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

In the Matter of the Application of	**)**	
Midwest Power Company for a	**)**	
Certificate of Public Convenience and	**)**	**Docket No. 19-MPCE -064-COC**
Necessity to Transact the Business of a	**)**	
Public Utility in the State of Kansas	**)**	

REDACTED DIRECT TESTIMONY

PREPARED BY

CHAD UNREIN

UTILITIES DIVISION

KANSAS CORPORATION COMMISSION

November 9, 2018

[redacted] Denotes Confidential Information**

Contents

I. Introduction, Qualifications, Assigned Responsibilities

Q. Would you please state your name and business address?

A. My name is Chad Unrein and my business address is the Kansas Corporation Commission, 1500 Southwest Arrowhead Road, Topeka, Kansas, 66604.

Q. By whom are you employed and in what capacity?

A. I am employed by the Kansas Corporation Commission (Commission or KCC) as a Managing Auditor/Federal Energy Regulatory Commission (FERC) Affairs Specialist.

Q. Would you please describe your educational background and business experience?

A. In 2010, I graduated from Washburn University with a Master's degree in Business Administration. Prior to my MBA, I earned a Bachelor's of Business Administration with an emphasis in Accounting and a Gold-tiered Certificate in Leadership Studies from Washburn University in 2004. Upon graduation, I was promoted from an Intern to an Associate Accountant in the Financial Reporting Department of Westar Energy, Inc. (Westar) with various responsibilities for FERC Regulatory Reporting, managerial reporting, and developing financial analysis for presentations to Westar's Board of Directors. In 2005, I was promoted to the position of Risk Management Analyst in Westar's Risk Management Department, which is responsible for the oversight of Westar's asset and non-asset based energy marketing portfolios. My primary responsibilities in this position included counterparty credit analytics, virtual transaction reporting, and serving as Secretary for the Risk Oversight Committee. In 2006, I accepted a position at Security Benefit Group as a Portfolio Performance Analyst in their Asset Management Department. I performed a variety of benchmarking data analysis, risk/return analysis, and portfolio risk assessments. I began my employment with the Commission as a Regulatory Auditor in January of 2014 and was promoted to Senior Auditor in November of 2016. In July of 2018, I assumed my current role as a Managing Auditor/FERC Affairs Specialist. Throughout my career, I have participated in various continuing education seminars/conferences on Accounting for Utilities, RTO Settlements, Risk and Credit Analytics, Decision Making under Uncertainty, and Ratemaking.

Q. Have you ever testified before the Commission?

A. Yes, I filed testimony in Docket Nos. 14-SPEE-507-RTS, 14-BHCG-502-RTS, 14-MRGT-097-KSF, 15-SPEE-519-RTS, 15-SPEE-161-RTS, 15-KCPE-116-RTS, 16-MKEE-023-TAR, 16-SPEE-497-RTS, 16-KGSG-491-RTS, 17-SPEE-476-RTS, 18-WSEE-328-RTS, and 18-KCPE-480-RTS.

Q. What were your responsibilities in the review of the Application filed in Docket No. 19-MPCE-064-COC (19-064 Docket)?

A. My responsibilities as the lead auditor were to analyze and review Midwest Power Company's (MWP or Company) Application requesting the Commission issue an Order: (1) granting MWP's request for limited and contingent Certificate of Public Convenience and Necessity (Certificate) to operate its 8% undivided interest in the Jeffrey Energy Center (JEC); (2) making determinations regarding Exempt Wholesale Generator (EWG) status in accordance with Section 32(c) of the Public Utility Holding Company Act of 1935 (PUHCA 1935); and (3) either confirming that specific statutes are inapplicable to MWP or granting a waiver of such statutes due to MWP's unique circumstances.[1] My responsibilities in review of MWP's Application were carried out under the direction of Justin Grady, Chief of Accounting and Financial Analysis.

II. Executive Summary

Q. What is the purpose of your testimony in this proceeding?

A. The primary objectives of my review and purpose of my testimony in this proceeding was: (1) to provide a recommendation to the Commission whether MWP should be granted a limited and contingent Certificate in accordance with K.S.A. 66-131; (2) to determine whether MWP's request will benefit consumers, be in the public interest, and will not violate state laws; and (3) to determine whether the Commission should grant MWP a waiver of certain Kansas Statutes or exempt MWP as an Independent Power Producer (IPP) under K.S.A. 66-104(c).

In order to evaluate the public interest criteria set out in K.S.A. 66-131, the Commission has historically relied on its Merger Standards to evaluate whether a request for a Certificate would promote the public interest. The Merger Standards were originally adopted in the Consolidated Docket Nos. 172,745-U & 172,155-U[2] and were recently reaffirmed by the Commission in Docket No. 16-EPDE-410-ACQ. In addition to the Merger Standards, the Commission has established a threshold requirement that a new public utility must demonstrate that it has the necessary technical, managerial, and financial resources to conduct the business of a public utility. My testimony will use the current Merger Standard's eight-

[1] In its Application, MWP is not requesting and will not have a specific retail service territory, and it will serve no retail customers. Therefore, MWP will have no retail rates that the Commission must approve.
[2] Consolidated Docket No. 172,745-U and 174,155-U, Order at page 34-35 (November 4, 1991).

factor test as a guide to analyze MWP's Application for a limited and contingent Certificate, and I will evaluate MWP's technical, managerial, and financial resources in order to determine whether the public interest will be served in granting MWP a Certificate. The final part of my testimony will explore MWP's request for a waiver of certain Kansas Statutes or exempt MWP as an Independent Power Producer under K.S.A. 66-104(c).

Q. Please provide a summary of your remaining testimony.

A. A summary of the remainder of my testimony is organized as follows:

- The first section of my testimony provides background on MWP and its parent, KeyCorp; discusses the history of MWP's 8% ownership interest in the JEC; and details MWP's stated reasoning behind seeking a Certificate.
- The second section of my testimony provides a brief overview of the "Public Convenience and Necessity" standard under K.S.A. 66-131; reviews MWP's operation plan and analyzes whether granting MWP's request is in the public interest; details Staff's evaluation of MWP's ability to fulfill the technical, managerial, and financial resource requirements to conduct business as a public utility; and discusses MWP's current position regarding the extension and modification of the KeyCorp Guaranty.
- The third section of my testimony will review the application of the Commission's Merger Standards regarding MWP's request for a Certificate.
- The fourth section of my testimony provides analysis regarding MWP's request for a waiver from certain Kansas Statutes or an explicit Commission determination that these statutes are inapplicable to MWP.

- The fifth section of my testimony provides a summary of Staff's recommendations to the Commission regarding MWP's request for a limited and contingent Certificate, a waiver from or an explicit determination of the inapplicability of certain Kansas Statutes, and whether MWP's request will benefit consumers and be in the public interest.

III. Background Information

A. MWP and KeyCorp Background

Q. Please provide a detailed background of MWP and its relationship with KeyCorp.

A. MWP is an Ohio corporation and wholly-owned direct subsidiary of KeyCorp. MWP was originally formed in 1985 as Centran Corporation (Centran) and was previously a subsidiary of Society Corporation (Society). On March 11, 1987, the name was changed from Centran to MWP. When KeyCorp and Society merged in 1993, MWP became a non-bank subsidiary of KeyCorp. In order to fund leases under MWP, intercompany loans are required. MWP does not produce any financial statements and the obligations it undertakes requires KeyCorp as the parent to issue a corporate guaranty. Prior to the KeyCorp-Society merger, MWP previously held two leveraged leases as owner participant: (1) the CEI Toledo Edison Trust A at the Bruce Mansfield Plant, which commenced on September 30, 1987, and was sold in June of 2007; and (2) participation as Perry One Beta Limited Partnership in a lease at Perry Nuclear Power Plant Unit 1, which commenced on March 16, 1987, and was sold in April 2014.

Q. Please provide background on MWP's parent company KeyCorp.

A. KeyCorp is a Bank Holding Company and one of the nation's largest bank-based financial service companies, with consolidated total assets of approximately $137.7 billion at December

31, 2017. KeyCorp has current market capitalization of approximately $22.66 billion and is publicly traded on the New York Stock Exchange. KeyCorp is the parent holding company for KeyBank National Association (KeyBank), its principal subsidiary, through which most of its banking services are provided. Through KeyBank and other subsidiaries, KeyCorp provides a wide range of retail and commercial banking, commercial leasing, investment management, consumer finance, commercial mortgage servicing and special servicing, and investment banking products and services to individual, corporate, and institutional clients through two major business segments: Key Community Bank and Key Corporate. KeyCorp is headquartered in Cleveland, Ohio, and maintains business offices in 31 states where approximately 19,000 employees are engaged in providing business-to-business lending solutions. KeyCorp maintains a commercial real estate operations center in Overland Park, KS.

