

**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 ) Docket No. 25-EKCE-207-PRE  
Apply to the Recovery in Rates of the Cost to be )  
Incurred for Certain Electric Generation Facilities )  
under K.S.A. 66-1239. )

**POST-HEARING REPLY BRIEF OF EVERGY KANSAS CENTRAL, INC., AND  
EVERGY KANSAS SOUTH, INC., IN SUPPORT OF JOINT MOTION FOR  
APPROVAL OF NONUNANIMOUS PARTIAL SETTLEMENT AGREEMENT  
REGARDING NATURAL GAS FACILITIES AND JOINT MOTION FOR  
APPROVAL OF UNANIMOUS PARTIAL SETTLEMENT AGREEMENT  
REGARDING SOLAR FACILITY**

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COME NOW Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “EKC”) and hereby submit their Post-Hearing Reply Brief in support of the Joint Motion for Approval of Nonunanimous Natural Gas Settlement and the Joint Motion for Approval of Unanimous Solar Settlement.<sup>1</sup>

## **I. INTRODUCTION AND EXECUTIVE SUMMARY**

EKC’s request for predetermination of ratemaking principles and treatment applicable to its planned acquisition of a 50% stake in the Viola and McNew combined cycle gas turbine (“CCGT”) facilities and a 100% stake in the Kansas Sky solar facility should be approved in accordance with the terms of the Natural Gas and Solar Settlements.<sup>2</sup> Notwithstanding arguments advanced by certain intervenors in their responsive briefs, the record cannot brook a contrary result. The record evidence strongly supports approval of both settlements, and EKC respectfully requests the Commission approve these settlements in its final order.

Intervenors opposing the Natural Gas Settlement continue to advocate for diametrically opposed, extreme and risky alternatives to the resource plan selected by EKC’s 2024 IRP, which is incorporated in the Natural Gas Settlement. These alternative plans are fundamentally flawed for numerous reasons. Most notably, they are inconsistent with EKC’s most recent preferred plan and resource acquisition strategy and lack the robustness and flexibility of a rigorous, fully

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<sup>1</sup> In the Initial Post-Hearing Brief of Evergy Kansas Central, Inc., and Evergy Kansas South, Inc., In support of Joint Motion for Approval of Nonunanimous Partial Settlement Agreement Regarding Natural Gas facilities and Joint Motion for Approval of Unanimous Partial Settlement Agreement Regarding Solar Facility (“Initial Post-Hearing Brief”), EKC identified the following defined terms: EKC, EKM, Commission, KCC, Procedural Order, Natural Gas Settlement, Solar Settlement, Predetermination Statute, CCGT, Viola Facility, McNew Facility, Kansas Sky Facility, IRP, CURB, CEP, NEE, KIC, HB 2527, CWIP rider, SPP, ARP, SERVM, NPVRR, ELCC, PIE, EPC, EIA, AEO, CAGR, LCOE

<sup>2</sup> EKC demonstrated in its Initial Post-Hearing Brief that the Solar Settlement, a unanimous settlement approved by all parties in this docket, meets the 3-factor test for unanimous settlements employed by the Commission. Because no party raised any issues or concerns with respect to the Solar Settlement in any filed response brief, EKC’s Reply Brief is almost exclusively focused on arguments related to the Natural Gas Settlement.

integrated resource planning strategy. Unlike EKC's 2024 IRP – which is based on a risk-weighted assessment of a full array of future scenarios – the alternative plans proposed in this docket address narrow issues of interest to certain intervenors seeking to promote particular resource-specific options. Given this analytical deficiency, the record is devoid of substantial competent evidence showing that any of these alternative plans would adequately address the real-world issues EKC must balance and ultimately resolve to ensure reasonably efficient and sufficient service and facilities are available to EKC customers at just and reasonable rates within the medium- and long-term planning horizons.

EKC does not have the luxury, or the authority, to adopt a blinkered view of the serious challenges it is facing. It is neither prudent nor responsible to myopically focus only on cost – as KIC and the Wichita Area Chamber of Commerce propose – and hope EKC can continue providing adequate, efficient, and reasonable service to its customers without essential, well-timed system upgrades. Likewise, EKC cannot rely on nascent technologies such as battery storage – as NEE and CURB propose – and expect these technologies to somehow provide the additional capacity and energy required to reliably serve customers at all times and under all conditions. In order to meet its statutory service obligations, EKC must consider and weigh the full panoply of issues and risks associated with various alternative scenarios through rigorous, data-driven IRP analysis. The IRP process is founded on informed assumptions about the state of future operations, industry and macroeconomic trends, and federal and state regulatory policy – all of which introduce levels of uncertainty into the planning process. EKC tests these assumptions through sensitivity analysis, which considers key variables under a range of eventualities. Sound sensitivity analysis is essential

to developing a flexible and robust resource plan, particularly in today's dynamic planning environment.<sup>3</sup>

Approval of the Natural Gas Settlement would implement the preferred plan selected by EKC's 2024 IRP – the only resource plan in this docket that was developed through a fully integrated, sensitivity-tested planning process and the only plan that comports with the mandates of the Predetermination Statute. The 2024 IRP process identified the need for an additional 325 MW of thermal generation in both 2029 and 2030. EKC's planned acquisition of a 50% stake in the Viola and McNew CCGTs squarely addresses this need. These CCGT resources will provide highly flexible, dispatchable generation with relatively low CO<sub>2</sub> emissions, allowing EKC to reliably serve native load while responding to increasing load growth and more stringent SPP resource-adequacy requirements.

Without question, this is a pivotal time for electric utilities. Like many utilities throughout the country, EKC is facing challenges related to sudden and unprecedented load growth, changes in load profiles, higher and peak demands, exacting SPP resource-adequacy and reliability requirements, and more frequent and severe grid-impacting weather events – all of which have overburdened EKC's and SPP's systems. These challenges must be met head-on with serious, broad-gauged solutions. Partial measures that do not acknowledge or appropriately address the nature and magnitude of these challenges are ineffectual. As a load-serving entity, EKC cannot afford to come up short and risk jeopardizing its ability to adequately serve its customers.

EKC's reply brief reaffirms the legal basis and evidentiary support for the Natural Gas Settlement and addresses arguments presented by intervenors opposing the settlement. Although

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<sup>3</sup> Direct Testimony of Cody VandeVelde, p. 4.

EKC cannot and does not respond to every argument in opposition to the Natural Gas Settlement,<sup>4</sup> it does address the most prominent arguments advanced by intervenors opposing the settlement.

Specifically, EKC:

- Reaffirms its position that approval of the Natural Gas Settlement under K.S.A. 66-1239 is appropriate because the settlement is consistent with the 2024 IRP (as well as the 2025 IRP update) and because the CCGT additions are reasonable, reliable and efficient;
- Demonstrates that EKC has exercised “prudence,” defined under applicable law as “carefulness, precaution, attentiveness and good judgement,”<sup>5</sup> and addresses arguments related to provisions of K.S.A. 66-128g;
- Responds to arguments that the costs of the CCGTs are unknown and demonstrates that the definitive cost estimates for the CCGTs are reasonable and consistent with the Predetermination Statute and with definitive cost estimates approved by the Commission in other dockets;
- Demonstrates that the alternative proposals posited by CURB, NEE, KIC, CEP and other intervenors do not conform with the Predetermination Statute as they are not consistent with the 2024 IRP and are neither reasonable, reliable, or efficient;
- Demonstrates that EKC has employed reasonable strategies to formulate a gas purchasing plan for the CCGTs and that the Company’s gas forecasts are reasonable and consistent with relevant market data; and

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<sup>4</sup> EKC does not concede any the arguments or positions not addressed in this brief, and no such concession should be inferred from EKC’s silence.

<sup>5</sup> See *Kansas Gas & Elec. Co. v. State Corp. Comm’n*, 239 Kan. 483, 495, 720 P.2d 1063, 1075 (1986) (citing Black’s Law Dictionary 1104 (5th ed. 1979)).

- Confirms that the rate impacts from the CCGTs will result in just and reasonable rates under Kansas law and refutes contrary arguments posed by certain intervenors regarding rates and capital expenditures.

## **II. THE NATURAL GAS SETTLEMENT SHOULD BE APPROVED**

### **A. Legal Standard Governing Nonunanimous Settlements**

Kansas law favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith to settle a dispute.<sup>6</sup> The Commission utilizes a five-factor test<sup>7</sup> to guide its decision as to whether a nonunanimous settlement agreement should be approved. This test calls for an evaluation of the following factors:

- (1) There was an opportunity for the parties in opposition to the settlement agreement to be heard on their reasons for opposing the agreement;
- (2) The agreement is supported by substantial competent evidence;
- (3) The agreement conforms with applicable law;
- (4) The agreement results in just and reasonable rates; and
- (5) The results of the agreement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement.

EKC has satisfied all five factors of the test. The Natural Gas Settlement should therefore be approved. The arguments advanced by opponents of the Natural Gas Settlement focus on factors (3), (4) and (5) of the test. Accordingly, EKC's reply brief focuses on the record evidence supporting the settlement's satisfaction of those three factors.

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<sup>6</sup> *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

<sup>7</sup> See Order Approving Contested Settlement Agreement, Docket No. 08-ATMG-280-RTS (May 12, 2008) ("08-280 Order")

## **B. The Natural Gas Settlement Conforms with Applicable Law**

The instant docket is the product of recent legislative changes enacted to meet the challenges facing EKC and other Kansas utilities in the coming years. The legislative solution embodied in HB 2527, which passed by near unanimous vote and became law on April 18, 2024, made a number of significant revisions to the Predetermination Statute relevant to the Commission’s evaluation of the Natural Gas Settlement.<sup>8</sup> Incorporating these revisions, the statutory requirements for predetermination now include the following:

- The planned resource additions are to be “consistent with [EKC’s] most recent preferred plan and resource acquisition strategy submitted to the commission;”<sup>9</sup>
- In reviewing EKC’s predetermination request the Commission “may consider if [EKC] issued a request for proposal from a wide audience of participants willing and able to meet the need identified under [EKC’s] preferred plan;”<sup>10</sup> and
- The plan selected by EKC must be “reasonable, reliable and efficient.”<sup>11</sup>

HB 2527 also added a section that created a new rate adjustment mechanism, the CWIP rider, for new gas-fired generating facilities such as the Viola and McNew CCGTs.<sup>12</sup> The Natural Gas Settlement incorporates the provisions of the Predetermination Statute related to the CWIP rider and the ratemaking principles authorized for new gas-fired facilities.<sup>13</sup>

The Natural Gas Settlement conforms with applicable law by implementing the provisions of the Predetermination Statute. However, despite clear evidence to the contrary, KIC, CURB, NEE and other intervenors maintain that the Natural Gas Settlement does not conform with

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<sup>8</sup> See 2024 Kansas Session Laws Ch. 60 § 4 (H.B. 2527), eff. July 1, 2024.

<sup>9</sup> K.S.A. 2024 Supp. 66-1239(c)(2).

<sup>10</sup> K.S.A. 2024 Supp. 66-1239(c)(3).

<sup>11</sup> *Id.*

<sup>12</sup> K.S.A. 2024 Supp. 66-1239(c)(6).

