

1 cannot expect to rely upon allocations as a means of compliance.<sup>4</sup> Thus, Ms. Medine's  
2 contention that changes between the proposed and final Good Neighbor Plan require  
3 adjustment to the Companies' plans or additional analyses is therefore incorrect. Any  
4 significant changes in the Good Neighbor Plan have already been considered.

5 **Q. What is the current status of EPA's Good Neighbor Plan?**

6 A. Various states and private parties are challenging EPA's SIP Disapproval Actions in  
7 several courts and have filed for partial stays of those actions with respect to the SIPs  
8 submitted by particular states. After the Good Neighbor Plan's signature date, four courts  
9 granted motions staying the SIP Disapproval action as to Arkansas, Louisiana, Minnesota,  
10 Mississippi, Missouri, Oklahoma, Nevada, Texas, and Utah pending review on the merits.  
11 On July 25, 2023, the U.S. Court of Appeals for the Sixth Circuit joined the other circuits  
12 and stayed the SIP Disapproval Action as to Kentucky.

13 **Q. What is the impact of these stays on the Good Neighbor Plan?**

14 A. The obligations and compliance schedule set by the Good Neighbor Plan for sources in  
15 Kentucky and other states are temporarily suspended pending the outcome of the litigation  
16 or until further motion. In the interim, Kentucky is subject to previously established  
17 requirements to mitigate interstate air pollution with respect to Ozone NAAQS and is being  
18 placed in a modified trading group with only Louisiana.

19 **Q. Have the stays issued by the courts caused EPA to abandon or reconsider its Good**  
20 **Neighbor Plan?**

21 A. No. EPA has continued to move forward with the Good Neighbor Plan in 13 other states  
22 while respecting the stays entered by various courts. In doing so, EPA has stated that the

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<sup>4</sup> Response to AG Data Request 3-3.

1 **Q. Finally, the intervenors suggest that developments concerning the Good Neighbor**  
2 **Plan require revision to the Companies’ analyses. How do you respond?**

3 A. When it comes to the Companies’ resource planning, none of the developments concerning  
4 the Good Neighbor Plan represent a material change. First, as I explained above, the  
5 differences between the Good Neighbor Plan as proposed and as finalized were not  
6 significant, and were largely incorporated already in the Companies’ analyses.<sup>39</sup> Second,  
7 for the reasons stated above, the results of the Good Neighbor Plan litigation in the Sixth  
8 Circuit are not likely to change EPA’s view on the need for emission reductions from  
9 Kentucky or to prevent EPA from obtaining them if it follows proper procedure. Third,  
10 those same emission reductions could be obtained by EPA via the SIP Call provisions in  
11 the statute or by the affected states under Section 126 of the Clean Air Act—no matter how  
12 the Sixth Circuit litigation plays out. At best, Ms. Medine asserts that there is only a  
13 “potential” that the Good Neighbor Plan does not survive. Whatever the odds of its survival  
14 may be, they do not outweigh the probability that EPA, the affected states, or both will take  
15 other actions to secure the same emission reductions from power plants in Kentucky over  
16 the same timeframe mandated by the NAAQS.

#### 17 **IV. NSPS GREENHOUSE GAS PROPOSAL**

18 **Q. EPA has also issued its New Source Performance Standards (“NSPS”) greenhouse**  
19 **gas proposal since you delivered your direct testimony. Does anything in that**  
20 **proposal require different estimates for the cost of the natural gas combined cycle**  
21 **units (“NGCCs”) proposed by the Companies as Ms. Medine contends?**

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<sup>39</sup> Response to AG Data Request 3-3.