

**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) Docket No. 25-EKCE-207-PRE
Ratemaking Principles and Treatment that will)
Apply to the Recovery in Rates of the Cost to)
be Incurred for Certain Electric Generation)
Facilities Under K.S.A. 66-1239.)

**POST-HEARING BRIEF OF THE
CITIZENS' UTILITY RATEPAYER BOARD**

May 28, 2025

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COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and submits its *Post-Hearing Brief* to the Corporation Commission of the State of the Kansas ("Commission") for in the above-captioned docket pursuant to the *Order Amending Procedural Schedule* issued on December 19, 2024.

I. Condensed Background

1. On November 6, 2024, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (together as "Evergy Kansas Central" or "EKC") and Evergy Metro, Inc., d/b/a Evergy Kansas Metro ("Evergy Kansas Metro" or "EKM") (EKC and EKM referred to together as "Evergy" or the "Company") filed a Petition with the Commission requesting a determination of the ratemaking principles and treatment that will apply to the recovery in rates of the cost to be incurred for certain electric generation facilities under K.S.A. 66-1239.

2. In its application, EKC is seeking approval of ratemaking treatment and principles to be applied to the recovery in rates of the costs incurred to acquire a stake in three generation facilities.¹ Two of the facilities are natural gas-fired combined cycle gas turbines ("CCGT") that

¹ Evergy's Application for Determination of Ratemaking Principles and Treatment, pg. 3, ¶7 (November 6, 2024).

Evergy intends on having an ownership stake of 50% in a plant near the Viola Substation and 50% of another plant near Hutchinson, Kansas (“McNew”), the remaining 50% of each plant being allocated to Missouri jurisdictions, totaling 710 MW of capacity for Kansas. The third facility is a 200 MW solar farm in Douglas County, Kansas and known as the Kansas Sky facility (“Kansas Sky”).

3. The application discusses the selection process for the assets and the development of the preferred plan through Evergy’s Integrated Resource Plan process (“IRP”). As part of the application, Evergy provided confidential Definitive Cost Estimates (“DCE”) for each facility for the Commission’s review and determination of ratemaking treatment and principles to be applied to the recovery of costs incurred to acquire the interests in those facilities. Further, Evergy requested approval of a new rider that collects 100% of the return on investments booked to Construction Work in Progress (“CWIP” and “CWIP rider”) to be collected during construction of the CCGT facilities.

4. Parties, including CURB and technical staff for the Commission (“Staff”) submitted pre-filed testimony and on April 16, 2025, negotiated and filed two partial settlement agreements before the Commission. One is a non-unanimous settlement agreement addressing the CCGTs (“Natural Gas Agreement”)² and the other is a unanimous settlement agreement for the Kansas Sky facility (“Solar Agreement”)³.

5. From April 21-25, 2025, the Commission conducted an evidentiary hearing regarding both settlement agreements.

2 Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, (April 16, 2025).

3 Joint Motion to Approve Unanimous Partial Settlement Solar Facility, (April 16, 2025).

6. On May 14, 2025, Evergy submitted its Post-Hearing Brief.⁴

II. Executive Summary

7. Traditional ratemaking in Kansas revolves around post facto review of capital investments and operating expenses made to provide utility service to all current ratepayers receiving that service. Costs are classified based on the aspect of utility service affected and are allocated to customers based on how such customers cause the costs to be incurred. Due to the inherent lag associated with regulatory review, some exceptions are made in order to incorporate costs and assets that will demonstrably be put into service to serve customers shortly after a formal rate review period is established.

8. Integrated Resource Planning gives regulators and stakeholders a view of the utility's perspective on forecasts and uncertain conditions and resource acquisition strategy to meet developing needs. The framework for Evergy's IRP in Kansas allows for stakeholder comments and recommendations for improvements to the process. However, the ultimate purpose of the IRP review, currently undertaken in Docket No. 24-EKCE-387-CPL, is to affirm whether the filings comply with the framework established after the merger that created the Company.⁵ This leaves limited avenues to mandate definitive changes to Evergy's methodology as recommended in stakeholder comments. However, the use of the IRP in a Predetermination case warrants consideration of how to best incorporate stakeholder comments in contrast to long-term decision-making outcomes associated with such cases.

⁴ Initial Post-Hearing 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 for Unanimous Partial Settlement Agreement, (May 14, 2025). ("Evergy's Brief")

⁵ Order Finding Evergy's 2024 IRP Complied with Requirements of Capital Plan Framework, Docket No. 24-EKCE-387-CPL, pg. 7, ¶15 (January 30, 2025).

