

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of Evergy)
Kansas Metro Inc. and Evergy Kansas) Docket No. 21-EKME-320-TAR
Central Inc. Application for Approval of)
Transportation Electrification Portfolio)

STAFF’S CLOSING BRIEF

The Staff of the Kansas Corporation Commission (Staff and Commission or KCC, respectively), hereby states the following in closing:

I. Background

1. On February 24, 2021, Evergy Kansas Metro, Inc. (“EKM”), Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as “EKC”) (collectively referred to herein as “Evergy” or the “Company”) commenced this proceeding by filing an application titled *Evergy Kansas Metro and Evergy Kansas Central Application for Approval of Transportation Electrification Portfolio* (Evergy TE Application or Application).¹

2. Evergy’s TE Application sought approval of a Transportation Electrification Portfolio (TEP or Portfolio). The Portfolio included rebate programs, rates for charging services, education and program administration budgets, authorization to use deferral accounting to track program costs associated with the Portfolio (incentive rebates and other program costs such as customer education and program administration) for recovery of prudently incurred costs in future rate cases through expense amortization over a period of five years. Evergy also requested the Commission find that its Clean Charge Network (CCN) expansion plans in the Application are

¹*Evergy Kansas Metro and Evergy Kansas Central Application for Approval of Transportation Electrification Portfolio* (Feb. 24, 2021) (Application).

prudent from a decisional perspective.²

3. Evergy proposed numerous rebate programs in its Portfolio, briefly described as follows: 1) up to a \$500 Residential Customer Electric Vehicle (EV) Outlet Rebate for residential customers installing a dedicated 240V circuit (40A or greater, including a NEMA 14-15 outlet); 2) a \$250 Residential Developer EV Outlet Rebate for developers to pre-wire new homes with a 240V circuit (40A or greater, including a NEMA 14-15 outlet); and 3) Commercial EV Charger Rebates generally described as \$2,500 per port rebates for Qualified L2 Electric Vehicle Supply Equipment (EVSE) and \$20,000 per unit rebates for Qualified DCFC EVSE with maximum rebates for each site.³ The proposed total budgets for Kansas were as follows:

Program Name	Budget
Residential Customer EV Outlet Rebate	\$1.6 million
Residential Developer EV Outlet Rebate	\$.1 million
Commercial EV Charging Rebate	\$15.4 million
Customer Education and Program Administration	\$2.6 million
TOTAL	\$19.7 million⁴

4. Evergy also proposed two new tariff rates: 1) Electric Transit Service (ETS) for transit bus fleet customers in the EKM service territory, which includes a two-period Time of Use (TOU) rate with a 12-hour off-peak period (6 p.m. – 6 a.m.) and a small local facility demand charge; and 2) Business EV Charging Service (BEVCS) for commercial customers that is a TOU

²Application at 2-3.

³See Application, Evergy Transportation Electrification Portfolio Filing Report, p. 21-25; Commercial EV Charging Rebate Tariff.

⁴Application, Evergy Transportation Electrification Portfolio Filing Report, p. 9.

rate with three time periods designed to address commercial rate challenges for Electric Vehicle Service Providers (EVSPs) and encourage workplace and fleet charging during off-peak times.⁵

5. Evergy requested the Commission determine that its \$13.5 million CCN buildout plan is prudent from a decisional perspective.⁶ Evergy noted that its CCN is intended to “stimulate and meet interim market demand in the absence of adequate charging service from third-party EVSPs” and “deliver public charging locations to priority areas that include largely underserved areas to accelerate EV adoption.”⁷

6. Evergy proposed its deferral accounting mechanism to track program costs related to its rebate programs (incentive rebates and other program costs such as customer education and program administration), but not the CCN.⁸

7. Accompanying Evergy’s Application was testimony from seven (7) witnesses and a Cost Effectiveness Evaluation of On-Road Transportation Electrification for both EKM and EKC developed by ICF International, Inc. (ICF). On May 5, 2021, Evergy filed revisions to ICF’s cost-effectiveness reports showing estimated customer benefits associated with increased EV adoption of \$72.3 million through 2040 for EKM and \$46.9 million for EKC.⁹

9. The request for CCN decisional prudence was rejected by Staff¹⁰, the Citizens’ Utility Ratepayer Board (CURB)¹¹, and American Fuel & Petrochemical Manufacturers (AFPM).¹² ChargePoint, Inc. (ChargePoint) recommended approval but wanted the Commission

⁵See Application, Evergy Transportation Electrification Portfolio Filing Report, at 26-27.

