BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Evergy Kansas South, Inc. for Approval of the Energy Supply Agreement between Evergy Kansas South, Inc. and Occidental Chemical Corporation	)))))	Docket No. 24-EKSE-249-CON

JOINT APPLICATION

COMES NOW Evergy Kansas South, Inc. ("Evergy") and Occidental Chemical Corporation (together as "Joint Applicants") and file this Joint Application for an order approving the Energy Supply Agreement between Evergy and Occidental Chemical Corporation (the Agreement), attached hereto as Exhibit A, and the Memorandum of Understanding, attached hereto as Exhibit B. In support of the Application, Joint Applicants state:

1. Evergy is a public utility subject to the jurisdiction of the Commission with respect to rates, services, and accounting procedures.

2. Occidental Chemical Corporation (Occidental) currently takes service from Evergy under the Energy Supply Agreement (ESA) that was initially approved on November 20, 2018, by the Commission in Docket No. 18-KG&E-303-CON and expires on December 1, 2023. On May 10, 2023, in Docket No. 23-EKCE-802-CON, Evergy and Occidental filed a request with the Commission to extend the term of that ESA by six months in order to allow them to complete negotiations on a new agreement. That request for an extension is still pending before the Commission.

3. Evergy and Occidental have entered into the Agreement and hereby submit the Agreement to the Commission for approval. The Agreement will be effective after it is approved by the Commission. The Agreement is for an additional five-year term and is not substantively different from the currently effective ESA, with the one exception – Occidental has made the

decision not to continue to operate its cogeneration unit and the proposed Agreement reflects the removal of the provisions related to cogeneration from the Agreement and an update to the rates to be paid by Occidental to reflect its removal. Otherwise, the Agreement does not materially change the terms and conditions of the currently effective ESA.

4. Evergy will continue to receive the benefits from Occidental provided in the current ESA, including:

A. a summer/winter pricing differential to reflect Evergy's higher cost of incremental fuel and generation during the summer months;

B. contract clauses that ensure that Occidental will be subject to all Riders and Surcharges, if applicable;

C. a requirement for Occidental to pay its pro rata share of any general rate increase authorized by the Commission; and

D. Occidental's continued participation in the Energy Efficiency Demand Response ("EEDR") program.

5. As Evergy witness Jason Klindt indicates in his Direct Testimony, attached hereto, the proposed contract meets the Commission's standard for approval of special contracts because it will provide a cost benefit to Evergy's remaining core customers, as well as ensure that customers continue to receive a number of other operational and reliability benefits that are provided under the current ESA. The pricing structure under the proposed Amendment will not change and therefore continues to meet the standard applied previously by Commission Staff – that Occidental will pay rates greater than the incremental variable cost (or marginal cost) to serve Occidental, resulting in a contribution from Occidental to the fixed costs it imposes on the system.[1]

6. Evergy and Occidental have also entered into the Memorandum of Understanding ("MOU") attached hereto as Exhibit B. This MOU memorializes a commitment that Occidental

[1] *See* Staff Report and Recommendation, Docket No. 13-KG&E-451-CON, at p. 4 (May 8, 2013).

has made to make certain capital investments in order to allow its load to be moved from the Vulcan Substation to the Waco Substation to ensure more reliable service to Occidental. Occidental has committed to complete those required capital investments by a certain date in order to allow Evergy to complete its work to move the service point to the Waco Substation. The MOU recognizes that if these commitments are not met, additional expenses may be required in order to keep the Vulcan Substation operating until Occidental's capital investments are completed. In the event that occurs, the MOU provides that Evergy and Occidental will work together to determine who should bear responsibility for those additional expenses and, if an agreement cannot be reached, will have the ability to ask the Commission to resolve the question of the appropriate allocation of the additional expenses. Because the MOU could result in the payment of additional costs by Occidental in addition to the charges for electric service provided for under the proposed Agreement, Joint Applicants are presenting the MOU to the Commission for review and approval.

7. Occidental also intends to provide testimony in support of this Application and will do so shortly after the filing of the Application in this docket.

8. As indicated above, the existing ESA expires on December 1, 2023, and the requested extension would expire June 30, 2024. Therefore, Joint Applicants request that the Commission approve the six-month extension requested in Docket No. 23-EKCE-802-CON and then issue its order in this docket approving the new five-year Agreement prior to June 30, 2024, in order to avoid interruption of the billing process under the Agreement.

WHEREFORE, Joint Applicants respectfully request that the Commission issue an order approving the Agreement and MOU prior to June 30, 2024.

Respectfully submitted,

EVERGY KANSAS SOUTH, INC.

/s/ Cathryn Dinges
Cathryn J. Dinges, #20848
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Occidental Chemical Corporation

/s/ James Zakoura
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Email: jzakoura@foulston.com

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Cathryn J. Dinges, upon oath first duly sworn, states that she is Senior Director and Regulatory Affairs Counsel for Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., and Evergy Kansas Metro, Inc. that she has reviewed the foregoing joint application, that she is familiar with the contents thereof, and that the statements contained therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges

Cathryn J. Dinges

Subscribed and sworn to before me this 12th day of September, 2023.

Leslie R. Wines

Notary Public

My Appointment Expires: May 30, 2026

NOTARY PUBLIC - State of Kansas
LESLIE R. WINES
MY APPT. EXPIRES 5/30/2026

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

DIRECT TESTIMONY OF

JASON KLINDT

ON BEHALF OF EVERGY KANSAS SOUTH, INC.

IN THE MATTER OF THE JOINT APPLICATION OF
EVERGY KANSAS SOUTH, INC.
AND OCCIDENTAL CHEMICAL CORPORATION FOR APPROVAL OF AN ENERGY SUPPLY AGREEMENT.

Docket No. _____

September 12, 2023

Q. Please state your name and business address.

A. My name is Jason Klindt. My business address is 1200 Main, Kansas City, Missouri 64105.

Q. By whom and in what capacity are you employed?

A. I am employed by Evergy Metro, Inc. and serve as Senior Director, External Affairs for Evergy Metro, Inc. d/b/a Evergy Kansas Metro ("EKM"), Evergy Kansas Central, Inc. and Evergy South, Inc., collectively d/b/a as Evergy Kansas Central ("EKC"), Evergy Metro, Inc. d/b/a as Evergy Missouri Metro ("EMM"), Evergy Missouri West, Inc. d/b/a Evergy Missouri West ("EMW"), the operating utilities of Evergy, Inc.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of Evergy Kansas South, Inc. ("Evergy").

Q. What are your responsibilities?

A. My responsibilities include leading our external affairs department. This includes helping our key account customers with billing, outage, power quality and other questions related to our service. I also manage our economic development team which helps attract new load to the service territory, and our government affairs group who works with policy makers at the federal, state and local level.

Q. Please describe your education, experience, and employment history.

A. I graduated from Northwest Missouri State University in 1999 with a degree in public relations and in 2002 with a Master of Business Administration. I worked for U.S. Congressman Sam Graves (MO-6) for about 10 years mostly as his communications director. I also worked for Axiom Strategies, a political consulting firm, for about 5 years. I joined then-Kansas City Power and Light as the government affairs manager for Missouri

in late 2014. I've also worked at Evergy, or its predecessor, as a Director of Customer Intelligence and the Director of Government Relations and Economic Development.

Q. Have you previously testified in a proceeding at the Kansas Corporation Commission ("Commission" or "KCC") or before any other utility regulatory agency?

