

**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. )

**JOINT MOTION FOR APPROVAL OF**  
**NON-UNANIMOUS PARTIAL SETTLEMENT AGREEMENT REGARDING**  
**NATURAL GAS FACILITIES**

The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively); Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively referred to as “Evergy Kansas Central” or “EKC”) and Evergy Metro, Inc. (“Evergy Kansas Metro” or “EKM”) (together with Evergy Kansas Central referred to as “Evergy”); the 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”)<sup>1</sup>; 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”), all such parties referred to collectively herein as the “Joint Movants,”<sup>2</sup> hereby respectfully move the Commission for an Order approving the Non-Unanimous Partial Settlement Agreement (“Non-Unanimous Partial Settlement” or “Non-Unanimous Partial

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<sup>1</sup> The Board of County Commissioners of Johnson County signs subject to approval by its Board. Counsel for the County will file a letter with the Commission confirming approval by its Board when received

<sup>2</sup> City of Overland Park, Kansas, CCPS Transportation, LLC, and Walmart, Inc. are not signatories to the Non-Unanimous Agreement but do not oppose the Agreement.

Settlement Agreement”) attached as **Attachment 1**, and incorporated herein by reference. In support of this Motion, Joint Movants state the following:

1. On November 6, 2024, Evergy filed a Petition with the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) requesting a determination of the ratemaking principles and treatment that will apply to the recovery in rates of the costs to be incurred in constructing and acquiring a stake in two new combined cycle gas-fired generating facilities and one solar facility.

2. On November 14, 2024, the Commission issued an *Order Setting Procedural Schedule* (“Procedural Order”) setting forth, *inter alia*, the dates for responsive testimonies, settlement discussions, a prehearing conference, and an evidentiary hearing.

3. Consistent with the Procedural Order, on March 14, 2025, Commission Staff, Lawrence, Johnson County, Kansas Industrial Consumers Group, Inc., USD 259, Citizens Utility Ratepayer Board, Wichita Regional Chamber of Commerce, HF Sinclair, Atmos, KGS, NRDC and NEE filed Direct Testimony. On March 21, 2025, Commission Staff, CEP, NEE, and KIC filed Cross-Answering Testimony. EKC filed its Rebuttal Testimony on April 4, 2025.

4. Consistent with that Procedural Order, 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 this extensive collaboration, a large number of parties were able to reach agreement on the issues related to EKC’s proposal to construct the McNew and Viola combined cycle natural gas plants and its request for ratemaking determinations related to those projects. If accepted by the Commission, the terms in Attachment 1 would represent a full and complete resolution of the issues in this docket related to EKC’s proposal to construct these two natural gas plants.

5. Joint Movants believe approval of the Non-Unanimous Partial Settlement Agreement will result in just and reasonable rates, and that the Non-Unanimous Partial Settlement Agreement is in the public interest. Pursuant to the Procedural Schedule, testimony in support of the Non-Unanimous Partial Settlement Agreement will be filed April 17, 2025.

WHEREFORE, Joint Movants respectfully request the Commission issue an order granting this Motion, thereby approving the attached Non-Unanimous Partial Settlement Agreement, and for any such further relief the Commission deems just and reasonable.

Respectfully submitted,

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**--ATTACHMENT 1--**

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**NON-UNANIMOUS PARTIAL SETTLEMENT AGREEMENT REGARDING  
NATURAL GAS FACILITIES**

As a result of discussions among all parties to this docket, the Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively); Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (collectively referred to as “Evergy Kansas Central” or “EKC”) and Evergy Metro, Inc. (“Evergy Kansas Metro” or “EKM”) (together with Evergy Kansas Central referred to as “Evergy”); 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”)<sup>1</sup>; 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”), referred to collectively herein as “Signatory Parties,” hereby submit to the Commission for its consideration

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<sup>1</sup> The Board of County Commissioners of Johnson County signs subject to approval by its Board. Counsel for the County will file a letter with the Commission confirming approval by its Board when received

and approval the following Non-Unanimous Partial Settlement Agreement (“Non-Unanimous Settlement”, “Agreement” or “Non-Unanimous Settlement Agreement”).<sup>2</sup>

## **I. EVERGY’S PETITION**

1. On November 6, 2024, Evergy filed a Petition with the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) requesting a determination of the ratemaking principles and treatment that will apply to the recovery in rates of the costs to be incurred in constructing and acquiring a stake in two new combined cycle gas-fired generating facilities and one solar facility.

2. On November 14, 2024, the Commission issued an *Order Setting Procedural Schedule* (“Procedural Order”) setting forth, *inter alia*, the dates for responsive testimonies, settlement discussions, a prehearing conference, and an evidentiary hearing.

3. Consistent with the Procedural Order, on March 14, 2025, Commission Staff, Lawrence, Johnson County, Kansas Industrial Consumers Group, Inc., USD 259, Citizens Utility Ratepayer Board, Wichita Regional Chamber of Commerce, HF Sinclair, Atmos, KGS, NRDC and NEE filed Direct Testimony. On March 21, 2025, Commission Staff, CEP, NEE, and KIC filed Cross-Answering Testimony. EKC filed its Rebuttal Testimony on April 4, 2025.

