

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

**TESTIMONY IN SUPPORT OF
NATURAL GAS AND SOLAR SETTLEMENT**

DARRIN IVES

**ON BEHALF OF EVERGY METRO, INC., EVERGY KANSAS
CENTRAL, INC. AND EVERGY KANSAS SOUTH, INC.**

**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. 66-117.**

Docket No. 25-EKCE-207-PRE

April 17, 2025

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Darrin R. Ives. My business address is 1200 Main, Kansas City, Missouri
4 64105.

5 **Q. On whose behalf are you testifying?**

6 A. I am testifying on behalf of Evergy Kansas Central (“EKC” or the “Company”).

7 **Q. Please describe the purpose of this proceeding.**

8 A. As outlined in the Company’s Petition filed with the Commission on November 6, 2025,
9 EKC is requesting a determination of ratemaking principles and treatment applicable to the
10 recovery in rates of the costs incurred to construct and acquire a stake in two combined
11 cycle gas turbine (“CCGT”) facilities and one solar facility pursuant to K.S.A. 2023 Supp.
12 66-1239, as amended by 2024 House Bill 2527.¹ The two CCGT facilities are commonly
13 known as the Viola Generating Station (“Viola CCGT”) and the McNew Generating Station
14 (“McNew CCGT”). The solar facility is commonly known as the Kansas Sky Solar Facility
15 (“Kansas Sky Facility”). The table below provides basic information regarding each unit.

Project Name	County	Fuel Type	Ownership	MW Capacity	Operational Date
Kansas Sky	Douglas (KS)	Solar	EKC	159	2027
Viola	Sumner (KS)	Natural Gas	EKC(50%)/EMW(50%)	705	2029
McNew	Reno (KS)	Natural Gas	EKC(50%)/EMW(50%)	705	2030

16 **Q. Have you filed testimony previously in this docket?**

17 A. Yes. I filed direct testimony on November 6, 2024, supplemental direct testimony on
18 February 14, 2025; and rebuttal testimony on April 4, 2025.

¹ Kansas Laws 2024, ch. 60, § 4 (eff. July 1, 2024).

1 **Q. What is the purpose this testimony?**

2 A. The purpose of this testimony is to explain and provide evidence supportive of two
3 settlement agreements negotiated and executed in this docket. They are titled: (1) Non-
4 Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities (“*Gas*
5 *Settlement*”) and (2) Unanimous Partial Settlement Agreement Regarding Solar Facility
6 (“*Solar Settlement*”).

7 The *Gas Settlement* fully resolves all matters and issues in this docket related to the
8 Viola and McNew facilities as between all signatories and non-objecting parties. The Solar
9 Settlement resolves all matters and issues in this docket related to the Kansas Sky Facility
10 as between all parties. Separate motions requesting approval of the settlements were filed
11 with the Commission on April 16, 2025.²

12 **Q. Are other Company witnesses filing testimony in support of the two settlements?**

13 A. Yes. One other Company witness, Jason Humphrey, is filing testimony in support of the
14 settlements. Mr. Humphrey’s testimony describes EKC’s ongoing efforts to identify, assess,
15 and manage risk and control costs during the procurement and execution of these projects
16 including additional safeguards and conditions that have been put in place by the signatories
17 to the settlement agreements.

18 **II. PREDETERMINATION PROCEDURE AND STANDARD**

19 **Q. Please summarize the requirements for predetermination in Kansas.**

² Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities (Apr. 16, 2025) and Joint Motion to Approve Unanimous Partial Settlement Solar Facility (Apr. 16, 2025).

1 A. The requirements for predetermination in Kansas are set out in K.S.A. 2023 Supp. 66-1239,
2 as amended by 2024 House Bill 2527 (the “Predetermination Statute”). The
3 Predetermination Statute authorizes a public utility, prior to acquiring a stake in a generating
4 facility, to file with the Commission a petition for determination of ratemaking principles and
5 treatment to be applied to the recovery in rates of the costs to be incurred by the utility in
6 acquiring such stake in the facility during the facility’s expected useful life.³ The statute also
7 authorizes ratemaking principles and treatment for new gas-fired generating facilities and
8 permits the petitioner to implement a rate adjustment mechanism to recover a return on 100%
9 of construction work in progress (“CWIP”) up to the definitive cost estimate found
10 reasonable by the Commission in a proceeding conducted under the statute.⁴

11 The Predetermination Statute requires the petitioner to include as part of its filing a
12 description of “how the public utility’s stake in the generating facility is consistent with the
13 public utility’s most recent preferred plan and resource acquisition strategy submitted to
14 the commission.”⁵ In reviewing the petitioner’s filing the Commission may consider
15 whether the petitioner issued a request for proposal (“RFP”) from a wide audience of
16 participants willing and able to meet the needs identified under the preferred plan and
17 whether the plan selected by the petitioner is “reasonable, reliable and efficient,”⁶ and is
18 consistent with the petitioner’s most recent preferred plan and resource acquisition strategy.⁷
19 EKC’s most recent preferred plan and resource acquisition strategy is included as Volume 6
20 of the Company’s May 17, 2024 Triennial Integrated Resource Plan (“IRP”) filing.

³ K.S.A. 2023 Supp. 66-1239(c)(1), as amended.

⁴ *Id.* at subsection (c)(6)(A).

⁵ *Id.* at subsection (c)(2).

⁶ *Id.* at subsection (c)(3).

⁷ *Id.* at subsection (c)(2).

