

**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  
App to the Recovery of Rates of the Cost to )  
Be Incurred for Certain Electric Generation )  
Facilities under K.S.A. 66-1239. )

**POST HEARING BRIEF OF WICHITA REGIONAL CHAMBER IN OPPOSITION TO  
THE NON-UNANIMOUS PARTIAL SETTLEMENT AGREEMENT REGARDING THE  
CONSTRUCTION OF NATURAL GAS GENERATION FACILITIES**

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COMES NOW the Wichita Regional Chamber of Commerce, Inc. (“Wichita Regional Chamber”) for its Post Hearing Brief In Opposition To The Non-Unanimous Partial Settlement Agreement<sup>1</sup> Regarding The Construction of Natural Gas Generation Facilities and states to the State Corporation Commission of the State of Kansas (“Commission”) as follows:

## **I. Introduction**

The Wichita Regional Chamber, which represents more than 1,200 businesses<sup>2</sup> in the Evergy Kansas Central, Inc.<sup>3</sup> service area, and in particular the Wichita Metropolitan Statistical Area, along with many other retail rate payers<sup>4</sup>, opposes Evergy’s request for the approval of ratemaking principles for two new natural gas-powered electric generation facilities. The cost of constructing these facilities to retail ratepayers would place the businesses in this region at a competitive disadvantage vis a vis businesses both in other Evergy service areas in Kansas and other communities and regions outside of Kansas, e.g., Arkansas, Nebraska, or Oklahoma.

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<sup>1</sup> See Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, KCC Docket No. 25-EKCE-207-PRE (Apr. 16, 2025).

<sup>2</sup> Direct Testimony of John Rolfe, p. 4, KCC. Docket No. 25-EKCE-207-PRE (Mar. 14, 2025).

<sup>3</sup> Evergy Kansas Central, Inc. (“Evergy Central”), Evergy Kansas South, Inc. (“Evergy South”), and Evergy Metro, Inc. together constitute “Evergy”. Evergy Central and Evergy South, unless specifically delineated, are collectively referred to throughout this brief as “Evergy Central”. Evergy Central primarily serves customers in the service area where the Wichita Regional Chamber’s members are domiciled and do business. In certain places, the Wichita Regional Chamber will separately reference Evergy Metro, Inc., (“Evergy Metro”) which provides service to customers primarily in northeast Kansas.

<sup>4</sup> The parties representing retail ratepayers, and which oppose the partial settlement and Evergy’s request for approval of ratemaking principles include: Wichita Regional Chamber, Associated Purchasing Services, Goodyear Tire & Rubber Company, Lawrence Paper Company, Occidental Chemical, Spirit AeroSystems, Kansas Industrial Consumers Group, Inc. (“KIC”), Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Renew Kansas Biofuels, Cargill, USD 259/Wichita Schools, United States Department of Defense, Citizens’ Utility Ratepayer Board (“CURB”), Kansas Chamber of Commerce, Renew Missouri, Climate + Energy Project, Olathe Schools, De Soto Schools, and New Energy Economics (“NEE”). Two other parties, Walmart and CCPS, while not opposing, did not support the settlement agreement.

Evergy is one company, with one management group, one group of employees and in many areas -- common costs. The assignment of billions of additional costs to the Evergy Central system, which already has the highest retail rates among the Evergy divisions, makes a bad situation even worse.

Evergy Central, the Kansas Corporation Commission Staff ("Commission Staff"), and the other parties supporting the non-unanimous partial settlement made it abundantly clear, as part of their pre-filed testimony and during the evidentiary hearing, that their sole and primary justification for the rush to expand Evergy's generation capacity was to ensure the reliability of the electric grid. They gave little attention and, actually, encouraged the Commission to ignore the fact that including 50 percent of the construction cost in Evergy Central's rate base would result in an almost immediate increase of retail electric service rates for Evergy Central's customers -- including the businesses who are Wichita Regional Chamber's members located in Evergy Central's service area. This is inappropriate because the increased demand to be accommodated is driven by anticipated new large loads that are predominantly located away from Wichita. Thus, since the members of Wichita Regional Chamber are not the cost causers, they should not be asked to shoulder the significant cost recovery burden.

The Wichita Regional Chamber certainly acknowledges the importance of reliable electric service, as reliable electric service is necessary for sustainable business growth. However, reliability cannot be the only lens through which the Commission evaluates the reasonableness of Evergy's request to retire reliable and functioning coal plants and replace them with natural gas plants that are both incredibly expensive and can only be relied upon when there is available and affordable natural gas to power these generation facilities -- which is not guaranteed.

