

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

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.)

ORDER DENYING PETITION FOR RECONSIDERATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On November 6, 2024, Evergy Kansas Central, Inc. and Evergy Kansas South, Inc. (EKC)¹ and Evergy Metro, Inc. d/b/a Evergy Kansas Metro (EKM) filed an Application requesting a determination of the ratemaking principles and treatment that will apply to the costs incurred relating to: (1) EKC’s planned construction and acquisition of 50% of a 710 MW combined cycle gas turbine (CCGT) located in Kansas near its Viola Substation (Viola Plant or Viola); (2) a 50% interest in a second 710 MW CCGT located near Hutchinson, Kansas (McNew Plant or McNew), with flexibility to acquire the second 50% of McNew, and (3) its construction and ownership of approximately 200 MWDC (159 MWAC) of solar generation, known as the Kansas Sky generating resource (Kansas Sky).²

¹ This Order refers to Evergy or EKC interchangeably. When discussing another Evergy affiliate, this Order specifically references that affiliate.

² Petition of Evergy Kansas Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. for Determination of Ratemaking Principles and Treatment, Nov. 6, 2024, ¶ 6.

2. In its Application, EKC explains the Viola Plant will be built on a greenfield site in Sumner County, and jointly owned by EKC and Evergy Missouri West, with a projected date of commercial operation on January 1, 2029.³ The McNew Plant will be built on a greenfield site in Reno County, and fully owned by EKC, before eventually transferring half of the plant to Evergy Missouri West or EKM, with a projected date of commercial operation of January 1, 2030.⁴ Evergy subsequently updated its filing to confirm Evergy Missouri West, rather than EKM would be allocated the remaining 50% stake in the McNew Plant. Kansas Sky is being developed by Savion, LLC, and is located in Douglas County, with a projected date of commercial operation in December of 2026.⁵ EKC's Application was supported by testimony from eight witnesses.

3. The following parties sought, and were granted, the right to intervene and formally participate in this proceeding. The Citizens' Utility Ratepayer Board (CURB); KPP Energy (KPP); National Resource Defense Council (NRDC); Midwest Energy, Inc. (Midwest); the Board of County Commissioners Johnson County (Johnson County); City of Lawrence (Lawrence); City of Overland Park (Overland Park); Atmos Energy Corporation (Atmos); HF Sinclair El Dorado Refining LLC (HF Sinclair); Kansas Municipal Energy Agency (KMEA); Kansas Gas Service (KGS); CCPS Transportation, LLC; Walmart, Inc.; Renew Missouri Advocates (Renew Missouri); Unified School District #259 Sedgwick County, Kansas (USD 259); Kansas Industrial Consumers (KIC);⁶ Wichita Regional Chamber of Commerce (Wichita Chamber); the Council for New Energy Economics (NEE); the US Department of Defense; and Climate & Energy Project (CEP).

³ *Id.*, ¶¶ 15 & 17.

⁴ *Id.*, ¶¶ 16-17.

⁵ *Id.*, ¶ 28.

⁶ The Kansas Chamber of Commerce; Kansas Grain and Feed Association; the Kansas Agribusiness Retailers Association; Renew Kansas Biofuels Association; Blue Valley School District USD 229 (USD 229); Olathe School District USD 233 (USD 233); Shawnee Mission School District USD 512 (USD 512); Unified School District No. 232; Johnson County, Kansas (USD 232); Associated Purchasing Services; The Goodyear Tire and Rubber Company; Lawrence Paper Company; Occidental Chemical Corporation; Spirit AeroSystems, Inc.; and Cargill, Inc. participated

4. As noted above, on February 14, 2025, EKC filed supplemental testimony from Darrin Ives, Jason Humphrey, Kyle Olson, and Cody Vandavelde. The supplemental testimony advised the Commission of Evergy's decision to allocate a 50% ownership stake in the McNew CCGT facility to Evergy Missouri West, and updated the definitive cost estimates for the McNew Plant, the Viola Plant, and Kansas Sky.⁷

5. On April 16, 2025, EKC, Staff, KPP, NRDC, Midwest Energy, Johnson County, Lawrence, Atmos, HF Sinclair, KMEA, and Kansas Gas Service filed a Joint Motion for Approval of Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities (CCGT Settlement). The key terms of the settlement include:

- EKC's proposal to construct and own 50% of the Viola plant and 50% of the McNew plant is prudent;
- EKC's construction and ownership of 50% of Viola and 50% of McNew is consistent with EKC's most recent preferred plan and resource acquisition strategy;
- The Signatories agree on the definitive cost estimates (DCEs) of \$788.75 million (excluding AFUDC) for 50% of the Viola Plant, and \$800.519 million (excluding AFUDC) for 50% of the McNew Plant, and that the DCEs are reasonable and will be recovered in rates as described in the settlement;
- Requiring EKC to collaborate with Staff and CURB during the development of a Gas Purchasing Plan, and to file the results of the plan in a compliance filing at the conclusion of this docket. 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

though or are aligned with KIC. All of these entities shared counsel and none of them submitted independent or individual pleadings or briefs.