1 **Q. How do the statutory requirements for predetermination correlate with traditional**
2 **decisional prudence principles?**

3 A. In my view, the Predetermination Statute codifies the requirements of decisional prudence
4 applicable to electricity generation. The statute authorizes the Commission to
5 predetermine the prudence of a company's investment plan upon proof that the plan is
6 "reasonable, reliable and efficient." The statute also reflects the reality that prudent utility
7 investment decisions are complex and must be made by utility planners through a proactive,
8 data-driven process that considers the financial and operational implications of a wide range
9 of alternative scenarios. The Company's Integrated Resource Planning process is designed
10 to provide a prudent portfolio management strategy to assist utility planners in identifying a
11 portfolio of resources that ensures adequate and affordable electric service to customers
12 while also minimizing net present value system cost, meeting system reliability
13 requirements, and complying with state and federal policy mandates. A prudently executed
14 investment decision made in accordance with prescribed IRP protocols should in most
15 cases satisfy the Predetermination Statute's "reasonable, reliable, and efficient" standard.⁸

16 **Q. Explain your understanding of the legislative purpose behind the recent amendment to**
17 **the Predetermination Statute.**

18 A. As I indicated in my direct testimony, based on comments made by leaders of all three
19 branches of state government, the legislative purpose behind the amended statute was to
20 encourage the addition of high-efficiency modern natural gas plants to the generation mix

8K.S.A. 66-1239(c)(3).

1 to help ensure the state can meet the needs of a growing economy for affordable, reliable
2 and sustainable electricity and to secure a strong energy future for the state of Kansas.

3 **Q. Explain how the provisions of the Predetermination Statute advance the statute's**
4 **legislative purpose.**

5 A. As I explained in my direct testimony, the Predetermination Statute advances state economic
6 development objectives and helps secure a strong energy future for Kansas in a number of
7 ways:

- 8 ■ The statute provides regulatory certainty for equity and fixed-income investors, reducing
9 investment risk and bolstering market sentiment. Regulatory uncertainty negatively
10 impacts a utility company's ability to attract capital, which increases the capital costs
11 borne by customers.
- 12 ■ The statute promotes efficient implementation of a utility's preferred plan and resource
13 acquisition strategy, which enhances the company's ability to attract capital on reasonable
14 terms.
- 15 ■ The statute explicitly contemplates utilization of the predetermination process for new
16 gas-fired generation acquisitions, which allows timely recovery of construction costs for
17 natural gas generation. This lowers the cost of adding dispatchable generation in Kansas
18 by reducing financing and interest costs related to new gas-fired generating facility
19 builds, both during construction and over the useful life of the facilities.

20 **III. RESOURCE ACQUISITIONS ADDRESSED IN SETTLEMENTS**

21 **Q. Please provide an overview of the Viola and McNew CCGT acquisitions.**

22 A. EKC's construction and ownership of a 50% stake in the Viola and McNew facilities will
23 add two new 710 MW CCGTs to the Company's generation portfolio, each having a 1x1

1 single-shaft advanced J-Class gas turbine, an electrical generator, a heat recovery steam
2 generator, and a steam turbine with exhaust cooled by an air-cooled condenser. The Viola
3 CCGT will be built in Sumner County, Kansas, near Conway Springs. The McNew facility
4 will be built in Reno County, Kansas, near Hutchinson. The Viola facility is scheduled for
5 commercial operation by January 1, 2029, and the McNew CCGT is scheduled for
6 commercial operation by January 1, 2030. The CCGT projects will be developed and built
7 under the supervision of the same Owner's Engineer and EPC contractor, and the
8 configuration and equipment for the two CCGT facilities will be substantially the same,
9 which should lead to more efficient, reliable, and cost-effective project delivery through
10 economies of scale.

11 **Q. Is EKC requesting permission to implement a CWIP rider mechanism as authorized**
12 **by the Predetermination Statute?**

13 A. Yes. K.S.A. 66-1239(c)(6)(A) permits recovery of a return on 100% of the costs recorded
14 to CWIP by way of the new CWIP Rider, not to exceed the definitive cost estimates
15 ("DCE"), unless otherwise ordered by the Commission. EKC is requesting authorization
16 to implement a rider mechanism to recover a return on 100% of the costs recorded to CWIP
17 up to the DCEs prepared and submitted for each CCGT project, which EKC could only
18 exceed by further order of the Commission.

19 **Q. Please provide an overview of the Kansas Sky solar acquisition.**

20 A. The Kansas Sky solar addition involves EKC's planned construction and acquisition of
21 approximately 200 MW_{DC} (159 MW_{AC}) of solar generation interconnecting to the
22 transmission grid at EKC's 115kV Midland Junction substation. The Kansas Sky facility
23 will be located in Douglas County, Kansas, and is scheduled for commercial operation

1 beginning approximately December 2026. The Kansas Sky acquisition is structured as a
2 development asset sale. Negotiations on the sale culminated on February 7, 2023, with an
3 executed Purchase and Sale Agreement. The project company created to develop the Kansas
4 Sky project has secured land rights, permits, and interconnection. After all conditions of
5 closing are met, Evergy will acquire the equity interests in the project company along with
6 the associated development assets. Soon after, EKC plans to effect a short-form merger of
7 the project company into EKC with EKC surviving the merger to consolidate its assets with
8 those of the project company and assume responsibility for the project. EKC has hired an
9 EPC contractor to manage the site design, procure necessary equipment, and either build
10 or hire subcontractors to build the project.

11 **IV. FILED POSITIONS OF STAFF AND INTERVENORS**

12 **Q. Please identify all parties participating in this docket.**

13 A. The following Parties participated in this docket: Staff of the State Corporation Commission
14 of the State of Kansas (“Staff” and “Commission,” respectively); Evergy Kansas Central,
15 Inc. and Evergy Kansas South, Inc. (collectively referred to as “Evergy Kansas Central” or
16 “EKC”) and Evergy Metro, Inc. (“Evergy Kansas Metro” or “EKM”) (together with Evergy
17 Kansas Central referred to as “Evergy”); the Citizens’ Utility Ratepayers Board (“CURB”);
18 Kansas Power Pool (“KPP”), Wichita Regional Chamber of Commerce (“Wichita
19 Chamber”); Climate + Energy Project (“CEP”); Natural Resources Defense Council
20 (“NRDC”); the United States Department of Defense (“DOD”); Kansas Industrial
21 Consumers Group (“KIC”); Spirit AeroSystems, Inc. (“Spirit”), Occidental Chemical
22 Corporation (“Occidental”), Goodyear Tire & Rubber Company (“Goodyear”), and
23 Associated Purchasing Services Corporation (“Associated Purchasing”) (collectively