<sup>13</sup> See Natural Gas Settlement sections 5.e.i. through 5.e.vii

applicable law, either because it is inconsistent with EKC's most recent IRP or because it is not reasonable, reliable or efficient. These arguments are unavailing because they find no support in the record, reflect a misunderstanding of applicable law, and/or invite the Commission to rely on factors not contemplated under the Predetermination Statute. The Commission should not be distracted by such extraneous arguments. Under the legal framework established by the Predetermination Statute, the Natural Gas Settlement clearly conforms with applicable law and should be approved by the Commission.

**1. The Natural Gas Settlement is Consistent with EKC's Most Recent IRP**

**a. The Relevant IRP filing for the purposes of Predetermination Statute is EKC's 2024 triennial IRP filing**

In its initial post-hearing brief, EKC explained how the Natural Gas Settlement is consistent with its 2024 IRP as required under K.S.A. 2024 Supp. 66-1239(c)(2).<sup>14</sup> Using scenario/sensitivity analysis to ensure plan flexibility and robustness, the 2024 IRP evaluated a variety of relevant factors and risks across numerous Alternative Resource Plans ("ARPs")<sup>15</sup> and incorporated assumptions for certain coal-fired plant retirements and transitions.<sup>16</sup> Based on that analysis, the 2024 IRP called for the addition of 325 MW of thermal generation in both 2029 and 2030, which corresponds with EKC's planned acquisition of a 50% stake (355 MW) in the Viola and McNew CCGTs, respectively.<sup>17</sup> At or around the time EKC filed its Petition to initiate this docket, it learned that CCGT construction costs had spiked, prompting the company to update its

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<sup>14</sup> See EKC Initial Post-Hearing Brief, pp. 13-15, incorporated herein by reference.

<sup>15</sup> EKC also conducted its own probabilistic reliability analysis to assess the reliability of its resource plan utilizing the Strategic Energy and Risk Valuation Model (SERVM) software to assess the performance of future resource portfolios under varying load, weather and outage conditions.

<sup>16</sup> VandeVelde Direct, pp. 3-9.

<sup>17</sup> *Id.* at pp. 11-12; Grady Direct at p. 24.

2024 IRP analysis to account for this change.<sup>18</sup> The updated IRP analysis, optimized with the latest cost data, still called for the addition of 325 MW of thermal generation in both 2029 and 2030. Thus, the record evidence unequivocally shows that the CCGT additions contemplated in the Natural Gas Settlement are consistent with the 2024 IRP.<sup>19</sup>

Interpreting the provisions of the Predetermination Statute in isolation, KIC has recently adopted the position that the 2025 IRP, not the 2024 IRP, should be treated as EKC's most recent preferred plan for the purpose of evaluating IRP consistency under K.S.A. 2024 Supp. 66-1239(c)(2). KIC's position is not well-taken. Under Kansas law, statutory provisions are to be interpreted as an operative whole, not in isolation, and should be read in a manner that avoids unreasonable or absurd results.<sup>20</sup> Observing these fundamental rules of statutory interpretation, the Commission has rejected KIC's offbeat interpretation of the Predetermination Statute, stating that it agrees with "Evergy and Staff's interpretation that the 2024 IRP is the most recent preferred plan as defined by K.S.A. 66-1239(c)(2)" and that "it is clear and unambiguous that the 'filing' referenced [in that statutory provision] is the utility's predetermination application."<sup>21</sup> The Commission nevertheless admitted EKC's 2025 IRP filing in evidence, noting that the filing may provide the Commission with additional insight before making its decision in this docket.<sup>22</sup> In any event, regardless of whether consideration is given to the 2025 IRP, that filing should have no bearing on the Commission's decision because the Natural Gas Settlement is consistent with both the 2024 IRP and the 2025 IRP.

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<sup>18</sup> This spike in CCGT construction cost was driven by inflation and overall demand for natural gas generation in the market. *See* VandeVelde Direct at p. 23.

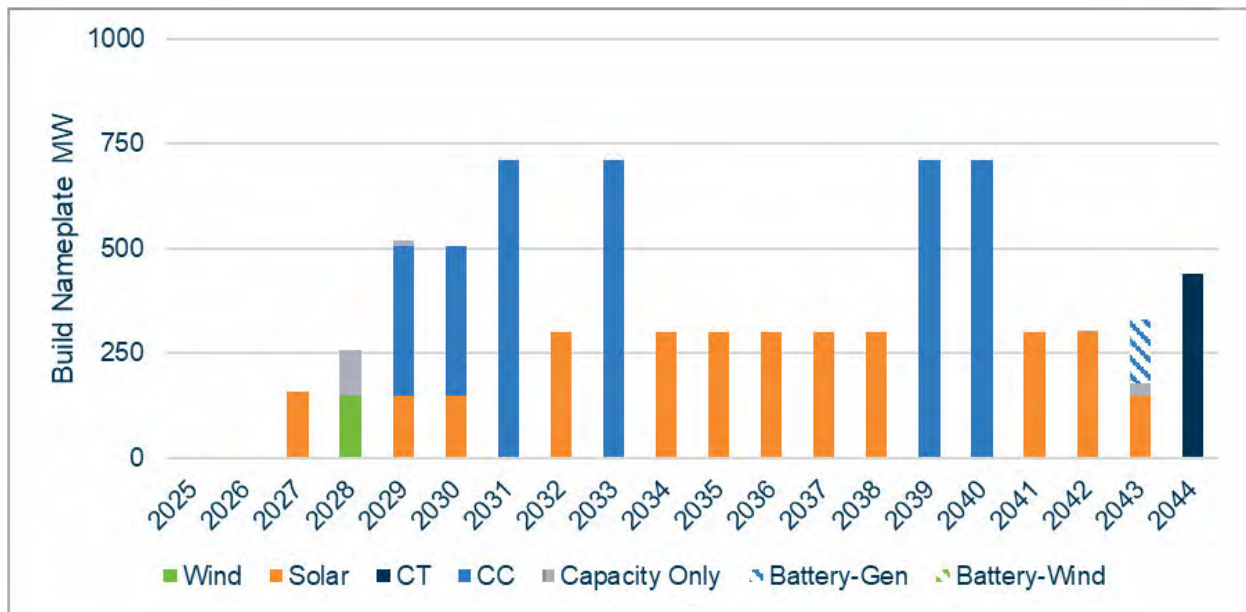
<sup>19</sup> *Id.* at pp. 23-25; Grady Direct at p. 27; *see also* analysis at pp. 14-15 of Staff's Post-Hearing Brief.

<sup>20</sup> *See, respectively, Johnson v. Bass Pro Outdoor World, LLC*, 567 P.3d 810, 821 (Kan. 2025) and *N. Nat. Gas Co. v. ONEOK Field Servs. Co.*, 296 P.3d 1106, 1115 (Kan. 2013).

<sup>21</sup> Order Granting KIC's Motion to File the 2025 Annual Update Integrated Resource Plan as an Exhibit, ¶ 6

<sup>22</sup> *Id.*

Providing additional support for the Natural Gas Settlement, the 2025 IRP “shows increasing needs for [EKC] driven by higher large customer load growth expectations” and calls for adding, among other generating resources, “1/2 share of combined-cycle gas turbine resources in 2029 and 2030,”<sup>23</sup> The preferred portfolio in the 2025 IRP is depicted in the figure below.<sup>24</sup>



Like the 2024 IRP, the 2025 IRP calls for 325 MW of additional CCGT generation in 2029 and 2030, corresponding with the planned CCGT acquisitions contemplated in the Natural Gas Settlement. The 2025 IRP does, however, reflect some changes to the assumed retirement schedules for certain coal facilities. Those changes include the following:

- Retiring Lawrence 4 in 2032 as opposed to 2028,
- Converting Lawrence 5 to natural gas in 2029 and ultimately retiring Lawrence 5 in 2032,
- Converting Jeffrey 2 to natural gas in 2030 rather than retiring the facility in 2030.<sup>25</sup>

<sup>23</sup> Evergy Kansas Central 2025 Annual Update Integrated Resource Plan (“2025 IRP”) filed in Docket 24-EKCE-387-CPL, at p. 3 (May 1, 2025)

<sup>24</sup> *Id.*, Figure 3, p. 4.

<sup>25</sup> *Id.*, p. 5, Table 3.

Describing the changes in EKC's retirement and conversion assumptions, the 2025 IRP states:

By 2030, the Jeffrey units will be an average age of approximately 50 years. Given the age and condition of the Jeffrey units, increasing importance of reliability for future performance accreditation, broader headwinds to the fuels supply and coal industry supply chain, and future environmental regulation risk, Evergy feels it's most important to have a pragmatic long-term plan that balances customer risks and trade-offs of retirement. While the retirement planning assumptions in Evergy's IRP will remain flexible, delaying the Jeffrey 2 retirement and fully converting to natural gas operations will help Evergy to balance the on-going operational risk, while preserving capacity to meet increased customer demand and reliability requirements of the Southwest Power Pool.<sup>26</sup>

The 2025 IRP also explains that in addition to expanded load growth, the primary drivers of changes to the identified asset needs include “[a]lignment with the most recent SPP resource adequacy rules and study results for expected summer and winter reserve margins and capacity accreditation,” and “[l]ower demand side management contributions to capacity needs based on the approved KEEIA programs.”<sup>27</sup>

Based on the foregoing, the Natural Gas Settlement is clearly consistent with EKC's “most recent preferred plan and resource acquisition strategy,” which under K.S.A. 66-1239(c)(2) is the preferred plan contained in Volume 6 of EKC's May 17, 2024 triennial IRP filing.<sup>28</sup> The Natural Gas Settlement is also consistent with EKC's 2025 IRP update (filed May 1, 2025), which continues to call for the CCGT additions contemplated in the Natural Gas Settlement. What is more, while coal plant retirements are not relevant to the Commission's IRP-consistency analysis, EKC would note that the 2025 IRP makes clear that the CCGT additions contemplated in the Natural Gas Settlement are needed notwithstanding EKC's continued use of coal resources and even if the assumed retirements of those resources are delayed. Despite KIC's repeated suggestions

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<sup>26</sup> *Id.* at p. 3.

<sup>27</sup> *Id.* at p. 5.

<sup>28</sup> This filing is attached as **Exhibit CV-1** to the Direct Testimony of EKC witness Cody VandeVelde.

to the contrary, allocating generation between the CCGTs and existing coal resources is not a “zero-sum game.” Although coal resources remain an important part of EKC’s generation fleet, these aging assets, standing alone, are not adequate in view of all relevant factors, which include increasing demand and load, the need for reliability investments on the system, changes in SPP’s resource adequacy requirements, and risks related to supply-chain problems and future environmental challenges associated with coal-fired generation. This reality is borne out by EKC’s IRP analysis and is consistent with Evergy’s long-term strategy for responsibly transitioning its generation fleet away from coal over time while maintaining a diverse fuel mix and sufficient flexibility to make appropriate planning adjustments. This long-term strategy allows Evergy to focus on reliability and affordability while adapting to environmental, technological, and market opportunities and challenges.<sup>29</sup>

**2. The Natural Gas Settlement satisfies the Predetermination Statute’s “Reasonable, Reliable and Efficient” Requirement**

EKC has demonstrated that the Viola and McNew CCGT additions are reasonable, reliable and efficient under K.S.A. 2024 Supp. 66-1239(c)(3).<sup>30</sup> EKC has also demonstrated that the alternative resource plans advocated by KIC, NEE and CURB – which either urge the Commission to endorse a “wait and see” approach to resource planning or recommend substituting less reliable or non-dispatchable resources for the Viola and McNew CCGT additions – do not satisfy the statutory “reasonable, reliable or efficient” requirement.<sup>31</sup>

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<sup>29</sup> VandeVelde Direct, p. 12.