Q. Please discuss MWP's current assets and history of leveraged leases.

A. Currently, MWP's only asset is the 8% undivided interest in JEC, which it holds as the sole participant and beneficiary in a Trust for which Wilmington Trust Company (WTC) is the owner and trustee. MWP acquired its interest in this Trust in 2007 via a Purchase, Assignment & Assumption Agreement with Financial Leasing Corporation. The remaining 92% of JEC is owned by Westar (84%) and Kansas City Power & Light Company (8%), which are now combined under a common parent, Evergy, Inc. Currently, the 8% ownership interest in the JEC owned by the Trust is leased to Westar under a Lease Agreement, which expires on January 3, 2019.

B. Historical Ownership of the 8% Interest in JEC

Q. Could you please discuss the ownership history of the 8% interest in JEC as stated in the Application?

A. The history of the 8% ownership interest is described in detail in the Application; however a high-level summary is provided below:

Centel Corporation (Centel) was an original co-owner in the JEC and was allocated the 8% JEC interest pursuant to the Construction and Ownership Agreement dated January 13, 1975, (JEC Ownership Agreement). At the time, Centel provided retail electric service to approximately 65,000 Kansas customers.

When Centel sold its electric utility operation in Kansas to UtiliCorp United Inc. (UtiliCorp) in 1991, UtiliCorp had the option to assign its right to purchase all or a portion of Centel's 8% JEC Interest to an unrelated financial institution in a sale and leaseback financing transaction.[3] UtiliCorp exercised the option by assigning its purchase rights to certain elements of the 8% JEC Interest to WTC. To facilitate that assignment, Financial Leasing Corporation (FLC), a subsidiary of Citigroup, Inc., entered into a trust agreement as the owner participant with WTC, as owner trustee, creating the Trust (the Trust Agreement).[4] Centel sold some of the elements referenced as the "Undivided Interest" to WTC, as owner trustee, and other elements, including land and certain equipment referred as the "Support Assets Interest" and the "Site Interest" to UtiliCorp. UtiliCorp then leased the Support Assets Interest and Site Interest to WTC, as owner trustee, pursuant to the Site and Support Assets Lease, which remains in place until the earlier of (a) retirement of the JEC, or (b) December 31, 2050. Finally, WTC then leased the Undivided Interest to UtiliCorp and subleased the

[3] *See* Docket No. 175,456-U (91-UCUE-226-MER), Order and Certificate at paragraph 22 (September 27, 1991).
[4] *See Id.*

Support Assets Interest and the Site Interest to UtiliCorp pursuant to the Lease Agreement (the Lease). The Lease terminates on January 3, 2019, at which time the Undivided Interest leased by the Trust to Westar will revert to the Trust.

The Application states that as part of the 1991 transaction, Centel assigned to WTC, as owner trustee, all of its rights and interest in and to the June 1, 1978, Operation Agreement (which governs the day-to-day operation of the JEC), to the extent it relates to the Undivided Interest. Additionally, UtiliCorp assigned to WTC, as owner trustee, all of its rights and interest in and to the Operation Agreement, to the extent it relates to the Support Assets Interest and the Site Interest. Then, pursuant to the Assignment of Operation Agreement, WTC assigned to UtiliCorp all of WTC's rights, interests, duties and obligations under the Operation Agreement to the extent it relates to the Undivided Interest, the Support Assets Interest and the Site Interest. According to the Application, the assignment from WTC to UtiliCorp (and subsequently to Westar, as successor to UtiliCorp) terminates at the same time as the Lease (i.e. January 3, 2019). The Application also states the assignment from UtiliCorp to WTC continues until the earlier of (a) retirement of the JEC, or (b) December 31, 2050.[5] Accordingly, as of January 3, 2019, WTC, solely in its capacity of owner trustee, will possess all rights, interests, duties and obligations under the Operation Agreement and Ownership Agreement that were originally held by Centel with respect to its 8% interest in JEC.[6]

[5] *See* Application, page 10, paragraph 9.
[6] *See Id*.

Q. Please provide a brief summary of the Commission's approval of the 1991 transaction and discuss its findings.

A. The KCC approved the transaction in its Order and Certificate issued in Docket No. 175, 465-U [91-UCUE-226-MER or (91-226 Docket)] on September 27, 1991. As one of the key findings in the 91-226 Docket, the Commission found the owner trustee (WTC) and the owner participant (FLC) should not be "public utilities" under Kansas Law, reasoning as follows:

> Under the circumstances in this preceding, it is clear the agreements are financial instruments and do not confer sufficient managerial or operational control over the JEC interest to constitute a public utility. The Commission finds the owner trustee, the owner participant (and any guarantor of the obligations of the owner participant), the indenture trustee and the note purchasers will not become utilities pursuant to K.S.A. 66-104 or K.S.A. 66-158(c), or otherwise subject to the jurisdiction of the Commission solely by reason of their participation in the sale and lease financing arrangements.[7]

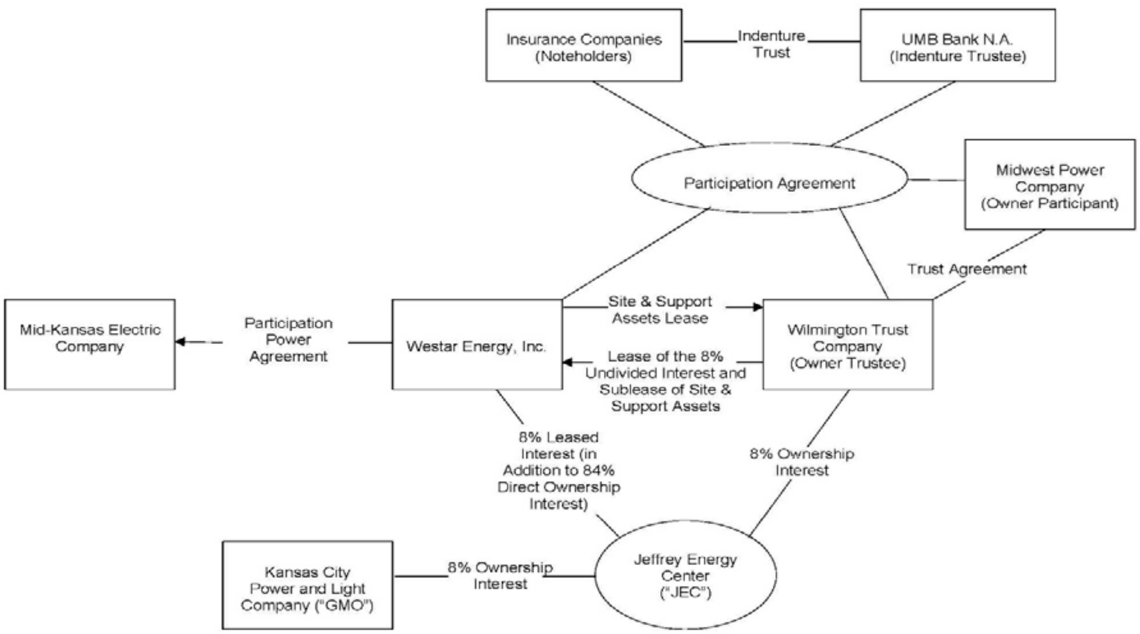
Q. How did Westar and MWP become involved in the 8% JEC interest?

A. In 2002, UtiliCorp changed its name to Aquila, Inc. (Aquila). On February 23, 2007, the Commission approved Aquila's transfer of its leasehold and related interests in the 8% JEC Interest to Westar pursuant to the terms and conditions contained in the Transfer Agreement between Aquila and Westar. At that time, Mid-Kansas Electric Cooperative (MKEC) was planning to acquire Aquila's electric utility operations in Kansas, including the 8% JEC leasehold interest. However, pursuant to the Ownership Agreement, Westar had preferential purchase rights with respect to the 8% JEC Interest. After negotiations among the applicable parties, it was agreed that Aquila would transfer its leasehold interest to Westar, and Westar and MKEC would execute a Power Purchase Agreement for the energy associated with the 8% JEC Interest. On September 20, 2007, subject to Westar succeeding to UtiliCorp/Aquila's interest as lessee under the Lease, MWP acquired FLC's interest in the Trust as owner

[7] *See Id* at paragraph 39.

participant, pursuant to the Purchase, Assignment & Assumption Agreement, thereby replacing FLC as the owner participant in the Trust.