referred to as “KIC Participating Members”); United School District #259 Sedgwick County, Kansas (“USD 259”); USD 233 Olathe School District, USD 512 Shawnee Mission School District, and USD 232 DeSoto School District (collectively, the “Johnson County School Districts”) and USD 229 – the Blue Valley School District (“USD 229”); The Kansas Grain and Feed Association, The Kansas Agribusiness Retailers Association, and Renew Kansas Biofuels Association (collectively referred to as (“Kansas Agriculture Association Members”); Cargill (“Cargill”); Midwest Energy, Inc. (“Midwest Energy”); The Board of County Commissioners of Johnson County, Kansas (“Johnson County”); City of Lawrence, Kansas (“Lawrence”); Atmos Energy Corporation (“Atmos Energy”); HF Sinclair El Dorado Refining LLC (“HF Sinclair”); Renew Missouri Advocates (“Renew Missouri”); CCPS Transportation, LLC (“CCPS”); Walmart Inc., (“Walmart”); New Energy Economics (“NEE”); City of Overland Park, Kansas (“City” or “Overland Park”); Kansas Municipal Energy Agency (KMEA); and Kansas Gas Service, a division of ONE Gas, Inc. (“Kansas Gas Service”).

Q. Please summarize the filed positions of Staff and the intervenors.

A. Below is a summary of the filed positions of Staff and the intervenors as set out in their direct testimonies:

- KCC Staff fully supported additions of both CCGTs and the Kansas Sky solar facility as reasonable, reliable and efficient, and consistent with EKC’s most recent IRP, with one minor request to slightly reduce the definitive cost estimate for the Kansas Sky solar facility.⁹ As discussed herein, that issue has been resolved in the Solar Settlement, and Staff has agreed not to request this reduction in the definitive cost estimate for the

⁹ EKC notes that Staff did request a very slight reduction in the DCE for the McNew CCGT as well. EKC accepted this request, and it has been incorporated into the Gas Settlement terms.

1 Kansas Sky solar facility. Staff also made certain recommendations regarding
2 additional reporting and accounting protocols with respect to all three assets, the vast
3 majority of which are included in the settlement agreements.

- 4 ▪ Kansas Gas Service did not oppose EKC's Petition, but requested additional
5 coordination and cooperation be required between EKC and natural gas utilities related
6 to natural gas supply.
- 7 ▪ Atmos Energy initially encouraged the Commission to open a separate general
8 investigation docket to establish statewide guidance on natural gas usage priorities and
9 curtailment, but did not otherwise oppose EKC's Petition.
- 10 ▪ HF Sinclair El Dorado Refining did not oppose the Petition, but requested that the costs
11 recovered through the CWIP rider be allocated among customer classes in the same
12 way cost recoveries of other generation assets are allocated among and between EKC
13 customer classes, which has been included as a condition to the natural gas facilities
14 settlement.
- 15 ▪ City of Lawrence did not oppose EKC's Petition, but requested additional
16 commitments from EKC related to Lawrence Energy Center, and consideration of
17 additional distributed resources for generation, which have generally been incorporated
18 in the settlements.
- 19 ▪ USD 259 expressed concerns about escalating and noncompetitive rates and its concern
20 that this docket will contribute to that concern. USD 259 did not support the addition
21 of the CCGTs, but did not contest addition of the Kansas Sky solar facility and supports
22 the Solar Settlement.

- 1 ▪ Wichita Regional Chamber of Commerce expressed concern regarding the CCGTs and
2 whether those additions would cause higher and non-competitive rates for businesses
3 located in Wichita, or considering locating in Wichita and did not support the addition
4 of the CCGTs but supports the solar facility addition.
- 5 ▪ Johnson County supported the Petition as a whole, with certain additional requests,
6 which generally have been included in the settlements.
- 7 ▪ National Resources Defense Council submitted testimony suggesting changes for
8 EKC's IRP process in the future and raising considerations related to new large load
9 customers. NRDC supports both settlements.
- 10 ▪ CURB opposed the CCGT additions for various reasons set forth in its testimony but
11 supported the Petition as it relates to the Kansas Sky solar facility.
- 12 ▪ KIC Group opposed the Petition as it relates to the CCGT additions and requested that
13 the Commission instead require EKC to delay retirement of existing coal facilities.
14 KIC Group did not oppose the Kansas Sky solar facility.
- 15 ▪ CEP opposed addition of the CCGTs, but did not oppose the Petition as it relates to the
16 Kansas Sky Solar facility.
- 17 ▪ New Energy Economics opposed the Petition related to the CCGT additions, but did
18 not oppose the addition of the Kansas Sky Solar facility.

19 **VI. SETTLEMENT TERMS AND CONDITIONS**

20 **Q. Please identify the signatories, non-objecting parties, and parties in opposition to the**
21 ***Solar Settlement.***

1 A. Signatories to the *Solar Settlement* are Staff, EKC, EKM, KPP Energy, NRDC, Midwest
2 Energy, Johnson County,¹⁰ Lawrence, Atmos Energy, HF Sinclair, KMEA, and Kansas Gas
3 Service. USD 259, USD 233, USD 512, USD 232, and USD 229¹¹ signed subject to
4 approval by their Boards of Education. The non-objecting parties are Lawrence Paper
5 Company and City of Overland Park.

6 **Q. Please summarize the terms of the *Solar Settlement*?**

7 A. The Solar Settlement and its terms are very similar to what was included in EKC's Petition
8 regarding the Kansas Sky solar asset. The substantive terms of the settlement are more fully
9 set forth in the settlement agreement itself, but below is a summary of the substantive
10 provisions:

- 11 ■ Paragraphs 5.a – c. identify the Kansas Sky solar facility, include a provision agreeing
12 that the addition of the facility is consistent with EKC's most recent IRP, and provide
13 EKC authorization to take necessary steps to effectuate the transfer of the asset to EKC;
- 14 ■ Paragraphs 5.d. and e. approve the definitive cost estimate, and recovery by inclusion
15 in rate base of the levelized revenue requirement requested by EKC, and paragraphs
16 5.f. and g. provide further definition of what costs may and may not be recovered in
17 rates related to the Kansas Sky solar facility;
- 18 ■ Paragraph 5.h. provides that in the event of changes in law or regulations or occurrence
19 of events outside of EKC's control that result in a material adverse impact to EKC with
20 respect to recovery of the Kansas Sky solar revenue requirement, EKC is permitted to

¹⁰ The Board of County Commissioners of Johnson County signed subject to approval by its Board. Counsel for Johnson County will file a letter with the Commission confirming approval by its Board when received.

