

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Joint Application of)
Great Plains Energy Incorporated, Kansas)
City Power & Light Company and Westar) Docket No. 16-KCPE-593-ACQ
Energy, Inc. for approval of the Acquisition)
of Westar Energy, Inc. by Great Plains)
Energy Incorporated.)

**JOINT APPLICANTS’ MOTION FOR LEAVE TO
FILE SUPPLEMENTAL DIRECT TESTIMONY AND PETITION FOR
RECONSIDERATION OF ORDER ADDRESSING JOINT APPLICANTS’ VERIFIED
RESPONSES ON THE COMMISSIONS MERGER STANDARDS**

COMES NOW Great Plains Energy Incorporated (“GPE”), Kansas City Power & Light Company (“KCP&L”), and Westar Energy, Inc. and Kansas Gas and Electric Company (“Westar”), (jointly, “Petitioners”), and file this Motion For Leave to File Supplemental Direct Testimony and Petition for Reconsideration of Order Addressing Joint Applicants’ Verified Responses on the Commission’s Merger Standards, pursuant to K.S.A. 66-118b, K.S.A. 2014 Supp. 77-529, and K.A.R. 82-1-235, with the State Corporation Commission of the State of Kansas (“Commission”). On October 18, 2016, the Commission issued its *Order Addressing Joint Applicants’ Verified Responses on the Commission’s Merger Standards* (“October 18th Order”), portions of which cause Joint Applicants to now believe supplemental direct testimony is warranted. Such supplemental testimony is included with this Motion as **Attachment A** – Supplemental Direct Testimony of Mr. Kevin Bryant; and **Attachment B** – Supplemental Direct Testimony of Mr. Darrin Ives.

In support of this Motion and Petition, Joint Applicants state as follows:

I. SUMMARY OF ISSUES, ARGUMENTS, PLEADINGS AND ORDER

1. On June 28, 2016, Joint Applicants filed a Joint Application seeking approval for Great Plains Energy's acquisition of Westar (the "Transaction"). Included with the Application was Direct Testimony in support of the Application filed by eight witnesses.

2. On August 9, 2016, the Commission issued its *Order on Merger Standards* ("Order on Merger Standards"), reaffirming the merger standards adopted in Dockets No. 172,745-U and 174,155 ("1991 Merger Docket" and "1991 Merger Order"), as modified in Docket No. 97-WSRE-676-MER ("97-676 Merger Docket" and "97-676 Merger Order"), ("Merger Standards"). The Commission advised the parties that the proposed acquisition in this case would be evaluated under those standards, but recognized that the 97-676 Merger Order allows for flexibility to modify or add standards or considerations. The Commission stated that it would require any such modification or addition to be clearly identified in an application and justified in the supporting testimony. In addition, the Commission found that, regarding the Joint Application and Direct Testimony already filed in this docket, any modification needed to comply with these Merger Standards should be filed within 21 days.

3. On August 30, 2016, Joint Applicants filed *Joint Applicants' Verified Response to Commission's Order on Merger Standards* ("Joint Applicants' August 30th Response") wherein they represented that they fully accept the Merger Standards as set out in the Commission's Order on Merger Standards, and explained that the initial Application and Direct Testimony addressed those standards and did not need to be supplemented.¹ In addition, the Joint Applicants' August 30th Response cited to the location in the Direct Testimony where Merger Standard (a)(iv) was addressed.²

¹ Joint Applicants' August 30th Response, p. 3, ¶ 6.

² Joint Applicants' August 30th Response, p. 4, ¶ 8.

4. On September 9, 2016, Staff filed *Staff's Reply to Joint Applicants' Verified Response to Commission's Order on Merger Standards* ("Staff's Reply"), wherein Staff discussed the substance of the Joint Application and Joint Applicants' Direct Testimony, and specifically argued that certain areas of the Direct Testimony supporting Joint Application are deficient.³ As for specifics presented to support its allegations, Staff stated:

- (a) No firm determinations had been made yet by the Joint Applicants regarding what specific departments or functions will remain in the Topeka office or be eliminated, or how long the commitment is to keep the Topeka office operating.⁴
- (b) A lack of detail regarding overhead cost allocation savings because they were not yet known by Joint Applicants.⁵
- (c) Joint Applicants had not yet sought from the Missouri Public Service Commission approval of a variance from the Missouri Affiliate Transaction rule, and could not indicate to Staff with any certainty when the request for variance would be made. If the variance was not granted, it would impact the combined cost structure of the combined company.⁶
- (d) The Joint Application and Direct Testimony do not describe how the \$4.9 billion of goodwill can be justified on the basis of any operational synergies, as required by Merger Standard (a)(iv).⁷
- (e) No witness attempted to justify the amount of the purchase price or acquisition premium ("AP") over book value, as required by Merger Standard (a)(ii). The testimony does not mention how any of the evidence filed on the reasonableness of the purchase price and the size of the AP relates to the existing book value of Westar's assets, rate base, or equity.⁸

³ Staff's Reply, p. 3, ¶ 5.

⁴ Staff's Reply, pp. 4-5.

⁵ Staff's Reply, p. 5.

⁶ Staff's Reply, pp. 5-7.

⁷ Staff's Reply, p. 7.

⁸ Staff's Reply, p. 8.

Staff requested the Commission either (1) direct Joint Applicants to rectify the deficiencies by amending the Joint Application immediately or, in the alternative, (2) dismiss the Joint Application without prejudice.⁹

5. It is important to note that Staff's arguments, as listed above, relate to the adequacy of the information provided and whether the Direct Testimony supporting the Joint Application and Direct Testimony is sufficient to demonstrate that the proposed transaction is in the public interest using the Merger Standards. In making these arguments Staff does not assert that Joint Applicants completely failed to address a particular Merger Standard. This distinction is important in evaluating the request in Staff's Reply.

6. On September 19, 2016, Joint Applicants filed their *Response to Staff's and CURB's Reply to Joint Applicants' Verified Response to Commission's Order on Merger Standards* ("Joint Applicants' September 19th Response"), fully addressing Staff's allegations, summarized as follows:

- (a) It reaffirmed that the Joint Applicants fully accepted the Merger Standards as the standards under which their Application would be evaluated in this case.¹⁰
- (b) It explained that the only relevant question was whether the Application met the Merger Standards, making irrelevant the allegations in Staff's Reply that Joint Applicants' Direct Testimony filed with the Application addressed some lower standard.¹¹
- (c) It provided a review of the merger savings and acquisition premium evidence the Commission accepted as sufficient in the 1991 Merger Docket and upon which the Commission based its decision to approve the application in that case.¹²
- (d) It explained how the information in the Joint Application met the evidentiary standard adopted in the 1991 Merger Order.¹³

⁹ Staff's Reply, p. 3.

¹⁰ Joint Applicants' September 19th Response, p. 3.

¹¹ Joint Applicants' September 19th Response, p. 4.

¹² Joint Applicants' September 19th Response, pp. 5-8.

¹³ September 19th Response, pp. 8-11.

- (e) It addressed Staff's concern regarding the Missouri Public Service Commission's Affiliate Transaction Rule.¹⁴

7. Based upon the foregoing pleadings, the Commission issued its October 18th Order. The Order did not directly find that the Joint Application was deficient in any manner. The Commission made no findings regarding the question of whether the Joint Application addressed the Merger Standards. It did not review the specific allegations made by Staff as set forth above in ¶4; nor did the Commission address the request in Staff's Reply.

8. Regarding the information contained in Joint Applicants' September 19th Response, the Commission's October 18th Order acknowledged that Joint Applicants had clearly stated their acceptance of the Commission's Merger Standards (Item (a) in ¶6, above), and agreed with Joint Applicants' statement that the only relevant question is whether the testimony addresses the Merger Standards as set out by the Commission in its Order (Item (b) in ¶6, above). However, the Order offered no mention or analysis of the fact that the 1991 Merger Order accepted and relied upon projections and estimations of merger savings to support approval of that transaction (Item (c) in ¶6, above), nor did the Order address whether the information in the Joint Application met the evidentiary standard set forth in the 1991 Merger Order (Item (d) in ¶6, above). The Order was also silent concerning the Missouri Public Service Commission's Affiliate Transaction Rule (Item (e) in ¶6, above). The October 18th Order is the first time in the course of this proceeding, however, that the Commission itself implies that the Joint Application and Joint Applicants' Direct Testimony may be deficient. For these reasons, and for those discussed below, Joint Applicants file this Motion for Leave to File Supplemental Direct Testimony.

¹⁴ September 19th Response, pp. 11-12.

II. BASIS FOR FILING SUPPLEMENTAL TESTIMONY

9. Joint Applicants are compelled to submit the attached supplemental testimony as a result of certain aspects of the Commission's October 18th Order. Although Joint Applicants continue to believe that they addressed the Merger Standards¹⁵ sufficiently in their Joint Application and Direct Testimony, it is clear that Staff and CURB do not agree with that conclusion. Additionally, certain aspects of the October 18, 2016 Order cause the Joint Applicants to believe that submission of supplemental testimony is necessary at this time to address Staff's alleged deficiencies of the Joint Application and supporting Direct Testimony. Although the Commission did not make a specific finding that the Joint Application failed to address any of the Merger Standards, and did not make a specific finding that the Joint Application and supporting Direct Testimony is deficient as alleged by Staff and CURB, the Commission's October 18th Order includes the following statements which could be construed as meaning that the Commission may share the concerns raised by Staff and CURB:

- (a) The Commission has provided the Joint Applicants with an opportunity to amend their Joint Application to conform to the applicable merger standards. Despite their recognition that the Joint Application will be reviewed under the merger standards enumerated in the Order on Merger Standards, the Joint Applicants have elected not to do so, and are bound by their filings.¹⁶
- (b) The Commission disagrees with the Joint Applicants' characterization that they merely paraphrased the merger standards and advises the Joint Applicants that if their Joint Application and supporting testimony do not conform to the merger standards, the Commission will be compelled to deny the Joint Application.¹⁷
- (c) Furthermore, discovery is ongoing and may provide the parties with sufficient information to evaluate the Joint Application. However, the Joint Applicants are fully aware of Staff's and CURB's concerns. If the parties continue to believe the

¹⁵ Attached as **Attachment C** is a chart showing where in the Joint Application and Direct Testimony each Merger Standard is addressed.

