BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Evergy Kansas Central, Inc., Evergy Kansas South, Inc. and Evergy Metro, Inc. for Determination of the Ratemaking Principles and Treatment that will Apply to the Recovery in Rates of the Cost to be Incurred for Certain Electric Generation Facilities Under K.S.A. 66-1239	)	Docket No. 25-EKCE-207-PRE

STAFF'S POST-HEARING BRIEF

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) hereby submits its Post-Hearing Brief to the Commission. Staff will demonstrate the settlement agreement pertaining to Evergy Kansas Central, Inc. and Evergy Kansas South, Inc.'s ("Evergy Kansas Central" or "Evergy") 50% ownership of each of the Viola and McNew Combined Cycle Gas Turbine ("CCGT") generating plants ("Natural Gas Agreement") satisfies the Commission's five-factor test for approval of non-unanimous settlements and discuss how the settlement pertaining to Evergy Kansas Central's construction and ownership of the Kansas Sky Solar facility ("Solar Agreement") meets the Commission's three-factor test for approval of unanimous settlement agreements.

I. RELEVANT REGIONAL AND STATE ENERGY POLICY HISTORY

In the last several years, the need for additional electric generating capacity has grown into a topic of national conversation and concern. That conversation ignited in the Southwest Power Pool ("SPP") territory after the region suffered Winter Storm Uri. Occurring between February 7 to February 19, 2021, Winter Storm Uri battered the central United States electric grid with

prolonged severe cold temperatures,[1] and reshaped how SPP planned for the future of the electric industry, elevating resource adequacy measures to the highest importance. While Evergy and other Kansas utilities have faced severe winter storms in the past, Winter Storm Uri was unusual in its wide-area of impact, duration of extreme artic conditions, and degree of temperature deviation from the average daily minimum temperatures throughout the event.[2] Commission-jurisdictional natural gas and electric utilities were ordered to do everything necessary to ensure natural gas and electricity service continued to be provided to their customers.[3] Winter Storm Uri led to the largest system operator-initiated load shed event ever experienced across North America, in which 23,000 MW of firm load was shed across the impacted area.[4] Electric utilities throughout the SPP region, including in Kansas, were required to shed load to maintain the integrity of the regional electric grid.

Winter Storm Uri caused both reliability and economic fallout. Evergy Kansas Central incurred $33.7 million in fuel costs and $113.1 million of purchased power costs in excess of its three-year average during Uri's 12-day duration.[5] In total, Kansas utilities incurred over $700 million in economic damages[6] as sub-zero temperatures caused increased energy demand and

[1] Notice of Filing of Staff's Report and Recommendation at 10 (Jan. 21, 2022) ("21-329 Staff R&R").
[2] *Id.*
[3] *Id.* at 11.
[4] Federal Energy Regulatory Commission ("FERC"), System Performance Review of the January 2024 Arctic Storms, https://www.ferc.gov/news-events/news/presentation-system-performance-review-january-2024-arctic-storms (Apr. 25, 2024) ("FERC 2024 Winter Storm Presentation"). Load shed refers to a utility practice of reducing system demands by systematically and in a predetermined sequence interrupting the load flow to major customers and/or distribution circuits, normally in response to system or area capacity shortages or voltage control considerations. FERC Market Assessments Glossary, available at: https://www.ferc.gov/industries-data/market-assessments/overview/glossary#L.
[5] Compliance Report of Evergy Kansas Metro and Evergy Kansas Central Regarding Costs Incurred During Winter Weather Event at 5 (Jul. 2, 2022) ("21-329 Compliance Report").
[6] Allison Kite, *As economic impact of winter storm nears $1B, some large Kansas customers want to investigate*, KANSAS REFLECTOR, Aug. 15, 2021, https://kansasreflector.com/2021/08/15/as-economic-impact-of-winter-storm-nears-1b-some-large-kansas-customers-want-to-investigate/. *See* 21-329 Compliance Report at 5 (Jul. 2, 2021) (Evergy Kansas Central reporting **$146.8 million** in Winter Storm Uri costs); see *also* Plan to Mitigate Financial Effects of Cold Weather Event and Application for Additional Tariff Provisions at 2, Docket No. 21-EPDE-330-GIE (Nov. 23, 2022) (The Empire District Electric Company reporting **$10.8 million** in Winter Storm Uri costs), Application and Request for an Expedited Interim Order at 8, Docket No. 21-SPEE-331-GIE (Mar. 10, 2021)

natural gas supply constraints throughout Kansas, leading to wholesale natural gas price increases from 10 to 100 times higher than normal.[7] The costs to adjudicate the subsequent proceedings for each utility, including securitizing the Winter Storm debt of two utilities, added tens of millions more onto those costs.

Grid-impacting winter weather has continued in the years since Winter Storm Uri. Winter Storm Elliot occurred between December 21 and December 26 of 2022, resulting in 5,400 MW of controlled firm load shed, the largest recorded in the history of the Eastern interconnection.[8] Winter Storms Gerri and Heather moved across the United States from January 10 and January 17, 2024. Compared to Uri and Elliott, there was no system operator-initiated load shed[9] or extensive generator outages.[10] The improved performance was largely attributed to changes made in response Winter Storms Uri and Elliott,[11] but it would be a mistake to conclude that grid operators have "solved" the issue of withstanding winter storms – or weather events, generally, for that matter. In the last five years, SPP has experienced an increasing number of energy alerts in both

(Southern Pioneer, Inc. reporting **$17 million** in Winter Storm Uri costs), Plan to Minimize the Financial Effects of the 2021 Winter Weather Event at 36, Docket No. 21-KGSG-332-GIG (Jul. 30, 2025) (Kansas Gas Service, a division of ONE Gas, Inc., reporting **$390 million** in Winter Storm Uri costs), Plan to Minimize the Financial Effects of the 2021 Winter Weather Event of Atmos Energy Corporation at 4 (Sep. 14, 2021) (Atmos Energy Corporation reporting **$88 million** in Winter Storm Uri costs), Black Hills/Kansas Gas Utility Company LLC Plan to Minimize Financial Effects of Cold Weather Event and Application for Waiver of Tariff Provisions at 3 (Jun. 16, 2021) (Black Hills reporting **$87.9 million** in Winter Storm Uri costs), Joint Motion for Approval of Stipulation and Agreement at 5, Docket No. 21-AEGG-335-GIG (American Energies Gas Service reporting approximately **$253,000** in Winter Storm Uri costs).

[7] Order Adopting Staff's Report and Recommendation to Open Company-Specific Investigations; Order on Petitions to Intervene of BlueMark Energy, LLC and CURB; Protective and Discovery Order at 1, Docket No. 21-GIMX-303-MIS (Mar. 9, 2021) ("21-303 Order Opening Investigation").

[8] FERC, North America Electric Reliability Corporation, and Regional Staff Entity Report, Inquiry into Bulk-Power System Operations During December 2022 Winter Storm Elliott at 5-6, https://www.ferc.gov/media/winter-storm-elliott-report-inquiry-bulk-power-system-operations-during-december-2022 (Nov. 7, 2023) (FERC/NERC Winter Storm Elliott Report).

[9] Load shed is the reduction of system demands by systematically, and in a predetermined sequence, interrupting the load flow to major customers and/or distribution circuits, normally in response to system or area capacity shortages or voltage control considerations. FERC, Market Assessments Glossary, https://www.ferc.gov/industries-data/market-assessments/overview/glossary#L (last updated Aug. 31, 2020).

[10] *See* FERC 2024 Winter Storm Presentation.

[11] *See id*.

summer and winter.[12] The balance of seasonal risk in SPP is increasingly shifting from summer to winter.[13] FERC projects arctic storms to have the potential to significantly impact system reliability and with increasing frequency.[14]

Increased extreme weather is occurring simultaneously as demand for electricity is accelerating.[15] SPP's all-time high peak demand in August 2023 was 10% higher than the peak observed just two years earlier.[16] SPP's projections show the levels of peak demand experienced in 2023 could be as much as 25% higher by 2030 for both winter and summer seasons.[17] Also straining system operation are the retirements of aging thermal generating resources, primarily coal and older natural gas plans, while the SPP region increasingly becomes reliant on variable resources which can be dependent on "wildly" shifting weather patterns.[18] The variability of these resources is contributing to the fact that the supply of available generation is not keeping up with the growth of the demand.[19] The combination of extreme weather, increasing demand, and retirements of aging infrastructure are causing excess generating capacity and reserve margins[20] in the SPP region to shrink to dangerously low levels; this means less room for error when there are unexpected events or emergencies, increasing the risk of forced outages.[21] In response, SPP has taken various initiatives to bolster resource adequacy within its territory, such as increasing planning reserve margins ("PRM"), implementing new accreditation methods, and creating special

[12] Southwest Power Pool, *Our Generational Challenge* at 10, https://spp.org/media/2163/our-generational-challenge-paper.pdf (Summer 2024) ("SPP: Our Generational Challenge").
[13] *Id.* at 13.
[14] *Id.*
[15] *Id.* at 7.
[16] *Id.* at 9.
[17] *Id.*
[18] SPP: Our Generational Challenge at 9. Variable resources are generation types, often renewable energy, that vary in how much energy they can provide due to reliance on as-available fuel.
[19] *Id.* at 10.
[20] *Id.* Reserve margins are the amount of unused available capacity of an electric power system (during peak demand for the utility's system) as a percentage of total capability needed to meet peak demand.
[21] *Id.* at 1, 10.

processes for load-serving entities ("LSE"), like Evergy, to bring generation to its territories in an expedited manner.[22]

Recognizing the pressing need for reliable, dispatchable generation, House Bill 2527 passed with overwhelming bipartisan support from the Kansas Legislature during the 2024 Kansas legislative session and the bill was ultimately signed into law by the Governor on April 18, 2024.[23] House Bill 2527 amended K.S.A. § 66-1239, which allows a public utility, prior to acquiring a stake in generating facility, to file a petition with the Commission requesting determination of the ratemaking principles and treatment to be applied to the recovery of the cost incurred by the utility in its investment in a generating facility.[24] House Bill 2527 authorized special ratemaking principles and treatment *specifically* for new gas-fired generating facilities by permitting a surcharge that allows the utility to recover a return on up to 100% of construction work in progress for such generating facilities.[25] The passage of House Bill 2527 is a strong signal of policy support by the Kansas Legislature and the Governor on the decision to build new natural gas fired generation facilities in Kansas,[26] which will support the reliability of the electric grid and further diversify the electric generation sources serving the State.

