

**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.)

**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**

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COME NOW Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “EKC”) and, pursuant to the Order Amending the Procedural Schedule issued by the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) on December 19, 2024 (“Procedural Order”), hereby submit their Initial Post-Hearing Brief in support of the Joint Motion for Approval of Nonunanimous Partial Settlement Agreement Regarding Natural Gas Facilities (“Natural Gas Settlement”) and the Joint Motion for Approval of Unanimous Partial Settlement Agreement Regarding Solar Facility (“Solar Settlement”).

I. INTRODUCTION

A. Background

On November 6, 2024, EKC filed a Petition with the Commission requesting preapproval under K.S.A. 2023 Supp. 66-1239, as amended by 2024 House Bill 2527 (the “Predetermination Statute”),¹ of the ratemaking principles and treatment applicable to EKC’s planned construction and acquisition of 50% of a 710 MW combined cycle gas turbine (“CCGT”) located near Conway Springs in Sumner County, Kansas, directly across the street from the Viola 345 kV substation (the “Viola Facility”) and a 50% interest in a second 710 MW CCGT located near Hutchinson in Reno County, Kansas, approximately 12 miles from the Reno 345 kV substation (the “McNew Facility”).² Preapproval was also requested for EKC’s construction and acquisition of approximately 200 MW_{DC} (159 MW_{AC}) of solar generation located in Douglas County, Kansas, known as the Kansas Sky Solar Facility (“Kansas Sky Facility”). The Kansas Sky Facility will interconnect to the transmission grid at the 115 kV Midland Junction substation located across the street from the solar facility. The

¹ Kansas Laws 2024, ch. 60, § 4 (H.B. 2527) (eff. July 1, 2024), now codified at K.S.A. 2024 Supp. 66-1239.

² The Petition was initially filed as a joint pleading on behalf of EKC and Evergy Kansas Metro (“EKM”). At the time of that filing it was unknown whether the second 50% of the McNew Facility would be assigned to EKC, EKM, or another Evergy affiliate entity. The pleading requested flexibility to acquire the second 50% of the McNew Facility. On February 14, 2025, Evergy notified the Commission that this second 50% of the McNew Facility would be assigned to Evergy Missouri West.

projected date of commercial operation for the Viola Facility is January 1, 2029, and the projected date of commercial operation for the McNew Facility is January 1, 2030.³ The projected date of commercial operation for the Kansas Sky Facility is December 31, 2026.⁴

The Predetermination Statute authorizes a public utility, prior to acquiring a stake in a generating facility, to file with the Commission a petition for a determination of ratemaking principles and treatment to be applied to the recovery in rates of the costs to be incurred by the utility in acquiring such stake in the facility during its expected useful life.⁵ As specified in the Predetermination Statute, EKC included as part of its filing a description of how its stake in these generating facilities is consistent with EKC's most recent preferred plan and resource acquisition strategy submitted to the Commission.⁶

In support of its Petition, EKC submitted direct testimony from eight witnesses and supplemental direct testimony from four witnesses. EKC also submitted rebuttal testimony from six witnesses and testimony in support of the Natural Gas Settlement and Solar Settlement from two witnesses. A detailed discussion of EKC's Petition and supporting testimony, the parties' pre-filed positions, and a review of the Natural Gas Settlement and the Solar Settlement, including a review of the relevant terms of each settlement, are included in **APPENDIX A**, attached hereto and incorporated herein by reference.

B. Executive Summary

EKC's Petition requests preapproval of ratemaking principles and treatment applicable to the recovery in rates of the costs to be incurred by EKC in connection with its investment in 50%

³ Verified Petition, p. 10, ¶17.

⁴ Direct Testimony of John R. Carlson ("Carlson Direct"), p. 14 (Nov. 6, 2024).

⁵ K.S.A. 2024 Supp. 66-1239(c)(1)(A).

⁶ This description is included in the direct testimonies of multiple EKC witnesses. *See* Direct Testimony of Darrin R. Ives ("Ives Direct"), pp. 23-26 (Nov. 6, 2024); Direct Testimony of Cody VandeVelde ("VandeVelde Direct"), pp. 11-16 (Nov. 6, 2024); Direct Testimony of Jason Humphrey ("Humphrey Direct"), pp. 6-7; 11, 23 (Nov. 6, 2024).

of the Viola Facility, 50% of the McNew Facility, and 100% of the Kansas Sky Facility. These investments are all consistent with the resource plan that EKC's Integrated Resource Planning ("IRP") process indicates is the preferred plan considering forecasted peak and demand (plus a necessary reserve margin) and energy, costs, risks, new generating capacity, demand-side resource options, fuel prices, transmission improvements, renewable energy resource integration, and other relevant factors.⁷

Integrated resource planning is a proactive, data-driven tool that utilizes multi-scenario analysis to formulate a plan for the provision of safe, reliable and efficient electric service at just and reasonable rates in a manner that advances the public interest while complying with state and federal energy and environmental policy mandates.⁸ The overriding purpose of integrated resource planning is to help utilities make prudent capital investment decisions and to provide a prudent management strategy by identifying resources that ensure adequate and affordable electric service to customers while minimizing overall costs and meeting reliability requirements.⁹ The predetermination statute reflects the reality that prudent utility investment decisions are complex and must be made by utility planners through a comprehensive process that considers the financial and operational implications of a wide range of alternative scenarios.¹⁰

Although the IRP is relevant to this docket, EKC is not requesting approval of its IRP here. Nor is this docket an appropriate forum to reopen or relitigate the IRP, as some intervenors have attempted to do. Rather, the appropriate inquiry under the Predetermination Statute is whether EKC has "describe[d] how the public utility's stake in the generating facility is consistent with the

⁷ Ives Direct, p. 24.

⁸ VandeVelde Direct, p. 20

⁹ VandeVelde Direct, p. 4; Ives Direct, pp. 23-24; Testimony in Support of Natural Gas and Solar Settlement of Darrin Ives ("Ives Settlement Testimony"), p. 5 (April 17, 2025).

¹⁰ Ives Settlement Testimony, p. 5.

public utility’s most recent preferred plan and resource acquisition strategy submitted to the commission”¹¹ and has shown that “the plan selected by the public utility is reasonable, reliable and efficient.”¹²

All parties to the docket either support or do not oppose EKC’s proposal for the Kansas Sky Facility as reflected in the Solar Settlement. With respect to the Natural Gas Settlement, EKC, Staff, and thirteen other parties representing diverse interests¹³ either support or do not oppose EKC’s proposal for the two CCGT facilities, the exceptions being the Citizens’ Utility Ratepayer Board (“CURB”), USD 259, Wichita Regional Chamber of Commerce, Renew Missouri Advocates, Climate + Energy Project (“CEP”), Council for the New Energy Economics (“NEE”), and Kansas Industrial Consumers Group (“KIC”).¹⁴

Notably, the parties opposing the Natural Gas Settlement present diametrically opposed, mutually exclusive alternatives to the CCGT additions. On the one hand, KIC and the customers it represents advocate for delaying retirement of and continued reliance on aging coal-fired generation. On the other, intervenors such as NEE and CURB propose that EKC should retire coal fire resources and rely on more additions of solar and battery storage to meet customer needs rather than move forward with the CCGT builds. These two alternative proposals represent extreme positions that are not consistent with current realities facing EKC. Both urge reliance on resources

¹¹ K.S.A. 2024 Supp. 66-1239(c)(2).

¹² K.S.A. 2024 Supp. 66-1239(c)(3).

¹³ The 10 parties supporting the Natural Gas Settlement are KPP Energy, a Municipal Energy Agency (“KPP Energy”), Natural Resources Defense Council (“NRDC”); Midwest Energy, Inc. (“Midwest Energy”); The Board of County Commissioners of Johnson County, Kansas (“Johnson County”); City of Lawrence, Kansas (“Lawrence”); Atmos Energy Corporation (“Atmos Energy”); HF Sinclair El Dorado Refining LLC (“HF Sinclair”); Kansas Municipal Energy Agency (“KMEA”); and Kansas Gas Service, a division of ONE Gas, Inc. (“Kansas Gas Service”). The three parties not opposing the settlement are City of Overland Park, CCPS Transportation, and Walmart.

¹⁴ KIC represents the following entities, referred to as the “KIC Participating Members”: Spirit AeroSystems, Inc., Occidental Chemical Corporation, Goodyear Tire & Rubber Company, and Associated Purchasing Services Corporation. In addition, counsel for KIC also represent USD 233, USD 229, Kansas Agriculture Association, Cargill and the Kansas Chamber of Commerce, all of which also do not support the Natural Gas Settlement.

that are inadequate to provide needed reliability enhancements to meet SPP Resource Adequacy requirements in the future, and both propose reliance on resources that are either aging or do not provide the firm dispatchable generation sorely needed on EKC's and the SPP system now.¹⁵ In addition, both alternative proposals advocate for perilously delaying the necessary first steps towards transitioning to new, diversified, modernized, reliable and dispatchable generation sources offered by the CCGTs. It is important to note, as well, that unlike the resource plan presented in the Natural Gas Settlement, neither alternative proposal is predicated on a comprehensive, fulsome and integrated resource planning analysis and, predictably, neither is consistent with EKC's 2024 Triennial IRP filing, the most recent preferred plan and resource acquisition strategy submitted by EKC to the Commission.¹⁶

EKC has a statutory obligation to provide reasonably efficient and sufficient service and facilities to its customers,¹⁷ and Staff, as a representative of the public interest, has the legal obligation to ensure EKC develops and implements plans that are most likely to meet that statutory standard. Neither EKC nor Staff has the luxury of taking riskier, unreasonable and unrealistic paths like those proposed by the opponents of the Natural Gas Settlement. Decisions today must be based on the best information available today, not on speculation, unsupported theories or wishful thinking. In the future, if Kansas faces a situation where EKC's customers do not have reliable and/or reasonably priced electric service available, it is EKC and Staff who will be held to account. As such, EKC and Staff reject the riskier "wait and see" plans promoted by certain intervenors in

¹⁵ See Humphrey Direct, p. 18 (discussing sudden and unprecedented load growth with a corresponding need for significantly increased levels of dispatchable energy).

¹⁶ EKC's 2024 triennial IRP filing was submitted in Docket No. 24-EKCE-387-CPL on May 17, 2024, and was accepted by the Commission in its Order issued in that docket on January 30, 2025.

¹⁷ See K.S.A. 66-101b.

favor of the more balanced and reliable approach endorsed by the proponents of the Natural Gas Settlement.

Below, EKC addresses the main issues raised in this proceeding – particularly those that were discussed at length at the evidentiary hearing – and summarizes the evidence and arguments supporting both the Natural Gas Settlement and the Solar Settlement. Specifically, EKC provides an analysis of how the Natural Gas Settlement satisfies the Commission’s five-part test for approval of nonunanimous settlements, addressing the following:

- The applicable law, as codified in the newly amended Predetermination Statute, and the Natural Gas Settlement’s conformance with applicable law;
- EKC’s most recent preferred plan and resource acquisition strategy submitted to the Commission, 2024 Triennial IRP,¹⁸ and the Natural Gas Settlement’s consistency with the 2024 IRP;
- The alternative proposals advanced by intervenors KIC, NEE and CURB and why those proposals are unreasonable, unrealistic, and inconsistent with EKC’s 2024 IRP;
- The substantial competent evidence in the record supporting the reasonableness, reliability and efficiency of the Natural Gas Settlement in accordance with the Predetermination Statute, including the ample testimony provided by EKC and Staff witnesses firmly supporting the Natural Gas Settlement;
- EKC’s approach and strategy regarding procuring gas supply for the CCGTs, including a discussion of the latest long-term natural gas forecasts and how those forecasts are consistent with the forecasts incorporated in EKC’s 2024 IRP analysis;
- The estimated rate impacts of the CCGT additions, including a discussion of why EKC’s preferred plan is the right plan, even though it is not the lowest NPVRR plan, and why the attendant costs and rate impacts are just and reasonable in light of the reliability and efficiency enhancements provided by the CCGTs; and
- Why approval of the Natural Gas Settlement is in the public interest.

¹⁸ EKC’s 2024 preferred portfolio selection and resource acquisition strategy is included as Volume 6 of Evergy’s May 17, 2024 Triennial IRP filing and is attached to EKC witness VandeVelde’s direct testimony as **Exhibit CV-1**.

In addition, EKC addresses the Solar Settlement, applying the three-part test for unanimous settlements, and discusses why the Solar Settlement is supported by substantial competent evidence in the record taken as a whole, why it will result in just and reasonable rates, and why approval of the settlement is in the public interest.

II. ANALYSIS OF NONUNANIMIMOUS NATURAL GAS SETTLEMENT

A. Legal Standard Governing Nonunanimous Settlements

Kansas law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith to settle the dispute. *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001). Considering the broad scope and array of cases before the Commission, settlements are particularly favored where, as here, the controversy involves complex litigation taking considerable time and expense to litigate. *See* Order Approving Contested Settlement Agreement, ¶ 10, Docket No. 08-ATMG-280-RTS (May 12, 2008) (“08-280 Order”).

The Commission may accept a nonunanimous settlement agreement so long as it makes an independent finding, supported by substantial competent evidence in the record as a whole, that the settlement will establish just and reasonable rates. *Citizen’ Utility Ratepayer Board v. Kansas Corporation Comm’n*, 28 Kan. App. 2d 313, 316 (2000); *see also Herrera-Gallegos v. H&H Delivery Service, Inc.*, 42 Kan. App. 2d 360, 360 (2009). The Commission follows a five-factor test to guide its decision as to whether a nonunanimous settlement agreement provides a reasonable remedy or resolution of the issues, as explicitly established in the 08-280 Order. Under the five-factor test, a nonunanimous settlement agreement such as the Natural Gas Settlement may be approved if it satisfies the following requirements:

- (1) There was an opportunity for the parties in opposition to the settlement agreement to be heard on their reasons for opposing the agreement;
- (2) The agreement is supported by substantial competent evidence;

- (3) The agreement conforms with applicable law;
- (4) The agreement results in just and reasonable rates; and
- (5) The results of the agreement are in the public interest, including the interest of the customers represented by the party not consenting to the agreement.

B. There was Ample Opportunity for the Parties in Opposition to the Natural Gas Settlement to be Heard on Their Reasons for Opposing the Settlement

The Commission's Procedural Order provided a process that afforded all parties, including those parties opposing EKC's Petition, a meaningful opportunity to be heard and a means by which all parties could timely obtain through discovery information necessary to fully develop their positions. The Procedural Order permitted full participation by all parties through the submission of testimony and documentary evidence, allowing all parties to express the reasons for their positions in response to EKC's Petition. The parties also participated in substantial and meaningful settlement negotiations during multiple sessions, both in person and virtually, to discuss and address all substantive positions in response to the Petition and the ultimate Natural Gas Settlement. All parties were afforded an opportunity to raise issues, ask questions, challenge assumptions, and exchange information – which led to numerous well-informed concessions and compromises.¹⁹

After the relevant parties finalized the nonunanimous Natural Gas Settlement, all parties had the opportunity to file, and many did file, testimony in support of or in opposition to the settlement. Finally, all parties had ample opportunity to present, and many did present, their

¹⁹ Ives Settlement Testimony, pp. 18-19 (discussing opportunities of all parties through discovery, settlement conferences, testimony, and the evidentiary hearing to express positions related to the Natural Gas Settlement); Testimony of Justin T. Grady in Support of Natural Gas and Solar Settlement Agreements ("Grady Settlement Testimony"), pp. 16-17 (April 17, 2025) (same).

respective positions related to the Natural Gas Settlement at the evidentiary hearing held April 21-23, 2025.²⁰

Based on the foregoing, it is clear that all parties, including those parties opposing the Natural Gas Settlement, had ample and sufficient opportunity to express their positions on the Natural Gas Settlement in the course of this proceeding. That opportunity to be heard continues by virtue of post-hearing legal briefing.

