

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of Westar)
Energy, Inc. and Kansas Gas and Electric)
Company to Make Certain Changes in Their) Docket No. 15-WSEE-115-RTS
Charges for Electric Service)

ORDER APPROVING STIPULATION AND AGREEMENT

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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 and conclusions:

I. Introduction

A. Procedural History and Entries of Appearance

1. On July 21, 2014, in Docket No. 15-GIME-025-MIS (15-025 Docket), Westar Energy, Inc. and Kansas Gas and Electric Company (jointly referred to as “Westar”) filed a Joint Application with Kansas City Power & Light Company to approve the timing and accounting treatment for their respective rate cases regarding the inclusion of the La Cygne Environmental Project into rate base. The Joint Application also included proposed schedules for the pending Westar rate case.

2. On September 9, 2014, in the 15-025 Docket, the Commission issued an Order Approving Joint Application, establishing the accounting treatment and procedural schedule for Westar’s general rate case.¹

3. On March 4, 2015, the Commission took administrative notice of the procedural schedule set forth in the 15-025 Docket and incorporated it into Westar’s instant general rate case, Docket No. 15-WSEE-115-RTS.

4. The Commission modified the procedural schedule on three separate occasions to conduct an additional public hearing, amend settlement procedures, and divide the scheduled evidentiary hearing into two distinct phases.²

¹ A Petition Initiating Docket filed by Westar on September 15, 2014, gave rise to the present docket, Docket No. 15-WSEE-115-RTS.

² See Order Modifying Procedural Schedule (Apr. 14, 2015); Order Modifying Procedural Schedule and Substituting Prehearing Officers (Jul. 14, 2015); Order On: Interventions, Petition For Leave To Issue Discovery, Motion To

5. When the Commission modified the procedural schedule to bifurcate the evidentiary hearing into two distinct phases, the Commission separated out certain issues and limited the participation of certain intervenors to certain issues. The Commission placed issues related to Westar's proposed Residential Demand Plan and Residential Stability Plan, Community Solar proposal, and solar block subscription proposal into "Phase II" of the evidentiary hearing.³ All other issues to be decided would be heard during "Phase I" of the evidentiary hearing.⁴ The Commission granted The Alliance for Solar Choice (TASC), Cromwell Environmental Inc. (CEI), Brightergy, LLC (Brightergy), Climate and Energy Project (CEP) and the Environmental Defense Fund (EDF),⁵ collectively referred to as the "Solar Parties," limited intervention in this proceeding.⁶

6. On August 6, 2015, parties who had been granted full intervention status, and were thus able to participate in both Phase I and Phase II of the evidentiary hearing, submitted a Stipulation and Agreement (S&A) that resolved all outstanding issues in the matter.⁷ Subsequent to the filing of the S&A, Westar engaged in additional settlement talks with the Solar Parties.⁸ Upon amending certain language in the S&A, the Solar Parties agreed to not oppose the S&A.⁹ Westar filed an Unopposed Motion for Leave to File Addendum to Stipulation and Agreement

Accept Pre-Filed Direct Testimony Out Of Time And Modifying Procedural Schedule (Jul. 23, 2015) [hereinafter Final Procedural Order].

³ Final Procedural Order at 30.

⁴ *Id.*

⁵ The Commission prohibited CEP from participating in the evidentiary hearing. *See* Final Procedural Order at 25.

⁶ Final Procedural Order at 14, 18-19, 21-22, 25, 27. The Commission limited TASC, CEI, Brightergy and EDF to only the Phase II issues. *See id.* The Commission excluded CEP from participation in the hearing but allowed CEP to brief on the fixed rate charge. *See id.* at 25.

⁷ *See* Joint Motion To Approve Stipulation And Agreement at 2. (Aug. 6, 2014) [hereinafter S&A]. Note: The Joint Motion to Approve Stipulation and Agreement also contained the Stipulation and Agreement as a separate document with separate pagination. For purposes of this order, all references to S&A are to the Stipulation and Agreement attached to the Joint Motion unless otherwise noted.

⁸ Unopposed Motion For Leave To File Addendum To Stipulation And Agreement Out Of Time at 2 (Aug. 12, 2015) [hereinafter Unopposed Addendum].

⁹ *Id.* at 3.

Out of Time (Unopposed Addendum) on August 12, 2015. The disposition of the S&A is discussed in greater detail below.

B. Jurisdiction, Authority and Legal Standards

7. The Commission has full power, authority and jurisdiction to supervise and control electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹⁰ “Electric public utility” means any public utility, as defined in K.S.A. 66-104, which generates or sells electricity.¹¹ K.S.A. 66-104 defines “public utility” in part as “all companies for the production, transmission, delivery or furnishing of heat, light, water, or power.”¹²

8. Electric public utilities subject to the Commission’s jurisdiction are “required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations.”¹³ The Commission thus has the power to require utilities to establish just and reasonable rates and maintain reasonably sufficient and efficient service.¹⁴

9. The authority of the Commission is liberally construed, and in the exercise of the Commission’s power, authority, and jurisdiction, all incidental powers necessary to carry into

¹⁰ K.S.A. 66-101; K.S.A. 66-101a; K.S.A. 66-104.

¹¹ K.S.A. 66-101a.

¹² K.S.A. 66-104(a).

¹³ K.S.A. 66-101b.

¹⁴ K.S.A. 66-101b.

effect the provisions of the Electric Public Utilities Act, K.S.A. 66-101 *et seq.*, are expressly granted to and conferred upon the Commission.¹⁵

10. Pursuant to K.S.A. 66-117, a public utility over which the Commission has jurisdiction cannot make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service of a public utility except by filing with the Commission.

11. On March 2, 2015, Westar filed its Application to make changes to its charges for electric service pursuant to K.S.A. 66-117 and K.A.R. 82-1-231.¹⁶ Accordingly, the Commission has jurisdiction to exercise control and jurisdiction over Westar for, among other things, this particular rate request.

C. Prefiled Testimony and Other Documents

12. Commission regulations address filing requirements for rate proceedings, and require utilities such as Westar to provide appropriate schedules and competent testimony when filing a rate change application.¹⁷

13. Throughout the course of this proceeding, parties submitted direct testimony, rebuttal testimony, and cross-answering testimony, exhibits and evidence. With its Application of March 2, 2015, Westar filed direct testimony from twenty-two witnesses in addition to two volumes of data that numbered over 700 pages. On July 9, 2015, multiple parties to this docket submitted direct testimony in accordance with the procedural schedule. Shortly thereafter, on July 24, 2015, eight witnesses submitted cross-answering testimony. On July 29, 2015, Westar submitted rebuttal testimony from eighteen witnesses and the U.S. Department of Defense and

¹⁵ K.S.A. 66-101g.

¹⁶ Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Company (Mar. 2, 2015) [hereinafter Application].

¹⁷ See K.A.R. 82-1-231.

all Federal Executive Agencies submitted rebuttal testimony from one witness. The following table identifies and outlines these filings:

	Direct Testimony Witnesses	Cross-Answering Testimony Witnesses	Rebuttal Testimony Witnesses
Party			
Westar	<ol style="list-style-type: none"> 1. Mark Ruelle 2. John Bridson 3. Bruce Akin 4. Jeff Cummings 5. Jerl Banning 6. Tony Somma 7. Susan North 8. Geoff Greene 9. Cindy Wilson 10. Kevin Kongs 11. Mike Heim 12. Rebecca Fowler 13. Mike Rinehart 14. Eric Devin 15. Julie Lux 16. Jeanette Bouzianis 17. Ed Overcast 18. John Wolfram 19. Ahmad Faruqui 20. Chad Luce 21. Terry Wilson 22. Hal Jensen 		<ol style="list-style-type: none"> 1. Bruce Akin 2. Jerl Banning 3. Jeanette Bouzianis 4. Eric Devin 5. Ahmad Faruqui 6. Rebecca Fowler 7. Mike Heim 8. Hal Jensen 9. Kevin Kongs 10. Chad Luce 11. Susan North 12. Ed Overcast 13. Mike Rinehart 14. Mark Ruelle 15. Terry Wilson 16. John Wolfram 17. John Bridson 18. Tony Somma
Staff	<ol style="list-style-type: none"> 1. Leo Haynos 2. Adam Gatewood 3. William E. Baldry 4. Timothy Rehagen 5. Luis M. Solorio 6. Tyler J. Page 7. Dorothy J. Myrick 8. Katie L. Figs 9. Kristina Luke-Fry 10. Andy Fry 11. Robert Glass 12. Justin Grady 	<ol style="list-style-type: none"> 1. Robert Glass 2. Justin Grady 	

Citizens' Utility Ratepayer Board	1. Andrea C. Crane 2. Brian Kalcic 3. J. Randall Woolridge	1. Brian Kalcic	
Kanas Industrial Consumers Group	1. Stephen M. Rackers 2. Brian C. Andrews 3. Michael P. Gorman 4. Christopher C. Walters	1. Brian C. Andrews 2. Michael P. Gorman	
Environmental Defense Fund	1. Diane Munns 2. Paul Alvarez		
Climate & Energy Project	1. Ashok Guptaon		
Occidental Chemical Corporation	1. Jeffry Pollock	1. Jeffry Pollock	
U.S. Department of Defense and all Federal Executive Agencies	1. Jeff Hoppe	1. Jeff Hoppe	1. Jeff Hoppe
Kroger, Co.	1. Kevin Higgins		
Wal-Mart Stores, Inc.	1. Steve Chriss		
Kansas Association of School Boards	1. Mark Tallman		
Unified School District # 259	1. John Allison		
Frontier El Dorado Refining, LLC	1. Robert R. Stephens	1. Robert R. Stephens	

14. In summation, by July 29, 2015, fifty-one witnesses from thirteen separate parties had placed into the administrative record for this docket seventy-eight iterations of direct, cross-answering, or rebuttal testimony that established and defended the basis and rationale for their respective initial positions. Parties and witnesses further supplemented the testimony with additional schedules and exhibits.