The signers to the non-unanimous partial settlement agreement concede that retail electric rates will increase. Thus, under Kansas law, the Commission must evaluate and assess the impact of the increased retail electric rates on Evergy's customers. The Commission has a statutory obligation to consider how and to what extent the increased retail electric rates will impact customers in Evergy Central's service areas as compared to Evergy's customers in other Evergy service areas not subject to these retail electric rate increases, e.g., Evergy Metro. Finally, the Commission must examine and determine that the increase in retail electric rates will not subject Evergy Central's customers to an adverse economic impact.

In short, the Wichita Regional Chamber contends that the Commission should not approve the non-unanimous partial settlement or otherwise approve the request for predetermination focusing solely on grid-reliability without fulsome consideration of the cost of such construction, the timing thereof, and the adverse impact on Evergy Central's retail customers – particularly when other alternatives are available.

At the very least, the Commission should do the following:

- Create a baseline that acknowledges that Evergy Central retail electric rates exceed those of Evergy Kansas Metro (by 9.9%).
- Acknowledge this Predetermination Docket will increase the Evergy Central rates by an additional 9.3% - with no corresponding Evergy Metro rates.
- Acknowledge that the Evergy Central general rate case will increase rates by an additional almost 9% with no corresponding increase in Evergy Metro rates.<sup>5</sup>

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<sup>5</sup> This listed 27.3% increase in Evergy Central rates above Evergy Metro rates does not include the almost certain annual increase in the Transmission Delivery Charges ("TDC") for Evergy Central ratepayers that far exceed the TDC for Evergy Metro ratepayers.

It is not in the public interest for the Commission to regulate retail electric rates in Kansas in a manner that authorizes 30% plus higher retail electric rates in the Wichita Metropolitan Region than in the Kansas City Metropolitan Region for the same public utility company.

## II. Procedural History

1. On November 6, 2024, Evergy filed its Petition for the Determination of Ratemaking Principles and Treatment pursuant to K.S.A. 66-1239.<sup>6</sup> In its Petition, Evergy requested predetermination for projects it has denominated as: (a) the “Viola Plant” – a 71- MW natural gas generation facility; (b) the “McNew Plant” – a 71- MW natural gas generation plant (often jointly referred to in this document as the “natural gas projects”); and (c) the “Kansas Sky” – a 200 MW<sub>DC</sub> 159 MW<sub>AC</sub> solar generation facility.<sup>7</sup>

2. Evergy stated in its Petition and later in Supplemental Testimony proffered by Darrin R. Ives, that Evergy Central will acquire a 50 percent stake in the McNew Plant, as well as a 50 percent stake in the Viola Plant, with the remaining 50 percent interest in each plant to be acquired or allocated to Evergy Missouri West, Inc.<sup>8</sup> Evergy Metro will not have any interest in the natural gas projects, nor will it or its customers bear any of the cost.<sup>9</sup>

3. Throughout this docket, the parties served and responded to multiple discovery requests. Many intervenors filed written direct, rebuttal, and cross-answering testimony, including

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<sup>6</sup> See Petition of Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. for Determination of Ratemaking Principles and Treatment, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024) (hereinafter “Petition”).

<sup>7</sup> *Id.* at ¶6.

<sup>8</sup> See *id.*; see also Supplemental Direct Testimony of Darrin R. Ives, KCC Docket NO. 25-EKCE-207-PRE, pp. 2-3 (February 14, 2025).

<sup>9</sup> See Petition, ¶ 6, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024). See also Supplemental Direct Testimony of Darrin R. Ives, KCC Docket No. 25-EKCE-207-PRE, p. 2-3 (Feb. 14, 2025) (announcing the updated ownership interests of the Viola and McNew projects).

the direct testimony filed by John Rolfe, President and Chief Executive Officer of the Wichita Regional Chamber.<sup>10</sup>

4. On April 9 through April 11, 2025, the parties met for a Settlement Conference. Ultimately, the parties unanimously settled their issues with respect to the construction and predetermination of the Kansas Sky solar generation facility.<sup>11</sup> However, the parties did not reach unanimous agreement with respect to the construction of the Viola and McNew gas plants. As a result, some of the parties entered into a non-unanimous partial settlement of the request for predetermination related to the Viola and McNew plants.

5. The only parties that joined the non-unanimous partial settlement for the construction of the Viola and McNew plants were: Evergy; the Commission Staff; KPP Energy; Natural Resources Defense; Midwest Energy, Inc.; the Board of County Commissioners of Johnson County, Kansas; City of Lawrence, Kansas; Atmos Energy Corporation; HF Sinclair El Dorado Refining LLC; Kansas Municipal Energy Agency; and Kansas Gas Service, a division of ONE Gas, Inc. The remaining parties identified in footnote No. 4 *supra*, over 20 intervenors mostly representing the residential customers and other retail entities in the Evergy Central service area that will ultimately bear the economic burden of paying for these extraordinarily expensive natural gas facilities, either opposed or opted out of the non-unanimous partial settlement.