On November 6, 2024, pursuant to the amended K.S.A. § 66-1239, Evergy Kansas Central filed an Application for predetermination of ratemaking principles and treatment pertaining to the proposed investment in the Kansas Sky solar facility and the Viola and McNew CCGTs.[27] Evergy's proposal aims to substantially increase its ability to meet capacity requirements while

[22] *Infra*, section II(a)(iii)(A)(3).
[23] Kansas Laws 2024, ch. 60, § 4 (eff. July 1, 2024), https://www.sos.ks.gov/publications/sessionlaws/2024/Chapter-60-HB-2527.html. *See* Petition of Evergy for Determination of Ratemaking Principles and Treatment at 3-4 (Nov. 6, 2024) ("Evergy Application"), Direct Testimony of Justin Grady, at 46 (Mar. 14, 2025) ("Grady Direct").
[24] K.S.A. § 66-1239(c)(1).
[25] Up to a definitive cost estimate ("DCE") of the investment set by the Commission. K.S.A. § 66-1239(c)(6)(A).
[26] Grady Direct at 46.
[27] Evergy's Application for Determination of Ratemaking Principles and Treatment ("Evergy Application").

ensuring system reliability and minimizing carbon emissions from its system.[28] The Commission granted intervention to a variety of entities (together, the "Parties")[29] and issued a schedule ("Procedural Schedule") to govern the proceedings.[30] Ultimately, Parties came to unanimous agreement regarding Evergy Kansas Central's investment in Kansas Sky[31] and a subset of the Parties reached a non-unanimous agreement regarding the investment in the Viola and McNew natural gas plants.[32]

II. SETTLEMENT AGREEMENTS

There is a strong policy in Kansas law that settlements are to be encouraged.[33] Commission Staff signed on to both the Natural Gas and Solar Agreements because each is a reasonable resolution surrounding the issues related to Evergy's proposed investment in new renewable and thermal generating sources.[34] In the following section, Staff will discuss how the Natural Gas

[28] *See* Direct Testimony on Behalf of Evergy's Application of Darrin Ives at 3 ("Ives Direct").
[29] Order Setting Procedural Schedule; Granting CURB's Petition to Intervene; Designating Presiding Officer; Protective and Discovery Order (Nov. 14, 2024), Order Granting Petition to Intervene of Kansas Agricultural Group (Nov. 19, 2024), Order Granting U.S. Department of Defense's Petition to Intervene ("DOD") (Nov. 19, 2024), Order Granting Petitions for Intervention of KPP Energy ("KPP"), Kansas Industrial Consumers Group, Inc. ("KIC"), Associated Purchasing Services ("APS"), The Goodyear Tire and Rubber Company ("Goodyear"), Lawrence Paper Company ("LPC"), Occidental Chemical Corporation ("Occidental"), Spirit AeroSystems, Inc. ("Spirit"), Cargill, Incorporated ("Cargill") (Nov. 19, 2024), Order Granting Unified School District #259 Sedgwick County, Kansas ("USD #259") Petition to Intervene (Nov. 19, 2024), Order Granting Intervention to Kansas Chamber of Commerce and Johnson County Board of Commissioners (Nov. 21, 2024), Order Granting Midwest Energy's ("Midwest") Petition to Intervene (Nov. 21, 2024), Order Granting Intervention to City of Overland Park, City of Lawrence, and Kansas Municipal Energy Agency (Nov. 26, 2024), Order Granting Intervention to Climate + Energy Project ("CEP"), Renew Missouri, The Council for the New Energy Economics ("NEE"), and Wichita Regional Chamber of Commerce (Nov. 26, 2024), Order Granting Intervention to Blue Valley School District USD 229 ("USD #229"), Olathe School District USD 223 ("USD #223"), Shawnee Mission School District USD 512 ("USD#512"), Unified School District No. 232, Johnson County, Kansas("USD #232"), Order Granting Intervention to CCPS Transportation ("CCPS") and Walmart, Inc. ("Walmart") (Nov. 26, 2024), Order Granting Intervention to HF Sinclair El Dorado Refining LLC ("HF Sinclair"), Atmos Energy Corporation ("Atmos"), the Natural Resources Defense Council ("NRDC"), and Kansas Gas Service, a Division of ONE Gas, Inc. ("KGS") (Nov. 26, 2024).
[30] Order Setting Procedural Schedule; Granting CURB's Petition to Intervene; Designating Presiding Officer; Protective and Discovery Order (Nov. 14, 2024).
[31] Joint Motion to Approve Unanimous Partial Settlement Solar Facility (Apr. 16, 2025) ("Solar Agreement").
[32] Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities (Apr. 16, 2025) ("Natural Gas Agreement").
[33] *See Bright v. LSI Corp.*, 254 Kan. 853, 869 P.2d 686 (1994).
[34] The terms of the Solar Agreement, as well as the Natural Gas Agreement, are contained within their respective filings. For brevity's sake, the terms will not be included here.

Agreement satisfies the Commission's standards of approval for a non-unanimous settlement agreement, and the how the Solar Agreement satisfies the Commission's standards of approval for a unanimous settlement agreement.

a. The Natural Gas Agreement Satisfies the Commission's Five-Factor Test

The Commission must consider five factors when deciding whether to approve a non-unanimous settlement agreement: 1) whether there was an opportunity for the opposing parties to be heard on their reasons for opposition to the agreement; 2) whether the agreement is supported by substantial competent evidence; 3) whether the agreement conforms with applicable law; 4) whether the agreement results in just and reasonable rates; and 5) whether the results of the agreement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement.[35]

i. All Parties, Including those in Opposition, had Ample Opportunity to Be Heard

All Parties had the opportunity for extensive investigation of all the issues related to the natural gas plants. Evergy responded to well over 100 data requests by the Parties throughout the course of the proceeding,[36] and many such responses contained extensive attachments and workbooks of data. All Parties were afforded the opportunity to submit direct testimony[37], cross-

[35] *See* Order Approving Contested Settlement Agreement at 5, Docket No 08-ATMG-280-RTS (May 5, 2008) ("08-280 Order").
[36] Grady Settlement Testimony at 16.
[37] Direct Testimony of Paul Owings on Behalf of KCC Staff ("Owings Direct"); Direct Testimony of Justin Grady on Behalf of KCC Staff ("Grady Direct"), Direct Testimony of Lucy Metz on Behalf of CURB ("Metz Direct"), Direct Testimony of William "Nick" Jones on Behalf of the Council of New Energy Economics ("Jones Direct"), Testimony of Anna Sommer on Behalf of Natural Resources Defense Council ("Sommer Direct"), Direct Testimony of Mike Kelly on Behalf of the Board of Johnson County Commissioners of Johnson County ("Kelly Direct"), Addi Lowell Prefiled Direct Testimony on Behalf of USD 259 ("Lowell Direct"), Direct Testimony of Michael P. Gorman ("Gorman Direct") and Direct Testimony of Colin Fitzhenry ("Fitzhenry Direct"), Direct Testimony of John Rolfe on Behalf of the Wichita Reginal Chamber ("Rolfe Direct"), Direct Testimony of Matt L. Robbins, Kansas Gas Service ("Robbins Direct"), Direct Testimony of Justin Bieber, HF Sinclair El Dorado Refining LLC ("Bieber Direct"), Direct Testimony of Kathleen R. Ocanas, Atmos Energy Corporation ("Ocanas Direct"), Testimony of Kathy Richardson on Behalf of Intervenor City of Lawrence, Kansas ("Richardson Direct").

answering testimony,[38] and testimony in support or in opposition[39] to the Natural Gas Agreement.[40] The Parties engaged in a multi-day settlement negotiations process, beginning at the Commission's office on April 9, 2025, and by further virtual conferences on April 10 and 11, 2025. The Parties continued to communicate into the next week via e-mail, nearly up to the filing of the Natural Gas Agreement. All Parties either participated in, or requested to be excused from, a three-day Evidentiary Hearing from April 21-April 23, 2025.[41] During each step of the Procedural Schedule, all Parties were given the opportunity to raise issues, ask questions, challenge assumptions, exchange information, and engage in various policy debates.[42] Following the Evidentiary Hearing, all Parties have been afforded the opportunity to write briefs, in which Parties can further express their perspectives on the issues raised in this case.

Although some of the Parties may oppose the Agreement, all Parties have indeed been given due process throughout these proceedings. The Parties received notice of the contents of the Natural Gas Agreement by being part of the settlement negotiations and were afforded the

[38] Cross Answering Testimony of Justin Grady on Behalf of KCC Staff ("Grady Cross-Answering"), Cross Answering Testimony of Michael P. Gorman on Behalf of Kansas Industrial Consumers Group, Inc. ("Gorman Cross-Answering"), Cross-Answering Testimony of William "Nick" Jones on Behalf of the Council for the New Energy Economics ("Jones Cross-Answering"), Cross-Answering Testimony of Dorothy Barnett on Behalf of Climate + Energy Project ("Barnett Cross-Answering").

[39] *See* Testimony in Opposition of Natural Gas Settlement of William "Nick" Jones on Behalf of the Council for the New Energy Economics ("Jones Settlement Testimony"), Testimony in Support of Unanimous Partial Settlement on Solar Facility and Testimony in Opposition to Non-Unanimous Partial Settlement on Natural Gas Facilities of Luzy Metz on Behalf of CURB ("Metz Settlement Testimony"), Testimony in Opposition of Non-Unanimous Partial Settlement Agreement Regarding Solar Facility of Dorothy Barnett on Behalf of Climate + Energy Project ("Barnett Settlement Testimony"), Grady Testimony in Support Filing ("Grady Settlement Testimony"), Darrin Ives Testimony in Support of Natural Gas and Solar Settlement ("Ives Settlement Testimony"), Jason Humphrey Testimony in Support of Natural Gas and Solar Settlement ("Humphrey Settlement Testimony").

[40] *See* Procedural Schedule at 2-3.

[41] *See* Testimony in Opposition of Natural Gas Settlement of William "Nick" Jones on Behalf of the Council for the New Energy Economics ("Jones Settlement Testimony"), Testimony in Support of Unanimous Partial Settlement on Solar Facility and Testimony in Opposition to Non-Unanimous Partial Settlement on Natural Gas Facilities of Luzy Metz on Behalf of CURB ("Metz Settlement Testimony"), Testimony in Opposition of Non-Unanimous Partial Settlement Agreement Regarding Solar Facility of Dorothy Barnett on Behalf of Climate + Energy Project ("Barnett Settlement Testimony"), Grady Testimony in Support Filing ("Grady Settlement Testimony"), Darrin Ives Testimony in Support of Natural Gas and Solar Settlement ("Ives Settlement Testimony"), Jason Humphrey Testimony in Support of Natural Gas and Solar Settlement ("Humphrey Settlement Testimony").

[42] Grady Settlement Testimony at 17.

opportunity to be heard by virtue of their ability to argue for inclusion or exclusion of various terms. All Parties were offered the right to join or refuse to join as a signatory to the Agreement prior to its filing and have since had the opportunity to express their support of or opposition to the Agreement through filed testimony, at hearing, and through briefing.

Further, additional exhibits and testimony were admitted by the Commission after the conclusion of the hearing at the request of certain parties in opposition to the Natural Gas Agreement.[43] The parties who oppose the Natural Gas Agreement have had numerous and continued opportunities to be heard throughout the course of these proceedings.

ii. The Natural Gas Agreement is Supported by Substantial Competent Evidence

Substantial competent evidence is that "which possesses something of substance and relevant consequences, and which furnishes a substantial basis of fact from which the issues tendered can reasonably be resolved."[44] The "record as a whole" includes evidence that both supports and detracts from an agency's findings.[45] The Commission's ultimate finding must be supported by the evidence in the record that is substantial when considered in light of all of the evidence.[46] The evidentiary record before the Commission is replete with substantial competent evidence, which supports approval of the Natural Gas Agreement.

[43] *See* Order Denying Motion to Strike Proposed Supplemental Testimony and Exhibits and Order on KIC's Motion to File the 2025 Annual Updated Integrated Resource Plan as an Exhibit (both issued May 15, 2025). Although the Commission admitted the 2025 IRP Update into evidence, it ruled the 2024 IRP is the "most recent preferred plan" as defined by K.S.A. § 66-1239(c). The 2024 IRP is the relevant IRP as it pertains to the legal standards in K.S.A. § 66-1239.
[44] *See Southwestern Bell Tel. Co. v. State Corp. Com'n*, 4 Kan. App. 2d 44, 46 (1979), *rev. denied* 227 Kan. 927 (1980).
[45] *See Herrera-Gallegos v. H&H Delivery Service, Inc.*, 42 Kan. App. 2d 360, 360 (2009).
[46] *See* Grady Testimony in Support at 17-18.