D. Public Hearings and Comments

15. The Commission, though not required by statute, has established a history of directly reaching out to and receiving comments from individual members of the public. Public hearings provide the citizens of Kansas an opportunity to address the Commission directly.

16. The procedural schedule set a public hearing for July 21, 2015, at Farley Elementary School, Topeka, Kansas, with video conferencing available at satellite locations in Emporia, Kansas, and Salina, Kansas. The Commission scheduled a second public hearing later in the proceeding for July 23, 2015, at Wichita State University, Wichita, Kansas,¹⁸ with video conferencing available at satellite locations in Hutchinson, Kansas, and Pittsburg, Kansas.

17. Westar customers and the general public received notification by way of multiple newspapers throughout the state, as well as mailers included in every Westar customer's bill.¹⁹

18. The Commission took comments from the public regarding Westar's Application from the commencement of Westar's general rate case up through August 11, 2015, as directed by the procedural schedule. The Commission received comments via telephone, traditional mail, and electronic mail. These comments were in addition to any comments received at the public hearings.

19. On August 13, 2015, the Commission's Public Affairs and Consumer Protection Division (PACP) caused to be filed in the record a report summarizing the public comments received.²⁰

¹⁸ Order Modifying Procedural Schedule, 2 (Apr. 14, 2015).

¹⁹ See Affidavit of Publication (Jul. 8, 2015); See also Affidavit of Cindy Wilson Regarding Customer Notice, 1 (Jul. 8, 2015).

²⁰ Notice of Filing of Public Comment (Aug. 13, 2015).

20. On August 14 and 25, 2015, PACP caused to be filed in the record an Addendum and a subsequent Supplement, respectively, to its initial report.²¹ Fifteen additional comments were received via regular mail that had been postmarked by the August 11, 2015, cutoff date,²² and four comments were received via electronic mail after 5:00 p.m. on August 11, 2015, but before midnight.²³

21. To summarize, the Commission received 1,458 comments from March 2, 2015, through August 11, 2015. Additionally, the Commission received thirty-two comments during the July 21, 2015, Topeka public hearing, and forty-three comments during the July 23, 2015, Wichita public hearing. The overwhelming public response received in this docket indicated general opposition to Westar's initial Application.

E. Evidentiary Hearings and Administrative Notice

22. On August 3, 2015, the Prehearing Officers filed and served notice of the prehearing conference upon counsel of record.²⁴ On August 12, 2015, the Prehearing Officers held a prehearing conference to discuss preliminary matters prior to the Commission convening the scheduled evidentiary hearing.

23. On August 17, 2015, in accordance with the procedural schedule set forth in this docket, the Commission convened an evidentiary hearing to receive testimony in support of the S&A. In total, twenty-three parties participated in the evidentiary hearing. Entries of appearance for counsel were as follows:

²¹ Notice of Filing Addendum to Public Comment (Aug. 14, 2015); Notice of filing Supplement to Addendum to Public Comment, 2 (Aug. 25, 2015).

²² Notice of Filing Addendum to Public Comment at 2.

²³ Notice of filing Supplement to Addendum to Public Comment at 2.

²⁴ Notice of Prehearing Conference (Aug. 3, 2015).

Party	Entry of Appearance at Evidentiary Hearing
Westar Energy, Inc.	1. Cathryn Dinges 2. Martin Bregman
Commission Staff	1. Amber Smith 2. Michael Neeley
Citizens' Utility Ratepayer Board	1. David Springe 2. Niki Christopher
The Alliance for Solar Choice	1. Jacob Schlesinger 2. Anne Callenbach
Tallgrass Pony Express Pipeline, LLC	1. Terri Pemberton
Kansas Industrial Consumer Group and its Member Companies: Occidental Chemical Corporation, CCPS Transportation, LLC, Spirt AeroSystems, Inc., Coffeyville Resources Refining & Marketing, LLC, The Goodyear Tire & Rubber Company	1. James P. Zakoura
Occidental Chemical Corporation	1. Phillip Oldham
Frontier El Dorado Refining, LLC	1. James Flaherty
Cromwell Environmental, Inc.	1. C. Edward Peterson
Wal-Mart Stores, Inc., Tyson Foods, Cargill, Inc.	1. David Woodsmall
International Brotherhood of Electrical Workers, Local Union 304	1. William R. Lawrence, IV
Environmental Defense Fund	1. Robert Eye
Unified School District # 259, Kansas Association of School Boards	1. Timothy McKee 2. Samuel Ritchie
Kroger Co.	1. John Wine
U.S. Department of Defense and all other Federal Executive Agencies	1. Matthew Dunne 2. Kevin LaChance
Brightergy, LLC	1. Andrew Zellers

24. Counsel for all parties to this docket appeared at the evidentiary hearing. After inquiring with Commission Staff (Staff) Counsel and hearing no objections, the Commission found that notice of the evidentiary hearing was proper.²⁵

25. Upon the finding that notice was proper, the Commission took up certain preliminary matters. The Commission approved Mr. Jacob Schlesinger's Verified Application for admission *pro hac vice* on behalf of TASC.²⁶ The Kansas Industrial Consumers Group, Occidental Chemical Corporation, and the U.S. Department of Defense and all Federal Executive Agencies withdrew their motion to strike the testimony of the Citizen's Utility Ratepayer Board (CURB) witness Brian Kalcic.²⁷ The Commission denied the International Brotherhood of Electric Workers, Local 304's (IBEW's) motion to file testimony out of time.²⁸ Due to the settlement of all issues, the Commission waived the previously ordered bifurcation of the evidentiary hearing.²⁹

26. Following the preliminary matters and opening statements, Westar called Greg Greenwood to testify in support of the S&A³⁰ and moved for admission into the record the prefiled testimony of Westar's remaining witnesses.³¹ No party opposed the motion and the Commission admitted the testimony.³²

²⁵ Transcript of Evid. Hearing at 9-10.

²⁶ *Id.* at 10.

²⁷ *Id.* at 10-11.

²⁸ *Id.* at 11-12.

²⁹ *Id.* at 12-13.

³⁰ Transcript of Evid. Hearing at 47-55.

³¹ *Id.* at 55-56.

³² *Id.* at 56.

27. Staff called Justin T. Grady and Dr. Robert Glass to testify in support of the S&A³³ and moved for admission into the record the prefiled testimony of Staff's remaining witnesses.³⁴ No party opposed the motion and the Commission admitted the testimony.³⁵

28. CURB called Andrea C. Crane to testify in support of the S&A³⁶ and moved for admission into the record the prefiled testimony of CURB's remaining witnesses.³⁷ No party objected to this motion and the Commission admitted the testimony.³⁸

29. All remaining parties who had previously filed direct, cross-answering, and rebuttal testimony in this proceeding, as described above, moved to have their respective witnesses' testimonies entered into the record.³⁹ No party objected to the admittance of the testimony into the record and the Commission admitted the same.⁴⁰

II. Stipulation and Agreement

A. Agreement and Addendum

30. On August 6, 2015, Staff, Westar, CURB, Kansas Industrial Consumers on its own behalf and behalf of its member companies, Unified School District No. 259, the Kansas Association of School Boards, Kroger Co., the U.S. Department of Defense and all other Federal Executive Agencies, Frontier El Dorado Refining LLC, Occidental Chemical Corporation, Wal-Mart Stores, Inc., Tallgrass Pony Express Pipeline, LLC., Cargill, Inc., and Tyson Foods,

³³ *Id.* at 57-65.

³⁴ *Id.* at 65-66.

³⁵ *Id.* at 66.

³⁶ Transcript of Evid. Hearing at 66-68.

³⁷ *Id.* at 68.

³⁸ *Id.*

³⁹ *Id.* at 68-72.

⁴⁰ *Id.*

collectively referred to as the “Joint Movants” filed a Joint Motion to Approve Stipulation and Agreement.⁴¹

31. Upon the filing of the S&A, Westar reached out to the Solar Parties.⁴² The Solar Parties indicated that although they could file formal comments indicating their disagreement with certain provisions of the S&A, if certain changes were made to paragraph 39 of the S&A, the Solar Parties would agree not to oppose the S&A.⁴³ As a result of this, Westar proposed these changes in the Unopposed Addendum.⁴⁴ Westar received confirmation that no party to the docket objected to the filing of the Unopposed Addendum.⁴⁵

B. Provisions of the Stipulation and Agreement

32. The S&A begins with a recitation of the Joint Movant’s initial positions.⁴⁶ As described above, the entirety of the terms contained within the S&A, described below, have been unanimously subscribed to by the Joint Movants to the S&A.⁴⁷ Additionally, the terms of the S&A are not opposed by any of the Solar Parties.⁴⁸

33. Stipulated Revenue Requirement: The Joint Movants propose that Westar’s net overall annual revenue increase should be set at \$78,000,000.⁴⁹ This revenue requirement does not include costs recoverable through Commission-approved riders.⁵⁰

34. Rebasing: The Joint Movants propose that Westar roll into base rates the existing balance in the Environmental Cost Recovery Rider (ECRR), including the amount updated in

⁴¹ See S&A.