C. The Natural Gas Settlement is Supported by Substantial Competent Evidence

Substantial competent evidence is that “which possesses something of substance and relevant consequences, and which furnishes a substantial basis of fact from which the issues tendered can reasonably be resolved.” *Southwestern Bell Tel. Co. v. Kansas Corporation Commission*, 4 Kan.App.2d 44, 46 (1979); K.S.A. 77-621. The “record as a whole” includes evidence that both supports and detracts from an agency’s findings. *Herrera-Gallegos v. H&H Delivery Service, Inc.*, 42 Kan.App.2d 360, 360 (2009). The Commission’s ultimate finding must be supported by the evidence in the record that is substantial when considered in light of all the evidence.

There is no question that the evidence received in this docket in the form of pre-filed testimony, documents, and live hearing testimony provides substantial evidentiary support for the Natural Gas Settlement. Specifically addressing this factor of the five-part test, EKC witness Darrin Ives summarized the salient testimonies of multiple EKC and Staff witnesses that provide extensive support for the CCGT additions and the Natural Gas Settlement.²¹ Similarly, Staff

²⁰ *See id.*

²¹ Ives Settlement Testimony, pp. 19-22.

witness Justin Grady provided testimony identifying the numerous witnesses who in many cases provided multiple sets of written testimony supportive of the Natural Gas Settlement.²²

The record consists of hundreds if not thousands of pages of evidence supportive of the CCGT additions and the Natural Gas Settlement itself. Also, the evidentiary hearing included hours of live testimony supportive of the CCGT additions and the Natural Gas Settlement. This evidence, summarized and discussed throughout this brief, establishes that the Natural Gas Settlement is amply supported by substantial competent evidence in light of the record taken as a whole.

D. The Natural Gas Settlement Conforms with Applicable Law

As previously noted, this docket is the direct product of important legislative activity by the Kansas Legislature in 2024 relating to predetermination and the addition of new high-efficiency gas-fired generating facilities to the state’s resource mix.²³ Specifically, 2024 House Bill 2527 (“HB 2527”) – which passed by a vote of 119-0 in the Kansas House and 33-2 in the Kansas Senate, and was signed into law by Governor Laura Kelly on April 18, 2024 – made a number of significant revisions to the Predetermination Statute that are relevant to this docket in general and to the Natural Gas Settlement in particular.²⁴ Notably, in addition to receiving near-unanimous support in the legislature and from the Governor’s administration, HB 2527 garnered strong support by way of legislative testimony from a broad scope of interested parties, including from other load-serving entities, industry groups, and state and local chambers of commerce.²⁵ The legislation is a clear and resounding pronouncement of Kansas public policy, not only by legislative and executive leaders, but also by business leadership within the state.

²² Testimony of Justin Grady in Support of Natural Gas and Solar Settlement Agreements (“Grady Settlement Testimony”), pp. 17-18 (April 17, 2025).

²³ Verified Petition, pp. 3-4 at ¶ 8.

²⁴ See 2024 Kansas Session Laws Ch. 60 § 4 (H.B. 2527), eff. July 1, 2024.

²⁵ See https://www.kslegislature.gov/li_2024/b2023_24/measures/minutes/agenda_item_2024031401543035541.

As it relates to this proceeding, HB 2527 revised Kansas' Predetermination Statute in the following notable ways:

- It required a utility seeking predetermination to describe how the utility's acquisition of the generating facility is consistent with the utility's most recent preferred plan and resource acquisition strategy submitted to the commission, and
- Specifically with respect to any new gas-fired generating facilities, it provided a new rate adjustment mechanism, referred to as the "CWIP rider," and defined specific rules for how the CWIP rider can be used to recover a return on costs recorded to construction work in progress, and provided additional definition as to how construction costs for such facilities are to be recovered in base rates.²⁶

Leaders have continued to echo the strong public policy pronouncement in HB 2527, including supporting the public announcements of EKC's intent to construct the Viola and McNew facilities, and the need to incentivize construction of natural gas generation facilities such as the Viola and McNew CCGTs.²⁷

Incorporating the amendments enacted through HB 2527, the prerequisites for predetermination under K.S.A. 2024 Supp. 66-1239 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;"²⁸
- 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;"²⁹ and
- The plan selected by EKC must be "reasonable, reliable and efficient."³⁰

²⁶ HB 2527, Sec. 4.

²⁷ See Everygy Press Release (October 21, 2024), attached as **Exhibit DRI-1** to the Direct Testimony of Darrin Ives.

²⁸ K.S.A. 2024 Supp. 66-1239(c)(2).

²⁹ K.S.A. 2024 Supp. 66-1239(c)(3).

³⁰ *Id.*

These three statutory elements, and the record evidence supporting affirmative findings as to all three elements, are discussed in greater detail below.

In addition, as discussed above, the Predetermination Statute now includes a section providing for a new rate adjustment mechanism, the CWIP rider, to be available for new gas-fired generating facilities like the Viola and McNew facilities. That provision states that if the necessary statutory findings discussed above are made supporting allowance of predetermination related to new gas-fired facilities, the utility developing those facilities is also granted permission to utilize the CWIP rider.³¹ K.S.A. 2024 Supp. 66-1239(c)(6) lays out the specific parameters regarding how and when the CWIP rider is to be implemented, what costs can and cannot be recorded to construction work in progress for the purposes of the rider, how it is increased over time with additional costs recorded to construction work in progress, how the rider terminates when the costs for the new facilities are placed into base rates, and numerous other specific requirements and parameters related to the CWIP rider and ratemaking principles related to the costs of construction of new gas-fired generation assets.³²

The Natural Gas Settlement directly adopts and incorporates the relevant provisions of the Predetermination Statute related to the CWIP rider and the ratemaking principles to be used for new gas-fired facilities. These statutory provisions are directly reflected in the language of sections 5.e.i. through 5.e.vii. of the Natural Gas Settlement Agreement. As such, the Natural Gas Settlement has been negotiated and designed in a manner that incorporates, nearly verbatim, the new statutory provisions in K.S.A. 2024 Supp. 66-1239(c)(6).

³¹ K.S.A. 2024 Supp. 66-1239(c)(6).

³² *Id.*

Therefore, based on the record evidence taken as a whole, which is discussed in greater detail below, the Natural Gas Settlement conforms with applicable law and, importantly, represents a direct implementation of the legislature’s energy policy choices as embodied in the newly amended Predetermination Statute.

1. Consistency with EKC’s Most Recent Preferred Plan and Resource Acquisition Strategy Submitted to Commission

a. The Natural Gas Settlement is Consistent with EKC’s Preferred Plan and Resource Acquisition Strategy as Presented in its 2024 IRP filing

EKC’s 2024 IRP, filed in Docket 24-EKCE-387-CPL on May 17, 2024, is most directly addressed by EKC witness and Senior Director of Strategy and Long-Term Planning, Cody VandeVelde. In his pre-filed testimony, Mr. VandeVelde discussed the IRP process in detail, identifying the various inputs, factors and risks considered by the model and the process of analyzing those inputs, factors and risks across various sets of Alternative Resource Plans (“ARPs”) in evaluating the performance of various alternative sets of resources.³³ He also discussed the Strategic Energy and Risk Valuation Model (“SERVM”) used to assess the thirteen ARPs tested in the 2024 IRP, including not only modeling each ARPs performance both in cost metrics such as each plan’s net present value revenue requirement (“NPVRR”), but also their performance in reliability metrics, such as their ability to meet SPP Resource Adequacy Requirements, hourly and peak customer needs, as well as other performance metrics under various assumptions and scenarios related to weather, load and outage conditions.³⁴

Mr. VandeVelde then identified the components of the preferred plan from the 2024 IRP, including, among other things, the addition of 325 MW of CCGT generation in both 2029 and

³³ VandeVelde Direct, pp. 3-8.

³⁴ *Id.* at pp. 8-9.

2030.³⁵ Mr. VandeVelde also discussed the preferred portfolio’s inclusion of plant transitions and retirements, including transitioning Lawrence 5 to gas, retiring Lawrence 4 in 2028, and retiring Jeffrey 2 and 3 in 2030.³⁶ He specifically noted, however, that “given the significant increase in economic development activity in the EKC territory, ongoing changes to the SPP Resource Adequacy requirements, and the finalization of the [EPA] Greenhouse Gas (GHG) Rule, there could be modifications to our plant retirement schedule.”³⁷

Mr. VandeVelde then described in detail how the proposed CCGT additions are directly consistent with EKC’s 2024 IRP,³⁸ including describing in depth the manner in which the CCGT additions meet capacity needs, customer needs and system needs as a whole, and why the CCGTs are the right resources to meet the specific needs identified by the IRP.³⁹ He also discussed the fact that at the time EKC filed its Petition, it had concluded that costs for construction of CCGT facilities had increased substantially from the costs reflected in the data and assumptions EKC had utilized in the 2024 IRP. To address this issue, EKC performed an updated IRP analysis using all the same inputs used in the 2024 IRP Triennial filing, but changing only the cost, heat rate, and installed size characteristics of new natural gas generation. The updated IRP analysis continued to select the CCGT additions in 2029 and 2030, corresponding with the Viola and McNew CCGT facilities.⁴⁰ As Mr. VandeVelde concluded, the CCGT resource additions included in the Natural Gas Settlement are directly consistent with the 2024 IRP, including the resource plan optimized with the updated CCGT data.⁴¹

³⁵ *Id.* at pp. 11-12.

³⁶ *Id.* at p. 12

³⁷ *Id.*

³⁸ *Id.* at pp. 12-13.

³⁹ *Id.* at pp. 16-22.

⁴⁰ *Id.* at pp. 23-25.

⁴¹ *Id.* at p. 24.

The consistency of the CCGT additions contemplated in the Natural Gas Settlement is further supported by numerous witnesses in both their pre-filed and live testimony. EKC witness Jason Humphrey specifically addressed the preferred plan and its consistency with the IRP in his direct testimony.⁴² He also discussed the updated IRP analysis and the drivers of increased CCGT construction costs, concluding that EKC's resource plan remains consistent with the 2024 IRP and that the CCGT assets are vital and necessary resources to meet EKC's needs identified in the IRP.⁴³ EKC witness Darrin Ives further supported the consistency of the CCGT additions with the 2024 IRP and the updated IRP analysis in both his pre-filed⁴⁴ and live testimony.⁴⁵

Notably, Staff witness Grady also provided support for the proposition that the addition of the Viola and McNew plants as contemplated in the Natural Gas Settlement is consistent with the EKC's 2024 IRP, including the updated IRP analysis conducted at the time of filing of the Petition in this docket.⁴⁶

K.S.A. 2024 Supp. 66-1239(c)(2) includes as a prerequisite for predetermination that EKC describe how the CCGT additions are consistent with its most recent IRP. The evidence in this docket demonstrates conclusively that the CCGT additions are consistent with EKC's 2024 IRP, and there is no credible countervailing evidence on this point. Therefore, the Commission should find that the addition of the CCGT facilities contemplated in the Natural Gas Settlement is consistent with EKC's most recent IRP.

⁴² Humphrey Direct, pp. 6-10.

⁴³ *Id.* at pp. 16-19, 23-24.

⁴⁴ Ives Direct, pp. 23-26.

⁴⁵ Ives Hearing Testimony, Tr. at pp. 101-02.

⁴⁶ Grady Direct, pp. 23-26; Grady Hearing Testimony, Tr. at pp. 492-95.

b. Proposals that Call for Delayed Coal Retirements are Not Consistent with EKC's 2024 IRP and are Not Reasonable.

Certain intervenors, specifically KIC and the KIC Participating Members, proposed that rather than authorize the Viola and McNew resource additions now, the Commission should order EKC to delay retirements of certain coal facilities until 2039 and attempt to use those aging facilities to meet growing customer and system demands. Such proposals fail for myriad reasons.

First, as discussed in both written and live testimony, the 2024 IRP's inclusion of retirements of certain coal facilities is generally a placeholder, or a flexible retirement approach, which allows EKC to continue to examine whether retirement of Jeffrey 2 or any other coal facility should move forward or should be delayed in response to continuing developments with respect to customer and system need, reliability and resource planning considerations.⁴⁷ To be clear, EKC has not requested approval of any specific retirements, retirement decisions, or retirement schedule. Indeed, contrary to KIC's contentions, EKC is not requesting the Commission order that any particular plant retirements be approved or that any unrecovered plant costs be determined or recovered. Rather, EKC will continue to evaluate the usefulness of the various coal units in its overall set of generation assets in view of all factors to be considered in the IRP process.⁴⁸

To the extent EKC makes a decision regarding future retirements, it will, of course, commence necessary proceedings with the Commission to address such retirements and any unrecovered plant costs, if any remain at that time. And as has been the case in this docket, stakeholders will be able to participate in those proceedings, and EKC's decisions and position will be fully and appropriately scrutinized by the Commission at that time. However, KIC's suggestion that any decision in this docket predetermines retirement schedules or the manner in

⁴⁷ VandeVelde Hearing Testimony, Tr. at p. 349.

⁴⁸ *Id.* at pp. 351, 356-57, 438-40.

which unrecovered plant costs, if any, may be recovered is simply incorrect, and misrepresents EKC's position that the retirements identified in its IRP are flexible placeholders and subject to further analysis and adjustment in the future.

In addition, as discussed in the rebuttal testimony of Mr. VandeVelde, the assumptions and analysis advanced by KIC witnesses Gorman and Fitzhenry are flawed because they were the result of a limited analysis that only changed one factor in the IRP analysis and did not account for various other risks and factors analyzed under the IRP model. Therefore, these witnesses did not adequately analyze the full economic impact of delaying retirement of Jeffrey 2 until 2039 in the way that a complete IRP analysis would.⁴⁹ Indeed, as is the case with all the "alternative plans" floated by intervenors opposing the Natural Gas Settlement, KIC's alternative plan founded on delaying coal plant retirements is not supported by a fully integrated and comprehensive IRP analysis. Consequently, KIC's plan should not be accepted as a credible alternative to the statutorily compliant resource plan presented in support of the CCGTs recommended in the Natural Gas Settlement. Specifically, Mr. VandeVelde testified that, although the 2024 IRP preferred portfolio was the third lowest NPVRR portfolio, numerous factors in addition to cost were considered and were important to the IRP analysis. Those factors include reliability, diversification of generation assets, technological developments and challenges, market opportunities and challenges, environmental policy risks, load growth projections, and other future scenarios, all of which are considered and analyzed in the course of the IRP analysis.⁵⁰ As Mr. VandeVelde noted that "although the IRP process did not select the absolute lowest NPVRR portfolio, it selected the portfolio that performed best under all the factors analyzed in NPVRR analysis" and "performed

⁴⁹ Rebuttal Testimony of Cody VandeVelde ("VandeVelde Rebuttal"), p. 4 (April 4, 2025).

⁵⁰ *Id.*

best when measured by both quantitative cost measures and qualitative risk responsiveness and flexibility factors, which are extremely important when selecting a preferred portfolio.”⁵¹

The shortcomings of KIC witness Gorman’s analysis are also noted in the rebuttal testimony of Mr. Humphrey, wherein he describes the “holistic and integrated” analysis employed by the IRP process in contrast with the limited and incomplete analysis employed by Mr. Gorman and Mr. Fitzhenry. As Mr. Humphrey testified, “Evergy’s transition strategy includes the measured retirement of coal plants over time and replacement of that generation capacity and energy with a mix of highly efficient dispatchable thermal resources, renewable resources and demand-side management programs.”⁵² By contrast, Mr. Humphrey testified, “Mr. Gorman presents a false choice” between development of CCGTs and retirement of coal facilities. Mr. Humphrey emphasized that “[m]oving forward with the CCGT builds and delaying coal-unit retirements are not mutually exclusive” as “EKC has evaluated, and will continue to evaluate, coal-unit retirement as part of the IRP process.”⁵³ This false choice was highlighted in the live testimony of Staff witness Grady at the evidentiary hearing, where he discussed his analysis of the need for the CCGTs in light of demand growth and reliability concerns and stated that he would support the need to build the CCGTs even if the retirements of Jeffrey 2 and 3 were delayed as suggested by Mr. Gorman.⁵⁴

Indeed, there is substantial evidence supporting the need for the CCGT additions, as well as the overall reasonableness of continued analysis and use of flexible retirements to continue to

⁵¹ *Id.* at p. 5. Notably, when Mr. Gorman was asked by Commissioners about whether his analysis and criticism of the preferred plan addressed all the risk factors that have been discussed attendant to a decision not to build the CCGTs, Mr. Gorman failed to address or rebut nearly all of the reliability benefits identified related to the CCGTs, or the future issues related to SPP Resource Adequacy initiatives that are a central driver to the decision to build the CCGTs. *See* Gorman Hearing Testimony, Tr. at pp. 609-12.