A. Yes. I recently submitted direct testimony in Docket No. 24-EKSE-123-CON.

Q. What is the purpose of your testimony?

A. We are proposing to enter into a new special contract, or Energy Supply Agreement ("ESA"), with Occidental Chemical Corporation ("Occidental") for an additional five-year term. The contract replaces a five-year agreement between Evergy and Occidental that the Commission approved in 2018, which expires on December 1, 2023. Evergy and Occidental also filed a request with the Commission in Docket No. 23-EKCE-802-CON to extend the term of that agreement by six months until June 30, 2024, in order to allow them to complete negotiations on the new agreement. Evergy and Occidental have also entered into a Memorandum of Understanding ("MOU") related to commitments made by Occidental to complete certain capital projects at its facility and I will discuss that MOU as well.

Q. How does the proposed agreement differ from the existing agreement between Evergy and Occidental?

A. Occidental has decided not to continue to operate its cogeneration unit under the new Agreement so the provisions in the previous ESA related to operation of the cogeneration unit and the portion of the discount previously provided to Occidental related to provision of cogeneration have been removed. Specifically, the rates Occidental will pay under the proposed Agreement have been increased from the rates in the previously approved ESA

to reflect the fact that Occidental will no longer be providing Evergy and its other customers with the benefit of being able to call for operation of the cogeneration unit. In order to make this adjustment to the rates, Evergy considered the value of the 15,000 KW in interruptible load provided by the cogeneration unit. Using the $3/KW rate associated with the Interruptible Service Rider, the value of the cogeneration unit was calculated to be $540,000. To reflect the $540,000 loss in value, the energy rates have been increased with the purpose of collecting an additional $540,000 in revenue.

Q. Are there any other significant differences between the proposed and existing agreements?

A. Yes. For the months of December, January, February, and March, the minimum load requirement agreed to by Occidental was increased from 15,000 to 20,000 KW. The increase in minimum load requirement by 5,000 KW over four months results in an annual reduction in demand response load of 20,000 KW. Because demand response load is served pursuant to the rate and terms of the Energy Efficiency Demand Response Rider ("EEDR"), the 20,000 KW reduction in interruptible load is valued at the EEDR incentive credit rate of $4/KW, or $80,000 per year. To reflect the $80,000 loss in value, the winter energy rates have been increased with the purpose of collecting an additional $80,000 in revenue.

Q. What is the Commission's policy concerning special contracts between utilities and their customers?

A. In 2000 and 2001, the Commission investigated issues related to special contracts in Docket No. 01-GIME-813-GIE ("813 Docket"). In its Order issued in that docket, the

Commission found substantial support "to demonstrate that these contracts may benefit both ratepayers and shareholders, and that they should not be prohibited."[1]

Specifically, the Commission stated that "[i]n order to be approved, the utility must show that the special contract provides a cost benefit to the remaining core customers."[2] The Commission then provided a list of non-exclusive factors that may be considered when evaluating the cost impact on core customers. Those factors are:

a. The load characteristics of the customer,

b. The presence of an ECA or other risk management tool(s),

c. The nature of the discount

d. Benefits such as curtailment provisions or use of system non-peak times,

e. The length of the contract,

f. Information regarding the terms of the contract, and

g. The existing capacity of the utility.

Q. What are the load characteristics of the customer?

A. Occidental is a customer with an extremely high load factor. Over the past twelve months, its monthly average demand has been 90 MW, with a 77% load factor.

Q. Does the existing ESA contain risk management tools?

A. Yes. As the Commission stated in its 813 Order, the presence of an Energy Cost Adjustment ("ECA") and other risk management tools in the contract is relevant to the question of whether the contract provides benefits to other customers. The requested contract renewal does not change the provisions of the existing ESA that allow Evergy to update the rates charged to Occidental when rates for other customers are changed in order

[1] Order, 813 Docket, ¶ 2 (Oct. 3, 2001).
[2] *Id*. at ¶ 6.

to reflect a pro rata share of the change in rates applicable to other customers. Additionally, all riders and surcharges applicable to other customers will remain applicable to Occidental. As the riders and surcharges are adjusted, the rate to Occidental is adjusted on a pro rata basis as well.

Q. How is the rate Occidental pays under the special contract structured?

A. Instead of a fixed, year-round, monthly demand and energy charge, Occidental's rates are completely based on energy usage: four usage blocks, with declining prices per block in the Winter months and three usage blocks, with declining prices per block in the summer months. For monthly usage over 36,500,000 KWH, the summer block is priced higher to reflect Evergy's increased cost of providing generation. Higher winter rates in other energy charge blocks reflect the lower demand response load available during four winter months in comparison with the other eight months of the year. As indicated above, in order to set the rates in the special contract, we started with the rates that Occidental pays currently and then adjusted them to reflect the removal of the cogeneration unit from the agreement. The rates will be adjusted after any future general rate case on a pro rata basis.

Q. Will the proposed contract provide a benefit to the remaining core customers of Evergy?

A. Yes. The contract renewal will not change the benefits the existing ESA provides to Evergy, its core customers, and Occidental. Such benefits include: (a) a summer/winter pricing differential to reflect Evergy's higher cost of incremental fuel and generation during the summer months, (b) contract clauses that ensure Occidental will be subject to all riders and surcharges, if applicable, (c) a requirement for Occidental to pay its pro rata share of any general rate increase authorized by the Commission, and (d) increased

availability and shorter required notification of interruptible hours compared to the Interruptible Service Rider.

Q. Will the rates under the proposed special contract result in Occidental's contribution to fixed costs?

A. Yes. We applied the methodology Commission Staff has previously used – Staff's Cost Analysis[3] – to determine whether a special contract results in a rate in excess of variable cost and provides a contribution to fixed costs, and determined that the average rate per kWh for the proposed contract exceeds by more than 20%, an amount greater than the 15% fixed cost floor required by StaffUsing this method, there will clearly be a fixed costs contribution under the contract. This contribution is in addition to the other benefits I mention above that result from the renewal of Occidental's special contract.

Q. Please explain the terms of the MOU that was submitted as part of this filing.

A. This MOU memorializes a commitment that Occidental has made to make certain capital investments in order to allow its load to be moved from the Vulcan Substation to the Waco Substation to ensure more reliable service to Occidental. Occidental has committed to complete those required capital investments by a certain date in order to allow Evergy to complete its work to move the service point to the Waco Substation. The MOU recognizes that if these commitments are not met, additional expenses may be required in order to keep the Vulcan Substation operating until Occidental's capital investments are completed. In the event that occurs, the MOU provides that Evergy and Occidental will work together to determine who should bear responsibility for those additional expenses and, if an

[3] *See, e.g.,* Staff's Cost Analysis in Docket No. 13-KG&E-451-CON.

agreement cannot be reached, will have the ability to ask the Commission to resolve the question of the appropriate allocation of the additional expenses.

Q. Why did Evergy and Occidental submit the MOU as part of this filing for Commission approval?

A. The MOU could result in the payment of additional costs by Occidental in addition to the charges for electric service provided for under the proposed Agreement. Therefore, Joint Applicants are presenting the MOU to the Commission for review and approval.

Q. Why is the MOU in the public interest?

A. The MOU recognizes that Evergy (and ultimately its other retail customers) could incur expenses to keep the Vulcan Substation operating longer than otherwise necessary if Occidental does not meet its commitment to complete certain capital upgrades. It allows Evergy to attempt to recover those additional expenses from Occidental if appropriate and, if necessary, to seek a Commission determination about the responsibility for those expenses. This offers some protection for Evergy and its other retail customers from bearing the full amount of additional expenses caused by a delay from Occidental.

Q. Does this conclude your testimony?

A. Yes, thank you.

ENERGY SUPPLY AGREEMENT

BETWEEN

EVERGY KANSAS SOUTH, INC.