⁴² Unopposed Addendum at 2.

⁴³ *Id.*

⁴⁴ See *id.* at 2-3.

⁴⁵ See *id.* at 3.

⁴⁶ S&A at 2-3.

⁴⁷ See *id.*

⁴⁸ Unopposed Addendum at 3.

⁴⁹ S&A at ¶ 12.

⁵⁰ *Id.*

June, 2015, and the existing balance in the property tax surcharge and allocate the discount provided to Interruptible Service Rider (ISR) customers to the other customer classes.⁵¹ By including the roll-in of the ECRR, property tax surcharge, and allocation of the ISR discount, the total base revenue requirement increase is \$185,100,000.⁵² These rebasing amounts to be rolled into base rates are reflected in Appendix A to the S&A.⁵³

35. Rate case expense: The Joint Movants propose that rate case expense in excess of the actual amount included in Staff's filed revenue requirement should be trued up at the end of the case to the actual amount of rate case expense incurred and be added to the agreed-upon revenue requirement.⁵⁴ Westar agreed to submit these expenses to Staff for review within 14 days of the close of the record in this case.⁵⁵ Staff reports that Westar's total rate case expense is \$1,536,649. Of that amount, Staff and CURB costs account for \$493,631. This adjustment for rate case expense causes an increase in the revenue requirement of \$225,264.

36. Bad debt expense: The Joint Movants propose that bad debt expense in excess of that included in Staff's filed revenue requirement recommendation be calculated as .43% of the net increase in revenue requirement and be added to the stated net increase in revenue requirement.⁵⁶ When the Joint Movants drafted the S&A using the agreed-upon revenue requirement increase described above, before accounting for the increase in rate case expenses the bad debt expense amounted to \$86,700.⁵⁷ Using the revised rate case expense indicated by Staff, the bad debt expense now totals \$87,658.

⁵¹ *Id.* at ¶ 13.

⁵² *Id.* at ¶ 13.

⁵³ *Id.* at ¶ 13; S&A at Appendix A.

⁵⁴ S&A at ¶ 14.

⁵⁵ *Id.*

⁵⁶ *Id.* at ¶ 15.

⁵⁷ *Id.* at ¶ 15.

37. Inclusion of Pension and Other Post Employment Benefit (OPEB) Expense: The Joint Movants propose that the \$78,000,000 net increase in the annual revenue requirement include a \$5,000,000 increase in Pension and OPEB expense from Staff's filed position as stated in the Direct Testimony of Bill Baldry.⁵⁸

38. Nuclear Decommissioning Trust Fund: The Joint Movants propose that Westar utilize Staff's recommendation as stated in the Direct Testimony of Staff Witness Adam Gatewood regarding the appropriate funding level for Westar's nuclear decommissioning trust fund, e.g. \$5,772,700.⁵⁹

39. Analog Meter Regulatory Asset: As Westar retires analog meters between October 28, 2015, and the effective date of rate changes in Westar's *next* general rate case, the Joint Movants proposed that Westar place the unrecovered investment in a retired analog meter regulatory asset.⁶⁰ The Joint Movants propose Westar be permitted to amortize the balance of the regulatory asset account over five years and recover that amortization amount in the base rates established in Westar's next general rate case.⁶¹ No return on the regulatory asset will be allowed.⁶² The Joint Movants agree that this particular ratemaking treatment should have no precedential value.⁶³

40. Discontinuance of Environmental Cost Recovery Rider: The Joint Movant's propose that Westar's ECRR should be discontinued.⁶⁴ The Joint Movants agree that Westar would do a final update of environmental costs for 2015 that would have been recovered through

⁵⁸ *Id.* at ¶ 16.

⁵⁹ Direct Testimony of Adam Gatewood Direct on Behalf of Commission Staff at 70 (Jul. 9, 2015); S&A at ¶ 17.

⁶⁰ S&A at ¶ 18.

⁶¹ *Id.* at ¶ 18.

⁶² *Id.* at ¶ 18.

⁶³ *Id.* at ¶ 18.

⁶⁴ *Id.* at ¶ 19.

the ECRR previously noticed to the Commission, and roll them into base rates established in a proposed abbreviated rate case discussed below.⁶⁵

41. Grid Resiliency: The Joint Movants propose that Westar be permitted to recover up to \$50,000,000 of capital investment in grid resiliency improvements completed between October 28, 2015, and March 1, 2017, consistent with improvements proposed as part of the Electric Distribution Grid Resiliency (EDGR) program discussed in the Direct Testimony of Westar witness Bruce Akin and the report sponsored in Westar witness Jeffrey Cummings' Direct Testimony.⁶⁶ Plant in-service, less the associated accumulated depreciation and deferred income taxes, would be reflected in rates as a result of the abbreviated rate case discussed below. Westar will work with Staff to develop a process for periodic reporting regarding the investments being made and periodic meetings to provide updates and discussion on such investments.⁶⁷

42. RENEW Tariff: The Joint Movants propose the Commission approve Westar's proposal as discussed in the Direct Testimony of Westar witness Chad Luce to change the pricing of the RENEW tariff to \$0.25 per 100 KWh block,⁶⁸ a reduction to 1/4 of the current rate.⁶⁹

43. Wind Capacity Programs: The Joint Movants propose the Commission approve Westar's Wind Energy and Wind Capacity Programs discussed in the Direct Testimony of Westar Witness Chad Luce with the modification to the calculation of avoided cost agreed to in the Rebuttal Testimony of Westar Witness John Wolfram.⁷⁰ Specifically, the avoided cost for customers participating in these programs shall be Westar's Retail Energy Cost Adjustment

⁶⁵ *Id.* at ¶ 19.

⁶⁶ S&A at ¶ 20; *See* Direct Testimony of Jeffrey W. Cummings on Behalf of Westar Energy, exhibit JC-1, as amended (Jun. 10, 2015).

⁶⁷ S&A at ¶ 20.

⁶⁸ *Id.* at ¶ 21.

⁶⁹ Direct Testimony of Chad Luce on Behalf of Westar Energy, 13 (Mar. 2, 2015).

⁷⁰ S&A at ¶ 22.

(RECA) rate increased by 5% of the [Medium General Service] base energy charge. The Joint Movants agree to add language to the RECA tariff to allow the revenues and costs from the program to be included in the RECA calculation.⁷¹

44. Solar Energy & Capacity Tariff: The Joint Movants propose the Commission approve Westar's solar energy and solar capacity tariff as described in the Direct Testimony of Chad Luce with the following conditions: (1) Westar will require the initial subscription of a solar project to equal 100% of the capacity of the project before beginning construction; (2) the minimum size for Westar's solar projects under this program shall be 1 MW; and, (3) the rates charged to initial participants will cover 100% of the direct costs of the project.⁷²

45. Residential Stability Plan and Residential Demand Plan: The Joint Movants agree that Westar will not implement these proposed tariffs at this time.⁷³

46. Community Solar: The Joint Movants agree that Westar will not implement the Community Solar program discussed in the Direct Testimony of Hal Jensen at this time.⁷⁴

47. Subdivision Policy: The Joint Movants propose that the Commission approve the subdivision policy changes in the Direct Testimony of Westar witness Mike Heim (increasing the allowance given to developers for residential subdivisions for the overhead distribution system from \$30,000 to \$40,000).⁷⁵

48. Street Lighting (SL), Private Area Lighting (PAL), Restricted Institution Time of Day (RITODS): The Joint Movants propose the Commission approve the changes in the Direct

⁷¹ *Id.* at ¶ 22.

⁷² *Id.* at ¶ 23.

⁷³ *Id.* at ¶ 24.

⁷⁴ *Id.* at ¶ 25.

⁷⁵ Direct Testimony of Mike Heim on Behalf of Westar Energy, 21 (Mar. 2, 2015) [hereinafter Heim Direct]; S&A at ¶ 26.

Testimony of Westar witness Mike Heim to the SL, PAL and RITODS tariffs as filed.⁷⁶ These changes will allow for the implementation of LED lighting options and expand the types of organizations that could take service under Westar's current RITODS tariff.⁷⁷

49. Economic Discount Sharing: The Joint Movants propose that customers and shareholders share the costs equally (50-50) associated with any discount awarded in the future, as long as that discount affects future test year revenues in a rate case pursuant to Westar's Economic Development Rider (EDR).⁷⁸ The Joint Movants propose that the EDR tracker described in the Direct and Rebuttal Testimony of Westar witness Terrance D. Wilson not be adopted at this time.⁷⁹

50. Security Tracker: The Joint Movants propose that Westar be permitted to implement a Security Tracker as discussed in Staff witness Justin Grady's Direct Testimony, the Rebuttal Testimony of Westar Witness John Wolfram, and as specifically described in Appendix C to the S&A.⁸⁰

51. Return on Equity: There is no stated return on equity included in the S&A. The Joint Movants propose that until Westar's next general rate proceeding, Westar be authorized to use 10.926% as its overall pretax rate of return for regulatory accounting purposes, including the calculation of the equity component of Allowance for Funds Used During Construction (AFUDC), and for the abbreviated rate case discussed below.⁸¹ This pre-tax rate of return assumes Westar's filed capital structure to be 46.3% Long-Term Debt, 53.1% Common Equity,

⁷⁶ S&A at ¶ 27.

