environmental justice considerations in future IRP cases.⁴⁷ The Governor’s direction also states, “[f]or advisory opinions relating to IRPs under both MCL 460.6s and MCL 460.6t, the Department must include considerations of environmental justice and health impacts under the Michigan Environmental Protection Act. The Commission’s analysis of that evidence must be conducted in accordance with the standards of the IRP statute and the filing requirements and planning parameters established thereto.”⁴⁸

⁴⁷ State of Michigan. Before the Michigan Public Service Commission. In the matter, on the Commission’s own motion, to commence a collaborative to consider issues related to integrated resource and distribution plans. Case No. U-20633. August 20, 2020. <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000DcfXjAAJ>.

⁴⁸ State of Michigan Office of the Governor. *Executive Directive No. 2020-10 on Building a Carbon-Neutral Michigan*. September 23, 2020. https://content.govdelivery.com/attachments/MIEOG/2020/09/23/file_attachments/1553296/ED%202020-10%20Carbon_Neutral_Goal.pdf.



Process. States use a variety of approaches to encourage community engagement and input in utility IRP processes, with many states including multiple opportunities for community involvement. The Hawaiian Electric Companies’ website states that the Integrated Grid Planning (IGP) process enables the company to engage with community members and customers to gather their input and feedback throughout the IGP process. To this end, there is a “Stakeholder Council,” working groups, and a technical advisory panel as well as broad public engagement. There were at least 13 meetings of the Stakeholder Council with meeting presentations and notes available on a public website.⁴⁹ In addition, parties file comments in the IGP docket. Also, in 2018, the Hawaii Public Utilities Commission (PUC) ordered the utilities to develop a workplan that describes the major steps of the proposed process, timelines, and the methods the utilities intend to employ for developing their integrated grid plans. Specifically, the PUC ordered that the IGP workplan include additional detail and description of the following: (1) the proposed working groups, including their specific objectives, composition, expected deliverables, and timelines for those deliverables; (2) a proposal for how forecasting assumptions, system data, modeling inputs, studies, analyses, meeting summaries, and other data will be shared with the commission and community members throughout the IGP process; (3) processes and timelines to define and quantify grid needs, procure solutions to meet grid needs, and optimize the solutions; (4) opportunities for midstream evaluation and updates; and (5) the role of independent facilitation in assisting the IGP process.⁵⁰

In its 2020 Order No. 26,358 “Guidance on Utility Distribution System Planning” in Docket 15-296, the New Hampshire Public Utilities Commission states, “we believe there is benefit in undertaking a clearly defined stakeholder process that allows meaningful opportunities for input on decisions affecting utility planning and related investments before adjudication commences” (p. 24). Plans must include a summary of stakeholder input, as well as how stakeholder recommendations are incorporated into the final plan or why a stakeholder recommendation was not incorporated into the final plan.⁵¹

In Minnesota, Xcel must hold at least one stakeholder meeting prior to filing its plan to obtain input from the public. At a minimum, Xcel must seek input from community members on the following topics: (1) the load and distributed energy resources (DER) forecasts; (2) proposed 5-year distribution system investments, (3) anticipated capabilities of system investments and customer benefits; and (4) any other relevant areas. Following the filing, the Commission issues a notice of comment period. If deemed appropriate by Commission staff, additional stakeholder meetings may be held. Minnesota also has proactive recruitment and/or outreach to invite participation by community members that represent

⁴⁹ See <https://www.hawaiielectric.com/clean-energy-hawaii/integrated-gridplanning/stakeholder-engagement/stakeholder-council>.

⁵⁰ Surrebuttal Testimony of Melissa Whited on Behalf of The Maryland Office of People’s Counsel. Maryland PSC Case No. 9655. April 20, 2021.

⁵¹ Ibid.



underserved populations and a third-party facilitator to ensure public comments are documented and considered.⁵²

In Indiana, the Electricity Director of the Indiana Utility Regulatory Commission submits a report after reviewing the utilities' IRPs and stakeholder comments. The Electricity Director's report often discusses components of stakeholder comments with which staff agree and disagree. Indiana often has technical conferences to discuss specific issues. Also, the utility must provide information requested by an interested party relating to the development of the utility's IRP within 15 calendar days of a written request. If the utility cannot provide the requested information in the timeframe granted, it must follow up with the Electricity Director and the requestor as to the reason it is unable to provide the requested information.⁵³

In Oregon, the Commission holds a public meeting before issuing an order to consider comments and recommendations on a utility's plan.⁵⁴

In Michigan, Governor Whitmer and the Michigan PSC launched a customer-focused, multi-year stakeholder initiative called MI Power Grid to maximize the benefits of the transition to clean, distributed energy resources for Michigan residents and businesses. Customer engagement is one of three areas of emphasis, and the initiative includes "outreach, education, and changes to utility regulation designed to ensure that the state's clean energy future provides safe, reliable, affordable, and accessible energy resources."⁵⁵ MI Power Grid will consist of facilitated discussion and educational sessions for community members. For example, The Office of the Environmental Justice Public Advocate, the Michigan Advisory Council on Environmental Justice, the Michigan Interagency Environmental Justice Response Team, and EGLE held a multi-day virtual Michigan Environmental Justice Conference with community members on a wide range of environmental justice topics.⁵⁶

Timing. This topic includes consideration of the frequency of meetings, the length of meetings, and the days of week and time of day that meetings are held. The topic also includes the amount of time between when filings are made and comments are due. The *Guidebook on Equitable Clean Energy Program Design for Local Governments and Partners* by the Urban Sustainability Directors Network

⁵² Ibid.

⁵³ Mims, Natalie. Stakeholder Engagement in Integrated Resource Planning. Lawrence Berkeley National Laboratory. Presented at the Michigan Public Service Commission. August 8, 2017.
https://www.michigan.gov/documents/mpsc/LBNL_Session_4_Stakeholder_Engagement_597057_7.pdf.

⁵⁴ Ibid.

⁵⁵ MI Power Grid Flier. https://www.michigan.gov/documents/mpsc/MPG_Flier_10-16-19_668834_7.pdf.