⁵² Rebuttal Testimony of Jason Humphrey (“Humphrey Rebuttal”), pp. 3-4 (April 4, 2025).

⁵³ *Id.* at 4.

⁵⁴ Grady Hearing Testimony, Tr. at pp. 530-32.

analyze EKC's future use of its coal generation facilities. Mr. Ives discussed this approach at the evidentiary hearing, noting both the need to begin the process of replacing aging coal plants and the need to maintain flexibility with respect to the timing of such retirements within the resource planning strategies as a whole.⁵⁵ The need to begin the process of transitioning away from aging coal resources and toward modern CCGT technology is further supported by the discussion in Staff witness Grady's direct testimony of a recent 15-month outage at the Jeffrey 3 facility and the difficulties that outage caused during the following winter months in 2022 and 2023.⁵⁶ As advocated by EKC, although coal assets are an important part of an "all of the above" resource planning approach, it would be unreasonable to place an overreliance on aging coal resources, as suggested by Mr. Gorman, particularly in light of growing system demand and more stringent reliability and Resource Adequacy requirements.

Finally, Mr. Gorman's analysis on this issue is based on a misapplication of the statutory language of K.S.A. 2024 Supp. 66-1239 as it relates to predetermination of costs of construction of new gas-fired generation facilities. On Page 7 of his direct testimony, Mr. Gorman includes cherry-picked quotations from portions of K.S.A. 2024 Supp. 66-1239(c)(4)(B) pertaining to abandonment or retirement of nuclear or fossil fuel-fired generating units.⁵⁷ Mr. Gorman appears

⁵⁵ Ives Hearing Testimony, Tr. at pp. 137-38, 142-43, 145, 219.

⁵⁶ Grady Direct, pp. 32-33.

⁵⁷ Mr. Gorman quotes the following language from K.S.A. 2024 Supp. 66-1239(c)(4)(B) in his testimony, apparently suggesting that the Commission is required to make a finding consistent with this language:

"the abandonment or retirement is not expected to harm the utility's customers or decrease the utility's regional rate competitiveness by causing the utility to experience higher costs than would be expected by continuing to operate such electric generating unit in compliance with applicable law, unless, consistent with the integrated resource planning framework utilized by the commission, the commission determines that such higher costs are justified by other factors that are specified by the commission."

As previously noted, this language is irrelevant to this proceeding because EKC is not requesting approval of any specific retirement or abandonment and, as such, Mr. Gorman's reliance on this language is misleading.

to argue EKC is required to satisfy this statutory language in order to utilize the predetermination procedures related to construction of new gas-fired facilities. That is simply not the case.

The language upon which Mr. Gorman relies is part of K.S.A. 2024 Supp. 66-1239(c)(4)(B), which is specifically applicable to “requests by a public utility for a determination of ratemaking principles and treatment relating to the *abandonment or retirement* of a nuclear powered or fossil fuel-fired electric generating unit[.]” (emphasis added). As previously noted, EKC is not making a request for predetermination of any abandonment costs in this docket; nor is it seeking approval of any abandonment or abandonment decision. Rather, the retirements identified in the 2024 IRP are included for planning purposes, and EKC continues to evaluate the appropriate timing of those retirements under all the circumstances considered within the IRP.

Ultimately, the relevant subsections of the Predetermination Statute as it relates to EKC’s Petition are K.S.A. 2024 Supp. 66-1239(c)(1), (2), (3) and (6). These subsections do not include the language quoted by Mr. Gorman related to retirements. Importantly, however, they do explicitly require an examination of whether the proposed plan is “consistent with [EKC’s] most recent preferred plan and resource acquisition strategy submitted to the Commission.”⁵⁸ As Mr. Humphrey explained in his rebuttal testimony, the IRP process allows EKC to select the most cost-effective and resilient resource mix over the long term rather than simply defaulting to the cheapest resources in the short term. Mr. Humphrey testified that EKC has evaluated, and will continue to evaluate, coal-unit retirements as part of the IRP process but emphasized that “delaying coal-unit retirements with no plan or progress towards new resources is not supported by EKC’s IRP analysis.”⁵⁹ For all these reasons, KIC’s proposal suggesting delay of coal retirements in lieu of

⁵⁸ K.S.A. 2024 Supp. 66-1239(c)(2).

⁵⁹ Humphrey Rebuttal, p. 4.

moving forward with the CCGT additions called for in the 2024 IRP lacks substantial competent record support and should be rejected.

c. CURB's and NEE's proposals calling for battery storage in lieu of the CCGT additions are not consistent with EKC's 2024 IRP and are not reasonable.

Intervenors CURB and NEE proposed that, rather than incorporate the CCGTs, EKC should instead investigate additional battery storage options, and possibly incorporate battery storage as a means to meet customer and system needs in the future. As with KIC's proposal to delay coal retirements, CURB 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, because they are intermittent and not firm dispatchable generation sources, solar and batteries do not provide the same dispatchable energy to the system as CCGTs provide. Nor do they allow the flexibility provided by CCGTs. Again, this proposal fails to meet statutory prerequisites set forth in the Predetermination Statute and should be rejected.

When asked about Ms. Metz' position at hearing, Mr. Grady responded:

“... I think that that testimony really misses the mark because, because, first of all, if the utility were to come in and file that resource plan, the first thing that I would say to my testimony is that is not consistent with your IRP. Right? That's not consistent with your IRP. I mean, I feel like that is the standard that, you know, we should focus on. That's definitely part of what the predetermination standard calls for us to focus on.”⁶⁰

In addition to being inconsistent with the IRP, the plans proposed by NEE and CURB are unreasonable, and will not meet the reliability and load needs on the system moving forward.⁶¹ As Mr. VandeVelde stated in response to NEE's suggestion that batteries be utilized in lieu of the

⁶⁰ Grady Hearing Testimony, Tr. at p. 554.

⁶¹ For comprehensive responses to positions presented by CURB and NEE, see VandeVelde Rebuttal, pp. 12–16 Humphrey Rebuttal, pp. 5-6.

CCGTs, EKC's inclusion of the CCGTs is directly in line with EKC's most recent IRP, which considers battery storage as one of a number of possible solutions to growing demand and increased resource adequacy requirements. However, he said, it was not selected in the 2024 IRP for a number of reasons.⁶² 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.⁶³

Similarly, EKC witness Ives acknowledged at hearing that solar generation continues to be a component of the IRP and part of EKC's "all-of-the-above" strategy to resource addition, but that the CCGT additions are a necessary and important part of satisfying reliability and increased load requirements on EKC's system.⁶⁴ 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.⁶⁵ As Mr. Ives pointed out, 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.⁶⁶ Mr. Ives further testified that today, with current battery technology, 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.⁶⁷ EKC witness VandeVelde provided similar testimony

⁶² VandeVelde Rebuttal, pp. 12-13.

⁶³ *Id.* at p. 15.

⁶⁴ Ives Hearing Testimony, Tr. at p. 380.

⁶⁵ *Id.* at pp. 215-18.

⁶⁶ *Id.*

⁶⁷ *Id.* at pp. 215-16.

regarding solar and battery implementation at the evidentiary hearing, reiterating EKC's commitment to evaluating an "all-of-the-above" resource approach, including renewables and storage as well as demand-side management and grid-enhancing technologies. However, Mr. VandeVelde emphasized that "the magnitude of need from a firm dispatchable standpoint, 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]." ⁶⁸

Staff witness Grady expressed similar doubts with respect to placing too much reliance on solar and battery storage as proposed by CURB and NEE. Citing the difficulty in getting many solar facilities sited and resistance from local community interests, Mr. Grady indicated that he would not be in support of a plan that relied more heavily on solar and battery storage as proposed by CURB and NEE. ⁶⁹ Mr. Grady also discussed the declining Effective Load Carrying Capability ("ELCC") accreditation percentage for batteries and spoke at length about the fact that if resource planners place too much reliance on batteries now, they will face a substantial accreditation crunch in the future as the accreditation percentage for those batteries declines all at once. ⁷⁰ Mr. Grady further discussed the considerable shortcomings of batteries and, while he acknowledged their usefulness for certain purposes, expressed similar opinions to those of EKC witnesses that batteries are not sufficient replacements and cannot serve the same function as the CCGTs. ⁷¹ Mr. Grady also 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. ⁷² Similarly, Mr. Grady was critical of the analysis offered by CURB witness Metz,

⁶⁸ VandeVelde Hearing Testimony, Tr. at p. 348.

⁶⁹ Grady Hearing Testimony, Tr. at pp. 494-95.

⁷⁰ *Id.* at pp. 508-14.

⁷¹ *Id.* at pp. 205-208.

⁷² *Id.* at Tr. Day 2 - Confidential Portions, p. 10.

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.⁷³

2. EKC Issued a Request for Proposal from a Wide Audience of Participants Willing and Able to Meet the Needs Identified in EKC's Preferred Plan.

The record contains substantial evidence showing that EKC issued a request for proposal from a wide audience of participants willing and able to meet the needs identified under EKC's preferred plan as identified in K.S.A. 66-1239(c)(3). EKC witness J Kyle Olson discussed at length the competitive procurement process for materials, equipment and services utilized for the development of the CCGTs identified in the Natural Gas Settlement, including procurement for Owner's Engineer services, Power Island Equipment ("PIE") and other equipment, and Engineering, Procurement and Construction services ("EPC").⁷⁴ This process is also described in the pre-filed testimonies of Darrin Ives⁷⁵ and Jason Humphrey.⁷⁶ There is no credible evidence in this docket to the contrary. Therefore, the evidence clearly demonstrates that EKC utilized a request for proposal from a wide audience of participants willing and able to meet the needs identified under EKC's preferred plan.

3. The Natural Gas Settlement is Reasonable, Reliable and Efficient

a. The Record is Replete with Evidence From a Variety of Sources Supporting the Reasonableness, Reliability and Efficiency of the Natural Gas Settlement.

The record in this docket includes hundreds of pages of written testimony, and substantial additional live testimony from the evidentiary hearing, broadly supporting the Natural Gas

⁷³ *Id.* 214:4–216:16.

⁷⁴ Direct Testimony of J Kyle Olson ("Olson Direct"), pp. 5-7, 9-11, 15-24 (Nov. 6, 2024).

⁷⁵ Ives Direct, pp. 11-16.

⁷⁶ Humphrey Direct, pp. 12-17.

Settlement and the CCGT additions as reasonable, reliable and efficient. The topics covered by witnesses include not only the need for the CCGT additions for reliability purposes and to support system and load growth, but also substantive discussion regarding the performance and efficiency of the CCGT technology when compared with other generation resources, the overall prudence and reasonableness EKC has demonstrated throughout the procurement process, the reasonableness of reliance on EKC's comprehensive IRP model and process, the overall reasonableness of the costs and expected rate impacts related to these additions, and the need to move forward with these projects now. The testimony and evidence supporting the addition of the CCGTs can be found throughout the docket and is summarized below.

First, EKC witness Ives provided direct and rebuttal testimony supporting the position that the CCGT additions are reasonable, reliable and efficient. Mr. Ives discussed at length the need for the CCGT assets, the need to move forward now to begin the process of transitioning to new CCGT technology, the reasonableness of the costs and rate impacts of the projects, and the benefits of the predetermination process and the CWIP rider.⁷⁷ Mr. Ives' testimony as a whole substantially supports the reasonableness of the decision to add the CCGT facilities, the decision to move forward now without delay, the processes employed by EKC to procure goods and services for the project, and the benefits of using the predetermination process.

EKC witness Jason Humphrey provided further support for the CCGT additions. Mr. Humphrey specifically discussed the process of evaluating site selection, and the acquisition plan for the CCGT projects. He also described the performance and efficiency of the CCGT technology being utilized and concluded that the CCGT additions are vital resource additions under the circumstances. As Mr. Humphrey testified,

⁷⁷ Ives Direct, pp. 7-8, 33-35; Ives Rebuttal, pp. 5-8.

[t]he preferred plan provides Evergy a roadmap for meeting its obligation to furnish reasonably efficient and sufficient service and facilities at just and reasonable rates. The preferred plan also is in keeping with the prescribed IRP framework and analytical expectations for informing longer-term planning commitments. Further the plan reflects Evergy's careful evaluation of whether near-term decisions are sufficiently robust to maintain flexibility for adjustments that may be warranted because of changing conditions within the medium and long-term horizons.⁷⁸

EKC witness VandeVelde provided further support for the additions, describing them as a robust set of resources that meet customer needs identified in the IRP, and discussing the role the IRP framework plays in identifying customer and system needs as an important tool for EKC's resource planning.⁷⁹

With regard to the reasonableness, efficiency, and reliability of the CCGT additions, EKC witness Olson testified that these CCGTs are configured such that both prime movers (gas and steam turbines) will be on a single shaft line driving a single generator. He explained that using one large generator instead of two or more smaller units can improve generator efficiency, decrease startup time, and reduce equipment maintenance expenses.⁸⁰ Mr. Olson also explained that, by design, the CCGTs are capable of approximately 30% hydrogen co-firing and, with upgrades, will be able to support 100% hydrogen firing in the future.⁸¹ In addition to EKC witnesses, Staff witness Grady provided substantial support for the proposition that the CCGT additions are reasonable, reliable and efficient. In his direct testimony, Mr. Grady discussed numerous reasons for supporting the addition of the CCGTs, including but not limited to projected load growth in EKC.⁸² In all, Mr.

⁷⁸ Humphrey Direct, pp. 23-24.

⁷⁹ VandeVelde Direct, pp. 16-22.

⁸⁰ Olson Direct, p. 5

⁸¹ *Id.* at p. 21.

⁸² Grady Direct, pp. 74-81.

Grady supported the voluminous written testimony of EKC's witnesses and found the decision to add the CCGTs reasonable, reliable and efficient.

These witnesses provided further support for the CCGT additions at the evidentiary hearing as well. Mr. Ives testified regarding the reliability of the CCGTs and their importance to EKC's future generating fleet. He further discussed the IRP process in general and the efficiency provided by the CCGTs, noting that the facilities are able to be started over 200 times a year and are built to be as flexible as possible for a base load generating facility to be responsive to dispatch by SPP.⁸³

Mr. Humphrey further highlighted the efficiency of the CCGTs in his live testimony. He specifically described how the CCGTs provide better and more efficient generation than the gas plants now in service for EKC, and how the combined cycle utilizes heat and steam generated from the initial combustion process to provide a second cycle of generation, and providing substantially more generation per unit of fuel burned.⁸⁴

Similarly, in his live testimony at hearing, Mr. Grady strongly supported the CCGT additions in a manner consistent with his pre-filed testimony. He discussed not only the direct benefits the CCGT facilities will have for EKC customers, but also the reliability benefits they will provide to the system as a whole. He further discussed the clear consensus that there is a need for additional dispatchable capacity, the need for additional reliability fortification in the system, and the role the CCGTs play in fulfilling that need. He also acknowledged the costs and rate impacts may not be welcome by all ratepayers but that his opinion was still that the CCGTs are needed for reliability, flexibility, and to serve additional load. "[T]here's a lot of robust analysis that went into the 2024 IRP and the capacity expansion model," he said, and although "it's not the least cost

⁸³ Ives Hearing Testimony, Tr. at p. 231.