⁷⁷ Heim Direct at 19-21. Note: Under Westar's current RITODS tariff, the "R" is an abbreviation for "Religious." Westar's proposed changes also change this abbreviation to "Restricted" to make the tariff available to other customers with similar usage patterns of religious institutions. See Heim Direct at 20.

⁷⁸ S&A at ¶ 28.

⁷⁹ *Id.* at ¶ 28.

⁸⁰ *Id.* at ¶ 29.

⁸¹ *Id.* at ¶ 30.

and .6% Post 1970 [Investment Tax Credit] as discussed in the Direct Testimony of Westar Witness Susan North.⁸² The Joint Movants agreed to the use of the indicated overall pretax rate of return for settlement purposes only, and do not view such return on equity as precedential.⁸³

52. Jurisdictional Non-Transmission Related Retail Property Tax Expense: The Joint Movants propose upon approval of the agreed-upon rate increase, that the Kansas jurisdictional, non-transmission related, retail property tax expense in base rates be \$106,671,011. This amount would be the basis for determining property tax balance used in future property tax surcharge filings for the time-period when the proposed new rates would be applicable.⁸⁴ In order to calculate future property tax surcharges, the property tax surcharge expense assumed to be collected in base rates will begin with the effective date of the rate increase resulting from this docket, until the amount is reset in a Commission order.⁸⁵

53. Cost-of-Service Deferred Income Tax Expense: The Joint Movants propose that Westar's cost-of-service deferred income tax expense and amortization of investment tax credits comply with the tax normalization requirements of the Internal Revenue Code of 1986 as amended.⁸⁶

54. Amortization Periods: The Joint Movants propose the following amortization periods:

- a. Westar's actual rate case expense - three years;
- b. Regulatory asset associated with SmartStar Lawrence - three years;
- c. Regulatory asset associated with SCR Catalyst – fifty-four months;

⁸² *Id.* at ¶ 30.

⁸³ *Id.* at ¶ 30.

⁸⁴ S&A at ¶ 31.

⁸⁵ *Id.* at ¶ 31.

⁸⁶ *Id.* at ¶ 32.

- d. Regulatory asset associated with Baghouse - six years;
- e. Regulatory liability associated with Stateline purchased power – three years;
- f. Pension tracker authorized by Docket No. 10-WSEE-135-ACT in the annual amount of \$3,423,867- five years.⁸⁷

55. Going Forward Pension Tracking: The Joint Movants propose that base rates agreed to in the S&A include the following expenses associated with Westar's pension plan:

- a. Westar Pension Expense - \$33,403,818
- b. Westar FAS 106 Expense - \$841,864
- c. Westar FAS 112 Expense - \$431,737
- d. WCNOG Pension Expense - \$9,934,193⁸⁸

56. Abbreviated Rate Proceeding: The Joint Movants propose that Westar be allowed to use the abbreviated rate setting process contained in K.A.R. 82-1-231(b)(3) to update rates to include capital costs related to the environmental projects at LaCygne Energy Center that were preapproved by the Commission in Docket No. 11-KCPE-581-PRE, up to the amount of costs approved by the Commission in said docket, but not included in rates set as a result of this proceeding.⁸⁹ The Joint Movants also propose that Westar use the abbreviated rate setting process to update rates to include capital costs related to projects at the Wolf Creek Generating Station described in the Direct Testimony of Westar witness John Bridson.⁹⁰ The Joint Movants request the Commission expressly grant Westar prior approval to file this abbreviated rate case

⁸⁷ *Id.* at ¶ 33.

⁸⁸ *Id.* at ¶ 34.

⁸⁹ *Id.* at ¶ 35.

⁹⁰ S&A at ¶ 35.

pursuant to K.A.R. 82-1-231(b)(3). The cost of capital to be used for purposes of such proceeding is to be the overall rate of return stated in paragraph 30 of the S&A.⁹¹

57. Inclusion of Grid Resiliency Projects & Final Roll-in of Environmental Cost Recovery Rider Costs: The Joint Movants propose that Westar use the abbreviated rate setting process contained in K.A.R. 82-1-231(b)(3) to include in Westar's rates the costs associated with investments in grid resiliency projects discussed in paragraph 20 of the S&A,⁹² and the final roll-in of ECRR costs discussed in paragraph 19 of the S&A.⁹³

58. Allocation Among Classes: The Joint Movants propose that the rate increase be allocated among the respective classes of customers according to the amounts indicated for each class as shown in Appendix A of the S&A, and that rates should be adjusted as shown in Appendix B of the S&A.⁹⁴

59. Creation of Standard Residential Distributed Generation Tariff: The Joint Movants propose that Westar be allowed to create a Standard Residential Distributed Generation Tariff.⁹⁵ Residential customers who install distributed generation after October 28, 2015, would be required to take service pursuant to the terms of this new tariff.⁹⁶ The initial rates and rate structure for the Standard Residential Distributed Generation Tariff would be identical to Westar's Standard Residential Tariff, as determined in this rate case.⁹⁷ Residential customers who install distributed generation after October 28, 2015, and are placed on the Standard Residential Distributed Generation Tariff, will not be considered grandfathered or exempt from future changes in rates or rate structures for distributed generation customers approved by the

⁹¹ *Id.* at ¶ 35.

⁹² *Id.* at ¶ 36.

⁹³ *Id.* at ¶ 36.

⁹⁴ *Id.* at ¶ 37.

⁹⁵ *Id.* at ¶ 38.

⁹⁶ S&A at ¶ 38.

⁹⁷ *Id.* at ¶ 38.

Commission in either a generic docket proposed in paragraph 39 of the S&A (as amended), or in any other Commission proceeding.⁹⁸ Westar would provide notice to all customers applying for service under the Standard Residential Distributed Generation Tariff that the rates and rate structures contained therein are subject to change, and that any such future rate or rate structure change could impact the economics of the customer's distributed generation.⁹⁹

60. Generic Docket Proposal as Amended by Addendum: The Joint Movants and Solar Parties agree that the issue of whether a separate Residential Standard Distributed Generation Tariff is necessary, and, if so, how to structure the Residential Standard Distributed Generation Tariff in order to properly recover just and reasonable costs from customers with distributed generation should be deferred to a generic docket.¹⁰⁰ Westar and Staff proposed working together to develop a procedural schedule for a generic docket in order to ensure timely resolution of distributed generation issues to be addressed.¹⁰¹ The Joint Movants agree that they will not oppose or seek to limit the participation of the Solar Parties in the generic proceeding.¹⁰²

61. Residential Customer Charge: The Joint Movants propose that the monthly basic service fee be \$14.50 for all residential classes except for the Peak Management.¹⁰³ The Joint Movants proposed the monthly basic service fee for the Peak Management Rate be \$16.50.¹⁰⁴ These basic service fees would not be adjusted in the abbreviated rate case discussed in paragraphs 35-36 of the S&A.

62. Elimination of High Load Factor (HLF) schedule and creation of new schedules: The Joint Movants propose that the HLF rate schedule be eliminated and two new rate classes be

⁹⁸ *Id.* at ¶ 38.

⁹⁹ *Id.* at ¶ 38.

¹⁰⁰ Unopposed Addendum, Addendum to Stipulation and Agreement.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ S&A at ¶ 40.

¹⁰⁴ *Id.* at ¶ 40.

created as proposed in the Direct Testimony of Westar witness John Wolfram.¹⁰⁵ Customers with billing demands greater than 1,000 kW and up to 25,000 kW would qualify for the Large General Service (LGS) class and customers with billing demands greater than 25,000 kW would qualify for the Industrial & Large Power (ILP) class.¹⁰⁶ As proposed, customers moving to a new class as a result of this change would be moved at the beginning of the first complete billing cycle following the issuance of the Commission's order in this docket.¹⁰⁷ This provision was further clarified at the evidentiary hearing to mean the first billing cycle occurring after the effective date of the final order in this docket.¹⁰⁸ In order to minimize the impact on customers that are required to move to the LGS class as a result of the Joint Movant's S&A proposed changes, the Joint Movants proposed that Westar's next Transmission Delivery Charge (TDC) filing use the recalculated 12 Coincidental Peak (CP) which takes into account CP data from these customers being moved to the appropriate class.¹⁰⁹

63. Small General Service Basic Service Fee: The Joint Movants propose that the monthly basic service fee for the small general service customer class be set at \$22.50.¹¹⁰

64. Separation of Grid Resiliency Costs: The Joint Movants propose that no part of the increase in revenue requirement in the abbreviated rate case associated with investments in grid resiliency be allocated to the LGS, ILP, large tire manufacturer (LTM), interruptible service (IS) classes, or special contract customers.¹¹¹ Grid Resiliency Costs would be allocated to the remaining customer classes in the abbreviated rate case based on the same percentages reflected

¹⁰⁵ *Id.* at ¶ 41.

¹⁰⁶ *Id.* at ¶ 41.

¹⁰⁷ *Id.* at ¶ 41.

¹⁰⁸ Transcript of Evid. Hearing at 50.

¹⁰⁹ S&A at ¶ 41(a).

¹¹⁰ *Id.* at ¶ 42.

