

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) Docket No. 25-EKCE-207-PRE
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.)

GAS UTILITIES' POST HEARING BRIEF

Atmos Energy Corporation ("Atmos Energy") and Kansas Gas Service, a division of ONE Gas Inc. ("Kansas Gas Service"), (collectively, the "Gas Utilities"), pursuant to the Kansas Corporation Commission's ("Commission" or "KCC") amended procedural schedule issued on December 19, 2024, submit the following Post Hearing Brief. The Gas Utilities support Paragraph 5.h of the Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities ("Natural Gas Settlement"). Paragraph 5.h conditions approval of the application filed by Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively, "Evergy") by requiring Evergy to make a compliance filing with the Commission showing that it has obtained adequate firm transportation capacity for its supply of natural gas for the McNew and Viola combined cycle natural gas plants ("CCGTs"). The Gas Utilities also support Paragraph 6.d of the Natural Gas Settlement. Paragraph 6.d conditions approval of Evergy's application by requiring Evergy to hold collaborative discussions with the Gas Utilities and others prior to the CCGTs being placed in service to advance coordination efforts, including discussion of statewide natural gas supply priorities and curtailment standards during extreme weather events and other emergency and extraordinary situations and report those efforts to the Commission. These two conditions reasonably address the concerns raised by the Gas Utilities in their pre-filed testimony. The conditions are supported by substantial competent evidence. The parties

who opposed the Natural Gas Settlement did not submit testimony in opposition to these two conditions. Paragraphs 5.h and 6.d are reasonable and lawful conditions that will promote the public interest. The Gas Utilities request that any approval of Evergy's application, as it relates to the CCGTs, be subject to the conditions set forth in paragraphs 5.h and 6.d of the Natural Gas Settlement.

I. LEGAL STANDARD GOVERNING NON-UNANIMOUS SETTLEMENTS

1. The Gas Utilities concur with Evergy's description of the Commission's five-factor test used to determine whether a non-unanimous settlement agreement provides a reasonable and lawful resolution of the issues as contained in Evergy's initial post hearing brief at pages 7 through 8.¹

II. APPLICATION OF THE KCC'S FIVE FACTOR TEST TO THE CONDITIONS FOR APPROVAL CONTAINED IN PARAGRAPHS 5.h AND 6.d OF THE NATURAL GAS SETTLEMENT

2. Application of the KCC's five factor test to the conditions for approval contained in paragraphs 5.h and 6.d of the Natural Gas Settlement demonstrate that those conditions are reasonable and lawful and should be approved by the Commission.²

A. FACTOR ONE IS MET: THERE WAS AN OPPORTUNITY FOR THE PARTIES IN OPPOSITION TO THE NATURAL GAS SETTLEMENT TO BE HEARD ON THEIR REASONS FOR OPPOSING THE NATURAL GAS SETTLEMENT

¹Initial Post-Hearing of Evergy Kansas Central, Inc., and Evergy Kansas South, Inc. in Support of Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities and Joint for Unanimous Partial Settlement Agreement, filed May 14, 2025, Docket No. 25-EKCE-207-PRE, (Evergy Initial Post Hearing Brief), pages 7-8.

²Under the five factor test, a non-unanimous settlement agreement such as the Natural Gas Settlement may be approved if it satisfies the following requirements:

- (1) There was an opportunity for the parties in opposition to the settlement agreement to be heard on their reasons for opposing the agreement;
- (2) The agreement is supported by substantial competent evidence;
- (3) The agreement conforms with applicable law;
- (4) The agreement results in just and reasonable rates; and
- (5) 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.

See Order Approving Contested Settlement Agreement, ¶11, Docket No. 08-ATMG-280-RTS (May 12, 2008) ("08-280 Order").