⁸⁴ Humphrey Hearing Testimony, Tr. at pp. 315-16.

solution, . . . it's close to the least cost solution” and “it performs well in a wide variety of futures. Very uncertain futures.”⁸⁵ Mr. Grady ultimately concluded: “I really believe that for the reliability of the system, these plants need to be built. I really do.”⁸⁶

One specific issue that has become even more important in the current political environment, and which came into focus mostly after the filing of pre-filed testimony in this case, is the additional risk posed by federal trade policy and import tariffs. Those issues became a focal point during the parties’ settlement negotiations, which culminated in the development of paragraph 5.k. in the Natural Gas Settlement. In general, paragraph 5.k. provides that if EKC becomes aware of information that leads it to reasonably believe that actual project costs are projected to exceed 115% of the definitive cost estimates for the CCGT projects, EKC will be required to make a compliance filing with the Commission to justify the economics and prudence of continuing forward with the McNew and/or Viola facilities. This provision embodies the thorough and thoughtful approach EKC has taken with respect to the CCGT additions, and its continued commitment to assuring prudence and transparency throughout the process. It provides a fair and meaningful set of procedures and reviews if the actual costs are projected to exceed 115% of the definitive cost estimates and, therefore, provides additional oversight if uncertainty related to tariffs, or even related to general inflation, result in substantially increased costs. This provision is a thoughtful and reasonable approach that allows the Commission to enact and enforce the provisions of K.S.A. 66-1239 and the public policy mandates from the legislature while still maintaining meaningful controls and oversight of the process under the unusual circumstances of the current market and political conditions.⁸⁷ This provision, therefore, further addresses and

⁸⁵ *Id.* at p. 561.

⁸⁶ *Id.*

⁸⁷ Ives Settlement Testimony, pp. 25-27.

underscores the manner in which EKC's process has been reasonable, reliable and efficient, and how EKC is committed to exercising its plan prudently on an ongoing basis. It is a testament to the creativity and thoroughness of the parties that they were able to negotiate a provision that addresses this emerging issue quickly and responsively and demonstrates that there are reasonable solutions that can mitigate the risks related to the CCGT additions.

b. Proposals Advocating for a “Wait and See” Approach are Not Reasonable, Reliable or Efficient.

Some parties have suggested that it may be preferable to wait for more clarity or certainty in the market and in the political environment, rather than proceed with construction of the plants now. Those positions are not reasonable and should be rejected. EKC witness Ives addressed this issue at the evidentiary hearing when comparing the posture of EKC as a public utility with other private businesses in response to a question from Chair French asking, “In this case, why is it fair for customers to have to make that investment decision right now versus wait and see, just like every other private business is trying to do right now?”⁸⁸ In response, Mr. Ives stated:

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.⁸⁹

⁸⁸ Commissioner French, Tr. at pp. 255-56.

⁸⁹ Ives Hearing Testimony, Tr. at pp. 256-57.

Numerous other witnesses discussed the fact that, although there was some risk in moving forward with the CCGT additions, the risk in not moving forward or in delaying the projects was much greater under the circumstances. Mr. Humphrey in his live testimony at the hearing explained:

I think the risk question is a really, really good one because doing nothing is not something without opportunity costs. By the time we reach 2029 and 2030, the base load units we have supporting Kansas central will all be 45 years old or older. And so when you have a plant that's originally designed for a 30 to 40-year life, while we do best in class operations, I'm very proud of what we do, we have the reality that rotating and high-pressure equipment does reach end of life. And if we haven't put steel in the ground to prepare for that eventuality we lose options and risk that resource adequacy situation that Staff spoke about in their opening. And so I think this is a way for us over time very thoughtfully to plan for an inherently uncertain future. But not having that plan, not putting steel in the ground, risks a shaft failure at Wolf Creek all of a sudden putting the whole region at risk of resource adequacy.⁹⁰

Similar sentiments were expressed by Staff witnesses Grady and Owings at the evidentiary hearing. Both witnesses acknowledged that the most notable risk is actually in delay or in not seizing the current time to begin construction of the CCGT facilities.⁹¹

The overall risk of delay was also discussed in the direct testimonies of Mr. Humphrey⁹² and J Kyle Olson,⁹³ and in testimony filed by Staff witness Grady in support of the Natural Gas Settlement. Specifically, Mr. Grady stated that a wait-and-see approach is flawed because “there is no guarantee that we will have more long-term certainty about [tariffs, load growth, natural gas prices or environmental policy] six months or a year from now,” and that

[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

⁹⁰ *Id.* at pp. 317-18.

⁹¹ Grady Hearing Testimony, Tr. at pp. 530-533; Owings Hearing Testimony, Tr. at pp. 449-50.

⁹² Humphrey Direct, pp. 19-20.

⁹³ Olson Direct, p. 30.

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.⁹⁴

Mr. Grady cited the inclusion of section 5.k in the Natural Gas Agreement, which was intended by the parties to help address political and economic uncertainty and to allow additional review if EKC becomes aware of information that leads it to believe actual project costs will exceed 115% of the definitive cost estimates.⁹⁵ That provision, as discussed above, is an important provision demonstrating the reasonableness and prudence of the approach adopted in the Natural Gas Settlement to move forward with the CCGT additions now, but to offer meaningful review and additional process in the case of substantial cost overruns.

In addition to the general principle that delay of these projects is problematic and unreasonable, the acquisition strategy employed by EKC makes delay of one or both facilities unreasonable. As discussed in the testimony of multiple witnesses testifying on behalf of EKC, the two plants were developed in tandem and as part of the same contracting process.⁹⁶ Therefore, the acquisition of the PIE and other equipment was performed under one contract for both plants, and the engineering, design, and construction of both plants will be procured under one EPC contract.⁹⁷ There has been testimony supporting the fact that the combined contracting for the plants creates efficiencies and economies of scale that are beneficial to the construction process.⁹⁸ Importantly, however, the manner in which the materials, equipment and services for construction of the CCGTs was procured undermines any argument that one plant, specifically the McNew plant to be added in 2030, can be separately delayed or reevaluated at a later date. Activities related to the McNew

⁹⁴ Grady Settlement Testimony, p. 22.

⁹⁵ *Id.* at pp. 22-23

⁹⁶ Ives Direct, pp. 11-15; Olson Direct, pp. 5-7.

⁹⁷ *Id.*

⁹⁸ Ives Direct, pp. 11-12; Humphrey Hearing Testimony, pp. 369-70.

plant remain ongoing and will need to be continuous in order to meet the 2030 in-service date.⁹⁹ 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.¹⁰⁰

Based on the above, proposals or arguments that one or both CCGT facilities should be delayed to allow time for more analysis and in the hope that there will be more stability and certainty in the market and the political environment are not reasonable under the circumstances. EKC has developed and is deploying a reasonable and prudent approach, and this approach is fortified by portions of the Natural Gas Agreement that allow for additional review if the specter of additional costs and tariffs materializes. This approach is wholly reasonable and prudent and is far less risky than any approach requiring a delay in the authorization of these much-needed generation assets.

c. Issues Related to the Availability and Cost of Gas Supply do Not Undermine the Reasonableness of the Natural Gas Settlement.

i. EKC has employed and will continue to employ reasonable and prudent strategies to procure natural gas supply for the Viola and McNew facilities.

One notable issue that occupied substantial time at the evidentiary hearing related to the reasonableness of EKC's plan to procure natural gas fuel supply for the CCGTs when they go into service. In its initial filings, EKC witness J Kyle Olson discussed the fuel gas supply plan, indicating that EKC had engaged interstate pipelines, intrastate pipelines, and midstream developers to discuss infrastructure upgrades necessary to connect the CCGTs to the natural gas system, and discussed how costs of that infrastructure would be recouped by the gas companies

⁹⁹ Olson Direct, pp. 8–9.

¹⁰⁰ Olson Direct, p. 30; Humphrey Direct, pp. 19-20.

over time. Mr. Olson further discussed the 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.¹⁰¹ Mr. Olson indicated that additional work and negotiations need to be performed but that they would take place upon authorization of the CCGT projects.¹⁰²

Staff witness Grady discussed the fuel purchasing plan in his direct testimony as well. Specifically, Mr. Grady noted Mr. Olson's testimony and the stated need to further develop its fuel gas procurement plan. He also noted 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.¹⁰³ 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.¹⁰⁴ 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.¹⁰⁵

In response to NEE's criticisms, EKC witnesses VandeVelde and Olson provided additional rebuttal testimony to provide further insight into the gas procurement strategy and gas pricing forecasts. 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

¹⁰¹ Olson Direct, pp. 31-32.

¹⁰² *Id.*

¹⁰³ Grady Direct, p. 65.

¹⁰⁴ *Id.* at p. 66.

¹⁰⁵ *Id.*; Cross Answering Testimony of Justin T. Grady, pp. 3-14 (March 21, 2025).

correcting flawed assumptions made by NEE witness Jones.¹⁰⁶ 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. Olson explained the specific analyses that were being undertaken and discussed with various fuel gas suppliers, which are ongoing.¹⁰⁷

As stated above, this issue became one that received substantial attention 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.¹⁰⁸ Mr. Humphrey also addressed EKC's development of a strategy to obtain fuel gas for the plants in general.¹⁰⁹ Further, Mr. Humphrey 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.¹¹⁰ Regarding the purchasing strategy, Mr. Humphrey testified that it would likely have to change from the current strategies and approaches EKC has utilized but that EKC had sophisticated and capable personnel to formulate and implement the new strategy going forward.¹¹¹ 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. Developing fuel acquisition strategies and implementing them is something EKC does for all of its dispatchable generation and will be an important part of the management

¹⁰⁶ VandeVelde Rebuttal, pp. 11-12.

¹⁰⁷ Olson Rebuttal, pp. 4-6.

¹⁰⁸ Ives Hearing Testimony, Tr. at pp. 228-29, 250-52,

¹⁰⁹ Humphrey Hearing Testimony, Tr. at p. 279,

¹¹⁰ *Id.* at pp. 320-21.

¹¹¹ *Id.* at pp. 323-24.

of the CCGTs if and when they are authorized. There's no dispute that gas acquisition strategy is critical to the future operation of these plants – it's the timing of that strategy that is at issue. Assuming the CCGTs are authorized, and there becomes a more concrete expectation that there will be CCGT plants to supply, EKC will work with Staff and others to fully develop that strategy.

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 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.¹¹²

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.¹¹³ 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

¹¹² VandeVelde Hearing Testimony, Tr. at pp. 141-43,

¹¹³ Owings Hearing Testimony, Tr. p. 449-50.

be able to achieve and will have in place a contract for firm natural gas transportation before these units go into service.¹¹⁴

In addition, at the close of the hearing, the Commission invited parties to submit certain additional information regarding natural gas pricing forecasts and their comparison with the forecasts used in EKC's 2024 IRP. Pursuant to that request, on May 5, 2025, Staff, EKC and NEE submitted a stipulated post-hearing exhibit, the United States Energy Information Administration's (EIA's) Annual Energy Outlook for 2025 (AEO). Of note, EIA's 2025 AEO presents natural gas price forecasts under a base case, low supply/high price case, and high supply/low price case. Gas price forecasts are provided through 2043 in the AEO and are expressed in nominal dollars at the Henry Hub trading location.

The late-filed exhibit is intended to compare the 2024 IRP gas price forecasts with EIA forecasts, and although it does allow for some meaningful comparison, it is not a pure apples-to-apples comparison. A true comparison would include a basis differential to capture the locational pricing difference between Henry Hub and EKC's service territory. EKC has used a basis differential of $-\$0.154/\text{MMBtu}$ when planning for the 2024 IRP, which is still likely an appropriate basis differential in this context.¹¹⁵

When comparing the 2024 IRP gas prices, incorporating the basis differential adjustment to obtain an apples-to-apples comparison, EKC's adjusted 2024 IRP base/mid average gas price projection over the 20-year planning horizon is actually $\$0.34/\text{MMBtu}$ 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. Overall, there are 13 years where the adjusted 2024 IRP mid-price curve is higher than the 2025

¹¹⁴ Grady Hearing Testimony, Tr. at p. 479.

¹¹⁵ VandeVelde Rebuttal, p. 11.

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, and the 2024 IRP high price curve is approximately \$0.47/MMbtu lower than the 2025 EIA low supply gas curve. Overall, this additional evidence further supports the reasonableness of EKC's approach, and its natural gas forecasting included in the 2024 IRP.

Though 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, and its natural gas pricing forecasts are reasonable based on industry information. While it is reasonable to continue to require collaborative discussions and development of EKC's Gas Purchasing Plan, as discussed below, the Commission should be comfortable based on all of the evidence in this docket that EKC is acting reasonably and prudently with respect to formulation of its Gas Purchasing Plan.

ii. The Natural Gas Settlement incorporates important provisions requiring cooperation in the gas procurement process.

Importantly, the Natural Gas Settlement also incorporates at least two specific provisions that require EKC to collaborate with important stakeholders in developing its fuel gas procurements strategy and approach. First, paragraph 5.f of the Natural Gas Settlement would require EKC to “collaborate with Staff and CURB during the development of a Gas Purchasing Plan, and to file the results of the plan in a compliance filing at the KCC in the compliance docket established at the conclusion of this docket,” and further requiring EKC to “meet at least annually with Staff and CURB to discuss potential revisions to the Gas Purchasing Plan.” The provision further requires EKC to meet with Staff and CURB annually to discuss the Gas Purchasing Plan as part of the RECA and ACA process. The Natural Gas Settlement would further require EKC to collaborate

with Staff and CURB on the particulars of any revised Hedging Plan related to the Gas Purchasing Plan (paragraph 5.g.), to file a compliance filing with the Commission once all natural gas transportation arrangements have been finalized and providing the financial terms of the transportation agreement(s) (paragraph 5.h), and to hold collaborative discussions with KGS, Atmos, Staff, CURB, KMEA/KMGA, Midwest Energy, and other interested parties to advance coordination efforts, including discussion of statewide natural gas supply priorities and curtailment standards during extreme weather events and other emergency and extraordinary situations (paragraph 6.d).

These provisions of the Natural Gas Settlement 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. This continues to be consistent with EKC's goal of providing an open and transparent process to the extent possible throughout the predetermination proceeding, and addition of the CCGTs. Moreover, it is an important part of continued oversight of the process of development of a Gas Purchasing Plan. As discussed above, 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. As the process moves forward, EKC invites the input and collaboration of these important stakeholders to help formulate a fair and reasonable Gas Purchasing Plan, and the collaborative processes included in the Natural Gas Settlement are an important part of development of a reasonable and prudent plan.

iii. It would be unreasonable at this time to impose arbitrary conditions such as cost-sharing requirements.

Although the Gas Purchasing Plan is still developing, and although EKC has agreed to and invites appropriate collaboration and input from the appropriate stakeholders, and more

importantly, from the Commission in this process, it would be inappropriate for the Commission to assess or implement an arbitrary cost ceiling or cost-sharing requirement. This possibility was only first raised by NEE witness Jones during live testimony at the evidentiary hearing.¹¹⁶ Although little detail was discussed, Mr. Jones did allude to possible pre-set cost limitations and cost-sharing systems that he suggests the Commission could use to pre-limit exposure to natural gas prices. Any such suggestion should be rejected and must not be adopted by the Commission at this time.