¹¹¹ *Id.* at ¶ 43.

in Appendix A of the S&A but adjusted proportionally to reflect the exclusion of the LGS, ILP, LTM, IS, and special contract customers from the allocation.¹¹²

65. Remainder of Revenue Increase: The Joint Movants propose that the remainder of the increase in revenue requirement in the abbreviated rate case will be allocated based on the same percentages reflected in Appendix A of the S&A.¹¹³

66. Continuing Discussions: The Joint Movants propose that Westar agree to continue discussions regarding a potential multi-site rate for medium general service customers, and, if appropriate, propose such a rate structure in the abbreviated rate case.¹¹⁴

67. Study Delivery Voltage Cost: The Joint Movants propose that Westar agree to study the potential of making further changes to the delivery voltage cost differences and, if appropriate, make any changes in the next general rate case.¹¹⁵ If Westar determines no additional changes are appropriate, Westar will present evidence explaining the reason for that determination.¹¹⁶

68. Miscellaneous Provisions: The Joint Movants propose several miscellaneous provisions to the S&A that indicate nothing in the S&A is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right of access to information, or any statutory obligation, including the obligation to ensure that Westar is providing efficient and sufficient service at just and reasonable rates. The S&A also detailed a number of privileges regarding the filing of testimony to support positions, the cross-examination of witnesses, and standard language typically included in S&As.¹¹⁷

¹¹² *Id.*

¹¹³ *Id.* at ¶ 44.

¹¹⁴ *Id.* at ¶ 45.

¹¹⁵ S&A at ¶ 46.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at ¶¶ 47-51.

C. Standard of Review

69. Rates, fares, tolls, and charges imposed by a public utility upon its customers are required to be just and reasonable, not unjustly or unreasonably discriminatory and not unduly preferential.¹¹⁸

70. The Commission, in setting rates for an electrical utility, must fix rates within a “zone of reasonableness” after balancing interests of the utility’s investors, ratepayers, and public.¹¹⁹

71. The Kansas Supreme Court mandates the Commission consider and balance the interests of the utility’s investors vs. the ratepayers, the present ratepayers vs. the future ratepayers, and the public interest.¹²⁰ “[C]ases in this area clearly indicate that the goal should be a rate fixed within the zone of reasonableness after the application of a balancing test in which the interests of all concerned parties are considered.”¹²¹

“There is an elusive zone of reasonableness Kansas courts have recognized when reviewing utility rate decisions. [A] court can only concern itself with the question as to whether a rate is so unreasonably low or so unreasonably high as to be unlawful. The in-between point, where the rate is most fair to both the utility and its customers, is a matter for the Commission’s determination.”¹²²

72. In addition to Kansas’ own statutes and case law on the subject, the U.S. Supreme Court has established certain principles for the Commission to follow when reviewing rate change applications. *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679 (1923), and *Fed. Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944), provide what

¹¹⁸ *Grindsted Products, Inc. v. Kansas Corp. Com’n*, 262 Kan. 294, 309 (1997); K.S.A. 66-101d.

¹¹⁹ *Kansas Gas and Elec. Co. v. State Corp. Com’n*, 239 Kan. 483, 488 (1986).

¹²⁰ *Id.* at 488.

¹²¹ *See id.* (internal quotation omitted)

¹²² *Aquila, Inc. v. State Corp. Comm’n of State*, No. 94,326, 2005 WL 1719705 at *2 (Kan. App. Jul. 22, 2005).

this Commission has referred to as the “capital attraction standard.”¹²³ “The return [on investment] should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, *to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.*”¹²⁴ “That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.”¹²⁵ The court has also stated however, “a rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.”¹²⁶ Also in *Hope Natural Gas*, the U.S. Supreme Court promulgated what this Commission refers to as the “comparable earnings standard.”¹²⁷ “By that standard the return to the equity owner *should be commensurate with returns on investments in other enterprises having corresponding risks*” which would include not only service on a utility’s debt but also dividends on the stock.¹²⁸ This, as Westar noted in its Application, does not guarantee it will actually earn its authorized return.¹²⁹ “[R]egulation does not insure that the business shall produce net revenues, nor does the Constitution require that the losses of the business in one year shall be restored from future earnings by the device of capitalizing the losses and adding them to the rate base on which a fair return and depreciation allowance is to be earned.”¹³⁰ These standards taken together stand for the general idea that the return provided to a

¹²³ Order Approving Nonunanimous Stipulation and Agreement with Modification at 3, *Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Co. for Approval to Make Certain Changes in Their Charges for Electric Service*, Docket No. 12-WSEE-112-RTS (Apr. 18, 2012) [hereinafter 12-112 Docket].

¹²⁴ *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 693 (1923) (emphasis added).

¹²⁵ *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

¹²⁶ *Bluefield Waterworks*, 262 U.S. at 693.

¹²⁷ 12-112 Docket at 3.

¹²⁸ *Hope Natural Gas*, 320 U.S. at 603.

¹²⁹ Application at 10.

¹³⁰ *Fed. Power Comm'n v. Natural Gas Pipeline Co. of Am.*, 315 U.S. 575, 590 (1942).

utility's investors should (1) be consistent with other businesses having similar risks and (2) the adequacy of the return for servicing debt and paying dividends be able to support a utility's credit quality, access to capital, and financial integrity. "The KCC is required to balance the public need for adequate, efficient, and reasonable service with the public utility's need for sufficient revenue to meet the cost of furnishing service and to earn a reasonable profit."¹³¹

73. The Commission may accept a settlement agreement provided an independent finding is made, supported by substantial evidence in the record as a whole, that the settlement will establish just and reasonable rates.¹³² The Commission may utilize a five-element test to aid in the review of settlement agreements.¹³³

1. Was there an opportunity for the opposing party to be heard on the reasons for opposition to the Stipulation and Agreement?

74. For a variety of reasons discussed in previous Commission Orders in this docket, not every party to this proceeding was able to participate in initial settlement discussions.¹³⁴ Notwithstanding the fact that the S&A is unanimously supported by the Joint Movants, it would be premature for the Commission to conclude from this fact alone that there were no opposing parties. The Commission must also turn to the parties who were not permitted to engage in settlement discussions to gauge their support or opposition to such agreement. Westar in the Unopposed Addendum established the first instance that all parties were either: (1) in support of the S&A or,¹³⁵ (2) unopposed to the S&A's approval.¹³⁶

¹³¹ *Danisco Ingredients USA, Inc. v. Kansas City Power & Light Co.*, 267 Kan. 760, 773 (1999).

¹³² *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State of Kansas*, 28 Kan. App. 2d 313, 316 (2000).

¹³³ Order Approving Contested Settlement Agreement at 5-6, Application of Atmos Energy for Adjustment of Its Natural Gas Rates in the State of Kansas, Docket No. 08-ATMG-280-RTS (May 12, 2008).

¹³⁴ See e.g. Final Procedural Order.

¹³⁵ See S&A at 14-19.

¹³⁶ Unopposed Addendum at 3.

75. The majority of the parties who were unable to participate in the creation of the S&A were the Solar Parties. However, as noted in Westar's Unopposed Addendum, the Solar Parties agreed not to oppose the S&A, and not to cross-examine any witnesses who may have testified in support of the S&A at the evidentiary hearing.¹³⁷ These were rights that the Commission had expressly granted to TASC, CEI, Brightergy, and EDF.¹³⁸ CEP was not allowed to participate at the evidentiary hearing and was thus not conferred these rights.¹³⁹ However, CEP also concurred with the other Solar Parties that it did not oppose the S&A.¹⁴⁰ Westar's Unopposed Addendum makes it clear to the Commission that the Solar Parties are not opposed to the S&A.

76. Settlement agreements revolve around compromise to reach reasonable outcomes. The S&A presented by the Joint Movants is a global settlement. It resolves all outstanding issues between the Joint Movants.¹⁴¹ A careful review of the S&A, and the detail to which it discusses dozens of separate items, makes it clear to the Commission that the Joint Movants to the S&A intended to resolve all disputes between them, and had ample opportunity to advocate their respective interests. Every signatory to the S&A is in favor of the agreement. There are no parties opposed to the S&A who were allowed to participate in either its creation, or the subsequent filing of an addendum as Westar noted in its Unopposed Addendum.¹⁴² Additionally, no party to this proceeding has logged an objection to the S&A as required by K.A.R. 82-1-230a.

¹³⁷ *Id.*

¹³⁸ Final Procedural Order at 14, 18-19, 22, 27.

¹³⁹ *Id.* at 25.

¹⁴⁰ Unopposed Addendum at 3.

¹⁴¹ S&A at 12.

¹⁴² Unopposed Addendum at 3.

77. The only remaining party who did not participate in settlement discussions is the IBEW. IBEW had previously indicated it had no position regarding Westar's Application,¹⁴³ and when granted intervention, they were prohibited from participating at the evidentiary hearing.¹⁴⁴ IBEW did not petition the Commission for reconsideration of its intervenor status, and made no motion or argument despite being present at the evidentiary hearing through counsel that would otherwise indicate IBEW's opposition to the S&A.

78. No party has offered any formal objection to any term contained within the S&A. Pursuant to K.A.R. 82-1-230a(c), a party objecting to a settlement agreement must file a written objection within 10 days after the filing of the settlement agreement unless a shorter time-period is ordered by the Commission. Failure to do so constitutes a waiver of a party's right to object to a settlement agreement.¹⁴⁵

79. Therefore, after examining all of the parties' respective roles and degrees of participation in this proceeding, the Commission finds that all parties had an opportunity to be heard on any opposition to the S&A, and that no parties are opposed to the adoption and approval of the S&A.

2. Is the Stipulation and Agreement supported by substantial competent evidence in the record as a whole?

80. The record to this proceeding is extensive and comprehensive. The Commission will not attempt to summarize the entire record as established in this proceeding. As discussed above, dozens of witnesses have filed testimony outlaying and defending positions while criticizing others. The Commission has reviewed the direct, cross-answering and rebuttal testimony as supplied by the parties. Further, the Commission has taken into consideration over

¹⁴³ Petition to Intervene at 3 (Jul. 16, 2015).