And

OCCIDENTAL CHEMICAL COMPANY

THIS ENERGY SUPPLY AGREEMENT ("this Agreement" or "the ESA") made and entered into this 1st day of September, 2023, by and between Occidental Chemical Corporation, a New York corporation ("Customer"), and Evergy Kansas South, Inc. d/b/a Evergy Kansas Central ("Company"). Each of Customer and Company may also be referred to individually as "Party" or collectively as "Parties."

WITNESSETH:

WHEREAS, Customer and Company entered into an Agreement for Electric Service dated November, 2017 ("Previous Agreement"); and

WHEREAS, the Parties desire to replace in its entirety the Previous Agreement with the terms set forth below;

NOW, THEREFORE, in consideration of the premises and of the mutual obligations and agreements herein contained, the Parties hereby agree as follows:

ARTICLE 1 - GENERAL DEFINITIONS

"Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m., central prevailing time (either Central Standard Time or central day-light time). The principal place of business of Customer is deemed to be in Dallas, Texas. The relevant Party, in each instance unless otherwise specified, shall be

the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

"Code" means the United States Bankruptcy Code.

"Contract Quantity" has the meaning set forth in Section 4.1 of this Agreement.

"Contract Year" means, except for the first Contract Year, a 12 month period beginning 12:01 a.m. on the anniversary of the Effective Date in each new year and ending at midnight on last day prior to the next anniversary of the Effective Date. The first Contract Year shall begin at 12:01 a.m. of the Effective Date and end at midnight on the last day prior to the first anniversary of the Effective Date.

"Customer's Plant" means the chemical manufacturing and related facilities located at or near 6200 Ridge Road, Wichita, Kansas and situated primarily in Sedgwick County, Kansas.

"Defaulting Party" has the meaning set forth in Section 13.1 of this Agreement.

"Delivery Points" means the point at which the Energy will be delivered and received under this Agreement, as specified in Section 4.3 of this Agreement.

"EEDR" means Company's Energy Efficiency Demand Response Rider that is currently effective as part of Company's Tariff and as amended in the future upon approval from the Kansas Corporation Commission.

"Effective Date" means, following approval of this Agreement by the KCC, the later date of December 31, 2023 or the first day of the month immediately following the date of approval of this Agreement by the KCC.

"Energy" means electric energy of the character commonly known as three-phase, four wire, alternating current at approximately sixty-hertz expressed in MWhs or kWhs that is delivered at the nominal voltage at the Delivery Points at approximately 12,470 volts.

"Event of Default" has the meaning set forth in Section 13.1 of this Agreement.

"Equitable Defenses" means any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

"Execution Date" has the meaning set forth in Section 16.2(B) of this Agreement.

"Force Majeure" means an event not anticipated as of the Effective Date, which is not within the reasonable control of the Party (or in the case of third party obligations or facilities, the third party) claiming suspension (the "Claiming Party"), and which by the exercise of due diligence, the Claiming Party, or third party, is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefore. Force Majeure may include, but is not restricted to: fire, flood, storm, extreme weather, or other acts of God; civil disturbance; labor dispute; labor or

material shortage; failure or breakdown of equipment or facilities whether or not from any cause listed above resulting in a partial or full shutdown of Customer's Plant; sabotage; action or restraint by court order or public or governmental authority (so long as the Claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action). Force Majeure shall not be based on (i) the loss of Customer's markets, (ii) Customer's inability to economically use the Energy, (iii) Company's ability to sell the Energy at a price greater than the price established by this Agreement, or (iv) Customer's inability to pay for the Energy. Interruption of firm transmission service by a Transmission Provider shall be deemed to be Force Majeure. .

"Good Utility Practice" shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a number of possible practices, methods or acts generally accepted in the region.

"ILP Tariff" shall mean the Industrial and Large Power Service Tariff currently effective as part of Company's Tariff and as amended in the future upon approval from the KCC.

"Interest Rate" shall mean for any date, the lesser of (1) the per annum rate of interest equal to the prime lending rate as may from time to time be published in the Wall Street Journal under "Money Rates" on such day (or if not published on such day, the most recent preceding day on which published), plus 2% and (2) the maximum rate permitted by Kansas law.

"Interruptible Block #1" shall mean all of the capacity of Customer's Plant served by Company above 15,000 kW except as provided in Section 4.4 below.

"kW" means kilowatt.

"kWh" means kilowatt-hour.

"KCC" means Kansas Corporation Commission.

"LBD Offer" has the meaning as described in Article 6 of this Agreement.

"LBD Transaction(s)" means Load Buy-Down Transaction(s) as described in Article 6 of this Agreement.

"Letters of Credit" means one or more irrevocable standby letters of credit from a major U.S. commercial bank with such bank having a credit rating of at least "A-" from S&P or "A3" from Moody's, in such form as is consistent with standard commercial banking practices and reasonably acceptable to the party in whose favor the Letter of Credit is issued.

"Load Level" means the applicable Customer Plant MW electric load to which Customer has agreed to reduce its load in connection with an LBD Transaction.

"MW" means megawatt.

"MWH" means megawatt-hour.

"Material Adverse Change" means with respect to a Party, a material change has occurred in the creditworthiness, financial condition or ongoing business of that Party and such change is or is reasonably likely to materially and adversely affect that Party's ability to perform hereunder.

"Moody's" means Moody's Investor Services, Inc. or its successor.

"NERC" means North American Electric Reliability Corporation.

"New Tax" means a franchise, license, or excise fee or an occupation, gross receipts, business, sales, excise, privilege or similar tax imposed upon the electrical operations of Company or Evergy Kansas Central. after the Effective Date by a federal, state, county, local governmental authority, and which the KCC or other applicable regulatory body authorizes Company to pass through to all of Company's retail customers as a charge in addition to or as part of tariff rates.

"PTS" means Property Tax Surcharge.

"Performance Assurance" means collateral in the form of either cash, obligations of the U.S. government with a maturity date of less than one year, or Letters of Credit.

"Plant Easements" has the meaning set forth in Section 3.1 of this Agreement.

"Potential Event of Default" means an event which, to the knowledge of the subject Party, with notice or passage of time or both, would constitute an Event of Default, and for purposes of this Agreement, any Material Adverse Change shall be deemed to be a Potential Event of Default.

"Regulatory Event" has the meaning set forth in Section 16.5 of this Agreement.

"S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

"SPP" means Southwest Power Pool, or any successor entity.

"Schedule" or "Scheduling" means the actions of Company, Customer and/or their designated representatives, including each Party's Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Energy to be delivered on any given day or days during the Term at the Delivery Points.

"System Condition" means any of the following circumstances: (1) Company's firm load cannot be supplied by Company-owned or Evergy Kansas Central owned generation; (2) Company is

experiencing forced, unplanned or planned outages of Company-owned or Evergy Kansas Central owned generation, substation or transmission equipment; (3) Company or Evergy Kansas Central seeks to avoid capacity reserve margin penalties that otherwise would be imposed by the then governing regional transmission organization of which Company or Evergy Kansas Central is a member; or (4) other system condition which in Company's or Evergy Kansas Central's sole discretion consistent with Good Utility Practice will limit Evergy Kansas Central's ability to provide Energy to other customers.

"Term" has the meaning set forth in Section 11.1 of this Agreement.

"Transmission Provider" means any third party provider of electric transmission services that are relevant to a Party's performance of its obligations under this Agreement, and in particular regard to this definition, the claiming Party's performance obligations.

"Vulcan Substation" has the meaning described in Section 3.1 of this Agreement.

"Waco Substation" has the meaning described in Section 3.1 of this Agreement.

