

**BEFORE THE STATE 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) Docket No. 18-KCPE-095-MER
of the Merger of Westar Energy, Inc. and Great)
Plains Energy Incorporated)

APPLICANTS' LIST OF CONTESTED ISSUES

Westar Energy, Inc. and Kansas Gas and Electric Company (referred to herein as “Westar”) Great Plains Energy Incorporated (“Great Plains Energy” or “GPE”), Kansas City Power & Light Company (“KCP&L”) (all parties are collectively referred to herein as “Applicants”) hereby submit a Consolidated List of Contested Issues (“Issues List”) in compliance with the *Order Setting Procedural Schedule*, issued by the Commission on November 21, 2017 (“Order”).¹ Applicants have settled all issues with regard to the Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission” respectively), the Citizens’ Utility Ratepayer Board (“CURB”), Sunflower Electric Power Corporation (“Sunflower”), Mid-Kansas Electric Company, LLC (“Mid-Kansas”), Kansas Power Pool (“KPP”), Brightergy, LLC (“Brightergy”), and Midwest Energy, Inc. (“Midwest”) (collectively the “Signatories”), and no contested issues remain as between the Signatories. However, the Applicants set forth all contested issues involved in this docket as to non-Signatory parties, as no issues have been resolved with said parties. The failure to list a particular issue(s) shall not constitute acquiescence to such unlisted issue(s) or to limit Applicants from supporting or disputing any particular aspect of the Application or related settlement through pre-filed testimony, cross-examination, or brief and argument.

¹ On Nov. 28, 2017, the Commission issued an Order Nunc Pro Tunc to correct the reply brief due date for Applicants’ (See, ¶ 5). All other procedural dates remained unchanged. However, on Mar. 5, 2018, in light of pending settlement discussions, the Prehearing officer extended the deadline for filing Contested Issues until Mar. 8, 2018.

I. BACKGROUND

1. On August 25, 2017, Applicants filed an Application seeking approval of the merger of GPE and Westar (the “Merger”). Included with the Application was Direct Testimony in support of the Application filed by nine (9) witnesses.

2. The Commission must determine if the merger is in the public interest. It evaluates mergers in accordance with 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”), and affirmed in Docket No. 16-KCPE-593-ACQ (“16-593 Docket” and “16-593” Order on Merger Standards) (“Merger Standards”). The Merger Standards to be considered in the proposed Application are:

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

- 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;
- 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;
- iii. Whether ratepayer benefits resulting from the transaction can be quantified;
- iv. Whether there are operational synergies that justify payment of a 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 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.

(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.

(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 the public safety.

4. On January 29, 2018, Staff and intervenors filed their direct testimony. Nine (9) parties filed Direct Testimony: Staff, CURB, International Brotherhood of Electrical Workers (“IBEW”) Local Union 225 (“IBEW 225”)², IBEW Local Union 304 (“IBEW 304”), Kansas Electric Power Cooperative, Inc. (“KEPCo”), Kansas Industrial Consumer Group (“KIC”), KPP, Sierra Club, Wal-mart Stores, Inc. (“Wal-mart”). Subsequently, on February 5, 2018, KIC filed Cross-Answering Testimony.

5. On February 19, 2018, Applicants filed the Rebuttal testimony of nine (9) witnesses.

6. Contemporaneously with the filing of this Contested Issues list, the Signatories are filing a non-unanimous Settlement Agreement resolving all issues as between the Signatories. Wal-Mart is not a signatory to the Settlement Agreement but has indicated that it does not oppose the Settlement Agreement.

7. The Applicants reserve the right to supplement this Issues List if it is determined that a contested issue has been inadvertently omitted or if it becomes apparent as the docket proceeds that there are additional issues of which the Applicants are not yet aware.

II. CONTESTED ISSUES

² The Commission denied intervention to IBEW 225 on Feb. 6, 2018, for failure to enter appearance through an attorney, in contradiction of K.A.R. 82-1-228(d)(2). However, the Commission noted that a properly filed intervention would be granted. Applicants are unaware of a subsequent filing by IBEW 225.

6. Applicants and the non-signatory Intervenors disagree on the question of whether the Merger, as proposed in the Application, is in the public interest pursuant to their respective analyses under the Merger Standards. Each of the Commission's Merger Standards is listed below, along with a statement of the overall issue(s) related to each standard.

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

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;

- Have Applicants demonstrated that the financial condition of the new holding company and Westar and KCP&L after the Merger will be as sound as or stronger than the financial condition of GPE, Westar and KCP&L on a stand-alone basis if the Merger does not occur?

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

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;

- Given that the revised Merger is structured as a "merger of equals" with substantial merger-related cost savings and no acquisition premium being paid to the shareholders of either Westar or GPE, have Applicants established that the purchase price is reasonable?

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

iii. Whether ratepayer benefits resulting from the transaction can be quantified;

- Have Applicants reasonably and sufficiently quantified and demonstrated the savings and other ratepayer benefits that will result from the Merger?

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

iv. Whether there are operational synergies that justify payment of a premium in excess of book value; and

- There is no payment of a premium in excess of book value. Contested issues pertinent to this Merger Standard are listed under Merger Standards (a)(ii) and (a)(iii).

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

v. The effect of the proposed transaction on the existing competition.

- Will the Merger have any meaningful impact on existing competition with respect to services that are subject to regulation by the Commission?

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

- How will the Merger affect the environment?

(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.

- Will the Merger be beneficial on an overall basis to state and local economies in areas served by KCP&L and Westar?
- Is the Merger likely to create labor dislocations that may be particularly harmful to local communities, or the state, generally?

(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.

- Will the Merger preserve the jurisdiction of the KCC and the KCC's capacity to effectively regulate and audit the public utility operations of Westar and KCP&L in Kansas?

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

- Does the Merger provide benefits to GPE and Westar shareholders?

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

- How will the Merger affect the use of Kansas energy resources?

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

- Will the Merger reduce the possibility of economic waste?

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

- Given that both Westar and KCP&L currently and individually provide safe and reliable service to their respective customers, does the Merger affect the utilities' ability to continue meeting the public safety?

WHEREFORE, Applicants set forth their list of contested issues.

Respectfully submitted,

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**ATTORNEYS FOR WESTAR ENERGY, INC. AND KANSAS GAS AND ELECTRIC
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing document was electronically served this 7th day of March, 2018 to all counsel of record in this case constituting official service and no hard copy will follow.

/s/ Robert J. Hack

Counsel for Kansas City Power & Light Company