⁵⁶ Michigan Department of Environment, Great Lakes, and Energy. *Michigan Environmental Justice Conference*.
https://www.michigan.gov/egle/0,9429,7-135-3308_3333-551173--,00.html.

suggests manageable levels of time commitment and meeting times during the evening or on a weekend.⁵⁷

Content. In Michigan, EGLE developed an environmental justice screening tool that utilities could use to identify where there are vulnerable populations within their service territory as one way to start to identify vulnerable loads. Using its tool, EGLE assessed the impact of Detroit Edison Energy’s (DTE Energy) fossil-fuel generation resources and found they were disproportionately located in communities of color. Specifically, a demographic analysis of the people living within three miles of every DTE Energy fossil-fuel generation resource identified the number and percent of people who living within three miles of coal- and gas-fired generation resources who are people of color. The analysis demonstrated that a higher proportion of people of color live close to and are affected by fossil fuel powered generation resources than live elsewhere in the state.⁵⁸

EGLE also worked with staff to develop a list of additional environmental data requests for utilities to include in upcoming IRPs.⁵⁹ In April 2021, the Great Lakes Environmental Law Center filed this list in the form of comments with four recommendations:

1. Require utilities to collect race, income, and geographical-based information as well as the implementation and marketing of key utility programs to identify race and income-based inequities in utility operations.
2. Require utilities to identify environmental justice communities in their service territories and describe how they are minimizing environmental risks and promoting equitable access to the utilities’ services and programs in such communities.
3. Address the inequitable siting of fossil-fuel generation resources in communities of color by requiring utilities to establish an affirmative defense under the Michigan *Environmental Protection Act* for any proposal to develop new fossil-fuel resources or to re-contract with existing fossil-fuel resources.
4. Require utilities to conduct a Health Impact Assessment for each model run required by the Michigan Public Service Commission and each scenario or pathway proposed by the utilities.⁶⁰

⁵⁷ Curti, J., F. Andersen, and K. Wright. 2018. “A Guidebook on Equitable Clean Energy Program Design for Local Governments and Partners.” Washington, DC: USDN. www.cadmusgroup.com/wp-content/uploads/2018/09/Cadmus-USDN-Equitable-CleanEnergy-Guidebook.pdf.

⁵⁸ Great Lakes Environmental Law Center Comments to the Michigan Public Service Commission. *U-20633 – Incorporating Environmental Justice Considerations in Future IRP Cases*. April 28, 2021. <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000NmsbtAAB>.

⁵⁹ Integration of Resource, Distribution, and Transmission Planning Report. Michigan Public Service Commission Staff Report. MI Power Grid Phase II. May 27, 2021. Case No. U-20633.

⁶⁰ Great Lakes Environmental Law Center Comments to the Michigan Public Service Commission. *U-20633 – Incorporating Environmental Justice Considerations in Future IRP Cases*. April 28, 2021. <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000NmsbtAAB>.



Utilities can reflect the results of energy efficiency, renewable energy, and electric vehicle program participation studies conducted at the census tract level with other data sources to quantify levels of inequity by assessing the distributions of certain customer-sited technologies and solutions. A national study entitled *Disparities in Rooftop Photovoltaics Deployment in the United States by Race and Ethnicity* linked a Google database of solar PV adoption with data on race, property ownership, and income. The study found significant disparities in solar PV adoption in census tracts with higher minority populations, lower incomes, and lower rates of home ownership.⁶¹ An equity-focused IRP scenario can reflect higher penetrations of customer-sited distributed energy resources in areas where program participation is low.

Utilities can align remedies for past inequities with the level of disparity experienced by the community. Also, utilities can address potential future inequities proactively. For example, Arizona Public Service is proposing to invest \$144 million in three tribal communities with retiring coal-burning power plants. The plan will retrain workers, electrify regions that are off the power grid, and develop solar and wind plants.⁶² Utilities can propose equity-related enhancements to their IRPs such as workforce development strategies and investments for communities adjacent to retiring fossil fuel plants.

Recommendations

The KCC should update its IRP requirements to expand content in key areas and incorporate emerging best practices, such as those provided by the National Association of Regulatory Utility Commissioners in Table 1 of its 2021 report, *Public Utility Commission Stakeholder Engagement: A Decision-Making Framework* report.⁶³ Specific recommendations regarding inclusions and updates in key areas follow.

Goals. The IRP should explicitly include equity as a goal.

Process and Timing. An IRP regulation or framework should (1) lay out an open and public process that allows for frequent and diverse community participation with reasonable timing, time commitments, and schedules; and (2) include an independent facilitator to coordinate community participation and ensure documentation and consideration of input. The KCC should do the following immediately:

- Expand community access and input by removing limitations to information and participation and proactively seek input on equity. An equity-focused work study session should be held that is open to the public and publicly noticed. Representatives of overburdened customers and environmental justice communities should be

⁶¹ Sunter, Deborah et al. *Disparities in rooftop photovoltaics deployment in the United States by race and ethnicity*. Nature Sustainability. 2019. <https://escholarship.org/uc/item/5sz1j52z>.

⁶² Randazzo, Ryan. *APS offering \$144M to Arizona tribes and others affected by coal plant closures*. Arizona Republic. November 6, 2020. <https://www.azcentral.com/story/money/business/energy/2020/11/06/arizona-public-service-co-offering-144-million-tribes-coal-country/6180829002/>.

⁶³ McAdams, Jasmine. National Association of Regulatory Utility Commissioners' (NARUC) *Public Utility Commission Stakeholder Engagement: A Decision-Making Framework*. January 2021. <https://pubs.naruc.org/pub/7A519871-155D-0A36-3117-96A8D0ECB5DA>.



identified and invited to this session. All comments received during this session should be documented for application to this proceeding and others.

- Identify dates by which Evergy needs to respond to comments and a final filing date by which Evergy needs to provide its final IRP to the KCC.
- Direct Evergy to respond to and incorporate the comments.

Moving forward, the KCC should:

- Make community participation less time and resource intensive, by providing alternatives to participation as a formal intervenor.
- Proactively invite and encourage overburdened customers and environmental justice communities to participate in work study sessions. Consider the establishment of community advisory boards to enable more efficient and continuous input.
- Leverage work study sessions to provide a less formal way for community members and community advisory boards to receive information, ask questions, provide feedback, and discuss issues with one another in a large group setting rather than one on one with the utility.
- Update IRP requirements to add a work study session prior to the development of the first draft of the IRP.
- Host work study sessions in the evenings when more community members can participate.
- Provide translation and childcare for participants, if needed.
- Formally identify a facilitator to enable and incorporate community input into Evergy's IRP.
- Task the facilitator with conducting outreach to participants, documenting community input during community work study sessions, working with Evergy to address the input received, and documenting how Evergy addressed community input in its IRP.
- Reimburse community members or community advisory boards for the costs of their participation.