¹⁴⁴ Order Granting Limited Intervention at 2-3 (Aug. 11, 2015).

¹⁴⁵ See K.A.R. 82-1-230a(c).

1,500 public comments submitted in this proceeding. Because all parties to this docket are either in support of or unopposed to the adoption and approval of the S&A as amended, the Commission will undertake a more comprehensive review of the four witnesses who testified in support of the S&A.

81. Mr. Greenwood testified that the S&A is supported by substantial competent evidence when viewing the record as a whole.¹⁴⁶ Mr. Greenwood detailed the initial position of Westar, and how accounting adjustments proposed by other parties later became reflected in Westar's rebuttal testimony.¹⁴⁷ Mr. Greenwood detailed how the S&A in terms of the net revenue requirement incorporates pieces from and is supported or agreed to by a number of parties.¹⁴⁸ Mr. Greenwood expanded upon individual terms contained within the S&A, and provided ample evidence indicating multiple witnesses from diverse parties supported the variety of positions.¹⁴⁹

82. Mr. Grady submitted testimony in support of the S&A. Mr. Grady noted the S&A "resolves all contested issues related to the revenue requirement [class cost of service] and rate design in this docket."¹⁵⁰ Specifically, Mr. Grady testified to: Westar's net overall annual revenue increase, the rebasing of rates, rate case expense true-up, bad debt expense, Pension and OPEB Expenses, the Nuclear Decommissioning Trust Fund, the analog retirement and regulatory asset, the discontinuance of the ECRR, grid resiliency projects and ratemaking treatment, the proposed security tracker, return on equity and capital structure, Kansas-jurisdictional non-transmission related retail property tax expense, deferred income tax expense and amortization of

¹⁴⁶ Testimony of Greg A. Greenwood in Support of Stipulation and Agreement at 11-14 (Aug. 11, 2015) [hereinafter Greenwood S&A Testimony].

¹⁴⁷ *Id.* at 11-12.

¹⁴⁸ *Id.* at 12.

¹⁴⁹ *See id.* at 12-14.

¹⁵⁰ Testimony in Support of Stipulation and Agreement Prepared by Justin T. Grady at 3 (Aug. 11, 2015) [hereinafter Grady S&A Testimony].

investment tax credits, amortization periods, pension trackers, and abbreviated rate case procedures and issues.¹⁵¹

83. Mr. Grady detailed that Westar's initial Application, and the rigorous scrutiny that it was subject to from not only Staff, but also CURB and other intervenors created a body of evidence for the Commission to consider.¹⁵² The Joint Movants accordingly relied on this body of evidence when they negotiated the terms of the S&A.¹⁵³ Mr. Grady noted that the terms contained in the S&A are comparable with an outcome that could be expected if the case were to be fully litigated.¹⁵⁴

84. Mr. Grady concluded that the S&A represents a reasonable resolution of the issues and matters contained within this docket, is in the public interest, is supported by substantial competent evidence in the record, and falls within the realm of reasonable debate and the zone of reasonableness.¹⁵⁵

85. Dr. Glass submitted testimony in support of the S&A. Specifically, Dr. Glass testified to numerous rate design issues such as: class revenue allocation, rate consolidation for High Load Factor North & South customers, structural problems between Medium General Service and High Load Factor classes, secondary primary and transmission service for High Load Factor Customers, renewable resource tariffs, customer charges, distributed generation issues, the Economic Development Rider, revenue requirement allocation in the proposed abbreviated rate case, and miscellaneous non-controversial issues.

¹⁵¹ *Id.* at 3-9.

¹⁵² *Id.* at 10-11.

¹⁵³ *Id.* at 11.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 16.

86. Dr. Glass concluded in his testimony that the S&A represents a realistic resolution of rate design issues, and that the proposed rate design in the S&A will result in just and reasonable rates.¹⁵⁶ Ultimately, Dr. Glass states that the S&A is in the public interest, is supported by substantial competent evidence in the record, and should be approved by the Commission in total.¹⁵⁷

87. Ms. Crane, on behalf of CURB, testified that the S&A is supported by substantial competent evidence when viewed from the record as a whole.¹⁵⁸ Ms. Crane first testified to the parties' initial positions.¹⁵⁹ Ms. Crane explained that using the capital structure and cost of debt as provided by Westar that was adopted by CURB, and utilizing a 9.35% cost of equity, would increase CURB's net revenue requirement from \$50.80 million to \$72.31 million.¹⁶⁰ Ms. Crane expanded on this by saying it was difficult to provide an item-by-item settlement on issues contained within the S&A as some issues increased the net revenue requirement while some issues decreased the net revenue requirement.¹⁶¹ Taking into account the pre-tax return of 10.926% as contained within the S&A, Ms. Crane stated the net revenue increase was close to CURB's recommended increase, and fell within the range provided by other parties to the proceeding.¹⁶² Ms. Crane then undertook a review of how the net revenue increase would be allocated amongst the classes as well as the monthly service charges for residential and small commercial customers.¹⁶³ Ms. Crane indicated that the revenue allocations contained within the

¹⁵⁶ Testimony in Support of Stipulation and Agreement Prepared by Robert H. Glass, PhD at 3 (Aug. 11, 2015) [hereinafter Glass S&A Testimony].

¹⁵⁷ *Id.* at 3.

¹⁵⁸ Testimony in Support of Stipulation and Agreement Andrea C. Crane on Behalf of CURB at 9-11 (Aug. 11, 2015) [hereinafter Crane S&A Testimony].

¹⁵⁹ *Id.* at 2-3.

¹⁶⁰ *Id.* at 10

¹⁶¹ *Id.*

¹⁶² *Id.* at 10-11.

¹⁶³ *Id.* at 11.

S&A appear to be reasonable, and that the proposed customer charges fall within ranges provided by the parties.¹⁶⁴

88. The Commission finds that the record established prior to settlement discussions, and supplemented with testimony and evidence in support of the S&A, establishes a thorough and complete record to fully and adequately prepare an S&A. Parties to this proceeding relied on data provided either by their individual institutions, or by others. As parties to this proceeding engaged in attentive settlement discussions, they relied on the information contained within this docket to strike a realistic compromise that could be supported or defended with information contained in the record. To supplement the parties' respective positions in support of the terms of the S&A, the parties to this proceeding submitted additional testimony.

89. The testimony and evidence submitted throughout the entirety of this proceeding provided a substantive body of evidence on which to base compromises struck within the S&A. The witnesses who testified and submitted evidence are experts in their respective fields. As such, they provided competent information not only for parties to use when negotiating, but also for the Commission to review when determining the reasonableness of the S&A and its terms. Therefore, the Commission concludes that substantial competent evidence supports the S&A as amended when viewed through the record as a whole.

3. Does the Stipulation and Agreement conform with applicable law?

90. At the outset, it is important to note that no party to this proceeding has raised the slightest concern that the proposed S&A may be unlawful. Regardless, the Commission is required to undertake its own independent review.¹⁶⁵ Determining whether an S&A conforms with applicable law requires the Commission to assume that the S&A would be approved and be

¹⁶⁴ Crane S&A Testimony at 11.

¹⁶⁵ See *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State of Kansas*, 28 Kan. App. 2d 313, 316 (2000).

subject to judicial scrutiny the same as any other order of the Commission. In other words, would the S&A conform to applicable law and survive judicial review if the Commission had established the terms of the S&A under its own judgment? Such an inquiry requires the Commission to examine the reasonableness and lawfulness of the order.

91. An order of the Commission is lawful if it is within the statutory authority of the Commission, and if the prescribed statutory and procedural rules are followed in the making of the order.¹⁶⁶ The Commission has wide discretion from the legislature regarding rates for public utilities.¹⁶⁷ Specifically, K.S.A. 66-117 requires public utilities, such as Westar, seek Commission approval prior to changing any rate for which it charges customers for the use of electricity. After reviewing the testimony, it is undeniable that parties to this proceeding had disputes among their respective initial positions. However, “the law favors the amicable settlement of disputes.”¹⁶⁸ It follows that if parties come to such a resolution, their resolution could seek to adjust rates for a public utility. The adjustment of rates agreed to via compromise between parties is still subject to Commission approval. Therefore, it is well within the lawful authority and jurisdiction of the Commission to consider this S&A as amended as it adjusts rates for a public utility subject to the Commission’s jurisdiction and oversight.

92. Rates established by the Commission must be just and reasonable.¹⁶⁹ In developing five questions to review settlement agreements, the Commission dedicated one question to examine the “just and reasonable” standard alone. As such, the Commission defers discussion of that item to a separate part of this order.

¹⁶⁶ *Cent. Kansas Power Co. v. State Corp. Comm’n*, 221 Kan. 505, 511 (1977).

¹⁶⁷ *Id.*

¹⁶⁸ *Int’l Motor Rebuilding Co. v. United Motor Exch., Inc.*, 193 Kan. 497, 499 (1964).

¹⁶⁹ K.S.A. 66-101b.

93. The Parties and the Commission complied with all procedural rules within this docket. The Parties and the Commission complied with the procedural schedules, the issuance of orders and the disposition of preliminary matters in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, which K.S.A. 66-117 requires the Commission to follow when reviewing a public utility's application to change rates. The Commission may therefore find that the prescribed statutory and procedural rules for reviewing the S&A and issuing this order have been followed.

