

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

DIRECT TESTIMONY OF

KATHLEEN R. OCANAS

MARCH 14, 2025

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS AND DESCRIBE YOUR**
2 **ROLE AT ATMOS ENERGY CORPORATION.**

3 A. My name is Kathleen R. Ocanas, and my business address is 25090 W. 110th Terrace, Olathe,
4 Kansas 66061. I am the Vice President of Rates & Regulatory Affairs for the Colorado/Kansas
5 Division of Atmos Energy Corporation¹ ("Atmos Energy" or the "Company").

6 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL BACKGROUND.**

7 A. I received my Bachelor of Science degree from Wayland Baptist University in 2008. I was hired
8 by Atmos Energy's West Texas Division in 2008 within the Finance department and shortly
9 thereafter was promoted to a Rate Analyst in the Rates and Regulatory Affairs department. In
10 2015, I received a Master of Business Administration degree, minoring in Accounting from the
11 University of Texas A&M - Commerce and relocated to the Company's Mid-Tex Division as
12 a Sr. Rates Analyst. In 2018, I was promoted to Rates & Regulatory Project Manager. There,
13 I coordinated, organized, and implemented various rate case activity, maintained relationships
14 with key stakeholders, and supported the public affairs and governmental affairs teams. In July
15 2021, I assumed my current role as the Colorado-Kansas Division Vice President of Rates and
16 Regulatory Affairs. I am responsible for leading and directing the rates and regulatory activity
17 in the Atmos Energy's Colorado-Kansas Division. This responsibility includes executing and
18 managing the rate strategy for both states.

¹Atmos Energy is the largest fully regulated pure natural gas distribution company in the United States. The Company delivers natural gas to approximately 3.2 million residential, commercial, industrial and public-authority customers in eight states. Atmos Energy has six unincorporated gas utility operating divisions headquartered in Lubbock, Texas (West Texas division); Dallas, Texas (Mid-Tex division); Denver, Colorado (Colorado/Kansas division); Baton Rouge, Louisiana (Louisiana division); Jackson, Mississippi (Mississippi division); and Franklin, Tennessee and Owensboro, Kentucky (Kentucky/Mid-States division). In addition, Atmos Energy has an operating division, Atmos Pipeline - Texas, headquartered in Dallas, Texas which consists of a regulated intrastate pipeline that operates only within Texas.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE KANSAS CORPORATION**
2 **COMMISSION ("KCC" OR "COMMISSION")?**

3 A. Yes.

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?**

5 A. Evergy's petition to build two natural gas combined cycle gas turbine ("CCGT") electric
6 generation facilities, is a good opportunity for the KCC to consider opening a separate general
7 investigation to establish statewide guidance on natural gas usage priorities and curtailment
8 standards to be followed during extreme weather and other extraordinary/emergency events
9 ("Priorities and Curtailment Standards"). Evergy's CCGTs are scheduled to be placed in service
10 in 2029 and 2030. There is also evidence of other proposed projects that plan to use significant
11 amounts of natural gas scheduled to come on line in Kansas over the next 4-5 year period,
12 including large Data Centers. Using the period between now and 2029-2030 to establish
13 statewide Natural Gas Priorities and Curtailment Standards so both gas and electric utilities
14 will have adequate natural gas supplies to meet the needs of their respective customers during
15 extreme weather and other extraordinary/emergency events, like Winter Storm Uri, is the
16 prudent action to take. The purpose of my testimony is to recommend the KCC take such action.

17 **Q. WHAT IS THE BASIS FOR ATMOS ENERGY'S REQUEST THAT THE KCC OPEN**
18 **A GENERAL INVESTIGATION TO ESTABLISH STATEWIDE NATURAL GAS**
19 **PRIORITIES AND CURTAILMENT STANDARDS?**

20 A. Atmos Energy is a Kansas natural gas public utility. It is regulated by the KCC. Atmos Energy
21 serves over 140,000 customers in approximately 110 Kansas communities located in 32
22 counties. As a KCC regulated natural gas public utility, the Company has an obligation to its

1 customers to secure and maintain firm upstream pipeline capacity and reliable natural gas
2 supplies. Atmos Energy is confident in its ability to meet its natural gas supply obligations to
3 its customers. However, during extreme weather conditions and other emergency situations that
4 limit available natural gas supplies, it is important that there be established statewide natural
5 gas supply priorities and curtailment plans in place and approved by the Commission, to help
6 protect human needs customers. The KCC is very familiar with what occurred during Storm Uri.
7 For nearly all days, adequate natural gas supplies are available on the upstream pipelines
8 serving Kansas. However, reliable natural gas supplies are less available during extreme
9 weather conditions and emergency events, like what occurred during Storm Uri. The significant
10 increases in natural gas usage that are expected in Kansas will exasperate the availability of
11 reliable natural gas supplies during these emergency events.