6. Because the parties could not reach a unanimous settlement on the question of whether and when the natural gas facilities should be built, the Commission held an evidentiary hearing from April 21 through April 23, 2025. Evergy, Commission Staff, KIC, NEE, CURB, and

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<sup>10</sup> See *generally* Direct Testimony of John Rolfe, KCC Docket No. 25-EKCE-207-PRE, (Mar. 14, 2025).

<sup>11</sup> See Joint Motion for Approval of Unanimous Partial Settlement Agreement Regarding Solar Facility, KCC Docket NO 25-EKCE-207-PRE (Apr. 16, 2025). To be clear, the Wichita Regional Chamber joined in that Motion.

Kansas Gas Service presented live witnesses, including Commission Staff and other experts, for cross-examination by the parties.

7. Pursuant to the procedural schedule, Evergy filed its post hearing brief on May 14, 2025. Evergy argued - consistent with the positions it took during the evidentiary hearing – that the retail ratepayers’ concerns regarding the potential for and impact of an extraordinary increase in retail electric rates in the Evergy Central service area were overblown and should be ignored.<sup>12</sup> Evergy’s bases for asserting the retail rate impacts of the cost of the natural gas plants as “just and reasonable” are that: (1) Evergy’s proposed construction work in progress (“CWIP”) rider is designed to save costs; (2) Evergy’s percentage of retail rate increase is lower than peer utilities; and (3) the two new natural gas plants will increase reliability on the Evergy system.<sup>13</sup> Further, Evergy argues that even though the natural gas plants are not the product of the lowest net present value revenue requirement (“NPVRR”) alternative, the higher costs of the chosen Preferred Plan are justified in the name of reliability.<sup>14</sup>

### **III. Analysis**

#### **A. Legal Standards**

The legal and evidentiary standards for evaluating the Petition are set forth in two separate statutes.

##### **1. K.S.A. 66-1239 et. seq.**

The controlling statute is K.S.A. 2023 Supp. 66-1239, as amended by 2024 House Bill 2527 (the “Predetermination Statute”) which provides that a public utility, prior to acquiring a

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<sup>12</sup>See *generally* Evergy Post Hearing Initial Brief, KCC Docket No. 25-EKCE-207-PRE (May 14, 2025).

<sup>13</sup> *Id.* at pp. 46-49.

<sup>14</sup> *Id.* at 50.



stake in a generating facility, may file with the Commission a petition for a determination of ratemaking principles and treatment to be applied to the recovery in rates of the cost to be incurred by the utility in acquiring such stake in the facility during its expected useful life. The Predetermination Statute further provides that if the public utility seeks predetermination, the “public utility’s stake in the generating facility [must be] consistent with the public utility’s most recent preferred plan and resource acquisition strategy submitted to the commission.”<sup>15</sup> Although the Wichita Regional Chamber, does not believe that Evergy’s initial proposal or the non-unanimous partial settlement meets this particular evidentiary requirement, the Wichita Regional Chamber will not focus its Post Hearing brief on this aspect of the Predetermination Statute and will instead adopt the arguments and brief of KIC, and others, in this regard.

The Wichita Chamber is most immediately concerned about the aspect of the Predetermination Statute which provides that a public utility seeking predetermination may implement a CWIP, which is “a new rate adjustment mechanism designed to recover the return on 100 percent of amounts recorded to construction work in progress on the public utility’s books for the public utility’s stake in such a generating facility, which shall not exceed the definitive cost estimate found reasonable by the commission in a proceeding conducted pursuant to this section for the public utility’s acquisition of the public utility’s stake in such generating facility, unless otherwise ordered by the commission in a subsequent proceeding.”<sup>16</sup> As Evergy implements this provision, an almost immediate 2% increase in retail electric rates is virtually certain. Thus, the imposition of a CWIP rider will likely result in immediate economic harm or challenges to the Wichita Regional Chamber’s members.

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<sup>15</sup> K.S.A. 66-1239(c)(1)(A), as amended.

<sup>16</sup> K.S.A. 66-1239(c)(6)(A).

## 2. K.S.A. 66-128 et. seq.

In addition to the requirements under the Predetermination Statute, K.S.A. 66-128 requires the Commission to determine that the reasonable value of the electric generating property is prudent.<sup>17</sup> The definition of prudence that the Commission has previously employed in determining the application of the term in such circumstances is its “common meaning of ‘carefulness, precaution, attentiveness, and good judgment.’”<sup>18</sup> In making the prudence assessment, however, the Commission cannot abandon or ignore the fundamental ratemaking principles that require that electric rates are just and reasonable.<sup>19</sup> In effect, the Commission must determine that the proposed natural gas projects are prudent and that the rates resulting therefrom are just and reasonable.