9. The use of K.S.A. 66-1239(c)(1) allows for approval of ratemaking principles and treatment of investments in electric generation facilities not yet made by analyzing the prudence of the investment based on analysis from the IRP. However, it is important to note that predetermination under 66-1239(c)(1) is not required prior to pursuing new investments generally. Rather, the incentive for the utility to utilize predetermination is from reducing risk in the review process before significant resources are expended and potentially be disallowed recovery in a rate case. Further, in the case of new natural gas fired resources, K.S.A. 66-1239(c)(6) allows the utility to access a rider to collect a return on amounts booked to CWIP while the facility is being constructed. From CURB's perspective, predetermination in the face of uncertainty in load growth from new, rather than existing, customers is a risky proposition that shifts risks of excess capacity and price volatility onto current ratepayers well before an asset is placed into service when a fuller, more contemporaneous review of circumstances can be accomplished. The Signatories to the Natural Gas Agreement frame the 2024 IRP as a goalpost to justify binding and long-term ratemaking treatment for new generating assets, despite the dramatic changes to cost considerations and external conditions from the IRP. CURB believes that if the IRP update dockets are not the appropriate venue to adopt recommendations from parties on Evergy's methodology, then predetermination necessarily opens that avenue for the Commission to consider modifications to the analysis.

10. The Commission should reject the Natural Gas Agreement because the record does not contain sufficient evidence regarding the costs to operate the CCGTs. Exposure to fuel price and supply volatility for decades and is not reasonable when considering the modeling decisions that Evergy elected to prioritize certain resources, like natural gas. Evergy's decision to require

modeling software to consider natural gas ownership stakes in increments of 50% or 100%⁶ and varying degrees of weighing of forecasted gas prices across forecast scenarios⁷ favored selecting natural gas over other resource types. These adjustments tend to give advantages in comparison to other resources and gloss over a more holistic and objective view of the needs being served by each resource.

11. In its brief and supportive evidence, Evergy asserts that because alternative recommendations by CURB and other intervenors are not consistent with the 2024 IRP, those positions should be rejected by the Commission. This is not a practical way to treat alternatives strategies. CURB's recommendations centered around a more balanced analysis of resources and their respective characteristics to meet Evergy's need for firm capacity or low-cost energy to potentially take the place of the CCGTs.⁸ Further, CURB expressed concerns with the prioritization of natural gas resource ownership requirements during the modeling process that leaned towards at least 50% ownership. Such an approach gives an advantage for certain resources to take priority over other types in tested scenarios. Considering that the 2025 IRP update has been filed, it would impractical to hold other options up to an outdated plan. Instead, CURB believes that there is still sufficient time to examine other options and to utilize existing resources to meet capacity and energy needs without assuming unnecessary risks associated with longer-term commitments.

12. To that end, CURB is supportive of the Kansas Sky facility request and is a signatory to the Solar Agreement. Analyses support the position that the DCE for the facility is comparable to costs in the market and even favorable compared to data in the 2024 IRP. It is

6 Transcript of Evidentiary Hearing, Day 2, pg. 38, 371, lns. 18-25 (April 22, 2025).

7 Direct Testimony of Lucy Metz on Behalf of CURB, pg. 28, lns. 6-19 (March 14, 2025). ("Metz Direct Testimony")

8 Direct Testimony of Lucy Metz on Behalf of CURB, pg. 8-9, lns. 21-36; 1-19 (March 14, 2025).

precisely the type of resource that parties advocate for to diversify Evergy's generation mix within a relatively short period of time in order to address present needs, particularly identified large load customers and capacity requirements. The addition of solar will help mitigate the risks associated with increasing reliance upon more volatile fuel sources, which translates into lower costs for ratepayers.

13. CURB acknowledges that signatories and opponents to the Natural Gas Agreement have fundamental differences in the perspective on the CCGT additions. Reliability versus affordability. To CURB, the Natural Gas Agreement represents a large step into committing to a path as the Company seeks to find what will ultimately replace coal-powered generation. The evidence in this docket looks to the changing resource accreditation and planning reserve margin standards of the Southwest Power Pool ("SPP") and how that impacts Evergy's acquisition strategy. Renewable resources appear to be more affected by these changes as their projected capacity value will decrease as more is put on the system.⁹ This may be a trend that will follow renewable resources into the future as utilities react to the changes at SPP. A question to consider is whether these circumstances will allow for large amounts of renewable resources to replace coal or if natural gas will take coal's place. In CURB's view, in consideration of reliability factors, the Commission still retains much authority to craft a solution and plan for Evergy to consider and pursue that maintains flexibility amidst an uncertain future while reducing costs for ratepayers based on the various perspectives presented by parties.