12 Having the Commission establish and put in place statewide natural gas supply priorities
13 and curtailment standards should allow both gas and electric utilities to more reasonably meet
14 their respective obligations to their utility customers during emergency events.

15 **Q. DOES ATMOS ENERGY OPERATE UNDER STATEWIDE NATURAL GAS SUPPLY**
16 **PRIORITIES AND CURTAILMENT STANDARDS IN ANY OF THE OTHER STATES**
17 **IN WHICH IT OPERATES?**

18 A. Yes. Atmos Energy operates under statewide natural gas supply priorities and curtailment
19 standards in Texas, Louisiana, Colorado and Virginia. Attached to my testimony as Exhibit
20 KRO-1 is a copy of the natural gas priority of service rules adopted by the Texas Railroad
21 Commission as a result of Storm Uri. Also attached to my testimony as Exhibit KRO-2 is a copy
22 of rules adopted by the Office of Conservation-Pipeline Division for the State of Louisiana

1 relating to the establishment, promulgation, and implementation of emergency gas shortage
2 allocation plan. The purposes of these rules is to maintain, preserve and protect human needs
3 customers who depend on natural gas. By opening up a general investigation, the KCC would
4 have a venue to consider input from all stakeholders and based upon that input adopt statewide
5 natural gas usage priorities and curtailment standards during emergency situations.

6 **Q. DO YOU HAVE ANY OTHER COMMENTS?**

7 A. This Commission is well aware of the efforts currently being made by the National Association
8 of Regulatory Utility Commission ("NARUC") to improve communication, preparation and
9 readiness of the natural gas and electric industries to maintain and improve the reliability of the
10 natural gas and electric energy systems used to provide utility service to customers, especially
11 when those systems are facing extreme weather conditions and other extraordinary/emergency
12 events. NARUC has organized a Gas-Electric Alignment for Reliability ("GEAR") task force
13 to address this issue and the GEAR task force plans to have forums to address this issue.

14 Between now and 2029 and 2030, when Evergy's proposed CCGT facilities are
15 scheduled to be placed in service, this Commission, the gas and electric utilities, and other
16 stakeholders should have the benefit of the work being performed by the GEAR task force and
17 to the extent applicable, consider that work in establishing statewide natural gas priorities and
18 curtailment standards.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes, it does.

VERIFICATION OF KATHLEEN R. OCANAS

STATE OF KANSAS, COUNTY OF JOHNSON, ss:

I, Kathleen R. Ocanas, being first duly sworn on oath, depose and state that I am the witness identified in the foregoing Direct Testimony; that I have read the testimony and am familiar with its contents; and that the facts set forth therein are true and correct.


Kathleen R. Ocanas

SUBSCRIBED AND SWORN to before me this 11th day of March, 2025, by Kathleen R. Ocanas.


Notary Public

Appointment/Commission Expires: Jan. 20, 2027

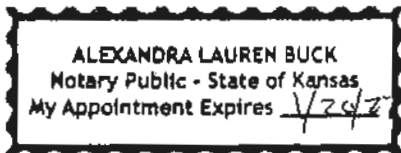


EXHIBIT
KRO-1

Curtailment Plan

§7.455 Curtailment Standards

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Balancing authority—The Electric Reliability Council of Texas or other responsible entity that integrates resource plans ahead of time, maintains electricity demand and resource balance within a balancing authority area, and supports interconnection frequency in real time for a power region in Texas.

(2) Commission—The Railroad Commission of Texas.

(3) Curtailment event—When a gas utility determines that its ability to deliver gas may become inadequate to support continuous service to firm customers on its system and it reduces deliveries to one or more firm customers. For the purposes of this section, an interruption of delivery or service to interruptible gas customers does not constitute a curtailment event. Prior to reducing deliveries to one or more firm customers, a gas utility interrupts deliveries to interruptible customers pursuant to mutually agreed upon contracts and/or tariffs.

(4) Electric generation facilities—Facilities registered with the applicable balancing authority including bulk power system assets, co-generation facilities, distributed generation, and or backup power systems.

(5) Firm or firm deliveries—Natural gas deliveries that are described as firm under a contract or tariff.

(6) Gas utility—An entity that operates a natural gas transmission pipeline system or a local distribution company that is subject to the Commission's jurisdiction as defined in Texas Utilities Code, Title 3.

(7) Human needs customers—Residences, hospitals, water and wastewater facilities, police, fire, military and civil defense facilities, and locations where people may congregate in an emergency, such as schools and places of worship. A human needs customer also includes small commercial customers that cannot practicably be curtailed without curtailing human needs.

(8) Interruptible or interruptible deliveries—Natural gas deliveries that are not described as firm under a contract or tariff.