The Natural Gas Agreement is supported by Evergy's Application, Direct Testimony,[47] Supplemental Direct Testimony,[48] and Rebuttal Testimony,[49] and Testimony in Support of the Agreement;[50] and, by the Direct Testimony, Cross-Answering Testimony, and Testimony in Support or Opposition of the Agreement filed by Staff and the Parties.[51] The various testimony filings and their attachment total to thousands of pages of evidence, offering comprehensive, diverse, and conflicting perspectives about the issues presented in the case.

The Natural Gas Agreement is further supported by the record developed at both the public and evidentiary hearings in this proceeding. The Commission held a seven-week public comment period, during which the public could submit their opinions on the various issues in the case,[52] and a Public Hearing where the public had the opportunity to make comments on the record in person. The Commission's General Counsel filed a report in the record that compiled comments received from the public by letter, phone, email, or via the Commission's website during the public comment period.[53] At the Evidentiary Hearing, various expert witnesses expressed rationale for support of or opposition to the Natural Gas Agreement in response to Commissioner questions, cross-examination, and re-direct, all of which is part of the evidentiary record.[54] All of the above-

[47] *See* Direct Testimony on Behalf of Evergy's Application of Darrin Ives ("Ives Direct"), Cody VandeVelde ("VandeVelde Direct"), Jason Humphrey ("Humphrey Direct"), J. Kyle Olson ("Olson Direct"), John Carlson ("Carlson Direct"), Katy Onnen ("Onnen Direct"), John Grace ("Grace Direct"), and Ron Klote ("Klote Direct") (Nov. 14, 2024).
[48] Supplemental Testimony on Behalf of Evergy of Darrin Ives ("Ives Supplemental"), Jason Humphrey ("Humphrey Supplemental"), Kyle Olson ("Olson Supplemental"), and Cody VandeVelde ("VandeVelde Supplemental"). *See also* Errata to Kyle Olson Supplemental Confidential Testimony (Feb. 19, 2025)("Olson Errata").
[49] Rebuttal Testimony on Behalf of Evergy of Cody VandeVelde ("VandeVelde Rebuttal"), John Carlson ("Carlson Rebuttal"), Jason Humphrey ("Humphrey Rebuttal"), Darrin Ives ("Ives Rebuttal"), Ronald Klote ("Klote Rebuttal") and J. Kyle Olson ("Olson Rebuttal").
[50] Ives Settlement Testimony, Humphrey Settlement Testimony.
[51] *Infra*, § II (a)(i).
[52] *See* Procedural Schedule at 2-3.
[53] Notice of Filing of Public Comments (Apr. 16, 2025).
[54] The Evidentiary Hearing was also made available to the public on YouTube, with the exception of confidential portions.

mentioned materials establish a considerable record containing substantial competent evidence to support Commission approval of the Natural Gas Agreement.[55]

Opposing parties have argued that Evergy Kansas Central did not robustly evaluate alternatives to the preferred plan – the underlying premise being that the Natural Gas Agreement is not supported by substantial competent evidence.[56] This argument appears to ignore the fact that the Integrated Resource Plan ("IRP") modeling itself is a process of scenario-based planning and examination of alternatives. Evergy's IRP is its primary long-term resource planning vehicle, and the modeling Evergy uses to conduct its IRP considers a multitude of inputs and alternative portfolios prior to Evergy Kansas Central's selection of a preferred plan.[57] This means plainly that many alternatives *were* considered through the IRP process, and Evergy made a choice based on comparisons of those alternative plans at the time it chose the 2024 preferred plan. Evergy solidified its choice when it ran updated cost projections and the modeling ("Capacity Expansion Model") still chose an investment by Evergy Kansas Central in 710 MW of natural gas generation through 2030.[58]

Staff also noted an inconsistency in the Citizens' Utility Ratepayer Board's ("CURB") analysis regarding the veracity of Evergy's updated IRP modeling. CURB argued the Capacity Expansion Model results are inadequate because Evergy only re-ran one portfolio (the 2024 selected plan) so there is no way to determine if the updated modeling results in the best resource portfolio for ratepayers compared to alternative portfolios.[59] Additionally, because the Capacity Expansion Model produced a recommended CCGT investment of 710 MW in 2030 (moving from

[55] *See* Grady Testimony in Support at 17-18.
[56] *See* Metz Settlement Testimony at 8-9, Jones Direct at 3, Jones Settlement Testimony at 2, 6-9.
[57] *See* further discussion of Evergy's IRP process in § II(a)(iii)(1). As will also be discussed therein, K.S.A.§ 66-1239 requires that predetermination only be granted to utility investments that are aligned with the utility's IRP.
[58] *See* Vandevelde Direct at 24.
[59] *See* Metz Direct at 23-24, Jones Direct at 33.

the 2024 IRP's recommendation to invest in 325 MW of CCGT in 2029 and 2030, respectively), CURB argued it was not economic for Evergy Kansas Central to add CCGT capacity at all in 2029.[60] At the same time, CURB relied upon the Capacity Expansion Model's battery and solar selections after 2030 as evidence to underscore the economic value of these resource additions, which it argues should be built instead of the CCGTs.[61] This position reveals an inherent contradiction in the analysis: CURB relies upon the Capacity Expansion Model as evidence of economic viability of batteries and solar when the modeling selects those resources but not when it selects the natural gas plant investments, even though the same modeling that selected batteries did so only *after* selecting CCGT resources.[62] The inconsistency undermines CURB's ultimate argument that the natural gas plants have not been robustly evaluated or compared to alternatives; they were robustly evaluated in the 2024 IRP and in the Capacity Expansion Model, and the modeling selected the CCGTs as resource investments over a multitude of alternatives, including batteries, in the near future.

CURB's ultimate recommendation is that Evergy pursue a Combustion Turbine ("CT"), wind, and solar instead of the CCGTs.[63] But those recommendations are simply not supported by the extensive resource planning modeling performed by Evergy in support of its decisions in this proceeding. The reality is that Evergy's modeling, both in the 2024 IRP and in the Capacity Expansion Model, selected CCGTs instead of batteries or a CT prior to 2030.[64] The need for a full CCGT by 2030 is met by the addition of one half of Viola in 2029 and one half of McNew in 2030. All of this goes to the fact that Evergy's IRP modeling, in addition to the testimony filed

[60] Metz Direct at 24.
[61] *See id.* at 23.
[62] *See id.* at 24.
[63] *See* Evidentiary Hearing Transcript, Vol. III at 658-659, 662, lines 20-25.
[64] *See* Metz Direct at 24.

and elicited at the Evidentiary Hearing, comprises substantial competent evidence in the record to support Evergy Kansas Central's investment in the natural gas plants.

iii. The Natural Gas Agreement Conforms with Applicable Law

The Natural Gas Agreement conforms with applicable law because it was derived through a process that aligned with K.S.A. § 66-101b and K.S.A. § 66-1239 and because, as will be discussed further in subsection (iv), the Natural Gas Agreement complies with the Kansas Supreme Court's test for determining whether the investment will achieve just and reasonable rates.

K.S.A. § 66-101b requires Kansas utilities to supply efficient and sufficient service at just and reasonable rates. This was intended to confer power on the Commission "to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors," and implies flexibility in the Commission's exercise of complicated regulatory function.[65] As is discussed throughout subsequent sections, the Natural Gas Agreement will advance Evergy Kansas Central's ability to supply continued efficient and sufficient electric service to its customers at just and reasonable rates.[66]

K.S.A § 66-1239 allows for a utility to implement a recovery mechanism for construction work in progress ("CWIP") costs to be recovered, up to a definitive cost estimate ("DCE"), during construction of the natural gas plants;[67] this is an alternative to Evergy Kansas Central filing multiple successive rate cases to begin recovery of these costs. The Natural Gas Agreement includes the use of a CWIP surcharge that conforms with the parameters stated in K.S.A. § 66-1239(c)(6)(A).[68]

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[65] *Kansas Gas & Electric Co. v. State Corp. Com'n*, 239 Kan. 483, 512 (Kan. 1986).
[66] *See infra*, §§ II(a)(iii)(3)(b) and (c), II(a)(iv).
[67] *See* K.S.A. § 66-1239(c)(6)(A-C), Klote Direct at 4-6. The DCE for the plants is contained within the Natural Gas Agreement.
[68] *See* Natural Gas Agreement, Attachment 1 at 3 [specifically stating the signatories' intention for Evergy Kansas Central's CWIP surcharge to be implemented pursuant to K.S.A. § 66-1239(c)(6)(A)].

Pursuant to K.S.A. § 66-1239, the analysis of Evergy's investment in the natural gas plants will consider, in part: (1) consistency with Evergy's most recently filed preferred plan and resource acquisition strategy;[69] (2) whether the utility engaged in a competitive process to select operators to meet the needs identified under the preferred plan;[70] and (3) whether Evergy's plan is reasonable, reliable, and efficient.[71] Staff will discuss each in turn below.

1. Consistency with 2024 IRP

Evergy's most recently filed preferred plan and resource acquisition strategy is its 2024 Integrated Resource Plan ("2024 IRP"), contained within Docket No. 24-EKCE-387-CPL ("24-387").[72] Integrated resource planning is a data-driven process designed to ensure a utility has sufficient resources to consistently and reliably meet forecasted customer demand in a cost-effective manner.[73] To minimize the risk of failing to meet energy demands, Evergy Kansas Central tests assumptions through sensitivity analysis, which considers key variables under different future conditions.[74] The modeling selects the least-cost portfolio of resources based upon numerous sets of constraints, assumptions, and scenarios.[75] Evergy's IRP tests various resource plans against 27 different scenarios – each of these scenarios designed to represent a different view of what the future could bring regarding critical uncertain factors such as natural gas prices, CO2 emissions policy, and construction costs.[76] The resource plans are then evaluated economically

[69] K.S.A. § 66-1239(c)(2).
[70] *Id.* at (c)(3).
[71] *Id.*
[72] *See* Evergy Integrated Resource Plan Filing, Volumes 1-6, 24-387 Docket (May 17, 2024). The Commission subsequently determined the 2024 IRP Filing satisfied the IRP Framework as contained in the Commission's February 6, 2020 Order in Docket No. 19-KCPE-096-CPL. *See* Order Finding Evergy's 2024 IRP Complied with Requirements of Capital Plan Framework, 24-387 Docket (Jan. 30, 2025). For an in-depth discussion on the connection between generation planning and Evergy's IRP, *see* Humphrey Direct at 3-10.
[73] *See* VandeVelde Direct at 3.
[74] *Id.* at 4.
[75] Grady Direct at 14.
[76] *Id.* at 29.

based on their performance in future scenarios with the varied levels of critical uncertain factors.[77] The plans are ultimately ranked on a net present value revenue requirement ("NPVRR") metric in different future scenarios on a weighted-average risk basis.[78]

In its May 2024 filing, Evergy Kansas Central's preferred plan, selected through the IRP modeling process, called for the addition of 325 MW of CCGT in 2029, 325 MW of CCGT in 2030.[79] Evergy Kansas Central's proposal to acquire a 50% share (355MW) of the Viola natural gas plant corresponds to the 325 MW of need for thermal generation shown in Evergy's 2024 IRP for 2029; and, the proposal to acquire a 50% share (355 MW) of the McNew natural gas plant corresponds to the need shown in Evergy's 2024 IRP for 325 MW of thermal generation in 2030.[80]

Since the filing of Evergy's 2024 IRP, Evergy experienced significant increases in the estimated cost to construct Viola and McNew, driven by inflation and overall demand for natural gas generation in the market.[81] Evergy performed the Capacity Expansion Model using the same inputs that were used in the 2024 IRP filing, but updated some of the factors related to the natural gas plants, including cost projection.[82] Optimized with the new estimates, the modeling still selected the same resources through 2030, including 150 MW of solar and a full (710 MW) CCGT.[83] This demonstrates that Evergy Kansas Central's plan to acquire a 50% share of each of Viola and McNew by 2030 and the solar facility[84] remained consistent with Evergy's 2024 IRP and in conformity with K.S.A. § 66-1239.[85]

[77] VandeVelde Direct at 15.
[78] VandeVelde Direct at 15.
[79] *See* Evergy IRP Executive Summary – Volume 1 at 9.
[80] *See* Vandevelde Direct at 16; Grady Direct at 24.
[81] Vandevelde Direct at 23.
[82] *See id.* at 24.
[83] *See id.*
[84] Kansas Sky will be discussed further in Section II(b) of this Brief.
[85] *See* Vandevelde Direct at 24.