In order to reach this conclusion, K.S.A. 66-128g(a) sets out twelve nonexclusive factors that the Commission must consider when determining the prudence of the reasonable value of the electric generating property. Of the twelve factors, only factors (1), (2), (5), (9), and (12) are relevant to this proceeding as the remaining factors contemplate previously constructed generation or apply to nuclear facilities.<sup>20</sup> The factors relevant to this docket, as prescribed by K.S.A. 66-128g(a) are the following:

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<sup>17</sup> See generally K.S.A. 66-128g(a).

<sup>18</sup> Order Granting KCP&L Petition for Predetermination, KCC Docket No. 11-KCPE-581-PRE ¶ 65 (Aug. 19, 2011).

<sup>19</sup> See generally K.S.A. 66-128 et. seq.

<sup>20</sup> See K.S.A. 66-128g. See also Order Granting KCP&L Petition for Predetermination, KCC Docket No. 11-KCPE-581-PRE ¶ 63 (Aug. 19, 2011) (discussing the prudence factors and when they are applicable).

*(1) A comparison of the existing rates of the utility with rates that would result if the entire cost of the facility were included in the rate base for that facility;*

*(2) a comparison of the rates of any other utility in the state which has no ownership interest in the facility under consideration with the rates that would result if the entire cost of the facility were included in the rate base; ...*

*(5) the ability of the owners of the facility under consideration to sell on the competitive wholesale or other market electrical power generated by such facility if the rates for such power were determined by inclusion of the entire cost of the facility in the rate base;...*

*(9) whether inclusion of all or any part of the cost of construction of the facility under consideration, and the resulting rates of the utility therefrom, would have an adverse economic impact upon the people of Kansas; ...*

*(12) any other fact, factor, or relationship which may indicate prudence or lack thereof as that term is commonly used.*

More specifically, three of these factors – 1, 2, and 9 – are most applicable to Wichita Regional Chamber’s concerns as set forth in this docket.

**B. The Totality of the Retail Electric Rate Increases Contemplated by the Proposed Non-Unanimous Partial Settlement in this Predetermination Docket and Recent and Pending Dockets Are Neither Prudent Nor Just and Reasonable.**

**1. Retail Ratepayers in the Evergy Central Service Area Have Been Subject to Historic Rate Increases.**

This Petition cannot be viewed in a vacuum. The first fact for the Commission to consider when analyzing this Petition and/or the non-unanimous partial settlement is that Evergy Central customers have faced rate increases over the last few years. For residential customers, Evergy Kansas Central increased retail rates 9.9%, from 13.09 cents per kWh<sup>21</sup> to 14.29 cents per kWh.<sup>22</sup>

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<sup>21</sup> FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2024).

<sup>22</sup> FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2025).

Evergy Kansas South increased retail rates from 13.01 cents per kWh<sup>23</sup> to 14.25 per kWh<sup>24</sup>, an increase of 9.5%.<sup>25</sup> The same can be said of the Wichita Regional Chamber members who purchase electric service from Evergy Central's Small General Service and Medium General Service tariffs. A majority of the Wichita Regional Chamber's members subscribe to these tariffs<sup>26</sup> and have seen an increase in their retail electric rates from 10.29 cents per kWh to 10.87 cents per kWh.<sup>27</sup> As produced in KIC 10-1, Evergy's all in retail rate increased 7.7% for Evergy Kansas Central from 2023 to 2024.<sup>28</sup> These rate increases are not de minimis and are not without consequence.

**2. Separate and Apart from the Retail Rate Increases that will Result from Approval of this Predetermination Request, Evergy is Also Seeking a General Rate Increase.**

Not only have there been historical retail rate increases, Evergy is currently seeking additional general rate increases going forward, which exacerbates the impact of the retail rate increases that have occurred in the past few years. Specifically, Evergy filed its application on January 31, 2025 requesting an average rate increase of 8.64%.<sup>29</sup> In its application, Evergy Central requests a net increase in its revenue requirement of \$196.4 million after costs included in the property tax surcharge are netted out.<sup>30</sup> This represents an actual base rate requested change of \$192 million, constituting a net increase of 8.64% in total retail revenues. Within this 8.64%,

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<sup>23</sup> FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2024).

<sup>24</sup> FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2025).

<sup>25</sup> Compare FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2024) with FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2025).

<sup>26</sup> See Direct Testimony of John Rolfe, p. 7, KCC. Docket No. 25-EKCE-207-PRE (Mar. 14, 2025).