⁹ Grady Hearing Testimony Tr., pg. 544-546 (April 22, 2025).

III. Legal Authority

A. Approval of Nonunanimous Settlement Agreement

14. The disposition of any kind of proceeding before the Commission must be reasonable and not so wide of the mark as to be outside the realm of fair debate, or is not otherwise unreasonable, arbitrary, or capricious and prejudicial to the parties.¹⁰ The Commission has historically approved nonunanimous settlement agreements so long as the agreement will establish just and reasonable rates.¹¹ In order to make such a finding, the Commission examines the following five factors:

- a. Whether each party had an opportunity to be heard on reasons for opposing the settlement;
- b. Whether the settlement is supported by substantial competent evidence in the record as a whole;
- c. Whether the settlement will result in just and reasonable rates;
- d. Whether the settlement conforms to applicable law; and
- e. Whether the results of the settlement are in the public interest.¹²

15. Kansas courts have accepted such a finding to be a lawful and reasonable determination if it is supported by substantial and competent evidence.¹³ “Substantial and competent” evidence is that evidence which has “something of substance and relevant consequence, and which furnishes a substantial basis of fact from which the issues tendered can

¹⁰ *Zinke & Trumbo, Ltd. v. State Corp. Com’n of Kan.*, 242 Kan. 470, 475 (1988).

¹¹ *Farmland Industries, Inc. v. State Corp. Com’n of Kansas*, 24 Kan.App.2d 172, 187 (Kan. App. 1997).

¹² Order Approving Contested Settlement Agreement, Docket No. 08-ATMG-280-RTS (May 12, 2008).

¹³ *Citizens’ Utility Ratepayer Board v. Kansas Corporation Comm’n*, 28 Kan.App.2d 313, 316 (2000), rev. denied.

reasonably be resolved.”¹⁴ Regarding the substantive requirements of Commission orders, the courts do not impose an obligation to render findings of fact in minute detail, but rather be specific enough in form and content to advise parties of the facts and standards that persuaded the Commission to arrive at its decision and to allow judicial review of the reasonableness of the order.¹⁵

B. Approval of Unanimous Settlement Agreements

16. Unanimous settlement agreements are defined as ones where all parties are signatories to the agreement or unopposed to it.¹⁶ The five factors used above are reduced to three factors in the case of unanimous settlement agreements.

- a. Whether the settlement is supported by substantial competent evidence in the record;
- b. Whether the settlement will result in just and reasonable rates;
- c. Whether the results of the settlement are in the public interest.

III. Predetermination of Ratemaking Treatment and Principles

17. Prior to acquiring a stake in a generating facility, K.S.A. 66-1239(c)(1) allows a utility to ask the Commission to determine ratemaking principles and treatment that will apply to such an asset for recovery in rates of the incurred costs during the expected useful life of the facility.¹⁷ The application for predetermination for a generating facility must describe how acquisition of a stake in the facility is consistent with the utility’s most recent preferred plan and resource acquisition strategy submitted to the Commission.¹⁸ As part of its review, the Commission

¹⁴ *Jones v. Kansas Gas & Elec. Co.*, 222 Kan. 390, 397 (1977).

¹⁵ See Zinke at pg. 475 (analyzing K.A.R. 82-1-232(3) and K.S.A. 77-621(c)(5) and citing to *Central Kansas power Co. v. State Corporation Commission*, 206 Kan. 670, 677 (1971)).

¹⁶ K.A.R. 82-1-230a.

¹⁷ K.S.A. 66-1239(c)(1)(A).

¹⁸ K.S.A. 66-1239(c)(2).

may consider if the utility issued a request for proposal from a wide audience of participants to meet the needs identified in the plan, and if the preferred plan is “reasonable, reliable and efficient.”¹⁹ Any ratemaking determinations by the Commission *must* be applied to all proceedings in which the cost of the stake in the generating facility is considered.²⁰ In the event that the utility elects not to acquire a stake in the generating facility, it must notify the Commission about the decision and provide notification of any changes to the utility’s preferred resource plan per any Commission order.²¹

IV. Natural Gas Agreement

A. Parties had the opportunity to be heard on their respective positions on the agreement.

18. CURB believes that each party has had an opportunity to be heard on their respective positions and has been provided meaningful access to the docket materials and events. In addition to the volume of direct testimony put forward by intervenors, parties dedicated significant time and resources to facilitate extensive negotiations and conversations regarding the terms of the Natural Gas Agreement. Further, the Commission provided ample time and opportunity at the evidentiary hearing for parties to question witnesses and supplement the record with exhibits. The Commission even allowed for additional evidence, testimony, and briefs to be submitted after the hearing. However, in light of the limited ability for intervenors to influence the results of the IRP as discussed below, the factor should not carry significant weight in determining approval of the Natural Gas Agreement.