ARTICLE 2 -REPRESENTATIONS AND WARRANTIES

2.1 On the Effective Date, each Party represents and warrants to the other Party that:

A. it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

B. it has, or will have as of the Effective Date, all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

C. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

D. this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

E. it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

F. there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially and adversely affect its ability to perform its obligations under this Agreement;

G. no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

H. it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

I. it is a "forward contract merchant" and that this Agreement is a "forward contract" as that term is defined in the Code;

J. it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of the Energy referred to in this Agreement to which it is a Party; and

K. the electricity delivered by Company to Customer pursuant to this Agreement at all times shall meet the requirements of Energy as defined herein.

ARTICLE 3 - FACILITIES TO BE PROVIDED

3.1 A. Company agrees to maintain the facilities necessary to supply Energy to Customer's Plant at two substations: the primary sides of the "Waco Substation" and the "Vulcan Substation", each located adjacent to the Customer's Plant.

B. Customer has heretofore granted to Company an easement on the property of Customer's Plant ("Plant Easements"), and consistent with the terms of such Plant Easements, Company agrees to maintain, alter, repair, operate and remove and replace transmission and distribution lines and substation equipment necessary in accordance with Good Utility Practice for the performance of this Agreement.

C. This Agreement shall not have the effect of creating any new easements or rights-of-way in favor of Company at Customer's Plant, or the effect of modifying the Plant Easement.

3.2 [Intentionally omitted]

ARTICLE 4 – COMPANY'S SUPPLY OF ENERGY

4.1 Company shall provide and sell to Customer and Customer shall purchase from Company Energy sufficient to supply the total requirement of Customer's Plant at such operating levels as Customer shall determine from time to time in its sole discretion. Unless the Parties otherwise mutually agree in writing, Company shall not be required to supply to

Customer Energy, as measured over a 15 minute interval, in excess of 120,000 kW ("Contract Quantity").

4.2 Energy sold by Company to Customer shall be used solely for the purpose of operating Customer's Plant and related facilities.

4.3 The Delivery Points for the Energy to be supplied to Customer shall be at Customer's side of the point of interconnection at Company's facilities at the Waco Substation and the Vulcan Substation. In the event Customer and Company mutually agree to convert to transmission-level service, the rates contained in Sections 5.1.A and 5.1.B shall be adjusted downward based on the transmission demand discount contained in the ILP rate schedule or its successor rate on file converted to an energy discount based on an assumed 90% load factor.

4.4 A. Customer agrees to continue to be served on the EEDR tariff for a term equal to the ESA and agrees to enroll and participate in the EEDR for a term equal to the ESA.

B. Interruptible Block #1 shall be served pursuant to the rate and terms of the EEDR. The EEDR incentive credit is incorporated as part of the rates stated in Article 5 of this Agreement. The capacity in Interruptible Block #1 will be interruptible as provided in the EEDR. If the curtailment period is called in December, January, February, or March, the Interruptible Block #1 will be 20,000kW.

4.5 Company shall endeavor to minimize the length and number of System Conditions to the extent commercially reasonable.

4.6 Company shall provide Customer written communication from Company to Customer via email, courier delivery service or registered mail reciting the specifics particular to the System Condition within 24 hours of Company's declaration of a System Condition. The preferred communications method for notifying Customer of a known and impending System Condition shall be via telephone call from Company to Customer. Any advance communication shall not interfere with or in any respect hinder Company's commercially reasonable efforts to minimize any adverse conditions or contingencies that may be affecting the regional electrical grid at that time or in the then foreseeable future. Notwithstanding Company's requirement to provide Customer advance notice of a System Condition, Customer acknowledges that without any advance warning to Customer, Company may declare a System Condition due to an unforeseen cause or necessity, including those caused or necessitated by Force Majeure events or that may occur instantaneously.

4.7 In order to make repairs to or changes in Company's facilities for supplying or delivering Energy, Company reserves the right, without incurring any liability therefore, to suspend the supply and delivery of Energy to Customer for periods as may be reasonably necessary

to effect such repairs or changes, and in such manner as not to inconvenience Customer unnecessarily. If such repairs or changes will interrupt the supply or delivery of Energy to Customer, such event will be deemed a System Condition for which Company shall provide notice to Customer in accordance with the EEDR.

4.8 Company and Customer agree that their respective performances under this Agreement shall comply with the then-existing (and as amended from time to time) applicable manuals, standards, and guidelines of the NERC, SPP, or any successor agency assuming or charged with similar responsibilities related to the operation and reliability of the North American electric interconnected transmission grid. To the extent that this Agreement does not specifically address or provide the mechanisms necessary to comply with such applicable NERC or SPP criteria, standards, or requirements, the Parties hereby further agree that each Party shall provide to the other Party all such information as may commercially reasonably be required to comply with such applicable criteria, standards, or requirements. Each Party shall operate, or cause to be operated, its respective facilities in accordance with such applicable criteria, standards, or requirements. Company shall operate and control Company's transmission system and other Company facilities (1) in a safe and reliable manner; (2) in accordance with Good Utility Practice; (3) in accordance with applicable operational standards or reliability criteria, market protocols, and directives or all of them, including those of the NERC and SPP; and (4) in accordance with the provisions of this Agreement.

4.9 Subject to Article 9 and as between the Parties, Company shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the Energy provided hereunder prior to the Delivery Points for Energy provided to Customer. Customer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of such Energy at and from the Delivery Points for Energy provided by Company to Customer. Company warrants that it will deliver to Customer the Contract Quantity free and clear of all liens, claims and encumbrances arising prior to the Delivery Points. Title to and risk of loss related to the Contract Quantity shall transfer from Company to Customer at the Delivery Points.

ARTICLE 5 - RATES

5.1 Beginning on the Effective Date of this Agreement, Customer shall pay monthly Company for all Energy provided hereunder. Pricing of such purchased Energy shall be established pursuant to the then applicable rates (cents per kWh) specified in the following monthly rate schedule:

A. From October 1 through May 31 (8 Winter months):

i. First Block- 6,500,000 kWh per month
ii. Second Block- 10,000,000 kWh per month
iii. Third Block- 20,000,000 kWh per month
iv. Fourth Block- all additional kWh per month

B. From June 1 through September 30 (4 Summer months):

i. First Block- 6,500,000 kWh per month
ii. Second Block- 30,000,000 kWh per month
iii. Third Block- all additional kWh per month

[redacted]

C. Applicable taxes and/or fees, as identified in Sections 5.5 and 5.7 of this Agreement shall be added to Customer's monthly bill.

D. Rates in Article 5.1.A and 5.1.B may be adjusted by the Customer's power factor provided the power factor is less than 0.90 at the point of delivery. Rates may be increased by the following equation:

Article 5.1.A and 5.1.B rates multiplied by 0.90 and dividing by the monthly power factor.

E. The foregoing rates are subject to adjustment as provided in the following Schedules as filed with KCC:

1. Retail Energy Cost Adjustment;
2. Property Tax Surcharge;
3. Transmission Delivery Charge;
4. Environmental Recovery Charge; and
5. Energy Efficiency Rider.

5.2 Each Party shall act in good faith and shall use commercially reasonable efforts necessary to obtain the KCC's approval of this Agreement.

5.3 Subject to the provisions of Section 7.1 of this Agreement, Customer's minimum monthly bill shall be [redacted] during the Term of this Agreement. The monthly minimum bill shall be prorated in any month during the Term of this Agreement to the extent that in such month Customer's usage is reduced by the occurrence of a System Condition or LBD Transaction, upon an event of Force Majeure, or a combination of any or all of the foregoing (a "Reduction Event"). In those months when the monthly minimum bill is prorated, the minimum amount payable shall be determined by multiplying [redacted] by a fraction, the numerator of which shall be the total hours in that billing month less the number of hours in that billing month that Customer's usage is reduced by a Reduction Event and the denominator of which shall be the number of hours in that billing month.