94. Orders issued by the Commission are considered reasonable if they are based upon substantial competent evidence.¹⁷⁰ Applying the same standard to the S&A that is applied to orders issued by the Commission, it is clear to see that the S&A is based upon substantial competent evidence. The Commission's standard has been to review settlement agreements in light of the record as a whole. This allows the Commission to determine where such an agreement and its terms lie in relation to the terms of the previously articulated positions of the parties. Upon examining the record as a whole, it is clear that there is ample evidence used to support the parties' initial positions, and ample evidence to support how the parties were able to reach a negotiated settlement. The proceedings established the scope and breadth of the record in this case as discussed above.¹⁷¹ The Commission finds that such a thorough record, and supplementary filings used to support the S&A as amended, establishes that substantial competent evidence necessary to support such an S&A as amended.

95. The Commission therefore finds that the S&A as amended complies with applicable law.

¹⁷⁰ *Cent. Kansas Power Co.*, 221 Kan. at 511.

¹⁷¹ *See supra* Part I.C.

4. Does the Stipulation and Agreement result in just and reasonable rates?

96. Electric Public Utilities, such as Westar, are required to provide reasonably efficient and sufficient service at just and reasonable rates.¹⁷² In determining what constitutes a just and reasonable rate, the Commission has broad discretion.¹⁷³ As promulgated by the U.S. Supreme Court and adopted by the Kansas Court of Appeals, just and reasonable rates must fall within a “zone of reasonableness”¹⁷⁴ As Dr. Glass testified, the initial filed positions from all of the signatories to the S&A represents the “zone of reasonableness” for the Commission to consider.¹⁷⁵

97. Westar Witness Mr. Greenwood testified in support of the S&A.¹⁷⁶ Ultimately, Mr. Greenwood testified that the rates proposed in Appendix B to the S&A would either remain in-line or below 2014 national averages.¹⁷⁷ Mr. Greenwood testified that he expected national electric rates to rise in the future, which in turn would mean Westar’s electric rates (as proposed by the Joint Movants) would be even lower than national averages.¹⁷⁸ Mr. Greenwood states he believed the rates proposed in Appendix B to the S&A were just and reasonable, and requested this Commission approved them.¹⁷⁹ The Commission concurs with Mr. Greenwood’s summation and rationale.

98. Dr. Glass testified on the “Balancing Test” that Kansas courts have developed when reviewing the zone of reasonableness standard.¹⁸⁰ Specifically, Dr. Glass conducted a

¹⁷² K.S.A. 66-101b.

¹⁷³ *Citizens’ Util. Ratepayer Bd. v. State Corp. Comm’n of State*, 47 Kan. App. 2d 1112, 1131 (2012).

¹⁷⁴ *Kansas Gas and Elec. Co.*, 239 Kan. at 488.

¹⁷⁵ Glass S&A Testimony at 15.

¹⁷⁶ Greenwood S&A Testimony at 2.

¹⁷⁷ *Id.* at 16.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Glass S&A Testimony at 14.

review of the interests of: investors vs. ratepayers, present ratepayers vs. future ratepayers, and the public interest.¹⁸¹ Dr. Glass' testimony in support of the proposed S&A compels a finding favorable on these specific items.¹⁸²

99. Ultimately, Dr. Glass concluded that the S&A was a realistic resolution of rate design issues outlined in this proceeding, that the proposed rate design is just and reasonable, that the agreement is supported by substantial competent evidence, and should be approved.¹⁸³ The Commission concurs with Dr. Glass' summation and rationale.

100. Mr. Grady testified that he believed the rates established in the S&A would result in rates that fall within the "zone of reasonableness."¹⁸⁴ Mr. Grady testified that the agreed-to revenue requirement increase struck the appropriate balance between Westar's desire to have assurance that it could earn sufficient revenue and cash flow to meet its financial obligations, and the desire of the ratepayer to keep rates low while maintaining reliable electric service.¹⁸⁵ Mr. Grady further theorized that if any particular party to settlement negotiations took issue with an unfavorable term related to their respective interest, they would not have joined or conceded to the S&A.¹⁸⁶ Therefore, because multiple rate classes with widely different interests were represented and later joined together to become signatories to the S&A, Mr. Grady concluded that the proposed terms of the S&A, specifically the revenue increase, could be viewed as reasonable from the viewpoint of the signatories.¹⁸⁷ As Mr. Grady postulates, if the terms were

¹⁸¹ *Id.* at 14-16.

¹⁸² *Id.*

¹⁸³ *Id.* at 16.

¹⁸⁴ Grady S&A Testimony at 13.

¹⁸⁵ *Id.* at 13-14.

¹⁸⁶ *Id.* at 14.

¹⁸⁷ *Id.*

not just or reasonable, then a unanimous S&A could not have been reached.¹⁸⁸ The Commission concurs with this summation.

101. Ms. Crane testified in support of the S&A on behalf of CURB. Like Mr. Greenwood, Dr. Glass, and Mr. Grady, Ms. Crane testified that approval of the S&A would result in just and reasonable rates.¹⁸⁹ Ms. Crane spoke specifically to the terms of the S&A, and how Westar's net revenue increase in the S&A was approximately 51% of what Westar had initially proposed in its Application, and only 8% above CURB's net revenue increase as adjusted.¹⁹⁰

102. Ms. Crane also testified positively in support of the elimination of the ECRR, reduced customer charges, grid resiliency, retired analog meters, and the EDR.¹⁹¹ Taken together, Ms. Crane testified as to how these terms as outlined in the S&A are beneficial to Kansas ratepayers, and ultimately concluded that the S&A would result in just and reasonable rates.¹⁹²

103. The requirement that just and reasonable rates fall within a zone of reasonableness is used to determine whether a particular rate is contained within an "elusive range of reasonableness in calculating a fair rate of return."¹⁹³ The Commission acts within the discretion granted to it when it searches for and finds an in-between point "where the rate is most fair to the utility and the customers."¹⁹⁴ The Commission has reviewed the filed positions of the parties. The Commission has also examined in detail the impact to individual customer classes as outlined to the various appendices to the S&A. The Joint Movants are unanimously in support of

¹⁸⁸ *Id.*

¹⁸⁹ Crane S&A Testimony at 13.

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 13-14.

¹⁹² *Id.* at 14.

¹⁹³ *Kansas Gas and Elec. Co.*, 239 Kan. at 490.

¹⁹⁴ *Id.*

the S&A as amended and neither the Solar Parties nor the IBEW are opposed to the amended S&A's approval. No evidence has been presented to the Commission suggesting that approval of the rates as described by the S&A would in any way be unjust or unreasonable, or make service unaffordable to customers. Therefore, the terms of the S&A as amended will result in rates that are not unduly burdensome, unduly preferential, or unreasonably discriminatory.

104. The Commission has also reviewed the terms of the S&A and its impact on the relationship between the utility's investors, the present ratepayer's and future ratepayers, and the public interest. The Commission has set aside as a separate question whether the S&A is in the public interest and will defer discussion on that item until the next section of this order.

105. The Commission finds the terms contained within the S&A fall within a zone of reasonableness and appropriately balance the interests of the Westar's investors with ratepayers, and with present ratepayers vs. future ratepayers. The evidence submitted in this proceeding has compelled the Commission to find that the S&A as amended will allow the utility to continue to meet its financial obligations while earning a return on investment that is commiserate with businesses of similar risks. The Commission further finds that ratepayers will benefit from the S&A as amended as they will continue to have access to affordable electricity at or below national average costs with the confidence that Westar will continue to be able to provide such service. Moreover, the Commission finds the S&A as amended protects and balances the interests of current and future ratepayers. Terms contained within the S&A as amended are designed to maintain or improve service quality while maintaining low costs. Additionally, the S&A takes proactive steps to ensure cross-subsidization is mitigated (e.g. grid resiliency cost allocation and the deferment of unique distributed generation terms until the completion of a generic docket).

106. The Commission has taken into consideration the competing interests as described by the Court when the Commission exercises its power in the setting of rates. The Commission finds that the agreed-upon net revenue increase and terms of the S&A as amended fall within the zone of reasonableness to which the Commission must adhere. The S&A as amended represents a series of compromises set and agreed to by the Joint Movants, and upon further concession, unopposed by the Solar Parties and IBEW. The rates established by the S&A will allow Westar to continue to meet its financial obligations, as well as its statutory obligation to provide efficient and sufficient service at just and reasonable rates. Therefore, the Commission finds the S&A, the rates and rate structures contained within, and specific terms of the S&A will result in just and reasonable rates for Westar's customers.

5. Are the results of the Stipulation and Agreement in the public interest, including the interest of customers represented by any party not consenting to the agreement?

107. Mr. Greenwood testified that the rates Westar customers would pay if the S&A were to be approved included approximately 96% of the expected La Cygne investments.¹⁹⁵ Mr. Greenwood also testified that the rate specific classes customers would pay, as proposed by the S&A is supported by the numerous class cost of service studies that had been provided in this docket, and that the increased customer charge helped better align customer rates with Westar's costs.¹⁹⁶

108. Mr. Greenwood testified that Westar's customers would see benefits from additional investments in grid resiliency programs, digital meters, approval of certain solar

¹⁹⁵ Greenwood S&A Testimony at 17.

¹⁹⁶ *Id.* at 17-18.

programs and reductions in prices for renewable investment options.¹⁹⁷ Regarding specific tariffs, Mr. Greenwood testified in support of a generic docket to study distributed generation issues, and also explained how changes to industrial and commercial rate structures would better reflect the principles of cost causation in rate designs for larger customers.¹⁹⁸ Mr. Greenwood concluded that the approval of the S&A and the rates identified in Appendix A to the S&A would be in the public interest.¹⁹⁹ The Commission concurs with Mr. Greenwood's assessment.