¹⁶ October 18th Order, pp. 5-6, ¶ 11.

¹⁷ October 18th Order, p. 6, ¶ 12.

Joint Application does not adequately address the merger standards, they may file for the appropriate relief.¹⁸

- (d) While the Commission notes the Joint Applicants have accepted the merger standards enumerated in its Order on Merger Standards, and the Joint Applicants have not amended their Joint Application in response to the Order on Merger Standards, the Commission takes no formal action at this time on either Staff's Reply to Joint Applicants' Verified Response to Commission's Order on Merger Standards or CURB's Responses to Staff's Reply to Joint Applicants' Verified Response to Commission's Order on Merger Standards.¹⁹
- (e) If the parties maintain that the Joint Application does not adequately address the merger standards, they may file for the appropriate relief.²⁰

10. The Joint Applicants are uncertain whether the Commission itself believes that additional direct testimony in these areas is necessary, but out of an abundance of caution, the Joint Applicants request to file the supplemental direct testimony attached hereto. Because Staff's arguments are the only ones identified as supporting the alleged deficiency, Joint Applicants' supplemental direct testimony addresses those arguments.

11. The Transaction will provide substantial benefits to the Joint Applicants' customers and shareholders. Joint Applicants do not want to risk losing or delaying those benefits due to a misunderstanding over any guidance or direction the Commission might be giving in its October 18th Order. Therefore, the Joint Applicants request leave to file Supplemental Testimony in order to eliminate this risk and potential for delay.

III. PETITION FOR RECONSIDERATION

12. To the extent necessary, Joint Applicants request reconsideration and clarification of that portion of the October 18th Order which may be read to preclude Joint Applicants' filing of supplemental testimony at this time. On pages 5 and 6, ¶11 of the October 18th Order, the Commission stated "[T]he Commission has provided the Joint Applicants with an opportunity to

¹⁸ October 18th Order, p. 6, ¶ 13.

¹⁹ October 18th Order, p. 6, ¶ A.

²⁰ October 18th Order, p. 6, ¶ B.

amend their Joint Application to conform to the applicable merger standards. Despite their recognition that the Joint Application will be reviewed under the merger standards enumerated in the Order on Merger Standards, the Joint Applicants have elected not to do so, and are bound by their filings.” If this statement is read to preclude Joint Applicants’ filing of supplemental testimony, reconsideration is warranted because at the time Joint Applicants stated their belief that supplemental testimony and amendment of their application was not necessary (*i.e.*, in their August 30th and September 19th filings herein), the uncertainty regarding the meaning of the October 18th Order did not exist. Given the suggestion in the October 18th Order that the Commission may believe the Joint Application and supporting Direct Testimony to be deficient, Joint Applicants’ filing of supplemental testimony is the most efficient and effective way to move this proceeding forward and avoid unnecessarily delaying customers’ opportunity to enjoy the benefits of the Transaction. Therefore, to the extent necessary, Joint Applicants request reconsideration of the October 18th Order to permit their filing of supplemental direct testimony.

WHEREFORE, Joint Applicants hereby move for leave to file the supplemental direct testimony attached hereto as **Attachment A** and **Attachment B**, request reconsideration of the October 18th Order as set forth in ¶14 above, if necessary, and such further relief as the Commission may deem appropriate.

Respectfully submitted,

/s/ Robert J. Hack

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ATTORNEY FOR WESTAR ENERGY

CERTIFICATE OF SERVICE

I do hereby certify that on the 2nd day of November, 2016, I electronically filed via the Kansas Corporation Commission's Electronic Filing System, a true and correct copy of the above and foregoing with a copy emailed to all parties of record.

Robert J. Hack

Robert J. Hack

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

SUPPLEMENTAL DIRECT TESTIMONY OF

KEVIN E. BRYANT

ON BEHALF OF
GREAT PLAINS ENERGY INCORPORATED
AND
KANSAS CITY POWER & LIGHT COMPANY

IN THE MATTER OF THE JOINT APPLICATION OF GREAT PLAINS ENERGY
INCORPORATED, KANSAS CITY POWER & LIGHT COMPANY,
AND WESTAR ENERGY, INC. FOR APPROVAL OF THE ACQUISITION OF
WESTAR ENERGY, INC.
BY GREAT PLAINS ENERGY INCORPORATED

DOCKET NO. 16-KCPE-593-ACQ

1 **Q: Please state your name and business address.**

2 A: My name is Kevin E. Bryant. My business address is 1200 Main Street, Kansas City,
3 Missouri 64105.

4 **Q: Are you the same Kevin E. Bryant that provided Direct Testimony on behalf of**
5 **Great Plains Energy (“GPE”) and Kansas City Power & Light Company**
6 **(“KCP&L”) in this case?**

7 A: Yes, I am.

8 **Q: What is the purpose of your supplemental direct testimony?**

9 A: My Supplemental Direct Testimony is being filed in response to the Commission’s
10 October 18, 2016 *Order Addressing Joint Applicants’ Verified Responses On The*
11 *Commission’s Merger Standards* (“October 18th Order”), and is intended to resolve the

1 deficiency suggested by Commission Staff (“Staff”) and supported by the Citizens’
2 Utility Ratepayer Board (“CURB”) regarding Merger Standards (a)(ii) and (a)(iv).

3 **Q: What is Merger Standard (a)(ii)?**

4 A: The standard is “(a) the effect of the transaction on consumers, including:
5 (ii) reasonableness of the purchase price, including whether the purchase price was
6 reasonable in light of the savings that can be demonstrated from the merger and whether
7 the purchase price is within a reasonable range.”

8 **Q: What is Merger Standard (a)(iv)?**

9 A: The standard is “(a) the effect of the transaction on consumers, including: (iv) whether
10 there are operational synergies that justify payment of a premium in excess of book
11 value.”

12 **Q: What is your understanding of the deficiency suggested by Staff regarding Merger
13 Standards (a)(ii) and (a)(iv)?**

14 A: Based on *Staff’s Reply to Joint Applicants’ Verified Response to Commission’s Order on
15 Merger Standards* filed on September 9, 2016 (“Staff’s Reply”), I understand that Staff
16 believes Joint Applicants have not provided adequate support for or explanation of either
17 (1) the reasonableness of the purchase price in light of savings that can be demonstrated
18 from the Transaction (a part of Merger Standard (a)(ii)), or (2) how operational synergies
19 from the Transaction justify the premium in excess of book value that GPE has agreed to
20 pay for Westar Energy, Inc. (“Westar”) (Merger Standard (a)(iv)).

1 **Q: Why do you believe the purchase price meets the requirements of standard (a)(ii)**
2 **and (a)(iv)?**

3 A: First, as discussed in the Supplemental Direct Testimony of Mr. Darrin R. Ives, Merger
4 Standard (a)(ii) is prefaced by how it affects consumers. That said, the purchase price is
5 within a reasonable range in light of recent merger activity in the electric utility industry.
6 As I discussed in my Direct Testimony at page 11, the premium offered in the
7 Transaction is in line with that paid in other recent deals. The reasonableness of the price
8 can also be demonstrated using the same metrics that Staff witness Grady used to
9 determine the reasonableness of the purchase price in the recent acquisition of Empire
10 District Electric Company (“Empire”). In his testimony supporting the settlement in that
11 matter (Docket No. 16-EPDE-410-ACQ (the “Empire Docket”)), Mr. Grady compared
12 the ratio of the purchase price (or enterprise value (“EV”)) to both next year earnings
13 before interest, tax, depreciation and amortization (“EBITDA”) and to next year Rate
14 Base in both the proposed transaction and several recent deals. Using the same method
15 that Mr. Grady used in the Empire Docket and an EV of \$12.2 billion, I calculated the
16 ratios of EV to Westar’s projected 2016 EBITDA of \$1.1 billion as 11.1x and EV to
17 Westar’s projected year end 2016 Rate Base of \$7.1 billion as 1.7x in the Transaction.
18 The results of these calculations show that the acquisition premium offered in the
19 Transaction is in line with those paid in the recent deals included in Mr. Grady’s analysis
20 in the Empire Docket where the EV to EBITDA ranged from 8.1x to 10.6x and the EV to
21 Rate Base ranged from 1.4x to 2.2x.