⁶See *id.* at 32.

⁷See *id.*

⁸See Application, p. 4.

⁹See Evergy Transportation Electrification Updated Filing May 2021, p. 1 (May 5, 2021) (Evergy Revised TE Application or Revised Application).

¹⁰See Direct Testimony of Justin T. Grady, p. 3 (June 25, 2021) (Grady Direct).

¹¹See Direct Testimony of Andrea C. Crane, p. 32 (June 25, 2021) (Crane Direct).

¹²See Direct Testimony of Don Thoren, p. 52 (June 25, 2021) (Thoren Direct).

to direct Evergy to allow site hosts at new CCN sites to choose the EV charging hardware and network service provider and to set the prices paid by drivers.¹³

10. With respect to the rebate programs, Staff recommended approval of all of them, but supported a substantially smaller budget for the Commercial EV Charger Rebate Program.¹⁴ CURB recommended denial of all rebate programs.¹⁵ AFPM also rejected all rebate programs.¹⁶ ChargePoint recommended approval of all rebate programs, but with some modifications to the Residential and Commercial programs.¹⁷

11. For the two new TOU tariffs proposed by Evergy, Staff recommended approval but with reporting requirements.¹⁸ CURB and ChargePoint recommended approval with no modifications.¹⁹ AFPM recommended denial of both new tariffs.²⁰

12. Since CURB and AFPM recommended rejection of the rebate programs, they also did not recommend deferral accounting for associated costs, however, CURB recommended deferral of incremental customer education and administration costs associated with the two new TOU tariffs.²¹ Staff recommended approval of deferral accounting, but also recommended that Evergy be required to track and record any incremental revenues that could be identified from the Commercial EV Charger Rebate Program as an offset to the regulatory asset.²² ChargePoint did not address deferral accounting in its direct testimony.

¹³See Direct Testimony of Justin D. Wilson, p. 5 (June 25, 2021) (Wilson Direct).

¹⁴See Direct Testimony of Robert H. Glass, p. 2 (June 25, 2021) (Glass Direct).

¹⁵See Crane Direct, p. 5.

¹⁶See Thoren Direct, p. 52.

¹⁷See Wilson Direct, p. 5-6.

¹⁸See Glass Direct, p. 2.

¹⁹See Crane Direct, p. 6.; Wilson Direct, p. 20.

²⁰See Thoren Direct, pp. 52-53.

²¹See Thoren Direct, p. 9; Crane Direct, p. 6.

²²See Grady Direct, pp. 12-13.

13. CURB and ChargePoint filed cross-answering testimony on July 6, 2021. Staff filed an Errata to Robert H. Glass’s Direct Testimony on July 9, 2021, correcting Staff’s cost-benefit tables for the rebate programs.

14. On July 16, 2021, Evergy filed rebuttal testimony from six (6) witnesses addressing all of the positions of the other parties.

15. On July 29, 2021, Evergy, Staff, and CURB (together, “Signatories”) filed a *Motion to Approve Non-Unanimous Partial Settlement Agreement*.²³ Contained therein as Attachment A was the Non-Unanimous Partial Settlement (S&A) agreed to by the three aforementioned parties.²⁴

16. The S&A addressed eight different categories of topics:

a. The Signatories agreed that the CCN decisional prudence issue was not settled and that it would be put forth to the Commission for a decision.²⁵

b. The Commercial EV Charger Rebate (CCR) program would be approved with a total budget of \$10 million, however, \$1.6 million must be targeted to underserved areas.²⁶ The budget can be increased up to \$15.4 million based on parameters included in the S&A and Evergy has to conduct Evaluation, Measurement, and Verification (EMV) for the CCR program.²⁷

c. The Residential Rebate program would be approved but customers would get a flat \$500 if they agreed to enroll in an EV or TOU rate in the respective EKM and EKC territories.²⁸ Customers would get \$250 if they did not elect to enroll in EV or TOU rates.²⁹ Customers shall be informed that Evergy will be using

²³Motion to Approve Non-Unanimous Partial Settlement Agreement (July. 29, 2021).

²⁴*See Id.* at Attachment A.

²⁵*See Id.* at Attachment A, p. 2.

²⁶*Id.* The definition of underserved areas was submitted by the Signatories on August 20, 2021.

²⁷*See Id.* at Attachment A, pp. 2-3.

²⁸*See Id.* at Attachment A, p. 3.