¹⁹ K.S.A. 66-1239(c)(3).

²⁰ K.S.A. 66-1239(c)(7).

²¹ K.S.A. 66-1239(e)-(g).

B. The Natural Gas Agreement is not supported by substantial competent evidence.

i. The 2024 IRP modeling results reflect hardcoded inputs that guided the selection of certain resources over others.

19. The Natural Gas Agreement is not supported by substantial competent evidence regarding the reasonableness of the 2024 IRP and cost considerations associated with operating the CCGTs. “Reasonableness” is not readily defined in K.S.A. 66-1239. However, in the context of resource acquisition planning, information supporting relevant conclusions that underlie particular decisions or actions should be reviewed to determine how reasonable a resource plan is. Modeling for resource acquisition planning should favor holistic review of resources and their ability to meet the Company’s needs, rather than aim for certain thresholds for specific resource additions.

20. An order of the Commission is generally considered reasonable if it is based on substantial competent evidence.²² When evaluating evidence to make policy determinations, such review invites a certain level of subjective evaluation and decision making. As a result, a court will not set aside an order of the Commission merely on the grounds that it would have arrived at a different conclusion.²³ To determine whether there is substantial competent evidence, the record must contain evidence which possesses something of substance and relevant consequence, and which furnishes a substantial basis of fact from which the issues tendered can reasonably be resolved.²⁴

21. Here, the 2024 IRP fails to provide a more objective and holistic look at available

²² Jones v. Kansas Gas and Electric Co., 222 Kan. 390, 397 (1977).

²³ Midwest Gas Users Ass’n v. State Corp. Commission, 3 Kan.App.2d 376, 381 (1979).

²⁴ Jones at 397.

resource options. Rather, various aspects of the modeling process guided the outcomes to favor natural gas resources at the time of the 2024 IRP. EKC is seeking to meet energy and capacity needs based on its 2024 IRP analysis and should be looking at how to fairly assess each kind of available resource rather than guiding the modeling results towards certain resources. CURB witness Lucy Metz identified a number of items in her Direct Testimony that impacted Evergy's modeling results. She first discusses the results of Evergy's need to update its selected portfolio from the 2024 IRP due to significant changes to the inputs regarding natural gas generation. Ms. Metz notes that because only one portfolio was updated, it is not possible to determine if the updated modeling results were the best option for ratepayers compared to other portfolios of resource additions.²⁵ Further, she discussed the review of fuel price volatility in the 2024 IRP. Although Evergy evaluated high and low gas price forecasts, those results were given different weights in each scenario, affecting the overall consideration of that factor in the results.²⁶ Further, as discussed during the evidentiary hearing, regarding the McNew plant, Evergy only modeled scenarios in which EKC was allocated either 50% or 100% share of ownership of the facility.²⁷ Based on a 710 MW facility, this has the potential to cut off other scenarios that utilized other specific ownership shares, thus allowing room for other resources to meet capacity and energy needs.

22. An example of this concern and the effect on the trajectory of analysis in the IRP is the use of battery storage. Evergy witness Cody VandeVelde reviewed the selected portfolio and acknowledged that in the 20-year forecast period, battery storage was not selected due, in part, to

²⁵ Metz Direct Testimony at pg. 23, lns. 1-6.

²⁶ Id. at pg. 28, lns. 6-21.

²⁷ VandeVelde Hearing Testimony, Tr. Pg. 371, lns. 18-25.

reliability parameters.²⁸ However, when performing the updated analysis of natural gas costs, Evergy indicated battery storage becomes part of the plan in the early 2030s.²⁹ This indicates that there is value to reassessing the preferred plan supporting resource additions in light of the changed circumstances that gave rise to the updated analysis in this docket. The lack of such a holistic update is a blind spot in the IRP plan that unreasonably precludes greater options to meet needs and reduce ratepayer impacts, which CURB believes should be a priority for the Commission to consider.

ii. The record lacks details surrounding load growth considerations and operational and fuel costs that bear on the plan’s reasonableness.