<sup>30</sup> See Initial Post-Hearing Brief, pp. 24–29.

<sup>31</sup> *Id.* at pp. 16–24, 29–32.

Staff includes a detailed discussion of why the CCGT additions are reasonable,<sup>32</sup> reliable,<sup>33</sup> and efficient<sup>34</sup> in its post-hearing brief. As Staff explains, the CCGT additions are reasonable and justified in light of a number of realities facing utilities today, including significant changes in load profile, increased demand, aging generation assets (including coal plant assets), and new reliability and capacity mandates (including expected increases in SPP's summer planning reserve margins and new capacity accreditation methods). Staff determined the CCGTs are reliable additions based on their flexibility and dispatchable generation capacity. Finally, Staff determined the CCGTs are efficient based on their usage and emission characteristics. EKC agrees with Staff and incorporates its analysis, and the record evidence cited in support of its analysis, on these important points.

Yet certain intervenors, including KIC and CURB, continue to question the reasonableness of the CCGT additions, arguing that the increased demand forecasted for the EKC territory is speculative and not supported. That is simply not the case. Multiple EKC witnesses, including Mr. Ives, Mr. VandeVelde and Mr. Humphrey, have provided testimony regarding EKC's load and demand forecasts. These forecasts predict unprecedented near-term load growth, which is projected to occur around the time the Viola and McNew CCGTs are scheduled to come on line.<sup>35</sup> In fact, significant load growth, with a corresponding need for significantly increased levels of dispatchable energy, is projected throughout the SPP footprint.<sup>36</sup> Thus, combined with SPP's tightening resource-adequacy and reserve-margin requirements, the additional capacity, reliability and dispatchability provided by the Viola and McNew CCGTs will be imperative.<sup>37</sup> EKC cannot

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<sup>32</sup> Staff Post-Hearing Brief, at pp. 16–20.

<sup>33</sup> *Id.* pp. 20–22.

<sup>34</sup> *Id.* pp. 23–31.

<sup>35</sup> VandeVelde Direct, 16–19, Grady Direct, 34, Ives Direct, 10.

<sup>36</sup> Grady Direct, pp. 27–36, VandeVelde Direct, p. 25; Humphrey, p. 18.

<sup>37</sup> Hearing transcript, p. 561.

ignore the industry consensus that significant load growth is likely to occur in the coming years. To fortify the EKC system to address challenges related to this load growth, EKC must act now; otherwise, the system may not be capable of reliably meeting customer demands. The risks associated with this eventuality are unacceptable to EKC, and should be unacceptable to those customers represented in this docket by KIC and CURB.

Finally, without record support, KIC argues that the CCGT additions could actually degrade system reliability. Attempting to support this argument, KIC cites to legislative testimony given by Darrin Ives and Jason Klindt regarding the continued need for the reliability provided by coal generation resources. EKC does not deny that coal generation is an important part of its “all-of-the-above” strategy for providing reliable and dispatchable generation from a diversified portfolio including coal, natural gas, and nuclear generation.<sup>38</sup> However, as Mr. Ives testified at hearing, the legislative testimony cited by KIC addressed the continued importance, reliability and flexibility provided by coal resources, even if they are operated as “back-up” resources at lower capacity factors.<sup>39</sup> Indeed, as the 2024 and 2025 IRPs demonstrate, EKC intends to continue relying on coal-fired generation to provide needed generation and back-up generation, particularly until the Viola and McNew CCGT builds are completed and the CCGTs are ready to commence commercial operation. To be sure, nothing in the legislative testimony supports KIC’s extraordinary logical leap that the EKC’s 2024 preferred plan will somehow degrade system reliability – a leap no other party in this docket has made given the sheaf of uncontroverted evidence establishing that the Viola and McNew CCGT additions will provide significant reliability benefits.

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<sup>38</sup> Hearing Testimony, pp. 91-102.

<sup>39</sup>*Id.*

In addition, KIC attempts to support this argument by citing to an SPP study, which was not made part of the record, regarding the response to the February 2021 Winter Storm Uri. KIC contends this study shows acknowledgement by SPP that natural gas is an unreliable fuel source. That is absolutely not the case. The SPP study does identify natural gas supply as an issue during Winter Storm Uri. However, the study suggests enhanced coordination and communication between the gas and electric industries, and additional commitment by the gas industry to ensuring reliable, resilient and affordable natural gas supply as a solution to this problem, and identifies additional directives and programs SPP and others are pursuing to cultivate this additional coordination.<sup>40</sup> Indeed, the Natural Gas Settlement picks up on this point, specifically including provisions requiring communication and coordination with gas utilities regarding gas supply prior to the CCGTs coming on line.<sup>41</sup> In any case, KIC's contention that this study is somehow an acknowledgement by SPP that natural gas is an unreliable fuel source is simply wrong.

Based on the foregoing, EKC has demonstrated that the CCGT additions are reasonable, reliable and efficient, and therefore comply with the provisions of the Predetermination Statute. Contrary arguments presented by intervenors like KIC, NEE and CURB lack merit and support and should be rejected. EKC is facing a number of serious challenges in the coming years, and only serious solutions identified through rigorous IRP analysis rise to the moment. The solutions identified in EKC's IRP are reasonable, reliable and efficient – and contrary arguments presented by intervenors must be rejected.

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<sup>40</sup> A Comprehensive Review of Southwest Power Pool's Response to the February 2021 Winter Storm (July 19, 2021), p. 45, available at <https://spp.org/documents/65037/comprehensive%20review%20of%20spp%27s%20response%20to%20the%20Feb.%202021%20winter%20storm%202021%2007%2019.pdf>.

<sup>41</sup> Natural Gas Settlement, ¶ 6.d.

**a. KIC's Arguments Based on K.S.A. 66-128g are Unsupported as EKC has Demonstrated that the CCGT Additions are Prudent**

KIC and the Wichita Regional Chamber of Commerce ("WRCC") argue that EKC has not demonstrated that the CCGT additions as part of the Natural Gas Settlement are prudent, and they cite and rely on provisions in K.S.A. 66-128g to contend that prudence has not been demonstrated in this docket. Contrary to KIC and WRCC's arguments, EKC has shown throughout the record in this docket that its decisions with respect to the CCGTs have been prudent. In addition, KIC's and WRCC's reliance on provisions of K.S.A. 66-128g are misplaced in this predetermination docket. For these reasons, KIC's and WRCC's arguments related to prudence and K.S.A. 66-128g must be rejected.

Contrary to KIC's and WRCC's arguments, EKC does not contend that prudence is not a relevant inquiry, or that a finding of prudence automatically flows from a finding that the additions in question are reasonable, reliable and efficient. Rather, EKC's position has been and remains that, based upon the substantial evidence submitted in this record, EKC has demonstrated that its decision to move forward with the CCGT additions is prudent, and that the same evidence related to the decisions and strategies employed by EKC, and the reasons for pursuing the CCGT additions not only demonstrates that the additions are "reasonable, reliable and efficient," but under the current circumstances also demonstrates that EKC's decisions have been prudent.

The term "prudence" is to be given its common meaning of "carefulness, precaution, attentiveness and good judgment."<sup>42</sup> In the 11-KCPE-581-PRE Docket ("581 Docket"), the Commission previously held that prudence is a relevant examination in predetermination cases,

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<sup>42</sup> See Order Granting KCP&L Petition for Predetermination of Rate-Making Principles and Treatment, Docket 11-KCPE-581-PRE, ¶ 65 (Aug. 19, 2011) (quoting *Kansas Gas & Elec. Co. v. Kansas Corp. Comm'n*, 239 Kan. 483, 495 (1986)).

and that a finding that a proposed addition is reasonable, reliable and efficient does not necessarily equate to a finding of prudence.<sup>43</sup> At the same time, in the 581 Docket the Commission examined the issue of prudence under its common definition of carefulness, precaution, attentiveness and good judgment, and did not directly examine the utility's decisions under the specific lens of the factors identified in K.S.A. 66-128g.<sup>44</sup> Rather, in the predetermination setting, the Commission in the 581 Docket reviewed evidence showing that the utility had been "careful in evaluating alternative resources," that it "took caution in running numerous scenarios," that it was "attentive in evaluating its impact," and that the utility "used good judgment in making its decision to move forward" with its plan, and found that the utility's decision in the context of a predetermination had been prudent.<sup>45</sup>

The same can be said of EKC's decisions in this docket and with respect to the CCGT additions. For instance, EKC has demonstrated that it took care to consider numerous alternative resources in conducting the IRP, and that it took caution and was mindful to conduct and run numerous scenarios and apply a number of different factors and risks in evaluating the preferred plan.<sup>46</sup> EKC has demonstrated that it has been attentive to costs and impacts of the preferred plan, having fully described and identified its strategies in procuring materials, equipment and services for the CCGTs based on competitive market prices, and developing strategies to manage costs and possible cost increases over time.<sup>47</sup> EKC and the signatories to the Natural Gas Settlement have even included specific provisions in the settlement to monitor and manage cost risks going

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at ¶ 66.

<sup>45</sup> *Id.*

<sup>46</sup> Initial Post-Hearing Brief at pp. 13–15

<sup>47</sup> *Id.* at 24–29, 40–42.

forward, including inflationary risks and risks related to federal tariffs.<sup>48</sup> EKC has employed a newly-available ratemaking tool in the form of the CWIP rider, which will likely reduce the overall cost of the facilities when they are ultimately placed into rates.<sup>49</sup> Finally, EKC has demonstrated that it has used good judgment in making its decision to move forward with the plan, and that under the current circumstances and with the challenges facing EKC at this time, the CCGTs are necessary to meet the demands of EKC's customers, and to meet EKC's statutory obligations.<sup>50</sup>

EKC has cited all of this evidence to support the statutory prerequisites in the Predetermination Statute that the CCGT additions are consistent with the 2024 IRP, and are reasonable, reliable and efficient. This evidence as a whole also demonstrates, under the circumstances of the current predetermination case, that EKC has acted with prudence, defined as "carefulness, precaution, attentiveness and good judgement."<sup>51</sup> EKC recognizes that a finding that a resource plan is reasonable, reliable and efficient does not *always* equate to a finding of prudence. However, under the circumstances of this case, the substantial weight of the evidence favoring EKC's planned additions, and also supporting the careful, precautionary, and attentive judgment exercised by EKC demonstrate that EKC has acted prudently.

By contrast, KIC's and WRCC's reliance on and citation to K.S.A. 66-128g and the factors listed therein, are inapt in the current predetermination case. Those factors, particularly those cited by KIC and WRCC, are framed to be more backward-looking, facilitating comparison of final costs and rates after completion, and at the time of inclusion of the costs of the facility in base

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<sup>48</sup> *Id.* at 28–29, Natural Gas Settlement, at ¶ 5.k.

<sup>49</sup> Initial Post-Hearing Brief, at pp. 12, 47, *see also* Klotz Rebuttal Testimony, p. 3, Ives Rebuttal, p. 24, Grace Rebuttal, p. 8–9.

<sup>50</sup> Initial Post-Hearing Brief, p. 24–32.