(b) Applicability. This section takes effect on September 1, 2022. This section applies when any gas utility experiences a curtailment event affecting intrastate service on any of its intrastate natural gas pipelines. When a gas utility experiences a curtailment event, the gas utility shall curtail deliveries according to the priorities listed in subsection (c) of this section unless and until the gas utility has an approved curtailment plan pursuant to subsection (d) of this section. The curtailment priorities in this section apply to sales of natural gas owned by a gas utility and/or deliveries utilizing a gas utility's transportation capacity. The priorities in this section do not apply to sales of gas owned by an entity that is not a gas utility. The term "deliveries" in this section includes sales and/or transportation service.

(c) Priorities.

(1) Unless a gas utility has an approved curtailment plan pursuant to subsection (d) of this section, a gas utility shall apply the following priorities in descending order during a curtailment event:

- (A) firm deliveries to human needs customers and firm deliveries of natural gas to local distribution systems which serve human needs customers;
- (B) firm deliveries to electric generation facilities;
- (C) firm deliveries to industrial and commercial users of the minimum natural gas required to prevent physical harm and/or ensure critical safety to the plant facilities, to plant personnel, or the public when such protection cannot be achieved through the use of an alternate fuel;
- (D) firm deliveries of natural gas to small industrials and regular commercial loads that use less than 3,000 Mcf per day;
- (E) firm deliveries to large industrial and commercial users for fuel or as a raw material where an alternate fuel or raw material cannot be used and operation and plant production would be curtailed or shut down completely when natural gas is curtailed;
- (F) firm deliveries to large industrial and commercial users for fuel or as a raw material where an alternate fuel or raw material can be used and operation and plant production would be curtailed or shut down completely when natural gas is curtailed; and
- (G) firm deliveries to customers that are not covered by the priorities listed in subparagraphs (A) - (F) of this paragraph.

(2) Deliveries to customers within the same priority on the portion of the system which is subject to curtailment shall be curtailed to the extent practicable on a pro rata basis according to scheduled quantities. If a customer's end-use requirements fall under two or more priorities, then such requirements must be treated separately when applying this schedule of priorities to the extent practicable. Transportation customers have equivalent end-use priorities as sales customers.

(3) When applying the priorities of this section, a gas utility may rely on the representations of its customers and/or their end users regarding the nature of customers' deliveries.

(d) Curtailment plans. Order 489 and any curtailment plan approved by the Commission prior to the effective date of this section is superseded by this section. A gas utility may file its own curtailment plan for approval with the Oversight and Safety Division. A gas utility shall follow the priorities listed in subsection (c) of this section unless and until the gas utility has an approved curtailment plan on file with the Commission. The first three priorities in any individual curtailment plan must be consistent with the first three priorities listed in subsection (c)(1)(A) - (C) and (2) of this section. A gas utility shall provide to its customers notice of an application for a curtailment plan. A gas utility shall provide notice on the same day the gas utility files its application with the Commission. The gas utility may provide notice by hand delivery, by first class, certified, registered mail, commercial delivery service, electronic methods, or by such other manner as the Commission may require. The notice shall be in the form prescribed by the Commission. The Oversight and Safety Division may administratively approve the curtailment plan if no request for hearing is filed within thirty days of such notice. The Commission shall set the matter for hearing if it receives a timely request for hearing from a customer of the gas utility.

(e) Required tariff filings. Within 90 days of the effective date of this section, each gas utility shall electronically file with the Commission, in the manner prescribed by the Commission, tariffs that shall include either:

(1) the curtailment priorities as specified in this section; or

(2) a curtailment plan approved by the Commission as specified in subsection (d) of this section.,

(f) Curtailment emergency contact information. Each gas utility shall maintain current curtailment emergency contact information with the Commission and shall submit curtailment emergency contact information on or before November 1 of each year.

EXHIBIT
KRO-2

JUSTIA

Louisiana Administrative Code Title 43 - NATURAL RESOURCES Part XI - Office of Conservation- Pipeline Division Subpart 1 - Natural Gas and Coal Chapter 1 - Natural Gas and Coal Section XI-141 - Establishment, Promulgation, and Implementation of Emergency Gas Shortage Allocation Plan

Universal Citation: LA Admin Code XI-141

Current through Register Vol. 49, No. 6, June 20, 2023

A. This regulation shall apply to the establishment, promulgation, implementation and administration of a plan for statewide emergency intrastate natural gas conservation, allocation or rationing pursuant to Part IV of the Act.

B. The policy of the state of Louisiana, pursuant to Part IV of Act 16, is to maintain, preserve and protect all those vital services and human needs which depend upon intrastate natural gas.

1. The governor of Louisiana has the authority pursuant to Part IV of the Act to declare, from time to time, that as a result of extreme shortages of existing intrastate natural gas needed to maintain, protect and preserve human needs, that a state of emergency exists.