¹¹ USD 229 and USD 512 have notified the parties that because no interest in either CCGT was assigned to Evergy Metro, they no longer have an interest in the proceeding.

1 file an application with the Commission proposing methods to address the impacts of
2 these events;

- 3 ▪ Paragraph 5.i. provides that any amounts spent in excess of the definitive cost estimate
4 will be subject to further prudence review, with EKC bearing the burden of proof to
5 demonstrate that any such amounts have been prudently incurred and are just and
6 reasonable to recover from ratepayers;
- 7 ▪ Paragraph 5.k. provides that EKC should be required to make a compliance filing with
8 the Commission justifying the economics and prudence of continuing forward with the
9 Kansas Sky solar facility or informing the Commission that it will abandon the project
10 and addressing resolution of customer impacts of the cost of abandonment, if the
11 provisions of the Inflation Reduction Act applicable to the Kansas Sky solar facility are
12 substantially revised or repealed prior to the start of construction;
- 13 ▪ Paragraph 6. provides that EKC will work with Staff to provide the reporting
14 information required under K.S.A. 66-128f and to develop recurrent monthly project
15 status reporting including impacts from legislative and executive action, including
16 tariffs and any other cost and project-related milestone updates.

17 **Q. Please summarize the terms and conditions of the *Gas Settlement*.**

- 18 A. The Gas Settlement includes a number of provisions that directly mirror EKC's requests in
19 its Petition filed in this docket, as well as a number of provisions that were the result of
20 substantial negotiation and collaboration among the parties to this docket. The substantive
21 terms of the Gas Settlement are fully set forth in the settlement agreement itself, but can
22 generally be summarized as follows:

- 1 ▪ Paragraphs 5.a-d. provide for the addition of EKC's 50% shares in both CCGTs,
2 approves the definitive cost estimates for both facilities, and addresses the statutory
3 requirements that the additions of the CCGTs is consistent with the most recent
4 EKC IRP, and is prudent;
- 5 ▪ Paragraph 5.e.i.–iv. – Outlines the rate recovery methodology through use of the
6 new CWIP rider established by KSA 66-1239(c)(6)(A), the types of costs
7 recoverable through the CWIP rider, and how that recovery will be accounted for
8 over time
- 9 ▪ Paragraph 5.v. and vi. – describe the types of costs will be included in new base
10 rates related to EKC's investment in the CCGTs, consistent with the
11 predetermination statute;
- 12 ▪ Paragraph 5.vi. provides that amounts spent in excess of the definitive cost
13 estimates are subject to additional prudence review, and that EKC will bear the
14 burden of proof to show any such costs are prudent;
- 15 ▪ Paragraph 5.f. requires EKC to collaborate with Staff and CURB during
16 development of the Gas Purchasing Plan, and to file results of the plan in a
17 compliance filing, and requiring EKC to meet with Staff and CURB at least
18 annually to discuss potential revisions to the plan;
- 19 ▪ Paragraph 5.g. relates to collaboration with Staff and CURB if the addition of the
20 CCGTs materially revises EKC's current Natural Gas Hedging Plan;
- 21 ▪ Paragraph 5.h. requires a compliance filing at the conclusion of the current docket
22 to report on financial terms and condition of natural gas transportation
23 arrangements once finalized by EKC;

- 1 ▪ Paragraph 5.j. establishes the reporting protocol for EKC to report information
2 required under K.S.A. 66-128f related to the CCGTs;
- 3 ▪ Paragraph 5.k. would require an additional compliance filing and prudence review
4 if EKC becomes aware of information leading to reasonable belief CCGTs will
5 exceed 115% of definitive cost estimate, and establishes procedures for initial
6 review and additional proceedings and factors to be reviewed by the Commission
7 if this provision is triggered;
- 8 ▪ Paragraph 6 includes a number of other provisions requested by one or more of the
9 parties, including:
 - 10 • Paragraph 6. a. acknowledges that EKC did not include any specific large
11 load customers in its 2024 IRP other than Panasonic, and establishing how
12 EKC may incorporate new large load customers into its IRP moving
13 forward;
 - 14 • Paragraph 6.b. Relates to future collaboration between EKC and
15 stakeholders in future IRP processes, beginning with the 2026 IRP;
 - 16 • Paragraph 6.c. Establishes agreed path for EKC if it decides to retire coal
17 generation and utilize securitization to recover energy transition costs in the
18 future;
 - 19 • Paragraph 6.d. Relates to collaboration between EKC and KGS, Atmos
20 Energy, Staff, CURB, KMEA/KMGA, Midwest Energy and other interested
21 parties prior to CCGTs coming online to discuss statewide natural gas
22 supply priorities, curtailment standards, and other emergency and extreme
23 weather events;

- Paragraph 6.e. Commits EKC to evaluate future offers in the all-source RFP planned for 2025 to determine whether offers in that RFP can meet needs identified and not covered by the resources in this docket;
- Paragraph 6.f. Provides EKC will evaluate the possibility of repurposing the unused space in Lawrence Energy Center and other generation sites as interconnection locations for battery storage units under the terms of that provision;
- Paragraph 6.g. Commits EKC to evaluating investments in distributed resources, including community-based solar, under the terms of that provision;
- Paragraph 6.h. Relates to EKC's proposed Alternative Energy Credits rider in the LLPS tariff filing, and stakeholder discussions around further developments related to that tariff; and
- Paragraph 6.i. Commits EKC to continue to consider battery storage as an option as part of its IRP process.