⁷ Supplemental Direct Testimony of Darrin R. Ives, Feb. 14, 2025, p. 1.

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

- If 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;

- Once all natural gas transportation arrangements have been finalized, EKC should file a compliance filing with the KCC, which includes, at a minimum, the financial terms and conditions under which firm natural gas transportation has been secured and the duration of the transportation arrangement;

- EKC can implement a CWIP Rider, and 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;

- EKC will work with Staff to develop recurrent monthly project status reporting including impacts from legislative or executive actions including tariffs and any other cost and project milestone updates; and

- If EKC becomes aware of information that leads it to reasonably believe that actual project costs are projected to exceed 115% of the DCE, it is required to make a compliance filing justifying the economics and prudence of continuing forward with McNew and/or Viola or requesting Commission approval to abandon the project(s).

6. On April 17, 2025, Grady (Staff) and Humphrey and Ives (EKC) filed testimony in support of the CCGT settlement; Barnett (CEP), Metz (CURB), and Jones (NEE) each filed testimony opposing the CCGT Settlement.

7. An evidentiary hearing was held from April 21 through April 23, 2025. The Parties appeared by counsel. The Commission heard live testimony from a total of ten witnesses, including four from EKC, two each from Staff and KIC, one each from CURB and NEE. At the April 17, 2025 prehearing conference, the Parties agreed to waive cross-examination of several witnesses. The Parties had the opportunity to cross-examine the remaining witnesses at the evidentiary hearing as well as the opportunity to redirect their own witnesses. Following the evidentiary hearing, the Parties had the opportunity to submit post-hearing briefs.

8. On May 15, 2025, the Commission issued two orders. The first order granted KIC's motion to file supplemental testimony and exhibits from Gorman.⁸ The second order granted KIC and the Kansas Agriculture Association's (KAA) motion to introduce EKC's 2025 IRP into the record, but made clear that EKC's 2024 IRP is the most recent preferred plan as defined by K.S.A. 66-1239(c)(2).⁹

9. On July 7, 2025, the Commission approved the non-unanimous CCGT Settlement, finding it is consistent with EKC's most recent preferred plan and resource acquisition strategy as required by K.S.A. 66-1239,¹⁰ and is reasonable, reliable, and efficient.¹¹

10. On July 16, 2025, KIC and the KAA filed a Petition for Reconsideration (PFR), alleging: (1) the Commission failed to decide an issue requiring resolution (the potential denial of

⁸ Order Denying Motion to Strike Proposed Supplemental Testimony and Exhibits, May 15, 2025, ¶ 8.

⁹ Order Granting KIC's Motion to File the 2025 Annual Update Integrated Resource Plan as an Exhibit, May 15, 2025, ¶ 6.

¹⁰ Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, July 7, 2025, ¶ 49.

¹¹ *Id.*, ¶ 72.

predetermination of the Viola and McNew plants by the Missouri Public Service Commission (MPSC));¹² (2) analysis of coal fleet, age, reliability, and scheduled retirements were arbitrary and capricious;¹³ and (3) the directive that EKC submit assurance that it has contracted firm gas transportation and supply to serve the new CCGTs *prior to construction* places EKC in danger of violating the Order because the phrase “prior to beginning construction” is ambiguous and needs clarification.¹⁴ The second claim is brought under K.S.A. 77-621(c)(8), which alleges the Commission’s decision is unreasonable, arbitrary or capricious. In the third claim, KIC and KAA only seek guidance and clarification on the definition of “prior to construction” and do not allege any actual error by the Commission.¹⁵

11. On July 28, 2025, EKC and Staff filed a joint response opposing the PFR (Joint Response). The Joint Response argues the PFR fails to state any grounds to justify amending, modifying or clarifying the Final Order, and improperly seeks to raise new issues and introduce new evidence.¹⁶ On the PFR’s first claim, the Joint Response argues it improperly raises new issues and, therefore, cannot be offered as grounds for reconsideration.¹⁷ More importantly, the Joint Response notes the Order appropriately confined its analysis to Kansas jurisdictional matters.¹⁸ On the PFR’s second claim, the Joint Response explains the Commission simply explained that because EKC’s coal units are aging, it is prudent to plan for the modernization and diversification of EKC’s thermal fleet.¹⁹ The Joint Response adds that the Order’s rejection of unsupported claims leveled by certain intervenors that EKC’s modeling assumptions artificially

¹² Petition for Reconsideration, July 16, 2025, n. 11, K.S.A. 77-621(c)(3).