2. Upon a declaration by the governor of the state of Louisiana that a state of emergency exists, the commissioner shall immediately implement by written order the emergency gas shortage allocation plan provided for in this regulation. The commissioner's order shall specify the nature and cause of the gas shortage emergency which resulted in the governor's declaration and shall require each intrastate natural gas transporter with a shortage of natural gas on its system to curtail and to reallocate intrastate natural gas in the custody and control of such intrastate natural gas transporter and may require other intrastate natural gas transporters to curtail such intrastate natural gas for reallocation to such transporter with a shortage all in accordance with the emergency gas shortage allocation plan as necessary:

a. in the event any person makes a request of the governor of the state of Louisiana or the commissioner for the declaration of a gas shortage emergency or issuance of any order in connection therewith ("applicant"), such applicant shall certify under oath that supplies of gas necessary to meet priorities one through five are physically unavailable from any other source. Such applicant also shall provide the commissioner with the following information in writing not more than 24 hours after making such request:

i. the precise nature of the gas shortage, the estimated amount of supply that is or may be curtailed and the estimated volume which must be made available to meet priorities one through five;

ii. the reasons such gas shortage exists;

iii. that applicant's efforts to secure alternate supplies of gas including a list of all pipelines, producers, marketing companies, or other specific potential suppliers contacted together with details as to the prices, terms and conditions offered by or requested from such potential suppliers and any rejection by such applicant of proposals for sale;

iv. an explanation of that applicant's inability to obtain alternate supplies of gas from any source;

v. a list of all pipelines connected to the plant, pipeline, or any other facilities of that applicant;

vi. in the event the applicant making such request is an intrastate natural gas transporter or local distribution company, he shall specify the level of curtailments by priority of customer on his system at the time the request is

made and anticipated thereafter. Such entities may not make such a request for an emergency declaration unless they have adopted and filed with the commissioner a gas shortage allocation plan comparable to that of the state and are prepared upon issuance of an order to curtail all priorities six through nine categories of gas, using the gas curtailed to meet priorities one through five. The commissioner's order may not reallocate gas from other transporters until the commissioner is satisfied that there is insufficient gas available by curtailment of the gas available to the applicant's system or facility or for purchase from any source to meet priorities one through five;

vii. in the event the applicant is an end user of gas, he shall specify those volumes of gas available to him at the time the request is made and anticipated thereafter, whether those volumes constitute plant protection gas, and what alternative fuel capabilities exist; such information shall be furnished in the form of a sworn affidavit duly executed before a notary public by the appropriate person or corporate officer possessing such knowledge, as the case may be. The commissioner may make further inquiry or require additional information as necessary prior to the issuance of any order;

b. should the commissioner issue any order pursuant to such request, the applicant for whose benefit such order was issued and all intrastate natural gas transporters affected by such order shall inform the commissioner daily regarding the gas shortage emergency and its effect on those applicants. At such time as the commissioner may determine that the person for whose benefit such order was issued and all intrastate natural gas transporters affected by such order no longer have a gas shortage, the commissioner's order and the governor's declaration shall be terminated;

c. upon the declaration of a gas shortage emergency by the governor of the state of Louisiana and the issuance of any order in connection therewith by the commissioner, the commissioner immediately shall notify all affected intrastate natural gas transporters by telephone and, subsequently, in writing of such declaration or order. Such notice shall specify the curtailment procedures, orders, rules, or regulations of the commissioner to be implemented;

d. the commissioner, in his discretion, may notify such other persons of the existence of a gas shortage emergency as he deems appropriate, including local distribution companies, end users, and any other persons who have specifically requested that they be so notified. In addition, the commissioner shall request the governor's office to notify the media and the general public of such

emergency and may request that citizens adopt measures to conserve the use of gas during the period of gas shortage;

e. upon receipt of notification from the commissioner of the declaration of a gas shortage emergency and the issuance of any order in connection therewith, each intrastate natural gas transporter affected by such order immediately shall notify its affected transportation and sales customers by telephone and, subsequently, in writing of such declaration or order. Such notice shall specify the curtailment procedures, orders, rules, or regulations of the commissioner to be implemented;

f. in order to implement this regulation, the commissioner shall require that each intrastate natural gas transporter annually submit a contact sheet containing the names, addresses, office and home telephone numbers of those senior officers or other persons to be contacted by the commissioner in the event a gas shortage emergency is declared. The contact sheet also shall contain the telecopy number of such intrastate natural gas transporter, if applicable. The commissioner may accept similar contact sheets containing necessary information from any person who wishes to be notified of such declaration. A contact sheet for the commissioner's office and staff shall be distributed to all intrastate natural gas transporters;

g. upon the finding by the governor that an emergency exists, the commissioner shall set a public hearing to be held not later than five days after the date the governor declares the emergency. The purpose of such hearing will be to investigate the cause of the emergency and evaluate the response thereto. Notice of the public hearing shall be published in the official journal of the state of Louisiana at least three days prior to the date of hearing. At that hearing, any person affected by the emergency shall be permitted to appear, testify, adduce evidence, and cross examine the persons requesting the emergency declaration and those to whom intrastate natural gas is to be reallocated. Parties affected may request the commissioner to require parties to whom gas is being reallocated to produce information and documents relating to the need, availability, price and end use of gas;

h. the commissioner may, among other things, as a result of that hearing, change one or more of the priorities in the emergency gas shortage allocation plan, grant individual exceptions, alter the volumes of intrastate natural gas being reallocated, change the number of transporters from whom gas is to be reallocated, find that the circumstance of the person seeking a declaration of

emergency did not or no longer warrants continuance of the order, take such action as is necessary to protect parties affected by reallocation and/or recommend to the governor that he declare that the emergency no longer exists.