1 Additionally, there are savings that further support the reasonableness of the
2 purchase price and operational efficiencies that justify payment of a premium in excess of
3 book value:

- 4 • As discussed in more detail in the Supplemental Direct Testimony of Mr. Ives,
5 Joint Applicants are not requesting that customers pay for any of the acquisition
6 premium (whether calculated relative to book value or the undisturbed stock price
7 prior to the announcement of the Transaction) or transaction costs through
8 inclusion of any such costs in revenue requirement calculation. Consequently, the
9 savings demonstrated to result from the Transaction and which benefit customers
10 in future general rate cases will necessarily exceed Transaction-related costs (that
11 is, the premium in excess of book value and transaction costs) borne by
12 customers;
- 13 • The net present value of Transaction-related savings is consistent with the
14 acquisition premium in excess of book value; and
- 15 • Customers will experience the benefit of Transaction-related savings in an amount
16 that is fair relative to the benefit Westar shareholders will experience as a result of
17 the acquisition premium being paid. And these benefits are not available to
18 customers without the Transaction.

1 **Q: What is the amount estimated as the acquisition premium in excess of book value to**
2 **be paid by GPE for Westar?**

3 A: As discussed in the Direct Testimony of Mr. Steven P. Busser, this amount (also called
4 goodwill in accounting parlance) is estimated to be \$4.9 billion.¹

5 **Q: Please explain your statement that because Joint Applicants are not requesting**
6 **recovery of the acquisition premium in excess of book value or transaction costs**
7 **associated with this Transaction, Transaction-related efficiency savings (“savings”**
8 **in Merger Standard (a)(ii) and “operational synergies” in Merger Standard**
9 **(a)(iv)) to be flowed to the benefit of customers in future general rate cases will**
10 **necessarily exceed Transaction-related costs to be borne by customers?**

11 A: As discussed in more detail in the Direct Testimony of Mr. William J. Kemp,
12 Transaction-related efficiency savings are estimated to reach \$65 million in the first full
13 year after the Transaction closes (which is expected to be calendar year 2018) and
14 increase to approximately \$200 million in the third full year after the Transaction closes²
15 (which is expected to be 2020). As discussed in more detail in the Direct Testimony of
16 Mr. Ives, these efficiency savings will be flowed back to the benefit of customers through
17 normal ratemaking procedures during rate cases that will be filed by KCP&L and Westar
18 over time, resulting in rate increases lower than would be the case in the absence of the
19 Transaction. KCP&L and Westar expect to file the first of such rate cases prior to
20 January 1, 2019.

21 As discussed in more detail in the Supplemental Direct Testimony of Mr. Ives,
22 because neither KCP&L nor Westar will request inclusion of Transaction-related costs

¹ Direct Testimony of Steven P. Busser, p. 12.

² Direct Testimony of William J. Kemp, Schedule WJK-3.

(i.e., the acquisition premium being paid in excess of book value or transaction costs), even savings of only \$1 flowed to the benefit of customers would exceed the \$0 in Transaction-related costs to be included in customer rates. As discussed in the Direct Testimony of Mr. Ives, transition-related costs are expected to be recovered from customers in future rates, but only if the Commission determines at the time that savings to customers exceed those costs.

Q: What is the net present value of operational synergies, including the assumptions and calculations used, that result from this Transaction?

A: The following table (Table 1) includes the assumptions, and calculation descriptions, that reflect a net present value of operational savings of approximately \$4.3 billion.

Table 1

Line	Description	\$-millions	Source
1	Year 0 (2017) Net Savings	\$ 16	Direct Testimony of William J Kemp, Schedule WJK-3
2	Year 1 (2018) Net Savings	\$ 63	Direct Testimony of William J Kemp, Schedule WJK-3
3	Year 2 (2019) Net Savings	\$ 149	Direct Testimony of William J Kemp, Schedule WJK-3
4	Year 3 (2020) Net Savings	\$ 199	Direct Testimony of William J Kemp, Schedule WJK-3
5	Discount rate	7.50%	Average WACC in Kansas rates (Westar and KCP&L)
6	Years 0-3 discounted savings	\$ 364	Calculated (NPV Lines 2-4 + Line 1)
7	Annual inflation rate*	2.40%	Consumer Price Index Economic Projection*
8	On-going savings	\$ 3,902	Calculated (Line 4 / (Line 5 - Line 7))
9	Total discounted savings	\$ 4,266	Calculated (Line 6 + Line 8)

*Congressional Budget Office January 2016, *The Budget and Economic Outlook: 2016 to 2026*, Page 157

As stated on page 7 of my Direct Testimony “we expect to deliver approximately \$65 million of net savings in 2018, the first full calendar year following close of the Transaction, increasing to nearly \$200 million annual net savings and benefits in the third

1 full year after close, 2020". The savings to be realized from the Transaction are
2 described and quantified in the Direct Testimony of Mr. Kemp.³

3 Mr. Kemp's testimony also states, "...savings would be expected to increase at
4 roughly the rate of inflation".⁴ As indicated in Table 1, we used a rate of inflation of
5 2.4% based on the Consumer Price Index Economic Projection published by the
6 Congressional Budget Office in January 2016. We calculated the ongoing savings using
7 a dividend discount model based on Year 3 (2020) Net Savings, a Discount Rate of
8 7.50% and an Annual Inflation Rate" of 2.40%

9 **Q: You noted that that the acquisition premium is larger than the anticipated savings.
10 Does that cause the Transaction to violate the Merger Standards?**

11 A: No. The amount of the acquisition premium and the savings resulting from the merger
12 result from different sources and are driven by different factors. As discussed by Mr.
13 Ives in his Supplemental Direct Testimony, it is not unusual for the acquisition premium
14 to exceed the net present value ("NPV") of savings nor is that a problem under the
15 Merger Standards.

16 **Q: In addition to Transaction-related savings, has GPE identified other sources of cash
17 to assist in funding the Transaction?**

18 A: Yes. As discussed in more detail on pages 15 through 17 of my Direct Testimony, cash
19 flows of GPE's operating utilities will further improve post-closing, dividend payments
20 will be lower three years after closing and net operating loss carry-forwards will also
21 provide another additional source of cash to fund the Transaction.

³ Direct Testimony of William J. Kemp, pp. 19-26 and Schedule WJK-3.

⁴ Direct Testimony of William J. Kemp, Schedule WJK-3, note 3.

1 **Q: Please explain your statement that customers will experience the benefit of**
2 **Transaction-related savings in an amount that is fair relative to the amount of the**
3 **benefit Westar shareholders will experience as a result of the acquisition premium**
4 **being paid.**

5 A: As discussed above, the net present value of savings from the Transaction are
6 approximately \$4.3 billion and will be reflected to the benefit of customers in rates as rate
7 cases are implemented in the future. The acquisition premium is estimated at \$4.9 billion
8 over book value and \$2.3 billion over Westar's undisturbed stock price (the latter being
9 the true measure of benefit to Westar shareholders) – costs that will be borne by GPE
10 shareholders at their sole risk because, as discussed in the Supplemental Direct
11 Testimony of Mr. Ives, we are not seeking recovery of any of the acquisition premium
12 through inclusion of such costs in revenue requirement and rates. Given that customers
13 incur no cost to receive these benefits – other than payment of transition costs to the
14 extent they are covered by demonstrated savings – and that GPE shareholders bear all the
15 risk of receiving a fair return on their investment, the result is more than fair to
16 customers.

17 **Q: Does this conclude your Supplemental Direct Testimony?**

18 A: Yes.

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Great)
Plains Energy Incorporated, Kansas City)
Power & Light Company, and Westar) Docket No. 16-KCPE-593-ACQ
Energy, Inc. for approval of the Acquisition of)
Westar Energy, Inc. by Great Plains Energy)
Incorporated)

AFFIDAVIT OF KEVIN E. BRYANT

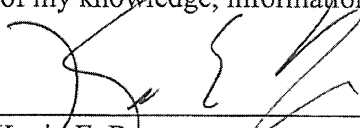
STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Kevin E. Bryant, being first duly sworn on his oath, states:

1. My name is Kevin E. Bryant. I work in Kansas City, Missouri, and Kansas City Power & Light Company as Senior Vice President – Finance and Strategy and Chief Financial Officer of Great Plains Energy, KCP&L and KCP&L Greater Missouri Operations.

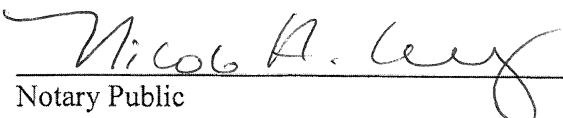
2. Attached hereto and made a part hereof for all purposes is my Supplemental Direct Testimony on behalf of Great Plains Energy Incorporated and Kansas City Power & Light Company consisting of eight (8) pages, having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.



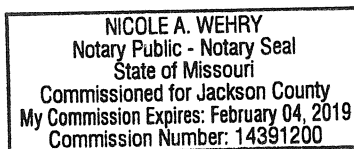
Kevin E. Bryant

Subscribed and sworn before me this 2nd day of November 2016.



Notary Public

My commission expires: Feb 4, 2019



BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

SUPPLEMENTAL DIRECT TESTIMONY OF

DARRIN R. IVES

ON BEHALF OF
GREAT PLAINS ENERGY INCORPORATED
AND
KANSAS CITY POWER & LIGHT COMPANY

IN THE MATTER OF THE JOINT APPLICATION OF GREAT PLAINS ENERGY
INCORPORATED, KANSAS CITY POWER & LIGHT COMPANY,
AND WESTAR ENERGY, INC. FOR APPROVAL OF THE ACQUISITION OF
WESTAR, INC.
BY GREAT PLAINS ENERGY INCORPORATED

DOCKET NO. 16-KCPE-593-ACQ

1 Q: Please state your name and business address.

2 A: My name is Darrin R. Ives. My business address is 1200 Main Street, Kansas City,
3 Missouri 64105.

4 Q: Are you the same Darrin R. Ives that provided Direct Testimony on behalf of Great
5 Plains Energy (“GPE”) and Kansas City Power & Light Company (“KCP&L”) in
6 this case?