Content. The KCC should require an equity chapter in the IRP. The equity chapter should include definitions of key terms, performance metrics, a description of strategies to improve equity, a description of any equity-focused scenarios, and health impact assessments of fossil fuel plants and proposed program investments. The KCC should also require that Evergy expand its IRP implementation plan to discuss strategies for providing differential investment, services, and support for overburdened customers and environmental justice communities. Specifically, we recommend Evergy: (1) add a scenario to its IRP with higher DER program investment focused on serving overburdened customers and environmental justice communities; (2) avoid siting fossil fuel resources and prioritize fossil fuel



plant retirements and site redevelopment with clean energy solutions in or near environmental justice communities; and (3) support just and equal transitions from large centrally located power plants to distributed, clean energy resources through proactive strategies such as workforce development and employment for those who live and work in environmental justice communities. To support the higher DER program investment scenario in its IRP, we suggest Evergy develop a suite of cost-effective and rate-based programs to bring distributed solar, storage, efficiency measures (such as weatherization, heat pumps and appliances), and electric vehicles to overburdened communities that do not typically have access to these types of resources. Support for just and equal transitions should include:

- Proactive redevelopment planning for upcoming plant retirements in Kansas including in Lawrence in 2023, St. Mary's (Jeffrey Energy Center) in 2030, La Cygne in 2032, and La Cygne and St. Mary's in 2039—with particular focus on those located in or near opportunity zones or environmental justice communities such as the Lawrence Energy Center;
- Equity as a consideration in the siting of the 350 MW of utility-owned solar generation expected to reach commercial operation by the end of 2023; and
- Participation studies of existing energy efficiency, renewable energy, and electric vehicle programs and targeting and outreach strategies and partnerships to drive more equitable participation.⁶⁴

3.3. Performance Mechanisms and Evaluation

Description and Examples

There are three steps in the performance mechanism development process for IRPs. A performance mechanism development process is a process by which performance in certain areas of interest is monitored and improved.

- Goals. The first step is to identify and prioritize performance areas.
- Metrics. The second step is to develop performance metrics to address the performance areas. Metrics define the information that utilities, regulators, and other community members can use to monitor utility performance.
- Scoring/Ranking. The third step is to collect performance data, and review metrics. The utility and community members then can score or rank different portfolios by comparing them to one other.

The sections below provide examples of metrics and their scoring or ranking.

⁶⁴ Evergy. *2021 Integrated Resource Plan Overview*. April 2021. <https://www.evergy.com/-/media/documents/smart-energy/evergy-2021-irp-overview.pdf?la=en>. Page 8.



Metrics. Maine enacted the *Act to Support Solar Energy Development in Maine* during its 2014 legislative session. Section 1 of the Act states that it is “in the public interest to develop renewable energy resources, including solar energy, in a manner that protects and improves the health and well-being of the citizens and natural environment of the State while also providing economic benefits to communities, ratepayers and the overall economy of the State.” Maine has a statute that calls for calculating “the societal value of the reduced environmental impacts of the energy.” Maine’s statute requires the Maine Public Utilities Commission to assess how to maximize social welfare in its policy options which is accomplished by weighing market costs and benefits with the monetized values of societal benefits in a benefit-cost analysis.⁶⁵

The Minnesota Public Utilities Commission is statutorily mandated to consider externalities for all proceedings. Between 1993, when this provision was enacted, and 2014, Minnesota used its own methodology to determine the costs of particulate matter, sulfur dioxide, nitrogen oxides, and carbon dioxide. In 2014, after environmental advocacy groups filed a motion requesting that the Minnesota Public Utility Commission update these figures, the commission referred the issue to the Office of Administrative Hearings to assess how to value externalities.⁶⁶

The Northwest Power and Conservation Council (NWPCC) recently launched a major initiative to incorporate equity in its IRP process. As one of the first steps, NPWCC held a System Integration Forum webinar on diversity, equity, and inclusion in power planning in February 2021.⁶⁷ This forum developed a set of recommendations for NWPCC’s potential actions. Some of the notable recommendations regarding equity metrics include: (1) accounting for economic impacts (wages, taxes, economic activity) of resource planning guidance; (2) revisiting the Council's cost-effectiveness methodology and framework to potentially integrate health, economic, equity, resilience, and societal costs and benefits into the Council's calculations;⁶⁸ and (3) recommending that utilities segment their conservation and demand response potential by customer demographic characteristics and location to account for equity issues.

Rhode Island is also beginning to consider equity in utility planning processes, with a focus on incorporating equity in energy efficiency planning. National Grid, the investor-owned utility that serves most of the state, produces a Rhode Island Low-Income Report with many useful performance metrics including, for example:

⁶⁵ Paul, Iliana, Peter Howard, Ph.D., and Jason A. Schwartz. Institute for Policy Integrity. New York University School of Law. *The Social Cost of Greenhouse Gases and State Policy: A Frequently Asked Questions Guide*. October 2017. https://policyintegrity.org/files/publications/SCC_State_Guidance.pdf.

⁶⁶ Ibid.

⁶⁷ Information on this webinar is available at: <https://www.nwcouncil.org/meeting/sif-2021-power-plan-and-dei-february-19-2021>.

⁶⁸ Empower Dataworks. 2021. *Diversity, Equity, and Inclusion – System Integration Forum Debrief Memo*. Prepared for the Northwest Power and Conservation Council. Available at: <https://www.nwcouncil.org/meeting/sif-2021-power-plan-and-dei-february-19-2021>.

- number of standard and low-income accounts with an elderly, infant, handicapped, welfare, unemployed, or seriously ill customer;
- number of accounts in arrears by age of balance for customers with and without a deferred payment arrangement or other arrearage management plan;
- number of referrals to collection agencies;
- number and balance of accounts receiving disconnection notices for customers with and without special protections; and
- number and balance of accounts receiving service restorations within 7 days of termination for customers with and without special protections.