The following graphical depiction provides a visual illustration of the current relationships between the parties and the interest they hold in the JEC:



C. MWP's Application for Certificate of Convenience

Q. Please discuss MWP's reasoning for seeking a Certificate at this time.

A. MWP's reasoning for filing its Application is primarily driven by the expiration date of the Lease Agreement (Lease) between WTC and Westar on January 3, 2019. If MWP fails to extend the lease or sell its 8% interest in JEC prior to the expiration of the Lease Agreement, the rights to the energy and capacity associated with its 8% interest in the JEC reverts back to the Trust. WTC will act on behalf of the Trust with respect to the 8% interest at the direction of MWP, as the sole participant and owner beneficiary of the trust. After the expiration of the lease, MWP will no longer qualify for the "financial interest only" exception to the definition of "public utility" under K.S.A. 66-104.

Given the uncertainty of extension of the lease or sale of its 8% interest in JEC, MWP contends it is required to apply for a limited and contingent Certificate from the Commission in advance of the lease expiration on January 3, 2019.

Q. Please discuss MWP's current "financial interest only" exemption as a public utility under K.S.A. 66-104.

A. K.S.A. 66-104 defines a "public utility" as "all companies for the production, transmission, and delivery or furnishing of heat, light, water, or power." As previously discussed in my testimony above, the Commission cited that the agreements and financial instruments did not confer "sufficient managerial or operational control" over the JEC interest to constitute the owner trustee or owner participant as a public utility. Thus, upon expiration of the Lease Agreement, exclusive control over the 8% interest will be held by MWP and, as such, MWP will no longer qualify for the "financial interest only" exemption to the definition of a public utility under Kansas law.

IV. Qualifications for a Certificate of Convenience

A. Overview of "Public Convenience and Necessity" in K.S.A. 66-131.

Q. Please provide an overview of "Public Convenience and Necessity" as defined under K.S.A. 66-131.

A. The relevant section of K.S.A. 66-131 states that,

> (a) No person or entity seeking to construct electric transmission lines as defined in K.S.A. 66-1,177 and amendments thereto, or common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, and amendments thereto, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting and applicants to transact the business of a common carrier or public utility in this state.

The fundamental question of K.S.A. 66-131 is: *What promotes the public convenience and necessity?* Over the past 25 years, the Commission has relied on the Merger Standards, which are a series of questions for evaluating whether a transaction would promote the public interest. In addition to the Merger Standards, in past dockets that required certificating a new public utility, the Commission established the threshold requirement that a new public utility must possess the *"financial, managerial, and technical experience"* to provide sufficient and efficient service.[8] In its request, MWP is seeking a Certificate to transact business in Kansas because it is acquiring control of an asset, an 8% interest in the JEC, to operate the asset in the state. Thus, in this instance, one of the questions that needs to be addressed is whether MWP can meet the *"financial, managerial, and technical experience"* threshold.

B. Overview of MWP's Operational Plan & Determination of Public Interest

Q. Please provide a brief overview of MWP's operational plan for its 8% interest in JEC.

A. Assuming MWP is unable to extend the lease or sell its interest in JEC prior to the January 3, 2019, lease expiration date, MWP plans to become an independent power producer (IPP) in order to sell energy and capacity exclusively in the wholesale power market. In order to

[8] Docket No. 11-GBEE-624-COC, Order Approving Stipulation & Agreement and Granting Certificate at paragraph 63 (December 7, 2011).

become an IPP and make sales in the wholesale energy markets, MWP must file a notice of self-certification with FERC as an Exempt Wholesale Generator (EWG) pursuant to FERC's regulations. MWP's self-certification as an EWG must contain certain determinations from the KCC.

Section 32(c) of PUHCA 1935 provided that any facility that had "a rate or charge for, or in connection with, the construction of a facility, or for the electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of October 24, 1992" cannot be considered to be an eligible facility unless every state commission with jurisdiction over the retail rates in question makes a determination that allowing the facility to be an eligible facility will benefit consumers, be in the public interest, and not violate state law. As an IPP with EWG status, MWP will not have a certificated retail territory and will not make any retail sales. Accordingly, the FERC will have exclusive jurisdiction over MWP's rates.

Q. If MWP is planning to become an IPP and will be regulated by FERC, why is MWP requesting a Certificate to become a public utility in the state of Kansas?

A. While most IPP's in the State of Kansas qualify for an exemption from regulation as a public utility pursuant K.S.A. 66-104(c), the exemption is limited to facilities that are newly constructed and placed into service on or after January 1, 2001. JEC was constructed and placed into service in the late 1970s and early 1980s; therefore, MWP will be in a unique position of being an IPP that is required to obtain a Certificate from the KCC despite the KCC not otherwise regulating MWP. As a result, MWP's Application does not concern any rate or territory issues that are often found in other certificate proceedings.

Q. What rationale does MWP provide that its request for a Certificate is in the public interest?

A. MWP states its ownership of the 8% interest in JEC arises from a financial arrangement entered into in 1991 by UtiliCorp, WTC, FLC, and several note purchasers. The Commission approved the arrangement in the 91-226 Docket. The financial arrangement facilitated UtiliCorp's purchase of Centel Corporation's public utility assets in Kansas in 1991, which the Commission found in the public interest at that time. MWP contends that granting its request for a Certificate will promote the public convenience and necessity by facilitating Kansas public utilities' access to financial markets and encouraging investment in energy infrastructure in Kansas. If MWP's Application is denied, MWP contends there could be long-term implications to future sale-leaseback transactions and other financial arrangements in Kansas that allow public utilities to access capital on reasonable terms.

Additionally, MWP states that its request is in the public interest because it allows for the continued operation of the 8% interest in JEC and supports wholesale energy sales to customers through the energy markets. Its ownership interest has served legacy customers of Aquila and MKEC. If MWP were unable to participate in the energy markets due to a lack of a Certificate, the result would be letting its 8% ownership interest go idle, which promotes the inefficient operation of the JEC, which may harm the public interest by virtue of increased rates and costs to consumers.

Q. Does Staff agree with the rationale provided by MWP that its request for a Certificate is generally in the public interest?

A. Generally, Staff agrees with MWP's rationale that the continued operations of its 8% ownership interest in JEC is in the public interest. Allowing MWP's 8% ownership interest in JEC to go idle is economically inefficient and will result in JEC operating at a lower capacity factor, which does not support the public interest. Granting MWP's request for a Certificate would allow MWP access to sell the energy produced from its ownership interest in the wholesale energy markets, which ultimately benefits consumers by lowering energy cost. Additionally, Staff agrees with MWP's analysis that financial instruments, such as sale-leaseback arrangements, can facilitate Kansas utilities' access to the financial markets and encourage investment in infrastructure.

Staff is less convinced with MWP's argument that an outright denial of MWP's Application would lead to long-term implications for future sale-leaseback and other financial arrangements in Kansas and negatively impact Kansas public utilities' ability to access capital on reasonable terms. While Staff generally agrees that the continued operation of the 8% interest in JEC is in the public interest, Staff contends that MWP is responsible for meeting the threshold requirement of possessing the necessary technical, managerial, and financial resources to conduct business as a public utility. Staff's evaluation of MWP's ability to meet these threshold requirements in order to conduct business as a public utility is explained in detail in the next section.

C. Examination of Threshold Requirements

Q. Please discuss MWP's ability to meet the technical resource requirements to conduct business as a public utility.

A. The main threshold question of the technical resources requirement is whether MWP will possess the technical expertise to operate and maintain the Kansas asset in an efficient and sufficient manner. In this case, MWP is required to demonstrate that it has the technical and engineering expertise to operate and maintain its 8% interest in JEC. While MWP does not clearly possess the technical or engineering expertise to fulfill this obligation, the operation and maintenance of JEC will continue to be the responsibility of Westar, pursuant to the 1978 Operating Agreement. In the Operating Agreement, Westar, as the Operator, is charged with operating and maintaining JEC in a reasonable manner in accordance with industry standards. The Operations Agreement continues until there is an abandonment of the JEC. MWP will not have any responsibilities or obligations in the day-to-day operation of the facility; therefore, MWP concludes that it is not required to possess the technical resources in order to fulfill its obligations as a certified public utility. Additionally, MWP's request for a Certificate is limited to its ownership interest in JEC, and it does not plan to own any additional Kansas assets.