3. The Gas Utilities concur with Evergy's summary of the record as stated in pages 8 through 9 of its initial post hearing brief. Parties opposing the Natural Gas Settlement had ample and sufficient opportunity to express their positions on the Natural Gas Settlement.³

4. In addition to the parties opposing the settlement having a reasonable opportunity to be heard on their reasons for opposing the settlement, in providing their opposition there is no evidence in the record, in either the pre-filed testimony in opposition to the Natural Gas Settlement or testimony presented during the hearing, challenging the reasonableness of the conditions of approval provided in paragraphs 5.h and 6.d of the Natural Gas Settlement.⁴

B. FACTOR TWO IS MET: THE CONDITIONS FOR APPROVAL SET FORTH IN PARAGRAPHS 5.H AND 6.D ARE SUPPORTED BY SUBSTANTIAL COMPETENT EVIDENCE

5. The Gas Utilities concur with Evergy's definition of substantial competent evidence as stated on page 9 of its post-hearing brief.⁵

6. The conditions for approval in paragraphs 5.h and 6.d are supported by the pre-filed testimony submitted by Kathleen R. Ocanas, Vice-President of Rates and Regulatory Affairs for the Colorado/Kansas Division of Atmos Energy,⁶ and Matt L. Robbins, Director of Gas Supply for Kansas Gas Service.⁷ There was also no testimony challenging the testimony and concerns presented by Ms. Ocanas and Mr. Robbins and none opposing the conditions in the Natural Gas Settlement that address

³Evergy Initial Post Hearing Brief, pages 8-9.

⁴See the testimony filed in opposition to the Natural Gas Settlement on April 17, 2025.

⁵Evergy Initial Post Hearing Brief, page 9.

⁶Direct Testimony of Kathleen R. Ocanas filed March 14, 2025, Docket No. 25-EKCE-207-PRE ("Ocanas Testimony").

⁷Direct Testimony of Matt L. Robbins filed March 14, 2025, Docket No. 25-EKCE-207-PRE ("Robbins Testimony").

those concerns. Accordingly, there is substantial competent evidence in the record that supports paragraphs 5.h and 6.d.

7. Ms. Ocanas testified that as a KCC-regulated natural gas public utility, Atmos Energy has an obligation to its customers to secure and maintain firm upstream pipeline capacity and reliable natural gas supplies.⁸ She indicated Atmos Energy is confident in its ability to meet its natural gas supply obligations to its customers.⁹ However, during extreme weather conditions and other emergency situations that limit available natural gas supplies, it is important that there be established statewide natural gas supply priorities and curtailment plans in place and approved by the KCC to help protect human needs customers.¹⁰ Ms. Ocanas explained the significant increases in natural gas usage that is expected in Kansas as a result of Evergy's proposed CCGTs and other new natural gas users will exasperate the availability of reliable natural gas supplies during emergency events.¹¹ Paragraph 6.d of the Natural Gas Settlement conditions approval of Evergy's application by requiring Evergy to hold collaborative discussions with the Gas Utilities and others prior to the CCGTs being placed in service to advance coordination efforts, including discussion of statewide natural gas supply priorities and curtailment standards during extreme weather events and other emergency and extraordinary situations. This condition on approval of the CCGTs will allow the Gas Utilities like Atmos Energy and Kansas Gas Service, as well as other stakeholders, and the Commission to address the concern raised by Ms. Ocanas.

⁸Ocanas Testimony, page 2, line 22 through page 3, line 2.

⁹Ocanas Testimony, page 3, lines 2-3.

¹⁰Ocanas Testimony, page 3, lines 3-6.

¹¹Ocanas Testimony, page 3, lines 8-14.

8. Mr. Robbins provided testimony in support of Kansas Gas Service's concern with how the increased demand for natural gas supplies and pipeline capacity to meet the needs of Evergy's proposed CCGTs could impact its own service obligations.¹² He indicated that based on current publicly available information, there are likely constraints that will limit Evergy's ability to operate its proposed CCGTs.¹³ Mr. Robbins recommended Evergy report to the Commission that it has secured adequate firm pipeline capacity to operate the plants.¹⁴ Paragraph 5.h conditions approval of the application filed by Evergy by requiring Evergy to make a compliance filing with the Commission showing that it has obtained adequate firm transportation capacity for its supply of natural gas for the CCGTs. This condition is clearly supported by the testimony presented by Mr. Robbins and is consistent with his recommendation to the Commission by requiring Evergy to report to the Commission that it has secured adequate pipeline capacity prior to placing the CCGTs in service. Like Ms. Ocanas, Mr. Robbins also testified in support of additional coordination between gas and electric utilities which is captured in paragraph 6.d of the Natural Gas Settlement.