Q. Please identify the signatories, non-objecting parties, and parties opposing the *Gas Settlement*.

A. The signatories and non-objecting parties are Evergy, Kansas Municipal Energy Agency, Atmos Energy Corp., HF Sinclair El Dorado Refining, LLC, Kansas Gas Service, KPP Energy, City of Lawrence, Johnson County, Midwest Energy, Inc., NRDC, Walmart, CCPS, City of Overland Park. Parties opposing the Gas Settlement are CURB, KIC Participating

Members (USD 233, USD 229, KAAM, Cargill, and Kansas Chamber)¹², Wichita Regional Chamber of Commerce, USD 259, Climate + Energy Project, and New Energy Economics.

VII. TESTS FOR COMMISSION APPROVAL OF SETTLEMENTS

Q. What standards are used by the Commission to evaluate nonunanimous and unanimous settlements?

A. In a 2008 docket, the Commission adopted a five-factor test for evaluating settlements.¹³ However, in more recent dockets, the Commission has used a three-factor test for unanimous settlements,¹⁴ reserving the five-factor test for nonunanimous settlements.

Q. Please summarize the five-factor test for evaluating nonunanimous settlements.

A. The Commission's evaluation of nonunanimous settlements calls for consideration of the following factors: (1) whether there was an opportunity for the opposing party to be heard on their reasons for opposition to the agreement; (2) whether the settlement is supported by substantial competent evidence in the record as a whole; (3) whether the settlement conforms with applicable law; (4) whether the settlement results in just and reasonable rates; and (5) whether the results of the settlement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement.

Q. Please summarize the three-factor test for approval of unanimous settlements.

A. The Commission's evaluation of unanimous settlements calls for consideration of the following factors: (1) whether the settlement is supported by substantial competent evidence

¹² USD 229 and USD 512 have notified the parties that because no interest in either CCGT was assigned to Evergy Metro, they no longer have an interest in the proceeding.

¹³ See Order Approving Contested Settlement Agreement, 08-280 Docket, p. 5 (May 5, 2008).

¹⁴ See Order on KCP&L's Application for Rate Change, Docket No. 15-KCPE-116-RTS, ¶ 16, p. 6 (Sept. 10, 2015).

1 in the record as a whole; (2) whether the settlement results in just and reasonable rates; and
2 (3) whether the settlement is in the public interest.¹⁵

3 **VIII. EVALUATION OF SETTLEMENTS**

4 **Q. Please provide your analysis of the Gas Settlement and Solar Settlement under the**
5 **tests prescribed by the Commission.**

6 A. Because the Solar Settlement is a unanimous settlement, the Commission's three-factor test
7 applies. The Gas Settlement is a nonunanimous settlement, however, so the applicable test
8 is the Commission's five-factor test. I would submit that both settlements meet the
9 applicable requirements for Commission approval.

10 ***EVALUATION OF GAS SETTLEMENT UNDER FIVE-FACTOR TEST***

11 **Q. Factor 1: Were the parties opposing the settlement afforded an opportunity to be**
12 **heard on the reasons for their opposition?**

13 A. First, I would point out that the Commission's *Order Setting Procedural Schedule*
14 ("Procedural Order") provided a process that afforded all parties a meaningful opportunity
15 to be heard and also provided a means by which all parties could timely obtain through
16 discovery information necessary to fully develop their positions. I would also note that all
17 parties opposing the settlement are represented by counsel, so they were able to both
18 develop and voice their reasons for opposing the settlement with the assistance of counsel.

19 There has been ample opportunity for extensive vetting of all issues in this docket.
20 Representatives of all parties participated in a settlement conference on April 9, 2025, with
21 several follow-up discussions via email and information exchanges. During these

¹⁵ *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State of Kansas*, 28 Kan. App. 2d 313, 316, 16 P.3d 319 (2000).

1 settlement communications all parties had an opportunity to raise issues, ask questions, and
2 challenge premises and assumptions, which led to a number of well-informed concessions
3 and compromises. The parties opposing the *Gas Settlement* will also have an opportunity
4 to be heard on the reasons for their opposition at the evidentiary hearing and through their
5 post-hearing briefing. Factor 1 of the five-part test has been satisfied.

6 **Q. Factor 2: Is the settlement supported by substantial competent evidence in the record**
7 **as a whole?**

8 A. Yes. There is ample record support for the Gas Settlement. The settlement is supported by
9 EKC's verified Petition as well as direct, supplemental and/or rebuttal testimony filed by
10 Company witnesses with direct personal knowledge of the CCGT projects and extensive
11 subject-matter expertise. Eight Company witnesses, including myself, filed written
12 testimony addressing the predetermination requests related to the CCGT acquisitions.

- 13 ■ My direct testimony includes an overview of the projects from a regulatory policy
14 perspective, an analysis of the amended predetermination statute and EKC's rationale for
15 utilizing the process provided under the new Predetermination Statute. My testimony
16 also includes a discussion of project cost estimates, rate impacts, and the system benefits
17 that can be realized if the Commission grants EKC's predetermination requests.
- 18 ■ Jason Humphrey's testimony addresses a range of topics, including EKC's long-term
19 generation plan, performance of the CCGTs from a development perspective, and the
20 process used by the Company to select the new CCGTs. Mr. Humphrey also explains
21 why the CCGT resource acquisitions meet the "reasonable, reliable, and efficient"
22 standard.