The proper forum to address recovery of fuel gas costs would be through the RECA/ACA process.¹¹⁷ Any proposed arbitrary and pre-set cost limitation or cost-sharing measure, by contrast, would fundamentally violate the principle that EKC, a regulated utility, should be afforded the opportunity to recover necessary and prudently incurred costs related to the provision of sufficient and efficient service to its customers. *See Citizens' Utility Ratepayer Bd. v. State Corp. Comm'n*, 47 Kan. App. 2d 1112, 1130 (2012) (stating that a utility's operating costs are recoverable in general rate proceedings, and that rates should be established in a manner allowing sufficient revenue to meet the costs of providing adequate, efficient and reasonable service). There has been no demonstrated need for the Commission to depart from this standard principle. The Gas Purchasing Plan remains in development, and at least Staff, CURB and the Commission will have continued view and input in the development of that process. Any pre-set cost disallowance, as mentioned by Mr. Jones in his testimony, would not promote prudent decision-making in the development of the Gas Purchasing Plan. Rather, it would function to restrict the ability of EKC to explore and consider all prudent measures and approaches for the Gas Purchasing Plan and limit

¹¹⁶ Jones Hearing Testimony, Tr. at pp. 650-51.

¹¹⁷ Rebuttal Testimony of Ronald A. Klote ("Klote Rebuttal"), p. 4 (April 4, 2025).

the ability of EKC to recover costs reasonably and prudently incurred in that process. As such, any pre-set cost limitation or cost-sharing provision would be inappropriate, inconsistent with law, and are unsupported by the record as a whole.

Stated simply, EKC has identified and described a path to implementing a Gas Purchasing Plan that is reasonable and efficient, relies on expertise of EKC's procurement personnel, will adopt broad strategies to procure long-term supply and avoid spot purchases, and incorporates substantial input and collaboration with important stakeholders. That strategy is a reasonable and prudent strategy, and EKC has demonstrated its plan and intent to carry out that strategy to procure necessary gas fuel supply at a reasonable cost, using all available procurement strategies.

d. Assertions That the Costs of the CCGTs are “Unknown” Ring Hollow

Certain parties, particularly the KIC-represented intervenors, have argued that the costs of the CCGT additions are unknown. Those arguments are factually incorrect. EKC witness J Kyle Olson, in his direct testimony, provided substantial background on the process utilized to obtain initial cost estimates for the CCGTs, and EKC's employment of various risk mitigation and cost-limiting strategies in that process.¹¹⁸ He then 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.¹¹⁹ In testimony at the evidentiary hearing, Mr. Ives further supported the fact that the definitive cost estimates are based upon true market prices and market responses, and are thus estimates based on the best information available at this time. He also discussed the role of the contingency, which is a component of the definitive cost estimate as well.¹²⁰

¹¹⁸ Olson Direct, pp. 24-30.

¹¹⁹ 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.

¹²⁰ Ives Hearing Testimony, Tr. at p. 236.

The definitive cost estimates are indeed estimates, but they are the result of substantial engineering analysis and a rigorous cost analysis and negotiation. Although EKC will include its actual costs incurred in rates at the conclusion of the project, not the estimated costs, that does not mean the costs of the projects are completely unknown. EKC has, as is envisioned by the Predetermination Statute, supplied rigorous definitive cost estimates on which the Commission and the parties can rely. Indeed, 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. Therefore, although the final actual costs have not yet been incurred, EKC has provided the same level of specificity and accuracy with its definitive cost estimates as is expected under the Predetermination Statute and other predetermination proceedings before the Commission.

As discussed in some detail above, the developing issues related to federal trade policy and tariffs continues to be an important issue that may drive an increase in actual costs. However, 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. Under this provision, although some additional cost related to tariffs may be incurred, the Commission will maintain oversight over the projects, and particularly if the projects are project to exceed 115% of the definitive cost estimates, EKC will be required to make a compliance filing to discuss the economics of the CCGTs and justify continuing to move forward with the projects.

Further, as has been discussed in testimony in this docket, EKC is not just relying on the above provision to mitigate and manage tariff risk. EKC has identified strategies it has utilized in the procurement process, and will continue to utilize during future phases of the construction, to

help manage and minimize 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.¹²¹ 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.¹²² Therefore, although tariff risk is not something EKC can necessarily control, EKC is nevertheless taking a prudent and proactive approach to help minimize and manage risk of cost increases due to tariffs by utilizing helpful contracting and planning strategies when they are available in the procurement and construction process.

Based on the above, it is incorrect to suggest that the costs of the CCGTs are unknown. EKC has provided cost estimates that estimate the costs as accurately and with as complete a set of information as is available at this time. Although inflation and federal tariffs pose some risk moving forward, the parties have devised a reasonable plan to manage those risks and manage costs of the project consistent with the definitive cost estimates.

e. Planning for Generation Beyond the Minimum SPP Required Reserve Margin is Reasonable and Prudent.

There was some discussion near the end of the evidentiary hearing regarding the reasonableness of planning for generation capacity beyond minimum SPP required reserve margins, and whether that is a reasonable and prudent practice. There was some suggestion that by engaging in such planning, EKC overestimates its generation needs and adds too much generation to its fleet.

¹²¹ Olson Direct, pp. 6-7, 19-30; Supplemental Testimony of Kyle Olson, pp. 1-5 (Feb. 14, 2025).

¹²² 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).

This notion is not in keeping with responsible generation resource planning. EKC maintains a buffer of capacity above currently-mandated SPP reserve margins because SPP reserve margins, and the performance and accreditation of EKC generation assets are subject to change over time and can be impacted by events outside of EKC's control.¹²³ EKC's 2024 IRP generally planned for a 2% reserve margin buffer above future SPP indicative reserve margin requirements, which equates to an approximate 100 MW buffer on a more than 5,000 MW load.¹²⁴ Importantly, the risk that some operational issue, even one caused by a weather event or other act of God, could cause the accreditation of EKC's facilities to fall below SPP minimum requirements is a substantial risk which can have severe consequences for EKC.¹²⁵ This strategy is wholly reasonable and prudent under the circumstances—it protects SPP's accreditation of EKC's assets and it protects against unforeseen operation issues causing EKC's facilities to fall below SPP minimum reserve margins. Targeting resource planning only to a minimum resource adequacy or reliability target would be extremely risky, particularly in light of unpredictable and extreme weather, and unpredictable generation asset reliability events, and is a planning strategy no EKC stakeholder should be interested in EKC pursuing. EKC's conduct in this respect is completely reasonable, and is an approach to resource planning that every party to this docket should welcome.

4. The Natural Gas Settlement Results in Just and Reasonable Rates.

a. Standard for Just and Reasonable Rates

Although the instant docket does not specifically establish rates paid by EKC customers, it does encompass predetermination of ratemaking principles applied to certain generation assets. Consequently, it does establish a path for recovery of certain costs through rates, and therefore

¹²³ VandeVelde Rebuttal, p. 10.

¹²⁴ *Id.*

¹²⁵ *Id.*

includes some estimated proposed rate impacts that can be analyzed under applicable legal standards. Under these standards, the Natural Gas Settlement will ultimately result in just and reasonable rates that fall within the “zone of reasonableness.”

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 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)).

As discussed below, under the applicable legal tests, the estimated rate impacts in this docket are reasonable under the circumstances, and in particular in light of the need for CCGT additions to enhance reliability of EKC’s system, and the related obligation of EKC to provide adequate, efficient and reasonable service.

b. Estimated Rate Impacts Related to Natural Gas Settlement

The overall rate impacts of the Natural Gas Settlement are discussed in the direct testimony of EKC witness Ronald A. Klote and fall into two categories: (1) impacts derived from the CWIP

rider and (2) impacts incurred when the costs of construction are included in base rates after the in-service date of the two CCGTs.

As Mr. Klote outlines in his direct testimony, 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.¹²⁶ Mr. Klote also discussed the estimated rate impacts related to the inclusion of the CCGT facilities in rate base after the plants are placed in service in 2029 and 2030. Mr. Klote states that 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. These impacts will occur in the next general rate case after the CCGTs are placed in service, which is expected to occur in 2029 for the Viola plant and in 2030 for the McNew plant.¹²⁷

Above are the only estimated rate impacts directly related to the Natural Gas Settlement. On the whole, they are just and reasonable in light of the reliability fortification provided by the CCGT additions.

c. Estimated Rate Impacts from the Natural Gas Settlement are Just and Reasonable

The above rate impacts are just and reasonable in light of the evidence as a whole, and under the balancing test analysis set forth under Kansas law. First, contrary to arguments presented by other intervenors in this docket, it is not appropriate attempt to add or stack purported or expected rate impacts in other current and future documents in the course of the current analysis.

¹²⁶ Direct Testimony of Ronald A. Klote (“Klote Direct”), p. 6 (November 6, 2024).

¹²⁷ *Id.* at pp. 7-8.

Indeed, this inquiry should focus on the estimated rate impacts of this case, including not only the magnitude of the impacts themselves, but also the timing of those impacts, and other issues that may ameliorate the extent of those rate impacts moving forward.¹²⁸

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.¹²⁹

Certain intervenors and parties have 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 and seemingly suggesting that all such impacts will occur at once. These analyses of purported rate impacts are oversimplifications and is ultimately misleading.¹³⁰ Importantly, any rate changes requested by EKC, or any other regulated utility in Kansas for that matter, 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.¹³¹ Therefore, assertions that the Commission should consider purported rate impacts from pending dockets such as Evergy's pending rate case¹³² the 25-294 Docket, which will not be

¹²⁸ 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”).

¹²⁹ Ives Settlement Testimony, p. 23.

¹³⁰ Rebuttal Testimony of Ronald A. Klote, pp. 2-4 (April 4, 2025).

¹³¹ Ives Settlement Testimony, pp. 23-25.

¹³² 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).

resolved until after the final order in this docket, are misleading and incorrect.¹³³ The relevant analysis 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. EKC is confident that the Commission will appropriately review any requests, as it is doing in this docket, 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.¹³⁴ 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.¹³⁵

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 in testimony supplied by Mr. Ives, 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

¹³³ 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.

¹³⁴ *Id.* at p. 3; Ives Settlement Testimony, p. 24; Direct Testimony of John M. Grace, pp. 8-9 (November 6, 2024).

¹³⁵ Rebuttal Testimony of Ronald A. Klote, p. 3; Ives Settlement Testimony, p. 24.

same period, and well below the rate of inflation of 27.1% during that period as well.¹³⁶ In addition, because the CCGTs will not go into service and into base rates for several years, and because of substantial 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.¹³⁷

Moreover, as addressed in previous sections of this brief,¹³⁸ 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.¹³⁹ 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%.¹⁴⁰ Overall, when viewed in proper perspective and in the appropriate context, these rate impacts related to the Natural Gas Settlement are fair and reasonable.

In 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. As discussed above, Kansas law requires the Commission to balance 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*, 267 Kan. at 773 (1999). There has been substantial

¹³⁶ Ives Rebuttal, p. 13.

¹³⁷ *Id.* at pp. 13-14.

¹³⁸ See *Supra*, pp. 39-41.

¹³⁹ Ives Rebuttal, p. 14.

¹⁴⁰ Rebuttal Testimony of Ronald A. Klote, pp. 3-4.

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.¹⁴¹ As Mr. Humphrey stated at the evidentiary hearing, EKC and its predecessors have not built base load power generation in Kansas since building the Wolf Creek Generating Station in 1985 – 40 years ago – and the system is therefore in need of substantial upgrades and reliability enhancements like the CCGTs.¹⁴² 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.¹⁴³

Mr. Grady testified that the rate impacts fall within the “zone of reasonableness” established by Kansas law.¹⁴⁴ 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.”¹⁴⁵ He further testified

¹⁴¹ See Supra pp. 23–28.

¹⁴² Humphrey Hearing Testimony, Tr. at pp. 313-14.

¹⁴³ Grady Settlement Testimony, pp. 20-21.

¹⁴⁴ *Id.* at p. 21.

¹⁴⁵ Grady Hearing Testimony, Tr. at pp. 465-66.

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.¹⁴⁶

Consistent with the analysis above, although EKC's preferred plan and addition of the CCGTs is not the lowest NPVRR plan, the costs, particularly in light of the reliability and efficiency enhancements provided by the CCGTs, are completely reasonable under the circumstances. As discussed in Mr. VandeVelde's direct testimony, the IRP did not select the lowest NPVRR alternative specifically because the preferred plan performed substantially better than lower NPVRR options with respect to reliability and flexibility.¹⁴⁷ And consistent with the analysis discussed above, Mr. Grady also testified that although the preferred plan was not the lowest NPVRR plan, the costs and the decision to move forward with the preferred plan are reasonable and prudent based upon the enhanced reliability and efficiency of the CCGTs.¹⁴⁸ Therefore, the fact that the preferred plan was not the lowest NPVRR alternative does not undermine the reasonableness of the costs and rate impacts related to the Natural Gas Settlement.

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. The CCGTs will substantially 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.

¹⁴⁶ *Id.* at pp. 470-472.

¹⁴⁷ VandeVelde Direct, pp. 14-16.

¹⁴⁸ Grady Direct, pp. 71-72.

5. The Natural Gas Settlement is in the Public Interest

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, Olson and VandeVelde, as well as Staff witnesses Grady and Owings.¹⁴⁹ 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.¹⁵⁰ 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 Mr. Ives noted in his testimony in support of the settlement agreements, the Natural Gas Settlement was supported or at least was not opposed by intervenors representing a wide variety of interests,

¹⁴⁹ See *supra* pp. 23–28.

¹⁵⁰ Ives Settlement Testimony, pp. 25-27; Humphrey Settlement Testimony, pp. 8-9; Grady Settlement Testimony, pp. 24-30.

including commercial and industrial customers (Walmart and CCPS),¹⁵¹ environmental groups, two Kansas cities and a populous county in EKC territory, a number of gas utilities, Commission Staff, and importantly every load responsible entity involved in this docket as well.¹⁵² 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. ANALYSIS OF THE UNANIMOUS SOLAR SETTLEMENT

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. As such, pursuant to K.A.R. 82-1-230a, the Solar Settlement Agreement is a “unanimous settlement agreement.” As such, the Commission should consider the unopposed Solar Settlement Agreement under the same standards as it would a unanimous agreement.

The testimony in support of the Solar Settlement Agreement filed by Mr. Ives and Mr. Humphrey on behalf of EKC, and Mr. Grady on behalf of Staff, address the factors the Commission considers when determining whether a unanimous settlement is in the public interest. Those factors are highlighted below.

In addition, the signatories presented witnesses at hearing to answer any questions the Commissioners might have had regarding the terms of the Solar Settlement Agreement. Based upon that testimony, and the lack of any testimony opposing or stating otherwise, EKC requests

¹⁵¹ Walmart and CCPS were not signatories on the Natural Gas Settlement, but they did not oppose the Natural Gas Settlement.

¹⁵² Ives Settlement Testimony, p. 27.

the Commission approve the Solar Settlement Agreement and incorporate its terms as part of the Commission's Order in this docket.

A. The Commission's Three-Factor Test for Unanimous Settlements

Because the Solar Settlement is a unanimous settlement agreement as defined by K.A.R. 82-1-230a, there is no need to fully apply the Commission's five factor test for evaluation of settlements. *See* Order on KCP&L's Application for Rate Change, Docket No. 15-KCPE-116-RTS, (Sept. 10, 2015). Rather, the Commission will only apply the three-factor test formulated for unanimous settlements, which requires the Commission to make an independent finding as to whether the settlement: (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. *Id.*; see also Order Approving Unanimous Settlement Agreement, Docket No. 21-KGSG-332-GIG (March 3, 2022) ¶ 22. The law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith to settle the dispute. *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

B. The Solar Settlement is Supported by Substantial Competent Evidence

The Solar Settlement is fully supported by substantial competent evidence in this docket. In testimony submitted in support of the Solar Settlement, EKC witness Ives summarized the extent of the substantive and competent evidence and testimony offered in support of the Solar Settlement, including his own testimony and the testimonies of EKC witnesses Carlson, Grace, Humphrey, and Klote comprehensively supporting the addition of the Kansas Sky solar facility.¹⁵³ Similarly, Staff witness Grady identified and listed the breadth and extent of the record evidence

¹⁵³ Ives Settlement Testimony, pp. 27-28.

supporting the Solar Settlements in this case.¹⁵⁴ Notably, there is no opposition to the Solar Settlement. The substantial testimony and evidence identified in this docket clearly demonstrates that there is substantial competent evidence in the docket supporting the Solar Settlement.