Rhode Island launched an Equity Working Group to explore opportunities to improve the equity of its energy efficiency programs. The top five recommendations from the final report include benchmarking energy efficiency participation data for race, geography, socioeconomic status, language, age of home, age of owner, age of renter, heating fuel type, and type and age of heating, hot water, and cooling systems.⁶⁹

Scoring/Ranking. Memphis Light, Gas and Water (MLGW), the municipal utility in Memphis, Tennessee, recently developed a detailed IRP and explored impacts of reliability, least cost, price risk, sustainability, market risk, economic growth, and resiliency using a scorecard methodology. Figure 3 presents an example of MLGW’s scorecard analysis . For each portfolio under each metric, MLGW developed a score in terms of a percentage to the lowest or the highest case and added colors to indicate the performance of each portfolio (green is best and red is worst).

It is important to note that MLGW did not develop any of these metrics with equity in mind and these are not equity-related metrics. However, this example provides an effective framework to assess and incorporate equity in an IRP. For example, a scorecard metric assessment can incorporate the following types of metrics and evaluate and compare the level of equity in different resource portfolios or strategies: carbon dioxide emissions, health impacts, rate and bill impacts, the level of low-income energy efficiency programs, energy burdens, macroeconomic impacts (e.g., jobs and income), the population in environmental justice communities and workforce impacted by the retirement of aging power plants, the construction of new power plants, or the remediation of coal combustion residuals. Metrics could also examine how investments in worker retraining could offset any potential job losses.

⁶⁹ 2021 Rhode Island Energy Efficiency Equity Working Group Report. Prepared by Green & Healthy Homes Initiative for inclusion in National Grid’s 2022 Annual Plan. September 2021.

Figure 3. Balanced Scorecard Example in MLGW's 2020 IRP

	Measure	Unit	Portfolio 1	Portfolio 2	Portfolio 3	Portfolio 4	Portfolio 5	Portfolio 6	Portfolio 7	Portfolio 8	Portfolio 9	Portfolio 10	
			2 CC + 1 CT	3 CC + 1 CT	3 CC + 2 CT	3 CC + 0 CT	1 CC + 4 CT	2 CC + 1 CT	2 CC + 2 CT	2 CC + 2 CT	1 CC + 4 CT	1 CC + 0 CT	
Least Cost	NPVRR 2025 - 2039	\$ Millions	10,770	10,961	11,004	10,792	10,785	10,802	10,784	10,916	10,730	10,571	
		% to Lowest Case	1.9%	3.7%	4.1%	2.1%	2.0%	3.1%	2.0%	3.3%	1.5%	0.0%	
Least Cost	Levelized Cost of Energy	\$/MWh	59.5	60.5	60.8	59.6	59.6	60.2	59.5	60.3	59.3	58.4	
		% to Lowest Case	1.9%	3.7%	4.1%	2.1%	2.0%	3.1%	2.0%	3.3%	1.5%	0.0%	
Sustainability	2025 CO2 Emission	MLGW Gen	3.0	4.2	4.5	4.2	1.4	3.0	3.2	3.2	1.4	2.7	
		All Local Gen	6.1	7.3	7.6	7.3	4.5	6.1	6.3	6.3	4.5	5.8	
		All Local Gen	% to Lowest Case	34.7%	61.4%	67.7%	61.1%	0.0%	34.5%	39.4%	39.0%	0.3%	27.7%
	2025 Water Consumption	MLGW Gen	1,885	2,440	2,504	2,542	850	1,680	1,662	1,687	679	1,798	
		All Local Gen	4,788	5,551	5,607	5,645	3,961	4,782	4,795	4,789	3,782	4,890	
		All Local Gen	% to Lowest Case	27%	46.8%	48.2%	49.3%	4.7%	26.5%	26.8%	26.6%	0.0%	29.5%
	Energy from Renewable Sources 2039 (RPS)	% of Energy	57%	46%	41%	47%	75%	55%	57%	55%	75%	53%	
		% to Lowest Case	39.4%	13.3%	0.0%	16.2%	85.0%	34.8%	39.4%	34.8%	85.0%	29.4%	
	Energy from Zero Carbon Sources 2039	% of Energy	57%	46%	41%	47%	75%	55%	57%	55%	75%	53%	
		% to Lowest Case	39.4%	13.3%	0.0%	16.2%	85.0%	34.8%	39.4%	34.8%	85.0%	29.4%	
	Reliability	2025 (UCAP+CILY/PEAK)	%	126.6%	130.8%	137.3%	126.7%	126.0%	126.6%	127.2%	127.2%	127.8%	148.6%
			% to Lowest Case	0.5%	3.8%	9.0%	0.6%	0.0%	0.5%	1.0%	1.0%	1.4%	18.0%
Resiliency	Max Load Shed in 2025 under Extreme Event	MW	8	0	0	0	622	8	0	0	0	0	
		% to Highest Case	1.4%	0.0%	0.0%	0.0%	100.0%	1.4%	0.0%	0.0%	0.0%	0.0%	
Market Risk	% Energy Purchased from MISO	%	16.7%	7.0%	7.7%	7.4%	31.2%	17.4%	15.6%	16.2%	31.2%	23.0%	
		% to Lowest Case	137.7%	0.0%	9.8%	5.4%	345.3%	148.1%	122.6%	131.5%	345.3%	227.8%	
	% Energy Sold to MISO	%	10.5%	6.7%	5.6%	7.6%	22.6%	9.7%	10.6%	9.7%	22.6%	17.0%	
		% to Lowest Case	86.5%	19.7%	0.0%	35.4%	301.7%	71.9%	88.0%	73.0%	301.7%	201.9%	
Economic Growth	Total New T&G CapEx	\$ Millions	2,811	3,299	3,404	3,138	2,989	2,845	2,932	2,965	2,864	2,984	
		% to Highest Case	82.6%	98.9%	100.0%	92.2%	87.8%	83.6%	86.1%	87.1%	84.1%	87.6%	

Source: Siemens. 2020. Integrated Resource Plan Report Memphis Light, Gas, and Water. Exhibit 114. Available at: <https://www.mlqw.com/about/IRPFinalDocument>.

The Initiative for Energy Justice has several resources on scoring (as well as metrics) including: (1) *The Energy Justice Workbook*, (2) *The Justice 100 Scorecard*, and (3) *The Justice 100 Metrics Report*.⁷⁰

Recommendations

The KCC should require incorporation of equity metrics and scoring/ranking of those metrics into a new equity chapter and expanded implementation plan in Evergy’s IRP. First, we discuss metrics. Second, we review scoring and ranking.

Metrics. The KCC should expand the IRP evaluation to include new metrics and the metrics should be disaggregated by customer type and community. For example, Evergy can calculate:

- Customer distributions and participation in energy efficiency, renewable energy, and electric vehicle programs;

⁷⁰ For more information, see the Initiative for Energy Justice website at <https://iejusa.org/>.