²⁹*See Id.*

customer charging data for analysis and educate customers about the benefits of off-peak EV charging that results through TOU rate enrollment and/or managed charging.³⁰ Evergy must also conduct EMV on the Residential Rebate program and submit a Final EMV report by December 2026.³¹

d. The Developer Rebate program was disallowed under the terms of the S&A.³²

e. The budget for customer education and program administration was set at \$2.3 million.³³

f. The Signatories agreed that Evergy would be subject to further reporting requirements as follows: 1) Evergy would submit an Annual Report every April 30 containing information noted in the S&A such as number of customers signing up to the programs, number of rebates and program costs, among many others;³⁴ 2) Evergy would present EMVs to the parties by December 2023 (drafts) and December 2026 (finals), present Staff a technical paper on AMI disaggregation, and present on future rate designs that are applicable to EV charging by June 2024 to the Signatories;³⁵ and 3) Evergy would present to the Commission in June 2023 and June 2024 on the status of programs that are approved.³⁶

³⁰See *Id.* at Attachment A, pp. 3-4.

³¹See *Id.* at Attachment A, p. 4.

³²See *Id.*

³³See *Id.*

³⁴See *Id.* at Attachment A, pp. 5-6.

³⁵See *Id.* at Attachment A, p. 6.

³⁶See *Id.*

g. The S&A approves of deferral accounting, but no internal labor can be included and there will be no offset to the deferred asset for revenues related to the Commercial EV Charger Rebate program.³⁷

h. The S&A requires Evergy to add an additional disclosure to Evergy's Privacy Policy page on its website on the use of AMI data that is applicable across all uses and customers.³⁸

i. Finally, the Transit and Business EV tariffs and associated rates are approved per the original Application.³⁹

17. The Signatories all individually filed testimony in support of the S&A on July 30, 2021.

18. The National Resource Defense Council, Inc. (NRDC) joined as a signatory to the S&A on July 30, 2021.⁴⁰ ChargePoint filed a statement on August 3, 2021, indicating that it does not oppose the S&A, but does not support it due to the omission of several key concerns noted by Mr. Justin Wilson in his direct testimony.⁴¹ AFPM filed an Objection to the S&A on August 6, 2021, asking the Commission to reject the S&A entirely.⁴²

19. The Commission held an Evidentiary Hearing on the S&A and the disputed CCN issue on September 20th and 21st via Zoom. Evergy, Staff, CURB, AFPM, and ChargePoint were all in attendance and advocated for their respective positions. All pre-filed testimony from all of the parties was admitted into the evidentiary record and the Commission took administrative notice

³⁷See *Id.*

³⁸See *Id.*

³⁹See *Id.*

⁴⁰See Natural Resource Defense Council's Notice of Support for Non-Unanimous Partial Settlement Agreement, p. 1 (July 30, 2021).

⁴¹See Statement of ChargePoint, Inc., Regarding Non-Unanimous Settlement Agreement, p. 1 (Aug. 3, 2021).

⁴²See Objection to Non-Unanimous Partial Settlement Agreement, p. 16 (Aug. 6, 2021).

of several documents from its prior proceedings involving EV charging.⁴³ The parties waived closing arguments and opted instead to file closing briefs.

II. The Commission should approve the S&A Without Modifications

20. K.A.R. 82-1-230a authorizes the Commission to approve, reject, or modify proposed settlement agreements.⁴⁴ In this instance, the Commission should approve the proposed S&A in full without modification. All parties had the opportunity to participate in settlement discussions and be heard on their reasons for opposition.⁴⁵ The S&A is supported by substantial competent evidence, conforms with applicable law, results in just and reasonable rates, and promotes the public interest.⁴⁶

21. Staff generally agrees with the assertions made by Evergy in its closing brief that ChargePoint's recommended modifications to the S&A ought to be rejected.⁴⁷ ChargePoint's request to require residential customers that utilize the Residential Rebate program to hardwire "smart" chargers rather than use NEMA outlets appears to be an unnecessary up-front expense that a customer could choose to install at a later date.⁴⁸ There doesn't appear to be an added benefit to the customer because an ordinary NEMA plug is more versatile and less expensive.⁴⁹ Additionally, the "smart" chargers may be a duplicative expense as EV on-board charge management systems often have more charge management capabilities.⁵⁰

⁴³See Tr. Vol. 1. Pp. 8-9, 11-12.

⁴⁴See K.A.R. 82-1-230a.