¹³ Petition for Reconsideration, p. 8.

¹⁴ *Id.*, p. 13.

¹⁵ *See id.*

¹⁶ Joint Response of Evergy Kansas Central, Inc. and Commission Staff in Opposition to Petition for Reconsideration, July 29, 2025, p. 2.

¹⁷ *Id.*, ¶ 19.

¹⁸ *Id.*, ¶ 20.

¹⁹ *Id.*, ¶ 24.

shortened the lives of coal-fired units is not arbitrary and capricious.²⁰ On the PFR's last claim, the Joint Response explains the Order does not incorporate the EPA's definition of "commencement of construction" to define the words "prior to beginning construction," thus there is no reason to suspect the Order adopted the EPA definition.²¹

12. Under K.S.A. 77-621(a)(1), KIC and KAA bear the burden of proof to demonstrate the Commission's Order is invalid. All actions by an administrative agency are presumed valid.²²

Whether the MPSC approves predetermination for Evergy Missouri West's share of the Viola and McNew Plants is not an issue requiring resolution in this Docket

13. The PFR alleges that the Commission's failure to consider what happens if the MPSC denies predetermination for the 50% ownerships share in Viola and McNew owned by Evergy Missouri West constitutes a reversible error under K.S.A. 77-621(c)(3). KIC and KAA are wrong. The MPSC's decision is not a fundamental issue requiring resolution. EKC's Application filed with the Commission sought predetermination of a 50% ownership share of both the Viola and McNew plants. The Commission found EKC's request for predetermination of those 50% stakes satisfied K.S.A. 66-1239. The Commission only approved a 50% share in both plants, so EKC is only authorized to construct and own 50% of Viola and 50% of McNew regardless of what the MPSC decided. Since any decision in Missouri does not impact that authorization, the Commission did not need to address the possibility of the MPSC rejecting predetermination of Evergy Missouri West's share of Viola and McNew.

14. More importantly, on July 31, 2025, the MPSC granted Evergy Missouri West's request for a finding of decisional prudence to construct, acquire, own, and operate the Viola and

²⁰ *Id.*, ¶¶ 25-26.

²¹ *Id.*, ¶ 36.

²² *In re Tallgrass Prairie Holdings, LLC*, 50 Kan. App. 2d 635, 659 (2014).

McNew electric generating plants.²³ Thus, the PFR's concerns that the MPSC might deny approval to Evergy Missouri West are moot. KIC and KAA's claim that the Commission's failure to address the possibility of the MPSC rejecting predetermination of Evergy Missouri West's share of the Viola and McNew plants is denied.

The Commission's analysis of coal fleet, age, reliability, and scheduled retirements are not arbitrary and capricious

15. To be found arbitrary and capricious, an agency's action must be unreasonable or without foundation in fact.²⁴ The PFR accuses the Commission of erroneously concluding that the age of EKC's coal plants makes the fleet more unreliable.²⁵ The PFR alleges the Commission "cherry picks portions of Staff's position to assert that the coal units are unreliable and ignores the evidentiary record as a whole."²⁶ The PFR misinterprets the Order by assuming the Commission concluded coal plants are unreliable. There is no support for KIC and KAA's interpretation of the Order. Even the Commission's language cited in the PFR is limited to finding: (1) it is prudent to commence planning to modernize and diversify EKC's thermal fleet, and (2) EKC's coal units are aging.²⁷ Both statements from the Order are accurate, and uncontested by the PFR. The PFR incorrectly treats those statements as the Commission concluding the aging units are "unreliable and non-useful".²⁸ The Commission did not find EKC's coal fleet was "unreliable or non-useful." Instead, the Commission found "a large portfolio of aging resources potentially exposes customers

²³ Report and Order, In the Matter of the Application of Evergy Missouri West, Inc. d/b/a Evergy Missouri West and Evergy Metro, Inc. d/b/a Evergy Missouri Metro for Permission and Approval of Certificates of Public Convenience and Necessity for Natural Gas Electrical Production Facilities, Case No. EA-2025-0075, the Missouri Public Service Commission, July 31, 2025, p. 37.