C. The following plan is established and promulgated by the commissioner of conservation, which is to take effect in the event the governor of Louisiana declares a state of emergency and the commissioner issues an order implementing the plan, unless otherwise provided below, as a result of extreme shortages of existing intrastate natural gas for human needs, in order to maintain, preserve and protect all vital services in Louisiana depending upon intrastate natural gas and, to the extent applicable, for the curtailment of unnecessary and lesser priority uses of intrastate natural gas. The plan and any orders issued by the commissioner are herein referred to as the emergency gas shortage allocation plan.

1. The commissioner hereby adopts the following priority system:
 - a. first priority shall be given to the protection of public health, safety, and welfare including maintenance of gas and electrical service for hospitals, juvenile and adult correctional institutions, nursing homes, dormitories, educational facilities, hotels, motels, and residences such as individual homes, apartments and similarly occupied dwelling units, publicly owned water, sewerage, and storm water drainage systems producing their own energy, which systems supply services to the aforesaid, property owners who, through contract lease, or otherwise, reserve unto themselves a share of the natural gas produced from their property to serve their needs, and plant protection gas;
 - b. second priority shall be given to the maintenance of agricultural operations, and the processing of agricultural products, including farming, ranching, dairy, water conservation and commercial fishing activities, and services directly related thereto, operations of food processing plants, businesses and facilities processing products for human consumption;
 - c. third priority shall be given to exploration, production, processing, and refining efforts to attain maximum production or extraction of oil, natural gas, other hydrocarbons, and minerals mined by the Frasch process;
 - d. fourth priority shall be given to the maintenance of commercial and industrial activities utilizing less than 1.5 million cubic feet of gas on a peak day;

e. fifth priority shall be given to the maintenance of all public services, including facilities and services provided by municipal cooperative, or investor-owned utilities required for customers who come under priorities two, three or four, or by any state or local government or authority, and including transportation facilities and services which serve the public at large. This priority shall not apply to those publicly-owned water, sewer and storm water drainage systems referred to under the first priority;

f. sixth priority shall be given to the preservation of an economically sound and competitive petroleum, petrochemical and chemical industry. Those industries requiring the use of intrastate natural gas for feedstock or process needs, and public utilities generating electricity for sale to consumers listed above under priorities one, two, three, four and five, which own or have acquired at the wellhead their own source of intrastate natural gas supply, or which acquire such gas supply or any portion thereof from a wholly-owned subsidiary company, or which have acquired such gas supply from any source in its name or in the name of its wholly-owned subsidiary and have stored it in an intrastate storage facility, and which are using such supply in the operation of their own facilities, shall, as long as they continue to use said gas for feedstock or process needs, or for generating electricity for sale to consumers listed above under priorities one, two, three, four and five, have and be recognized as possessing first priority, above all others in sixth priority, for use of said gas. Industrial companies not owning intrastate natural gas reserves for their own use for feedstock or process needs shall be subject to curtailment first, and those companies owning intrastate natural gas reserves for their own use, or which acquire such gas supply or any portion thereof from a wholly-owned subsidiary company, or which have acquired such gas supply from any source in its name or in the name of its wholly-owned subsidiary and have stored it in an intrastate storage facility for such purposes shall be subject to curtailment second and may not be curtailed except as to meet priorities one through five on the intrastate natural gas transporter serving such industrial companies or any other intrastate natural gas transporter; provided, further, that any person to whom those industries requiring the use of intrastate natural gas for feedstock or process needs which own their own source of intrastate natural gas may have heretofore contracted to sell a portion of their own gas for feedstock or process needs shall have a priority for the use of said gas for feedstock or process needs equal to the priority accorded to their vendor by this Paragraph;

g. seventh priority shall be given to the maintenance of industrial requirements not specified in Priority 6, except for boiler fuel;

h. subject to the plants and facilities covered by the first and second priorities, eighth priority shall be given to industrial plants, including electrical generating plants to the extent not provided for in Priority 5, having a present requirement for use of intrastate natural gas for boiler fuel not possessing present alternate fuel capabilities. Such plant may, however, be required by the commissioner to convert to alternate fuels within a reasonable time, considering all pertinent circumstances, or suffer curtailment by order of the commissioner of its use of intrastate natural gas. The commissioner may require the industry affected to submit to him evidence as to why the industrial plant cannot convert to alternate fuels within the delay specified; and, if the user alleges otherwise, and if required by the commissioner, why the industrial plant cannot be operated on a profitable basis with the use of alternate fuels.