2. Competitive Process Undertaken

Evergy Kansas Central issued multiple competitive bidding requests from a wide audience to meet the projected needs identified under the 2024 IRP at every stage of development.[86] Evergy Kansas Central issued an all-source request for proposal ("RFP") in 2023, but no thermal resources were submitted in response.[87] This led to Evergy self-developing the two natural gas plants.[88] As discussed in the Direct Testimony of Evergy witness Kyle Olson, Evergy did conduct competitive bidding processes to select the contractors that would build the CCGTs, as well as the suppliers of all major equipment for the CCGTs.[89] The owner's engineer ("OE"), the gas turbine provider, and the generator-step-up transformers were all selected through competitive RFPs; the engineer, procure, and construct ("EPC") selection is still in the process of being finalized through a competitive RFP.[90]

Evergy has undergone a competitive bidding process to hire contractors at every stage of developing the two natural gas plants to balance cost and reliability.[91] For these reasons, Evergy has demonstrated that it engaged in a competitive process, soliciting a wide audience of participants to meet the needs identified under the 2024 IRP.

3(a). The Natural Gas Plants are Reasonable Resource Additions

K.S.A. § 66-1239(c)(3) contemplates that the Commission will consider the reasonableness of Evergy Kansas Central's proposed investment. The reasonableness of Evergy Kansas Central's decision to acquire a 50% stake in each of the natural gas plants is multi-faceted, supported and justified by various realities and circumstances ongoing in the energy industry today.

[86] Grady Direct at 25.
[87] *See* Humphrey Direct at 11.
[88] *See id.*
[89] *See* Grady Direct at 25; Olson Direct at 9, 15-18, 21-24.
[90] *See* Evergy Response to CURB Data Request No. 18, as reprinted in Grady Direct at 25-26, Humphrey Settlement Testimony at 5.
[91] *See* Evergy Response to CURB Data Request No. 18, as reprinted in Grady Direct at 25-26.

First, the natural gas plant investment is consistent with Evergy's 2024 IRP and the Capacity Expansion Model.[92] This updated analysis demonstrated that Evergy's addition of the Viola and McNew generating facilities remain the best approach for Evergy Kansas Central to meet the needs identified in the 2024 IRP.[93] Second, Evergy Kansas Central must plan to serve a significantly increasing load profile.[94] Evergy estimates load growth of 2-3% annually from 2024 to 2029 in its service territories.[95] The addition of the natural gas plants provides dispatchable, highly efficient generation that can maintain system reliability while meeting needs related to increased customer load.[96] Third, Evergy Kansas Central's coal units are aging.[97] Evergy should maintain a diversified generation mix, while also developing the ability to responsibly and reliably plan for the eventual retirement of its coal fleet, rather than being forced to respond hastily.[98] Unanticipated mechanical failures can occur, causing prolonged outages and increased costs.[99] Fourth, the natural gas investment is complementary to the potential of a highly carbon-restricted and renewable resource-heavy future. The natural gas plants' flexibility will keep them valuable assets even if the future is one dominated by carbon-restrictions and renewable energy resources.[100] The natural gas plants will be capable of starting up quickly, and ramping up and down as intermittent and weather dependent resources ebb and flow with weather patterns.[101] Natural gas will continue to serve as a back-up to renewable resources, which makes them a critical

[92] *See* Grady Direct at 27.
[93] *See* Vandevelde Direct at 25.
[94] *See id.*, Grady Direct at 35.
[95] *See* Grady Direct at 34-36.
[96] *See id.* at 35, Vandevelde Direct at 25.
[97] *See* Transcript, Vol. 11 at 435, lines 16-25. Upcoming planned coal unit retirements will occur when units reach anywhere from 50-60 years of operation.
[98] *See* Grady Direct at 28-29.
[99] *See* Grady Direct at 32, Direct Testimony of Linda J. Nunn on Behalf of Evergy Metro, Inc., Evergy Kansas Central, and Evergy Kansas South, Inc. at 27, Docket No. 23-EKCE-775-RTS (Apr. 25, 2023).
[100] *See* Grady Direct at 36.
[101] *See id.* at 37.

generation resource to support reliability even in a more renewable heavy future.[102] Finally, the natural gas investment is responsive to SPP's resource adequacy initiatives, both for reliability assuredness and to avoid a deficiency payment.[103] The resource adequacy measures indicate a strong policy statement that SPP supports efforts to bring new LSE generation online quickly to meet increasing electric demand while ensuring continued reliability of the regional electric grid.

In 2022, SPP increased the summer planning reserve margin ("PRM") required of its load-serving entities ("LSEs")[104] from 12% to 15%, effective beginning the summer of 2023.[105] SPP recently filed a request at FERC to increase the PRM for the 2026 summer to 16% and to implement a PRM of 36% for the Winter of 2026/2027.[106] On May 6, 2025, the SPP Board approved a revision to its governing tariff, which, if approved by FERC, would add language to the planning criteria requiring a 2029 Summer Base PRM of 17% and a 2029/2030 Winter Base PRM of 38%.[107] The natural gas plants will add more generation to Evergy's system, thus contributing to an increase in Evergy Kansas Central's reserve margin.

SPP has filed a request at FERC to implement new capacity accreditation methodologies for both thermal and renewable resources.[108] Performance Based Accreditation ("PBA") sets the accreditation of thermal generators according to their average performance when they are called

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[102] Grady Direct at 40.
[103] SPP: Our Generational Challenge at 20. SPP periodically assesses each utility's ability to meet the PRM requirement based on submitted resource and peak demand information.
[104] "Load-serving entity" is any entity, including a load aggregator or power marketer, that serves end-users within a control area and has been granted the authority or has an obligation pursuant to state or local law, regulation, or franchise to sell electric energy to end-users located within the control area. FERC, Market Assessments Glossary, https://www.ferc.gov/industries-data/market-assessments/overview/glossary#L (last updated Aug. 31, 2020).
[105] SPP: Our Generational Challenge at 19. Grady Direct at FN 56. The PRM is the amount of installed capacity that a load serving entity like Evergy is required to have over and above its anticipated peak demand, or, the "cushion" of extra generation that is available to serve customers in the event of unplanned outages on the system or extreme load occurrences that are above planning estimates.
[106] Grady Direct at 42. *See* FERC Docket No. ER24-89.
[107] Press Release, Southwest Power Pool, SPP board approves expedited generation interconnection process to help meet regional resource adequacy (May 8, 2025), https://www.spp.org/news-list/spp-board-approves-expedited-generation-interconnection-process-to-help-meet-regional-resource-adequacy/.
[108] *See* FERC Docket No. ER24-1317.

upon to support reliability, with exceptions for out of management control events.[109] Generally, under PBA, LSEs with better performing units receive higher accreditation of those units, while LSEs with worse performing units receive lower overall accreditation.[110] SPP later made an additional filing to implement the Fuel Assurance methodology, an addition to PBA accreditation, which captures how well thermal generators are able to perform during the top 3% of net load hours (meaning, peak load minus renewable production).[111]

The Effective Load Carrying Capability ("ELCC") methodology sets the accreditation of renewable generators based on the load these generators are estimated to be able to serve as renewable penetration levels change or grow over time.[112] ELCC is the industry-standard methodology for accrediting renewable resources, but it does reduce their capacity credit as more renewable generators are added to a given system.[113] For example, the average ELCC capacity credit that wind investments are expected to receive in SPP today is approximately 16% in summer and winter; yet as the level of wind increases, the capacity credit declines to around 13% by 2042.[114] This is certain to impact utilities attempting to meet increasing PRMs in wind-rich territories across SPP.

The resource adequacy initiatives require LSEs, like Evergy, to produce higher reserve margins at the same time as their existing resources may be receiving less accreditation.[115]

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[109] *See* Grady Direct at FN 58.
[110] *See* Transcript, Vol. II at 572, lines 4-11.
[111] *See* Grady Direct at FN 60. Fuel Assurance was proposed to be implemented by SPP on September 3, 2024, in FERC Docket No. ER24-2953.
[112] *See* Grady Direct at FN 59.
[113] *See* Hearing Transcript, Vol. II at 544-546 (Staff Witness Grady explaining how ELCC accreditation reflects the physical and engineering realities of intermittent generating technologies), VandeVelde Direct, Exhibit CV-1 at 16.
[114] Grady Direct at 51.
[115] SPP has estimated an aggregate gap between its LSEs' available capacity and upcoming resource adequacy requirements of 16.7 GW; there exists *at least* a 2 GW gap even if all of the developing generation in the queue is able to come online. *See* Southwest Power Pool Presentation to the Regional State Committee on RR 668 - Expedited Resource Adequacy Study at 15-17 (May 5, 2025) ("ERAS May 2025 Presentation"). It is estimated that up to 14.2 GW of accredited generation may come online between now and 2030 based on current generation projections. Grady Direct at 43.

Meanwhile, long queues for interconnecting new generation are a barrier to bringing additional generation supply online to meet expected future energy demand.[116] To aid its LSEs in meeting more stringent planning reserve margins and moving generation projects through overcrowded queues, SPP crafted the Expedited Resource Adequacy Study ("ERAS") proposal,[117] which would establish a one-time special study to accelerate the interconnection of new resources proposed by LSEs.[118] The study will be conducted outside the regular GI study queue and on a shortened timeline, which will give a generation project in the ERAS study a six-month advance compared to participating in the typical GI queue study process.[119] Evergy Kansas Central's investment in the natural gas plants reflects a proactive approach to upcoming SPP directives and an opportunity to take advantage of expedited processes.

3(b). The Natural Gas Plants are Reliable Resource Additions

K.S.A. § 66-1239(c)(3) contemplates that the Commission will consider the reliability of Evergy Kansas Central's proposed investment. The natural gas plants will be highly reliable additions to Evergy's generation fleet and Evergy Kansas Central's ownership of one half of each will add flexible, dispatchable generation to Evergy Kansas Central's system, offering critical

[116] Currently, there are over 100,000 MWs of generation that want to connect to the grid via the SPP generation interconnection ("GI") queue. *See* Transcript, Vol. II at 575 lines 3-5, Grady Direct at 54 [citing Midwest Reliability Organization, *Regional Risk Assessment* at 19, https://www.mro.net/document/mro-2025-regional-risk-assessment/?download (Jan. 2025)].