²⁴ *Farmland Indus., Inc. v. Kansas Corp. Comm'n*, 25 Kan. App. 2d 849, 852 (1999).

²⁵ Petition for Reconsideration, p. 8.

²⁶ Petition for Reconsideration, p. 9.

²⁷ *Id.*, p. 8.

²⁸ *See id.*

to costly penalties or expensive, short-term capacity purchases.”²⁹ Neither KIC nor KAA offer any evidence to the contrary.

16. The PFR also faults the Commission for finding building two new CCGTs by 2030 is justified because EKC’s coal plants will eventually be retired.³⁰ The PFR erroneously assumes the eventual retirements of the EKC’s coal fleet is the sole basis for approving the CCGT Settlement. The Order identified multiple grounds to approve the CCGT Settlement. There is substantial competent evidence to support the finding that the CCGTs are reasonable, reliable, and efficient. As the Commission noted in its Order, “approval of the CCGT Settlement does not require or precipitate the retirement of any particular coal unit.”³¹ Delaying coal plant retirements does not negate the need for the CCGTs. The Commission’s Order found, “Furthermore, the Commission notes that EKC’s 2025 IRP calls for EKC to add the Viola and McNew CCGT units to its generation portfolio, despite a further delay in the planned retirement dates of many of EKC’s coal units, thus highlighting the multifaceted support for the decision to build the CCGTs.”³²

17. The PFR ignores the Commission’s finding that the evidence suggests CCGTs are far more efficient than the lowest-cost plan to meet capacity requirements.³³ Likewise, the PFR ignores the Commission’s finding VandeVelde’s testimony -- that EKC’s IRP modeling showed even if the forecasted new load does not develop, the proposed CCGTs are still needed -- is credible and compelling.³⁴ The Order noted that KIC did not effectively rebut VandeVelde’s testimony.³⁵ Similarly, as the Joint Response explains the CCGT plants were identified as

²⁹ See Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, ¶ 65.

³⁰ Petition for Reconsideration, p. 11.

³¹ Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, July 7, 2025, ¶ 60.

³² *Id.*, ¶ 65.

³³ See *id.*, ¶ 66.

³⁴ *Id.*, ¶ 61.

³⁵ *Id.*

necessary resources to meet EKC's needs, regardless of assumed coal retirements.³⁶ The evidence demonstrates the CCGTs are needed to meet forecasted capacity requirements and system reliability objectives independent of any specific plant retirement schedule.³⁷ Testimony from Jason Humphrey that building the CCGTs and delaying coal-unit retirements are not mutually exclusive,³⁸ and Grady's testimony supporting building the two CCGT Plants even if they would delay the retirements of Jeffrey Units 2 and 3³⁹ support the Commission's finding that "approval of the CCGT Settlement does not require or precipitate the retirement of any particular coal unit."⁴⁰ Grady noted that even if EKC elected not to retire its coal fleet, the additional capacity could serve as a backup to serve new large growth.⁴¹

18. The PFR ignores the testimony from CURB witness Lucy Metz, articulating how continued reliance of coal will drive up total system costs.⁴² She notes the dramatic price volatility in the coal market in some parts of the United States over the past few years, driven in part by labor disputes in the mines and the railroad companies that transport the coal.⁴³ Continued reliance on coal also poses substantial risk of future environmental compliance costs.⁴⁴ Specifically, Metz explains to continue operating Jeffrey Units 2 and 3 beyond the early- to mid-2030s, EKC will need to install "high-cost" selective catalytic reduction equipment.⁴⁵

³⁶ Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, July 7, 2025, ¶ 60; Joint Response of Evergy Kansas Central, Inc. and Commission Staff in Opposition to Petition for Reconsideration, ¶ 31.

³⁷ *See id.*

³⁸ Rebuttal Testimony of Jason Humphrey, Apr. 4, 2025, p. 4.

³⁹ Hearing Transcript, Apr. 22, 2025, p. 531.

⁴⁰ Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, July 7, 2025, ¶ 60.

⁴¹ Hearing Transcript, Apr. 22, 2025, p. 532.

⁴² Direct Testimony of Lucy Metz, Mar. 14, 2025, p. 46.

⁴³ *Id.*

⁴⁴ *Id.*, p. 47.