i. The commissioner may authorize the use of intrastate natural gas for use as boiler fuel if the industry demonstrates that it cannot convert to alternate fuel capability by reason of the fact that it is economically not feasible, that the industrial plant would otherwise have to close, because it could not operate with a margin of profit considered reasonable in the particular industry, or that the cost of converting to alternate fuels is totally disproportionate to the existing investment in plant facilities. If the commissioner determines that for those reasons the industrial plant cannot reasonably be converted to the use of alternate fuel capabilities and remain in business, the commissioner may, if he determines that intrastate natural gas is available for such use, grant to that industry a higher priority of use than is herein provided;

j. ninth priority shall be given to industrial plants including electrical generating plants to the extent not provided for in priorities five and eight, having a present requirement for boiler fuel use, in those instances where alternate fuel capabilities now exist, or may be installed with relatively minimal cost and delay. Industries possessing existing alternate fuel capabilities or, if the commissioner determines that alternate fuel capability can be installed with relatively minimal cost or delay, may be curtailed in their gas supply by the commissioner, and directed by the commissioner to change from use of intrastate natural gas to use of alternate fuels within a limited time to be fixed by the commissioner considering all pertinent circumstances. The commissioner may, if he determines

that intrastate natural gas is available for such use, and if the commissioner determines that it is economically infeasible to operate a plant with alternate fuels, grant to the plant a higher priority of use.

2. Each intrastate natural gas transporter and local distribution company shall annually file with the commissioner an allocation plan (consistent with the state's emergency gas shortage allocation plan) to be implemented in the event the commissioner so orders, which plan shall provide for the conservation and allocation of gas in accordance with the priorities and exemptions established herein. Such plan further shall assign curtailment priorities and volumes to each end use or local distribution customer of that intrastate natural gas transporter or local distribution company. Copies of the allocation plan shall be furnished to each intrastate natural gas transporter or made available to each local distribution company's customers, who may challenge the assigned priority status before the commissioner. Unless the commissioner determines otherwise after notice and hearing, each end user of natural gas will be considered to have the priority assigned by its intrastate natural gas transporter or local distribution company:

a. the allocation plan must identify by customer type the end use of all gas delivered by the intrastate natural gas transporter including a classification by curtailment priority and volume deliverable to all then current end use and local distribution customers of the transporter. Customers which use natural gas for more than one purpose or end use must be classified under separate curtailment priorities by volume. Such information must be updated and supplemented annually;

b. such allocation plan also shall contain procedures to be implemented by such person or entity to encourage the conservation of intrastate natural gas by its customers or employees in the event an emergency is declared.

3. In the event the governor of Louisiana declares a state of emergency pursuant to R.S. 30:571, as amended, then and for the duration of such emergency or as otherwise ordered by the commissioner each intrastate natural gas transporter with a shortage of natural gas on its system shall curtail deliveries to its customers and shall allocate its natural gas, pursuant to order of the commissioner, so that all natural gas deliveries to its Priority 9 customers are curtailed before any curtailment of its Priority 8 customers. If all of the intrastate pipeline's Priority 9 customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its Priority 8 customers shall be curtailed before any curtailment of its Priority 7 customers. If deliveries of natural

gas to all of the intrastate pipeline's Priority 8 customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its Priority 7 customers shall be curtailed before any curtailment of its Priority 6 customers. If deliveries of natural gas to all of the intrastate pipeline's Priority 7 customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its Priority 6 customers shall be curtailed before any of its Priority 5 customers, provided however, that all Priority 6 customers that do not own their own gas supply or do not acquire such supply from a wholly-owned subsidiary company for feedstock or process shall be curtailed 100 percent before gas owned by Priority 6 customers for feedstock and process use may be curtailed at all. All such curtailments shall be by the order of the commissioner issued pursuant to Paragraph B.2.

4. If after the curtailments required in Paragraph C.3 have been effectuated, any intrastate natural gas transportation system still has a shortage of natural gas in its system that would require the curtailment of its Priority 5 and higher customers, then, and in that event, the commissioner shall order such additional curtailments and redeliveries of natural gas as he deems advisable and necessary to the extent authorized by law.

D. The commissioner may, as he deems necessary, change the emergency gas shortage allocation plan and/or the priorities contained therein, but in the absence of a serious immediate emergency as is hereinafter provided, may only do so after public hearings.

1. All applicable procedures required by Section 953 of the Administrative Procedure Act, R.S. 49:951-962, for the adoption of administrative rules, shall be complied with for the establishment and promulgation of any such changes to said plan and/or priorities.

2. The plan shall be implemented as so changed and promulgated in the event the state of emergency is or has been declared by the governor as specified in Subsection B.