7 A: Yes, I am.

8 Q: What is the purpose of your Supplemental Direct Testimony?

9 A: My Supplemental Direct Testimony is being filed in response to the Commission’s
10 October 18, 2016 *Order Addressing Joint Applicants’ Verified Responses On The*
11 *Commission’s Merger Standards*, (“October 18th Order”) and is intended to resolve the

1 deficiencies suggested by Staff and supported by CURB regarding Merger Standard
2 (a)(ii), including the status of the request by GPE, KCP&L and KCP&L Greater Missouri
3 Operations Company (“GMO”) for a variance from the Missouri Public Service
4 Commission (“MoPSC”) Affiliate Transactions Rule, and Merger Standard (a)(iv). In
5 addition, I will reiterate the Joint Applicants’ position that they accept the Merger
6 Standards articulated by the Commission in its August 9, 2016 Order on Merger
7 Standards and, for the convenience of the Commission and the parties, provide a schedule
8 showing where each Merger Standard is addressed in the Direct Testimony and
9 Supplemental Direct Testimony of Joint Applicants.

10 **Q: Why is this supplemental testimony being submitted in response to the October 18th**
11 **Order when Joint Applicants previously stated supplemental testimony is not**
12 **needed?**

13 A: For the reasons set forth in *Joint Applicants’ Motion for Leave to File Supplemental*
14 *Testimony* filed concurrently with this Supplemental Testimony.

15 **Q: What is Merger Standard (a)(ii)?**

16 A: The standard is “(a) the effect of the transaction on consumers, including:
17 (ii) reasonableness of the purchase price, including whether the purchase price was
18 reasonable in light of the savings that can be demonstrated from the merger and whether
19 the purchase price is within a reasonable range.”

20 **Q: What is Merger Standard (a)(iv)?**

21 A: The standard is “(a) the effect of the transaction on consumers, including (iv) whether
22 there are operational synergies that justify payment of a premium in excess of book
23 value.”

1 **Q: What is your understanding of the deficiency suggested by Staff regarding Merger**
2 **Standards (a)(ii) and (a)(iv) and of Staff’s concern regarding the status of the**
3 **request by GPE, KCP&L and GMO for a variance from the Missouri Public Service**
4 **Commission (“MoPSC”) Affiliate Transactions Rule?**

5 A: Based on pages 3-5 and 7-9 of *Staff’s Reply to Joint Applicants’ Verified Response to*
6 *Commission’s Order on Merger Standards* filed on September 9, 2016 (“Staff’s Reply”),
7 I understand that Staff believes Joint Applicants have not provided adequate support for
8 or explanation of either (1) the reasonableness of the purchase price in light of savings
9 that can be demonstrated from the Transaction (a part of Merger Standard (a)(ii)), or
10 (2) how operational synergies from the Transaction justify the premium in excess of book
11 value that GPE has agreed to pay for Westar Energy, Inc. (“Westar”) (a part of Merger
12 Standard (a)(iv)).

13 Based on pages 5-7 of Staff’s Reply, I understand that Staff is concerned about a
14 lack of clarity regarding whether GPE, KCP&L and GMO will obtain a variance from the
15 MoPSC Affiliate Transactions Rule to permit transactions between the regulated
16 operations of KCP&L, GMO and Westar to be undertaken at cost, except for wholesale
17 power transactions which would occur based on Federal Energy Regulatory Commission
18 (“FERC”) authorized rates. This is part of Staff’s concern related to Merger Standard
19 (a)(ii).

20 **Q: How do you respond to the deficiency suggested by Staff regarding merger standard**
21 **(a)(ii)?**

22 A: Based on pages 3-5 of Staff’s Reply, I believe the deficiency Staff has suggested
23 regarding Merger Standard (a)(ii) is primarily focused on the phrase “savings that can be

1 demonstrated from the merger”, and largely ignores the phrase “the effect of the
2 transaction on consumers.” This selective reading of Merger Standard (a)(ii) results, in
3 my opinion, in Staff’s belief that the savings estimates discussed in detail in the direct
4 testimony of Mr. William J. Kemp – reaching, for the combined companies, \$65 million
5 in the first full year after closing and increasing to \$200 million in the third full year after
6 closing, all relative to a baseline which is the sum of each individual company’s stand-
7 alone plans – are speculative and not sufficiently detailed.

8 Staff appears to have overlooked this important wording in Merger Standard
9 (a)(ii), which causes Staff to similarly fail to appropriately recognize the fact that Joint
10 Applicants are not requesting recovery of any portion of the purchase price (*i.e.*, the
11 acquisition premium in excess of net book value or transaction costs) in revenue
12 requirement and rates paid by customers for electric service and, as such, any savings
13 realized from the Transaction that are reflected in revenue requirement and rates through
14 the ratemaking process represent benefits for customers in the form of rates that are lower
15 than they would have been absent the Transaction.

16 **Q: What specifically do you mean when you say that Joint Applicants are not**
17 **requesting recovery of any portion of the acquisition premium in excess of book**
18 **value in revenue requirement and rates for electric service?**

19 A: I mean that on a going-forward basis after the closing of the Transaction, rates will
20 continue to be set on the basis of net book value of assets used and useful in providing
21 electric service to customers just as they have been for many years in the state of Kansas.
22 Because future rates will be set in the same fashion as rates have been set in the past (*i.e.*,
23 on the basis of net book value of utility assets and annualized and normalized cost of

1 service based on historical costs adjusted for known and measurable changes), GPE and
2 its utility subsidiaries will be motivated to achieve savings post-closing to help pay for
3 the acquisition premium in excess of book value. When GPE's utility subsidiaries
4 undergo general rate cases post-closing, these savings (net of transition costs incurred to
5 achieve them for which the Commission grants rate recovery) will flow to the benefit of
6 customers in the form of rates for electric service lower than they would have been absent
7 the Transaction. Thus, the interests of GPE's utility subsidiaries and the customers they
8 serve are aligned toward the realization of Transaction-related savings.

9 **Q: Do you have any further response to the deficiency suggested by Staff regarding**
10 **Merger Standard (a)(ii)?**

11 Yes. I disagree with Staff's characterization of the savings estimates explained by
12 Mr. Kemp upon which GPE relied in formulating the purchase price it offered to pay for
13 Westar and would note that it is not at all unusual to use such estimates for that purpose
14 and for purposes of regulatory proceedings seeking approval of transactions like this
15 Transaction when integration work is ongoing simultaneously with the regulatory
16 proceeding. This was fully explained in Joint Applicants' *Response to Staff's and*
17 *CURB's Reply to Joint Applicants' Verified Response to Commission's Order on Merger*
18 *Standards* filed September 19, 2016 ("Joint Applicants' Response"). The Joint
19 Applicants' Response also details how the evidence provided in the initial filing was
20 consistent with the evidence presented by applicants in previous commission merger
21 dockets and accepted by the Commission in deciding those applications.¹

¹ The October 18th Order did not address this detailed information provided in the Joint Applicants' Response, nor did it find that the Joint Application failed to adequately address the merger standards, as alleged by Staff and CURB.

1 However, in an effort to be responsive to Staff’s concerns, we have met with Staff
2 and CURB to explain how GPE’s savings estimates were derived and we continue to
3 respond to data requests regarding savings with as much detail as possible given the
4 status of the integration planning process. While GPE will continue those efforts, it is
5 important to understand that detailed plans regarding savings will only be available over
6 time as the integration planning process unfolds.

7 While it is not possible to audit savings that have not yet occurred, it can be
8 reasonable to rely on savings estimates of a forward-looking nature. The savings
9 estimates used by GPE for purposes of developing the price to be paid for Westar are
10 reasonable and reliably achievable based on a number of corroborating lines of objective
11 evidence. For example:

- 12 1. As Mr. Kemp concluded in his Direct Testimony on page 37, lines 13-15, GPE’s
13 savings estimation methodology is sound, comprehensive, conservative, and
14 bottom-up.
- 15 2. As noted by Mr. Kemp on page 35, lines 13-19 of his Direct Testimony, the
16 savings estimated for this Transaction (approximately 9% of non-fuel operations
17 and maintenance, “NFOM”, expense) falls within the 7-10% generally expected
18 for transactions between companies like GPE and Westar that have similar
19 business models and are proximate to one another geographically.
- 20 3. In his Direct Testimony on pages 33 through 36, Mr. Kemp also compared the
21 savings estimated for this Transaction to realized cost reductions by major
22 function for 36 historical utility mergers, finding GPE’s estimated savings
23 performance to be modestly higher than the median of that historical industry data

1 set, again as should be expected for a transaction like the GPE-Westar
2 Transaction with such favorable circumstances and geographic proximity.

3 4. GPE has a track record of successfully achieving similar levels of NFOM savings.