⁴⁵ *Id.*

19. The PFR ignores Staff's testimony explaining the CCGTs will emit 61% less CO₂ than the average coal unit in EKC's fleet and 53% less CO₂ than the average gas unit, and due to their projected low heat rate should be able to need only 40% of the amount of fuel needed to generate the same amount of electricity as the average natural gas plant currently in EKC's fleet.⁴⁶ Likewise, the PFR ignores Staff's testimony that since the new CCGTs use less fuel overall, the new CCGTs should better insulate customers from fuel price spikes.⁴⁷

20. Staff testified the natural gas plants will be highly reliable additions to EKC's generation fleet.⁴⁸ Grady testified that the CCGTs are expected to have low forced outage rates compared to other generation types, except for nuclear and hydroelectric.⁴⁹ Specifically, the CCGTs offer reliability benefits, including as a quick start-up time, a low minimum run rate, and the ability to ramp up quickly.⁵⁰ During Winter Storm Uri, all forms of generation, including coal-fired generating units struggled to maintain reliability. For instance, many coal piles on site at coal generating plants froze, rendering it unusable. The CCGTs are being built to withstand winter temperatures as low as -15° Fahrenheit, demonstrating their reliability value during winter weather events.⁵¹ The overwhelming weight of the evidence suggests the CCGTs will be extremely reliable, compared to other generation resource options.⁵² In approving the CCGT Settlement, the Commission concluded the new CCGTs will undoubtably improve the reliability of EKC's generation fleet.⁵³

⁴⁶ Staff Post-Hearing Brief, p. 23.

⁴⁷ See Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, ¶ 64.

⁴⁸ Staff's Post-Hearing Brief, p. 20.

⁴⁹ *Id.*, Direct Testimony of Justin T. Grady (Grady Direct), Mar. 14, 2025, pp. 61-62.

⁵⁰ Staff's Post-Hearing Brief, p. 21, Grady Direct, p. 47.

⁵¹ *Id.*, Grady Direct, p. 102.

⁵² Order Approving Unanimous Partial Settlement Agreement Regarding Solar Facility and Non-Unanimous Partial Settlement Agreement Regarding Natural Gas Facilities, ¶ 71.

⁵³ *Id.*

21. The Commission's finding that reliability decreases with age is reasonable. Contrary to the PFR's claims, the Commission never found the coal fleet was unreliable. The Commission offered numerous grounds to support its findings that the CCGT Settlement should be approved. The PFR does not challenge the majority of the grounds supporting the Commission's approval of the CCGT Settlement.⁵⁴ Thus, the PFR fails to demonstrate it is entitled to relief under K.S.A. 77-621(c)(8).

The phrase *prior to construction* does not need clarification

22. KIC and KAA's claim that the directive that the phrase "*prior to construction*" is ambiguous enough to place EKC in danger of violating the Order, is a make-weight argument. Even if the phrase were ambiguous, it would not adversely affect KIC or KAA. It would only subject EKC to the risk of noncompliance with a Commission order, yet EKC did not request clarification from the Commission. The PFR suggests the EPA's definition of "commencement of construction" creates ambiguity in the phrase "prior to beginning construction," but that suggestion is non-sensical. First, the Order makes no reference to the EPA's definition. Second, the EPA uses a different phrase than the Commission used. Had the Commission intended to adopt the EPA's definition of "commencement of construction," not only would the Commission have used that precise language, but it would have also explicitly stated it was adopting the EPA's definition. To eliminate any possible confusion, the Commission adopts the definition of "beginning construction" that was suggested in the Joint Response -- "the initiation of actual on-site work," which would exclude planning, permitting, procurement, and other pre-construction activities.⁵⁵

⁵⁴ See paragraphs 16-19 above.

⁵⁵ Joint Response of Evergy Kansas Central, Inc. and Commission Staff in Opposition to Petition for Reconsideration, ¶ 36.

23. The PFR is denied in its entirety.

THEREFORE, THE COMMISSION ORDERS:

A. KIC and KAA's Petition for Reconsideration is denied.

B. This Order constitutes final agency action.⁵⁶ Any request for review of this action shall be in accordance with K.S.A. 77-607 and K.S.A. 77-613. The Commission designates Celeste Chaney-Tucker, Executive Director, to receive service of a petition for judicial review.⁵⁷

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 08/07/2025



Celeste Chaney-Tucker
Executive Director

BGF

⁵⁶ K.S.A. 77-607(b)(1).

⁵⁷ K.S.A. 77-613(e).

CERTIFICATE OF SERVICE

25-EKCE-207-PRE

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/07/2025.

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