⁴⁵See Testimony in Support of Non-Unanimous Stipulation and Agreement Prepared by Justin T. Grady, p. 14 (July 30, 2021) (Grady S&A Testimony).

⁴⁶See Grady S&A Testimony pp. 15-20.

⁴⁷See Initial Post-Hearing Brief of Evergy Metro, Inc., Evergy Kansas Central, Inc., and Evergy Kansas South, Inc., pp. 30-31 (Oct. 8, 2021) (Evergy Brief).

⁴⁸See Tr. Vol. I, p. 180 (Voriss).

⁴⁹See Evergy Brief, pp. 31-32.

⁵⁰See Voriss Rebuttal, pp. 13-14.

22. ChargePoint’s request to not require Commercial Rebate participants to share charger utilization data with Evergy should be rejected as well, because the utilization data will be key in developing EV charging rate design policy in the future.⁵¹

23. AFPM’s challenges to the S&A’s legality are also without merit. Here again, Staff largely agrees with Evergy’s legal analysis.⁵² However, Staff would like to separately address AFPM’s argument that the S&A unlawfully allows one class of Evergy’s customers to bear the costs of another class of customers.⁵³

24. It is a basic principle of utility rate making that “one class of consumers shall not be burdened with costs created by another class.”⁵⁴ However, AFPM’s argument contains two flaws with respect to the S&A. First, EV drivers are not currently a “class” of customers under Evergy’s rate design - they are members of a broader class (i.e. residential, commercial, etc.) who use electricity to charge their cars. In other words, members of any customer class can participate in the programs under the S&A. Second, even if EV drivers were considered a distinct class, they pay for their own electricity. At best, one could argue that the recipients of the Residential and Commercial rebates under the S&A are being subsidized, but the programs provide system-wide benefits. As long as the incremental price of EVs stays well below ICF’s medium price path and if the Federal Tax Credit is changed to increase the number of EVs per Company, then the Residential Outlet Charging Program passes most of the cost-benefit tests performed by Staff.⁵⁵ Additionally, the scaled down Commercial Rebate Programs under the S&A should increase the number of EVs per port, thus improving the benefit/cost test results.⁵⁶ Furthermore, the reporting

⁵¹See Evergy Brief, p. 9.

⁵²See Evergy Brief, pp. 31-35.

⁵³See Objection to Non-Unanimous Partial Settlement Agreement, p. 7 (Aug. 6, 2021) (AFPM Objection).

⁵⁴See *Farmland Industries, Inc. v. State Corp. Comm’n of Kan.*, 24 Kan. App. 2d 172, 189-190 (1997) (citing *Jones v. Kan. Gas & Elec. Co.*, 222 Kan. 390 (1997)).

⁵⁵See *Glass Direct*, p. 29.

⁵⁶See *Id.*

requirements under the S&A, the ability to learn how to better manage EV charging as penetration grows, and the competitive ownership of EV chargers all provide benefits to the system as a whole.⁵⁷ Finally, utilizing the Commercial Rebate programs provides three times as many charging ports for half the costs as allowing Evergy to build the chargers themselves and put them into rate base.⁵⁸ Suffice it to say, sufficient evidence exists to show that the programs approved under the S&A will result in just and reasonable rates.⁵⁹

25. Furthermore, the Commission has historically allowed some cross-subsidization through special discounts or programs when it benefits the system as a whole. The idea that the overall benefit of a discount or program for one class would outweigh its cost to another is the same logic that is used to provide special subsidized discount rates for HollyFrontier El Dorado Refining LLC (HollyFrontier) – one of AFPM’s members.⁶⁰ Essentially, HollyFrontier receives a discount from the normal rate it would pay under tariff because it has the ability to cogenerate and reduce its demand significantly.⁶¹ Giving HollyFrontier a special subsidized rate, however, is still a net positive to the rest of Evergy’s ratepayers because ratepayers would be worse off if HollyFrontier were to decrease the amount of electricity it buys from Evergy. Similarly, the Commission has acknowledged that certain programs benefitting income-qualified customers are not “impermissibly discriminatory or unduly preferential,” even though such programs necessitate a cross-class subsidization to be effectuated, because they have system-wide advantages.⁶²

⁵⁷See Justin T Grady Testimony in Support of Non-Unanimous Stipulation and Agreement, p. 19 (July 30, 2021); Grady Direct p. 42.

⁵⁸See Grady Direct, p. 42, fn. 48.