C. The Solar Settlement Results in Just and Reasonable Rates

The overall costs of the Kansas Sky solar facility are discussed in detail in the direct testimony of EKC witness Carlson. The definitive cost estimate for the Kansas Sky facility is identified and quantified in Mr. Carlson’s testimony and in the Solar Settlement at paragraph 5.d. Mr. Carlson has testified regarding the procurement and construction strategies related to the Kansas Sky solar facility, including strategies to utilize firm fixed price contracting where available to minimize price risk.¹⁵⁵ He also discussed how the Kansas Sky facility compares favorably under a levelized cost of energy (“LCOE”) analysis when compared with other similar projects, and that the proposed costs of the Kansas Sky solar facility are actually 20% lower than the cost estimates employed in the 2024 IRP.¹⁵⁶ Therefore, the construction costs for the Kansas Sky solar facility are reasonable. Mr. Carlson does identify risks related to the Kansas Sky solar facility, including the possibility that federal energy policy will change and that certain tax credits related to the Kansas Sky solar facility may be eliminated.¹⁵⁷ That risk, however, has been addressed in paragraph 5.h. of the Solar Settlement, which requires that in the event there are changes in law or regulations or occurrences outside EKC’s control which would result in material adverse impact to EKC with respect to recovery of the Kansas Sky revenue requirement, EKC may be permitted to file an application proposing methods to address impact of these events.¹⁵⁸ The

¹⁵⁴ Grady Settlement Testimony, pp. 17-18.

¹⁵⁵ *Id.* at pp. 14-16.

¹⁵⁶ *Id.* at pp. 18-19.

¹⁵⁷ *Id.* at pp. 20-21.

¹⁵⁸ Solar Settlement, paragraph 5.h.

parties to the Solar Settlement have therefore devised a reasonable plan to mitigate these risks and move forward with the unanimous settlement.

Regarding rate impacts, the Solar Settlement provides that, in lieu of including the Kansas Sky solar facility in rate base, EKC will be allowed a levelized revenue requirement for the solar facility in the amount specifically stated in paragraph 5.e of the Solar Settlement, which is to be included in EKC's total revenue requirement in the next general rate case. The estimated all-in customer bill increase based upon the levelized revenue requirement amount implemented after the Kansas Sky solar facility goes into service in 2026 are approximately 0.70%.¹⁵⁹

In addition, the parties to the Solar Settlement included a provision to address construction accounting from the in-service date of the facility to the date when rates including the Kansas Sky solar facility become effective. Specifically, the provision permits EKC to defer and recover as a regulatory asset over the remaining life of the Kansas Sky solar facility the pretax rate of return, depreciation expense, and actual operating and maintenance expense, offset by the value of the production tax credits, incurred between the time the facility is placed in service and the effective date of rates that include the levelized revenue requirement.¹⁶⁰

In view of the docket as a whole, those estimated rate impacts are just and reasonable, as supported by testimony submitted in support of the Solar Settlement in this docket.¹⁶¹ Overall, the Solar Settlement will allow for addition of new utility-scale solar generation, which will add to the diversity of EKC's generation fleet, and provide additional low-carbon generation options. In light of the additional efficiency provided, the minimal rate impacts of the Solar Settlement are just and reasonable. Moreover, the fact that the Solar Settlement, and its attendant rate impacts, have

¹⁵⁹ Klote Direct, p. 10.

¹⁶⁰ Solar Settlement, paragraph 5.g.

¹⁶¹ Ives Settlement Testimony, p. 28; Grady Settlement Testimony, pp. 19-21.

garnered unanimous support from the diverse set of intervenors and stakeholders in this docket provides additional support for the proposition that the rate impacts are just and reasonable under the circumstances.

D. The Solar Settlement is in the Public Interest

There is substantial support for the proposition that the Solar Settlement is in the public interest. Testimony provided by Mr. Ives and Mr. Grady, among others witnesses, clearly points to the fact that the Solar Settlement advances and promotes the public interest in providing affordable, efficient generation.¹⁶² The fact that the Kansas Sky solar facility helps ensure the delivery of efficient and sufficient electric service at just and reasonable rates, that it enhances and diversifies EKC's generation fleet in substantial and meaningful ways, and that it will provide additional reliability benefits to the system all demonstrate the Solar Settlement serves the public interest. And again, the broad and diverse group of parties that have participated meaningfully in this docket and have unanimously agreed to the terms of the Solar Settlement further demonstrates that it will promote the public interest and the public good.

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.

¹⁶² Ives Settlement Testimony, pp. 29-30; Grady Settlement Testimony, p. 24.

Respectfully submitted,

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ATTORNEYS FOR EVERGY

APPENDIX A

to

INITIAL POST-HEARING BRIEF OF EVERGY KANSAS CENTRAL, INC., AND EVERGY KANSAS SOUTH, INC., IN SUPPORT OF JOINT MOTIONS TO APPROVE SETTLEMENTS

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1. OVERVIEW OF PETITION

On November 6, 2024, EKC filed a Joint Petition with the Commission requesting preapproval under K.S.A. 2023 Supp. 66-1239 (the “predetermination statute”) of its construction and acquisition of 50% of a 710 MW combined cycle gas turbine (“CCGT”) located in Kansas near its Viola Substation (“Viola Generating Station” or “Viola plant”) and a 50% interest in a second 710 MW CCGT located near Hutchinson, Kansas (“McNew Generating Station” or “McNew plant”).¹ Preapproval was also requested for EKC’s construction and ownership of approximately 200 MW_{DC} (159 MW_{AC}) of solar generation, located in Douglas County, Kansas and known as the Kansas Sky generating resource (“Kansas Sky”).

As recited in the Petition, EKC is required to file an IRP with the Commission every three years, and to file updated IRPs on an annual basis.² The purpose of the IRP process is to produce an integrated plan for meeting forecasted peak and energy demand, plus a necessary reserve margin, through a combination of supply-side and demand-side resources. The process utilizes stakeholder input and multi-scenario analysis to arrive at a plan for the provision of safe, reliable and efficient electric service at just and reasonable rates in a manner that advances the public interest while complying with state and federal energy and environmental policy mandates. The ultimate planning objective is to present a preferred resource plan that meets customer requirements at the lowest reasonable cost, given an uncertain future, using sensitivity and scenario analysis to ensure the plan is flexible and robust.

As further stated in the Petition, EKC continues to see robust economic development

¹ The Petition was initially filed as a joint Petition on behalf of Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., as well as Evergy Kansas Metro. At the time of filing of the Petition, it was unknown whether the second 50% of the McNew Generating Station would be assigned to EKC, Evergy Kansas Metro, or another Evergy affiliate entity. The Petition requested flexibility to acquire the second 50% of the McNew Generating Station. On February 14, 2025, Evergy notified the Commission that this second 50% of McNew would be assigned to Evergy Missouri West, so it was no longer an element of the preapproval request in this docket.

² *Order Approving IRP and Capital Plan Framework*, Docket No. 19-KCPE-096-CPL (Feb. 6, 2020).

activity, with new large load customers exploring locations within EKC's service area. EKC's most recent triennial IRP is dated May 17, 2024 ("2024 IRP").³ Given the magnitude of potential new loads and the uncertainty surrounding that potentiality, EKC is continuously monitoring its IRP analysis and making planning adjustments where appropriate.

EKC's most recent preferred resource plan is included in its 2024 IRP. The preferred resource plan resulting from the 2024 IRP supports the proposal in this docket, as more-fully addressed in EKC's briefing filed herewith. While the plan proposed in this docket is not the least cost plan indicated by the modeling, it is preferred because it advances EKC'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. The flexibility of the plan allows EKC to focus on reliability and affordability while adapting to environmental, technological, and market opportunities and challenges. EKC's transition strategy includes the measured retirement of coal plants over time and replacement of that generation capacity and energy with a mix of highly efficient dispatchable thermal resources, renewable resources, and demand-side management programs.

The resources in this predetermination case are vital to meeting EKC's capacity and energy requirements as identified in the 2024 IRP.

A. The Combined Cycle Gas Turbine Additions

The first CCGT addition, the Viola plant, will be built on a greenfield site in Sumner County, Kansas, and will be jointly owned by EKC and Evergy Missouri West with each holding a 50% stake in the generating asset and EKC acting as the operator of the facility. The projected

³ See Evergy Kansas Central and Evergy Metro, *Preferred Portfolio Selection and Resource Acquisition Strategy*, Vol. 6, Integrated Resource Plan (May 2024), Docket No. 24-EKCE-387-CPL.

date of commercial operation for the Viola plant is January 1, 2029, and will be used and useful and dedicated to providing service to customers as of the date of commercial operation.

The second CCGT addition, the McNew plant, will be built on a greenfield site in Reno County, Kansas. EKC will own a 50% stake in the McNew facility with Evergy Missouri West (“EMW”) owning the other 50% stake. The projected date of commercial operation for the McNew plant is January 1, 2030, and will be used and useful and dedicated to providing service to customers as of the date of commercial operation.

The natural gas additions in this predetermination Petition are vital to maintaining dispatchable baseload energy to meet future growth, particularly as end-of-life coal plants are retired.⁴ The Viola plant corresponds to the 325 MW (half of a combined cycle) of thermal generation addition that is identified in year 2029 in EKC’s Preferred Portfolio. The other half of this facility will be allocated to EMW. The McNew plant corresponds to the 325 MW (half of a combined cycle) of thermal generation addition that is identified in year 2030 in EKC’s Preferred Portfolio.

EKC’s Owner’s Engineer (“OE”) contractor, Burns & McDonnell (“BMcD”), will support EKC in supervising engineering, procurement and construction activities in connection with both CCGT projects.⁵ In addition to using the same OE and EPC contractors for both CCGT projects in Kansas, and a simple cycle natural gas project for Every Missouri West in Missouri, the projects will utilize common generation technology and the same original equipment manufacturers, leading to more efficient, reliable and cost-effective project delivery through economies of scale.

Power Island Equipment (“PIE”) encompasses the major equipment for the projects, including the advanced J-Class gas turbine, an electrical generator, a heat recovery steam

⁴ Direct Testimony of Darrin Ives, 24:13–15 (November 6, 2024).

⁵ Id. 14:10–15:11.

generator, and a steam turbine. After conducting a competitive bid process, EKC selected Mitsubishi Power America, Inc. (“MPA”) to supply the PIE for both CCGT facilities.⁶ EKC has executed Reservation Agreements in order to support the construction schedules for the proposed plants by reserving manufacturing capacity for the PIE before the PIE Supply Agreement with MPA is finalized. Under the Reservation Agreements, EKC pays a reservation fee, which is a percentage of the total contract amount, and MPA is required to irrevocably reserve manufacturing slot space for the PIE being provided for EKC’s projects in order to ensure delivery on or before the scheduled dates.

EKC, with assistance from BMcD, developed an RFP seeking bids for an Engineer, Procure, and Construct (“EPC”) contractor. This RFP was issued on October 15, 2024, inviting bids from the three contractors in the market with experience on projects similar to EKC’s and that could support the labor requirements. As explained in EKC’s updated direct testimony filed in February, EKC received two quality bids from prospective EPC contractors, Black & Veatch and Kiewit Corporation. EKC has analyzed those bids to produce the definitive cost estimates for the CCGT projects. EKC continues to negotiate to finalize the EPC contract for the CCGT projects.

In order to develop complete initial cost estimates for the proposed projects before final selection of the EPC contractor occurs, EKC worked with its OE to develop a comprehensive cost estimate for the costs that will be charged by the EPC contractor. BMcD has extensive experience working as an EPC contractor on other similar projects and applied that expertise to develop very detailed cost estimates for the EPC component of these projects. The estimates were delivered at a summary level with breakdown of all direct labor hours, direct labor costs, material costs, equipment costs, and indirect costs. A cost-estimate basis also was provided, including major

⁶ Direct Testimony of Kyle Olson, 15:11–19:21 (November 6, 2024).

assumptions and information used. Company witness Mr. Kyle Olson identifies the initial cost estimate amounts from BMcD in his direct testimony.⁷ As company witness Mr. Cody VandeVelde explains in his direct testimony, the initial cost estimate presented in the Petition for the two CCGTs is higher than the cost estimate included in the 2024 IRP.⁸ As a result, EKC conducted an updated IRP analysis, using all the same inputs that were used in the 2024 IRP triennial filing, but changing only the cost, heat rate, and installed size characteristics of new natural gas generation to be consistent with the cost estimates discussed in Mr. Olson's direct testimony.

EKC already had cost information on the other components of the project (OE costs, PIE costs, and transmission upgrades) and was therefore able to develop complete cost estimates for the two CCGT plants by including the BMcD EPC estimates together with the known costs for the other items. Those complete cost estimates are provided in Mr. Olson's direct testimony as Exhibits JKO-8 and JKO-9. The preconstruction cost estimates are reasonable and comparable to the expected costs for similar CCGT projects.

Interconnection Network Upgrade and System Network Upgrades costs related to the CCGT facilities will be recovered from retail customers as part of general base rates and those amounts are included in the cost estimates provided by Mr. Olson in his direct testimony.⁹ As Ms. Onnen explains, EKC has requested approval of change in the treatment for System Network Upgrades that would result in base-plan funding of those upgrades and would spread the costs over the broader SPP zone based on load-ratio share, thus reducing the amount allocated to retail customers. However, this change has not yet been finalized by SPP or approved by the Federal

⁷ Id. 26:15–27:10.

⁸ Direct Testimony of Cody VandeVelde, 23:5–25:11 (November 6, 2024).

⁹ Direct Testimony of Kyle Olson, p. 24–27 (November 6, 2024).

Energy Regulatory Commission (“FERC”).¹⁰

After the EPC contractor was selected and final cost estimates received, EKC filed updated testimony in February 2025. The updated cost information reflects only a small increase from the earlier cost estimate, negligible to the overall terms and requests contained in the initial Petition filed in November, 2024.¹¹ The updated IRP analysis and updated definitive cost estimate demonstrates that EKC’s investment in 50% of the Viola plant and 50% of the McNew plant is still the selected plan through 2030. Even with the changed assumption related to cost on the CCGTs, the addition of those two units is the most reasonable and efficient approach for EKC to meet future customer needs and maintain reliability.

As permitted by the predetermination statute, EKC requests authorization to implement a rider mechanism to recover a return on 100% of the costs recorded to CWIP up to the definitive cost estimate for the portion of each project assigned to EKC or EKM.¹² EKC will request recovery of deferred depreciation (including a carrying charge) on plant balances not recovered through the CWIP rider. As company witness Mr. John Grace testified, the use of the CWIP rider will benefit customers by reducing the overall cost of building these facilities to provide dispatchable natural gas generation by reducing the financing and interest costs on building the plants, both over the construction period, and over the useful life of the plant.¹³

Company witness Mr. Ron Klote discusses the rate impacts for customers that will result from implementation of the CWIP rider and from EKC’s recovery of the costs for these projects through base rates.¹⁴ Those estimated rate impacts are discussed in more detail in the analysis of

¹⁰ Direct Testimony of Katy Onnen, 14:1–16:12 (November 6, 2024).

¹¹ Supplemental Testimony of Kyle Olson, 1:19–3:5 (February 14, 2025).

¹⁴ K.S.A. 2023 Supp. 66-1239(c)(6)(A).

¹³ Direct Testimony of John Grace, 7:16–12:2, 12:5–10 (November 6, 2024).