23. The use of CCGTs to meet potentially massive load growth and the need to secure new levels of fuel to operate the plants should be sufficiently detailed to justify commitment to favorable ratemaking treatment for several decades. Evergy witness Darrin Ives address the subject of large load growth and its factoring in this docket and states that this docket is not directly related to large load demand, particularly as it relates to Docket No. 25-EKME-315-TAR (“25-315 Docket”), or driven by new large load additions, beyond what has been identified with new load from Panasonic.³⁰ In regards to the 2024 IRP, Evergy witness Cody VandeVelde discusses the Panasonic load in the 2024 IRP and an additional 150 MW to account for a “modest” projection attributable to economic development.³¹ Discussion of a pipeline of a significant amount of load growth attributable to large load customers in the near future.³² Meanwhile, in the 25-315 Docket, Evergy is utilizing a hypothetical large load customer in its class cost of service study with a 384

28 VandeVelde Hearing Testimony, Tr. Pg. 377, Ins. 5-25; pg. 378, Ins. 1-4.

29 Metz Direct Testimony at pg. 24, Table 5.

30 Rebuttal Testimony of Darrin Ives on Behalf of Evergy, pgs. 9-10; Ins. 7-23, 1-22 (April 4, 2025).

31 Rebuttal Testimony of Cody VandeVelde on Behalf of Evergy, pg. 2, Ins. 1-23 (April 4, 2025).

32 Ives Hearing Testimony, Tr. pgs. 208-210 (April 21, 2025).

MW non-coincident peak demand receiving service at the transmission voltage and characteristics comparable to the middle of the range of loads that could develop in the next few years.³³

24. It is clear that Evergy is considering economic development growth in its resource planning, particularly in the next few years, but there is a disconnect on the range of growth to consider. Assuming that Docket No. 25-315 is not connected to the present docket and information there should be ignored, Evergy is denying that new large customer load growth played a large role in selecting the CCGT resources but also takes the position that the reliability characteristics of the assets are needed now to account for potential large growth. Aside from what is modeled with Panasonic, it is unclear when and to what degree this load will materialize, along with potential commensurate benefits with it. In the meantime, present-day customers will be responsible for paying costs of these assets for an unknown period of time before any resulting benefits start to materialize. Even if the CCGT plants will provide reliability benefits until needed to serve new load, the Commission should still be able to evaluate the duration of that gap in usage when considering the reasonableness of putting ratepayers on a particular path with prolonged cost recovery.

25. Information regarding procurement of fuel and price volatility effects should be more established before granting ratemaking treatment to the CCGTs. While the record provides the Commission with details behind Evergy's plans to enter into contracts and secure fuel supplies, those details are not set to be resolved until after the docket is closed, per the Natural Gas Agreement. In this docket, parties have discussed the potential fuel price volatility associated with

³³ Direct Testimony Bradley Lutz on Behalf of Evergy, Docket No. 25-EKME-315-TAR, pgs. 21-22, lns. 13-23; 1-3 (February 11, 2025).

global events and emergency situations, and the potential effects of a spike in natural gas usage by electric generation facilities within the same timeframe, both in Kansas and in the SPP region. The issue with not having supply contracts and statewide priority plans resolved prior to approving these plants is that stakeholders will be faced with the leverage of having to operate the plants once the investment is made. Assuming no specific generation resource is dedicated to a specific customer, the tension between home gas heating and electricity use during emergency situations builds.³⁴ Leaving the discussion on this important issue until after ratemaking treatment is approved deprives the Commission of relevant information to the reasonableness of the plan and consideration of costs associated with this ownership stake.

C. Whether the Natural Gas Agreement Complies with Applicable Law

26. CURB acknowledges Evergy's brief regarding the standard set out in K.S.A. 66-1239(c)(1), (2), (3), and (6) and agrees that the CCGTs in the Natural Gas Agreement correspond to resources identified within Evergy's selected plan from the 2024 IRP, notwithstanding CURB's and other stakeholders' critique of the 2024 IRP modeling results, and insofar as Evergy had issued a request for proposals from a wide audience of participants to meet the plan's needs. In regard to whether the plan is "reasonable, reliable and efficient," CURB believes that a view of the totality of the circumstances regarding the decisions and selection of the preferred plan encompasses topics such as rate impacts, sufficiency of the evidence, and aspects of the public interest being served. Those topics are explored in the other factors and this section incorporates those arguments as bearing on the question of conforming with K.S.A. 66-1239(c)(3). At this time, CURB will address

34 Grady Hearing Testimony, Tr. pgs. 549-551, lns.22-25; 1-25; 1-8.

Evergy's claims that intervenors' recommendations do not comply with the 2024 IRP.

i. Due to the dynamic nature of the IRP, it is inappropriate to evaluate whether intervenors' recommendations comply with the 2024 IRP.