⁵⁹See Justin T Grady Testimony in Support of Non-Unanimous Stipulation and Agreement, pp. 17-18 (July 30, 2021)

⁶⁰See Order Approving Amended Energy Supply Agreement, Docket No. 19-KG&E-091-CON (Feb. 12, 2019).

⁶¹See *Id.* at. 6.

⁶²See Order Accepting Staff’s Report and Recommendation and Closing Docket, ¶¶ 13-14, Docket No. 04-GIMX-531-GIV (Aug. 31, 2005).

Precedent shows the Commission is not forbidden from authorizing subsidy rates/programs when there is sufficient evidence to show they provide net benefits to the rest of the system.

III. The Commission Should Deny a Grant of Decisional Prudence for the Proposed CCN Expansion As Proposed in Evergy's Application

26. The Commission should deny Evergy's request for "decisional prudence" of its CCN expansion.

27. Evergy's request for decisional prudence circumvents the traditional ratemaking procedure. Outside of isolated instances like a predetermination proceeding pursuant to K.S.A. 66-1239, Kansas employs a traditional rate-making practice in which a utility uses its management discretion to plan its system in a way it views as most appropriate to meet its legal obligations to provide efficient and sufficient service at just and reasonable rates.⁶³ Part of that discretion includes taking on the regulatory risk that its decisions could later be deemed imprudent when review occurs in a rate case.⁶⁴ This is an inherent business risk faced by any regulated utility.⁶⁵

28. Granting a predetermination that Evergy's CCN expansion decision was prudent would effectively prevent the Commission from later concluding that cost was not in fact prudently incurred, should Staff find evidence of its imprudence during the extensive audit process that takes place during a rate case proceeding. Evergy Witness Ives attempted to distinguish decisional prudence from prudence for ratemaking purposes, stating Evergy merely is requesting the Commission address the policy decision of whether or not it is appropriate for a utility to invest in charging stations, not requesting any cost recovery.⁶⁶ However, Evergy's request was too broad and undefined such that it would make it next to impossible for Staff to audit for "cost recovery

⁶³See Grady Direct, p. 4.

⁶⁴ See Grady Direct, p. 4.

⁶⁵ See Grady Direct, p. 4.

⁶⁶ See Transcript, Vol. I, pp. 268-269 (Ives).

prudence” in the future. While Evergy explained that their CCN expansion was for “underserved” areas and was “limited and targeted,” the Application was lacking a definition of “underserved” nor there did not appear to be any limitations placed on the expansion.⁶⁷

29. Granting Evergy’s request for a blanket decisional prudence determination of its CCN would deviate from Commission precedent established in Docket No. 16-KCPL-160-MIS. In its Final Order in that docket, the Commission concluded that the Company’s then-proposed CCN network was not necessary for Evergy (then Kansas City Power & Light Company) to provide sufficient and efficient service and that Evergy failed to demonstrate a legitimate demand for the CCN.⁶⁸ While Staff acknowledges changes and growth have occurred within the EV arena, Staff remains unconvinced Evergy should receive a blanket predetermination of prudence on its current CCN proposal.⁶⁹ However, as will be discussed later, Staff is supportive of a CCN that would have certain modifications to protect the competitive market.

30. Given the legislative changes made to K.S.A. 66-104(d) through the passage of House Bill 2145, which became effective July 1, 2021, Staff believes allowing Evergy to build out in underserved areas before giving the competitive market a chance to fill the need would not be in the best interests of Kansas. As stated by Mr. Grady, if the Commission were to approve Evergy’s CCN proposal as set forth in its Application, Staff would have “serious concerns about what that would do to the competitive landscape of the potential for other entities, third party, nonregulated private market entities, to provide those services.”⁷⁰ It is Staff’s position in this docket that the competitive marketplace should be given a chance to meet the need for EV

⁶⁷See Application, Evergy Transportation Electrification Portfolio Filing Report, pp. 32-33.

⁶⁸ Order Denying KCP&L’s Application for Approval of its Clean Charge Network Project and Electric Vehicle Charging Station Tariff, ¶ 14, Docket No. 16-KCPL-160-MIS (Sep. 13, 2016) (16-160 Order).

⁶⁹See Application, Evergy Transportation Electrification Portfolio Filing Report, p. 32; Grady Direct, p. 8.