[117] *See* ERAS May 2025 Presentation at 24. At the May 6, 2025, Board Meeting the SPP Board of Directors approved the ERAS proposal. Robert Walton, SPP proposes one-time framework to speed generation interconnection, UTILITY DIVE (May 9, 2025), https://www.utilitydive.com/news/spp-proposes-one-time-framework-to-speed-generation-interconnection-ERAS/747630/#:~:text=Southwest%20Power%20Pool's%20board%20of,to%20the%20regional%20grid%20operator.

[118] Generation projects for the study will be chosen by LSEs based on resource adequacy needs defined by SPP policy. LSEs may select any generation and fuel type based on their individual needs. *See* ERAS May 2025 Presentation at 20-21.

[119] *See* ERAS May 2025 Presentation at 20. *See* Southwest Power Pool Board Members Committee Meeting Agenda, at 111-115, https://www.spp.org/documents/73735/2025-05-06%20board%20members%20committee%20agenda%20materials%20v2.pdf (May 6, 2025).

reliability services such as a quick start-up time, a low minimum run rate, and the ability to ramp up quickly.[120] These natural gas plants are expected to have low forced outage rates compared to other generation types, except for nuclear and hydroelectric.[121] Evergy's IRP modeling evaluated the reliability of its preferred resource plan and determined the plan would allow Evergy to exceed the industry reliability standard of a loss of load expectation of one day in ten years.[122] Critically, a renewable heavy portfolio did not yield the same results – when the natural gas plants were removed and the IRP model was only allowed to select renewable resources, the loss of load expectation estimation was three times higher than the industry standard.[123] The natural gas plants are being built to withstand winter temperatures as low as -15° Fahrenheit, further demonstrating their reliability value in a future predicted to have increased winter weather events.[124]

SPP's requested accreditation methodologies highlight the reliability value of the natural gas plants. The region is increasingly reliant on renewable resources, which can provide environmental and cost benefits, but other sources of electricity must be available to meet demand and quickly ramp up when renewable output is low.[125] Renewable resources are not ideal for the purpose of adding capacity in the long-term to a utility's system because of their declining accreditation over time.[126] As discussed above,[127] ELCC accreditation declines as the amount of renewable penetration on an electric system increases. ELCC reflects the "immutable reality" that the more renewable resources added to a power grid, the less capability each incremental resource has to serve load reliably.[128] While it is possible to firm up these resources and add some accredited

[120] *See* Grady Direct at 47.
[121] *See id.* 61-62.
[122] *Id.* at 63.
[123] *See id. See also* Evergy Integrated Resource Plan and Risk Analysis – Volume 5 at136-140, 24-387 Docket.
[124] *See* Grady Direct at 102.
[125] *See* SPP: Our Generational Challenge at 9.
[126] *See* Evidentiary Hearing Transcript, Vol. II at 574, lines 19-25.
[127] Supra § II(a)(iii)(3)(a).
[128] Grady Direct at 52.

capacity with battery storage, batteries too have a declining ELCC accreditation as their penetration increases as a percentage of installed resources.[129] It is difficult for LSEs like Evergy to protect or bolster their PRMs with renewable energy assets due to that continually declining accreditation.[130] There is a need for additional thermal generation across the SPP region to balance out a generation profile of abundant renewables.[131]

For the last four winters, SPP has not been able to meet the needs of its internal load without relying on resources from other regions; this fact is indicative of a need for every LSE in SPP's territory to build more firm winter dispatchable capacity,[132] such as that produced by the natural gas plants. Evergy is the largest LSE in SPP's territory.[133] The risks of not building more of this type of capacity can include steep economic damages, like those experienced during Winter Storm Uri; there are also lost opportunity costs if businesses have to shutter and suffer property damages from frozen pipes and flooding.[134] Most devastatingly, loss of electric service for prolonged periods can lead to loss of human life.[135] Importantly, Staff is not arguing for Evergy Kansas Central to be the only utility shouldering the cost burden of bolstering reliability across the region; there are 26,000 thermal generation MWs in the SPP GI queue *right now* attempting to be built,[136] evidencing the need is indeed region-wide, and Evergy is most certainly not the only utility in the region planning to add this kind of reliability bulwark to their systems.

[129] Grady Direct at 52.
[130] *See* Evidentiary Hearing Transcript, Vol. II at 575, lines 11-16.
[131] *See* Grady Direct at 48 (referencing MRO, SPP, and NERC statements regarding the need for dispatchable resources as reprinted at 47-49).
[132] *See* Evidentiary Hearing Transcript, Vol. II at 563, lines 3-11.
[133] *See id.* at lines 11-12.
[134] *See id.* at 564, lines 6-8.
[135] *See id.* at lines 3-5.
[136] See *id.* at 558, lines 6-12. The first 11,760 MWs of that generation includes the Viola and McNew gas plants. Grady Settlement Testimony at 23.

3(c). The Natural Gas Plants are Efficient Resource Additions

K.S.A. § 66-1239(c)(3) contemplates that the Commission will consider the efficiency of Evergy Kansas Central's proposed investment. Evergy's 2024 IRP modeling selected the natural gas plants;[137] and, Evergy's Capacity Expansion Model still selected one full 710 MW combined cycle facility by 2030, even with updated, additional cost inputs. As discussed in subsection 3(a) above, Evergy's modeling is designed to select the lowest-cost plan considering a highly uncertain future, so the fact that it selected the natural gas plants – specifically, 710 MW of natural gas generation – for Evergy Kansas Central by 2030 strongly demonstrates the efficiency of the natural gas investment.[138] Near-term CCGT resources were also supported by the 2023 IRP.[139]

From both an emissions and fuel usage standpoint, the natural gas plants are highly efficient additions to Evergy Kansas Central's generating fleet and ultimately will improve the reliability of the interconnected gas and electric system in Kansas.[140] These plants will emit 61% less CO2 than the average coal unit in Evergy's fleet and 53% less CO2 than the average gas unit.[141] The gas plants are projected to have a low heat rate, enabling them to produce electricity with 40% the amount of fuel required today to generate electricity at the average natural gas unit in their fleet, and approximately half of the amount of fuel at the least efficient unit.[142] The low heat rate emphasizes the efficiency of Evergy's investment because the ability to use less fuel overall to generate electricity will better insulate customers from fuel price spikes;[143] so, these natural gas

[137] Grady Direct at 14.
[138] *See id.*
[139] The 2023 IRP anticipated a need for 1,042 MW of natural gas by 2029. Grady Direct at 9.
[140] *See* Grady Direct at 64.
[141] *Id.* at 36.
[142] *Id.* at 64.
[143] *Id.*

plants will produce electricity for less money and less fuel than the current natural gas resources in Evergy's fleet in periods of increased demand.

Throughout the proceedings, opposing parties have argued that Evergy's investment in the natural gas plants should be rejected due to several alleged inefficiencies: 1) because Evergy Kansas Central's preferred plan coming out of the 2024 IRP was not the lowest cost plan;[144] 2) because they believe Evergy Kansas Central has underestimated the probable future cost of natural gas, which will subject ratepayers to price volatility;[145] and 3) because Evergy's strategies for fuel procurement will not shield customers from costs related to price spikes.[146] Staff will address its disagreement with each of the above assertions in turn.

(1) *The IRP's Least-Cost Plan Does not Equate to the Most Efficient Plan*

It is true that the preferred resource plan selected by Evergy Kansas Central from the 2024 IRP was not the lowest-cost plan on an NPVRR basis of the modeled portfolios.[147] Evergy Kansas Central's preferred plan is the third lowest-cost plan; for briefing purposes, Staff will focus on the relative merits of the lowest-cost plan compared to the selected preferred portfolio.[148] Plan ABAA, the overall lowest-cost plan, is ultimately inefficient.

Plan ABAA called for delaying Jeffrey Energy Center ("JEC") unit 2's retirement, doubling the level of new solar build from 2027 through 2032 (for a total of 1500 MW of new solar over that time frame), and for a delay of any new thermal builds until 2032, when a CT would

[144] *See* Gorman Direct at 11, 15, Metz Settlement Testimony at 9.
[145] *See* Jones Direct at 2, 4-10, Metz Direct at 30.
[146] *See* Jones Direct at 13-21 (discussing historical gas purchasing practices, specifically at Evergy's Hawthorn Station, which contains a combined cycle unit, a coal steam unit, and two simple cycle units).
[147] The preferred plan's NPVRR was .08% higher than the lowest cost plan in the 2024 IRP, which was later updated to 1.4%. *See* Grady Direct at 71.
[148] *See* VandeVelde Direct at 14 and Grady Direct at 71. The second lowest-cost plan was not conducive to a planning adjustment made by Evergy regarding the Viola CCGT build to address need in Evergy Kansas Central and Evergy Missouri West.

be built instead of the CCGTs.[149] The preceding sections discussed the diminished reliability value of intermittent resources, like solar, compared to thermal resources.[150] Staff has expressed concerns regarding the inefficiencies that will result from a renewable-heavy investment plan with this accreditation methodology.[151] Often fervent local opposition to utility-scale solar would likely be another roadblock to Evergy successfully developing that amount of solar in such a short time.[152] Given the uncertainty around the future of production tax credits ("PTC"),[153] which if lost would significantly increase the cost of utility-scale solar, it is not an efficient plan to delay new thermal generation to 2032 and instead build 750 MW of solar over the next five years.[154]

ELCC accreditation exacerbates the inefficiency of Plan ABAA. Current expectations are that solar investments will get an accreditation as high as 70% in the summer, and 20% in the winter; however, by 2042 that capacity credit is expected to shrink to 17% in the summer and just 5% in the winter.[155] Based upon the projected capacity credit levels for solar by 2042, just from a construction and materials perspective, Evergy Kansas Central would need six times as much solar at nameplate capacity in order to replace the capacity of a thermal generation unit in the summer, and twenty times as much solar to replace the capacity of a thermal generation unit in the winter.[156] From a cost perspective, assuming the ELCC accreditation is down to 15%, the levelized cost of capacity of solar investment is double that of a gas plant investment.[157]

Even though the preferred plan selected through the 2024 IRP is not the overall least-cost plan, Staff rejects arguments that the preferred plan, and the investment in the natural gas plants

[149] Grady Direct at 72.
[150] *Infra* § II(a)(iii)(A)(3)(b).
[151] *See* Grady Direct at 51-52, Hearing Transcript Vol. II at 575-576.
[152] *See* Grady Direct at 72.
[153] *See id.*
[154] *Id.*
[155] Grady Direct at 51.
[156] *Id.*
[157] Evidentiary Hearing Transcript, Vol. II at 576, lines 9-17.

flowing from that plan, are inefficient. Considering the current difficulties in moving utility-scale solar projects through local zoning processes, the uncertainty around the future of PTCs, and the projected impact of ELCC accreditation, the likelihood of additional costs and delays associated with pursuing a solar-heavy plan at this time override any potential efficiency gained by pursuing Plan ABAA simply because it is "least cost" on its face.