¹⁴ Direct Testimony of Ronald A. Klote, 4:7–8:23 (November 6, 2024).

the reasonableness of the rate impacts related to the Natural Gas Settlement.

B. Solar Addition

The Kansas Sky solar facility (159 MW_{AC}) corresponds with the 150 MW of solar in 2027 identified for EKC in the 2024 IRP.

The proposed solar addition, Kansas Sky, is a 200 MW_{DC} (159 MW_{AC}) single-axis tracking photovoltaic solar facility located in Douglas County, Kansas. The project is being developed by Savion and is projected to go commercial in December of 2026. The project maintains a mature generation interconnection request (“GIR”) queue position with the SPP and interconnects to the transmission grid at the 115kV Midland Junction substation, owned by Evergy Kansas Central.¹⁵

Kansas Sky is structured as a development asset sale (“DAS”) with negotiations that started in December 2021 and were completed with a signed Purchase and Sale Agreement (“PSA”) on February 7, 2023. EKC has now selected DEPCOM as the EPC contractor for construction of the project. The EPC contract with DEPCOM was attached as *Confidential Exhibit JOH-1* to company witness Mr. Jason Humphrey’s Updated Direct Testimony filed in February. In addition, EKC formalized its panel supply contract with ZNShine PV-Tech Co. (“ZNShine”) through a panel supply broker, The Megawatt Group. ZNShine is a Tier 1 supplier of solar modules, which has successfully and timely supplied solar modules for another Evergy solar generation project during the COVID pandemic. The ZNShine agreement includes favorable terms, including agreement that all tariff-related risk will be borne by ZNShine in the performance of the agreement when manufacturing in either Indonesia (primary site) or the country of Georgia (fallback site). Importantly, there is a third manufacturing plant identified in the contract which is located in the United States. While the US manufacturing location carries a small premium and is only a backup

¹⁵ Direct Testimony of John Carlson, 7:1–8:3 (November 6, 2024).

to the first two, this greatly reduces overall risk to the panel supply. The module supply agreement with The Megawatt Group is attached to Mr. Humphrey's Supplemental Direct Testimony as *Confidential Exhibit JOH-2* and all terms & conditions identified in that agreement will flow down to the supplier, ZNShine. Finally, EKC has been able to secure an agreement for GSU equipment for the Kansas Sky solar facility with a preferred supplier, GE Waukesha, under favorable terms. The GSU agreement for the Kansas Sky solar facility is attached to Mr. Humphrey's Updated Direct Testimony as *Exhibit JOH-3*.¹⁶

After all conditions of closing are met, EKC will then acquire the equity interests in Free State Solar Project, LLC ("FSSP"), the project developer, and the associated development assets upon closing at Notice to Proceed ("NTP"). Immediately after closing, EKC plans to effect a short-form merger of FSSP with and into EKC, with EKC surviving the merger, to consolidate the assets of the project company with those of EKC.

After the closing occurs, EKC will take responsibility for the construction, commissioning, and operation of the Kansas Sky project. For construction, EKC hired DEPCOM as the EPC contractor to manage the site design, procure necessary equipment, and either build or hire subcontractors to build the project.

EKC's planned investment in the Kansas Sky project will produce energy from a renewable resource for customer use. Accordingly, EKC would be entitled to seek a return on this investment equal to an increment of between ½% and 2% plus an amount equal to the rate of return fixed for its other investments in property found to be used or required to be used in service to the public.¹⁷ Nevertheless, after giving consideration to the continued regional rate comparisons of EKC's retail rates and average customer bills, and despite the significant improvement in these rate comparisons

¹⁶ Supplemental Testimony of Jason Humphrey, p. 5 (February 14, 2025).

¹⁷ See K.S.A. 66-117(e).

in recent years, EKC has elected not to pursue this additional rate of return for this solar generation.

The Kansas Sky project will qualify for either the investment tax credit (“ITC”) or production tax credits (“PTC”), which will reduce the cost to customers once the investments is in retail rates. The project qualifies for either a 30% ITC or a 110% PTC because the project meets the requirements for the 10% Energy Community Bonus credit. Every Kansas Central has not elected the preferred tax treatment – either PTC or ITC – for Kansas Sky; however, if the proposed ratemaking principles requested in this Petition are approved by the Commission, the PTC election will be the most economical choice for customers.

The energy produced by this resource will also generate renewable energy credits (“RECs”), which can be used to certify that the produced power is renewable or that the RECs may be sold with their proceeds going to reduce customer rates.

EKC requests a levelized revenue requirement for Kansas Sky under which customers will pay a stable price over the initial thirty-year book life of the facility.¹⁸ This approach would create a static annual cost, reduce the drastic swing in revenue requirements when the PTCs and the 10-year property tax exemption for the renewable resource expires, and thereby reduce intergenerational inequities. Mr. Grace explains the calculation of the levelized revenue requirement in his direct testimony and discusses the benefits associated with that approach in greater detail. Mr. Klote identifies the expected rate impact for customers associated with the inclusion of the levelized revenue requirement in rates, which will occur during the first general rate case following the date Kansas Sky is considered in-service.

The price per MWh and resulting levelized revenue requirement for Kansas Sky compares favorably with the bids EKC received in response to an RFP it issued in 2023, both for projects to

¹⁸ The levelized revenue requirement approach was approved for the Western Plains Wind Farm in Docket No. 18-WSEE-328-RTS and for the Persimmon Creek Wind Farm in Docket No. 23-EKCE-775-RTS.

be owned by the utility and for power purchase agreements. Company witness Mr. John Carlson provides the detail regarding the comparison of Kansas Sky to these other projects in his direct testimony, establishing that the levelized revenue requirement for Kansas Sky is reasonable and that the project will be beneficial for customers.¹⁹

EKC is requesting that the Commission approve construction accounting treatment, under which EKC would be permitted to defer and recover as a regulatory asset over the remaining life of the Kansas Sky generating plant the pretax rate of return, depreciation expense, and actual operating and maintenance expense, offset by the value of the production tax credits, incurred between the time the Kansas Sky plant is placed in service and the effective date of rates that include the levelized revenue requirement. Recovery of the regulatory asset will begin in the next general rate case after inclusion of the levelized revenue requirement in rates and recovered over the life of the plant.²⁰ This requested construction accounting treatment will help support EKC's significant investment in generation construction over the next six years, as proposed in this Petition. It is also consistent with treatment approved by the Commission previously in Docket Nos. 15-GIME-025-MIS and 09-KCPE-246-RTS.

2. STAFF AND OTHER PARTIES' PRE-FILED TESTIMONIES

Staff filed the direct testimony of two witnesses, the cross-answering testimony of one witness, and testimony from one witness in support of the natural gas settlement and the solar settlement agreement.

In addition to the Commission Staff, the following entities intervened in this proceeding and filed the testimony indicated:

¹⁹ Direct Testimony of John Carlson, 18:21–20:20 (November 6, 2024).

²⁰ Id.

- The Citizens’ Utility Ratepayer Board (“CURB”) – Direct testimony of one witness; testimony in opposition to the natural gas settlement and testimony in support of the solar settlement of one witness
- USD #259 – Direct testimony of four witnesses
- Johnson County Board of Commissioners – Direct testimony of one witness
- City of Lawrence – Direct testimony of one witness
- Climate + Energy Project (“CEP”) – Cross-answering testimony of one witness; testimony in opposition to the gas settlement and testimony in support of the solar settlement of one witness
- New Energy Economics (“NEE”) – Direct testimony of one witness; cross-answering testimony of one witness; testimony in opposition to the natural gas settlement and testimony in support of the solar settlement of one witness
- Wichita Regional Chamber of Commerce – Direct testimony of one witness
- HF Sinclair El Dorado Refining – Direct testimony of one witness
- National Resource Defense Council (“NRDC”) – Direct testimony of one witness
- Kansas Gas Service Company (“KGS”) – Direct testimony of one witness
- Atmos Energy (“Atmos”) – Direct testimony of one witness
- Kansas Industrial Consumers Group, Inc. (“KIC”)²¹ – Direct testimony of two witnesses; cross-answering testimony of one witness.

The following entities were granted intervention in the docket but did not file testimony: Kansas Agriculture Associations (“KAA”)²², U.S. Department of Defense, Kansas Power Pool Energy (“KPP”), Kansas Municipal Energy Agency (“KMEA”), Midwest Energy, Kansas Chamber of Commerce, City of Overland Park, Renew Missouri, CCPS Transportation, Walmart.

²¹ KIC includes Associated Purchasing Services, Goodyear Tire and Rubber Company, Lawrence Paper Company, Occidental Chemical Corporation, Spirit AeroSystems, Inc., USD #229, USD #233, USD #512, USD #232, Cargill Incorporated.

²² KAA includes Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Renew Kansas Biofuels Association.

A. Staff's Filed Position

Staff recommends the Commission approve EKC's decision to acquire 50% of the Viola CCGT, 50% of the McNew CCGT, and the Kansas Sky Solar facility as reasonable, reliable, efficient, and consistent with EKC's most recent preferred plan and resource acquisition strategy.

With respect to the CCGTs, Staff recommended the Commission:

- Approve the definitive cost estimate of [REDACTED] (excluding AFUDC) for 50% of Viola, as shown on Confidential Exhibit JKO-10.
- Approve as reasonable a revised definitive cost estimate of [REDACTED] (excluding AFUDC) for 50% of McNew, a [REDACTED] reduction from the amount listed in Confidential Exhibit JKO-11.
- Require EKC to collaborate with Staff and CURB during development of a Gas Purchasing Plan and file the results of the plan in a compliance filing and thereafter require EKC to meet at least annually with Staff and CURB to discuss potential revisions to the Gas Purchasing Plan
- Should the addition of the CCGTs materially revise EKC's current Natural Gas Hedging Plan, require EKC to collaborate with Staff and CURB on the particulars of a revised Hedging Plan to be filed at the KCC
- Require EKC to make a compliance filing once all natural gas transportation arrangements have been finalized, which should include, at a minimum, the financial terms and conditions under which firm natural gas transportation has been secured and the length of the transportation arrangement

With respect to Kansas Sky, Staff recommended the Commission:

- Approve a revised definitive cost estimate of [REDACTED] (excluding AFUDC), a reduction of [REDACTED] from EKC's requested amount of [REDACTED]
- Approve the construction accounting treatment described on page 21 of Darrin Ives' direct testimony pertaining to construction accounting and use of deferred regulatory accounting

to capture the net revenue requirement impacts of the Kansas Solar facility prior to the facility being reflected in rates

- Require EKC to update the Kansas Sky levelized cost amount in the first rate case after the facility goes into service to account for actual construction costs once known
- Deny any maintenance capital expenditures as part of the levelized revenue requirement of Kansas Sky and instead require EKC to identify and support these investments in a future rate case
- Require EKC to make a compliance filing justifying the economics and prudence of continuing forward with the Kansas Sky project, or informing the KCC that it will abandon the project, if the production tax credit provisions of the Inflation Reduction Act are substantially revised or repealed prior to the start of construction on the facility.
- For all three facilities, Staff requested the Commission assign to EKC the burden of proof to show that any amounts incurred in excess of the definitive cost estimates are prudently incurred and reasonable to recover from ratepayers, consistent with the findings in Docket No. 11-KCPE-581-PRE.

B. CURB's Filed Position

CURB took the position that the Commission should not approve CCGTs for predetermination. CURB argued that (1) the Commission should order EKC to issue an all-sources RFP including options for PPA resources to determine if these alternatives will meet capacity requirements with less cost; (2) EKC should focus near term on procurement of “no-regret” flexible assets with broad usefulness and implementation; and (3) the Commission should not delay retirement of the coal facilities, highlighting the risks of reliance on coal assets moving forward.

C. KGS's Filed Position

KGS did not oppose EKC's Petition but asked the Commission to consider how adding the CCGT facilities will impact natural gas utilities' ability to meet their customers' needs. KGS argued for coordination and cooperation between natural gas and electric utilities during emergencies and extreme weather, expressed that there are constraints that will limit EKC's ability

to operate the CCGT facilities at full capacity, and stated its belief that EKC will need firm pipeline capacity, questioning whether that was available. KGS requested certain conditions be placed on the granting of the Petition to address these concerns.

D. Atmos' Filed Position

Atmos encouraged the Commission to open a separate general investigation docket to establish statewide guidance on natural gas usage priorities and curtailment standards to be followed during extreme weather and other emergency events.

E. SF Sinclair El Dorado Refining's Filed Position

SF Sinclair did not oppose or support the Petition, but commented that if the CWIP Rider is approved, costs recovered through the CWIP rider should be allocated among customer classes the same way cost recoveries of other generation assets are allocated among and between EKC customer classes.

F. City of Lawrence's Filed Position

Lawrence did not oppose the construction and acquisition of the Viola and McNew natural gas plants or the solar generation facility. However, it requested four commitments from EKC to align EKC's investments with the City's economic growth, reliability, and sustainability priorities:

- Repurpose unused space at the Lawrence Energy Center and future decommissioned areas as a battery storage site.
- Develop a 24-hours-a-day, seven-days-a-week, carbon-free electricity tariff.
- Invest in distributed resources including: (1) community-based solar and storage systems for commercial and residential customers, (2) sponsorship of energy efficiency assessments and upgrades for public buildings; and (3) investment in energy efficiency measures for new construction and existing residential structures.
- Invest in local emissions reduction programs including sponsorship of EV fast-charging stations selected by the City, investment in personal EV fast-charging systems, and sponsorship of bicycle and pedestrian infrastructure upgrades.

G. USD 259's Filed Position

USD #259 expressed concern regarding escalating and noncompetitive utility rates within the context of revenue shortfalls and declining enrollments experienced by its district.

H. Wichita Regional Chamber of Commerce ("WRCC") Filed Position

WRCC's concerns related to impacts on rates for Wichita business customers, particularly relative to and compared with similar cities in the region and argued that the new load anticipated by EKC is attributable to customers not native to EKC territory.

I. Johnson County Board of County Commissioners Filed Position

Johnson County supported the predetermination petition for Viola, McNew, and Kansas Sky Solar projects. It requested EKC's specific commitment to the following commitments:

- Develop and implement a 24/7 carbon-free electricity tariff incorporating renewable energy resources, battery storage components, carbon free generation sources, and complementing existing programs such as the Renewables Direct Tariff.
- Design the carbon free tariff to consider underground transmission where feasible, coordinate with county planning for rights-of-way and easements, and, where possible, integrate with planned transportation corridors.
- Advance cost allocation measures that support base plan funding through the SPP, ensure equitable allocation of network upgrade costs, and consider impacts on local economic development.
- Improve and support grid resilience including enhancement of capacity for renewable integration, improving interconnection with the regional grid, and supporting critical infrastructure redundancy.

J. NRDC's Filed Position

NRDC opposed the CCGT facilities, suggesting that the projects do not comport "precisely" with the preferred IRP plan. NRDC criticized EKC's combined cycle capital cost assumption used in the initial IRP, felt further clarity on future plans was needed, stated that the level of new load in EKC's pipeline dwarfs the new load modeled in the 2024 IRP, and argued for ratepayer

protections so EKC would not be incentivized to add load to the detriment of existing ratepayers. NRDC also referenced issues on large load customers that are being addressed in a separate docket.

K. Council for the New Energy Economics (“NEE”) Filed Position

NEE joined in on many of the arguments presented by NRDC, asserting that (1) the IRP should test a wide set of large load expectations; (2) the IRP should have considered fuel costs for the new plants in the IRP analysis, asserting that historical costs of natural gas show rate impacts could be high; and (3) EKC should reduce its ownership in the McNew plant and instead concurrently deploy battery energy storage.