<sup>27</sup> Compare FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2024) with FERC Financial Report, FERC FORM No. 1, pg. 304 (April 18, 2025).

<sup>28</sup> See KIC 10-1, KCC Docket No. 25-EKCE-207-PRE.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

Evergy Central will apply a 14.96% increase to the residential, churches, and school retail rate classes.<sup>31</sup> It has not yet been determined what percentage of the rate increase will be applied to businesses in the Evergy Central region if Evergy's application is approved. But all indicators are that they will increase as well.

Adding insult to injury, it is not just the request for additional retail rate increases that are weighing heavily on Evergy Central customers, but Evergy has also sought to increase the TDC. Specifically, on March 20, 2025, Evergy Central filed an updated TDC tariff, which became effective on May 1, 2025. This tariff proposes a 2.42% increase to the transmission delivery charge.<sup>32</sup> In 2022, transmission delivery charges totaled \$310,014,297<sup>33</sup>, and in 2025 it will total \$423,761,613.<sup>34</sup> This is an increase of \$113,747,315 in three years. Within this increase, Small General Service TDCs will increase from \$0.20 per kWh to \$0.23 per kWh; and Medium General Service TDCs will increase from \$6.23 per kWh to \$7.18 per kWh.<sup>35</sup>

**3. On top of the Recent Retail Rate Increases, the Retail Rate Increases Associated with the Proposed Predetermination Request Would Be Significant.**

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<sup>31</sup> *Id.*

<sup>32</sup> Application to Increase Transmission Delivery Charge, KCC Docket No. 25-EKCE-359-TAR (Mar 20, 2025) <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202503200855348940.pdf?Id=33be97b2-23f8-4ed4-9a72-a7ce30423dd3>.

<sup>33</sup> In-Person Proponent Testimony of Justin Grady before the House Committee on Energy, Utilities and Telecommunications (Feb. 9, 2023) [https://www.kslegislature.gov/li\\_2024/b2023\\_24/committees/ctte\\_h\\_energy\\_utilities\\_and\\_telecommunications\\_1/documents/testimony/20230214\\_01.pdf](https://www.kslegislature.gov/li_2024/b2023_24/committees/ctte_h_energy_utilities_and_telecommunications_1/documents/testimony/20230214_01.pdf).

<sup>34</sup> Application to Increase Transmission Delivery Charge, KCC Docket No. 25-EKCE-359-TAR (Mar 20, 2025) <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202503200855348940.pdf?Id=33be97b2-23f8-4ed4-9a72-a7ce30423dd3>.

<sup>35</sup> See Application to Increase Transmission Delivery Charge, p. 8, KCC Docket No. 25-EKCE-359-TAR (Mar 20, 2025) <https://estar.kcc.ks.gov/estar/ViewFile.aspx/S202503200855348940.pdf?Id=33be97b2-23f8-4ed4-9a72-a7ce30423dd3>.

So, on top of the historic rate increases, the proposed rate increase which will result from Evergy's recently filed general rate case, and the increase in the TDC tariff, if the Commission also grants Evergy's Petition in this Docket to build the McNew and Viola plants (or approves the proposed non-unanimous partial settlement), the result will be an additional retail rate increase of 8.6%, plus an additional 0.7% for the Kansas Sky Solar Project, a total of 9.3% for the retail rate payers in the Evergy Central service area. These retail electric rate increases will be felt almost immediately because the CWIP rider will result in 0.58-2.82% increases beginning in one year. And there appears to be no limit to what Evergy will ask for. When reviewing Evergy's Preferred Portfolio and 2024 and 2025 Integrated Resource Plans ("IRP"), there are additional plans to build a third CCGT 650 MW in 2031 – an estimate of an additional 8.5%.<sup>36</sup> As such, the sum of the previous and future rate increases proposed by Evergy will total at least 39.62%.

**C. The Proposed Retail Rate Increase Cannot be Justified under the Statutory Standards set forth in K.S.A. 66-128g.**

If, as required by the first factor of 66-128g, the Commission compares Evergy's existing retail rates to the retail rates that will result if the non-unanimous partial settlement is approved and the entire cost of the new facilities are included in the rate base, it will show that there will be a dramatic rate increase in the retail electric rates for the Wichita Regional Chamber members. This is a simple comparison. For example, assuming the estimated 39.62% likely increases indicated above, a business paying 10.29 cents per kWh today could, absent Commission protection, end up paying 14.37 cents per kWh when all of these dockets have concluded. While Evergy and the Commission Staff attempt to minimize the relevance of this increase, the numbers