In Staff's evaluation, MWP has provided ample evidence that Westar will continue to be responsible for fulfilling the responsibility to operate and maintain JEC, pursuant to the Operating Agreement, and the Agreement continues for the life of the asset. As a result of this arrangement, Staff agrees with MWP that the technical resource threshold should not apply directly to MWP and/or the technical resource requirement is fulfilled by Westar, on behalf of MWP, through the contractual obligations detailed in the Operating Agreement.

1. Threshold Requirements: Managerial & Technical Resources

Q. Please discuss MWP's ability to meet the managerial resource requirements.

A. MWP's operational plan to sell energy and capacity in the wholesale market will require MWP to manage its ownership interest in JEC on a day-to-day basis in order to fulfill its rights and obligations under the various agreements. By selling the output into the wholesale energy market, MWP will be responsible for meeting the requirements and regulations of the FERC, which oversees wholesale power markets, and the Southwest Power Pool (SPP). SPP operates the regional wholesale power markets referred to as the SPP Integrated Marketplace in Kansas as a Regional Transmission Organization (RTO). In order to manage it interest in the JEC, MWP plans to hire a consultant, who will act as a Market Participant on MWP's behalf, to schedule and manage the energy and capacity sales from JEC. MWP is currently in the process of negotiations with Market Participants. Additionally, MWP has engaged DAI Consultants to evaluate the value of the 8% interest in JEC and assess the potential sale of the asset to another party.

Through discovery, Staff requested MWP provide the current status of its negotiations with Market Participants. MWP's response to KCC Data Request No. 3 (KCC DR-3) is below:

**[redacted] **

[9] [redacted]

As part of its response to KCC DR-3, MWP provided redacted versions of the request for proposals, which can be provided to the Commission on request. All of the SPP Market Participants are reputable power marketing agents in good standing with SPP. In Staff's evaluation, MWP has demonstrated that the Company would be able to execute one of these agreements in order to fulfill its threshold requirement to possess the necessary managerial resources to conduct business as a public utility; however, Staff contends that MWP should be required to provide a signed and executed agreement with a power marketing firm prior to the Commission's issuance of a limited and contingent Certificate.

2. Threshold Requirements: Financial Resources

Q. Please discuss MWP's ability to meet the financial resource requirements to conduct business as a public utility.

A. The main threshold question of the financial resources requirement is whether MWP will possess the financial resources and expertise to finance the Kansas asset on-going operations in an efficient and sufficient manner. MWP's sole asset is its undivided interest in the JEC. Thus, MWP will not be able to establish a revenue stream through the sale of energy and capacity in the wholesale market until it is certificated as a public utility. MWP's only financial support comes from its parent KeyCorp.

In her testimony, Amy Paine details that MWP is supported financially by its parent KeyCorp, via a 2007 corporate Guaranty.[10] Specifically regarding the KeyCorp Guaranty, Ms. Paine states,

> The Guaranty provided to MWP by KeyCorp ensures that any obligation undertaken by MWP will be fully discharged. To the extent required, KeyCorp would modify the

[10] *See* Amy G. Paine Testimony, page 11, for a discussion of the Corporate Guaranty. The Guaranty was also attached to the Application as Exhibit C.

> Guaranty to ensure that any operations, maintenance, and capital expenses required to be paid by MWP pursuant to the Operations Agreement will be paid.

Q. Please discuss KeyCorp's financial resources.

A. KeyCorp is one of the largest bank-based business financial service companies, with $137.7 billion in total consolidated assets as of December 31, 2017, and $6.3 billion in revenue for 12 months ending December 31, 2017. KeyCorp is a bank holding company organized in 1958. KeyCorp's common stock is publicly traded, and KeyCorp has an equity market capitalization of $22 billion. KeyCorp as a holding company for a charted national bank is subject to regulation, examination, and supervision by U.S. Federal agencies, as well as international banking supervision committees. As of December 31, 2017, all of KeyCorp's capital ratios were in excess of regulatory requirements. KeyCorp's long-term debt is publicly traded and possesses investment grade bond ratings by each of the three credit rating agencies: BBB+ from Standard & Poors; Baa1 from Moodys; and A- from Fitch.

Q. Please provide a high-level financial overview of MWP's operational plan of supplying energy and capacity in the wholesale SPP IM.

A. In general, wholesale power market prices are still relatively low in the SPP IM. SPP's most recent State of the Market Report for the summer of 2018 states that the average SPP IM day-ahead market price was $25.68/MWh and the real-time market was $24.87/MWh.[11] This represents a decrease in average day-ahead price of two percent from the summer of 2017, and a five percent decrease in real-time market price over the same period.

[11] Average market prices provided on page 20 of the State of the Market Report for the summer of 2018 released on October 15, 2018. [https://spp.org/documents/58811/spp_mmu_qsom_summer_2018_final.pdf.]

The overall economics of coal generation was highlighted throughout various parties' testimony in Westar's most recent rate case in Docket No. 18-WSEE-328-RTS. Coal units, in general, have various disadvantages in a wind rich region, such as SPP, including the operational costs to run these units, the long-term capital expenditures to maintain these units, and the inability for these base load units to cycle as efficiently as some other generation sources. RTO Sierra Club witness Paul Chernick provided a high-level overview of the short-run marginal costs and all-in costs to operate Westar's coal plants.[12] Staff reproduced the relevant portion of the table in order to illustrate the cost per MWh to operate JEC. The table is presented below.

Short-Run Marginal Costs and All-In Costs for Westar Coal Plants ($/MWh)

Jeffrey Energy Center	2013	2014	2015	2016	2017
Fuel	$ 19.88	$ 20.12	$ 19.70	$ 19.81	$ 20.31
Variable O&M	0.92	2.76	1.61	2.80	1.49
Fixed O&M	3.36	2.89	3.16	4.15	4.20
Capital Additions	9.81	15.21	6.85	7.32	6.80
Total Cost	$ 33.97	$ 40.98	$ 31.32	$ 34.08	$ 32.80
+10% Overheads	$ 36.38	$ 43.55	$ 33.76	$ 36.76	$ 35.41

Source:
Computed from DR Sierra-1.08, DR CURB-3, except for La Cygne, from FERC Form 1 and Table 6.
Variable O&M in 2018 from DR Sierra-3.01 Confidential.

Q. Given the current economic constraints on coal generation, did Staff request and review a financial model covering MWP's operation of its ownership interest in JEC?

A. Yes, Staff requested MWP provide its financial model and detail any assumptions that MWP used in the production of the financial model for Staff's review. MWP provided Staff the

[12] *See* Paul Chernick testimony, page 20, in the 18-328 Docket.
[http://estar.kcc.ks.gov/estar/ViewFile.aspx/S20180611161102.pdf?Id=ab216e49-fcde-4e64-884f-263c6abe7f75]

information in Confidential Data Request No. 8, which is include in Confidential Exhibit CCU-2 and summarized below.

[redacted]

Q. Please detail Staff's review of the assumptions MWP used in producing its financial model assumptions.

A. Staff reviewed MWP's model to evaluate the reasonableness of MWP's assumptions. MWP is using steadily increasing market energy prices from **[redacted]** in 2019 to **[redacted]** by 2023. Additionally, MWP's model uses capacity prices at **[redacted]** in 2019 to **[redacted]** by 2023. Staff has not comprehensively evaluated the long-term pricing outlook for these products; however, Staff is in possession of market information that suggests these capacity prices used in the model are aggressive. Since SPP does not operate a formalized market for capacity similar to the energy market, the sale or purchase of capacity is by private contract, and the market value of capacity is whatever value two parties agree to for a transaction.

Q. What market information is Staff in possession of that suggest that these capacity prices by MWP are likely overstated?