4 The estimated percentage savings in total NFOM for this Transaction (9.1%) are
5 extremely close to the realized NFOM savings from the GPE-Aquila transaction
6 (9.3%). (Kemp Direct, p. 35, lines 9-11)

7 5. The savings estimates from the bid process include no or very low savings from

8 some typically significant sources of savings (non-labor operations and
9 maintenance (“O&M”)/administrative and general (“A&G”) expense,
10 transmission and distribution, customer service). GPE is confident that its more
11 detailed savings analysis and integration planning will identify additional savings.
12 Examples of areas that were arguably under-represented in the total savings
13 estimates include elimination of redundant spending in areas such as insurance,
14 executive positions, IT systems, public company support functions, and
15 Transmission and Distribution analytics and systems.

16 6. Realized savings in utility merger transactions tend to come in higher than

17 announced (*i.e.*, initially estimated) savings. Companies find more savings as
18 they drill down. The annual savings actually realized is on average about 140%
19 of the initially announced savings, across a range of utility transactions. (See
20 Mr. Kemp’s Supplemental Direct Testimony in the GPE-Aquila merger approval
21 case, Docket No. 07-KCPE-1064-ACQ, at pages 18-19).

22 7. The announced savings from this Transaction (9.1% of annual NFOM) are right

23 in the middle of the announced savings from comparable transactions. Realized

1 savings should be higher than median given the circumstances of this Transaction.
2 (See Mr. Kemp's Supplemental Direct Testimony in the GPE-Aquila merger
3 approval case, Docket No. 07-KCPE-1064-ACQ, at Schedule WJK-4).

4 8. The major sources of savings are clearly related to enterprise scale. The bulk of
5 Generation savings derive from lower combined operating reserve requirements
6 (and accelerated plant closures). Most of the supply chain savings will be
7 obtained from leveraging greater spend and negotiating leverage. As discussed on
8 pages 22-25 of Mr. Kemp's Direct Testimony, central shared services and A&G
9 organizations will be consolidated. These are all typical and readily accessible
10 sources of scale economies.

11 9. Wall Street analysts and major utility investors (a skeptical crowd) must have
12 found the aggregate savings estimates credible because the price of GPE's stock
13 dipped on the announcement of the Transaction, but has recovered since GPE
14 explained the expected cost savings.

15 All of these lines of evidence and lessons from experience should more than adequately
16 demonstrate that not only are the savings to be received by consumers substantial, but
17 they are reliably achievable.

1 **Q: Related to Merger Standard (a)(ii) Staff also expressed concern regarding the status**
2 **of the request by GPE, KCP&L and GMO for a variance from the MoPSC Affiliate**
3 **Transaction Rule. How do you propose to resolve Staff’s concern about a lack of**
4 **clarity regarding whether GPE, KCP&L and GMO will obtain a variance from the**
5 **MoPSC Affiliate Transactions Rule?**

6 A: On October 12, 2016, GPE, KCP&L and GMO filed an application and direct testimony
7 requesting a variance from the MoPSC Affiliate Transactions Rule. On that same day,
8 GPE, KCP&L and GMO – along with the Staff of the MoPSC – filed a Stipulation and
9 Agreement designed to fully resolve all of the issues attendant to that proceeding with the
10 proposed resolution including a grant of the variance requested by GPE, KCP&L and
11 GMO. On October 26, 2016, GPE, KCP&L and GMO filed a Stipulation and Agreement
12 with the Office of the Public Counsel to settle the variance request. If these Stipulations
13 and Agreements are approved, and effective with the closing of the Transaction, this
14 would permit KCP&L and GMO to undertake transactions with Westar at cost, except for
15 wholesale power transactions which would occur based on rates authorized by the
16 Federal Energy Regulatory Commission (“FERC”). Although these Stipulations and
17 Agreements have not been approved yet, I fully expect that they will be approved.

18 It is important to remember that GPE and KCP&L requested this identical
19 variance from the MoPSC Affiliate Transactions Rule during the proceedings leading to
20 the approval of GPE’s acquisition of Aquila, Inc. which closed in 2008. The variance as

1 not granted by the MoPSC until July 1, 2008² which was after the date (May 15, 2008)
2 that the Aquila transaction was approved by the KCC.³

3 I therefore believe that this should fully resolve Staff's concern regarding the
4 status of the request by GPE, KCP&L and GMO for a variance of the MoPSC Affiliate
5 Transactions Rule.

6 **Q: How do you propose to resolve the deficiency suggested by Staff regarding Merger**
7 **Standard (a)(iv)?**

8 A: Based on pages 7-9 of Staff's Reply, I believe the deficiency Staff has suggested
9 regarding Merger Standard (a)(iv) is primarily focused on Staff's belief that there is a
10 lack of analysis and explanation contained in Joint Applicants' direct testimony regarding
11 whether operational synergies justify the acquisition premium GPE has agreed to pay "in
12 excess of book value", and largely ignores the phrase "the effect of the transaction on
13 consumers." This selective reading of Merger Standard (a)(iv) results, in my opinion, in
14 Staff not recognizing that Joint Applicants are not requesting recovery of any portion of
15 the acquisition premium in excess of book value through inclusion in revenue
16 requirement and rates for electric service and, therefore, that any savings realized from
17 the Transaction that are reflected in revenue requirement and rates through the
18 ratemaking process represent benefits for customers in the form of rates that are lower
19 than they would have been absent the Transaction.

20 However, in an effort to be responsive to Staff's concerns, Mr. Kevin Bryant
21 addresses whether there are operational synergies that justify payment of a premium in

² Report and Order, Case No. EM-2007-0374, July 1, 2008, p. 264.

³ *Order Granting Joint Motion to Adopt Stipulation and Agreement and Approving Agreements*, Docket Nos. 07-BHCG-1063-ACQ and 07-KCPE-1064-ACQ, May 15, 2008.

1 excess of book value in detail in his Supplemental Direct Testimony, and I believe that
2 testimony addresses what Staff has indicated it sees as a deficiency in the Joint
3 Applicants' initial filing.

4 **Q. Is it necessary that the net present value of anticipated savings exceed the**
5 **acquisition premium in excess of book value to meet the requirements of Merger**
6 **Standard (a)(iv)?**

7 A: No. In fact, when the Commission first established its Merger Standards, it approved a
8 transaction where the acquisition premium exceeded the net present value of anticipated
9 savings.

10 **Q: Please explain.**

11 A. The Commission first established the Merger Standards in an order approving the
12 acquisition of Kansas Gas and Electric Company ("KGE") by The Kansas Power and
13 Light Company ("KPL") (KPL is the predecessor to Westar). In that transaction, KPL
14 paid an acquisition premium of \$388 million over the current book value of KGE stock.
15 *Re Kansas Power and Light Company, et al.*, 127 P.U.R.4th 201 (1991) However, faced
16 with estimates of merger savings ranging from \$226 million to \$705 million, the
17 Commission found that "\$312 million represent[ed] the cost savings which are
18 reasonably anticipated from the merger" *Id.* Even though the Commission found
19 that the acquisition premium exceeded the anticipated savings, it approved the merger.
20 However, the Commission limited the company's recovery of the acquisition premium to
21 the amount of savings actually realized capped at \$312 million. Of course, because we
22 are not seeking any recovery of the acquisition premium in rates, the Commission's

1 earlier decision on recovery of acquisition premium does not directly apply to this
2 proceeding.

3 **Q: Has GPE committed that it will not seek to recover costs of the premium in excess of**
4 **book value or transaction costs associated with the Transaction through inclusion in**
5 **revenue requirement and retail rates paid by customers of KCP&L and Westar?**

6 A: Yes, and that commitment remains in place. We have become aware, however, that some
7 party or parties may desire to make use of the debt used by GPE to finance the
8 Transaction during post-closing general rate cases of GPE's utility subsidiaries for
9 purposes of determining a fair and reasonable return and setting customer rates. This
10 would be inappropriate and unreasonable because, among other reasons, the debt used by
11 GPE to finance the Transaction will be dedicated to paying for the acquisition premium
12 in excess of book value as well as transaction costs and none of the proceeds of that debt
13 will be available to support the regulated operations of GPE's utility subsidiaries. But if
14 a party to a KCP&L or Westar general rate case advances such a proposal, then KCP&L
15 or Westar must have the ability to present all facts and counter-proposals necessary to
16 fully explain and rebut it.

17 Therefore, if – and only if – any party to a KCP&L or Westar general rate case
18 proposes to impute the cost or proportion of debt used by GPE to finance the Transaction
19 for purposes of determining a fair and reasonable return, then Westar and KCP&L
20 reserve the right to seek, in any such rate case, recovery of the acquisition premium in
21 excess of book value and transaction costs associated with the Transaction through
22 inclusion in revenue requirement and retail rates in order to match the recovery of the use
23 of funds with such a request to utilize the source of funds in setting retail rates.

1 **Q: Do you have a schedule showing where each Merger Standard is addressed in the**
2 **Direct Testimony and Supplemental Direct Testimony of Joint Applicants?**

3 A: Yes. Schedule DRI-1 attached hereto shows where each Merger Standard is addressed in
4 the Direct Testimony and Supplemental Direct Testimony of Joint Applicants. I provide
5 this information both for the convenience of the Commission and the parties and to
6 reiterate Joint Applicants' position that they accept the Merger Standards in Schedule
7 DRI-1 as the standards under which their Joint Application will be assessed.
8 Additionally, in fulfillment of the commitment made in Joint Applicants' August 30
9 Response and to ensure the record is clear that Joint Applicants fully accept the Merger
10 Standards as articulated in the Commission's August 9 Order on Merger Standards, I
11 have also attached hereto Joint Applicants' August 30 Response as Schedule DRI-2.