(2) Evergy's Mid-Case Fuel Cost Projection Should be Relied Upon

With respect to Evergy's fuel projections, the root of the opponents' argument is that Evergy's mid-case natural gas price forecast underestimates the future of natural gas prices; and instead, gas prices will be closer to Evergy's high-case forecast, rendering the gas plants inefficient investments.[158] New Energy Economics specifically attacked the fact that Evergy solely relied on the mid-case forecast in modeling the need for the natural gas plants under updated cost assumptions in the Capacity Expansion Model.[159] Staff's analysis considered whether there were deficiencies in using the mid-case forecast, but ultimately, Staff does not share the opponents' concerns. Current forward markets for natural gas do not indicate a future of unstable and growing natural gas prices.[160]

At the Evidentiary Hearing, New Energy Economics witness Jones referenced a Federal Reserve Bank of Kansas City survey to support the premise that natural gas prices could be anywhere from $5 (per MMBtu) to $8 five years from now.[161] Upon further inspection of the filed Report,[162] it appears the survey was more focused on gathering opinions on what natural gas prices *needed to be* for oil drilling to be profitable (and to increase oil drilling), rather than focused on

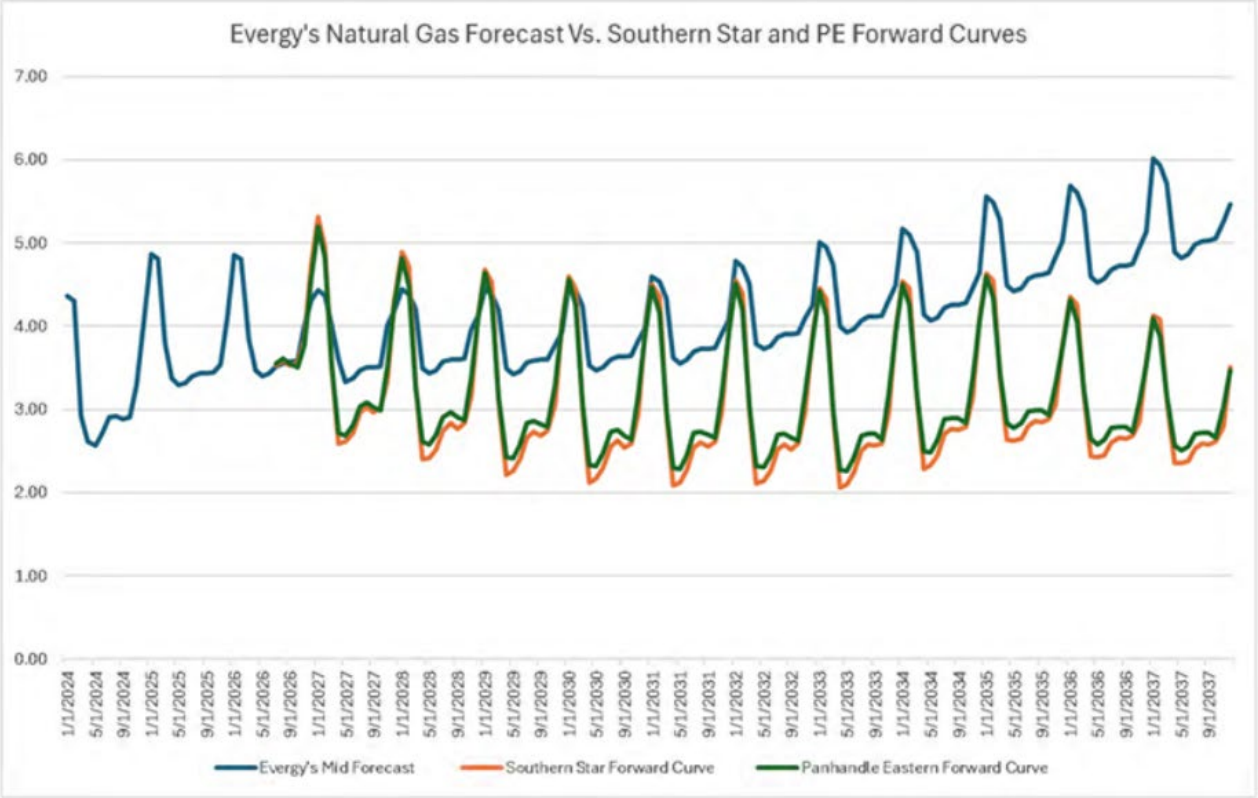
[158] *See* Jones Direct at 5-8, Metz Direct at 28-30.
[159] *See* Jones Direct at 11.
[160] Grady Cross-Answering at 11.
[161] *See* Evidentiary Hearing Transcript, Vol. III at 645, lines 22-25, to 646, lines 1-10.
[162] *See* Notice of Late-Filed Hearing Exhibit NEE-03 (May 5, 2025) ("NEE-03").

soliciting general expectations for the natural gas market.[163] Staff acknowledges that the chart within the Report shows the survey responses ranging from about $3/MMBtu to $10/MMBtu.[164] Yet this wide gap in estimations is not supported by any evidence within the exhibit; it is a compilation of opinion from unlisted energy producers. NEE-03 should be given little to no weight in light of the body of contravening evidence supporting a future with a more moderate escalation, and it should not be relied upon by the Commission in ascertaining a reasonable projection of future fuel costs.

Evergy's mid-case natural gas forecast is a reasonable estimate of the cost of natural gas to serve the plants.[165] As recently as March 12, 2025, S&P Global's forward market price curve for local delivery of natural gas at the Southern Star and Panhandle Eastern delivery points, through 2037, showed a normal seasonal pricing patterns for natural gas; and, of note, all prices after 2029 were forecasted to be under $5/MMBtu.[166] Evergy's mid-case natural gas price forecast aligned with the natural gas price forward curves for Southern Star and Panhandle Eastern.[167] Actually, Evergy's mid-case natural gas price was forecasted at about $1/MMBtu higher than Southern Star and Panhandle Eastern projections, which supports Staff's conclusion that Evergy's mid-case

[163] NEE-03, p 1, stating, "natural gas prices needed to be $3.80 per million Btu for drilling to be profitable on average, and $5.10 per million Btu for drilling to increase substantially."
[164] *See id.* 3.
[165] Grady Cross-Answering at 16.
[166] Grady Direct at 69-70.
[167] Grady Cross-Answering at 11-12.

natural gas price forecast is more likely overestimating, rather than underestimating, the future cost of natural gas.[168] For ease of reference, the chart compiled by Staff is reprinted below:



Evergy's high-case natural gas price forecast is $6.20/MMBtu for 2024 to 2029 and $7.10 per MMBtu from 2030-2035.[169] This is significantly higher than natural gas prices forecasted by the Southern Star and Panhandle Eastern forward curves through 2037, shown above. Further, Evergy's high-case forecast is quite higher than Evergy's actual delivered gas prices from January 1, 2019, to August 1, 2024, which averaged $3.85/MMBtu.[170] Most recently, the Energy Information Administration ("EIA") released its Annual Energy Outlook ("AEO") for 2025, which estimated the average, or base, cost of natural gas to be very similar to Evergy's mid-case

[168] *See* Grady Cross-Answering at 12 (noting Evergy forecasted an average $4.26/MMBtu compared to $3.11 and $3.19 for Southern Star and Panhandle Eastern, respectively).
[169] *Id.* at 9.
[170] *Id.* at 8.

forecast.[171] At Evidentiary Hearing, Staff witness Grady testified that long term financial markets are not showing any indication that natural gas is going to experience dramatic price increases long-term.[172] For all of these reasons, the Commission should not rely on Evergy's high-case natural gas cost forecast, as was advocated by New Energy Economics,[173] to support an assumption that price volatility will render the investment inefficient.

Opponents also argued that the mid-case forecast underestimates the future cost of natural gas because increased demand for natural gas is likely to inflate fuel prices over time.[174] Again, Staff does not share this concern. Even with a projected increase in demand for natural gas, Staff anticipates the natural gas market to grow production levels commensurate with demand increases.[175] The EIA has projected domestic production to outpace domestic consumption of natural gas through 2050[176] and has reported the United States has 86 years of deliverable resources of natural gas.[177] Staff urges the Commission to find, as Staff has, that Evergy's mid-case natural gas forecast is a reasonable estimate of the cost of natural gas to serve the CCGTs. This forecast is conservative when compared to Evergy's historical delivered costs of natural gas, even considering the extreme price shocks of Winter Storm Uri, and when compared to the current forward market curves for locally priced natural gas.[178]

3. Evergy will Establish an Efficient Gas Supply Plan

New Energy Economics also criticized Evergy's past fuel procurement methodology, stating similar strategies for the natural gas plants will not shield customers from costs related to

[171] *See* KCC Staff, NEE, and Evergy Stipulated Post Hearing Exhibit (May 5, 2025) ("Commission Staff, NEE, and Evergy Stipulated Post-Hearing Exhibit 1").
[172] *See* Evidentiary Hearing Transcript at 579-583.
[173] *See* Jones Direct at 8, Grady Cross-Answering at 6.
[174] *See* Jones Direct at 9-10, Metz Direct at 18, 29.
[175] *See* Grady Direct at 68 (discussing the natural gas market's historical capability in responding to increased demand).
[176] Grady Direct at 68.
[177] *See* Evidentiary Hearing Transcript, Vol. II at 582, lines 6-8.
[178] Grady Cross-Answering at 16.

price spikes.[179] While Evergy Kansas Central has not yet finalized a long-term gas supply plan,[180] Evergy intends for its plan to be conceptually similar to its strategy to purchasing coal.[181] However, Evergy's gas supply plan will differ significantly in some aspects, as the current purchasing strategy is based on fuel supply needs of higher heat rate generating facilities, which are subject to unpredictable and non-ratable commitments.[182] Due to baseload characteristics and anticipated operation of the two natural gas plants, Evergy Kansas Central intends to develop a long-term gas supply plan that minimizes exposure to spot pricing and alleviates some of the administrative burden of buying significant volumes of natural gas daily. Evergy intends to secure firm transport for the natural gas plants.[183] While Evergy does not have a signed contract for firm gas transportation at this point, it is in involved in negotiations with several intrastate and interstate gas pipelines and does have a reasonable plan to achieve firm transportation,[184] and Staff is highly confident that it will in fact execute contracts to do so.[185]

The Natural Gas Agreement has put several safeguards in place to ensure that development of Evergy Kansas Central's fuel procurement plan results in customer protection against price spikes and extreme volatility, which adds to the efficiency of the investment. Under the terms, Evergy Kansas Central would be required to collaborate with Staff and CURB during the development of its natural gas plan and must file the resulting plan in a compliance docket; the plan is subject to review on an annual basis both during its formation and during its utilization.[186]

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[179] *See* Jones Direct at 13-21 (discussing historical gas purchasing practices, specifically at Evergy's Hawthorn Station, which contains a combined cycle unit, a coal steam unit, and two simple cycle units).
[180] Jones Direct at 20.
[181] *See* Olson Rebuttal at 7
[182] *See* Olson Direct at 31.
[183] *Id*. *See* Evidentiary Hearing Transcript, Vol. I at 284, lines 8-10, 290 at line 25, 291 at lines 1-4.
[184] *See* Olson Direct at 31, Grady Direct at 58, Evergy Highly Confidential Response to Staff Data Request No. 18. This response is contained in Exhibit JTG-15.
[185] *See* Evidentiary Hearing Transcript, Vol. II at 479-480.
[186] Natural Gas Agreement Filing, Attachment 1 at 5.

While Evergy Kansas Central currently has a Commission-approved hedging program,[187] should the addition of the natural gas plants materially revise that program, Evergy will be required to collaborate with Staff and CURB to file a revised hedging program prior to any procurement done pursuant to the gas purchasing plan.[188] Evergy Kansas Central will be required to file a compliance filing once all natural gas transportation arrangements have been finalized and in such filing include, at a minimum, the financial terms and conditions under which firm natural gas transportation has been secured and the duration of the transportation arrangement.[189]

Staff and CURB have been actively involved in reviewing the natural gas procurement plans of all of Kansas's natural gas utilities for the last two decades and thus will provide the necessary oversight to review Evergy's plan. Additionally, any plan filed in the future compliance docket will be subject to Commission scrutiny. This process will produce an efficient natural gas procurement plan that will provide some protection for customers from potential volatility in natural gas pricing.