<sup>51</sup> Order in 581 Docket, ¶ 65 (Aug. 19, 2011) (quoting *Kansas Gas & Elec. Co.*, 239 Kan. at 495).

rates.<sup>52</sup> Because this is a predetermination case, and construction has not been completed, those types of comparisons cannot be made. It makes sense, therefore, that the Commission, as was done in the 581 Docket, would evaluate prudence in a predetermination not by utilizing the factors of K.S.A. 66-128g, but instead by examining the utility's current and proposed decision-making process to determine whether it meets the standard definition of prudent as being careful, precautionary, attentive, and utilizing good judgment. This is consistent with the analysis of the Commission in the 581 Docket, and is an appropriate way to evaluate prudence in a predetermination context.<sup>53</sup>

Under the circumstances, and utilizing the proper legal standard, EKC has demonstrated that it has acted with prudence in advancing the preferred portfolio and, as such, the Natural Gas Settlement should be approved.

**b. KIC's Arguments that the CCGT Costs are Unknown are Incorrect**

Despite the substantial evidence to the contrary, KIC continues to argue that the costs of the CCGTs is unknown. That is simply not the case. Although, in a predetermination case, one can never know with certainty the final costs of a project that has not been constructed yet, EKC has demonstrated that it has submitted definitive cost estimates of capital costs needed to construct the CCGTs that are as accurate and conclusive as possible at this stage. Nothing more can be expected or demanded in a predetermination proceeding.

EKC witness J. Kyle Olson provided substantial background on the processes utilized to obtain initial cost estimates, and EKC's employment of risk mitigation strategies in that process.<sup>54</sup>

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<sup>52</sup> See K.S.A. § 66-128g(3) ("comparison of final cost of the facility under consideration to the final cost of other facilities constructed within a reasonable time before or after construction of the facility under consideration).

<sup>53</sup> Order in 581 Docket, at ¶¶ 65–66.

<sup>54</sup> Olson Direct, pp. 24–30.

He also described in his supplemental testimony the process of obtaining bids from EPC contractors to confirm initial cost estimates and identifies the definitive cost estimates for the CCGTs.<sup>55</sup> In testimony at the evidentiary hearing, Mr. Ives further supported the definitive cost estimates, their foundation in true market prices, and on the best available information at this time. Mr. Ives also discussed the role of the contingency, which is a component of the definitive cost estimate as well.<sup>56</sup>

The definitive cost estimates are indeed estimates, but they are the result of rigorous analysis, market research, competitive pricing and bidding, and vigorous negotiation. They represent the best cost information available at this time. KIC's argument that this is not sufficient at this stage essentially sets an impossible standard for predetermination cases. If a utility must know, before construction actually commences, the final cost of construction of substantial projects like the CCGTs down to the dollar, no predetermination can move forward. This simply cannot be the standard, and indeed it has not been the standard applied by the Commission. In the 581 Docket, the Commission accepted the utility's definitive cost estimate based upon projected costs for components of the project, and based upon an EPC cost estimate, which also included a "significant reserve under the 'Contingency Cost Component' that is an allowance for items, conditions, or events 'for which the occurrence is uncertain but experience dictates that it will likely result in additional costs.'"<sup>57</sup>

Similar to the approved definitive cost estimate in the 581 Docket, EKC's definitive cost estimate here is based on the best market, competitive and negotiated information available, and

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<sup>55</sup> Supplemental Testimony of Kyle Olson, pp. 1, 3-5 (Feb. 14, 2025); *see also* Ives Direct, pp. 11-15; Supplemental Testimony of Darrin Ives, pp. 5-6 (Feb. 14, 2025); Grady Direct, pp. 92-94.

<sup>56</sup> Ives Hearing Testimony, Tr. at p. 236.

<sup>57</sup> 581 Order, ¶ 71.

is based on the results of bids received from EPC contractors. KIC's and WRCC's contention that the definitive cost estimate includes a contingency allocation, and thus cannot be a definitive cost estimate, is not only illogical in the context of large construction projects such as the CCGTs, it is contrary to the Commission's approval of the definitive cost estimate in the 581 Docket. The suggestion that the costs of the projects are "unknown" or that there has been no definitive cost estimate submitted is simply incorrect.

Furthermore, EKC will only seek to recover its actual costs incurred in rates at the conclusion of the project, not the estimated costs. Consistent with applicable law, to the extent EKC incurs costs in excess of the definitive cost estimates, those additional costs will be subject to prudence review and EKC will be required to bear the burden of proof to show that any amount incurred in excess of the estimates is prudently incurred, just and reasonable to recover from ratepayers.<sup>58</sup> Therefore, a favorable ruling in this predetermination docket would only itself enable EKC to recover costs up to the definitive cost estimate. Any additional costs incurred would be subject to additional prudence review, as is the case with any other predetermination, and as was the case in the 581 Docket.<sup>59</sup>

This would include any cost increases related to federal tariffs as well. To the extent federal tariffs result in increased costs above the definitive cost estimates, EKC will have to demonstrate the prudence of it incurring those costs under the provisions of the Natural Gas Settlement, and consistent with the Commission's handling of the 581 Docket. Notably, the parties to the Natural Gas Settlement have devised a thorough and reasonable means to manage that risk in the form of paragraph 5.k. of the Natural Gas Settlement, requiring EKC to make a compliance filing

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<sup>58</sup> Natural Gas Settlement, ¶ 5.e.vii.

<sup>59</sup> 581 Order, ¶¶ 72–75.

addressing the economics of the CCGTs and justifying continuing with the projects, if the costs are projected to exceed 115% of the definitive cost estimates. This provision is an example of continued prudence exercised by EKC and the signatories to the Natural Gas Settlement in a complicated and difficult environment.

Further, EKC is utilizing strategies to help manage and minimize cost and tariff risk. For instance, EKC is utilizing fixed-price contracting when available, will utilize one EPC contractor for both projects, and is working to source products from domestic sources to avoid import tariffs where possible.<sup>60</sup> When some foreign sourcing is needed, EKC has also contracted with equipment and parts manufacturers that do not source from Southeast Asia or China, therefore minimizing tariff risk related to that region.<sup>61</sup> Therefore, EKC is not only relying on the provisions of the Natural Gas Settlement to address tariff risk. It is proactively taking steps to implement strategies that provide additional management and mitigation of that risk.

Finally, KIC's argument that the definitive cost estimates should include the cost of firm gas delivery and supply are without merit. As EKC has previously demonstrated, the proper forum to address recovery of fuel gas costs would be through the RECA/ACA process.<sup>62</sup> As explained by EKC witness Ron Klote, it is not realistic to estimate these costs in a manner to allow accurate modeling of rate impacts related to costs recovered through the RECA/ACA.<sup>63</sup> Contrary to KIC's argument, this does not mean EKC has not adequately estimated its costs or failed to provide a definitive cost estimate. Indeed, as the Commission recognized in its Order in the 581 Docket

Relying on this evidence, the Commission finds that KCP&L's decision . . . was prudent at the time the determination was made as reflected in the record. But the

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<sup>60</sup> Olson Direct, pp. 6-7, 19-30; Supplemental Testimony of Kyle Olson, pp. 1-5 (Feb. 14, 2025).

<sup>61</sup> Supplemental Testimony of Jason Humphrey, p. 2 (Feb. 14, 2025); Testimony of Jason Humphrey in Support of Settlement ("Humphrey Settlement Testimony"), p. 4 (April 17, 2025).

<sup>62</sup> Initial Post-Hearing Brief, at p. 39, Rebuttal Testimony of Ron Klote, at p. 4.

<sup>63</sup> Rebuttal Testimony of Ron Klote, at p. 4.

Commission cautions that it recognizes events change. Many witnesses have discussed changing scenarios in this proceeding that may impact the validity of this decision of the course of the implementation .... For example, witnesses discussed the historical volatility of the cost of natural gas as well as changing requirements related to protecting the environment .... Thus, the issue of prudence does not end with a finding by this Commission that, at the time its determination was made, KCP&L made a prudent decision.... While implementing the [ ] Project, KCP&L will need to continue to be careful use caution, be attentive, and use good judgment in addressing ongoing changes that arise in making decision regarding the [ ] Project to be sure its decision remains prudent.<sup>64</sup>

In essence, the Commission in the 581 Docket recognized that there are future uncertainties in any predetermination proceeding. But refusing to move forward with a predetermination because of uncertainties like natural gas costs, which can be managed through prudent decision-making and strategies, is not an appropriate exercise of statutory predetermination authority. Indeed, such a finding would essentially prevent *any* predetermination from moving forward.

The Commission must not adopt such an approach. The legislature has passed the Predetermination Statute providing the Commission with express authority therein. Furthermore, the legislature has reasserted the importance of the Predetermination Statute, the predetermination process, and the need for reliable and dispatchable natural gas fired generation by passing HB 2527 with overwhelming approval. The Commission must not fail to exercise its authority because of inherent future uncertainties which can be and will be managed by exercise of additional prudent decision-making and management. Not only has EKC already begun to establish a reasonable and prudent gas purchasing plan,<sup>65</sup> the Natural Gas Settlement includes important provisions<sup>66</sup> assuring that EKC and the other interested stakeholders will collaborate, work diligently and

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<sup>64</sup> Order in 581 Docket, ¶ 66.

<sup>65</sup> See below p. 32–38.

<sup>66</sup> Natural Gas Settlement, ¶¶ 5.f., g., h., 6.d.

exercise prudence, i.e. will “be careful, use caution, be attentive, and use good judgment,”<sup>67</sup> in addressing and managing future risks and new developments, like changes in natural gas prices.

EKC has provided a rigorous, competitive and complete estimate of costs for the CCGTs. Its definitive cost estimate is based on the best information available, and is consistent with definitive cost estimates required in other predetermination dockets. Intervenor’s suggestion that the costs are unknown or that no definitive cost estimate has been provided are incorrect and should be rejected.

**3. Various Alternative Proposals Advocated by Intervenor’s Remain Inconsistent with Applicable Law, and are not Reasonable, Reliable or Efficient**

As demonstrated in EKC’s Initial Post-Hearing Brief, the alternative proposals advocated by the various intervenors in this case (CURB, KIC, NEE and CEP) should not be approved because they are not consistent with the 2024 IRP, and they are not reasonable, reliable and efficient as defined in the Predetermination Statute.

Initially, CURB argues in its response brief that, because of the dynamic nature of the IRP, the Commission should not evaluate intervenor proposals based on whether they comply with the most recent IRP. This argument makes no sense. Contrary to CURB’s position, resource planning, and in the case of EKC, the IRP process, is a fundamental aspect of the predetermination process. Indeed, it has been enshrined in the predetermination analysis by the legislature in the express language of the Predetermination Statute.<sup>68</sup> It would be wholly improper for the Commission to adopt CURB’s analysis and simply write-out that portion of the Predetermination Statute requiring that the threshold determination be made that any proposed plan be consistent with the utility’s resource acquisition plan, in this case the 2024 IRP. Moreover, given the substantial resources,

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<sup>67</sup> Order in 581 Docket, ¶ 66.