- Costs, such as the dollars invested to improve communities with high proportions of overburdened customers, environmental impacts such as carbon dioxide emissions, health impacts such as criteria pollutants, and economic impacts such as energy burdens, rate and bill impacts, jobs, and wage impacts; and
- Benefits, such as the benefits that overburdened customers receive from investments in their communities or residences, including environmental, health, and economic benefits.

Utilities can monetize and directly incorporate calculations of the cost of environmental and health impacts into present value revenue requirements. For example, utilities can monetize the carbon dioxide impact by assigning a social cost of carbon for each portfolio. The level of criteria pollutants from each portfolio can also be used to estimate health damage impacts using publicly available tools such as U.S.EPA’s CO-Benefits Risk Assessment Health Impacts Screening and Mapping Tool (COBRA).

Further, if an IRP includes plans to retire specific aging power plants, treat coal combustion residuals, or construct new power plants in specific geographic areas, the IRP should assess the impacts of such plans for environmental justice communities. The EJSCREEN tool can help in estimating the percentage of overburdened customers affected or benefited by these plans as was done by EGLE in Michigan. EJSCREEN is “an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN users choose a geographic area; the tool then provides demographic and environmental information for that area.”⁷¹

Scoring/Ranking. A utility can incorporate the results of these equity-related metrics and others into IRP modeling in one of two ways. The first approach is to develop a scorecard which assigns a certain value for each metric for each portfolio. This can be expressed in a 0-100 scale or a relative scale. The utility then assigns weights to different metrics including the present value revenue requirements for each portfolio. For example, if there are four other metrics that cannot be monetized, the utility could assign an equal weight for each metric (20 percent for each metric, adding up to 100 percent for the total of five metrics) or different weights. The downside of this scorecard method is that there is no objective or universally agreed upon approach to develop the right weights among different metrics, and the weighting is often subjective. While this can mean that the utility can place higher weights on metrics that are most desirable, it also means that the utility can easily manipulate metrics and scorecards to produce desired outcomes. Thus, it is important to develop and define these metrics and weights with significant input from community members well before generating IRP modeling results.⁷²

The second approach is to evaluate other metrics qualitatively in the IRP modeling process. This approach is a two-step process. First, a utility evaluates all portfolios or strategies based on their present

⁷¹ EJSCREEN: Environmental Justice Screening and Mapping Tool. *What is EJSCREEN?* <https://www.epa.gov/ejscreen/what-ejscreen>.

⁷² A detailed discussion of this topic is found in Synapse Energy Economics. 2015. *Review of TVA’s Draft 2015 Integrated Resource Plan*. Available at: <https://www.synapse-energy.com/project/evaluation-tva-2015-integrated-resource-plan>.



value revenue requirements and then select the least-cost outcomes. Secondly, the utility evaluates the results for the other metrics in a qualitative way for the few selected portfolios or strategies with the lowest present value revenue requirement.⁷³

Over the longer term, the KCC should work with community members to identify areas where performance is lacking and set targets and actions to achieve the targets.

3.4. Programs Specifically Designed to Reach Overburdened Customers

Eversource can expand or redesign existing programs to better serve overburdened customers. These efforts can include:

- Programs traditionally used to serve low-income customers such as discounted rates, energy assistance, arrearage management, and percent of income payment programs.
- Programs used to deliver targeted distributed energy resources to residential customers such as energy efficiency, demand response, electric vehicles, solar, and storage.
- Protections against shutoffs.

The sections below discuss each of these three efforts separately.

Discounted Rates, Energy Assistance, Arrearage Management, and Percent of Income Payment Programs

Description and Examples

Many states offer low-income customers the opportunity to pay lower rates and/or subsidize all or a portion of their energy costs. They do this through discounted rates, energy assistance, arrearage management and percent of income payment programs. Discounted rate programs provide a lower rate to customers that meet certain income eligibility criteria. Energy assistance programs pay all or a portion of a customer's heating costs, typically during periods of particularly low temperatures when heating costs are high. Arrearage management programs assist low-income customers in paying their overdue energy bills. Percent of income payment programs provide discounts on bills based on the energy burden experienced by other residential customers.

Colorado, Maryland, Massachusetts, and New Hampshire offer discounted rates to eligible low-income customers.⁷⁴ Low-income customers of the California investor-owned utilities can participate in two

⁷³ Ibid.

⁷⁴ Synapse Energy Economics, Community Action Partnership, and Regulatory Assistance Project. Energy Infrastructure: Sources of Inequities and Policy Solutions for Improving Community Health and Wellbeing, April 29, 2020, <https://www.synapse-energy.com/energy-infrastructure-sources-inequities-and-policy-solutions-improving-community-health-and>; U.S.

energy assistance programs: California Alternative Rates for Energy (CARE) and Family Electric Rate Assistance (FERA). CARE offers a 20 to 35 percent discount on the electric bill and a 20 percent discount on the natural gas bill.⁷⁵ FERA offers an 18 percent discount on the electricity bill for those whose household income slightly exceeds the CARE allowances.⁷⁶ In addition to receiving energy assistance, customers who participate in CARE or FERA are exempt from fixed charges for securitized utility investments to improve electric grid resilience from wildfires.⁷⁷ Ohio's Percentage of Income Payment Program (PIPP) allows eligible customers to pay 6 percent of their income, but not less than \$10 each month, to each gas and electric service. Unrecovered revenue due to PIPP is then recouped via a PIPP rider on all customers' bills. Community Action Agencies (CAA) conduct outreach on PIPP, educate potential customers, and help customers to determine eligibility and to complete the enrollment process. This program also links participants with energy efficiency services; energy efficiency services for PIPP participants are exempt from cost-effectiveness tests, which would otherwise limit their access to the bill-reduction benefits that energy efficiency offers.⁷⁸ Colorado and Illinois also have programs that tie payments to income.⁷⁹

Recommendations

Kansas recently implemented the Low-Income Energy Assistance Program.⁸⁰ However, the new Low-Income Energy Assistance Program in Kansas does not tie monthly bills to the participants' ability to pay, leaving some Kansans vulnerable to unaffordable bills during times when energy use and costs are higher. We recommend the KCC, if allowed by law, implement an energy assistance program in place of or in addition to the Low-Income Energy Assistance Program to provide better support to overburdened customers. Also, the Kansas program could be improved by leveraging community-based organizations to conduct outreach, help determine eligibility, or assist with completing the application. We recommend that Evergy partner with trusted local organizations advancing solutions for overburdened customers in environmental justice communities (including CleanAirNow) to help enroll these customers in the program.