For all of the above reasons, the Commission should reject arguments regarding alleged inefficiencies associated with the natural gas investment and should conclude that the investment is, in fact, efficient, and does conform with applicable law as stated in K.S.A. § 66-1239.

iv. The Natural Gas Agreement will Result in Just and Reasonable Rates

The Natural Gas Agreement also conforms with applicable law because it appropriately balances considerations set forth by the Kansas Supreme Court. To analyze whether a settlement agreement results in rates that are just and reasonable, the Commission looks to whether the rates fall within the "zone of reasonableness," as described by the Kansas Supreme Court. Under this

[187] *See generally* Docket No. 23-EKCE-846-HED.
[188] Natural Gas Filing Agreement, Attachment 1 at 5.
[189] *Id.* at 6.

analysis, the determination of whether a rate is just and reasonable is predicated upon a balancing test where the following interests are considered: 1) the utility's investors vs. the ratepayers; 2) the present ratepayers vs. the future ratepayers; and 3) the public interest (the "Ratemaking Balancing Test").[190]

It is in the interest of both Evergy's investors and its ratepayers for Evergy to be able to continue to supply reliable electric service into the future; doing so is what allows Evergy to satisfy its statutory mandate to provide sufficient and efficient service,[191] from which ratepayers benefit. Evergy's investors are entitled to an opportunity to receive a reasonable return on investments made to serve the rate base.[192] The reliability benefits evidenced by this investment, described above in Section II(a)(iii)(3)(b), demonstrate there is a need for this type of firm, dispatchable generation to bolster the defenses of Evergy Kansas Central's electric system. For this same reason, Evergy Kansas Central's investment in the natural gas plants is in the interest of current and future ratepayers.

The Natural Gas Agreement balances the interests of investors and ratepayers through its "circuit breaker" provisions, which establish a regulatory process to mitigate risk of cost-overruns.[193] In the event Evergy Kansas Central reasonably believes its actual costs are projected to exceed 115% of the DCE for either plant, Evergy Kansas Central must file such information with the Commission and justify the economics and prudency of continuing to construct the natural gas plants or request Commission approval to abandon the projects.[194] The filing triggers a review period where the Commission will evaluate various aspects of the projects and determine whether

[190] *See Kan. Gas and Electric Co.,* 239 Kan.488.
[191] *See* K.S.A. § 66-101b.
[192] *See* Moundridge Tel. Co. v. Kansas Corp. Comm'n, 361 P.3d 523, 2015 WL 7693784 at * 15 (Kan. Ct. App. 2015) (holding a public utility is entitled to earn a return on its investment in the plant and property used and required to be used in supplying the regulated service).
[193] *See* Natural Gas Agreement, Attachment 1 at 6-10.
[194] *See id.*, Ives Settlement Testimony at 25-26.

further review is required.[195] And, if so, the Commission will allow Parties to issue data requests to Evergy Kansas Central and will hold a hearing to receive input regarding the reasonableness of Evergy's proposal to either continue or abandon the project.[196] Within 90 days of a filing made by Evergy Kansas Central pursuant to the circuit breaker provisions, the Commission would issue an order making a determination on Evergy's proposal.[197] The circuit breaker portion of the Natural Gas Agreement provides transparency to both the investors and the customers by establishing a process through which significant cost overruns will be rigorously analyzed for prudency, and allows a thorough and balanced review of whether to continue with or abandon the investment.

The Natural Gas Agreement spreads the costs and benefits of the plants across present and future ratepayers. Under the terms of the Agreement and pursuant to K.S.A. § 66-1239(c)(6)(A), the CWIP rider, based on EKC's 50% investment in the Viola plant and 50% investment in the McNew plant, will start to be recovered from ratepayers beginning no sooner than 365 days after construction of each of the plants begins.[198] Evergy Kansas Central will continue to collect the CWIP surcharge until the investments are reflected in base rates, and then will collect the costs via rate cases up to the DCE.[199] Evergy Kansas Central estimates that the rate impact of CWIP surcharge will range from approximately .58% to approximately 3.82% from rates currently in effect; each plant will ultimately result in an approximate all-in bill impact of 4.3% for Evergy Kansas Central customers.[200] Combined, the total impact is an 8.6% increase.[201] Staff has reviewed and verified these estimates as reasonable and accurate.[202]

[195] *See* Natural Gas Agreement, Attachment 1 at § k((i), Ives Settlement Testimony at 25-26.
[196] *See* Natural Gas Agreement, Attachment 1 at § k((ii).
[197] *See id.* at § k((ii)(3).
[198] Klote Direct at 5-6.
[199] *Id.* at 7.
[200] Klote Direct at 6, 8.
[201] Grady Settlement Testimony at 20.
[202] *See* Grady Settlement Testimony at 19.

The benefits of utilizing the CWIP surcharge include reducing the overall project cost by minimizing the amount of allowance for funds used during construction ("AFUDC") included in rates;[203] reducing AFUDC in turn will also reduce the total nominal value of related revenue requirements (return on the investment and recovery of depreciation) customers pay over the life of these generating facilities.[204] Essentially, the CWIP rider reduces the financing and interest costs on building the plants, both over the construction period and over the useful life of the plant, making them less expensive to customers overall.[205] An overall lower cost is a benefit to both current and future generations of ratepayers. The timing split between construction costs being recovered through the CWIP rider and future rate cases (up to the DCE) allows for multiple generations of ratepayers to share the costs of the natural gas plants.

There is an inherent tension between the desire for increased reliability and lowered cost;[206] and the rule tends to be, more reliability equals higher cost. Staff acknowledges the natural gas investment will undoubtedly produce rate increases that will be unwelcome by many customers, but these rate increases are hand-in-hand with needed reliability benefits.[207] Evergy Kansas Central's investment plan was selected out of its 2024 IRP modeling and selected again by its Capacity Expansion Modeling because it is a low-cost plan that performs well under a variety of highly uncertain futures. During times when electricity is needed the most in Kansas, like during times of prolonged extreme heat or cold as experienced several times in just the past five years, the natural gas plants will help Evergy provide electric service that is essential to air conditioning or heating, so customers can keep comfortable and safe in their homes.[208] One other important fact

[203] Klote Direct at 6.
[204] *Id. See* Grace Direct at 8.
[205] *See* Ives Direct at 8.
[206] *See* Evidentiary Hearing Transcript at 471-475 (Staff Witness Grady discussing in-depth Staff's evolving views on balancing reliability and affordability concerns in Kansas over the last seven years).
[207] *See* Grady Settlement Testimony at 21. *See* Evidentiary Hearing Transcript at 561-562.
[208] Grady Settlement Testimony at 21.

is that Evergy Kansas Central, to the extent there is excess generation produced by the natural gas plants, will be able to sell the gas into SPP's Integrated Marketplace. These off-system sales margins can be used to offset the costs incurred by Evergy Kansas Central during future storms.

The third prong of the Kansas Supreme Court "zone of reasonableness" test requires each of those sets of interests – that of Evergy Kansas Central's shareholders and members and its ratepayers, as well as that of current and future ratepayers—to be balanced against the public interest generally.[209]

v. The Natural Gas Agreement is in the Public Interest

Generally, the public interest is served when ratepayers are protected from unnecessarily high prices, discriminatory prices, and/or unreliable service.[210] The Natural Gas Agreement satisfies these standards by approving an investment that bolsters reliability, which will be enjoyed by all of Evergy's customers, while offering cost transparency, spreading the rate impact of the investment over the timeline for construction and into future rate cases, and mitigating cost overruns with its circuit breaker provisions.

In settlement negotiations, each of the signatories represented their respective interests by putting time, thought, and professional analysis into deriving a settlement position it found reasonable.[211] The Natural Gas Agreement is based on the record and is a reasonable compromise among the signatories based on each party's own analysis of a reasonable outcome.[212] The signatories represent varied interests from numerous areas of the utility stakeholder community in

[209] *See Kan. Gas and Electric Co.,* 239 Kan.488.
[210] Testimony in Support of Unanimous Stipulation and Agreement of Justin T. Grady at 12, Docket 19-SPEE-240-MIS (Jun. 22, 2020).
[211] Grady Settlement Testimony at 29.
[212] *Id.*

Kansas:[213] Evergy, representing the interests of its investors and its business; KMEA and KPP Energy, representing the interests of Kansas municipalities; Atmos and KGS, representing the interests of Kansas natural gas utilities; HF Sinclair, representing the interest of a large oil refinery; Johnson County and the City of Lawrence, representing the interests of their respective territories, residents, and businesses therein; Midwest Energy, representing the interests of a Kansas cooperative; NRDC, representing the interests of its members in advancing clean energy; and Staff, attempting to balance the interests of all of the Parties in the docket while representing the interests of the public generally. The fact that these parties were able to collaborate and craft the Natural Gas Agreement is significant evidence that the public interest standard has been met.[214]

The vast majority of the signatories are Kansas-based organizations, lending to the reasonableness of the investment and demonstrating the shared desire to bring reliable, dispatchable generation to Kansas. Of course, it is not just the signatories who will benefit from the Natural Gas Agreement. The parties who opposed or simply did not sign on to the Agreement will still benefit from the investment's unleashing of reliable, firm, dispatchable generation to Kansas, a benefit which will extend to customers across Evergy's rate classes and ultimately add to the reliability of the electric and natural gas systems in Kansas as a whole.[215] Specifically, the Natural Gas Agreement is in the public interest because it complies with the directives in K.S.A. § 66-1239, is responsive to energy policy signals provided by the Kansas Legislature and the Governor; is responsive to increasing resource adequacy standards being implemented at SPP, and will add highly flexible, dispatchable generation to the system, which offers critical reliability services for customers.[216]

[213] *See* Grady Settlement Testimony at 24.
[214] *Id.*
[215] *See* Grady Direct at 64.
[216] *See* Grady Settlement Testimony at 25-28.