3. All intrastate natural gas transporters directly affected by any such change in the plan, priority assignments, curtailments procedures, orders, rules or regulations of the commissioner and purchasers from and/or such transporters' system shall be notified in writing by the commissioner of such change, specifying the curtailment procedures, orders, rules or regulations they must now comply with and/or are now subject to.

E. If after a state of emergency has been declared by the governor as specified in Subsection B, the commissioner finds to exist a serious immediate emergency, which requires a change in the plan and/or the priorities therein, he may change the plan and/or the priorities without first having a hearing by issuing an emergency order providing for such changes.

1. All applicable procedures set forth in the Administrative Procedure Act, R.S. 49:951-968, shall be complied with.
2. All intrastate natural gas transporters directly affected by any such emergency order providing for any change in the plan, priority assignments, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, and customers on such transporters' system shall be notified in writing by the commissioner of such change, specifying the curtailment procedures, orders, rules or regulations they must now comply with.
3. The emergency order shall only remain in force for 30 days from its effective date, unless and except the commissioner has been physically unable to hold and complete public hearings by reason of the pressure of multiple public hearings on such matters:
 - a. in such case, the emergency order shall only remain in effect until such time as the commissioner can physically conduct and complete a hearing for the change of the plan and/or priorities but in no case longer than 120 days from its effective date, after which time the order will automatically expire;
 - b. any such time period commences on the effective date of such order;
 - c. in any event, the emergency order shall expire whenever the change is established and promulgated after notice and public hearings as provided in Subsection D.

F. If after a state of emergency has been declared by the governor as specified in Subsection B, the commissioner finds to exist a serious immediate emergency, he has the express authority to alter the emergency gas shortage allocation plan as to individual situations in order to alleviate exceptional hardship cases.

1. For purposes of Subsection F.2.b, *interested parties* shall mean any transporter of intrastate natural gas that would be directly affected by the granting of an exception to the emergency gas shortage allocation plan, as well as all customers on such

transporters' system and any person which owns its own gas supply that would be directly affected.

2. Any individual seeking to take advantage of this provision shall:

a. request the commissioner in writing for such an exception, which written application shall include:

i. a statement of the facts and circumstances that create an exceptional hardship case;

ii. a list of the names and addresses of all interested parties;

iii. a statement that all interested parties have been notified in writing as required by this Section;

b. notify in writing all interested parties of the application to the commissioner for an individual exception based on exceptional hardship;

c. present to the commissioner such evidence as he deems necessary to provide his case of exceptional hardship.

3. The emergency order shall only remain in force for 30 days from its effective date, unless and except the commissioner has been physically unable to hold and complete public hearings by reason of the pressure of multiple public hearings on such matters:

a. in such case, the emergency order shall only remain in effect until such time as the commissioner can physically conduct and complete a hearing for the change of the plan and/or priorities, but in no case longer than 120 days from its effective date, after which time the order will automatically expire;

b. any such time period, commences on the effective date of such order;

c. in any event, the emergency order shall expire whenever the change is established and promulgated after notice and public hearings as provided in Subsection D.

4. Any action taken by the commissioner pursuant to a hearing called in response to any person seeking an individual exception under this Part shall be considered an "adjudication" for purposes of the Administrative Procedure Act, R.S. 49:951-968.

5. Whatever action the commissioner takes pursuant to the requested exception, all interested parties shall be notified in writing by the commissioner of such action,

specifying what curtailment procedures, orders, rules or regulations they must now comply with and/or are now subject to.

G. Any person affected by any assignment of priorities, curtailment procedures, rules, regulations or orders of the commissioner relating to the emergency gas shortage allocation plan, or changes therein may request the commissioner to call a hearing to contest such assignment of priority, curtailment procedure, rule, regulation or order.

1. For purposes of this Paragraph, *interested parties* shall mean any transporter of intrastate natural gas that would be directly affected by any change in the assignment of priorities, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, as well as all customers on such transporters' system.

2. Any person contesting the assignment of priorities, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, or changes therein, shall:

a. request the commissioner in writing for a hearing in order to contest said priority assignment, curtailment procedure, order, rule or regulation of the commissioner, which written application shall include:

i. a concise statement of the matters being contested and the reasons therefor;

ii. a list of the names and addresses of all interested parties;

iii. a statement that all interested parties have been notified in writing as required by this Section;

b. notify in writing all interested parties of the requested hearing;

c. present to the commissioner such evidence as he deems necessary to prove his case.

3. The commissioner shall, as soon as practical after receiving such request, call a public hearing:

a. interested parties shall be notified in writing by the person seeking the exception;

b. in addition to the above notice, notice of the public hearing shall be published in the official journal of Louisiana at least 10 days prior to the date of the hearing.

4. Any action taken by the commissioner pursuant to a hearing called in response to any person seeking an individual exception under this Part shall be considered an "adjudication" for purposes of the Administrative Procedure Act, R.S. 49:951-968.