Department of Health and Human Services 2014. ASPE Research Brief: Approaches to Low-Income Energy Assistance Funding in Selected States.

⁷⁵ California Public Utilities Commission. California Alternative Rates for Energy (CARE). <https://www.cpuc.ca.gov/care/>.

⁷⁶ California Public Utilities Commission. Family Electric Rate Assistance (FERA). <https://www.cpuc.ca.gov/consumer-support/financial-assistance-savings-and-discounts/family-electric-rate-assistance-program>.

⁷⁷ California SB 901. 850.1 (4) (i).

⁷⁸ Synapse Energy Economics, Community Action Partnership, and Regulatory Assistance Project. Energy Infrastructure: Sources of Inequities and Policy Solutions for Improving Community Health and Wellbeing, April 29, 2020, <https://www.synapse-energy.com/energy-infrastructure-sources-inequities-and-policy-solutions-improving-community-health-and>.

⁷⁹ U.S. Department of Health and Human Services 2014. ASPE Research Brief: Approaches to Low-Income Energy Assistance Funding in Selected States.

⁸⁰ Kansas Office of the Governor. "Governor Laura Kelly Announces Low-Income Energy Assistance Program to Begin, Help Heat Kansas Homes." Dec 30, 2020. <https://governor.kansas.gov/governor-laura-kelly-announces-low-income-energy-assistance-program-to-begin-help-heat-kansas-homes/>.



Targeted Distributed Energy Resources such as Energy Efficiency, Demand Response, Electric Vehicles, Solar, and Storage

Description and Examples

Programs that deploy and site energy infrastructure in the households of overburdened customers improve safety, living conditions, and health, while also reducing energy bills and providing resilience by ensuring continuity of essential services during power disruptions.⁸¹ Such energy infrastructure can include energy efficiency, demand response, electric vehicles, solar, and storage. These programs also offer a host of other benefits, such as reduced air emissions by existing power plants and transportation systems as well as reduced need for new power plants (especially more polluting peaker plants). However, overburdened customers face high barriers to participating in these programs. Overburdened customers also may lack access to financing or other funding sources to help them invest in their homes. For example, owning or leasing rooftop solar generally requires the homeowner to have a high credit score, posing a financial challenge for many households.⁸² Even when income is held constant, however, households in African American- and Latino-majority census tracts show significantly lower adoption of rooftop solar than tracts that do not have a racial majority.⁸³ While the cause of this disparity is uncertain, it is clear that targeted approaches to addressing barriers are needed.

Well-designed programs can address these barriers, for example by providing incentives that cover all the upfront costs of measures. To ensure that programs serve those with the greatest need, programs often have eligibility requirements related to income or focus on those individuals with medical conditions that require access to electricity.⁸⁴ Program designs, such as pay-as-you-save programs that let households to pay for energy efficiency and distributed resources over time and at a pace where the benefits exceed the costs, can help to address affordability concerns. Community solar programs designed to provide a net benefit to customers can provide energy bill savings without any upfront capital outlays or good credit scores. Partnerships and coordination among key organizations, including community organizations, can help overcome barriers due to language barriers and distrust.

The Connecticut Green Bank works with community action agencies to provide services to low-income customers and provide job training for local workers. One such program offers a 20-year lease of solar

⁸¹ For principles for designing energy storage policies equitably, see: Union of Concerned Scientists. "Principles of Equitable Policy Design for Energy Storage." <https://www.ucsusa.org/sites/default/files/attach/2019/05/equitable-policy-storage-principles.pdf>, accessed August 5, 2021.

⁸² Groundswell. From Power to Empowerment: Plugging Low Income Communities into The Clean Energy Economy. https://s3.amazonaws.com/groundswell-webassets/documents/frompower_to_empowerment.pdf, accessed August 5, 2021.

⁸³ Sunter, D. A., S. Castellanos, D. M. Kammen, 2019. "Disparities in Rooftop Photovoltaics Deployment in the United States by Race and Ethnicity," *Nature Sustainability* 2, no. 1 (January 2019): 71–76, <https://doi.org/10.1038/s41893-018-0204-z>.

⁸⁴ For more information on how low-income energy efficiency programs reduce energy burdens, see: Takahashi, Kenji, et al. Evaluation of Energy Wise Low-Income Energy Efficiency Program in Mississippi: Program Performance, Design, and Implications for Low-Income Efficiency Programs. Prepared for Sierra Club and Gulf Coast Community Foundation. June 11, 2021. <https://www.synapse-energy.com/project/evaluation-energywise-low-income-energy-efficiency-program-mississippi>.



panels coupled with energy efficiency upgrades to the home, with no credit check required to access the program.⁸⁵ Connecticut Green Bank has supported more than 1,500 solar installations for low- and moderate-income homeowners since the program began in 2015.⁸⁶ Also, California's Solar on Multifamily Affordable Housing program provides financial incentives to install solar panels on affordable multifamily buildings.⁸⁷

To improve the resilience of medically or economically vulnerable customers, Pacific Gas and Electric Company is implementing a pilot to provide qualifying residential customers with a battery storage system in high-fire risk areas that are more often subject to power outages.⁸⁸

Expanded DER programs and the geographies they are expected to impact should be reflected in IRP planning scenarios. Minnesota provides a good example of how jurisdictions have required consideration of various DER trajectories in Integrated Distribution Planning (IDP) and introduced geographical considerations in the development of these trajectories. The Minnesota Public Utilities Commission's IDP requirements for Xcel Energy state:

In order to understand the potential impacts of faster-than anticipated DER adoption, [the utility should] define and develop conceptual base-case, medium, and high scenarios regarding increased DER deployment on Xcel's system. Scenarios should reflect a reasonable mix of individual DER adoption and aggregated or bundled DER service types, dispersed geographically across the Xcel distribution system in the locations Xcel would reasonably anticipate seeing DER growth take place first.⁸⁹

IRP processes should first identify areas of program need and then develop scenarios to address this need across the service territory. Other utility planning proceedings such as energy efficiency planning, non-wires alternatives, and grid modernization should address siting of resources agreed upon in the IRP. In New York, the utilities are required to provide information that allows DER developers to offer non-wires alternatives. Specifically, the New York Public Service Commission's *Order Adopting Distributed System Implementation Plan Guidance* requires the utilities to:

Provide the information necessary for developers to offer solutions that can improve the efficiency of the system and add value to customers. The utilities should begin to

⁸⁵ Hirji, Z. "Connecticut Program Makes Solar Affordable to Low-Income Families." Inside Climate News. February 2016. Available at, <https://insideclimatenews.org/news/25022016/connecticut-program-solar-power-low-income-families-freedom>.