L. KIC’s Filed Position

KIC opposed the Petition, arguing that (1) EKC assumes the addition of two new CCGTs without reflecting the cost of gas interconnection or providing that there are firm pipeline gas capacity delivery rights required to operate the CCGTs at high capacity factor; (2) EKC’s preferred plan (a) includes forecasted additions of large load customers when these additions are uncertain, (b) assumes questionable early retirement of coal resources that have not been proven to be economic or legally required; (3) claims it is more economic to operate the coal resources through at least 2039 so the proposal to choose the preferred resource that is not the least cost option is not reasonable; (4) EKC’s preferred plan does not consider the uncertainty of the cost of natural gas; and (5) the cost estimates for all three assets are not reasonable. KIC recommends delaying retirement of coal facilities.

3. SETTLEMENT AGREEMENTS

The parties met at the Commission’s offices on April 9, 2025, to discuss possible resolution of the issues, with negotiations carrying over for several days. As a result of the settlement discussions two separate settlements were reached; a unanimous settlement agreement on the Kansas Sky project (“Solar Settlement”), and a non-unanimous settlement on the CCGT facilities

(“Natural Gas Settlement”) - both of which were filed for approval with the Commission on April 16, 2025, and are discussed below in greater detail. EKC requests the Commission approve both settlements in their entirety.

A. Non-Unanimous Natural Gas Settlement Agreement

The parties agree and recommend that the Commission issue an order finding that, with respect to EKC’s proposal to add 355 MW from a combined cycle natural gas plant (50% interest in the Viola plant) and 355MW from a combined cycle natural gas plant (50% interest in the McNew plant) to its generating fleet:

- a. EKC’s proposal to construct and own 50% of the Viola plant and 50% of the McNew plant is prudent;
- b. EKC’s construction and ownership of 50% of the Viola plant and 50% of the McNew plant proposed in this Petition is consistent with EKC’s most recent preferred plan and resource acquisition strategy;
- c. The definitive cost estimate (“DCE”) for 50% of the Viola plant should be established as [REDACTED] (excluding AFUDC);
- d. The DCE for 50% of the McNew plant should be established as [REDACTED] (excluding AFUDC);
- e. These DCEs for 50% of the Viola plant and 50% of the McNew plant are reasonable and will be recovered in rates as follows:
 - i. Pursuant to K.S.A. 66-1239(c)(6)(A), EKC will be permitted to implement a Construction Work in Progress (“CWIP”) rider not sooner than 365 days after construction of the generation facility begins, and EKC will recover through the CWIP rider the return on up to 100% of amounts recorded to construction work in progress on EKC’s books for its stake in the two natural gas plants, not exceeding the definitive cost estimates for each plant approved by the Commission, unless otherwise ordered by the commission in a subsequent proceeding. In addition, this rider will be allowed to have periodic increases not more than every six months;
 - ii. EKC will be permitted to accrue costs in CWIP to be recovered from customers up until the time that the natural gas plants are placed in service and EKC will be

- permitted to recover a return on those costs through the CWIP rider until new base rates reflecting EKC's investment in the natural gas plants take effect;
- iii. Once the CWIP rider becomes effective and is being included in customer rates, investment amounts included in the rider will no longer be eligible to accumulate Allowance for Funds Used During Construction (AFUDC), consistent with the provisions of K.S.A. 66-1239;
 - iv. The amounts recovered through the CWIP rider will be allocated to the customer classes on the same basis that the costs of the underlying generation plant are allocated to customer classes in EKC's currently pending rate case, Docket No. 25-EKCE-294-RTS, as adjusted by future rate cases or other Commission orders establishing allocation of costs among classes for generation plant;
 - v. When new base rates reflecting EKC's investment in the natural gas plants take effect, those base rates shall include a deferral for depreciation expense incurred and carrying costs on any unrecovered portion of EKC's investment in the natural gas plants at EKC's weighted average cost of capital determined in the rate case to include such costs in rates, incurred between the time the natural gas plants are placed in service and the time the investment in the natural gas plants is included in base rates;
 - vi. Investment amounts up to the DCEs approved by the Commission for the two natural gas plants will be included in rate base in the first rate case following the in-service date(s) for the two facilities;
 - vii. Amounts spent in excess of the DCE(s) will be subject to prudence review. EKC should bear the burden of proof to show that any amount it incurs in excess of these DCEs, for instance, impacts from legislative or executive actions including tariffs on project costs, is prudently incurred and is just and reasonable to recover from ratepayers.
- f. EKC should be required to collaborate with Staff and CURB during the development of a Gas Purchasing Plan, and to file the results of the plan in a compliance filing at the KCC in the compliance docket established at the conclusion of this docket. Thereafter, until the time the Viola and McNew plants are placed in service, EKC should be required to meet at least annually with Staff and CURB to discuss potential revisions to the Gas Purchasing

Plan. After the plants are placed in service, EKC will meet with Staff and CURB annually to discuss the Gas Purchasing Plan as part of the RECA and ACA processes.

- g. Should the addition of the CCGTs materially revise EKC's current Natural Gas Hedging Plan, EKC should be required to collaborate with Staff and CURB on the particulars of a revised Hedging Plan, if determined necessary, to be filed at the Commission prior to any procurement completed pursuant to the Gas Purchasing Plan;
- h. EKC should file a compliance filing with the KCC, in the compliance docket established at the conclusion of this docket, once all natural gas transportation arrangements have been finalized. This filing should include, at a minimum, the financial terms and conditions under which firm natural gas transportation has been secured and the duration of the transportation arrangement;
- i. The Commission establish a compliance docket associated with this case and require EKC to file quarterly progress reports for each of the projects. EKC shall collaborate with Staff to develop a reporting template and submit to the Commission prior to initiating the compliance reports.
- j. EKC will work with Staff to provide the reporting information required under K.S.A. 66-128f and to develop recurrent monthly project status reporting including impacts from legislative or executive actions including tariffs and any other cost and project milestone updates. Such reports will be filed in the compliance docket referenced above.
- k. EKC should be required to make a compliance filing with the Commission justifying the economics and prudence of continuing forward with the McNew and/or Viola natural gas projects or requesting Commission approval to abandon the project(s) if EKC becomes aware of information that leads it to reasonably believe that actual project costs are projected to exceed 115% of the DCE for the project approved by the Commission under 66-1239.
 - i. In the event that EKC submits a filing pursuant to (k), within 30 days of the filing, the Commission will issue an order determining whether to grant EKC's request or whether additional review of EKC's proposal is required.
 - 1. Within 15 days of the filing, the Commission shall convene an on the record update and EKC shall provide updates on project costs, risks and mitigations, and anticipated future changes. During this on the record

- update EKC will be available to address questions from the Commission and parties to the compliance docket in which the update filing is made.
2. During the 30-day Commission review period, EKC will not disrupt the construction schedule or work plan. Costs incurred during that time period will be included as part of the abandonment costs evaluated for recovery as part of the analysis under this section. Parties will not assert imprudence for continuing project construction during this Commission review period.
- ii. If the Commission determines that additional review is required:
1. The Commission will set a date within 60 days of EKC's filing pursuant to (k) for a hearing to receive live testimony from EKC, Staff, and other intervenors regarding the reasonableness of EKC's proposal to either continue the project or abandon the project.
 2. Staff and Intervenors will have the opportunity to issue data requests to EKC regarding its filing pursuant to (k) pursuant to the schedule in the Commission's standard discovery order, except all discovery responses would be due five business days after receipt instead of seven, excluding the day the discovery request is issued.
 3. The Commission will issue an order within 90 days of EKC's filing pursuant to (k) making a determination on EKC's proposal.
 4. EKC will continue construction of the project during the 90-day review period and unless and until it receives an order from the Commission requiring abandonment of the project. Costs incurred during that time period will be considered as part of the abandonment costs evaluated for recovery as part of the analysis under this section. Parties will not assert imprudence for continuing project construction during this Commission review period.
- iii. The Commission's review of EKC's proposal under this section may include but not be limited to the following factors:
1. Updated estimated actual project cost;
 2. Percentage of completion of the project;

3. EKC's resource adequacy including current base planning forecasts for load and need for generation as well as any planning reserve margin or other resource adequacy requirements mandated by the Southwest Power Pool ("SPP");
 4. Costs of abandonment and impact of potential recovery of those costs on customers;
 5. Consideration of current market costs for construction of natural gas generation and a comparison of EKC's estimated actual costs to the current market;
 6. Consideration of the availability of supply-side resource alternatives to the projects under construction that could be utilized to meet the resource adequacy and reliability requirements identified by EKC in providing efficient and sufficient service to Kansas customers. This should include consideration of whether the alternative resource is more economic and/or would more easily achieve resource adequacy. Supply-side resource alternatives should reasonably be expected to be constructed or contracted to reliably serve customers on the timeline supported by EKC's most recent resource planning including factors such as risks of capacity accreditation, permitting, costs overruns, delays, and supply chain uncertainty;
 7. Consideration of current EKC affiliate ownership interests and the potential to either transfer a percentage of plant ownership to or enter into long-term power purchase arrangements with other third-party load serving entities or EKC affiliates instead of wholesale project abandonment.
- iv. If at any time throughout this review process the Commission determines that abandonment of the project(s) or a partial divestment from the project(s) is required, the Commission will establish a proceeding that reviews and determines abandonment costs and any rate recovery treatment as well as predetermination for any required replacement resource for the abandoned project.

The Commission should also include the following conditions in its Order in this docket:

- a. EKC did not include any specific new large load customers in its 2024 Integrated Resource Plan (“IRP”) or prior IRPs, other than Panasonic, which was included in the 2024 IRP, which identified the CCGTs as part of EKC’s preferred portfolio. Going forward, EKC will not incorporate new large load customers into its IRP preferred plan for planning purposes or begin to procure any energy or capacity until the earlier of (1) after the AQ Study request has been approved by SPP or other SPP study to evaluate the addition of new load or (2) EKC has a final or near-final service agreement with the customer.
- b. EKC will conduct a stakeholder meeting to discuss critical factors and assumptions with interested parties prior to submitting its IRP annual updates and triennial filings beginning with the 2026 IRP and continuing throughout the time period when EKC is proposing and constructing new generation.
- c. In the event EKC decides to retire coal generation and utilize securitization to recover energy transition costs caused by, associated with, or remaining as a result of a retired coal plant, as contemplated by K.S.A. 66-1,240, EKC will file a request for predetermination with the Commission related to such decision, allowing Staff and Intervenors the opportunity for discovery and to submit testimony. Such a plan for retirement of coal generation will be identified in EKC’s IRP annual updates or triennial filings and will be discussed in the stakeholder meeting agreed to above in (b) in advance of EKC making a request for predetermination.
- d. EKC commits to hold a collaborative discussion with KGS, Atmos Energy, Staff, CURB, KMEA/KMGA, Midwest Energy, and other interested parties in advance of the two CCGT units coming online to advance coordination efforts, including a discussion of statewide natural gas supply priorities and curtailment standards, during extreme weather events and other extraordinary/emergency situations, and to report those efforts to the Commission.
- e. EKC commits to evaluate future offers in an all-source Request for Proposals (“RFP”) that will be conducted in 2025 and determine whether those offers can meet needs identified and not covered by the resources in this Petition, in the IRP process and total energy and capacity needs for the utility; with proper confidentiality agreements in place, EKC will share bid responses with Staff and CURB.

- f. EKC will evaluate the possibility of repurposing the unused space at Lawrence Energy Center and other generation sites as an interconnection location for a battery storage unit and develop cost estimates for such a project to be analyzed as part of the 2026 IRP. EKC agrees to allow its IRP model the option to add battery storage to the sites of existing thermal, wind and solar projects.
- g. EKC commits to evaluating investments in distributed resources, including community-based solar and storage systems and energy efficiency, as part of its generation portfolio, continuing throughout the time period when EKC is proposing and constructing new generation. In particular, EKC will conduct a EKC and EKM Demand Side Management (“DSM”) potential study before October 31, 2026, and study multiple and higher levels of DSM in its next IRP, as part of an alternative resource plan. EKC also agrees to work with Johnson County, the City of Lawrence and other interested parties in developing a strategy to scale up community-based solar and storage systems, as well as targeted energy efficiency programs for public buildings and new construction and report back to the KCC as part of its next general rate case following completion of the study. Costs for the DSM potential study will be recovered through the DSM rider for each EKC and EKM.
- h. EKC has proposed the Alternative Energy Credits rider as part of its LLPS tariff filing, which would provide customers the option to purchase carbon free attributes from EKC’s Wolf Creek nuclear facility. EKC commits to hold stakeholder discussions around further development of a “24-hours-a-day, seven-days-a-week, carbon-free electricity tariff,” and report back to the KCC as part of its next general rate case following the stakeholder meeting.
- i. EKC currently considers battery storage as an option as part of its IRP process and will continue to do so in future IRPs including the use of surplus interconnection.

B. Unanimous Solar Settlement Agreement

The parties agree and recommend that the Commission issue an order finding that:

- a. EKC’s proposal to construct and own 159 MW of solar generation as described in the Petition is prudent;
- b. EKC be authorized to take all steps necessary to effectuate the transfer of the generating assets to EKC;

- c. EKC's construction and ownership of the Kansas Sky solar facility proposed in the Petition is consistent with EKC's most recent preferred plan and resource acquisition strategy;
- d. The definitive cost estimate for the Kansas Sky solar facility should be established as [REDACTED] (excluding AFUDC);
- e. In lieu of including the solar generating facility in rate base, a levelized revenue requirement of the solar facility with an amount of [REDACTED] be included in EKC's total revenue requirement in the Company's next general rate case following the date the solar generating facility is placed in service, consistent with the provisions of (i)-(k) below. This levelized revenue requirement for the Kansas Sky generating plant to be fixed for the first thirty years of the life of the generation site, at the end of which, the levelized revenue requirement will be reevaluated;
- f. If EKC wishes to recover any maintenance capital expenditures, EKC shall identify and support those investments via written testimony in a future rate case;
- g. EKC be permitted to defer and recover as a regulatory asset over the remaining life of the Kansas Sky generating plant the pretax rate of return, depreciation expense, and actual operating and maintenance expense, offset by the value of the production tax credits, incurred between the time the Kansas Sky plant is placed in service and the effective date of rates that include the levelized revenue requirement. Recovery of the regulatory asset to begin with the general rate case that coincides with the inclusion of the levelized revenue requirement in rates and recovered over the life of the plant. To the extent the regulatory asset needs true-up, the updated balance will be addressed in the following general rate case;
- h. In the event of changes in law or regulations, or the occurrence of events outside the control of EKC that result in a material adverse impact to EKC with respect to recovery of the Kansas Sky revenue requirement, EKC, as applicable, be permitted to file a Petition with the Commission proposing methods to address the impact of the events. The other Signatory Parties shall have the right to contest any such Petition, including whether the impact of the change or event is material to EKC, and whether the proposed remedy in the Petition is reasonable;
- i. Amounts spent in excess of the definitive cost estimate(s) will be subject to prudence review. EKC should bear the burden of proof to show that any amount it incurs in excess

- of these DCEs, for instance, impacts from legislative or executive actions including tariffs on project costs, is prudently incurred and is just and reasonable to recover from ratepayers;
- j. EKC shall update the Kansas Sky Solar levelized cost amount in the first rate case after the facility goes into service, to account for necessary updates once they are known, subject to the revised DCE of [REDACTED], or a prudence evaluation for costs incurred in excess of the DCE;
- k. EKC should be required to make a compliance filing with the Commission justifying the economics and prudence of continuing forward with the Kansas Sky Solar facility, or informing the Commission that it will abandon the project and addressing resolution of customer impacts of the costs of abandonment if provisions of the IRA applicable to Kansas Sky are substantially revised or repealed prior to the start of construction on the Kansas Sky Solar facility. EKC will work with Staff to provide the reporting information required under K.S.A. 66-128f and to develop recurrent monthly project status reporting including impacts from legislative or executive actions including tariffs and any other cost and project milestone updates. Such reports will be filed in the compliance docket referenced above.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was electronically filed with the Kansas Corporation Commission on May 14, 2025, and that one copy was delivered electronically to all parties on the service list as follows:

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