27. Recommendations by the intervenors should not be rejected on the basis that they are not consistent with the 2024 IRP or that the recommendation did not benefit from analysis in the IRP in this docket. From the outset of this docket, modeling assumptions and updates had to be made to the preferred portfolio to account for changes in the months between when the 2024 IRP was filed and the opening of this docket. Although the preferred plan selected the CCGT resources with the updates, a fuller IRP analysis was not performed with consideration of alternative resources utilizing existing coal sites.³⁵ Ms. Metz's recommendations included issuing an All-Source Request for Proposal ("RFP"), including options for power purchase agreement resources, to determine whether other less costly resources are available to meet capacity and energy needs and to focus on economic resources in the short-term forecast.

28. Given the timing of the IRP and dockets, it is impractical to review the appropriateness of alternatives when subsequent IRP updates have been filed and study for the 2026 IRP update may begin soon. The Natural Gas Agreement provisions contemplate several topics to study in the 2026 IRP, including battery storage. By and large, these provisions involve topics that could have been studied previously and have even been referenced in prior IRP reviews. Further, Section 6(e) of the Natural Gas Agreement has EKC evaluating future offers in an all-source RFP and determine whether offers can meet needs, but those are not covered in this docket.³⁶ While it reflects consideration of CURB's position, it also demonstrates the practicality

³⁵ Metz Direct Testimony at pg. 25, lns. 3-10.

³⁶ Natural Gas Agreement, pg. 11.

of performing this analysis and incorporating results in the near term. Such a review could very well establish a new preferred portfolio, but for the commitment to these sizable CCGT resources in this docket.

29. Based on the potential options available for the McNew plant, the alternatives presented by intervenors allow the Commission to holistically consider options to meet Evergy's resource needs. Evergy criticizes any approach that requires a larger reliance upon renewable resources based on accreditation concerns requiring much more investment to match CCGTs.³⁷ However, this does not preclude the Company or Commission from evaluating options consistent with intervenor recommendations for future updates. Ms. Metz stated in her direct testimony that reuse of existing interconnection rights for resources like battery storage can be quickly deployed within the timeframe established for CCGT construction.³⁸ Ms. Metz also clarified that the alternative recommendations are not based on eliminating thermal resources like CCGTs, but rather other thermal and renewable resources will help mitigate fuel price volatility impacts based on increased reliance on natural gas and potential environmental regulation impacts.³⁹ Therefore, the Commission should reject arguments that alternative resources cannot be considered because they are not consistent with the 2024 IRP because additional updates can accommodate that review for other filings.

37 Evergy Brief at pgs. 21-22; VandeVelde Rebuttal Testimony at pgs. 12-13.

38 Metz Direct Testimony at pg. 34, lns. 1-17.

39 Metz Hearing Testimony, Tr. pg. 662-663, lns. 3-25; 1-8.

D. The Natural Gas Agreement will not result in just and reasonable rates

i. The Natural Gas Agreement will lock ratepayers into recovery of costs for resources that will not benefit them for several years and impact economic resource planning.

30. The Natural Gas Agreement will expose current ratepayers to cost volatility and growing reliance upon natural gas to supply energy for an unknown new group of customers. “Just and reasonable” rates should fall within a “zone of reasonableness” after the application of a balancing test in which the interests of the utility and the ratepayers are evaluated.⁴⁰ Specifically, there are three sets of competing interests that the Commission should consider: 1) the utility’s investors and its ratepayers; 2) present and future ratepayers; and 3) the public interest. When evaluating these competing interests, the Commission may consider matters of policy in establishing a “just and reasonable” rate.

31. At the onset, the costs and overall DCE for the CCGTs will be assessed to current ratepayers when the requisite timing of recovery triggers for the CWIP rider and after the plants are placed into service. Current load growth projections, notwithstanding new large load customers contemplated in the 25-315 Docket, will not require the use of these resources as energy sources. Rather it is based on the potential need to respond to a large load customer joining the system or when resource accreditation changes take effect at SPP. To the degree that SPP requirements are satisfied, but before new load develops that require operating the plants, customers could be sitting on unused capacity. Ms. Metz highlights a scenario related to restrictions on capacity factors related to environmental regulations and states that even if you have the plant, being restricted on

⁴⁰ Power Com’n v. Hope Gas Co., 320 U.S. 591, 603, (1944); Farmland Industries, Inc. v. State Corp. Com’n of Kansas, 24 Kan.App.2d 172, 195 (1997).

using that resource does not serve ratepayers.⁴¹ In those scenarios, it would be a better use of resources and ratepayer funds to secure low-cost energy resources.