C. FACTOR THREE IS MET: KCC HAS AUTHORITY TO IMPOSE REASONABLE AND LAWFUL CONDITIONS ON ITS APPROVAL OF EVERGY'S PRE-DETERMINATION APPLICATION

9. The Commission has authority to impose conditions on approval of Evergy's pre-determination application based upon its general powers set forth in K.S.A. 66-101, 66-101e and 66-101g. The conditions must be both lawful and reasonable. To be lawful the condition must be within the statutory authority of the KCC and all statutory and procedural rules must be followed. To

¹²Robbins Testimony, page 4, line 17 through page 5, line 9.

¹³Robbins Testimony, page 5, line 12 through page 16, line 2.

¹⁴Robbins Testimony, page 16, line 3 through page 17, line 13.

be reasonable, the condition must be based upon substantial competent evidence.¹⁵ As pointed out by Evergy in its initial post hearing brief beginning at page 10, the terms and conditions contained in the Natural Gas Settlement conform with the applicable law, K.S.A. 66-1239 and the amendments thereto approved by the Kansas Legislature in 2024 in House Bill 2527.¹⁶ As indicated above in Section II.B. of this Post Hearing Brief, the conditions for approval set forth in paragraphs 5.h and 6.d are based upon substantial competent evidence and were not opposed by any of the parties. Accordingly, paragraphs 5.h and 6.d of the Natural Gas Settlement conform to applicable law.

D. FACTOR FOUR IS MET: THE CONDITION FOR APPROVAL INCLUDED IN PARAGRAPH 5.H OF THE NATURAL GAS SETTLEMENT SUPPORTS JUST AND REASONABLE RATES

10. Natural gas supply costs for natural gas retail utility customers and natural gas fuel costs for electric retail utility customers are a large part of the overall rates paid by those customers. Requiring Evergy to secure adequate pipeline capacity for its natural gas fuel requirements for its proposed CCGTs and reporting to the Commission that such has been obtained prior to placing the CCGTs into service as a condition for approval of Evergy's application will assist both Evergy and the Gas Utilities to provide their respective customers with just and reasonable rates.

E. FACTOR FIVE IS MET: THE CONDITION FOR APPROVAL INCLUDED IN PARAGRAPH 6.D OF THE NATURAL GAS SETTLEMENT WILL PROMOTE THE PUBLIC INTEREST

11. Evergy's petition to build the CCGTs is an opportunity for the Commission to become a regional leader in cross-sector coordination to protect Kansas customers during extreme weather events. The Natural Gas Settlement opens the door to establishing statewide guidelines on natural gas usage priorities and curtailment standards to be followed during extreme weather and other

¹⁵*Kansas Electric Power Co-op v. State Corporation Commission*, 235, Kan. 661, 664, 683 P.2d 1235 (1984).

¹⁶K.S.A. 66-1239; House Bill 2527 (2024).

extraordinary/emergency events. The condition for approval included in paragraph 6.d is prudent and will promote the public interest. It will assist the Commission in establishing statewide natural gas priorities and curtailment standards so both gas and electric utilities will have adequate natural gas supplies to meet the needs of their respective customers during extreme weather and other extraordinary/emergency events, like Storm Uri, and protect human needs customers. This framework, if pursued, could help improve crisis communication channels and real-time information sharing ultimately enhancing system resilience, public trust, and economic stability.

III. CONCLUSION

12. The conditions for approval contained in Paragraphs 5.h and 6.d of the Natural Gas Settlement meet each of the five factors, are reasonable and lawful and will promote the public interest for the reasons set forth herein. The Gas Utilities request that those conditions for approval of Evergy's application be approved by the Commission.



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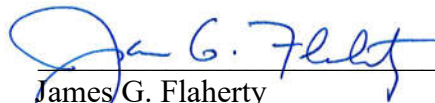
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VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, deposes and says he is the attorney for Atmos Energy Corporation and Kansas Gas Service, a division of ONE Gas, Inc., above named; that he has read the above and foregoing Post Hearing Brief; and the statements contained therein are true.


James G. Flaherty

SUBSCRIBED AND SWORN to before me this 28th day of May, 2025.





Notary Public

Appointment/Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 28th day of May, 2025, addressed to:

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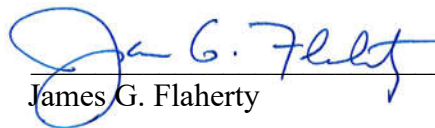
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