<sup>68</sup> K.S.A. § 66-1239(c)(2).

analysis and work put into the development and maintenance of the IRP model and analysis from year to year, as well as the direct involvement by stakeholders and Staff in the critical analysis of each annual IRP, it would be irrational to simply ignore the IRP because CURB or any other party does not like the results. The IRP process is rigorous, data driven and comprehensive because it is designed to find solutions to extremely difficult problems, ones that cannot be solved by superficial analyses exemplified by many of the proposals by opponents to the Natural Gas Settlement, including by CURB. Any suggestion that the Commission should simply ignore whether any proposed asset plan complies with the most recent IRP is contrary to statutory law, and would unacceptably waste all the resources and effort put towards the IRP analysis.

As demonstrated in its Initial Post-Hearing Brief, the intervenors' proposed alternative plans must be rejected because they are not consistent with EKC's 2024 IRP, and they are not reasonable, reliable or efficient. CURB's and NEE's proposals are not consistent with EKC's most recent IRP and are not based on a fully integrated and comprehensive study like the IRP process. In addition, their reliance on solar and battery storage, which are not firm dispatchable resources, do not provide the same dispatchable energy to the system as CCGTs provide. Proposals by CURB and NEE therefore fail to meet statutory prerequisites set forth in the Predetermination Statute and should be rejected.

The plans proposed by NEE and CURB are unreasonable, and will not meet the reliability and load needs on the system moving forward.<sup>69</sup> As Mr. VandeVelde stated in response to NEE's proposals, EKC's most recent IRP include ARPs analyzing battery storage among a number of possible solutions to growing demand and increased resource adequacy requirements, but those

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<sup>69</sup> For comprehensive responses to positions presented by CURB and NEE, see VandeVelde Rebuttal, pp. 12–16 Humphrey Rebuttal, pp. 5-6.

ARPs were not selected in the 2024 IRP for a number of reasons.<sup>70</sup> Specifically, Mr. VandeVelde explained that one of the ARPs tested in the 2024 IRP allowed only renewables and battery storage to meet oncoming capacity needs. That plan performed considerably worse from a reliability perspective, and it had an expected NPVRR cost more than \$5 billion higher than EKC's preferred portfolio.<sup>71</sup> These shortcomings still remain, and have not been adequately addressed by NEE or CURB in their responsive briefing.

Similarly, EKC witness Ives testified that although solar generation continues to be a component of the IRP and part of EKC's "all-of-the-above" strategy to resource addition, the CCGT additions are a necessary and important part of satisfying reliability and increased load requirements on EKC's system.<sup>72</sup> Contrary to suggestions by NEE and CURB, Mr. Ives testified that solar and batteries are not a sufficient substitute for the reliability and flexibility provided by the CCGTs.<sup>73</sup> Solar and batteries provide lower delivered accredited capacity compared with the CCGTs, and therefore substantially more of these intermittent assets would need to be added, at substantially higher cost, to fulfill the same need that can be satisfied by the CCGT additions.<sup>74</sup> In addition, current four-hour batteries simply are not a reasonable substitute for the CCGTs, particularly during long weather or other outage events that require additional dispatchable generation afforded by the CCGTs.<sup>75</sup> As Mr. VandeVelde testified, as to proposals that rely largely on solar and batter storage, in light of "the magnitude of need from a firm dispatchable standpoint,

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<sup>70</sup> VandeVelde Rebuttal, pp. 12-13.

<sup>71</sup> *Id.* at p. 15.

<sup>72</sup> Ives Hearing Testimony, Tr. at p. 380.

<sup>73</sup> *Id.* at pp. 215-18.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at pp. 215-16.

it is hard to envision even with the culmination of all those other things, meeting the near-term need that our customers need and that SPP needs [referencing SPP Resource Adequacy requirements].”<sup>76</sup>

Staff expressed similar doubts with respect to placing too much reliance on solar and battery storage as proposed by CURB and NEE. Noting the difficulty in getting many solar facilities sited and resistance from local community interests, Staff stated that plans that relied more heavily on solar and battery storage as proposed by CURB and NEE are not workable.<sup>77</sup> Staff also identified the declining Effective Load Carrying Capability (“ELCC”) accreditation percentage for batteries and the substantial accreditation crunch resource planners will face in the future if too much reliance is placed on battery storage, for instance.<sup>78</sup>

As the Commission is aware, Staff witness Mr. Grady also generally criticized the overall analyses offered by NEE witness, Mr. Jones, as existing in a vacuum rather than as part of an IRP, and thus not presenting a comprehensive solution that could be recommended to the Commission.<sup>79</sup> Similarly, Mr. Grady was critical of the analysis offered by CURB witness Metz, in that it was also not consistent with EKC’s IRP, nor was it based on an IRP-level analysis, and that it placed too much reliance on solar and battery resources when firm dispatchable generation, like that provided by the CCGTs, is required at this moment.<sup>80</sup>

In addition, in its Post-Hearing Brief, Staff points out that CURB’s position contains inherent contradictions in that it on the one hand criticizes EKC’s use of the Capacity Expansion Model and selection of the CCGTs, and on the other relies on the Capacity Expansion Model to attempt to support economic viability of solar and batteries utilizing the same model that selected

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<sup>76</sup> VandeVelde Hearing Testimony, Tr. at p. 348.

<sup>77</sup> Grady Hearing Testimony, Tr. at pp. 494-95.

<sup>78</sup> *Id.* at pp. 508-14.

<sup>79</sup> *Id.* at Tr. Day 2 - Confidential Portions, p. 10.

<sup>80</sup> *Id.* 214:4–216:16.

CCGTs in the updated IRP analysis.<sup>81</sup> In addition, Staff identifies, as has EKC, that CURB's ultimate recommendation to utilize a Combustion Turbine, wind and solar instead of the CCGTs is not supported by an extensive, multifactor, integrated analysis like the IRP.<sup>82</sup> These same issues have been identified by both EKC and Staff throughout these proceedings, and they fatally undermine the alternative approaches suggested by both NEE and CURB. Alternatives proposed by CURB and NEE are simply not robust enough, and have not been subject to the same rigorous analysis that EKC's proposed plan endured in the course of the IRP analysis. As a result, although they attempt to address specific and narrow issues, they do not provide adequate solutions to fully address the broad range of issues that EKC is facing.

Along the same lines, EKC has fully demonstrated why proposals incorporating a "wait-and-see" approach are not reasonable under the circumstances. As Mr. Ives testified:

About the wait and see approach, and that's certainly been advocated by some of the folks that didn't sign onto this gas settlement, you have to think about what the risk is on the other side of that situation, right. When you're a private company and you say, well, I'm not going to expand my footprint at this point and, you know, there may be some foregone revenue or foregone expansion revenue that, you know, you're going to give up as a private company. If we make the wrong call and we delay and it results in a system failure, or we can't serve customers because our supply is inadequate, it's not just a little bit of foregone revenue for us, that's a life threatening issue in the coldest days of the year. If you think about Uri in Texas and all those things. And so, you know, we always have to consider that, first and foremost, . . . we have an obligation to serve customers. Existing customers, new customers to a territory, that's our obligation that we're granted for or we're required to have for being granted a franchise to serve here. And there are real implications beyond just profits and outcomes if we don't adequately supply and have that reliability.<sup>83</sup>

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<sup>81</sup> Staff Post-Hearing Brief at p. 12.

<sup>82</sup> *Id.*

<sup>83</sup> Hearing Testimony, Tr. at pp. 256-57.

Mr. Humphrey and other witnesses also warned about the risks in delay and not acting in due time and course to begin to construct the CCGTs.<sup>84</sup> Furthermore, a number of witnesses also described the risks inherent in delaying predetermination of either CCGT at this stage, because the two facilities were developed in tandem as part of the same contracting process.<sup>85</sup> As a result, acquisition of the Power Island Equipment (PIE) and other equipment was performed under one contract for both plants, and the engineering, design, and construction of both plants fall under one EPC contract.<sup>86</sup> Consequently, NEE's argument that the Commission should wait to approve the McNew facility is unreasonable and unrealistic. Activities related to the McNew plant are continuous and ongoing and will need to be continuous in order to meet the 2030 in-service date.<sup>87</sup> In addition, delays related to the McNew plant may require re-pricing of various items or services for that plant and may even require re-contracting if construction of the McNew facility is placed in jeopardy or substantially delayed.<sup>88</sup>

NEE argues that delaying McNew or reducing EKC's interest in McNew, and making up the difference with battery storage would be more reasonable and result in savings. Initially, because this proposal inherently incorporates delay of one or more of the CCGT projects, or at the very least decoupling of the two, it would unacceptably undermine the overall procurement plans and strategies, and result in additional costs and delays that NEE has not analyzed in its proposal.<sup>89</sup>

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<sup>84</sup> *Id.* at pp. 317-18; see also Grady Hearing Testimony, Tr. at pp. 530-533; Owings Hearing Testimony, Tr. at pp. 449-50; Grady Settlement Testimony, p. 22 ([i]f we waited for complete certainty before making resource planning decisions, we would be constantly spinning our wheels and reevaluating, but we would not be addressing the significant energy challenges facing our state today. I contend that the legislature crafted the predetermination process in K.S.A. 66-1239 precisely for uncertain times like this, which is to require that a utility's resource planning decisions be made by the utility and judged by the Commission based on the best information available at the time.")

<sup>85</sup> Ives Direct, pp. 11-15; Olson Direct, pp. 5-7.

<sup>86</sup> *Id.*

<sup>87</sup> Olson Direct, pp. 8-9.

<sup>88</sup> Olson Direct, p. 30; Humphrey Direct, pp. 19-20.

<sup>89</sup> Ives Direct, pp. 11-15; Olson Direct, pp. 5-9, 30, Humphrey Direct, pp. 19-20.

Notwithstanding those threshold problems, even if this alternative proposed by NEE would be less expensive, it is not supported by a fully-integrated and multi-factor analysis like the IRP process utilized by EKC. Therefore, it has not been demonstrated that it performs adequately in measures that test reliability and dispatchability, or that test performance of NEE's proposal against SPP resource adequacy requirements, for instance. Rather, NEE appears only to have evaluated this proposal for cost.

NEE also argues that the fact that EKC has not tested NEE's proposal under the IRP model and process demonstrates that EKC's model is biased and did not incorporate all available asset plans. This argument, however, is a red herring. EKC tests at least 27 alternative plans under its IRP process, plans incorporating a number of different compositions of assets, including multiple involving battery storage. EKC cannot reasonably be expected to test every imaginable plan, particularly those raised after the filing of the IRP, and after the filing of its predetermination Petition. EKC's IRP provides a robust and fulsome process for a number of different asset plans and mixes to be tested against a full array of scenarios and risks to evaluate levels of performance across the spectrum. While it is true that NEE's proposal must fail because it has not been demonstrated to be effective under the full IRP analysis, it does not follow that the IRP is biased and must be ignored simply because NEE has suggested an additional scenario that was not one of the (at least) 27 alternatives tested. As demonstrated in its Initial Post-Hearing Brief, NEE's proposal to delay, halt or reduce EKC's predetermined interest in the McNew facility is not reasonable, reliable or efficient.