A. In the 18-KPPE-343-COC Docket (18-343 Docket), Kansas Power Pool witness Larry Holloway stated in his direct testimony, "All KPP Members paid to upgrade Kingman's generation. The current value for excess generation capacity in the SPP market is over $2.00/kW-mo."[13]

In response to Larry Holloway's $2.00/kw-mo., Sunflower Electric witness Corey Linville provides an overview of the market dynamics for capacity in the 18-343 Docket as follows:

> … The 2017 SPP Resource Adequacy Report states that SPP currently has a planning reserve margin of approximately 30% compared to a minimum reserve margin requirement of 12%. That equates to about 9,000 MW of excess capacity across the SPP footprint. By 2022, when KPP runs of out excess capacity, the SPP planning reserve margin is projected to still be high at 25.9% with total SPP excess capacity at 7,135 MW. The abundance of excess capacity in SPP has driven the value of excess capacity down due to the basic principles of supply and demand economics.[14]

Mr. Linville continues later in his response by directly addressing Mr. Holloway's $2.00/kw-mo;

> …The $2.00/kW-month price referenced by Mr. Holloway is in the ballpark for the value that we've seen for paper capacity in our region. We currently have capacity transactions that are on either side of that price, with $2.00/kw month being towards the high end of the range. Capacity values can vary depending upon a variety factors, but we do not foresee the value for paper capacity changing very much in the near term and certainly not before KPP runs out of excess capacity in 2022. Mr. Holloway's initial estimate of a $2.00/kW-month value for capacity from Kingman is somewhat high, but reasonable.[15]

[13] *See* Larry Holloway's testimony, page 16, filed in the 18-343 Docket on May 8, 2018. [http://estar.kcc.ks.gov/estar/ViewFile.aspx/S20180508111110.pdf?Id=47625e93-341f-4aaa-b724-27fafe9a6710]
[14] *See* Corey Linville's testimony, page 13-14, in the 18-343 Docket filed on July, 9 2018. [http://estar.kcc.ks.gov/estar/ViewFile.aspx/S20180709152253.pdf?Id=644db439-050e-4ae0-93c4-2e259b6ef243]
[15] *See Id.*

Q. Does MWP's have the financial resources to operate its ownership interest in JEC given the cash flow deficiency currently predicted in its own financial model?

A. If all the assumptions provided in the MWP's model are correct, MWP is still looking at a significant cash flow deficiency of **[redacted]** over its first two years of operation. Ultimately, MWP relies on the financial support from KeyCorp to fund its operations, maintenance, and capital expenses that are required to the Operations Agreement. In its Application, MWP and KeyCorp were willing to modify the Guaranty to the extent required by the Commission; however, MWP has significantly changed its position on both the modification of the Guaranty and KeyCorp's willingness to fund the operating costs of MWP. MWP laid out its current position regarding this issue in response to Westar Data Request No. 2.02 and 2.03.[16]

In response to Westar's Data Request 2.02, MWP stated, in part;

> [T]he Trust Estate has sole responsibility for the all operating costs allocable to the 8% interest in the JEC. Neither WTC nor Midwest Power has responsibility for such costs in their personal capacities. If there are shortfalls between the revenues generated by the 8% interest and the allocable operating costs, Westar's predecessor in interest (UtiliCorp) agreed to cover such shortfalls. Consent & Assumption Agreement, § 3.3. Westar agreed to assume all obligations and liabilities of UtiliCorp pursuant to the JEC Transfer Agreement (Aug. 11, 2006) and the JEC Consent & Agreement (Feb. 2007) . . . **It is not necessary for KeyCorp to guarantee any operating costs required to be paid by Midwest Power pursuant to the Operating Agreement, because as discussed above, Midwest Power is not required to pay any such costs. KeyCorp is not willing to provide a new or amended guaranty that would make KeyCorp responsible for such costs, because to do so would abrogate the contractual rights described above**. (Emphasis added.)

In response to Westar Data Request 2.03, MWP stated, in part;

> The KeyCorp Guaranty does not guarantee the payment of costs associated with the dismantlement of the plant, closure and monitoring of the related landfill, other retirement costs, or future environmental liability allocable to the 8% interest. It appears such costs are addressed by Section 10 of the Operating Agreement. The Operating Agreement is not one of the "Guaranteed Agreements" under the KeyCorp Guaranty.

[16] *See* Exhibit CCU-1- Discovery: MWP Response to Westar Data Request No. 2.02 and 2.03 for MWP's complete response.

Q. Given MWP's new position regarding its Guaranty, does MWP meet the financial resource requirement to operate as a public utility?

A. Based on these responses, it appears that MWP's new position is that it does not have to meet the financial resource requirement because Westar is required to cover any shortfalls between the revenue generated by the 8% interest and its share of expenses at the JEC. Notwithstanding the commencement of default proceedings, MWP would still receive the capacity and energy generated by that 8% interest and would rely on Westar to cover shortfalls in revenue. In its own financial model, MWP predicts that the operating costs will significantly exceed the revenue it will generate in the wholesale electricity market in the near term. Under the operating arrangement proposed by MWP, Westar would continue to fund the losses in its operation until the revenue generated from its 8% ownership interest exceeded the operational cost, and MWP would benefit in the event its operation would become profitable long-term. This insulates MWP from the risks and allows MWP and KeyCorp's shareholders to benefit in the event MWP achieves profitability. Given MWP's new position, Staff does not believe MWP has met the financial resource threshold necessary to become a public utility. MWP's reliance on Westar as a financial resource to cover any shortfalls between its operating revenue and its financial obligation to cover the full operating, maintenance, and capital expenditures is not in the public interest.

Q. Why does Staff contend that is not in the public interest for MWP to rely on Westar backing to support its financial resource threshold?

A. Westar is the largest public utility in the state of Kansas. Its financial viability, whether they directly affect ratepayers or not, are a matter of great importance to the Commission's evaluation of the public interest. Over and above MWP's unreasonable position that it will rely on Westar's financial resources to cover all of its operational costs shortfalls while MWP retains all of the profits, this course of events is likely to result in costly and time-consuming litigation for all parties involved.

Given MWP's current position regarding Westar's financial liability, Staff issued a discovery request to request any financial model that Westar had produced covering MWP's ownership interest of JEC along with the past three years of historical operating revenue estimates covering an 8% ownership interest in JEC. In response to KCC Data Request 10, Westar provided its model and addressed the historical operating revenues of GMO, which currently owns an 8% historical ownership interest as a barometer. Westar stated, "Over the past three years, the market has not warranted GMO generating its entire 8%." Staff included Westar's model, assumptions, and GMO's historical operating data in Staff Exhibit CCU-3. At a high level, Westar predicts MWP's cash flow shortfall between $10 million to $10.5 million per year over the first three years, and the Westar model does not produce a single year of financial profits through 2034. Given that Westar has had operational control over JEC and used GMO's 8% interest as a barometer, Staff finds Westar's data to be more convincing of the on-going operations of MWP's interest given the current economics of coal plant operation, low market energy prices, and the overall excess capacity that currently exists in the SPP market.

The financial implications in the event of a default by MWP on its share of non-fuel operating and maintenance (NFOM) expenses or capital costs and an ensuing contract dispute were addressed as part of the Settlement & Agreement in the 18-328 Docket.[17] Westar is

[17] *See* Order Granting Non-Unanimous Settlement Agreement filed on September 27, 2018. [http://estar.kcc.ks.gov/estar/ViewFile.aspx/20180927103146.pdf?Id=6a4e143a-438b-4437-8364-894d8b7310d5]

allowed to defer NFOM expenses or capital costs it is unable to recover from MWP and record these costs as a regulatory asset. At the time of its next general rate case, Westar may request recovery of the deferred costs upon showing it made reasonable effort to recover the costs from MWP. Thus, Westar would have the ability to request recovery of the deferred costs at the time of its next rate case.

Q. What is Staff's recommendation regarding the financial resource component of MWP's request for a Certificate?

A. Staff recommends that one of the conditions the Commission should place on approval of MWP's Certificate is that KeyCorp must commit to provide the necessary capital injections needed for maintaining the financial integrity of MWP. In order to meet the threshold "financial qualifications" requirement, MWP and KeyCorp would need to agree to explicitly provide these assurances to the Commission and modify its Guaranty from KeyCorp to explicitly cover the operating expenses, maintenance expense, and capital expenditures to the satisfaction of the parties in the case. Staff believes this condition is consistent with the arguments supporting the transaction presented in MWP's Application.

Without explicit recognition from MWP that KeyCorp is ultimately responsible for maintaining the financial integrity of MWP and the modification of the existing corporate guaranty that explicitly provides these assurances, the Commission cannot be assured that the threshold "financial qualifications" requirement will be met. Without this condition, Staff recommends the Commission deny MWP's request for the Certificate.