5.4 A. The monthly bill shall be due and payable when received by Customer. If Customer fails to pay Company within 15 days from such date, Customer shall pay a late payment charge pursuant to Company's General Terms and Conditions.

B. All claims as to error in the preparation and computation of monthly bills, must, in each instance, be submitted by the claiming Party to the other Party in writing within 2

years from the date when such bill was rendered, otherwise each such claim shall for all purposes be considered and held to be waived. Any claim made pursuant to this Section 5.4, if not resolved by informal negotiations between the Parties, shall be submitted for resolution in accordance with Section 15.1 of this Agreement.

5.5 Any New Tax shall be added as a separate charge(s) and charged to Customer's bill for the Energy in the same form and at the same rate in which it is imposed on Company if the Energy to Customer is not exempted from the New Tax.

5.6 [Intentionally omitted]

5.7 A. After the Effective Date, (i) Customer agrees that the PTS rate schedule and the resulting rate as filed with and approved by the KCC shall be applied to the rates included in Section 5.1 of this Agreement as such rate schedule is modified from time to time; or (ii) if any federal, state, county or local governmental authority imposes, increases, decreases, or removes any applicable exemption on any sales, use, energy, value added, severance, production or similar tax or fee upon the fuels used by Company to generate electricity; or (iii) if any federal, state, county or local governmental authority imposes, increases, decreases or removes any applicable exemption on any tax, fee or charge upon Company for emissions or discharges associated with the electricity generated, sold or purchased by Company, then Company hereby reserves the right to make an application to the KCC to recover such increase in taxes or fees from, or pass such decrease in taxes or fees through to, Customer as a billing surcharge or credit, as the case may be, provided such increase or decrease applies against or is in favor of other customers of Company. The modification to costs described immediately above in consequence of increases or decreases in taxes or fees shall be allocated to Customer based on the ratio of sales to Customer in the prior 12 months divided by sales to all of Company's customers in the prior 12 months or pursuant to such alternative allocation methodology as may be ordered by the KCC. Customer reserves the right to oppose any such application by Company to the KCC hereunder.

B. If any federal, state, county or local governmental authority enacts any rule, order, law, regulation or assessment which results in an increase or decrease in the sales or use tax on the fuel purchased by Company for use in its generating facilities in the production of electricity, the rates set forth in this Agreement will be automatically adjusted to reflect the actual cost of such sales or use tax; provided, however, such increase or decrease applies against all of Company's other retail customers.

C. If any federal, state, county, or local governmental authority adjusts a fee or imposes a new fee and (i) such fee is applicable to Company and (ii) such fee is not reflected in Company's retail rates, then Company may file with the KCC to reflect such fee. Customer's rates as described in Section 5.1 of this Agreement and Customer's rate shall be modified to reflect any such applicable fee by adjusting the amount to incorporate the rate approved by the KCC or the rate, surcharge or adjustment amount approved by the KCC.

D. If either through existing or future legislation, the Kansas legislature authorizes or otherwise permits Company to seek recovery of costs not covered in existing rates, or modify existing rates to effect an unbundling of costs and Company files an application with the KCC to seek recovery of such costs or effect an unbundling of costs with respect to all of Company's retail customers, then Customer's rates as described in Section 5.1 of this Agreement shall be modified accordingly as authorized by the KCC. All service provided to Customer may be subject to mandated cost recovery mechanisms directed, mandated or enacted by the Kansas State Legislature or ordered by the KCC or other Governmental Authority. If such statute, order, directive, or mandate (whether one or more) is received, the charge or cost will be passed through to the Customer and invoiced or billed according to the terms of the statute, order, directive, mandate, or resulting Evergy tariff associated with the mechanism. Evergy will notify Customer of any proposed mandated cost recovery mechanisms and will provide details of such cost recovery mechanisms prior to assessing any new or changed charges on Customer.

E. If the KCC authorizes or otherwise permits Company to modify existing rates to effect a further unbundling of costs and Company files an application with the KCC to seek recovery of such costs with respect to all of Company's retail customers, then Customer's rates as described in Section 5.1 of this Agreement shall be modified accordingly as authorized by the KCC.

F. Company may petition the KCC to reflect cost changes in rates. Company may in that petition seek recovery of a pro rata share of said costs changes through the rates described in Section 5.1 by applying the same overall percentage increase or decrease that is allocated to the ILP class of customers. The rates in Section 5.1 shall be modified accordingly as authorized by the KCC order. In the event Company does petition the KCC to reflect cost changes in rates, then Customer shall be notified at least 60 days in advance of proposed changes. It is recognized that the rates in Section 5.1 provide a moderate discount to the rates that would be incurred by Customer if Customer were to receive all of its power requirements from a combination of Company's ILP or successor rate and EEDR Rate Tariffs. This discount reflects the additional benefits Customer is providing Company as outlined below:

1. Assisting the Company in meeting their Resource Adequacy Requirement
2. Enhanced interruptibility;
3. Increased availability of interruption hours; and
4. Ability to operate interruptible terms outside of standard interruptible tariffs and riders.

G. Customer agrees to pay in full all applicable taxes, fees and charges that are in effect as of the Effective Date of this Agreement and authorized by the KCC to be charged to Company's retail customers.

5.8 If Company receives notice from any federal, state or local governmental authority that a change(s) to any tax, fee, cost or charge upon Company is being proposed, and if the same

may be passed through as a charge(s) to Customer under applicable law, then Company shall notify Customer of such proposed change(s) within a reasonable time of Company's receiving notice from that governmental authority. Company's failure to notify Customer hereunder shall not relieve Customer of any charges due and payable pursuant to the terms of this Article 5.

5.9 Notwithstanding Customer's compliance with Section 5.2, thereafter Customer is not prohibited by this Agreement from protesting and opposing any application to the KCC by Company seeking an increase in taxes, fees, costs or charges of the types contemplated by foregoing provisions of Article 5, or from instituting a proceeding before the KCC seeking a decrease in any taxes, fees, costs or charges of the types described in the foregoing provisions of Article 5 that are imposed on Customer, including the petitioning of the KCC to modify the current scheme of Winter and Summer months.

ARTICLE 6- LOAD BUY-DOWN (LBD) TRANSACTIONS

6.1 Offer and Acceptance Company may from time to time during the Term of this Agreement make firm written offers to Customer for the reduction of Customer's load by the curtailment of Customer's usage (as further described in this Article 6, an "LBD Transaction"). Each such offer (an "LBD Offer") shall be substantially in the form of Exhibit A, and shall include (i) a sequential transaction number, (ii) the effective date and scheduled local time commencement of the LBD Transaction, (iii) the scheduled duration of the LBD Transaction, (iv) the price Company offers to pay for the reduction in load per MWH (net of taxes), and (v) an acceptance deadline, after which the LBD Offer automatically shall be deemed cancelled if not accepted prior to such deadline. All desired terms of each proposed LBD Transaction not otherwise established in this Article 6 must be stated in writing in the corresponding LBD Offer. Customer may accept or reject each LBD Offer in its sole discretion. If Customer fails for any reason to respond to an LBD Offer by the indicated acceptance deadline, then the LBD Offer shall be deemed rejected. If Customer responds to an LBD Offer varying any of the proposed terms or conditions, it shall be deemed a counteroffer (outstanding until the acceptance deadline stated by Company) which Company may accept or reject at its sole discretion. If Company fails for any reason to respond to Customer's counteroffer, then Customer's counteroffer shall be deemed rejected. An LBD Offer that is accepted thereafter will be referred to as an "LBD Order."