⁷⁰ Transcript, Vol. II, p. 113 (Grady).

charging, as doing so will lead to innovation, prevent Evergy from cornering the market, and prevent ratepayers from having to pay for the chargers through Evergy's electric rates. If the competitive marketplace is not given the chance to meet the need for EV charging because Evergy's CCN is already in place, Kansans may not receive the benefits of competition, such as lower prices and options for charging.⁷¹

IV. If the Commission Grants All or Part of Evergy's CCN program, the Commission Should Also Establish Guidelines for When the CCN Buildout is a Prudently-Incurred Investment

31. All of the above considered, Staff would reiterate that it is not against the concept of the CCN itself, but is opposed to its approval without potential modification or "guardrails" to ensure Evergy fulfills its duty to provide efficient and sufficient service by meeting the emerging demand as discussed at the Evidentiary Hearing.⁷²

32. Staff was supportive of the rebate programs and other agreements contained in the Settlement Agreement because, as CURB Witness Andrea Crane stated at hearing, there are guardrails in place around the rebate programs, customer education initiatives, and new rate structures.⁷³ Nothing in the Settlement Agreement gives Evergy full discretion to implement these programs or other agreements as they choose. The fact that the CCN as proposed essentially requested that type of discretion is part of Staff's contention because it could stifle the development of a competitive market. And, as Staff has stated, the competitive market should be given a chance to meet the demand for EV charging in any area *before* Evergy builds EV chargers.

33. In Staff's view, Evergy should find underserved areas using the parties definition

⁷¹See generally Grady Direct, pp. 4-8.

⁷²See Transcript, Vol. II, p. 113 (Grady).

⁷³ Transcript, Vol. II, p. 59 (Crane).

of “underserved”)⁷⁴ and first attempt to utilize the Commercial EV Charger Rebate Programs to incentivize the competitive market to build the chargers to fill the need.⁷⁵ Then, if the competitive market does not build, Evergy will have evidence that 1) demand exists and this is not an attempt to stimulate the market; and 2) the competitive market is not filling the need.⁷⁶ If there are areas of true unmet demand, and the competitive market will not fill the need, Staff does not oppose Evergy stepping in to fill the gaps under its obligation to provide efficient and sufficient service.

34. Staff believes that if the Commission decides to allow Evergy’s CCN, then there should be conditions put in place to guide when Evergy can be assured building a station will be considered a prudently incurred investment, or otherwise fulfill Evergy’s duty to provide efficient and sufficient service by meeting the emerging demand. Staff’s position on this was colloquially referred to as the “Grady Test” during the evidentiary hearing⁷⁷ as it refers to Mr. Grady’s Direct Testimony in which he laid forth suggestions for when CCN buildout should be considered prudent. Such conditions could include a showing Evergy must make of disinterest from the private market in building a charging station in a given area that is “underserved,” as the parties have defined⁷⁸; or, it could be a budget cap, above which Evergy would understand any further spending would not be considered prudent.⁷⁹ Evergy witnesses Charles Caisley and Darrin Ives agreed at hearing that Evergy would be amenable to certain types of guardrails, including but not limited to less overall investment or more targeted investment to ensure rural or underserved areas have minimum charging needs met.⁸⁰ Staff believes the Commission should only approve Evergy’s

⁷⁴ See Submittal on Definition of “Underserved” Pursuant to Terms of the Non-Unanimous Partial Settlement Agreement, p. 2 (Aug. 20, 2021).

⁷⁵ See Transcript Vol. II, p. 129 (Grady).

⁷⁶ *Id.*

⁷⁷ See Transcript Vol. I, p. 114-116 (Caisley).

⁷⁸ Staff Witness Justin Grady was supportive of using the parties’ filed definition of underserved to provide criteria Evergy must meet for the development of the CCN. See Transcript, Vol. II, pp. 116-117 (Grady).

⁷⁹ See Transcript, Vol. I, p. 11 (Caisley).

⁸⁰ See Transcript, Vol. I, p. 77-78 (Caisley), *see also* Transcript Vol. I, pp. 280-81.

CCN if it was modified in a way not inconsistent with what was discussed at hearing.

V. Conclusion

35. The S&A in this case is a fair compromise that is “just and reasonable.” The Commission should approve the S&A without modification because, as written, it satisfies the five-factor test for non-unanimous settlement agreements.

36. “Decisional prudence” of the CCN expansion as proposed by Evergy in its Revised Application should be denied.

37. If the Commission were to approve the CCN in part or in its entirety, it should also establish guidelines similar to the suggestions put forth in Staff Witness Justin Grady’s Direct Testimony.

WHEREFORE, Staff respectfully submits its reply brief in this matter.

Respectfully submitted,

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21-EKME-320-TAR

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