Q. Has Staff recommended this explicit recognition of financial support from parent entities in prior applications for a Certificate?

A. Yes, Staff has made similar recommendations in its evaluation of the Fortis Inc. acquisition of ITC Great Plains, LLC and its Parent Company, ITC Holdings Corp. in Docket No. 16-ITCE-512-ACQ and the Joint Application of Southwestern Public Service Company and Xcel Southwestern Transmission, LLC (XEST) in Docket No. 16-SWPE-209-COC.

The primary driver of Staff's recommendations in these Dockets was the reliance on the financial resources of the parent company of the entity requesting the Certificate. In MWP's case, the revenue produced from the sale of energy and capacity will not meet its current projected operating costs, and MWP's financial model shows significant cash shortfalls throughout its first two years of operation. Staff contends the explicit recognition is consistent with the arguments presented in its Application, and, most importantly, Staff believes this explicit recognition is necessary to meet the requirements of K.S.A. 66-131.

V. Application of the Merger Standards

A. Review of Merger Standards

Q. Please provide an overview of the Merger Standards.

A. The Merger Standards assist the Commission in a determination of whether the proposed transaction provides a net benefit to ratepayers, shareholders, and the public generally. In other word, the applicant must demonstrate that the merger will "promote the public interest." In most merger and acquisition cases involving utilities that are under the full economic and rate regulation of the Commission, the appropriate focus for this standard is whether there are benefits for the public from the merger that can be quantified. In this case, where the

Commission does not have ratemaking jurisdiction over MWP and there is no individual transaction to analyze, the focus should be on the public interest standard and whether to allow MWP to operate its ownership interest in JEC and allow MWP to take the necessary steps at FERC to become a wholesale provider of electricity and capacity to the public at large.

Given the Commission's more limited role in regulating MWP, Staff contends MWP's request warrants a more limited application of the Merger Standards than would be the case in reviewing a transaction involving utilities that are subject to the full economic regulation of the Commission. Never-the-less, Staff has evaluated MWP's request for a Certificate according to the applicable Merger Standards. Staff will ultimately propose a set of conditions that we recommend the Commission adopt in order to approve the transaction. With the imposition of these conditions, Staff is confident that the proposed transaction provides a net benefit to the public and will, therefore, promote the public interest.

As recently affirmed, the Commission's Merger Standards are as follows:[18]

> *a. The effect of the transaction on customers, 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;*

[18] Order on Merger Standards, pp. 2-3, Docket No. 16-EPDE-410-ACQ (Aug. 9, 2016) (410 Order). [http://estar.kcc.ks.gov/estar/ViewFile.aspx/20160809133352.pdf?Id=b3db7ba1-9c7e-414a-b829-435c161257ff]

> 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 public safety.*

B. MWP's Application of Merger Standards

Q. Please detail MWP's application of the Merger Standards.

A. MWP provided their views of the Merger Standards as related to its request through the Direct Testimony of Amy Paine.[19] MWP concluded that it request for a Certificate meets the public interest standard that the Commission has used in the past. Given the relatively short nature of each of MWP's responses and the inapplicability of certain Merger Standards, Staff will summarize MWP's responses provided in its Application to each of the Merger Standards below. Following the review of all of MWP's responses, Staff will respond to MWP's

[19] *See* Amy Paine's Testimony; page 10.

position as a whole and further detail its analysis of the pertinent merger standards. Staff's analysis will include whether the MWP's analysis meets the public interest standard on its own or whether Staff's proposed condition will allow the transaction to meet the Merger Standard.

Q. Please continue by summarizing MWP's analysis of each of the applicable Merger Standards.

A. In the summary below, Staff will bullet-point each of the applicable Merger Standards addressed in MWP's Application and provide MWP's response to each of the factors.[20]

- *The effect of the transaction on customers;*

[G]ranting a Certificate to MWP will promote continued access to the financial markets on reasonable terms for Kansas public utilities. It will also promote the efficient use of the JEC and allow MWP to make sales in the wholesale market in order to create a revenue stream to offset its share of operations, maintenance and capital costs at the JEC. The efficient use of the JEC and allowing access to a revenue stream to cover costs at the JEC is beneficial to customers.[21]

- *Whether the transaction maximizes the use of Kansas energy resources;*

Granting MWP's application for a Certificate will enable the JEC to be operated at higher capacity factors, which maximizes the use of Kansas energy resources.[22]

[20] *See generally* Application of MWP, p. 12-13 (Aug. 10, 2018).
[21] *Id*. at 12.
[22] *Id*.

- *Whether the transaction will reduce the possibility of economic waste;*

Granting MWP's application for a Certificate will enable the 8% portion of the JEC to participate in the energy markets rather than going idle, thereby reducing economic waste.[23]

- *Whether the transaction will be beneficial to state and local economies and to communities served by the resulting public utility operations in the state*

This factor is not relevant to this application, as no jobs will be created or lost as a result of MWP's Certificate.[24]

- *The effect of the transaction on affected public utility shareholders;*

Granting MWP's application for a Certificate will benefit KeyCorp's shareholders, as MWP will be able to sell energy and capacity on the wholesale market.[25]

- *Whether the 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;*

Granting MWP's application for a Certificate will ensure that the jurisdiction of the KCC is preserved over the owner of the 8% interest in the JEC.[26]

C. Staff's Response to MWP's Application of Merger Standards

Q. How does Staff respond to MWP's analysis of the Merger Standards?

A. In general, MWP's responses are technically correct in their determination that the continued operation of its 8% ownership interest in JEC is in the public interest. The continued operation of JEC at 100% of its available capacity has positive implications for customers in

[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.* at 13.

the wholesale energy markets, produces revenue for MWP in order to fulfill the financial obligations of WTC, maximizes Kansas energy resources, reduces the possibility of economic waste, and promotes the interest of KeyCorp's shareholders. In order to fulfill the obligations of WTC, MWP needs to begin to produce a revenue stream from wholesale energy sales given its only financial asset is its 8% interest in JEC.

While Staff agrees that the continued operation of the 8% portion of JEC promotes the public interest, the appropriate area of inquiry in this case is whether it is in the public interest to allow MWP to operate its ownership interest without any financial assurances from MWP or KeyCorp and allow Westar or Westar's ratepayers to fund revenue shortfalls in MWP's operation. The operational plan MWP has put forth in response to Westar's data requests transfers all the risk on to Westar and possibly Westar's ratepayers to fund its operations and allows MWP and KeyCorp's shareholders to benefit in the event MWP achieves profitability.

Q. **Does Staff believe MWP's request will promote the public interest**?

A. With this proper framing of the public interest inquiry regarding the merger standards, Staff contends MWP fails to meet the Kansas public interest standard due to the long-term negative financial impact MWP's Certificate would have on Westar's rate payers and/or Westar shareholders. Given that the Commission is tasked with balancing the public interest as a whole, Staff would recommend the Commission deny MWP's request for the Certificate without explicit recognitions from MWP that KeyCorp is ultimately responsible for maintaining the financial integrity of MWP and the sufficient modification of the existing KeyCorp corporate guaranty that explicitly provides these assurances. Without this explicit recognition, the Commission cannot be assured that MWP meets the threshold "financial qualifications" requirement. Therefore, MWP fails to meet its burden under K.S.A. 66-131, and the Commission should deny MWP's request for the Certificate. Staff will outline four explicit conditions that it recommend the Commission consider as thresholds that MWP and KeyCorp provide as conditions for a Certificate.

VI. Analysis of MWP's Request for Waiver of Certain Kansas Statutes

Q. Please detail MWP's request for Waiver of certain Statutes or an explicit determination by the Commission that these statutes are inapplicable to MWP?

A. In its Application, MWP requests the Commission either confirm that specific statutes are inapplicable to MWP or grant a waiver of such statutes due to MWP's unique circumstances. The unique circumstances that MWP uses to supports its request is the vast majority of IPPs in the State of Kansas qualify for an exemption from regulation as a public utility. This exemption is contained in K.S.A. 66-104(c), which states:

> At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:
>
> (1) is newly constructed and placed in service on or after January 1, 2001; and
>
> (2) is not in the rate base of:
>
> (A) an electric public utility that is subject to rate regulation by the state corporation commission;
>
> (B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or
>
> (C) a municipally owned or operated electric utility.