6.2 Quantity Upon acceptance of an LBD Offer, Customer will use commercially reasonable efforts to reduce its load by curtailing its usage at the level requested by Company. Company agrees to pay for all of the reduction in load delivered from the curtailment of usage while Customer is attempting to perform an LBD Transaction.

6.3 Price A. Company will pay Customer for the duration of a LBD Transaction in accordance with the price agreed to by the Parties in the LBD Order and the payment terms set forth in Section 6.5 below.

B. For billing purposes hereunder, the quantity for an LBD Transaction shall be calculated on the basis of the measured reduction in Customer's load resulting from a curtailment in usage, as applicable.

6.4 Scheduling Any LBD Transaction hereunder shall have a minimum total scheduled duration of one (1) hour. Company shall specify in its LBD Offer the total scheduled duration of each particular LBD Transaction in increments of one (1) hour. The Schedule established by each LBD Order associated with each particular LBD Transaction shall specify a date and time certain for expiration thereof. An LBD Transaction scheduled hereunder shall commence on the date(s) and at the time(s) specified in the associated LBD Order, and as of such date(s) and time(s), Customer shall have implemented and (subject to Section 6.2) shall thereafter maintain throughout the specified duration(s) the Load Level(s) corresponding to the Energy purchase quantity or quantities established by that LBD Order. An LBD Transaction shall be deemed completed upon: (i) expiration of the total duration specified in the associated LBD Order, (ii) mutual agreement of both Parties, or (iii) if while the LBD Transaction is in effect, Company declares a System Condition under Article 4 hereof, Customer declares a Force Majeure event with respect to operation of Customer's Plant, or Company for any reason is unable to supply the Energy requirements of Customer's Plant, then the LBD Transaction shall be deemed completed as of the date and time of such event without liability by either Party to the other for such termination except Company shall remain liable for payment for Energy delivered prior to such termination.

6.5 Payment An LBD billing information and data statement will be provided to Customer by Company within 5 Business Days after the end of each calendar month during which LBD Transactions were affected per this Agreement. Company shall credit the amount of each such statement to the next invoice coming due from Customer to Company under this Agreement. If Company fails to do so, the past due amount shall bear interest at the Interest Rate from the date due until paid.

6.6 Notices The individuals designated in Section 14.1 of this Agreement to receive LBD Notices shall be that Party's representative with regard to the delivery of an LBD Offer and any counteroffer or acceptance of an LBD Offer, as well as the performance of an LBD Transaction as contemplated under this Agreement.

ARTICLE 7-PAYMENT NETTING/SET-OFF

7.1 If the Parties are each required to pay an amount in the same month, then such amounts with respect to each Party shall be aggregated and the Parties shall discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the other Party the difference between the amounts owed. Each Party reserves to itself all rights, setoffs, counterclaims and other remedies and defenses consistent with Section 17 (to the extent not expressly herein waived or denied) which such Party has or may be entitled to arising from or out of this Agreement. All outstanding Transactions and the obligations to make payment in connection therewith or under this Agreement or any other agreement between the Parties may be offset against

each other, set off or recouped therefrom. On or before the second Business Day before payment is due pursuant to this Agreement, the Parties shall discuss the amounts incurred hereunder and make a good faith effort to determine the amounts owed by each to the other hereunder and the net amount to be paid on the due date.

ARTICLE 8 - METERING

8.1 Metering facilities for Delivery Points as described in Section 3.1 of this Agreement shall be owned and installed by Company in space provided on the Plant Easements.

8.2 The amounts of Energy supplied and received hereunder shall be determined from measurements taken by the metering facilities provided by Company.

8.3 At Company's option, Energy may be metered at other than the delivery voltage, in which event; Company shall adjust such metered measurements to compensate for losses between the point of measurement and the point of interconnection.

ARTICLE 9 - INDEMNIFICATION

9.1 Each Party hereto shall defend, indemnify, and save harmless the other Party against liability, loss, costs and expense on account of any injury to persons (except employees of the Parties), including death, or damage to property occasioned on or adjacent to facilities of the indemnifying Party on its own respective side of the Delivery Points; provided, however, that no such indemnity obligation shall arise hereunder with respect to any injury or damage to the extent caused by the intentional and/or negligent act or omission of the other Party.

9.2 With respect to its own employees, each Party shall be deemed an "Employer" for purposes of this Agreement. Notwithstanding any provision to the contrary contained herein, an Employer shall have no obligation to defend, indemnify or save harmless the other Party against any liability, loss, costs or expenses resulting from injury to, or death of, the Employer's employees occurring while acting within the scope of their employment.

ARTICLE 10 - COMMISSION APPROVAL

10.1 This Agreement and all of the terms and conditions provided herein are contingent upon approval by the KCC and will become effective on the first day of the month following the month in which this Agreement is approved by the KCC (such date is referred to as the "Effective Date"). If the KCC does not approve this Agreement, as written, it shall be deemed null and void unless otherwise agreed upon by both Parties.

10.2 Delivery of Energy under this Agreement is subject to the General Terms and Conditions of Company's Tariff at present on file with the KCC and any subsequent modifications or substitutions thereof lawfully made.

ARTICLE 11 - TERM AND TERMINATION

11.1 The primary term ("Term") of this Agreement shall be from the Effective Date through the date occurring five (5) calendar years after the Effective Date, and this Agreement shall thereafter expire as to Term, unless terminated earlier pursuant to the terms of this Agreement.

11.2 [Intentionally omitted]

11.3 Customer may elect to terminate this Agreement at any time upon two months prior written notice coupled with an election to purchase Energy from Company after such termination pursuant to the terms of an applicable published tariff of Company. If Customer terminates this Agreement in accordance with this Section 11.3, then Customer shall pay Company an amount equal to the accumulated difference between what Customer's rates would have been under the ILP Tariff together with the EEDR rider as compared to what the rates actually were under the Agreement for the 24-month period immediately prior to any early termination of the Agreement (not including any early termination in order to exercise Customer's option to switch to standard tariff service).

11.4 Customer agrees continuation of this ESA is contingent on a requirement to retain 90 percent of the existing [redacted] full time equivalent jobs at Customer's Wichita facilities as reported annually to the Department of Labor (EEO Form 1). Customer agrees to submit written proof annually of existing jobs and/or when requested by the Company. Company reserves the right to adjust contract terms a percent equal to the reduction in the Energy used at the Customer's Wichita facilities as compared to the reduction in jobs below the required employment. Company acknowledges that a change in the number of jobs retained at Customer's Wichita facilities may be necessary as a result of restructuring by the Customer for legitimate business reasons and agrees that this retention number may be adjusted upon agreement between Company and Customer.

11.5 Customer agrees to invest $5,000,000/year on a three-year rolling average in capital expenditures at Customer's Plant (e.g., replacement of plant equipment, plant upgrades or plant production improvements) through the Term.