The Natural Gas Agreement was derived from a process that allowed all parties to be heard, was based upon substantial competent evidence in the record, conforms with applicable law, will result in just and reasonable rates, and is in the public interest. As such, the Natural Gas Agreement satisfies the Commission's five-factor test for approval of non-unanimous settlement agreements, and Staff urges the Commission to find the same and accept the Natural Gas Agreement as a reasonable resolution of the issues in this case related to Evergy Kansas Central's investment in the Viola and McNew natural gas plants.

b. The Solar Agreement Satisfies the Commission's Three-Factor Test

The Solar Agreement was signed by 34 parties; the City of Overland Park did not sign but stated that it does not oppose the agreement, and Lawrence Paper Company did not sign but did not file any testimony in opposition. Therefore, the Solar Agreement is a unanimous partial settlement agreement as defined by K.A.R. 82-1-230a(2).[217] When approving a unanimous settlement, the Commission must make an independent finding that the settlement is supported by substantial competent evidence in the record as a whole, establishes just and reasonable rates, and is in the public interest.[218] Because the Solar Agreement is a unanimous settlement agreement as defined by K.A.R. 82-1-230a, there is no need to apply the Commission's five-factor test for approval of non-unanimous settlement agreements.[219]

[217] *See* K.A.R. 82-1-230a(2): 'Unanimous settlement agreement' means an agreement that is entered into by all parties to the proceeding or an agreement that is not opposed by any party that did not enter into the agreement.
[218] Order on KCP&L's Application for Rate Change, ¶ 15, Docket No. 15-KCPE-116-RTS (Sep. 10, 2015) (15-116 Order) [citing *Citizens' Utility Ratepayer Board v. State Corp. Com'n*, 28 Kan. App. 2d 313, 316 (2000), *rev. denied* 271 Kan. 1035 (2001) (hereinafter, *Citizens' Utility*].
[219] *See* 08-280 Order, ¶ 11. The Commission has forgone the application of the five-factor test when analyzing whether to approve a unanimous settlement agreement. *See* 15-116 Order, ¶ 15.

i. The Solar Agreement is Supported by Substantial Competent Evidence in the Record as a Whole

As discussed further in section II(a)(ii), above, the evidentiary record before the Commission is replete with substantial competent evidence, which supports the approval of the Solar Agreement. The Solar Agreement is specifically supported by Evergy's Application and Direct Testimony, and by the Direct, Cross-Answering, and Testimony in Support of the Agreement filed by Staff and the Parties.[220] Together, these filings constitute hundreds of pages of evidence and were offered by stakeholders with diverse and conflicting perspectives about the issues presented in the case. Staff, Evergy, and CURB each filed testimony to specifically address their respective support for the unanimous Solar Agreement. These filings specifically discuss the respective author's belief that the Solar Agreement is supported by substantial competent evidence in the record as a whole.[221]

Notably, there is no evidence in the record whatsoever challenging the Solar Agreement. No party has filed testimony in the record opposing the Solar Agreement. Taken together, the filings in the record demonstrate that there exists substantial competent evidence to support Evergy's investment in Kansas Sky.

ii. The Solar Agreement Establishes Just and Reasonable Rates

As discussed in § II(a)(iv), above, to analyze whether a settlement agreement results in rates that are just and reasonable, the Commission looks to whether the rates fall within the "zone of reasonableness," as described by the Kansas Supreme Court.

It is in the interest of both Evergy's investors and its ratepayers for Evergy to invest in Kansas Sky. Staff has consistently represented that the addition of Kansas Sky will improve the

[220] *Supra*, § II(a)(i).
[221] *See* Grady Settlement Testimony at 17-18, Ives Settlement Testimony at 27-28, Metz Settlement Testimony at 5.

diversification of Evergy's generation mix, which will provide a hedge against unexpected natural gas or wholesale energy price shocks as have occurred in the past.[222] Additionally, investment in Kansas Sky is consistent with the near-term solar generation that Evergy's 2024 IRP modeling called for.[223] Further, the Solar Agreement balances the interests of investors and ratepayers by provisions that establish a prudence review process for amounts spent in excess of the DCE for the project.[224] In the event that there are amounts spent in excess of the DCE, Evergy will bear the burden of proof to show that any amount it incurs in excess of those DCEs, for instance, impacts from legislative or executive actions including tariffs on project costs, is prudently incurred and is just and reasonable to recover from ratepayers.[225] This prudency review process will serve to provide transparency to both investors and ratepayers by enabling a thorough review of amounts spent in excess of the DCE.

An investment in Kansas Sky is in the interest of both Evergy Kansas Central's present and future ratepayers. Paragraph 5.e. of the Solar Agreement contemplates that, in lieu of including the facility in rate base, a levelized revenue requirement of the solar facility will be included in Evergy's total revenue requirement in the Company's next general rate case following the date the solar generating facility is placed in service. Staff supports the use of the levelized revenue requirement ratemaking mechanism to avoid the dramatic fluctuation (and arguable intergenerational inequity) that would otherwise occur in the revenue requirement because of the significant PTC value that occurs for Kansas Sky during the first 10-years.[226] Additionally, the Solar Agreement adequately balances the interests of Evergy's present ratepayers and its future

[222] Grady Direct at 83-84.
[223] *Id*.
[224] *See* Solar Agreement at § 5.i.
[225] *See id*.
[226] Grady Direct at 96-97.

ratepayers by addressing potential economic risks associated with the possible repeal of the federal Inflation Reduction Act. Paragraph 5.k. of the Solar Agreement provides that Evergy should be required to make a compliance filing with the Commission justifying the economics and prudency of continuing forward with Kansas Sky or informing the Commission that it will abandon the project and addressing resolution of customer impacts of the cost of abandonment, if the provisions of the Inflation Reduction Act applicable to Kansas Sky are substantially revised or repealed prior to the start of construction. This provision will help to ensure that ratepayers are shielded from dramatic fluctuations in price or feasibility of the project based upon uncontrollable federal policy shifts.

iii. The Solar Agreement is in the Public Interest

The Solar Agreement balances each of the interests discussed above with the public interest generally.[227] The Solar Agreement serves the public interest by protecting ratepayers from unnecessarily high or discriminatory prices and/or unreliable service.[228] The Commission should approve the Solar Agreement because it brings to fruition an investment that diversifies Evergy's generating fleet, which will provide reliability benefits by offering an additional 159 MW of generating capacity. The Solar Agreement provides for a fixed levelized revenue requirement for the first thirty years of the life of Kansas Sky, spreading costs to customers evenly over time, and contains provisions to mitigate risks associated with changes in law or regulations or the occurrence of events outside the control of Evergy.

As discussed further in section II(a)(v), above, the signatories to the Solar Agreement represent varied interests from numerous areas of the utility stakeholder community in Kansas.[229]

[227] *See Kan. Gas and Electric Co.,* 239 Kan.488.
[228] *See* Testimony in Support of Unanimous Stipulation and Agreement of Justin T. Grady at 12, Docket 19-SPEE-240-MIS (Jun. 22, 2020).
[229] *See* Grady Settlement Testimony at 24.

The fact that all 34 parties in this case with varied interests were able to collaborate through settlement negotiations and present a resolution of the issues regarding the Kansas Sky project in this case strongly indicates that the public interest standard has been met.

The Solar Agreement is based on substantial competent evidence in the record as a whole, establishes just and reasonable rates, and is in the public interest. Staff requests the Commission find that the Solar Agreement satisfies the Commission's three-factor test for approval of unanimous settlement agreements and to accept the Solar Agreement as a reasonable resolution of the issues in this case related to Evergy's investment in Kansas Sky.

III. UNCERTAINTY IN FEDERAL POLICY

Current evolving federal policy related to trade, import tariffs, and the potential expiration of PTCs has added a layer of uncertainty regarding cost impacts to both the natural gas and the solar investment. To avoid facing substantial risk related to tariff costs, as well as legal risks related to trade regulation, Evergy Kansas Central contracted with a Generator Step Up Transformer provider not located in Southeast Asia to supply for the natural gas plants, lessening the risk of tariff impact.[230] The development of the "circuit breaker" provisions discussed in § II(a)(iv) was also in response to federal policy uncertainty. The Natural Gas Agreement and Solar Agreement each have provisions specifically identifying the impact from legislative or executive actions as a potential trigger for further prudence review if costs exceed the DCEs for the investments.[231] Further, each Agreement contains a provision that would require Evergy Kansas Central to work with Staff to develop monthly project status reporting, including impacts from legislative and executive action.[232]

[230] *See* Humphrey Supplemental Testimony at 2.
[231] *See* Natural Gas Agreement, Attachment 1, ¶ 5(e)(7); Solar Agreement, Attachment 1, ¶ 5(h), (i), and (k).
[232] *See* Natural Gas Agreement, Attachment 1, ¶ 5(j); Solar Agreement, Attachment 1, ¶ 6.

In Settlement Testimony, New Energy Economics argued that the settlement terms are insufficient for protecting Evergy ratepayers against the current uncertainties brought by federal policy shifts, and instead, suggests an alternative plan where, prior to the start of construction of the McNew gas plant, Evergy Kansas Central will conduct a review of cost estimates and potential alternatives to acquiring a 50% share in the McNew plant.[233] New Energy Economics believes a lower net-ownership in the McNew plant with a proportional investment in a battery energy storage system ("BESS") would be lower cost for Evergy Kansas Central ratepayers and still satisfy growing SPP reserve margin requirements.[234] New Energy Economics claims, "there is no compelling reason for the Commission not to revisit the economic case for the McNew plant closer to groundbreaking."[235] Staff disagrees with this sentiment.

There are a couple of compelling reasons why this approach is ultimately not as hefty of ratepayer protection system, if one at all, as New Energy Economics touts. First, the economic benefit of economies of scale may be lost if the New Energy Economics approach is taken. The gas plants are utilizing the same OE and EPC contractors, common generation technology, and original equipment manufacturers.[236] And, with this arrangement there is the potential to achieve further cost savings through long-term service agreements; common crews; repeatable designs, deliverable reviews and lessons learned; and procurement leverage from scaled purchases.[237] Consolidating and integrating these core functions leads to more efficient, reliable, and cost-effective project delivery through economies of scale, resulting in efficiencies and cost savings that Evergy Kansas Central will pass on to customers.[238]

[233] *See* Jones Settlement Testimony at 1-2.
[234] Jones Settlement Testimony at 3.
[235] *Id.*
[236] Olson Direct at 7.
[237] Olson Direct at 7.
[238] *Id.*

Second, New Energy Economics seems to argue that there will be no impact of conducting their alternative review plan prior to the construction of McNew, because Evergy Kansas Central is slated to begin construction on it later than Viola.[239] It alleges additional analysis will not impose an undue burden on Evergy.[240] However, Evergy has also already secured a spot in the GI queue for both natural gas plants, and would have to re-enter McNew and thus be subject to a longer processing period if it were to delay McNew's construction. The secondary review contemplated by New Energy Economics will ultimately play out as a secondary predetermination proceeding for McNew, defeating the purpose of certainty that these proceedings are meant to impose. If Parties are to conduct this alternative review process under similar terms to the DCE over-run process contemplated in the Natural Gas Agreement, as suggested by New Energy Economics, then fairly extensive Commission proceedings will likely be required. It will also require the repetition of quite a bit of the same considerations and review that has already been conducted in this proceeding. This duplication of effort is unnecessary and inefficient, and there's no guarantee that there will be more certainty in trade policy, the future of production tax credits, or any other uncertainty faced by resource planners and the Commission today. And further, Staff has testified throughout the record that battery technology is subject to the same ELCC accreditation as intermittent resources, which means batteries ultimately carry the same reliability and efficiency concerns as was discussed above in § II(a)(iii)(3)(b) and (c).

Staff's analysis does not support the pursuit of battery storage alternatives as a legitimate substitute for the reliable, dispatchable generation provided by the natural gas plants.[241] There is not a compelling reason to take up Commission, Staff, and other Parties' time and resources to do

[239] *See* Jones Settlement Testimony at 1-2.
[240] *See id.* at 7.
[241] *See* Grady Direct at 51-52 (discussing the compared accreditation value of intermittent resources versus thermal).

a secondary evaluation of whether battery storage would be more economic than acquiring a 50% portion of the McNew plant because the assertion that such a substitution *would* be more economic has been adequately disproved by the evidence submitted in this proceeding. Despite ongoing risk of federal policy shifts, given the current energy landscape and the demonstrated need for these generating facilities, the prudent approach is to move forward with this investment plan.[242]

IV. CONCLUSION

WHEREFORE, Staff respectfully requests the Commission approve both the Natural Gas and Solar Agreements as reasonable resolutions of the issues in this case.

Respectfully submitted,

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[242] *See* Ives Settlement Testimony at 26, Grady Settlement Testimony at 22.

CERTIFICATE OF SERVICE

25-EKCE-207-PRE

I, the undersigned, certify that a true copy of the attached Post-Hearing Brief has been served to the following by means of electronic service on May 28, 2025.

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