CEP's criticism of EKC's addition of the CCGTs seems to miss the mark completely. CEP is critical of the decision to construct two CCGTs, and for EKC to acquire a 50% interest in each, arguing that EKC only needs generation from one full CCGT. CEP appears ignore the fact that

Evergy Missouri West has identified a need for the other 50% interests in both the Viola and McNew facilities, and intends to acquire the additional 50% interest in each facility. EKC will only be able to access half of the generation from each facility, and in turn will only be responsible for half of the cost of each facility. The remaining half of the generation output, and concurrently half of the costs, will be borne by Evergy Missouri West. CEP asserts that Evergy's decision to construct two facilities somehow creates 770 MW of excess capacity. That is simply not the case. This capacity will be consumed by Evergy Missouri West, and the costs of such capacity will be paid by Evergy Missouri West. CEP's position is readily contradicted by the plain facts in this case, and should be rejected by the Commission.

Similarly, KIC's proposal to delay retirement of coal facilities should be rejected as well. EKC addressed KIC's proposed plan at length in its Initial Post-Hearing Brief. EKC demonstrated that KIC's analysis is flawed because EKC is not seeking approval of any coal retirement (as the IRP contains only assumed retirements for modeling purposes), that any final decision on retirements will be appropriately brought before the Commission to be scrutinized as required under Kansas law, and that KIC's proposal to provide for increased demand and enhanced reliability requirements by relying on aged coal generation as opposed to new state-of-the-art and efficient CCGT facilities is inconsistent with EKC's IRP and is not reasonable, reliable or efficient in any measure.<sup>90</sup> EKC incorporates those analyses here, by reference, and does not believe it is necessary to expand on those matters at this point.

Tellingly, KIC's response brief includes little if any argument in support of its proposal to attempt to solve the issues facing EKC by indefinitely delaying retirements of aged coal generation

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<sup>90</sup> Initial Post-Hearing Brief, p. 16–21.

facilities. While KIC remains committed to its superficial criticism of the estimated costs of EKC's preferred plan, it provides little else in the way of additional support for its proposed alternative.

Instead, KIC resorts to taking non-substantive pot-shots at EKC, and engages in gamesmanship with respect to the record. For example, KIC's equation of EKC's citations to Staff testimony to a "political endorsement" is unbecoming of this proceeding. Staff's testimony in this docket was substantive, well-supported, and very well-reasoned, and EKC happened to agree with it on many occasions. By reducing EKC's agreement with Staff this way, KIC resorts to labels instead of substance, arguably because KIC has not and indeed cannot assail the substance of EKC's and Staff's analysis in any meaningful way in this docket.

In addition, by presenting dozens of documents that were not addressed in testimony or presented as evidence at hearing,<sup>91</sup> KIC walks a thin line between being unprofessional and unethical. While these documents merely serve as a distraction – and the Commission is fully able to afford them what little weight they deserve – presenting them after the close of the record is improper for a myriad of reasons that are well known to legal professionals and all parties to this matter. Had KIC offered the documents into the record, all of the parties and the Commission would have had the opportunity to challenge foundation and assess their relevance. As a result, notwithstanding their misplacement here, EKC will address them for completeness and to rebut the instances where KIC unfairly misrepresents their contents. For example, on page 40 of its response brief, KIC cites to a 2024 Public Services of Oklahoma ("PSO") IRP to suggest that PSO is "turning away from CCGT technologies." Contrary to this argument, the actual document shows that far from turning away from CCGT technologies, PSO is proposing acquisition of 795 MW of combined cycle generation in 2025 and 2026. The 10-year window covered by the PSO IRP shows

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<sup>91</sup> See, e.g., documents cited at footnotes 24, 64, 66–70, 72, 74, 76–81, 94–99, 140, 158, and 161–63 of KIC's post-hearing brief.

essentially unchanged reliance on natural gas as a fuel source, but does include additional solar, wind and other resources, as does EKC's IRP. This is simply one example where KIC has misstated the contents of a document it attached to its brief, conveniently after the close of evidence and after the document would be scrutinized by the other parties in this docket. Again, KIC's arguments and representations about the import of these out-of-record citations are unavailing, and the Commission should accordingly reject KIC's positions related to this material. In addition, KIC apparently takes issue with the fact that cost figures have been treated as confidential in this docket. As the record reflects, at no point did KIC attempt to raise this as an issue with the Commission, or attempt to have the cost estimates treated as public information in this docket. KIC attempts to evade this fact, incorrectly suggesting that only Staff can challenge a confidential designation in this docket. That is obviously not the case.<sup>92</sup> If KIC were truly concerned about the confidentiality of this information, it was obligated to raise that issue to the Commission. Its failure to do so undermines the validity of KIC's arguments in this respect at this point.

On the whole, although a number of intervenors criticize EKC's preferred plan, their criticisms and their alternative proposed plans fall short of the mark. None are based on fully integrated and robust analyses like EKC's IRP process. Rather, they are too narrowly focused, and as a result fail to account for important factors that must be considered at this crucial time. As a result, these alternative proposals must be rejected.

#### **4. EKC will be Able to Obtain Sufficient and Affordable Gas Supply.**

EKC also demonstrated in its Initial Post-Hearing Brief that it will be able to procure sufficient and affordable gas supply to operate the CCGTs. EKC witness Mr. Olson discussed the

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<sup>92</sup> Contrary to KIC's argument, the Discovery Order provides that "If a party disagrees with a claim that information is confidential or should not be disclosed, the parties shall first attempt to resolve the dispute on an informal basis" and that "the party contesting the confidential treatment may file a motion with the Commission." Discovery Order, ¶ 26.

fact that EKC was in the process of developing longer-term strategy for natural gas procurement that would be similar to the strategy the company uses to purchase coal in some ways and would allow for longer-term procurement strategies to avoid impacts from substantial price spikes.<sup>93</sup> Mr. Olson indicated that additional work and negotiations need to be performed but that they would take place upon authorization of the CCGT projects.<sup>94</sup>

Staff witness Grady discussed the fuel purchasing plan in his direct testimony as well, noting that Mr. Olson's testimony and the stated need to further develop its fuel gas procurement plan. Mr. Grady also noted that EKC's explanation provided in response to NEE data request No. 3, wherein EKC specifically discussed its intention to establish a ladder procurement approach, procuring gas at multiple intervals from multiple counterparties prior to spot purchases, and discussing specific modeling programs EKC planned to employ.<sup>95</sup> Mr. Grady ultimately recommended that EKC be required to collaborate with Staff and CURB during development of the plan and file the results of the plan in a compliance filing with the Commission.<sup>96</sup>

Noting criticisms raised by NEE regarding EKC's gas purchasing plan, EKC witnesses VandeVelde and Olson responded to provide additional information regarding EKC's strategy. Mr. VandeVelde specifically disputed NEE's assertion that the 2024 IRP had underestimated actual fuel costs, highlighting EKC's pricing analysis and data utilized therein, and correcting flawed assumptions made by NEE witness Jones.<sup>97</sup> In addition, Mr. Olson testified in rebuttal that EKC had engaged with various suppliers and had detailed discussions about natural gas supplies, and that EKC remained confident it would be able to access a cost-effective supply for the CCGTs. Mr.

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<sup>93</sup> Olson Direct, pp. 31-32.

<sup>94</sup> *Id.*

<sup>95</sup> Grady Direct, p. 65.

<sup>96</sup> *Id.* at p. 66.

<sup>97</sup> VandeVelde Rebuttal, pp. 11-12.

Olson explained the specific analyses that were being undertaken and discussed with various fuel gas suppliers, which are ongoing.<sup>98</sup> Mr. Grady further noted NEE's criticisms of EKC's pricing forecasts for natural gas in the 2024 IRP but rejected those criticisms both in direct and cross-answering testimony.<sup>99</sup>

In addition, at the evidentiary hearing, Mr. Ives testified regarding EKC's plan to acquire natural gas supply, the continued development of that plan, and the confidence EKC had that it would be able to procure gas to supply the CCGTs.<sup>100</sup> Mr. Humphrey also addressed EKC's development of a strategy to obtain fuel gas for the plants in general,<sup>101</sup> and described the fact that gas cost was analyzed as a critical uncertain factor and modeled in the IRP under various scenarios of medium and high gas costs in order to evaluate the risks posed by the commodity cost.<sup>102</sup> Regarding the purchasing strategy, Mr. Humphrey acknowledged that it would likely have to change from the current strategies and approaches EKC has utilized, but that EKC has sophisticated and capable personnel to formulate and implement the new strategy going forward.<sup>103</sup> Directly addressing a question from the Commissioners, Mr. Humphrey testified that EKC takes the issue very seriously, and that despite any suggestion to the contrary, EKC is addressing the issue reasonably and prudently under the circumstances.

Importantly, Mr. VandeVelde also echoed Mr. Humphrey's testimony that gas procurement strategies would continue to form and materialize as the CCGTs are authorized and as development of the plants continues. As Mr. VandeVelde testified, he would not expect long-term contracts to

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<sup>98</sup> Olson Rebuttal, pp. 4-6.

<sup>99</sup> *Id.*; Cross Answering Testimony of Justin T. Grady, pp. 3-14 (March 21, 2025).

<sup>100</sup> Ives Hearing Testimony, Tr. at pp. 228-29, 250-52,

<sup>101</sup> Humphrey Hearing Testimony, Tr. at p. 279,

<sup>102</sup> *Id.* at pp. 320-21.

<sup>103</sup> *Id.* at pp. 323-24.

be in place for facilities that are not built, let alone authorized by the Commission through the predetermination process. Mr. VandeVelde maintained, as did other witnesses, that EKC was in the process of doing everything it can reasonably do to understand the market and prepare to contract for fuel gas supply in time for the CCGTs to be in service.<sup>104</sup>

Staff witnesses Owings and Grady both testified regarding the approaches EKC had employed to procure fuel gas supply and the reasonableness of those approaches. Mr. Owings specifically testified that EKC continues to do a reasonable job in managing the risk of natural gas supply and pricing.<sup>105</sup> Similarly, Mr. Grady testified that he had discussed the various approaches and strategies that could be utilized by EKC to procure fuel gas supply, and EKC's approach to analyzing prices and forecasts for fuel supply gas. Mr. Grady testified:

“[T]he modeling that was done to evaluate the economics of these plants, including the capacity expansion modeling and otherwise, was done inclusive of firm natural gas transportation for the life of the facilities. Or actually you know through the planning horizon. So there's probably a lot of ways that you can accomplish, you now, what the contractual arrangements look like ... But everything that I've seen so far in this docket, including some stuff that's more highly confidential that I've discussed so far, gives me quite a high degree of confidence that they're going to be able to achieve and will have in place a contract for firm natural gas transportation before these units go into service.<sup>106</sup>

On the whole, as confirmed by the above evidence, EKC has taken reasonable and prudent steps to discuss and identify available gas supply at this stage. Given the fact that it has not received regulatory approval to move forward with the CCGTs as of yet, it has nevertheless formulated an approach that is reasonable and will enable it to obtain gas supply as it is enacted during the construction of the CCGTs.

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<sup>104</sup> VandeVelde Hearing Testimony, Tr. at pp. 141-43,

<sup>105</sup> Owings Hearing Testimony, Tr. p. 449-50.

<sup>106</sup> Grady Hearing Testimony, Tr. at p. 479.

NEE has been critical of EKC's plan, particularly with respect to EKC's use of the mid-case gas forecast to inform the IRP model and the Capacity Expansion Model. Contrary to NEE's arguments, however, EKC's mid-case forecast is consistent with reliable industry forecasts for natural gas moving forward. This consistency is confirmed in comparing EKC's mid-case with forecasts in the joint exhibit submitted by Staff, EKC and NEE following the evidentiary hearing, (the United States Energy Information Administration's (EIA's) Annual Energy Outlook for 2025 (AEO)).