32. Furthermore, the predetermination process locks in ratemaking treatment for the expected useful life of the project in any proceeding that deals with cost recovery of the DCE.⁴² This effectively prevents parties from reviewing the costs associated with the resources in the event of changed circumstances, such as extreme price volatility, lack of significant load growth, and environmental restrictions. Ms. Metz highlights the concerns of committing to resources like natural gas that are exposed to such risks for the expected useful life of the plants. Of note, predetermination appears to preclude parties from addressing concerns of excess capacity under K.S.A. 66-128c. The Commission has authority to determine the valuation of property that is used and required to be used by a regulated utility.⁴³ If costs are deemed to have been incurred imprudently or in the acquisition or construction of excess capacity, the Commission may disallow recovery of those costs. However, the determination of the value of the property in this docket is not being done as contemplated by K.S.A. 66-128c. Instead of a contemporaneous review of the system needs when the request for recovery is made after a plant is placed into service, predetermination determines prudence and the value via the DCE before going online. Although it is a feature of predetermination, locking ratepayers into recovery of the DCE and any potential cost overruns for two CCGTs exposed to significant risk factors puts the risks of non-performance or excess capacity on ratepayers. Rates that result from that situation do not balance the interests of the ratepayers with other groups, including future ratepayers.

41 Metz Hearing Testimony, Tr. pg. 662, lns.3-19.

42 K.S.A. 66-1239(c)(7).

43 K.S.A. 66-128(a).

- ii. **The Commission should recognize the cumulative effects on rates by pursuing long term resource planning that follows development of certain kinds of resources.**

33. The Commission should reject calls to disregard rate impacts from other dockets insofar as the record suggests that the preferred plan will likely result in additional predetermination dockets and additions of resources similar to the ones in this docket. K.S.A. 66-1239(c)(3) discusses whether the *plan* is reasonable, reliable and efficient, rather than just specifying the resources. Although future predetermination filings may differ in their DCEs, the Commission should consider the overall plan during the 20-year forecast and planning period and be willing to make adjustments for the Company to consider as more unavoidable costs are recovered through rates. Even if the Commission is not comfortable calculating cumulative impacts between the CWIP rider and DCE recovery, awareness of pressure on household energy burdens should be monitored and addressed whenever possible and appropriate. These effects can be compounded if concerns regarding fuel price volatility come to fruition and higher prices hold steady for longer periods of time. Even if the CCGTs in this docket and future proceedings provide efficient levels of generation, increased reliance on that one resource will continue to drive up bills.

E. The Natural Gas Agreement is not in the public interest.

34. The Public Interest can be defined on a case-by-case basis in light of relevant considerations of policy, represented interests, and costs and benefits associated with the terms of the Natural Gas Agreement. In its Brief, Evergy refers to the public support by legislators and decisionmakers in promoting natural gas resources and incentives for new industries and

generation assets.⁴⁴ Although this evidence might support the prioritizing natural gas resources to service customers and attract new customers, it does not elevate to full support and recognition of the financial impact on ratepayers and the potential risk if results do not materialize.

35. The interests represented by the Natural Gas Agreement signatories largely focus on large commercial, local government, Staff representing the public interests generally, and utility populations. However, the majority of ratepayers represented by CURB, industrial customer interest groups, and environmental groups, make up the largest number of customers taking service from Evergy and oppose this agreement. As stated above, the conflict can be viewed as a fundamental difference in priority between affordability and reliability. However, the risk concerns identified by CURB and other intervenors, and the potential for a series of predetermination filings in response to changing circumstances over a long period of time, warrant due consideration for addressing needs without overburdening customers and calls for creative and collaborative approaches. Once predetermination is granted and DCEs are approved for recovery, ratepayers will be unable to avoid those costs for many decades. CURB recommends that the Commission find that approval of the Natural Gas Agreement is not in the public interest and should encourage Evergy to perform more holistic reviews for the IRP to mitigate the risk of volatile fuel sources.