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<sup>36</sup> See 2024 Kansas Integrated Resource Plan Update (May 17, 2024) <https://investors.evergy.com/static-files/78aae2b0-9c48-459e-89fe-79fd57205ee2>. See also 2025 Integrated Resource Plan Update (May 2, 2025) <https://investors.evergy.com/2025IRPUpdate>.



and impact are real to the businesses in this community. Commission Staff witness Justin Grady did, however, make the small concession that a 10% increase would be “concerning”, but, notwithstanding, stated that this rate increase would be justified to ensure reliability.<sup>37</sup>

From the Wichita Regional Chamber’s perspective, the Commission must answer several questions in order to reach the conclusion that the construction of these natural gas projects is prudent. How much more should small businesses be required to pay to ensure that Evergy has excess capacity and that service is reliable? Is there a limit to what the amount per kWh should be? Or stated differently, can the Commission assume that retail ratepayers have unlimited resources to pay any amount for reliability? Can businesses survive total rate increases of nearly 40% in such a short period of time? And is it fair to ask ratepayers rather than shareholders to bear the burden of the cost of new construction?

K.S.A. 66-128g, as part of the prudence analysis, mandates that the Commission compare the rates that customers would pay in the affected service area to the rates of any other utility in the state that has no ownership interest in the facility under consideration. As a starting point, the Evergy Central and Kansas residential customer retail electric rates are not regionally competitive for calendar year 2024.<sup>38</sup> Kansas has the second highest residential electric rates in the “West North Central” region.<sup>39</sup> Evergy’s retail rates are not regionally competitive and the pending rate case will make Evergy Central’s retail rates much less competitive.

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<sup>37</sup> Transcript. Vol. 2, Page 467, Lines 1-15.

<sup>38</sup> See West North Central, Electricity Data Brower, U.S. Energy Information Administration, <https://www.eia.gov/electricity/data/browser/#/topic/7?agg=1,0&geo=vvvvvvvvvvvvvo&endsec=8&linechart=ELEC.PRICE.US-RES.A&columnchart=ELEC.PRICE.US-RES.A&map=ELEC.PRICE.US-RES.A&freq=A&ctype=linechart&ltype=pin&rtype=s&maptype=0&rse=0&pin=> (last visited May 12, 2025).

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

Thus, increasing retail electric rates in this docket would only aggravate an already untenable situation with respect to the Wichita Metropolitan area's economic competitiveness. Mr. Rolfe testified that Oklahoma City, Oklahoma, has lower retail electric rates than those in the Wichita region.<sup>40</sup> The same is true of Nebraska and Arkansas.<sup>41</sup> Mr. Ives' rebuttal, set forth in his Supplemental Testimony – that the percentage gap between Evergy Central's electric rates and Oklahoma's electric rates has decreased<sup>42</sup> – misses the mark. While the percentage by which electric rates have increased in Evergy Central's service area may be lower than the percentage by which the rates have increased in comparator regions, he does not contest the fact that the nominal dollar amount local businesses pay per kilowatt hour in Kansas is 4.51% higher than the average cost per kilowatt hour outside of Kansas.<sup>43</sup> Bottom line! Businesses pay a lot more in Kansas for electricity than businesses in the surrounding states.

This is not just an issue when considering rates in and outside of Kansas. Due to the retail rate differential, businesses in the Evergy Metro service area enjoy an advantage over businesses in the Evergy Central service area. We know already from the 2023 Evergy rate case, that the retail electric rates in Evergy Kansas Central's service area are higher than the rates in the Evergy Metro Service area.<sup>44</sup> This fact is further established by Mr. Grady when he testified before the Kansas Legislature that Evergy Metro's commercial electric rates were ranked lower in retail rate price

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<sup>40</sup> See Direct Testimony of John Rolfe, p. 7, KCC. Docket No. 25-EKCE-207-PRE (Mar. 14, 2025).

<sup>41</sup> See Direct Testimony of John Rolfe, p. 8, KCC. Docket No. 25-EKCE-207-PRE (Mar. 14, 2025). *Id.*

<sup>42</sup> Rebuttal Testimony of Darrin R. Ives, p. 13, KCC Docket No. 25-EKCE-207-PRE (Apr. 4, 2025).

<sup>43</sup> See Direct Testimony of John Rolfe, p. 8, KCC. Docket No. 25-EKCE-207-PRE (Mar. 14, 2025).

<sup>44</sup> See *generally* Order Approving Unanimous Settlement Agreement, KCC Docket 23-EKCE-775-RTS (Nov. 21, 2023).



against Evergy Kansas Central.<sup>45</sup> So, approving these natural gas projects being paid for by customers in this region places businesses at an even greater competitive disadvantage than customers in the Evergy Metro service area. Approving this proposed non-unanimous partial settlement will further cement the economic advantage that businesses in the Evergy Metro service area enjoys. The Commission should not play a role in choosing business winners and losers in the Kansas economic market. In fact, K.S.A. 66-128g prohibits the Commission from doing so. The Commission is responsible to ratepayers for the entire state.