ARTICLE 12 - CONFIDENTIALITY

12.1 Customer and Company consider the terms and conditions of this Agreement confidential subject to any legally required review by a jurisdictional regulatory agency or disclosure required by any law (including SEC rules) applicable to either Party. In the event that either of the Parties is requested or becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or any similar process) to disclose any information relating to this Agreement, the compelled Party will provide the other Party with prompt written notice so that the noncompelled Party may seek a protective order or other appropriate remedy and/or waive

compliance with the provisions of this Section 12.1. In the event that such protective order or other remedy is not obtained or that the noncompelled Party waives compliance with the provisions of this Section 12.1, the compelled Party will furnish only that portion of the requested information which is legally required. Notwithstanding the foregoing, confidential terms and conditions shall not include any information or data that (a) is or becomes publicly known through no act or omission of the receiving Party in violation of this Agreement; (b) was known by the receiving Party without confidential or proprietary restriction before receipt from the disclosing Party, as evidenced by the receiving Party's contemporaneous written records; (c) becomes known to the receiving Party without confidential or proprietary restriction from a source other than the disclosing Party that is not known by the receiving Party to owe a duty of confidentiality to the disclosing Party with respect to such information and data; or (d) is independently developed by the receiving Party without reference to such information and data. In addition, the receiving Party may use or disclose such information and data to the extent (i) approved in writing in advance by the disclosing Party or (ii) the receiving Party is legally compelled to disclose such information and data, provided, however, that prior to any such compelled disclosure, the receiving Party shall, to the extent practicable, give the disclosing Party prompt advance notice of any such disclosure and shall cooperate with the disclosing Party, at the disclosing Party's cost, in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of such information and data. If the disclosing Party is unable to obtain or does not seek such a protective order or the disclosing Party waives compliance with the provisions hereof and the receiving Party is, in the opinion of its counsel, legally obligated to disclose the such information and data, disclosure of such information may be made without liability and is considered in accordance with this Agreement.

ARTICLE 13- EVENTS OF DEFAULT

13.1 Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

A. the failure to make, when due, any payment required pursuant to this Agreement if such failure is not cured within three (3) Business Days after written notice;

B. any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

C. the failure to perform any material covenant or obligation set forth in this Agreement if such failure is not cured within ten (10) days after written notice;

D. such Party is Bankrupt;

E. such Party is affected by the occurrence of a Material Adverse Change; provided, however, that such Material Adverse Change shall not be considered an Event of Default

if, pursuant to the pertinent provisions of Section 13.4 hereof, such affected Party establishes and maintains for so long as the Material Adverse Change is continuing, Performance Assurance to the benefit of the other Party which is in form and amount acceptable to the other Party; or,

F. such Party fails to establish, maintain, extend or increase Performance Assurance when required pursuant to Section 13.4 of this Agreement.

13.2 Remedies. Upon the occurrence of an Event of Default (including the expiration of applicable cure periods), the non-defaulting Party (the "Non-Defaulting Party") may terminate this Agreement upon three (3) days prior written notice. Except with respect to Customer's obligations in Article 9, the Parties expressly agree that Customer's aggregate liability for direct actual damages arising from one or more Events of Default by Customer shall not exceed the amount of liquidated damages that would be payable by Customer pursuant to Section 11.3.

13.3 Bankruptcy. Upon the filing of a petition by or against the Defaulting Party under the Code, the Defaulting Party, as debtor and as debtor-in-possession, agrees to adequately protect the Non-Defaulting Party as follows:

A. to cure or to provide adequate assurance to cure each and every obligation of the Defaulting Party under this Agreement until such time as this Agreement is either rejected or assumed by order of the Bankruptcy Court;

B. to pay all monetary obligations required under this Agreement, including, without limitation, the payment of all sums required to be paid by the Defaulting Party under the terms and conditions of this Agreement as reasonable compensation for the Energy provided under this Agreement;

C. to provide the Non-Defaulting Party a minimum 30 days' prior written notice, unless a shorter period is permitted by the Code of any proceedings relating to any assumption of this Agreement or any intent to vacate or abandon this Agreement, which vacating or abandonment shall be deemed a rejection of this Agreement; and

D. to perform to the benefit of the Non-Defaulting Party as otherwise required under the Code.

13.4 Performance Assurance. Upon the occurrence of a Material Adverse Change that may adversely affect performance of a Party, the affected Party will promptly provide the unaffected Party with written notice of a Potential Event of Default, identifying with reasonable specificity in such notice the nature and extent of the Material Adverse Change. Within a reasonable time after receiving such notice of Potential Event of Default, the unaffected Party may give written notice requesting Performance Assurance in an amount determined in a commercially reasonable manner. Upon receipt of such notice requesting Performance Assurance, the Party affected by the Material Adverse Change shall have 3 Business Days to cure the Potential Event of Default by providing such Performance

Assurance. In the event the affected Party fails to provide such Performance Assurance acceptable to the unaffected Party within 3 Business Days of receipt of notice, then an Event of Default under this Article 13 shall be deemed to have occurred, and the Non-Defaulting Party will be entitled to the remedies set forth in this Agreement.

ARTICLE 14 - NOTIFICATION

14.1 All notices required or contemplated under this Agreement shall be first attempted via telephone and/or email to the appropriate personnel as contained herein. All notices via telephone and/or email communication(s) shall be followed, within a 24 hour period, with written communication(s) taking the form of personal delivery, registered mail or courier delivery service. LBD Offers and related actions may be transmitted by email or personal delivery. All communication(s) shall be deemed to have been given when received by the other Party, in all instances all charges prepaid, addressed as follows:

If to Customer:

LBD Notices:

Occidental Chemical Corporation
c/o Occidental Power Services, Inc.
5 Greenway Plaza, Suite 110
Houston, TX 77046-0521
Attn: Real Time Desk
Phone: 713-215-7770
Email: opsi realtime_group@oxy.com

Other Notices:

Occidental Chemical Corporation
c/o Occidental Energy Ventures Corp.
5 Greenway Plaza, Suite 110
Houston, TX 77046-0521
Attn: Brenda Harris
Phone: 713-215-7656
Email: brenda harris@oxy.com

With a required copy to:

Occidental Chemical Corporation
14555 Dallas Pkwy, Ste 400
Dallas, TX 75254
Attn: Assistant General Counsel
Phone: 972-404-3262
Email: Daniel Almaguer@oxy.com

If to Evergy Kansas South:

Energy Schedule Notices:	Other Notices:
Evergy Kansas Central, Inc.	Evergy Kansas Central, Inc.
818 S. Kansas Ave.	818 S. Kansas Ave
Topeka, KS 66612	Topeka, KS 66612
Attention: Keaton Riddle	Attn: Kristen Aberle
Phone: 785-575-6070	Phone: (316)299-7459
Email: gso@evergy.com	Email: Kristen.Aberle@evergy.com

Notice by hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

ARTICLE 15 - DISPUTE RESOLUTION

15.1 In the event of a dispute which arises out of or relates to this Agreement, or the breach thereof, the Parties agree first to notify the other in writing of the nature of the dispute and of the remedy sought, and to try in good faith to settle the dispute by informal negotiations between representatives of Customer and Company who have authority to settle the dispute before resorting to litigation; provided, however, that notwithstanding the foregoing obligation to participate in good faith informal dispute resolution negotiations, either Party may seek appropriate injunctive relief upon proper showing.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

16.1 Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Customer's Plant or to all or substantially all of the electric business assets of Company; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof. In the event of any such assignment, if the non-assigning Party reasonably determines that the assignee does not meet the non-assigning Party's credit worthiness criteria for similarly sized companies as the assignee, the non-assigning Party may require the assignee to provide a suitable guaranty, Performance Assurance, or other credit or performance support in order to meet the credit and performance requirements of the non-assigning Party.

16.2 A. Upon the Effective Date, unless otherwise noted in subparagraphs (B) and (C) below, the Parties agree as follows;

(i) the "Previous Agreement" shall cease and terminate; and
(ii) each Party has fulfilled all of their respective obligations under the Previous Agreement, including but not limited to, the payment by Customer to Company of any and all money for Energy delivered by Company to Customer under the Previous Agreement; and
(iii) this Agreement shall be the only agreement between Customer and Company relative to the Energy provided on and after the Effective Date.

B. In the event that any damage to the property of Customer or Company or that any injury or death to any employee, agent or contractor of either Company or Customer occurs during the period from the date of the execution of this Agreement (hereinafter referred to as the "Execution Date") to the Effective Date, the respective liabilities and obligations of the Parties with regard to such damage, injury or death, shall be controlled by the terms and provisions of the Previous Agreement.