V. Solar Agreement

A. The Solar Agreement is supported by substantial competent evidence

36. In contrast to the Natural Gas Agreement, CURB supports the Solar Agreement as being a reasonable, reliable and efficient way to work towards diversifying Evergy's generation

⁴⁴ Evergy's Brief at pg. 51.

mix and to incorporate low-cost energy to meet identifiable needs. Ms. Metz identifies solar and battery storage to likely be a lower-cost resource than the CCGTs to meet needs incrementally and shield ratepayers from future costs risks described above.⁴⁵ In addition to the testimony provided by the Company, all the signatories testified favorably in pre-written and live settings regarding the addition of this solar resource and provided testimony in support of the resource.

B. The Solar Agreement will result in just and reasonable rates

37. The costs associated with the Solar Agreement have been found to be reasonable and even favorable compared to other solar projects available to Evergy. Ms. Metz provided a comparison of capital costs for Kansas Sky and other costs that were used in the 2024 IRP.⁴⁶ There was also consideration given to the use of tax credits and potential repeal of that offset. However, the Solar Agreement contains an additional review provision in the event there are changes that impact the economics of the project prior to construction. This provides a reasonable amount of oversight and protection against significant cost overruns associated with the project.

C. The Solar Agreement is in the public interest

38. The Solar Agreement is in the public interest because it is supported or unopposed by all parties, including those opposed to the Natural Gas Agreement. This is a significant showing of competing interests supporting this particular resource to address reliability and affordability needs. The projected cost impacts are modest, especially when compared to the Natural Gas Agreement and will be serving current customers much sooner than CCGT resources. Further, the

⁴⁵ Metz Direct Testimony at pg. 21, lns. 4-12; pg. 20, Confidential Table 4.

⁴⁶ Testimony in Support of Unanimous Partial Settlement on Solar Facility and Testimony in Opposition to Non-Unanimous Partial Settlement on Natural Gas Facilities of Lucy Metz on Behalf of CURB, pg. 5, lns. 14-19. (April 17, 2025).

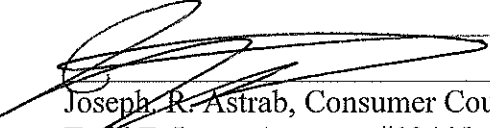
solar addition provides low-cost energy generation in the SPP footprint, which goes towards a robust and resilient system in the face of a myriad of risk factors. As stated above, CURB values a diverse generation mix to avoid overreliance upon resources that are particularly vulnerable to price volatility and supply constraints. These differing types of resources can help compliment and address shortcomings associated with each type. CURB believes that promoting low-cost energy acquisition can be effective in tandem with other thermal resources in order to respond to definitive needs at a lower cost to ratepayers.

VI. Conclusion

39. CURB appreciates the robust analyses of Evergy and the signatories in addressing the uncertainty of energy needs in the near and long-terms. CURB believes that the Company should be pursuing modeling practices that allow for the economic consideration of scenarios rather than hard coding values that lead towards specific resources gaining prominence, even in light of policy signals. Such signals can be followed while still incorporating best practices in resource planning. There are several outstanding considerations associated with the Natural Gas Agreement that put ratepayers at unnecessary risk of bill increases in the event of unfavorable load growth and operational cost changes. The Commission should review the entirety of the plan and consider alternative paths to balance risk exposure and cost mitigation for current customers when granting favorable rate treatment through K.S.A. 66-1239(c)(1).

WHEREFORE, CURB respectfully requests that the Commission reject the Natural Gas Agreement, approve the Solar Agreement, and issue any and all other orders that it deems appropriate.

Respectfully submitted,

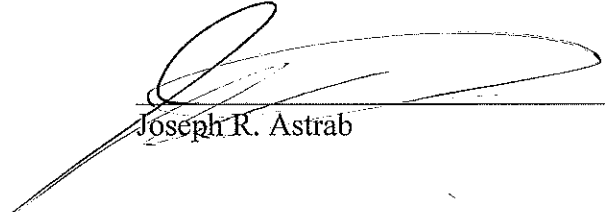


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VERIFICATION

STATE OF KANSAS)
)
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I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Joseph R. Astrab

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





Notary Public

My Commission expires: 01-26-2029.

CERTIFICATE OF SERVICE

25-EKCE-207-PRE

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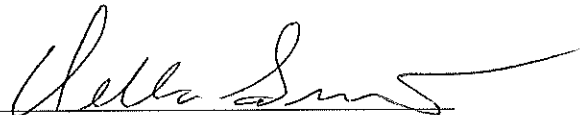
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