- 1 ▪ Cody VandeVelde’s testimony includes a high-level overview of EKC’s integrated
2 resource planning (“IRP”) process and an explanation of the updated IRP analysis
3 performed by the Company to evaluate the cost assumptions used in its 2024 IRP.
- 4 ▪ Kyle Olson’s testimony provides a detailed description of the CCGT projects and an
5 explanation of how the sites for the projects were selected. His testimony also describes
6 the plan for supplying fuel to the CCGT sites and an in-depth explanation of the
7 Company’s project procurement process and cost estimates.
- 8 ▪ John Grace’s testimony describes the plan for financing the new generation assets in a
9 manner that matches the needs identified in Joint Applicants’ most recent IRP filing.
10 Mr. Grace also provides an overview of Evergy’s current investment-grade credit
11 ratings, available liquidity, and access to capital markets to finance the projects during
12 construction. He also discusses the benefits derived from the new CWIP cost recovery
13 mechanism and the recently enacted property tax exemption for new electric generation
14 construction.
- 15 ▪ Ron Klote’s testimony includes a detailed description of the rate impacts of the new
16 generation additions and a discussion of how construction costs will be included in rates,
17 along with a discussion regarding the new CWIP rider mechanism.
- 18 ▪ Katy Onnen’s testimony describes the system upgrades likely to be required by
19 Southwest Power Pool, Inc. (“SPP”) related to the CCGT projects, and the costs
20 associated with completing those mandated updates.

21 Staff witness Justin Grady’s testimony covers the entire field of issues raised in this docket,
22 providing persuasive evidence and analysis supporting the CCGT acquisitions, and
23 includes an incisive evaluation of the CCGT resources under the statutory “reasonable,

1 reliable, and efficient” standard and finds all elements of that standard to have been satisfied.

2 Below are some of his most notable findings regarding the benefits that would be derived
3 from the CCGT acquisitions:

- 4 ▪ Planning for eventual retirement of the Company’s coal fleet is reasonable, even if
5 specific retirement dates are uncertain.
- 6 ▪ Evergy is expecting high load growth and robust economic development and will be able
7 to reliably serve native load and respond to increased load growth with dispatchable,
8 highly efficient generation.
- 9 ▪ The CCGTs will help the Company respond to increasingly tighter SPP resource,
10 adequacy standards, implementation of Performance Based Accreditation and Fuel
11 Assurance for conventional generators.
- 12 ▪ The CCGT additions are consistent with the intent of the Kansas Legislature.
- 13 ▪ The CCGTs provide highly flexible, dispatchable generation to the system, offering
14 critical reliability services for customers such as the ability to ramp up and down quickly
15 when needed.
- 16 ▪ The CCGTs are expected to have very low forced outage rates.
- 17 ▪ The CCGTs are highly efficient in terms of their ability to generate one megawatt hour
18 (MWh) of electricity per million British Thermal Units (MMBtus).
- 19 ▪ During periods of relative scarcity of natural gas, as was experienced during Winter
20 Storm Uri, these CCGTs will be able to produce electricity by burning approximately
21 half the fuel required from the least efficient unit in Evergy’s fleet, improving reliability
22 of entire interconnected gas and electric system in Kansas.

- 1 ▪ The commitment of the CCGTs in the SPP Integrated Marketplace (IM) will ensure
2 efficient dispatch, and capacity factors indicate that the CCGTs will be economic units
3 that will be frequently dispatched into the SPP IM.

4 Staff witness Paul Owings also provided Direct Testimony, discussing implementation of
5 the proposed CCGT projects, and proposing certain reporting requirements for EKC
6 throughout the construction process that are reflected in the Gas Settlement. In addition to
7 the compelling testimony provided through Direct Testimony, many of EKC's witnesses and
8 Mr. Grady filed rebuttal and cross-answering testimony, respectively.

9 Lastly, as discussed above in the summary of the filed positions in this case, many
10 other intervenors filed testimony setting forth conditions needed to garner support for the
11 CCGT additions and the Gas Settlement. Many of those conditions have been included in
12 the Gas Settlement, demonstrating further record support for the Gas Settlement as a whole.

13 **Q. Factor 3: Does the Gas Settlement conform with applicable law?**

14 A. While I am not an attorney, through discussion with my legal representation I do believe it
15 conforms. The substantive law applicable in this case is found in the Predetermination
16 Statute, K.S.A. 2023 Supp. 66-1239, as amended. The statute authorizes EKC, prior to
17 acquiring a stake in the Viola and McNew CCGTs and in the Kansas Sky solar facility, to
18 file with the Commission a petition for a determination of ratemaking principles and
19 treatment to be applied to the recovery in rates of the cost to be incurred by the Evergy in
20 acquiring such stake in the facility during its expected useful life. EKC filed its Petition on
21 November 6, 2024, and as required by the statute, included an explanation of how its
22 proposed construction of the two CCGTs and the solar facility is consistent with its most
23 recent preferred plan and resource acquisition strategy submitted to the Commission. EKC

1 also issued an all-source RFP in 2023 and used a competitive RFP process to procure all
2 the major items of equipment and work. The Predetermination Statute authorizes special
3 ratemaking principles and treatment for new gas-fired generating facilities and permits the
4 petitioner to implement a rate adjustment mechanism to recover a return on 100% of
5 construction work in progress (“CWIP”) up to the definitive cost estimate found reasonable
6 by the Commission in a proceeding conducted under the statute. EKC is requesting
7 authority to implement the CWIP rider and approval of its definitive cost estimates. The
8 Predetermination Statute provides that the Commission may consider whether the plan
9 selected by EKC is reasonable, reliable and efficient. The record evidence clearly shows
10 that it is. The Gas Settlement satisfies factor three of the five-factor test.

11 **Q. Factor 4: Does the Gas Settlement result in just and reasonable rates?**

12 A. Yes. It does. As I testified in my Direct and Rebuttal Testimony, EKC has utilized
13 reasonable strategies and made prudent decisions to assure that its costs related to the
14 CCGTs – and resulting rates for customers – are reasonable and competitive.

15 Additionally, EKC has made significant progress in improving its position with
16 respect to regional rate competitiveness and expects that positive trajectory to continue,
17 even with the investments proposed in this docket. Based on the current demand for natural
18 gas plant construction and the number of announced solar projects across the country, it is
19 likely that many of our peer utilities are planning to construct new generation during that
20 time period. As a result, we expect EKC to remain in a good position as far as rate
21 competitiveness even after the investments proposed in this docket are included in rates.