12 **Q: Does this conclude your Supplemental Direct Testimony?**

13 A: Yes.

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Westar Energy, Inc. for approval of the Acquisition of Westar Energy, Inc. by Great Plains Energy Incorporated)
)
) Docket No. 16-KCPE-593-ACQ
)
)

AFFIDAVIT OF DARRIN R. IVES

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Darrin R. Ives, being first duly sworn on his oath, states:

1. My name is Darrin R. Ives. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company as Vice President – Regulatory Affairs.

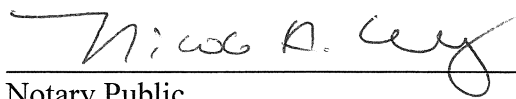
2. Attached hereto and made a part hereof for all purposes is my Supplemental Direct Testimony on behalf of Great Plains Energy Incorporated and Kansas City Power & Light Company consisting of thirteen (13) pages, having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.



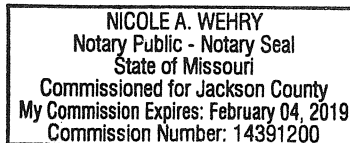
Darrin R. Ives

Subscribed and sworn before me this 2nd day of November 2016.



Notary Public

My commission expires: Feb. 4 2019



Summary of Direct and Supplemental Direct Testimony Supporting Merger Standards

(a) The effect of the transaction on consumers, including:

Ruelle: p. 29 line 16 through p. 30 line 9
Caisley: p. 7 line 12 through p. 17
Heidtbrink: p. 5 line 10 through p. 10 line 3; p. 11 lines 1-12
Ives: p. 10 line 1 through p. 11 line 5; p. 16 line 11 through p. 17 line 22; p. 18 lines 1-10;
p. 22 line 14 through p. 27 line 20
Busser: p. 8 line 7 through p. 9 line 2

(i) the effect of the proposed transaction on the financial condition of the newly created entity as compared to the financial condition of the stand-alone entities if the transaction did not occur;

Bassham: p. 16 lines 5-23
Ruelle: p. 27 line 3 through p. 29 line 15
Bryant: p. 9 line 4 through p. 11 line 4; p. 12 line 8 through p. 19 line 15; p. 21 through
p. 27 line 8
Busser: p. 11 line 14 through p. 15 line 7

(ii) reasonableness of the purchase price, including whether the purchase price was reasonable in light of the savings that can be demonstrated from the merger and whether the purchase price is within a reasonable range;

Bryant: p. 6 through p. 9 line 2; p. 11 line 5 through p. 12 line 7; Supplemental Direct,
p.2 line 22 through p. 7 line 10
Ives: p. 18 line 11 through p. 21 line 21; Supplemental Direct, p. 4 line 1 through p.
10 line 5
Kemp: generally

(iii) whether ratepayer benefits resulting from the transaction can be quantified;

Ruelle: p. 24 through p. 25 line 6; p. 25 line 4 through p. 27 line 2
Ives: p. 18 line 11 through p. 21 line 21
Kemp: generally

(iv) whether there are operational synergies that justify payment of a premium in excess of book value; and

Bassham: p. 10-12
Ruelle: p. 20 line 6 through p. 21 line 14; p. 39 line 4 through p. 40 line 17
Bryant: p. 11 line 5 through p. 12 line 7; Supplemental Direct, p. 2 line 22 through p. 7
line 10
Heidtbrink: p. 5 lines 3-9; p. 8 lines 1-20, p. 10 lines 4-20
Ives: p. 18 line 11 through p. 21 line 21; Supplemental Direct, p. 10 line 6 through p.
12
Kemp: generally

Busser: p. 10 line 3 through p. 11 line 8

(v) the effect of the proposed transaction on the existing competition.

Ives: p. 16 lines 1-9

(b) The effect of the transaction on the environment.

Bassham: p. 13 line 20 through p. 14 line 12

Heidtbrink: p. 8 lines 1-19

Ives: p. 11 lines 7-14

Busser: p. 9 line 2

(c) Whether the proposed transaction will be beneficial on an overall basis to state and local economies and to communities in the area served by the resulting public utility operations in the state. Whether the proposed transaction will likely create labor dislocations that may be particularly harmful to local communities, or the state generally, and whether measures can be taken to mitigate the harm.

Bassham: p. 5-9; p. 13 lines 15-19; p. 14 line 13 through p. 15 line 11

Ruelle: p. 16 lines 8-19; p. 25 lines 7-13; p. 31 line 10 through p. 32 line 16; p. 33 line 3 through p. 39 line 3

Caisley: p. 4 line 6 through p. 7 line 11

Heidtbrink: p. 11 lines 13-22

Ives: p. 11 line 15 through p. 13 line 2

Busser: p. 8 lines 14-19

(d) Whether the proposed transaction will preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state.

Ruelle: p. 32 line 17 through p. 33-line 2

Ives: p. 13 lines 3-9

(e) The effect of the transaction on affected public utility shareholders.

Ruelle: p. 31 lines 4-9

Bryant: p. 19 line 16 through p. 20 line 11

Ives: p. 13 lines 10-16

(f) Whether the transaction maximizes the use of Kansas energy resources.

Bassham: p. 13 line 20 through p. 14 line 12

Heidtbrink: p. 8 lines 1-19

Ives: p. 13 line 17 through p. 14 line 2

(g) Whether the transaction will reduce the possibility of economic waste.

Ruelle: p. 8 through p. 10 line 2

Heidtbrink: p. 8 line 1 through p. 9 line 13

Ives: p. 14 lines 3-7; p. 15 lines 10-22
Kemp: generally

(h) What impact, if any, the transaction has on the public safety.

Ruelle: p. 29 line 16 through p. 30 line 9
Ives: p. 14 line 9 through p. 15
Busser: p. 8 line 11

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Joint Application of)
Great Plains Energy Incorporated, Kansas)
City Power & Light Company and Westar) Docket No. 16-KCPE-593-ACQ
Energy, Inc. for approval of the Acquisition)
Of Westar Energy, Inc. by Great Plains)
Energy Incorporated.)

**JOINT APPLICANTS' VERIFIED RESPONSE TO COMMISSION'S ORDER ON
MERGER STANDARDS**

COME NOW Great Plains Energy Incorporated ("GPE"), Kansas City Power & Light Company ("KCP&L"), and Westar Energy, Inc. and Kansas Gas and Electric Company ("Westar"), (referred to collectively herein as "Joint Applicants"), and respond as follows to the Order on Merger Standards ("Order") issued by the State Corporation Commission of the State of Kansas ("Commission" or "KCC") on August 9, 2016.

I. BACKGROUND

1. In the Joint Application filed to initiate this docket on June 28, 2016, the Joint Applicants represented that GPE's acquisition of Westar is in the public interest and meets or surpasses the criteria established by the Commission for evaluating proposed acquisitions.¹ Joint Applicants listed the criteria under which they believed their Application would be evaluated based upon past Commission Orders.²

¹ Joint Application, p. 8, ¶15.

² Footnote 6 of the Joint Application specifically cited the Commission's Merger Order in Docket Nos. 172,745-U and 174,155-U, indicating that the standards had experienced only a few minor modifications since that time. In the Direct Testimony of Mr. Darrin Ives he identifies Docket No. 97-WSRE-676-MER, which is one of the later dockets modifying the Merger Standards. (Ives Direct, pp. 4-7.)

2. In the Order, the Commission explained that it had adopted several factors to consider in determining whether a proposed merger promotes the public interest in its November 14, 1991 Order in consolidated dockets, 172,745-U and 174,155-U (“1991 Merger Order”).³ The Commission also stated that in its September 28, 1999 Order in Docket No. 97-WSRE-676-MER (“97-676 Order” and “97-676 Docket”, respectively) it reaffirmed the merger standards, but made clear “they are to be supplemented by other consideration relevant to the unique facts and circumstances of each proposed merger”.⁴ The Commission also reaffirmed that in all evaluations of a proposed merger/acquisition, its central concern is whether the transaction will promote the public interest.⁵

3. While recognizing that the 97-676 Order allows for some flexibility in the merger standards, the Commission stated that it will require any deviation from the standards set out in ¶5 of the Order to be clearly identified in the application and justified in supporting testimony.⁶

4. In ¶A of the Order, the Commission states that it will evaluate the Application under the merger standards reaffirmed in ¶5 of the Order, and that any party wishing to modify those standards shall identify the proposed modifications and justify each and every modification with supporting testimony.⁷

5. The Order requires Joint Applicants to file any modifications to their application necessary to comply with the Commission’s directive in ¶A and that any party wishing to modify

³ Order, p. 2, ¶3.

⁴ Order, p. 2, ¶4 and p. 3, ¶6. The 97-676 Order actually modified the standards to add an additional consideration under factor (c). The Commission alludes to this modification in ¶5 of the Order.

⁵ Order, p. 2, ¶5

⁶ Order, pp. 3-4, ¶7.

⁷ Order, p. 4, ¶A.

the standards identify the proposed modifications and justify each with supporting testimony.

The Commission also directed Joint Applicants to explain:

- (1) How the merger standards listed in the Joint Application differ from those endorsed in the Order;
- (2) Why the Joint Application includes different merger standards than those endorsed in the Order; and
- (3) How the pre-filed testimony should be amended to conform to the merger standards reaffirmed in ¶5 of the Order, as opposed to the standards cited on pages 8-9 of the Joint Application.