As demonstrated in EKC's Initial Post-Hearing Brief, although it is not a pure apples-to-apples comparison, when comparing the 2024 IRP gas prices, incorporating the basis differential adjustment, EKC's adjusted 2024 IRP base/mid average gas price projection over the 20-year planning horizon is actually \$0.34/MMbtu higher than EIA's 2025 AEO, which includes recent assumptions and fundamental supply and demand considerations reflected in current market conditions, including increased demand for CCGT construction.<sup>107</sup> Overall, there are 13 years where the adjusted 2024 IRP mid-price curve is higher than the 2025 EIA AOE base case, and 7 years in which the EIA price is the higher of the two. On average over the 20-year horizon, the adjusted 2024 IRP low price curve is \$0.73/MMbtu higher than the 2025 EIA high supply gas curve.<sup>108</sup> And although the 2024 IRP high price curve is approximately \$0.47/MMbtu lower than the 2025 EIA low supply gas curve,<sup>109</sup> EKC's high price forecast is much higher than any gas prices forecasted by Southern Star or Panhandle Eastern.<sup>110</sup>

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<sup>107</sup> Stipulated Post Hearing Exhibit, Filed May 5, 2025.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> Grady Cross-Answering Testimony at p. 8–9.

Overall, this additional evidence further supports the reasonableness of EKC's approach, and its natural gas forecasting included in the 2024 IRP.<sup>111</sup> Although some forecasts predict a high gas case that is slightly higher than EKC's forecast, that is not the case with the vast majority of the forecasts in the industry. In addition, because the most recent EIA forecast includes assumptions about additional natural gas demand and CCGT builds, it is reasonable to compare EKC's mid-case with EIA's mid-case. Under this comparison, EKC's forecast compares favorably and demonstrates that EKC's forecasts are reasonable and reliable.

NEE further criticizes EKC, arguing that EKC does not have a fully-developed plan that would enable the Commission to ensure that customers would be protected from substantial price increases. NEE has identified historical gas purchasing by Evergy, including at its Hawthorn Station, arguing it creates doubts as to EKC's ability to execute a favorable gas procurement plan. Although EKC's Gas Purchasing Plan is still developing—as would be expected given the timeline of the CCGTs—EKC has taken a reasonable approach to formulation of gas purchasing strategies, it has been reasonable and prudent in its discussions and negotiations with natural gas providers.

As described in this docket, EKC has stated that it intends to employ a strategy similar to its strategy for purchasing coal, but which will differ in certain respects. Specifically, EKC plans to develop a long-term supply plan, which has the benefit of both minimizing exposure to spot pricing, and removing administrative cost and burden of daily gas purchases.<sup>112</sup> EKC intends to procure firm transport for its natural gas needs, and has engaged in discussions and negotiations

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<sup>111</sup> NEE's reliance on the Federal Reserve Bank of Kansas City survey as a reliable forecast is misplaced. That document reported results of a survey regarding necessary pricing levels to stimulate additional drilling and exploration, and was not a true pricing forecast. At best, it represents a cherry-picked but unreliable piece of information that is intended to skew the analysis of EKC's natural gas forecasts. EKC agrees with staff that the Commission should not give any weight or reliance to this document filed at NEE-03 (*see* Staff Post-Hearing Brief at pp. 26–27).

<sup>112</sup> Hearing Transcript, at 284, 290–91.

with multiple suppliers to provide such services.<sup>113</sup> Contrary to NEE's unfounded skepticism, Staff has repeatedly indicated that it is highly confident that EKC will be able to execute contracts to carry out these intentions.<sup>114</sup>

It is important to note too that the Natural Gas Settlement incorporates provisions that require EKC to collaborate with stakeholders in further developing its fuel gas procurements strategy and approach.<sup>115</sup> These provisions assure that the Gas Purchasing Plan, and the process of developing and implementing that plan, will involve input and insight from relevant stakeholders to address stated concerns. As discussed in this docket, EKC acknowledges there is still additional work to do in negotiation and contracting for the Gas Purchasing Plan, which is largely due to the fact that the CCGTs are still in the early stages of Commission approval and development. However, EKC has demonstrated a reasonable approach to procuring its gas supply, and the criticisms asserted by NEE should be rejected. As a result, EKC's plan for gas procurement further demonstrates that the CCGTs are reasonable, reliable and efficient, and EKC is proceeding in a prudent manner with respect to the addition of those facilities.

### **5. The Natural Gas Settlement Results in Just and Reasonable Rates.**

The term "just and reasonable rates" has been interpreted by the Kansas Supreme Court as a rate fixed within the "zone of reasonableness" after the application of a balancing test in which the interests of all concerned parties are considered. In rate-making cases, the parties whose interests must be considered and balanced are these: (1) the utility's investors vs. the ratepayers; (2) the present ratepayers vs. the future ratepayers; and (3) the public interest. *Kan. Gas and Electric Co. v. State Corp Comm'n*, 239 Kan. 483, 488 (1986). The KCC is required to balance

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<sup>113</sup> Olson Direct at 30–31, EKC Highly Confidential Response to Staff Data Request No. 18

<sup>114</sup> Hearing Transcript, p. 479–80, Staff Post-Hearing Brief, p 30.

<sup>115</sup> Natural Gas Settlement, ¶¶ 5.f., g., h.

the public need for adequate, efficient, and reasonable service with the public utility's need for sufficient revenue to meet the cost of furnishing service and to earn a reasonable profit. *Danisco Ingredients USA, Inc. v. Kansas City Power & Light Co.*, 267 Kan. 760, 773 (1999). “[C]ases in this area clearly indicate that the goal should be a rate fixed within the zone of reasonableness after the application of a balancing test in which the interests of all concerned parties are considered.” Order Approving Stipulation and Agreement, Docket No. 15-WSEE-115-RTS (September 24, 2015) at ¶ 71 (citing *Kansas Gas and Elec. Co. v. State Corp. Com 'n*, 239 Kan. 488 (1986)).

EKC identified the anticipated rate impacts in its Initial Post-Hearing Brief. Per the testimony provided by EKC witness Ronald Klote,

(1) the estimated all-in impacts on customer bills from use of the CWIP rider will vary over the coming years as the CWIP rider is updated to include additional investments, however, the range of overall bill impacts related to the CWIP rider will range from approximately 0.58% when the CWIP rider is first put into use no sooner than 365 days after commencement of construction to approximately 3.82% from rates currently in effect at the end of the term of the CWIP rider;<sup>116</sup> and

(2) based on current estimates from rates currently in effect, each plant is anticipated to cause an approximate all-in bill impact of 4.3% for EKC customers overall, which will occur in the next general rate case after the CCGTs are placed in service (2029 for the Viola plant and in 2030 for the McNew plant).<sup>117</sup>

EKC has demonstrated that these rate impacts are just and reasonable under the circumstances. First, as attested by a number of witnesses in this docket, it is not appropriate attempt to add or stack

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<sup>116</sup> Direct Testimony of Ronald A. Klote (“Klote Direct”), p. 6 (November 6, 2024).

<sup>117</sup> *Id.* at pp. 7-8.

purported or expected rate impacts in other current and future documents in the course of evaluating the reasonableness of the rate impacts at issue in this docket. Indeed, this inquiry should focus on the estimated rate impacts of *this* case, specifically the magnitude of the impacts themselves, but importantly also considering the timing of those impacts, and other issues that may ameliorate the extent of those rate impacts moving forward.<sup>118</sup>

As discussed above, the in-service date for the first of the CCGT projects, the Viola plant, is not scheduled to occur until January 1, 2029—almost four years from now. An associated rate case will follow, wherein the rate impacts for inclusion of the Viola plant into base rates will be established. With the exception of the impacts of CWIP rider that itself will not begin until one year after construction of the CCGT projects commences, base rate impacts attributable to the CCGT projects will not occur at the earliest until sometime late in 2029 for Viola, and later for the McNew facility.<sup>119</sup>

Opponents of the Natural Gas Settlement have at times discussed rate impacts and competitive rates by adding together estimated rate impacts from the Natural Gas Settlement with other proposed rate impacts from other dockets, without any meaningful context. KIC and WRCC, for instance, continue to conflate estimated impacts in *this* case with requests in *other* pending and future dockets, in an attempt to create an outsized impression as to the rate impacts at issue in *this* docket.<sup>120</sup> KIC and WRCC in particular attempt to throw numerous unrelated proceedings into the pot along with a description of EKC’s capital expenditures, and attempt to suggest—without meaningful support—that this is an unprecedented time for rate increases and capital expenditures.

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<sup>118</sup> Grady Hearing Testimony, Tr. at p. 469 (“to compare the results of the pending rate case and the transmission delivery charge case . . . I would advise against the Commission using those—referring to those rate cases in any sort of a meaningful fashion when it makes its decision in this case”).

<sup>119</sup> Ives Settlement Testimony, p. 23.

<sup>120</sup> WRCC Response Brief at p. 9–12, KIC Response Brief at p. 22–25.

These analyses of purported rate impacts are oversimplifications—they do not focus on the rate impacts at issue in this docket and are misleading.<sup>121</sup>

Importantly, any rate changes requested by EKC are subject to thorough review by the Commission to ensure the costs are prudently incurred and that they are necessary to ensure adequate and reliable service.<sup>122</sup> Therefore, assertions that the Commission should consider purported rate impacts from pending dockets such as Evergy’s pending rate case<sup>123</sup> the 25-294 Docket, which will not be resolved until after the final order in this docket, are misleading and incorrect.<sup>124</sup>

The same is true with respect to KIC’s arguments regarding increased capital spending by EKC. KIC takes the opportunity to discuss EKC’s capital spending plan in an attempt to inject larger dollar figures into this proceeding without any meaningful context, while at the same time acknowledging that Evergy’s capital spending plan “is not the direct subject matter of this Docket . . . .”<sup>125</sup> In reality, KIC’s attempt to bootstrap Evergy’s capital plan is another red-herring, intended to create shock value, without meaningful substantive context in *this* docket. As is true with respect to other rate requests outside this docket, EKC’s capital spending is meaningfully regulated by the KCC, and decisions regarding capital expenditures, like those regarding other rate adjustments, are properly addressed, not out of context in this docket, but in the proper relevant proceeding in which they will be fully scrutinized by the Commission.

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<sup>121</sup> Rebuttal Testimony of Ronald A. Klote, pp. 2-4 (April 4, 2025).

<sup>122</sup> Ives Settlement Testimony, pp. 23-25.

<sup>123</sup> In the Matter of the Application of Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. for Approval to Make Certain Changes in their Charges for Electric Service, Docket No. 25-EKCE-294-RTS (filed January 31, 2025).

<sup>124</sup> Rebuttal Testimony of Ronald A. Klote, 2-4 (April 4, 2025). Mr. Klote also specifically addresses the fallacy in the testimony position of USD 259, in which it asserted that the rate increase in the 25-294 Docket would be 14.96%. As Mr. Klote states, that figure is not accurate because it represents the total system-wide increase to base rates and does not represent an all-in bill impact forecast for the school district, which would be noticeably lower. *Id.* at pp. 2-3.

<sup>125</sup> KIC Response Brief at p. 20.