22 Several parties have raised concerns throughout this proceeding about the rate
23 impacts of the proposed investments in this docket, along with other proceedings pending

1 before the Commission. The testimony from those parties is somewhat misleading, as it
2 suggests that all such rate impacts will occur immediately at the completion of this
3 proceeding. However, the in-service date for the first of the CCGT projects is not scheduled
4 to occur until January 1, 2029 – almost four years from now – and costs for that project
5 will not be placed into base rates until after the completion of a general rate case at that
6 time. Completion of the second CCGT will be even later. With the exception of the
7 estimated 0.7 percent increase attributable to the Kansas Sky Solar plant and the CWIP
8 rider that itself won't begin until one year after construction of the CCGT project
9 commences (0.58%), base rate impacts attributable to the CCGT projects won't occur at
10 the earliest until sometime late in 2029. In the interim, EKC will likely see growth in
11 demand that should help ameliorate those impacts. Further, any rate changes requested by
12 EKC are subject to thorough review by the KCC, Staff, and intervenors to ensure the costs
13 are prudently incurred and that they are necessary to ensure adequate and reliable service.

14 Additionally, as identified in earlier testimony and discussed extensively with
15 parties and legislators when HB 2527 was being debated and passed, the CWIP provision
16 of the Predetermination Statute will help reduce the cost of adding dispatchable generation
17 in Kansas by reducing the financing and interest costs related to building a new gas-fired
18 generating facility, both during construction and over the useful life of the facility.

19 The settlement will not move EKC's rates outside the zone of reasonableness and
20 will not cause undue rate discrimination or inequitable cost-shifting. The pace of rate
21 increases for EKC customers, even with the investments proposed in this docket, will
22 remain extraordinarily low compared both to the rate of inflation that has occurred during

1 this period and the rate increases experienced by our peers. As a result, the Gas Settlement
2 satisfies Factor 4 and will result in just and reasonable rates for EKC customers.

3 **Q. Factor 5: Is the Gas Settlement in the public interest?**

4 A. Yes. It is clearly in the public interest to settle on a plan that has been deemed reasonable,
5 reliable and efficient under a statutory standard enacted to promote the develop of gas-fired
6 plants, and it is in the public interest to ensure EKC will be able to reliably serve native load
7 and respond to increased load growth with dispatchable, highly efficient generation. Notably,
8 EKC's proposed CCGT additions, and the Gas Settlement follow the near unanimous
9 adoption by the Kansas legislature in 2004 of revisions to K.S.A. 66-1239 related to new
10 natural gas generation facilities. The legislature's adoption of these specific statutory
11 revisions, which are expressly reflected in the Gas Settlement, is a resounding expression
12 of public policy in favor of these generation additions, and in favor of the provisions of the
13 Gas Settlement that are directly consistent with these legislative provisions, including the
14 use of the CWIP rider as a rate-recovery mechanism. In addition, the legislative action can
15 be interpreted as a public policy pronouncement in favor of addition of new natural gas
16 generation facilities in general. The CCGTs fit within that public policy pronouncement.
17 The CCGTs are important assets to support and improve resource adequacy needs, and to
18 improve reliability on EKC's system as a whole.

19 In addition, although EKC is mindful of uncertainty related to federal tariffs and
20 timing of the CCGT additions, EKC notes that the Gas Settlement includes a thoroughly
21 negotiated set of provisions to help manage this risk. Specifically, in section 5.k of the Gas
22 Settlement, the parties have agreed to request a provision for additional economics and
23 prudence review of the CCGT projects if EKC becomes aware of information that leads it

1 to reasonably believe that actual project costs are projected to exceed 115% of the definitive
2 cost estimate. If such provision is triggered, EKC would be required to make a filing with
3 the Commission, which first triggers a 30-day review period during which the Commission
4 would evaluate various aspects of the projects and determine whether additional review is
5 required. If the Commission requires additional review at that point, the Commission
6 would then schedule a hearing and receive input from Commission Staff and the various
7 parties regarding the future economics and prudence of moving forward with the CCGTs
8 at that point.

9 This provision is intended to help manage this issue in the future and mitigate
10 against any risks related to these issues if they arise. Although EKC recognizes that federal
11 trade policy and tariffs are not within the parties' control, if federal tariffs, or any external
12 development for that matter which are outside EKC's control, cause an increase in the
13 projected definitive cost estimates of the CCGTs, this provision affords additional
14 processes for additional updated economic and prudency review.

15 Because the CCGT facilities are extremely important to the parties and to Kansas
16 as a whole, as exemplified by the substantial number and diverse set of parties and
17 intervenors, including Commission Staff, which are supporting the Gas Settlement, EKC
18 believes it is important to proceed with the CCGTs now. While it is important to be
19 mindful of developing risks like changes to federal trade policy, the CCGT projects are
20 long-term, complex construction projects, that even if they start presently will not be
21 completed for a number of years, and EKC believes that an indeterminate delay would be
22 more problematic and less prudent at this juncture. Given the current circumstances, and
23 the clear need for these generation additions, the prudent approach is to move forward with

1 the CCGTs now, but given the new risks imposed by and related to new federal trade policy
2 and federal tariffs, additional safeguards like the one incorporated into paragraph 5.k. of
3 the Gas Settlement represent the best way to manage and mitigate those risks. This
4 provision allows the Commission to apply the public policy expressed in the legislature's
5 recent revisions to K.S.A. 66-1239, but also maintain some meaningful safeguards to
6 protect the public interest.

7 **Q: Does the variety of interests represented by the parties either supporting or not**
8 **opposing the Gas Settlement help demonstrate that it is in the public interest?**

9 A. Yes. The Gas Settlement is supported or not opposed by entities representing a wide variety
10 of interests and each of those parties has a duty to protect the interests of the party it
11 represents. Everygy has a duty to both its customers and shareholders. Other supporting or
12 non-opposing parties include other load-serving entities in Kansas, commercial and
13 industrial customers (Walmart and CCPS), environmental organizations, two Kansas cities
14 and a large county in EKC's territory, and gas utilities. Additionally, Staff represents the
15 overall public interest. Notably, every load responsible entity in this docket has signed on
16 to the Gas Settlement, which speaks loudly for how important this docket is to improving
17 reliability in Kansas and the SPP region.