II. JOINT APPLICANTS FULLY ADOPT THE MERGER STANDARDS IDENTIFIED BY THE COMMISSION IN ITS ORDER.

6. Joint Applicants did not intend, and do not wish, to modify the standards as set forth in ¶5 of the Order. The Joint Applicants accept the standards enumerated by the Commission and believe they have addressed those standards in their Joint Application and Direct Testimony. To the extent that paraphrasing of the merger standards in the Joint Application and/or Direct Testimony causes the Commission or the parties to believe otherwise, the Joint Applicants apologize for causing this confusion. The Joint Applicants did not and do not seek to change the Commission's merger standards in any way.

7. The Joint Application does not list the merger standards verbatim from the 1991 Order and the 97-676 Order, but the paraphrasing was not intended to, and does not, change the Commission's merger standards. A comparison between the verbatim merger standards and the merger standards listed in the Joint Application is set forth in **Attachment A** where the differences between Joint Applicants' list and the Commission's list are redlined, with material omitted from the verbatim merger standards in ¶5 of the Order shown in red underscored type, and material added to the verbatim merger standards in ¶5 of the Order struck-through. As can

be seen in **Attachment A**, the differences in the wording in factors (a)(i), (ii), (iii) and (v), and (b) through (h) do not change the meaning of the merger standards to be applied in this case.

8. Although the words “in excess of book value” were omitted from the recitation of factor (a)(iv) in the Joint Application, Joint Applicants’ Direct Testimony addressed this factor. Operational synergies are discussed by Mr. Terry Bassham and Mr. Mark Ruelle throughout their Direct Testimonies. Transaction-related savings are further detailed and quantified in the Direct Testimony of Mr. William Kemp. And Mr. Kevin Bryant describes in his Direct Testimony why the purchase price (which necessarily includes the acquisition premium being paid that, in the context of rate-regulated utility acquisitions is generally quantified from an accounting perspective – i.e., goodwill – as the amount by which the purchase price exceeds the net book value of the acquired utility’s assets⁸) is reasonable relative both to the savings levels identified by Mr. Kemp and other transactions that have occurred.⁹ Mr. Bryant also describes in his Direct Testimony how GPE’s financing of the transaction will allow GPE to maintain its investment-grade credit rating and will not impair the credit ratings of KCP&L or Westar.¹⁰ The amount of the premium in excess of book value and how it will be accounted for is presented by Mr. Steven Busser.¹¹ Importantly, the Joint Application and Joint Applicants’ Direct Testimony also stated that no costs associated with the acquisition premium (including transaction costs) would be requested for inclusion in revenue requirement and rates for electric service of any of

⁸ See Busser Direct, p. 12; and Ives Direct, p. 21. From a finance perspective, however, the acquisition premium is viewed differently and is typically quantified as the amount by which the purchase price exceeds the undisturbed stock price of the acquired utility. See Bryant Direct, p. 11. To be clear, no costs associated with the acquisition premium – whether quantified by reference to the net book value of the acquired utility’s assets or by reference to the acquired utility’s undisturbed stock price – will be requested for inclusion in revenue requirement and rates for electric service of any of GPE’s utility subsidiaries.

⁹ Kemp Direct, p. 6; and Bryant Direct, pp. 7-8 and 11-12.

¹⁰ Bryant Direct, pp. 12-22.

¹¹ Busser Direct, pp. 11-12.

GPE's utility subsidiaries.¹² The Commission has in the past clearly connected recovery of the acquisition premium from customers to its analysis of factor (a)(iv).¹³ Joint Applicants had no intent to change the meaning of factor (a)(iv) and fully addressed that factor throughout their Direct Testimony.

9. As for factors (i) through (n) on the list set out in the Joint Application, Joint Applicants included these items in the Joint Application and Direct Testimony out of an abundance of caution in an effort to make certain that no potentially applicable factor was ignored. The Joint Applicants apologize for any confusion this has caused to the Commission or the parties. The Joint Applicants are not requesting that those factors be adopted by the Commission as additions to the merger standards, especially given the Order. A brief explanation as to why Joint Applicants included them in the Joint Application and Direct Testimony is provided below in section III.(1).

III. THE COMMISSION'S ADDITIONAL QUESTIONS

(1) How the Merger Standards Listed in the Joint Application Differ from Those Endorsed in the Order.

10. **Attachment A** illustrates each difference between the verbatim merger standards and the merger standards listed in the Joint Application. As for factors (a) through (h), the standards listed in the application do differ, but not in substantive fashion from those endorsed in

¹² Joint Application, p. 12, ¶ 25; and Direct Testimony of Darrin Ives, pp. 7, 11 and 18-22.

¹³ See the Commission's analysis in the 1991 Order, in which rate recovery of the acquisition premium was requested: "In this case, the amount of the AP to be included in rates shall be tied to the savings reasonably projected to be generated by the merger." (p. 49). And contrast that analysis with the Commission's October 15, 1997 *Order Granting Joint Motion and Approving Stipulation and Agreement* in Docket No. 97-WSRG-486-MER ("97-486 Order") where there was no discussion of the cost justification for the acquisition premium. Under the settlement agreement in that case, neither party was permitted to recover the acquisition premium through customer rates. As such, the Commission's Order did not need to discuss whether the operational synergies justified the acquisition premium. (97-486 Order, pp. 12-13, ¶ 41).

the Order. However, Joint Applicants included additional factors (i) through (n) in the Joint Application, which are not included on the list of merger standards reaffirmed by the Commission in its Order.

11. The Commission has used the merger standards in its analysis of applications for certification under K.S.A. 66-131, recognizing the overlap in the analyses because both evaluate the public interest of a proposed transaction.¹⁴

12. Factor (i) in the Joint Application indicates the Commission can look at the regional benefits of a proposed transaction. This factor was endorsed in two dockets involving applications for certification of a transmission entity under K.S.A. 66-131, to be considered in addition to the merger standards listed in factors (a) through (h).¹⁵

13. Factor (j) in the Joint Application evaluates whether the transaction would result in unnecessary duplication of utility service. Factor (l) of the Joint Application addresses the effect on reliability of service and whether the transaction will promote adequate and efficient service. These factors come from the 97-676 Order wherein the Commission stated that it was also looking at whether the merger results in increased efficiencies for the merged company and enhances the reliability of electric service in the area.¹⁶ The 97-486 Order also clearly addresses service reliability.¹⁷

¹⁴ See Docket Nos. 06-SPPE-202-COC, 07-ITCE-380-COC, 08-KMOE-028-COC, and 11-GPEE-624-COC, for example. In addition, both certification and merger orders often cite to *Central Kansas Power Co. v. State Corp. Commission*, 206 Kan. 670 (1971) as the basis for defining the public interest analysis.

¹⁵ Docket Nos. 08-KMOE-028-COC (¶ 40), and 11-GBEE-624-COC (“11-624 Order) (¶ 56).

¹⁶ 97-676 Order, ¶ 20.

¹⁷ 97-486 Order, ¶ 13. The proposed acquisition by ONEOK of Western Resources natural gas operations was evaluated under the 1991 Merger Standards, with the Commission stating “[T]he Commission’s interpretation of the public interest standard has never been static. In this case, the Commission recognizes the 1991 standards and revises those standards to apply to today’s mergers especially with respect to quality of service.”

14. Factor (k) in the Joint Application concerns the impact on wholesale competition. In the 11-624 Order, when discussing standards to consider in evaluating a transmission certification application under K.S.A. 66-131, including the merger standards, the Commission specifically stated that the impact on wholesale competition was a consideration.¹⁸

15. Factor (m) in the Joint Application is “other relevant considerations involved in a particular case”. This was included in the Joint Application to acknowledge the Commission’s statement in the 97-676 Order that the factors from the 1991 Order are to be supplemented by any other considerations that are relevant given the circumstances existing at the time of the merger proposal.¹⁹

16. Factor (n) in the Joint Application sets out the Commission’s long-standing certification standard that a company must have the managerial, technical and financial ability to undertake that for which it requests Commission approval so that it can continue to operate effectively to provide efficient and sufficient service to customers. While not specifically stated in K.S.A. 66-131, this finding has been included, in one form or another, in almost all Commission certification and merger orders.²⁰

(2) Why the Joint Application Includes Different Merger Standards than Those Endorsed in the Order.

17. The Commission has used the merger standards in its analysis of applications for certification under K.S.A. 66-131, recognizing the overlap in the analyses since both evaluate the

¹⁸ 11-624 Order, ¶ 54.

¹⁹ 97-676 Order, ¶ 18.

²⁰ This was codified in the Kansas Telecommunications Act of 1996 with the adoption of K.S.A. 66-2005(w) which states, “*As required under K.S.A 66-131, . . . telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996 . . . must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.*” (Emphasis added)

public interest of a proposed transaction. Although those discussions were in the context of certification applications, Joint Applicants included some of these additional standards and elaborations on existing merger standards in the Joint Application to ensure that no potentially applicable criteria were ignored, and that all aspects of the Commission's public interest standard were addressed. The Commission's merger orders have stated that factors (a) through (h) "are the beginning criteria to be used when evaluating a merger application".²¹ To the extent other criteria previously found to be relevant to the Commission in similar dockets might be considered relevant to the GPE/Westar transaction, Joint Applicants made every effort to identify and address them in the Joint Application and Direct Testimony in any material respect.

18. In light of the Order, Joint Applicants understand that the Commission believes it was unnecessary to include factors (i) through (n) in the Joint Application and Direct Testimony. As explained in section III.(1), however, the Direct Testimony discussing these factors is still relevant to the Commission's determination of the public interest generally and will be retained.