Evergy's witness, Darrin Ives, misunderstands Wichita Regional Chamber's concerns regarding intrastate regional competitiveness. Mr. Rolfe does not assert, and it is not the Wichita Regional Chamber's position, that the new gas projects are intended to directly benefit, via electric generation, Evergy Metro customers. Instead, the Wichita Regional Chamber's concern is focused on economic development. What Mr. Rolfe asserts, and what is proven by Evergy's own testimony and supporting documentation obtained through discovery, is that the proposed natural gas plants are, in part, necessitated by the load growth due to new large users on the Evergy system.<sup>46</sup>

These new large users are located outside and far away from the Wichita metropolitan statistical area. As the record indicates, the Wichita Regional Chamber understands that the large customers (i.e. Panasonic) will be located in the Northeast Kansas area, the Greater Kansas City

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<sup>45</sup> Justin Grady, Update on Regional Competitiveness of Kansas Electric Rates (Jan. 18, 2024, Slide 14 [https://www.kcc.ks.gov/images/PDFs/presentations-and-legislative-testimony/2024KansasElectricRatesPres\\_HouseEnergy.pdf](https://www.kcc.ks.gov/images/PDFs/presentations-and-legislative-testimony/2024KansasElectricRatesPres_HouseEnergy.pdf)).

<sup>46</sup> Direct Testimony of Darrin R. Ives, p. 27, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024). *See* Petition of Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. for Determination of Ratemaking Principles and Treatment, ¶ 44, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024).

Metropolitan Region.<sup>47</sup> Therefore, while these large user customers may be considered in the Evergy Central region by electric service territory, they are *geographically* located in the Kansas City Metropolitan Region. Thus, it follows that the Kansas City Metropolitan Region business community will be the ultimate benefactor of new large users located in that area, such as Panasonic, and the economic development benefits that they provide. At the evidentiary hearing, Darrin Ives testified that Panasonic is “built into the projections to suggest that these [service customers are] who *should* be billed” – referring to Evergy Kansas Central customers.<sup>48</sup> The Wichita Regional Chamber maintains its position that it is wholly unjust for the Wichita business community to pay for expensive generation, of which it will not obtain the indirect economic benefits.

A decision approving the non-unanimous partial settlement places Wichita Regional Chamber members at an economic disadvantage because its members will pay the costs for the natural gas plants, but will be left unable to reap the benefits brought by the new large users, such as improved human capital, tax benefits, and other economic development benefits.

**D. Evergy has not provided a “Definitive Cost Estimate” of the Viola and McNew plants as required by K.S.A. 66-1239.**

As the record now stands, the cost of these proposed natural gas plants is speculative at best, and the costs are unlikely to be any lower than the current projections. This will have an almost immediate detrimental impact on the Wichita Regional Chamber members because of the near future implementation of the CWIP rider. According to K.S.A. 2023 Supp. 66-1239, Evergy’s

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<sup>47</sup> The Great Kansas City Metropolitan Area *includes* Kansas City and the surrounding suburbs, and also Topeka, Lawrence, Atchison, and Ottawa, Kansas. See Greater Kansas City Profile, Think KC, <https://thinkkc.com/business/greater-kc-profile> (last visited May 23, 2025).

<sup>48</sup> Transcript, Vol. 1, p. 204, lines 10-13 (emphasis added).

application must include the *costs* that are subject to a determination of ratemaking principles and treatment.<sup>49</sup> As previously discussed, the Predetermination Statute allows Evergy to implement a CWIP rider “to recover the return on 100% of amounts recorded to construction work in progress on the public utility's books for the public utility's stake in such a generating facility, *which shall not exceed the definitive cost estimate found reasonable by the commission...*”<sup>50</sup> The Commission, in a subsequent proceeding, may adjust or reduce the amount allowed to be recovered by the CWIP rider.<sup>51</sup> In this proceeding, Evergy has failed to provide a Definitive Cost Estimate that includes the *total costs* for the gas projects, as required by K.S.A. 66-1239. Yet, Evergy intends to take full advantage of its ability to implement the CWIP rider.<sup>52</sup>

The Wichita Regional Chamber acknowledges and adopts the arguments brought forth by KIC, CURB, and NEE related to the ambiguity of definitive final costs of these projects given many factors including, current political realities, Evergy’s lack of certain natural gas supply, delivery and infrastructure to the natural gas projects, and the volatility of natural gas as a commodity itself.<sup>53</sup>

So, with respect to the proposed non-unanimous partial settlement agreement on this issue, the Wichita Regional Chamber opposes it because it allows Evergy to proceed with the projects until costs exceed 115% of the Definitive Cost Estimate. This percentage includes a material

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<sup>49</sup> K.S.A 66-1239(c)(1)(A), as amended (emphasis added).