18 ***SOLAR SETTLEMENT***

19 **Q. Factor 1: Is the Solar Settlement supported by substantial competent evidence in the**
20 **record as a whole?**

21 A. There is ample record support for the Solar Settlement. Company witness John Carlson –
22 who has been directly involved in all aspects of developing the Kansas Sky project –
23 provided detailed testimony describing the project and analyzing the projected cost of the

1 project. EKC witness John Grace developed the levelized revenue requirement for the
2 project and provided Direct Testimony explaining those calculations in detail. In addition,
3 various Company witnesses, including myself, Jason Humphrey, and Cody VandeVelde,
4 provided testimony demonstrating why Kansas Sky is a reliable, efficient, and reasonable
5 addition to EKC's resource mix and is consistent with the Company's most recent preferred
6 plan and resource acquisition strategy. Mr. Carlson, Mr. Klote, and Mr. Grace also
7 addressed rate impacts related to the project. Staff witness Grady also performed a detailed
8 evaluation of the Kansas Sky addition.

9 It is important to note as well that that no party opposes this renewable addition. In
10 fact, Staff and many intervenors in this docket have expressed support for the Kansas Sky
11 solar project. Finally, there is no evidence in the record suggesting that EKC's efforts to
12 continue diversifying its generation portfolio by adding Kansas Sky to the resource mix is
13 in any way inconsistent with the statutory standards prescribed by the Predetermination
14 Statute. Because Factor 1 requires whole-record review, this absence of contrary proof is
15 an important consideration.

16 **Q. Factor 2: Does the Solar Settlement result in just and reasonable rates?**

17 A. I would begin by noting that "just and reasonable rates" are set through balanced
18 consideration of the interests of all concerned parties, including present and future ratepayers
19 and utility investors. The evidence presented in this case includes an analysis of the rate
20 impact of the project, which shows that adding this renewable resource will not move rates
21 outside the zone of reasonableness. EKC witness John Grace explains the calculation of the
22 levelized revenue requirement EKC proposed to use in this docket for the Kansas Sky project
23 and explains why use of such a levelized revenue requirement, as has been approved by the

1 Commission for other renewable generation owned by EKC, results in more reasonable rates
2 for customers.

3 The rate impacts related to the Kansas Sky solar facility are addressed in the Direct
4 Testimony of EKC witness Ron Klote. Mr. Klote provided the estimate that the addition
5 of the Kansas Sky solar facility with the requested levelized revenue requirement would
6 result in an approximate all-in bill increase of only 0.70% for EKC customers after the in-
7 service date of 2026. Many other intervening factors, including load growth over the
8 period are likely to affect those estimated rate impacts, and would be likely to reduce the
9 all-in bill impacts before 2026. All parties to this case have been aware of the estimated
10 rate impacts related to the Kansas Sky solar project, and no party has taken the position
11 that such impacts would be unreasonable. Therefore, based on the evidence in the docket
12 as a whole, the Kansas Sky solar settlement will result in just and reasonable rates for EKC
13 customers.

14 **Q. Factor 3: Is the Solar Settlement in the public interest?**

15 A. I absolutely believe the Solar Settlement is in the public interest. The public interest is
16 served by ensuring the public will receives efficient and sufficient electric service and
17 facilities at just and reasonable rates. The Kansas Sky solar facility helps ensure that this
18 is the accomplished, while also adding a new modern, utility-scale, efficient and low-
19 carbon generation asset to EKC's generation fleet. This will allow EKC to continue to
20 modernize and diversify its generation assets and further support and bolster reliable
21 service to its customers.

22 In addition, it is notable that the broad and diverse set of parties and intervenors,
23 including not only Staff and CURB, but also interests from the business, industrial and

1 commercial sectors, as well as groups supporting low carbon and clean energy options, all
2 unanimously have supported the Solar Settlement in this docket. That broad support
3 representative of all sectors and broad interests across the public at large is demonstrative
4 that the Solar Settlement is clearly in the public interest.

5 **Q. Is it your position that the Commission should approve both the Gas Settlement and**
6 **the Solar Settlement?**

7 **A.** Yes. I first want to express my gratitude for the work done by KCC Staff and all
8 stakeholders in this proceeding. There is a lengthy and diverse list of engaged parties in
9 this proceeding who have all contributed in many ways to the settlements in this docket. I
10 am very pleased the parties were able to reach a unanimous settlement regarding the Kansas
11 Sky solar addition, and I am also delighted to support the Gas Settlement, even though we
12 were not able to reach a unanimous settlement regarding those additions. The broad
13 coalition of support for the CCGTs, although not unanimous, speaks loudly for the diverse
14 and substantial support for the Gas Settlement.

15 Notably, both settlements closely follow EKC's Petition in this docket for approval
16 of inclusion of the new generation facilities and the meticulous definitive cost estimates
17 provided by EKC, while also incorporating a number of additional conditions and
18 protections enabling these developments to garner broad support among the parties. The
19 settlements will permit EKC to proceed with construction of these facilities, which EKC
20 has stated are critical to modernizing its generation fleet, and bolstering much needed
21 reliability improvements throughout its system, but doing so at a fair and reasonable cost,
22 and also maintaining just and reasonable rates for its customers. For these reasons, and for

1 the reasons discussed in more detail in my testimony above, I fully support approval of
2 both settlement agreements at issue, and request that they be approved by the Commission.

3 **Q. Does this conclude your testimony.**

4 A. Yes, it does.

COUNTY OF SHAWNEE

VERIFICATION

Darrin Ives, being duly sworn upon his oath deposes and states that he is the Vice President, Regulatory Affairs, for Every, Inc., that he has read and is familiar with the foregoing Testimony, and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.

[Signature]

Darrin R. Ives

Subscribed and sworn to before me this 17th day of April 2025.

Edward R. Thomas
Notary Public

My Appointment Expires:

May 30, 2026



CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed, this 17th day of April 2025, to all parties of record as listed below:

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