C. Customer shall remain liable to pay to Company any outstanding bill for any Energy provided by Company to Customer under such Previous Agreement for Energy provided during the period from the Execution Date to the Effective Date pursuant to the terms and provisions of the Previous Agreement.

16.3 Any and all suits for any breach of this Agreement or for rescission or specific performance of this Agreement shall be filed and maintained in any court of competent jurisdiction in Topeka, Kansas. The interpretation and performance of this Agreement shall be in accordance with the laws of the State of Kansas, without reference to principles of conflicts of laws. Each Party waives its respective rights to any jury trial with respect to any litigation arising under or in connection with this Agreement.

16.4 No waiver by either Company or Customer of any default of the other under this Agreement shall operate as a waiver of future default, whether of like or different character or nature.

16.5 Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use commercially reasonable efforts to reform this Agreement in order to give effect to the original intention of the Parties.

16.6 This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. The Parties agree that this Agreement shall not be interpreted or construed to favor either Party more than the other.

16.7 Each Party (and its representative(s)) has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantities of the Energy delivered at the Delivery Points. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be promptly made and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid. No adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of 2 years from the rendition thereof. This provision will survive any termination or expiration of this Agreement for a period of 2 years from the date of such termination or expiration for the purpose of such statement and payment objections.

16.8 This Agreement and the Exhibits attached hereto constitute the final, complete and entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes any previous agreements, representations, or discussions, whether oral or written, between the Parties relating to the subject matter contemplated by this Agreement.

16.9. Notwithstanding any provisions herein to the contrary, the obligations set forth in Articles 9, 12, 13 and 16 shall survive the expiration or termination of this Agreement for a period of twenty-four (24) months there from.

16.10 Company agrees that while inside Customer's Plant, Company's employees, contractors and subcontractors shall abide by Customer's policies and procedures, including insurance, indemnity, health, safety and environment, energy isolation and other safe work practices, shall be required to pass Customer's safety orientation training test and shall wear personal protective equipment. Personal protective equipment will include hardhat, safety glasses, sturdy leather footwear and Company's standard fire retardant clothing requirements. Customer shall not impose any limitations on Company, its contractors or a subcontractor regarding an individual's facial or head hair length.

ARTICLE 17 - LIMITATIONS OF REMEDIES, LIABILITY AND DAMAGES

17.1 EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, A PARTY'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT

ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. IT IS THE INTENT OF THE PARTIES THAT, EXCEPT AS TO ACTS OF GROSS NEGLIGENCE OR WILFULL, WANTON OR INTENTIONAL MISCONDUCT, THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date above set forth.

OCCIDENTAL CHEMICAL CORPORATION	EVERGY KANSAS SOUTH, INC.
By: DocuSigned by: Karenanne Stegmann 1A51A1AFF928479	By: Jason Klindt
Name: Karenanne Stegmann	Name: Jason Klindt
Its: Vice President Supply Chain	Its: Sr Director External Affairs

Exhibit "A"
EMAIL TRANSMISSION IMMEDIATE ATTENTION REQUESTED

TO: OCCIDENTAL CHEMICAL CORPORATION

FROM:
Evergy Kansas South, Inc
C/O Evergy Kansas Central
Topeka, Kansas

DATE:

RE: **LBD Offer**

In accordance with the Load Buy Down provisions of the Energy Supply Agreement, dated (_____), between Occidental Chemical Corporation (Customer), and Evergy Kansas South, Inc. (Company), Company offers to pay for reduction in load from Customer as outlined below.

Date	Start Time	End Time	Capacity Load Level (MWs)	$/MWh	Acceptance Deadline (date & time)

Your signature below represents Customer's acceptance of this LBD Offer and of the applicable provisions set forth in this LBD Offer and the Energy Supply Agreement. If accepted, please sign and return this LBD Offer, via email, to gso@evergy.com

_____
Signature

_____
Printed Name

_____
Title

_____
Date

CONFIDENTIALITY NOTICE

The information contained in this email message and the documents accompanying this email message are privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

MEMORANDUM OF UNDERSTANDING
to
ENERGY SUPPLY AGREEMENT
BETWEEN EVERGY KANSAS SOUTH, INC. d/b/a EVERGY KANSAS CENTRAL
AND OCCIDENTAL CHEMICAL CORPORATION
DATED September 1, 2023

1. Evergy Kansas South, Inc. d/b/a Evergy Kansas Central ("Company") and Occidental Chemical Corporation ("Customer") entered into an Energy Supply Agreement dated November 2017 ("Current Agreement") which will expire no later than June 1, 2024. Customer and Company have entered into a new Energy Supply Agreement dated September 1, 2023 ("New ESA") and this Memorandum of Understanding to the New ESA, both of which will become effective pursuant to an Order of Approval issued by the Kansas Corporation Commission . The Delivery Points for the Energy being supplied to Customer under the Current Agreement and the New ESA are at the Customer's side of the point of interconnection at Company's facilities at the Waco Substation and the Vulcan Substation.

2. Evergy has notified Customer that it intends to decommission the Vulcan substation as soon as all load can be moved to the Waco Substation. If the target date of December 31, 2024 cannot be met due to the following non exclusive list: availability of required materials/parts, labor, or other reasons beyond the reasonable control of Company ("Triggering Event"), then it shall notify Customer within 10 days of Company's knowledge of Triggering Event, that an extension beyond December 31, 2024 is needed. Upon notice, the schedule date shall be extended to a date specified by Company, such date to be no later than March 31, 2025.

3. Customer agrees to make best efforts, including any necessary capital investments, to accommodate moving all load to the Waco Substation prior to March 31, 2025, and at the earliest November 30, 2024. If the schedule date of November 30, 2024 cannot be met due to a Customer Triggering Event, then it shall notify Company within 10 days of Customer's knowledge of a Triggering Event, that an extension beyond November 30, 2024 is needed. Upon notice, the schedule date shall be extended to a date specified by Customer, such date to be no later than March 31, 2025.

4. Customer and Company understand that if the commitment to move the load to the Waco Substation is not met by November 30, 2024 or subject to the terms of extension stated in Sections 2 and 3 by March 31, 2025, additional expenses may be necessary to keep the Vulcan Substation in operation in order to provide service to Customer until such time that the capital investments are completed. These additional expenses include replacement of the transformer at Vulcan Substation and repairs needed resulting from mechanical failures, but not those resulting from natural events such as lightning strikes or animal related disruption.

    a. If a failure occurs at the Vulcan Substation between the date of this Memorandum of Understanding and either November 30, 2024 or March 31,

2025, Company will provide service to Customer by implementing temporary measures until such time as the capital investments stated in Section 3 above are completed and Customer can be served entirely from the Waco Substation.

5. In the event additional expenses are necessary as described in Section 4, after November 30, 2024 or subject to the terms of extension stated in Sections 2 and 3 by March 31, 2025, Customer and Company shall meet and confer for no longer than 90 days subsequent to the event, and in good faith negotiate the issue of cost allocation for the additional expenses. If Customer and Company cannot agree to a cost allocation for the additional expenses, either party may ask the Kansas Corporation Commission ("KCC" to resolve the dispute through any proceeding it determines appropriate for a determination of what amount of the expenses are allocated to the Customer and what amount of the expenses are allocated to other ratepayers of the Company.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed on the date above set forth.

OCCIDENTAL CHEMICAL CORPORATION

DocuSigned by:
By: Karenanne Stegmann
1A51A1AFEB28479...

Name: Karenanne Stegmann

Title: Vice President Supply Chain

EVERGY KANSAS SOUTH, INC

By: Jason Klindt

Name: Jason Klindt

Title: Sr Director External Affairs