4. Consistent with that Procedural Order, 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 this extensive collaboration, a large number of parties were able to reach agreement on the issues related to EKC’s proposal to construct the McNew and Viola combined cycle natural gas plants and its request for ratemaking determinations related to those

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<sup>2</sup> City of Overland Park, Kansas, CCPS Transportation, LLC, and Walmart, Inc. are not a signatories to the Non-Unanimous Agreement but do not oppose the Agreement.



projects. If accepted by the Commission, the terms below would represent a full and complete resolution of the issues in this docket related to EKC's proposal to construct these two natural gas plants.

## **II. TERMS OF NON-UNANIMOUS PARTIAL SETTLEMENT AGREEMENT**

5. 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, the Commission should find:

- a. That EKC's proposal to construct and own 50% of the Viola plant and 50% of the McNew plant is prudent;
- b. That 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. That the definitive cost estimate ("DCE") for 50% of the Viola plant should be established as \*\* [REDACTED] \*\* (excluding AFUDC);
- d. That the DCE for 50% of the McNew plant should be established as \*\* [REDACTED] \*\* (excluding AFUDC);
- e. That 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. That 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. That, 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. That 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. That 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. That 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 Evergy shall provide updates on project costs, risks and mitigations, and anticipated future changes. During this on the record update Evergy 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, Evergy 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 Evergy 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 Evergy'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 Evergy 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 Evergy 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.

6. 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 application, 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.

#### **IV. MISCELLANEOUS PROVISIONS**

##### **A. The Commission’s Rights**

- 7. Nothing in this Non-Unanimous Settlement is intended to impinge or restrict, in any manner, the exercise by the Commission of any statutory right, including the right of access

to information, and any statutory obligation, including the obligation to ensure Evergy is providing efficient and sufficient service at just and reasonable rates.

**B. Waiver of Cross-Examination**

8. In the event the Commission conducts a hearing, the Signatory Parties agree all prefiled direct, cross-answering and rebuttal testimony can be accepted into the record of the docket without the witnesses taking the stand. The Signatory Parties waive cross-examination on all testimony filed by Signatory Parties prior to the filing of this Non-Unanimous Partial Settlement Agreement with respect to issues related to EKC's construction of the two natural gas facilities and requested ratemaking treatment for those facilities.

**C. Negotiated Settlement**

9. This Non-Unanimous Partial Settlement Agreement represents a negotiated settlement that fully resolves the issues raised in this proceeding by Signatory Parties regarding the two natural gas facilities and related ratemaking treatment. The Signatory Parties represent that the terms of this Non-Unanimous Partial Settlement Agreement constitute a fair and reasonable resolution of the issues addressed herein. Except as specified herein, the Signatory Parties shall not be prejudiced, bound by, or in any way affected by the terms of this Non-Unanimous Partial Settlement Agreement (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide to not approve this Non-Unanimous Partial Settlement in the instant proceeding. If the Commission accepts this Non-Unanimous Partial Settlement Agreement in its entirety and incorporates the same into a formal order without material modification, the Signatory Parties shall be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein and in accordance with the terms hereof, and will not appeal the Commission's order on these issues.

**D. Interdependent Provisions**

10. The provisions of this Non-Unanimous Partial Settlement Agreement have resulted from negotiations among the Signatory Parties and are interdependent. In the event the Commission does not approve and adopt the terms of this Non-Unanimous Partial Settlement Agreement in total or materially changes the Settlement terms, the Non-Unanimous Partial Settlement Agreement shall be voidable and no Signatory Party hereto shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof. Further, in the event the Commission does not approve and adopt the terms of this Non-Unanimous Partial Settlement Agreement in total and without material modifications, this Non-Unanimous Partial Settlement Agreement shall be considered privileged and not admissible in evidence or made a part of the record in any proceeding. In the event of a termination pursuant to this Section, the Non-Unanimous Partial Settlement Agreement shall be null and void and of no further effect, with all rights, duties, and obligations of the Signatory Parties thereafter restored as if this Non-Unanimous Partial Settlement Agreement had never been executed; provided, that the Signatory Parties may, in the sole discretion of each Party, agree to attempt to modify the Non-Unanimous Partial Settlement Agreement in a manner that would resolve the adverse effect of the material change of condition.

**IN WITNESS THEREOF**, the Signatory Parties have executed and approved this Non-Unanimous Partial Settlement Agreement, effective as of the 16<sup>th</sup> day of April 2025, by subscribing their signatures below.

By: /s/ Cathryn J. Dinges  
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***Attorney for Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc.***

**/s/ Terri J. Pemberton**

Terri J. Pemberton (#23297)

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***Attorney for Kansas Municipal Energy Agency***

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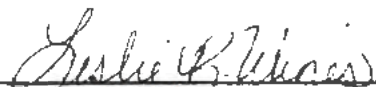
STATE OF KANSAS                    )  
  ) ss:  
COUNTY OF SHAWNEE            )

**VERIFICATION**

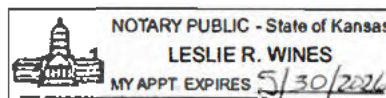
The undersigned, Cathryn Dinges, upon oath first duly sworn, states that she is Senior Director and Regulatory Affairs Counsel for Evergy Kansas Central, Inc. and Evergy Kansas South, Inc., that she has reviewed the foregoing Motion, that she is familiar with the contents thereof, and that the statements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

  
\_\_\_\_\_  
Cathryn J. Dinges

Subscribed and sworn to before me this 16th day of April, 2025.

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

My Appointment Expires *May 30, 2026*





## CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed, this 16<sup>th</sup> day of April 2025, to all parties of record as listed below:

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