Exempt utilities are not subject to any of the myriad of obligations under Chapter 66 of the Kansas Statutes. MWP states that such exemption is appropriate because IPPs only sell energy and capacity at wholesale. These wholesale transactions fall under the exclusive jurisdiction of FERC and, except for the cutoff date for placement in service, MWP would qualify for the exemption under K.S.A. 66-104(c). MWP will be an IPP that will only sell energy and capacity at wholesale, and its rates will be exclusively regulated by FERC. As such, MWP contends K.S.A. 66-101b through 66-101f, K.S.A. 66-109, 66-117, 66-128, and K.S.A. 66-128a through 66-128g are inapplicable to MWP because they address requirements for filing, evaluating, and maintaining just and reasonable rates. Granting MWP a waiver from these statutes, or an explicit determination that these statues are inapplicable to MWP, would be consistent with the Commission's Order in Docket No. 07-ITCE-380-COC (07-380 Docket), in which it found that these statutes are inapplicable to ITC Great Plains, whose rates are also exclusively regulated by FERC.

Q. Please detail Staff's analysis and recommendation concerning MWP's request for Waiver Statutes or an explicit determination by the Commission that these statutes are inapplicable to MWP.

A. Given the unique circumstances of the case, MWP will be in a unique position as a certificated IPP that does not qualify for the exemption under K.S.A. 66-104(c) due to the fact its JEC interest was not placed into service after January 1, 2001. Given that I have no legal expertise, I will not try to interpret the legislative intent for the Statute's explicit exclusion of facilities constructed prior to 2001; however, Staff would like to review the Commission's findings in its Order in ITC Great Plains 07-380 Docket. In its Order, the Commission details its findings as follows:

> The Commission generally agreed that FERC will have authority over ITC operations related directly to transmission service and wholesale sales and that will preempt Commission regulation of these ITC activities. As long as ITC is acting under FERC jurisdiction in performing these operations, the Commission will have no need to exercise its authority over ITC's activities. As a result, the Commission declines to take action or rule on ITC's request

> related to the following provisions: K.S.A. 66-101b through 66-101f, K.S.A. 2006 66-128, and K.S.A. 66-1 28a through 66-128e.[27]

The Commission continues in its denial of ITC's request stating:

> The Commission denies ITC's request to find several Kansas statutes not applicable to ITC, as discussed more fully above in this Order. The Commission finds that FERC jurisdiction does preempt this Commission's authority under K.S.A. 66- 101 b through 66- 10 1f, K. S.A. 2006 Supp. 66-128, and K.S.A. 66-128a through 66-128e, unless ITC acts outside conduct that is covered by FERC jurisdiction, at which time the Commission will decide the applicability of these statutes.[28]

Staff recommends the Commission deny MPC's request for exemption from certain Kansas statutes, consistent with Commission precedent in Docket No. 07-ITCE-380-COC. The Commission specifically stated it would not issue an exemption or make a finding of inapplicability of certain Kansas statutes. This supports past precedent in finding that the Kansas utilities are responsible for determining their own compliance with applicable laws.

VII. Staff's Recommendations

A. Review of Public Interest

Q. Please summarize Staff's review of the public interest regarding MWP's request to become a certificated public utility.

A. Staff has tried to collaborate in a proactive fashion with all the parties in this case. Staff held a technical conference with the Applicant and intervening parties on October 4, 2018, and has continued to have follow-up discussions through conference calls with MWP and Westar individually. In an attempt to be proactive in its recommendation and present a path forward for MWP to demonstrate granting it a certificate is in the public interest, Staff presents a list

[27] *See* Order Approving Stipulation & Agreement, page 17, paragraph 41 in the 07-380 Docket. [http://estar.kcc.ks.gov/estar/ViewFile.aspx/20070605095212.pdf?Id=730b1ac1-f5f2-473f-a7ac-a5ff1a06f275]
[28] *See id*, at p. 20.

of conditions distilled from precedent in previous merger and acquisition dockets, as well as Conditions proposed by Westar as a result of the technical conference in this docket. Staff believes the conditions are consistent with the arguments supporting the transaction presented in MWP's Application.

In order to meet the financial resource threshold requirement, MWP will need to explicitly agree to provide assurances from KeyCorp and modify its existing Guaranty to provide the financial assurances that it will fund its share of the operating, maintenance and capital costs necessary to cover its ownership interest. If MWP holds to its revised position (compared to the statements and testimony filed in support of the Application) that the Trust Estate has sole responsibility for the all operating costs allocable to the 8% interest in the JEC and neither WTC nor Midwest Power has responsibility for such costs in their personal capacities, Staff recommends the Commission deny its request for a limited and contingent Certificate given MWP's inability to meet the financial resources threshold requirements and determine MWP's certification does not meet the public interest standard required under K.S.A. 66-131.

Staff's view of MWP's request for a limited and contingent Certificate is that its request as represented in its Application and the Testimony provided by MWP witness had the opportunity to promote the public interest. Staff has put forth a set of Conditions that in Staff's analysis would allow MWP's request to satisfy the public interest standard under K.S.A. 66-131. As modified by Staff's conditions, MWP's request would meet the standard for certification as a public utility and promote the public interest. As such, without these modifications and conditions, Staff recommends the Commission deny MWP's Application. If MWP is able to meet the conditions as set forth in the next section, Staff would not object to Commission approval of MWP's request.

B. Conditions for Approval of MWP's Certificate

Q. Please summarize Staff's conditions for approval of MWP's Certificate?

A. A summary of Staff's conditions are detailed in the bullet points below:

1. MWP and KeyCorp accept that KeyCorp, MWP, and WTC, not in its individual capacity but solely as Owner Trustee, are all subject to the Commission's jurisdiction for purposes of Kansas utility operations related to the 8% undivided interest in JEC that is held in a trust, of which MPC is the sole participant and beneficiary, and of which WTC is the Owner Trustee, including but not limited to the enforcement of financial obligations related to capital investments, operating and maintenance expenses, fuel expenses; and other expenses associated with the ownership and operation of the 8% interest of JEC held by WTC.

2. Since MWP must rely on KeyCorp to meet the financial resource threshold requirements for obtaining a utility Certificate in Kansas, MWP explicitly agrees that KeyCorp will retain the responsibility for the financial obligations related to interest of JEC held by WTC and KeyCorp agrees to modify its existing Guaranty to explicitly provide assurances that it will fund the financial obligations related to the 8% interest of JEC held by WTC and make clear the Guaranty applies to both MWP's and WTC's obligations under the Ownership Agreement. The financial assurances in the Guaranty must satisfy the interest of all parties in the case.

3. The Commission's denial of MWP's request for exemption from certain Kansas statutes consistent with the Commission Order in the ITC 07-380 Docket, where the Commission stated it would not issue an exemption or make a finding of inapplicability of certain Kansas statutes.

4. MWP and KeyCorp agree that the KeyCorp represents an "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403 statutes that confer certain jurisdiction to the Commission regarding access to documents including but not limited to books and records, submission of contracts, and review of affiliate transactions detail.

VIII. <u>Conclusion</u>

Q. Please summarize MWP's requests in the Docket and provide Staff's findings?

A. MWP's Application requested the Commission issue an Order: (1) granting MWP request for limited and contingent Certificate to operate its 8% undivided interest in the Jeffrey Energy Center (JEC); (2) making determinations regarding EWG status in accordance with Section

32(c) of the PUHCA 1935; and (3) either confirming that specific statutes are inapplicable to MWP or granting a waiver of such statutes due to MWP unique circumstances.

MWP's request for a limited and contingent Certificate and the determinations necessary for MWP to achieve EWG status under FERC's regulations rely on the determination that MWP's request is public interest and does not violate state law. Staff has put forth a set of Conditions that would allow MWP's request to satisfy the public interest standard under K.S.A. 66-131. Given MWP's current position, Staff finds that MWP does not meet the standard for certification as a public utility. Absent the Conditions set forth in my testimony above, the Commission should deny MWP's request for a limited and contingent Certificate.

With respect to MWP's requests for confirmation that specific statutes are inapplicable to MWP or granting wavier of such statutes due to MWP's unique circumstances, Staff recommends the Commission deny MWP's request for exemption from certain Kansas statutes consistent with the Commission Order in the ITC 07-380 Docket, where the Commission stated it would not issue an exemption or make a finding of inapplicability of certain Kansas statutes.