Contrary to KIC's contentions, the relevant analysis in this proceeding should focus on the estimated rate impacts related to *this* docket and the Natural Gas Settlement itself, and it is not appropriate to presume additional future rate impacts, or to assume a specific result in pending or future Commission rate proceedings the way KIC and WRCC have done. EKC is confident that the Commission will appropriately review any requests and will reach an appropriate result as to any future rate impacts or rate increases requested by EKC guided by Kansas law.

In addition, there is evidence regarding additional factors which potentially will ameliorate rate impacts related to the Natural Gas Settlement moving forward. Initially, as has been noted by numerous witnesses, use of the CWIP rider is expected to reduce the overall cost of construction of the assets recovered in rates in a manner that is favorable to EKC customers and their actual bill impacts in the future.<sup>126</sup> Other factors, including increased load and customer base, are also anticipated to reduce these expected rate impacts in practice to the average EKC customer by spreading recovery of these costs over a broader base of customer usage.<sup>127</sup>

Furthermore, when viewed in the context of EKC's relative rate stability over recent years, and EKC's regional rate competitiveness with other peer utilities, both in recent years and as expected in coming years, the rate impacts from the Natural Gas Settlement are reasonable. As discussed the record in this case, from 2017 to 2024, EKC's residential rates rose only 2.2%, which was well below the average increase of peer utilities of approximately 14.7% for that same period, and well below the rate of inflation of 27.1% during that period as well.<sup>128</sup> In addition, because the CCGTs will not go into service and into base rates for several years, and because of substantial

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<sup>126</sup> *Id.* at p. 3; Ives Settlement Testimony, p. 24; Direct Testimony of John M. Grace, pp. 8-9 (November 6, 2024).

<sup>127</sup> Rebuttal Testimony of Ronald A. Klote, p. 3; Ives Settlement Testimony, p. 24.

<sup>128</sup> Ives Rebuttal, p. 13.

projected load growth, not only in EKC territory but throughout the regional system as a whole during this time period, it is reasonable to expect that many of EKC's peer utilities in the region are or will soon also be planning generation additions that would produce similar rate impacts at or around the time of the estimated rate impacts related to the Natural Gas Settlement.<sup>129</sup>

Moreover, EKC's costs related to the CCGTs are reasonable, reflect competitive prices, and are likely commensurate with what other peer utilities would have to invest for similar generation assets at this time.<sup>130</sup> In addition, the cumulative rate impacts from the two CCGTs, if assumed to occur over a five-year period through 2030, would equate to an annual compound annual growth rate ("CAGR") percent increase of 1.8%, which is below the expected federal reserve targeted annual inflation percentage of 2%.<sup>131</sup> Overall, when viewed in proper perspective and in the appropriate context, these rate impacts related to the Natural Gas Settlement are fair and reasonable.

Furthermore, the context of the balancing test prescribed by Kansas law, and particularly in view of the substantial reliability enhancements provided by the CCGTs, these impacts are well within the "zone of reasonableness" for just and reasonable rates.<sup>132</sup> There has been substantial discussion of the voluminous evidence supporting the efficiency of the CCGTs, the benefits they will afford to the reliability of EKC's system and the adequacy of its service to its customers.<sup>133</sup> Specifically, the record demonstrates that EKC and its predecessors have not built base load power generation in Kansas in over 40 years, and the system is therefore in need of substantial upgrades

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<sup>129</sup> *Id.* at pp. 13-14.

<sup>130</sup> Ives Rebuttal, p. 14.

<sup>131</sup> Rebuttal Testimony of Ronald A. Klote, pp. 3-4.

<sup>132</sup> See *Danisco Ingredients*, 267 Kan. at 773 (1999) (requiring the Commission to balance public need for adequate, efficient, and reasonable service with the public utility's need for sufficient revenue to meet the cost of furnishing service and to earn a reasonable profit).

<sup>133</sup> See Initial Post-Hearing Brief at pp. 23-28.

and reliability enhancements like those offered by the CCGTs.<sup>134</sup> Analyzing the rate impacts under the balancing test, Staff witness Mr. Grady discussed the importance of these assets to EKC's IRP, the performance of the preferred plan tested against numerous scenarios and futures, and the substantial efficiency of the CCGTs and the decision to add the CCGTs. Mr. Grady concluded that

[w]hen considering the impact that these rate increases will have on customers, it is important to consider the fact that Evergy's resource plan will enhance the reliability of electric service for its customers . . . This will better enable Evergy to provide efficient and sufficient service to current customers, as well as to support the State's economic development efforts to serve new customers. While this resource plan will undoubtedly produce rate increases in that will be unwelcome by many customers, my hope is that customers will realize and understand that these rate increases are not without benefits to them, to our State and to the reliability of their electric service. During times when electricity is needed the most in Kansas, like during times of prolonged extreme heat or cold as experienced several times in just the past five years, the generating resources presented here will help Evergy provide electric service that is absolutely essential to air condition or heating in order to keep customers comfortable and safe in their homes.<sup>135</sup>

Mr. Grady testified that the rate impacts fall within the "zone of reasonableness" established by Kansas law.<sup>136</sup> Mr. Grady further supported this conclusion during his testimony at the evidentiary hearing, stating that increases in retail rates are "an important issue that needs to be balanced against . . . a host of other issues, but primarily reliability of the system."<sup>137</sup> He further testified that in light of the clear need for reliability enhancements, the need to focus on reliability, and the recent history of focus on affordability and lack of investment in reliability, he concluded that the rate impacts from the Natural Gas Settlement are reasonable and will result in just and reasonable rates.<sup>138</sup>

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<sup>134</sup> Humphrey Hearing Testimony, Tr. at pp. 313-14.

<sup>135</sup> Grady Settlement Testimony, pp. 20-21.

<sup>136</sup> *Id.* at p. 21.

<sup>137</sup> Grady Hearing Testimony, Tr. at pp. 465-66.

<sup>138</sup> *Id.* at pp. 470-472.

Finally, certain parties, including USD 259, have suggested that if the Commission approves EKC's Petition for predetermination, the Commission should nevertheless not allow EKC to utilize the CWIP rider to recover construction work in progress.<sup>139</sup> This argument not only asks the Commission to disregard express statutory language from the Predetermination Statute, it invites the Commission to disregard recent and near-unanimously added provisions of the Predetermination Statute wherein the legislature clearly expressed its public policy determination that the CWIP rider be utilized with respect to new gas fired generation assets. It is clear that the legislature expressed the resounding public policy determination that the Commission should authorize use of the CWIP rider in these circumstances, and it defies logic to suggest the Commission ignore that clear legislative language in this docket. As such, USD 259's argument should be rejected.

The rate impacts related to the Natural Gas Settlement, therefore, are just and reasonable and fall within the "zone of reasonableness" when viewed under the appropriate balancing test prescribed by Kansas law. Arguments regarding speculated rate impacts in other dockets and alleged unprecedented capital expenditures attempt to invoke irrelevant issues, lack sufficient context, and ignore important timing of future rate impacts related to this docket, and thus should be rejected. The CCGTs will enhance EKC's ability to provide sufficient and efficient service to its customers, and as such the Natural Gas Settlement will result in just and reasonable rates.

## **6. The Natural Gas Settlement is in the Public Interest**

As demonstrated at length in this docket, the natural gas settlement is in the public interest. There has been substantial discussion of the reliability and efficiency needs that will be met by the CCGT additions, as identified by numerous witnesses, including EKC witnesses Ives, Humphrey,

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<sup>139</sup> USD 259 Post-Hearing Brief, at p. 6.

Olson and VandeVelde, as well as Staff witnesses Grady and Owings.<sup>140</sup> This extensive evidence demonstrates that the combination of changes to SPP resource adequacy requirements, likely near-term load growth throughout the system, and the relative age of existing base load generation assets call for the need to add the CCGTs to enhance reliability and provide efficient and sufficient service. The added reliability, efficiency and sufficiency of service is unquestionably in the public interest.

EKC witnesses Ives and Humphrey, as well as Staff witness Grady, discussed at length the public interests served by the Natural Gas Settlement, and the CCGT additions, including the enhancement of reliability and efficiency in the system, the execution of pronounced public policy set forth in HB 2527, the use of helpful rate-recovery mechanisms like the CWIP rider, as well as various aspects of the Natural Gas Settlement incorporating collaboration, transparency, and incorporating safeguards in the case of increased costs of the CCGT projects.<sup>141</sup> These factors, combined with the broad and diverse set of stakeholders supporting the Natural Gas Settlement, demonstrate that it is very much in the public interest, and will promote important public goods enhanced by more reliable and efficient service based on fair and reasonable rates. As EKC has noted, the Natural Gas Settlement was supported or at least was not opposed by intervenors representing a wide variety of interests. In fact, contrary to KIC's arguments, it is supported/not opposed by sizable rate-payers, including commercial and industrial customers (Walmart and CCPS),<sup>142</sup> two Kansas cities and a populous county in EKC territory, and is supported by environmental groups, a number of gas utilities, Commission Staff, and importantly every load

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<sup>140</sup> See Initial Post-Hearing Brief at pp. 23–28.

<sup>141</sup> Ives Settlement Testimony, pp. 25-27; Humphrey Settlement Testimony, pp. 8-9; Grady Settlement Testimony, pp. 24-30.

<sup>142</sup> Walmart and CCPS were not signatories on the Natural Gas Settlement, but they did not oppose the Natural Gas Settlement.

responsible entity involved in this docket as well.<sup>143</sup> This broad-based support speaks volumes for how important the CCGTs and the Natural Gas Settlement are to a broad array of interests comprising the public interest as a whole.

For these reasons, and the reasons discussed above, the Natural Gas Settlement satisfies the five-factor test and should be approved by the Commission.

### **III. APPROVAL OF THE UNANIMOUS SOLAR SETTLEMENT**

As stated in EKC's Initial Post-Hearing Brief, all parties to the docket are signatories to the settlement except the City of Overland Park, who stated it does not oppose the agreement, and Lawrence Paper Company (a member of KIC) who did not file any testimony in opposition to the agreement. Consequently, pursuant to K.A.R. 82-1-230a, the Solar Settlement Agreement is a "unanimous settlement agreement," and, the Commission should consider the unopposed Solar Settlement Agreement under the 3-factor test for unanimous settlements.

EKC has demonstrated that the Solar Settlement meets all factors identified in the 3-factor test, specifically that it (1) is supported by substantial competent evidence in the record as a whole, (2) will establish just and reasonable rates, and (3) is in the public interest. No party to this proceeding has raised any issue or concern with respect to the Solar Settlement in the course of the responsive briefing following the evidentiary hearing in this docket.

Based on EKC's showing that the Solar Settlement meets the 3-factor test, similar showings by other parties in this docket, and the unanimous approval of the Solar Settlement by the parties in this docket, EKC respectfully requests that the Solar Settlement be approved.

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<sup>143</sup> Ives Settlement Testimony, p. 27.

#### IV. CONCLUSION

EKC requests that the Commission enter an order approving the Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities” and the Unanimous Partial Settlement Agreement Regarding Solar Facility for the reasons discussed above. The Petition of EKC, and the settlement agreements reached in compromise on that Petition, are fair, just and reasonable and are in the best interests of Kansas and EKC’s customers.

Respectfully submitted,

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**ATTORNEYS FOR EVERGY**

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was electronically filed with the Kansas Corporation Commission on June 6, 2025, and that one copy was delivered electronically to all parties on the service list as follows:

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