(3) How the Pre-filed Testimony Should be Amended to Conform to the Merger Standards Reaffirmed in ¶5 of the Order, as Opposed to the Standards Cited on Pages 8-9 of the Joint Application.

19. Joint Applicants do not believe the pre-filed testimony needs to be amended. In response to the previous questions, Joint Applicants have explained how the Joint Application and Direct Testimony fully address the Commission's merger standards as reaffirmed in ¶5 of the Order. As such, the Joint Applicants do not believe that any changes to the Joint Application or Direct Testimony are necessary. In light of the Order, however, the Joint Applicants do believe that the evidentiary record in this proceeding must clearly reflect Joint Applicants' intention to accept the verbatim merger standards as set forth in the Order. Therefore, Joint

²¹ 97-676 Order, p. 8, ¶18.

Applicants will offer this Verified Response To Commission's Order on Merger Standards into evidence when Mr. Ives takes the witness stand during the evidentiary hearing.

IV. SUMMARY AND CLOSING

20. In preparing their Joint Application and Direct Testimony, Joint Applicants made every effort to be thorough and responsive to matters the Commission has expressed in previous orders as being relevant to the consideration of an application to approve a proposed acquisition. Joint Applicants hereby reiterate their regret for any confusion caused by the approach taken in the Joint Application and Direct Testimony, and thank the Commission for the opportunity to address this concern early in the schedule of this docket.

Respectfully submitted,

/s/ Robert J. Hack

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COUNSEL FOR WESTAR ENERGY

CERTIFICATE OF SERVICE

I do hereby certify that on the 30th day of August, 2016, I electronically filed via the Kansas Corporation Commission's Electronic Filing System, a true and correct copy of the above and foregoing Joint Applicants' Verified Response to Commission's Order on Merger Standards with a copy emailed to all parties of record.

/s/ Robert J. Hack


Robert J. Hack

VERIFICATION

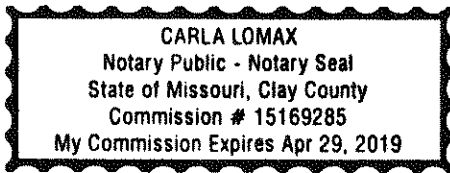
STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

I, Darrin R. Ives, being duly sworn, on oath state that I am Vice President – Regulatory Affairs of Kansas City Power & Light Company, that I have read the foregoing Joint Applicants’ Verified Response to Commission’s Order on Merger Standards and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

GREAT PLAINS ENERGY INCORPORATED

By: 
Darrin R. Ives

The foregoing was subscribed and sworn to before me this 30th day of August, 2016.




Notary Public

My Commission Expires:

Apr. 29, 2019

STANDARDS FROM JOINT APPLICATION WITH MATERIAL OMITTED FROM VERBATIM STANDARDS IN ¶5 SHOWN IN UNDERScoreD RED TEXT AND MATERIAL ADDED TO VERBATIM STANDARDS IN ¶5 STRUCK-THROUGH:

- (a) Effect of the transaction on consumers, including:
 - (i) Effect of the transaction on the financial condition of the newly created entity as compared to the financial condition of the stand-alone entities if the transaction does not occur;
 - (ii) Reasonableness of the purchase price; including whether the purchase price was reasonable in light of the potential savings that can be demonstrated from the ~~caused by~~ merger and whether is the purchase price is within a reasonable range;
 - (iii) Whether ratepayers' benefits resulting from the transaction can be quantified;
 - (iv) Whether there are any operational synergies that justify payment of premium in excess of book value; and
 - (v) The effect of the proposed transaction on the existing competition.
- (b) The Effect of the transaction on the environment.
- (c) Whether the proposed transaction will be beneficial on an overall basis to state and local economies and to communities in the areas served by the resulting public utility operations in the state.
 - (i) Whether the proposed transaction will likely create labor dislocations that may be particularly harmful to local communities, or the state generally, and whether measures can be taken to mitigate the harm.
- (d) Whether the proposed transaction will preserves ~~the jurisdiction of the KCC jurisdiction~~ and the capacity of the KCC to effectively regulate and audit public utility operations in the state.
- (e) The Effect of the transaction on affected public utility shareholders.
- (f) Whether the transaction maximizes the use of Kansas energy resources.
- (g) Whether the transaction will reduce the possibility of economic waste.
- (h) What impact, if any, the transaction has on public safety.
- ~~(i) The regional benefits of a proposed transaction, such as the impact on neighboring states.~~
- ~~(j) Whether the transaction would result in unnecessary duplication of utility service.~~

- ~~(k) — The impact on wholesale competition.~~
- ~~(l) — The effect on reliability of service — will it promote adequate and efficient service.~~
- ~~(m) — Other relevant considerations involved in a particular case.~~
- ~~(n) — Will the new entity have the managerial, technical and financial ability to continue operating effectively to provide efficient and sufficient service to its Kansas customers.~~

Summary of Direct and Supplemental Direct Testimony Supporting Merger Standards

(a) The effect of the transaction on consumers, including:

Ruelle: p. 29 line 16 through p. 30 line 9
Caisley: p. 7 line 12 through p. 17
Heidtbrink: p. 5 line 10 through p. 10 line 3; p. 11 lines 1-12
Ives: p. 10 line 1 through p. 11 line 5; p. 16 line 11 through p. 17 line 22; p. 18 lines 1-10;
p. 22 line 14 through p. 27 line 20
Busser: p. 8 line 7 through p. 9 line 2

(i) the effect of the proposed transaction on the financial condition of the newly created entity as compared to the financial condition of the stand-alone entities if the transaction did not occur;

Bassham: p. 16 lines 5-23
Ruelle: p. 27 line 3 through p. 29 line 15
Bryant: p. 9 line 4 through p. 11 line 4; p. 12 line 8 through p. 19 line 15; p. 21 through
p. 27 line 8
Busser: p. 11 line 14 through p. 15 line 7

(ii) reasonableness of the purchase price, including whether the purchase price was reasonable in light of the savings that can be demonstrated from the merger and whether the purchase price is within a reasonable range;

Bryant: p. 6 through p. 9 line 2; p. 11 line 5 through p. 12 line 7; Supplemental Direct,
p.2 line 22 through p. 7 line 10
Ives: p. 18 line 11 through p. 21 line 21; Supplemental Direct, p. 4 line 1 through p.
10 line 5
Kemp: generally

(iii) whether ratepayer benefits resulting from the transaction can be quantified;

Ruelle: p. 24 through p. 25 line 6; p. 25 line 4 through p. 27 line 2
Ives: p. 18 line 11 through p. 21 line 21
Kemp: generally

(iv) whether there are operational synergies that justify payment of a premium in excess of book value; and

Bassham: p. 10-12
Ruelle: p. 20 line 6 through p. 21 line 14; p. 39 line 4 through p. 40 line 17
Bryant: p. 11 line 5 through p. 12 line 7; Supplemental Direct, p. 2 line 22 through p. 7
line 10
Heidtbrink: p. 5 lines 3-9; p. 8 lines 1-20, p. 10 lines 4-20
Ives: p. 18 line 11 through p. 21 line 21; Supplemental Direct, p. 10 line 6 through p.
12
Kemp: generally

Busser: p. 10 line 3 through p. 11 line 8

(v) the effect of the proposed transaction on the existing competition.

Ives: p. 16 lines 1-9

(b) The effect of the transaction on the environment.

Bassham: p. 13 line 20 through p. 14 line 12

Heidtbrink: p. 8 lines 1-19

Ives: p. 11 lines 7-14

Busser: p. 9 line 2

(c) Whether the proposed transaction will be beneficial on an overall basis to state and local economies and to communities in the area served by the resulting public utility operations in the state. Whether the proposed transaction will likely create labor dislocations that may be particularly harmful to local communities, or the state generally, and whether measures can be taken to mitigate the harm.

Bassham: p. 5-9; p. 13 lines 15-19; p. 14 line 13 through p. 15 line 11

Ruelle: p. 16 lines 8-19; p. 25 lines 7-13; p. 31 line 10 through p. 32 line 16; p. 33 line 3 through p. 39 line 3

Caisley: p. 4 line 6 through p. 7 line 11

Heidtbrink: p. 11 lines 13-22

Ives: p. 11 line 15 through p. 13 line 2

Busser: p. 8 lines 14-19

(d) Whether the proposed transaction will preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state.

Ruelle: p. 32 line 17 through p. 33-line 2

Ives: p. 13 lines 3-9

(e) The effect of the transaction on affected public utility shareholders.

Ruelle: p. 31 lines 4-9

Bryant: p. 19 line 16 through p. 20 line 11

Ives: p. 13 lines 10-16

(f) Whether the transaction maximizes the use of Kansas energy resources.

Bassham: p. 13 line 20 through p. 14 line 12

Heidtbrink: p. 8 lines 1-19

Ives: p. 13 line 17 through p. 14 line 2

(g) Whether the transaction will reduce the possibility of economic waste.

Ruelle: p. 8 through p. 10 line 2

Heidtbrink: p. 8 line 1 through p. 9 line 13

Ives: p. 14 lines 3-7; p. 15 lines 10-22
Kemp: generally

(h) What impact, if any, the transaction has on the public safety.

Ruelle: p. 29 line 16 through p. 30 line 9
Ives: p. 14 line 9 through p. 15
Busser: p. 8 line 11