109. Dr. Glass testified that the public interest is served when the utility remains a "healthy, viable business able to provide reliable service."²⁰⁰ Dr. Glass stated that under the proposed rate plan, ratepayers would be protected from unrealistic price increases, undue discrimination, and unreliable service while at the same time allowing Westar to recover the revenues necessary to comply with environmental mandates.²⁰¹ While the end result of distributed generation has not been settled within the S&A, Dr. Glass noted that the generic docket outlined in the S&A provides a path forward to reach potentially better decisions.²⁰² Ultimately, Dr. Glass concluded that the S&A is in the public interest.²⁰³ The Commission concurs with Dr. Glass' assessment.

110. Mr. Grady testified that the public interest is served "when ratepayers are protected from unnecessarily high prices, discriminatory prices and/or unreliable service."²⁰⁴ According to Mr. Grady, because varied interests were able to collaborate and present a

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 19.

¹⁹⁹ *Id.*

²⁰⁰ Glass S&A Testimony at 16.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ Grady S&A Testimony at 15.

unanimous resolution of the issues in this case, the public interest standard has been met.²⁰⁵ Mr. Grady then detailed five examples on how the public interest would be satisfied.²⁰⁶ For example, Westar's requested revenue is reduced to a level that Westar still finds reasonable while at the same time decreasing the proposed cost customers would bear. The public will not have to potentially absorb the cost of a fully-litigated hearing, and the utility will continue to meet its financial obligations while providing sufficient and efficient service.²⁰⁷ The Commission concurs with Mr. Grady's assessment.

111. Ms. Crane also testified that approval of the S&A is in the public interest.²⁰⁸ Ms. Crane described how the S&A was a significant reduction from Westar's initial request, and how the customer charge would be set much lower than Westar's initial request and remain at that level until Westar's next general rate case.²⁰⁹ Ms. Crane further expanded on the importance of rate stability, how the S&A withdraws certain proposals CURB took particular opposition to, how the S&A authorizes a return on investment that is significantly lower than Westar's present authorized return, the elimination of riders and how Westar's grid resiliency program costs would be recovered.²¹⁰ Ms. Crane concluded her remarks by stating "while the S&A represents a compromise of the positions put forth by the parties in this case, on balance I believe the S&A is in the public interest."²¹¹ The Commission concurs with Ms. Crane's assessment.

112. To support a finding that the S&A is in the public interest the Commission must examine the information as filed in this docket and conclude that the interests of the ratepayers and Kansans will continue to be promoted if the S&A were to be approved. Westar, Staff

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.* at 16.

²⁰⁸ Crane S&A Testimony at 14.

²⁰⁹ *Id.* at 14-15.

²¹⁰ *Id.* at 14-16.

²¹¹ *Id.* at 16.

(submitting testimony for multiple signatories), and CURB have all testified regarding dozens of provisions contained within the S&A and detailed how those terms are in the public's interest. The Commission's focus for this inquiry turns on the result or total effect of the S&A as amended. The manner in which the terms of the S&A were constructed evidences the S&A is in the public interest. Multiple parties from a diverse set of interests encompassing large ranges of industrial, commercial, residential and specialty customers have all concluded that the terms of the S&A will allow them to continue to take service from Westar in a manner acceptable to them. The S&A as amended will allow multiple entities to undertake a review of distributed generation concerns before any changes in service are proposed. The S&A allows Westar to recover costs from prudently incurred expenses and continue to make reliability enhancements to Kansas' electric grid. Based upon the wide ranging support and lack of opposition to the S&A, as well as how the S&A will affect ratepayers if approved, the Commission is confident in finding that approval of the S&A is in the public interest.

III. Abbreviated Rate Case

113. The Joint Movants request Westar be granted preapproval to file an abbreviated rate case. Pursuant to K.A.R. 82-1-231(b)(3), a utility proposing to change rates within 12 months after a Commission order is issued in a general rate proceeding may do so without submitting duplicative information provided certain conditions are met.

114. First, the utility must be willing to adopt all regulatory procedures, principles, and rate of return established by the Commission in the order setting rates from the general rate

case.²¹² Second, the utility must receive prior approval from the Commission before filing such an abbreviated rate case.²¹³

115. Consistent with the terms contained within the S&A, the Commission grants Westar's request to file an abbreviated rate case no later than one year from the effective date of this order.

116. The Commission hereby limits matters to be addressed during Westar's abbreviated rate case to items specifically listed and identified in the S&A as being subject to the abbreviated rate proceeding.

IV. Generic Docket

117. As contemplated by the S&A, the parties to this proceeding wish to conduct a general investigation to research and evaluate specific issues related to distributed generation (particularly solar distributed generation). The Commission concurs that a generic docket is the appropriate method of identifying and discussing issues related to distributed generation before a public utility implements distributed generation-specific rates in the public utility's service territory. The Commission hereby directs Staff to file a Report and Recommendation outlining specific issues to discuss, research and evaluate in a manner consistent with the terms of the S&A as amended. The Commission directs Staff to coordinate with the parties to this proceeding and other Kansas-jurisdictional public utilities on the initial outlaying of issues. The Commission understands that such an evaluation will take considerable time, and therefore directs Staff begin such an undertaking with all due haste.

²¹² See K.A.R. 82-1-231(b)(3)(A).

²¹³ K.A.R. 82-1-231(b)(3)(B).

V. Findings and Conclusions

118. The Commission has examined the statutory and legal standards the Commission must consider when reviewing a request for rate changes, and has examined the voluminous record as a whole developed in this proceeding.

119. Upon reviewing the terms contained within the S&A, the Commission accepts the terms detailed within the S&A and as amended by the Unopposed Addendum.

120. The Commission finds that approval of the S&A as amended by Addendum would result in just and reasonable rates that would enable Westar to continue to provide sufficient and efficient service. The Commission finds that the rates established by the S&A conform and fall within the zone of reasonableness that properly balances the interests of the parties to this proceeding, the ratepayers, and the public.

121. The Commission finds that there was ample opportunity for parties to this proceeding to voice opposition to such agreement, and that the end result of unanimous support, or agreement not to oppose, provides evidence for such a conclusion. Therefore, the Commission concludes that all parties have had the opportunity to fully examine and critique the S&A as amended.

122. The Commission finds that the S&A is supported by substantial competent evidence from not only witnesses who testified in support of the S&A, but also how the terms of the S&A were constructed as a compromise from each party's respective initial position. Therefore, the Commission concludes that the S&A is supported by substantial competent evidence as filed in this proceeding.

123. The Commission finds that approval of the S&A as amended is in the public interest.

124. Upon reviewing the S&A, its terms individually, the parties' filed positions in this proceeding, testimony and evidence in support of the S&A, and amendments to the S&A as late filed by Westar, the Commission finds that the Joint Motion to Approve Stipulation and Agreement and amendments thereto should be granted.

125. The procedural schedule set October 28, 2015, as the effective date of the proposed rate change to take effect.²¹⁴ Pursuant to K.S.A. 66-117(b), the Commission may elect to hold a hearing on a public utility's proposed rate change. Pursuant to K.S.A. 66-117(c), the Commission cannot delay the effective date of a proposed rate change beyond 240 days from the date of the filing unless certain exemptions exist. The Commission finds that, having concluded approval of the S&A as amended is appropriate, the Commission must now set an effective date for such proposed changes. The Commission finds that given the date suggested in the notice of proposed rate changes that Westar sent to its customers, the effective date of any proposed rate change must remain October 28, 2015. This date complies with K.S.A. 66-117(c) in terms of suspension periods, is permitted by K.S.A. 66-117(b) as Westar would have to submit new rate schedules subject to a Commission-set effective date, and is consistent with the proposed effective date as detailed in the 15-025 Docket. Westar may file schedules necessary to implement the terms of the S&A as amended at any time. However, no schedule filed in accordance with the S&A as amended will become effective until October 28, 2015.

²¹⁴ Prehearing Officer Order Taking Administrative Notice of Procedural Schedule Adopted in Docket No. 15-GIME-025-MIS at 3 (Mar. 4, 2015).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Joint Motion to Approve Stipulation and Agreement as amended is hereby granted. The terms, conditions, rates and schedules contained within the Stipulation and Agreement as filed on August 6, 2015, and as amended by Westar's Unopposed Motion For Leave to File Addendum to Stipulation and Agreement Out of Time filed on August 12, 2015, is hereby approved. Accounting for revised final rate case expense and bad debt expense figures, Westar's net overall annual revenue increase shall be set at \$78,312,992.

B. The effective date of this order shall be October 28, 2015.

C. The parties have 15 days, plus three days if service of this Order is by mail, to petition the Commission for reconsideration of any issue or issues decided herein.²¹⁵

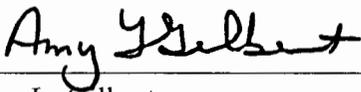
D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: SEP 24 2015

REV/DLK



Amy L. Gilbert
Secretary to the Commission

EMAILED

SEP 24 2015

²¹⁵ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

15-WSEE-115-RTS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of Electronic Service on SEP 24 2015.

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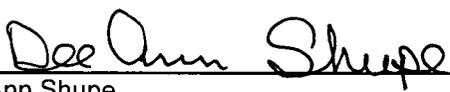
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