<sup>50</sup> K.S.A. 66-1239(c)(6)(A) (emphasis added).

<sup>51</sup> *Id.*

<sup>52</sup> Petition, ¶ 26, 27 KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024). *See generally also* Direct Testimony of John M. Grace, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024) *and* Direct Testimony of Ronald Klote, KCC Docket No. 25-EKCE-207-PRE (Nov. 6, 2024).

<sup>53</sup> *See generally* Transcript, Vol. 1, pp. 53-64 *and* Transcript, Vol. 1, pp. 76-85. *See also* Direct Testimony of Lucy Metz, p.23, KCC Docket No. 25-EKCE-207-PRE *and* Direct Testimony of Nick Jones, p. 30, KCC Docket No. 25-EKCE-207-PRE.

contingency to cover cost increases.<sup>54</sup> It is only at the point of 115% of the Definitive Cost that Evergy must pause construction and permit the Commission to decide whether the two natural gas projects will be continued or abandoned.<sup>55</sup> This solution is harmful and costly to ratepayers. It is a virtual open checkbook that Wichita businesses will have to fund.

Another concern is identifying the point at which the Commission would determine that the final accrued costs are prudent or imprudent in future proceedings. Prudence is inherently contextual, and the prudence of costs that are accrued in a stable economic environment is going to differ from the prudence of those accrued in a rapidly changing economy that results in unavoidable cost overruns. Said differently, Evergy will illustrate prudence within the context of the economy that it is working in. If the economy continues to fluctuate daily, it seems that Evergy can fault an unstable economy and the resulting consequences for any otherwise imprudently incurred and high overrun costs.

The Wichita Regional Chamber's concern and attention towards these arguments are rooted in Evergy's lack of information and data in determining the final cost. Wichita Regional Chamber recognizes that the construction and investment in large generation projects is complex and that circumstances change with any project, but the lack of final cost information in this Docket undermines the Commission's ability to evaluate the full financial impact on retail ratepayers, including the impact of commercial retail ratepayers, which is a statutory requirement.

#### **IV. Conclusion**

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<sup>54</sup> See Non-Unanimous Settlement Agreement, § 5.k, KCC Docket No. 11-KCPE-581-PRE. See also Justin Grady Settlement Testimony, p. 22-23, KCC Docket No. 11-KCPE-581-PRE.

<sup>55</sup> See Non-Unanimous Settlement Agreement, § 5.k, KCC Docket No. 11-KCPE-581-PRE. See also Justin Grady Settlement Testimony, p. 22-23, KCC Docket No. 11-KCPE-581-PRE.

For the aforementioned reasons, the Wichita Regional Chamber of Commerce opposes the non-unanimous partial settlement agreement regarding the construction of the Viola and McNew natural gas generation facilities. The proposed settlement fails to meet the statutory requirements under K.S.A. 66-1239 and K.S.A. 66-128, as it does not provide a definitive cost estimate for the projects, nor does it ensure that the resulting rates will be just and reasonable for retail ratepayers in the Evergy Central service area. The economic burden placed on Wichita businesses, without corresponding benefits, further exacerbates regional inequities and undermines the principles of fairness and prudence required by Kansas law.

The Commission must reject the non-unanimous partial settlement agreement and require Evergy to provide a comprehensive and definitive cost estimate for the proposed projects. Additionally, the Commission should ensure that any approved projects align with the principles of prudence and fairness, safeguarding the interests of all Kansas ratepayers and promoting equitable economic development across the State of Kansas.

Respectfully submitted,

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**VERIFICATION**

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  ) ss:  
COUNTY OF SEDGWICK    )

C. Edward Watson, being duly sworn upon his oath, deposes and states that he is the Attorney for the Wichita Regional Chamber of Commerce, Inc., that he has read and is familiar with the foregoing *Post Hearing Brief of Wichita Regional Chamber in Opposition to the Non-Uniform Partial Settlement Agreement Regarding the Construction of Natural Gas Generation Facilities* and that the statements therein are true to the best of his knowledge, information, and belief.



\_\_\_\_\_  
C. Edward Watson

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



\_\_\_\_\_  
Notary Public

My Appointment Expires: 8/18/26



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I hereby certify that on this 28th day of May 2025, the above and foregoing was electronically filed with the Kansas Corporation Commission and that one copy was delivered electronically to all parties on the service list as follows:

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