5. Within 30 days after the conclusion of such hearing, the commissioner shall take whatever action he deems necessary by way of order, rule or regulation:

a. any change in assignment of priorities, curtailment procedure order, rule or regulation of the commissioner pertaining to the plan as a result of such contested hearings may be promulgated without the necessity of further public hearings and the contested hearings shall serve as public hearings required in Subsection D;

b. in the event the commissioner fails or refuses to take action within 30 days after completion of such hearings, he may be compelled to do so by mandamus at the suit of any interested party;

c. all interested parties shall be notified in writing by the commissioner of any such change, specifying what curtailment procedures, orders, rules or regulations, they now must comply with and/or are now subject to.

6. Any such party contesting the assignment of priorities, curtailment procedures, rules, regulations or orders of the commissioner aggrieved by the ruling of the commissioner is entitled to such rehearing and judicial review as provided in the Administrative Procedure Act, R.S. 49:951-968.

7. All requirements and procedures established above in Paragraphs G.1-6 apply equally to any person seeking an individual exception on the basis of unintended results.

H. If the results of some aspects of the emergency gas shortage allocation plan promulgated by the commissioner are contrary to its stated intent, the person affected may request the commissioner to grant an individual exception on the basis of unintended results.

I. Any curtailment procedure provided for, whether contained in the emergency gas shortage allocation plan promulgated by the commissioner or the allocation plan of each transporter must provide for curtailment to the extent permitted by law on each transporter's system of all those placed in the lower priority category before any curtailment of the next higher priority is commenced, unless and except the

commissioner finds exceptions as provided in Subsection F or H or that such exception is in the public interest.

J. No daily allocation, curtailment procedure, rule, regulation or order of the commissioner relating to the emergency gas shortage allocation plan shall apply to natural gas in amounts less than 25 million cubic feet per day, inclusive, owned or purchased by a person at or near the field where produced and transported by said person through his own pipeline or pipeline facility solely for his own consumption, except and unless:

1. after a state of emergency has been declared by the governor as specified in Subsection C, the commissioner finds to exist a serious immediate emergency impairing gas otherwise required for the first five priorities of the emergency gas shortage allocation plan which cannot be substantially otherwise provided for;
2. notwithstanding such a serious immediate emergency, no daily allocation, curtailment procedure, rule, regulation or order of the commissioner relating to or part of the emergency gas shortage allocation plan may ever result in the reduction of more than 10 percent of such gas above described in Subsection J.

K. Notwithstanding any other provision of this regulation, no daily allocation, curtailment, procedure, rule, regulation or order of the commissioner relating to or forming part of the emergency gas shortage allocation plan may result in a reduction of more than 10 percent of the maximum daily quantity of intrastate natural gas contracted to be delivered to a purchaser under any contract existing on the effective date of the Natural Resources and Energy Act of 1973.

L. Noncompliance with the emergency gas shortage allocation plan or any curtailment procedure, rule, regulation or order of the commissioner relating thereto may not be excused on the grounds of any private contractual obligations.

M. No person who complies with the emergency gas shortage allocation plan or any curtailment procedure, rule, regulation or order of the commissioner relating thereto shall be liable to any person for any damages, including without limitation, consequential or indirect damages, whether ex contractu or ex delicto, by reason of such compliance, unless the applicant seeking a declaration of an emergency is determined by the commissioner to have knowingly and willfully improperly obtained the order and implemented the emergency gas shortage allocation plan, in which event protection from liability for damages shall not be available to such applicant.

N. Notwithstanding any other provision of this regulation, no intrastate natural gas transporter shall be required to curtail or to redeliver for the use of any third-party, plant protection gas and Natural Gas Policy Act of 1978 ("NGPA") Section 311(a)2 gas.

1. *Plant protection gas* signifies those volumes of natural gas necessary to ensure the orderly shutdown of plant manufacturing facilities without significant risk to plant personnel, property, or the environment, including protection of materials in process, and, thereafter, required to maintain basic services such as air, water, light, and heating necessary to ensure the continued protection of such personnel, property, or the environment.

2. In order to qualify for plant protection gas, any end user of natural gas in the state of Louisiana must apply to the commissioner for a determination of its plant protection gas, including a plan for safe and orderly shutdown of the plant.

O. In implementing the state's emergency gas shortage allocation plan, all gas volumes required to be curtailed or reallocated from one intrastate natural gas transporter's pipeline system to another intrastate natural gas transporter to meet priorities one through five on any intrastate natural gas transporter's system shall, to the extent practical, be taken statewide from all intrastate natural gas transporters directly and indirectly connected to and capable of delivering gas into the intrastate natural gas transporter's system requiring the reallocated volumes.

Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:87 (March 1981), amended LR 18:64 (January 1992).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing testimony was sent via electronic mail this 14th day of March, 2025, addressed to:

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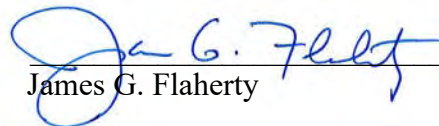
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