⁸⁶ Connecticut Green Bank. Solar For All Program Creates Savings for Homeowners. <https://www.ctgreenbank.com/solarforall/>

⁸⁷ California Public Utilities Commission. Solar on Multifamily Affordable Housing. <https://calsomah.org/>, accessed August 5, 2021.

⁸⁸ Renewable Energy World. "PG&E offering free residential battery storage systems for vulnerable customers," August 5, 2010. <https://www.renewableenergyworld.com/storage/pge-offering-free-residential-battery-storage-systems-for-vulnerable-customers/#gref.pdf>.

⁸⁹ Minnesota Public Utilities Commission, Integrated Distribution Planning Filing Requirements for Xcel Energy, Docket E002/CI-18-251, August 30, 2018, page 5.

offer as much information as is readily available to begin the process of supporting optimal DER investments.

Include identification of specific areas in each utility's service territory where there is an impending or foreseeable delivery infrastructure upgrade need and where DERs would potentially provide delivery infrastructure avoidance value or where DER may provide other reliability or operational benefits.

Consistent with the transmission and distribution capital investment plans, the utilities should list specific infrastructure projects by location, and indicate the potential for DER to resolve or mitigate forecasted system requirements, including the level of output needed over specific time periods and describe the process used to identify the projects where DER solutions should be compared as potential alternatives to traditional grid infrastructure under varying scenarios of DER integration.⁹⁰

The New York utilities have a website with information regarding current and upcoming NWA procurements for each utility (nyrevconnect.com/nonwires-alternatives/). The site also has health and environmental frameworks to guide clean energy resource siting to displace polluting peaking capacity.^{91,92}

Recommendations

Kansas provides free air sealing and other efficiency upgrades to eligible low-income households through the federal- and state-funded Weatherization Assistance Program.⁹³ Evergy also offers the Income Eligible Weatherization program, which provides qualified residential customers with free energy audits and weatherization upgrades that pass benefit-cost tests.⁹⁴ Other services could supplement the weatherization offered under the Weatherization Assistance Program and Income Eligible Weatherization programs to address the energy-related economic and health inequities suffered by environmental justice communities. The KCC should require Evergy to implement solar and storage programs designed to address the specific barriers faced by overburdened customers. These programs should be part of Evergy's strategy for addressing system constraints and needs. All these programs should have funding allocations to ensure investments are consistently provided at appropriate levels.

⁹⁰ New York Public Service Commission, Order Adopting Distributed System Implementation Plan Guidance, Case 14-M-0101, April 20, 2016, Attachment 1, pages 8-9.

⁹¹ Krieger, Elena M., Joan A. Casey, and Seth B.C. Shonkoff. 2016. "A framework for siting and dispatch of emerging energy resources to realize environmental and health benefits: Case study on peaker powerplant displacement." *Energy Policy*. Volume 96, September 2016, Pages 302-313. <https://www.sciencedirect.com/science/article/abs/pii/S0301421516302798?via%3Dihub>.

⁹² Pennsylvania Public Utility Commission. *Policy Proceeding – Utilization of Storage Resources as Electric Distribution Assets*. Prepared by Natural Resources Defense Council. Docket No. M-2020-302287. February 18, 2021. https://www.synapse-energy.com/sites/default/files/NRDC_Comments_M_2020_302287_20-103%EF%BB%BF.pdf.

⁹³ Kansas Housing. Weatherization Assistance. <https://kshousingcorp.org/homeowners/weatherization-assistance/>, accessed August 5, 2021.

⁹⁴ Evergy Kansas Central and Evergy Metro 2021 *Integrated Resource Plan*, May 2021.



Shutoff protections

Description and Examples

Service termination due to non-payment has negative economic consequences and health impacts, especially during extreme weather events. Overburdened customers face a higher risk of service termination and are particularly vulnerable to the impacts of shutoffs. Some states, such as Oklahoma and Massachusetts, provide increased protections against shutoffs for overburdened customers. These customers include households with children, the elderly, and those with certain medical conditions. Several states, including Maine, Missouri, and West Virginia, do not allow service disconnections for non-payment during certain times of the year (winter or summer) due to heightened health and safety concerns during these periods. For example, electric utilities in Maine may not shut off any customer's power between Nov. 15 and April 15 without permission from the Maine Public Utilities Commission.⁹⁵

Recommendations

Under the KCC's Cold Weather Rule, residential customers who work with the utility to pay their overdue bills and fees cannot be disconnected when the temperature is forecasted to drop below 35 degrees Fahrenheit within the following 48-hour period, except in certain circumstances.⁹⁶ The rule requires utilities to inform these customers of the Cold Weather Rule payment plan, which spreads payments over 12 months, and other available payment plans. Utilities must also provide these customers with information about energy assistance. In addition, utilities must send written notice to customers 10 days before disconnection and attempt personal or phone contact with the customer the day before.⁹⁷ While the Cold Weather Rule provides short-term protection against disconnection, it could be revised to increase protections against shutoffs for overburdened customers or prohibit service disconnections for non-payment for the entire summer and winter seasons.

3.5. Funding Allocations for Overburdened Customers

Description and Examples

Considering the higher level of effort and cost to reach overburdened customers, utilities may neglect this segment or neglect to provide the additional support required to engage this segment. Providing funding allocations or mandates for programs to reach overburdened customers can help address this tendency.

⁹⁵ Anderson, J. 2019. "CMP sends cold-weather shutoff warnings to dozens of customers who are disputing their bills." *Portland Press Herald*. Updated November 22, 2019. <https://www.pressherald.com/2019/11/21/despite-billing-disputes-state-regulator-gives-cmp-the-ok-for-shutoffs/>.

⁹⁶ Kansas Corporation Commission. Cold Weather Rule: November 1 thru March 31. <https://kcc.ks.gov/consumer-information/cold-weather-rule>, accessed August 5, 2021.

⁹⁷ Ibid.

Some states require utilities to allocate a portion of program funds to low-income customers. For example, Nevada requires that 25 percent of the Fund for Energy Assistance and Conservation be distributed to the Nevada Housing Division for programs of energy conservation, weatherization, and energy efficiency for eligible households. Illinois requires electric utilities that serve more than 3 million retail customers in the state (such as Commonwealth Edison) to implement at least \$25 million per year for low-income energy efficiency measures, and electric utilities that serve between 500,000 and 3 million retail customers (such as Ameren) must implement \$8.35 million in measures per year.

New York's 2019 *Climate Leadership and Community Protection Act* (CLCPA) requires that a portion of residential energy efficiency funding be earmarked for disadvantaged communities. While the definition of disadvantaged communities is still under development, the New York Public Service Commission adopted a 20 percent set-aside of incremental energy efficiency funding to low- and moderate-income customers in its January 2020 Order in Case 18-M-0084. Once the CLCPA's Climate Action Council develops its recommendations on disadvantaged communities, the PSC will revisit the dedicated funding to ensure compliance with CLCPA requirements.

Recommendations

As noted above, Evergy Kansas has an Income Eligible Weatherization program for qualified residential customers. However, it does not appear that there is dedicated funding for this program. Dedicated funding needs to be provided to ensure the utility invests in these customers.

4. RECOMMENDATIONS

States that lead the country in addressing equity:

- (1) identify and prioritize the goal of equity,
- (2) define the meaning of equity,
- (3) cease inequitable practices and establish protections to ensure the inequities do not continue,
- (4) direct investments to remedy inequities and address gaps in services,
- (5) proactively identify and engage community members and partners who can drive equitable outcomes,
- (6) streamline and coordinate efforts to maximize the impact of limited available time and resources and provide clarity, consistency, and transparency, and
- (7) establish ways to evaluate progress on equity.

With these objectives in mind, we recommend the following initial steps for the KCC and Evergy:

1. Regarding equity definitions, Evergy should:
 - a. work with local organizations such as CleanAirNow, community members, and regulators to define the terms *overburdened customer*, *environmental justice community*, and *equity*, and map these definitions; and



- b. review and update its *do not disconnect* list with community input to ensure all relevant devices and customers are included.
2. There are many opportunities related to the IRP requirements. To start, the KCC should do the following:
 - a. Hold an equity-focused work study session that is open to the public and publicly noticed, invite representatives of overburdened customers and environmental justice communities to this session, and document all comments received during this session for application to this proceeding and others.
 - b. Identify dates by which Evergy needs to respond to comments and a final filing date by which Evergy needs to provide its final IRP to the KCC.
 - c. Direct Evergy to respond to and incorporate the comments into its IRP.

Next, Evergy should:

- d. add a scenario to its IRP with higher DER program investment focused on serving overburdened customers and environmental justice communities;
 - e. support this higher DER program investment scenario in its IRP by developing a suite of cost-effective programs to bring distributed solar, storage, efficiency measures (such as weatherization, heat pumps and appliances), and electric vehicles to overburdened communities that do not typically have access to these types of resources;
 - f. avoid siting fossil fuel resources in or near environmental justice communities;
 - g. prioritize fossil fuel plant retirements and site redevelopment with clean energy solutions in or near environmental justice communities; and
 - h. support just and equal transitions from large centrally located power plants to more distributed, clean energy resources through proactive strategies such as workforce development and employment for those who live and work in environmental justice communities. Support for just and equal transitions should include: (1) proactive redevelopment planning for upcoming plant retirements in Kansas including in Lawrence in 2023, St. Mary's (Jeffrey Energy Center) in 2030, La Cygne in 2032, and La Cygne and St. Mary's in 2039 – especially those located in or near opportunity zones or environmental justice communities such as Lawrence Energy Center, (2) equity as a consideration in the siting of the 350 MW of utility-owned solar generation expected to reach commercial operation by the end of 2023, and (3) participation studies of energy efficiency, renewable energy, and electric vehicle programs to identify opportunities for more equitable participation.

Finally, the KCC should:

- i. explicitly include equity as a goal of IRPs;
 - j. lay out an open and public process that allows for frequent and diverse community participation with reasonable timing, time commitments, and schedules;
 - k. direct Evergy to respond to and incorporate the feedback received from community members during the public engagement efforts and from written comments;
 - l. include an independent facilitator to coordinate community participation and ensure documentation and consideration of community input; and



- m. require inclusion of an equity chapter and expanded implementation plan in the IRP.
3. Regarding performance mechanisms and evaluation, the KCC should require Evergy to:
 - a. identify equity metrics;
 - b. document differential strategies and solutions for overburdened customers and environmental justice communities;
 - c. apply scoring/ranking of investments in strategies and solutions for overburdened customers and environmental justice communities;
 - d. incorporate equity metrics and the results of the scoring/ranking of strategies and solutions into a new equity chapter and expanded implementation plan in Evergy's IRP; and
 - e. engage with community members to set targets and actions to achieve the targets in areas where performance is lacking.
4. Regarding programs specifically designed to reach overburdened customers, the KCC should:
 - a. implement an energy assistance program in place of or in addition to the Low-Income Energy Assistance Program to provide better support to the broader group of overburdened customers;
 - b. tie support in this program to the ability to pay;
 - c. add services to supplement the weatherization offered under the Weatherization Assistance Program and Income Eligible Weatherization programs such as comprehensive energy efficiency, solar, storage, and electric vehicle programs;
 - d. partner with trusted local organizations advancing solutions for overburdened customers in environmental justice communities (including CleanAirNow) to help enroll these customers in these programs; and
 - e. increase protections against shutoffs for overburdened customers or prohibit service disconnections for non-payment for the entire summer and winter seasons.
5. Regarding funding allocations for overburdened customers, Evergy should explicitly allocate funding to programs serving these customers to ensure investments are consistently provided at appropriate levels.

Leadership and coordination are critical for states making progress on equity. Equity-related efforts in transportation, energy, and other social service programs should be administered in a coordinated way across the state. Common definitions of overburdened customers and environmental justice communities, along with maps of these populations, are necessary to promote greater consistency and collaboration across state and local agencies. Executive orders or legislation, to grant intervenor funding to community members or a community advisory board comprised of those living in environmental justice communities, can also provide the means to improve equity and allow for greater participation by overburdened customers.