Q. Does this conclude your testimony?

A. Yes.

EXHIBITS

Exhibit No.	Descriptions
CCU-1	Discovery Requests
CCU-2	MWP's Financial Model - Confidential
CCU-3	Westar's Financial Model

REDACTED EXHIBIT CCU-1: Discovery

Contents	Page No.
MWP's Response to Westar Data Request 2.02	1 - 3
MWP's Response to Westar Data Request 2.03	4 - 5

[redacted]

Westar Energy
Midwest Power Certificate of Public Convenience
Docket No. 19-MPCE-064-COC
2nd Set of Data Request

Data Request No: 2.02

Submitted to: Midwest Power Company

Request Date: October 18, 2018

Date Information Needed: November 1, 2018

Please provide the following:

2.02) Please (a) identify the respective responsibilities and obligations of each of MPC and the Owner Trustee with respect to the costs of operation, maintenance, capital additions and improvements, fuel and other expenses allocable to the 8% interest in the JEC referenced in the Application under the Operation Agreement after the expiration of the lease in January 2019, and (b) confirm that all of such expenses will be subject to and covered by KeyCorp pursuant to the KeyCorp Guaranty, including in the event the funds in the trust estate are insufficient to fully discharge the obligations of MPC and the Owner Trustee with respect to the expenses allocable to the 8% interest in the JEC. In the case of each of clause (a) and (b), please provide citations or references to the applicable contractual agreements and specific provisions supporting your response. If your response to (b) with respect to any of the identified expenses is that the KeyCorp Guaranty does not cover those expenses, please indicate whether KeyCorp is willing to provide a new or amended guaranty as a condition of obtaining its CCN in this proceeding that does cover such expenses.

Submitted by: Cathy Dinges

Objection: Midwest Power objects to subpart (a) of this data request on the grounds that subpart (a) of the question is not designed to elicit material facts within the Company's personal knowledge, and it requires a conclusion of law in violation of paragraph 16 of the Protective and Discovery Order. Similarly, Midwest Power objects to this data request on the grounds that all subparts of the question require the Company to (1) make a legal conclusion in violation of paragraph 16 of the Discovery and Protective Order; and (2) analyze and prepare data that Westar is able to prepare on its own.

Without waiving the foregoing objection, Midwest Power responds as follows:

Part (a):

Westar Energy
Midwest Power Certificate of Public Convenience
Docket No. 19-MPCE-064-COC
2nd Set of Data Request

In each agreement regarding Jeffrey Energy Center to which Wilmington Trust Company ("WTC") is a party, there is language stating that WTC is executing the agreement solely in its capacity as Owner Trustee under the powers expressly conferred upon it by the Trust Agreement. This language makes it clear that no personal liability or responsibility is assumed by WTC, and any person making a claim under the various agreements, including the Operating Agreement, must look solely to the Trust Estate for satisfaction of such claim. *E.g.*, Centel Assignment Agreement, § 11 (Aug. 15, 1991); Participation Agreement, § 19.10 (Aug. 15, 1991); Lease Agreement, § 20.9 (Aug. 15, 1991).

Likewise, Midwest Power is not personally liable for any amounts payable by Owner Trustee under the Ownership Agreement or the Operating Agreement, pursuant to Section 4 of the Consent & Assumption Agreement (Aug. 15, 1991), which states:

> Owner Participant shall have no liability, obligation, responsibility or duty to any of the undersigned whatsoever for or with respect to any of the transactions contemplated by the Ownership Agreement or (after termination of the Lease) the Operating Agreement, whether as a result of the negligence or willful misconduct of the Owner Trustee in its individual capacity or otherwise.

Accordingly, the Trust Estate has sole responsibility for the all operating costs allocable to the 8% interest in the JEC. Neither WTC nor Midwest Power has responsibility for such costs in their personal capacities. If there are shortfalls between the revenues generated by the 8% interest and the allocable operating costs, Westar's predecessor in interest (UtiliCorp) agreed to cover such shortfalls. Consent & Assumption Agreement, § 3.3. Westar agreed to assume all obligations and liabilities of UtiliCorp pursuant to the JEC Transfer Agreement (Aug. 11, 2006) and the JEC Consent & Agreement (Feb. 2007).

The KCC approved the Consent & Assumption Agreement in Docket No. 175-456-U (Sept. 27, 1991) and the JEC Transfer Agreement in Docket No. 06-MKEE-524-ACQ (Feb. 23, 2007).

Part (b):

It is not necessary for KeyCorp to guarantee any operating costs required to be paid by Midwest Power pursuant to the Operating Agreement, because as discussed above, Midwest Power is not required to pay any such costs. KeyCorp is not willing to provide a new or amended guaranty that would make KeyCorp responsible for such costs, because to do so would abrogate the contractual rights described above.

Westar Energy
Midwest Power Certificate of Public Convenience
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Verification of Response

I have read the foregoing Information Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: Amy Fain

Date: 11/01/2018

Westar Energy
Midwest Power Certificate of Public Convenience
Docket No. 19-MPCE-064-COC
2nd Set of Data Request

Data Request No: 2.03

Submitted to: Midwest Power Company

Request Date: October 18, 2018

Date Information Needed: November 1, 2018

Please provide the following:

2.03) Please confirm that the KeyCorp Guaranty will, absent a permitted transfer by MPC of the 8% JEC interest to another party, remain in effect until the complete retirement of the JEC and that the guaranty will guarantee the payment of all costs associated with the dismantlement of the plant, including closure and monitoring of the related landfill and other retirement costs allocable to the 8% JEC interest including any future environmental liability. Please provide citations or references to the applicable contractual agreements and specific provisions supporting your response. If your response is that the KeyCorp Guaranty will not remain in effect until the complete retirement of JEC and/or that it will not guarantee payment of any of the costs listed above, please indicate whether KeyCorp is willing to provide a new or amended guaranty as a condition of obtaining its CCN in this proceeding that does remain in effect until the complete retirement of JEC and does guarantee payment of all of the costs listed above.

Submitted by: Cathy Dinges

Objection: Midwest Power objects to this data request on the grounds that request is not designed to elicit material facts within the Company's personal knowledge, and/or that the request requires a conclusion of law. Midwest Power further objects on the grounds that the question is designed to require the Company to analyze and prepare data that Westar is able to prepare on its own.

Response:

Without waiving the foregoing objection, Midwest Power responds as follows:

The KeyCorp Guaranty does not guarantee the payment of costs associated with the dismantlement of the plant, closure and monitoring of the related landfill, other retirement costs, or future environmental liability allocable to the 8% interest. It appears such costs are addressed by Section 10 of the Operating Agreement. The Operating Agreement is not one of the "Guaranteed Agreements" under the KeyCorp Guaranty.

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For the same reasons as discussed in Westar Data Request 2.02, KeyCorp is not willing to provide a new or amended guaranty that would make KeyCorp responsible for such costs.

Verification of Response

I have read the foregoing Information Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: Amy Paine

Date: 11/01/2018

REDACTED EXHIBIT CCU-2

Contents Page No.

EXHIBIT CCU-3: Westar Model & Assumptions

Contents	Page No.

Docket: [19-MPCE-064-COC] Midwest Power Certificate of Convenience (JEC)
Requestor: [KCC] [Chad Unrein]
Data Request: KCC-10 :: Historical JEC Energy & Capacity Sales & Projections
Date: 0000-00-00

Question 1 (Prepared by Joe Fritton)
Energy Sales - 1. Please provide the historical operating revenues from energy sales for the 8% interest in JEC for the last 3 years. Please include the total MWh sold per year and the average market price per MWh sold. 2. If the data is readily available, please provide the monthly historical operating revenue for energy sales from the latest 12 months of available data. Please include the total MWh's sold per month and the average market price per MWh sold. Capacity Sales- 3. Please provide the historical operating revenue for capacity sales for the 8% of JEC for the last 3 years. Please include the capacity sold in MW and the capacity price ($/kw-mo). 4. If the data is readily available, please provide the monthly historical operating revenue for capacity sales from the latest 12 months of available data. Please include the capacity sold in MW and the capacity price ($/kw-mo). Projected Revenue – 5. Has Westar prepared any analysis of projected revenue and expenses for MWP's 8% ownership interest in JEC? If so, please provide projected revenue and expenses analysis covering any planning horizon's Westar has readily available and detail the underlying assumptions.

Response:
1. The historical operating revenues of the 8% GMO interest in JEC are a better correlation to the revenues that would be received by Midwest Power Company (MPC) than the revenues received by the current 8% interest. This is because the current purchaser of the power produced by the leased entity, MKEC, receives its 8% energy allocation regardless of JEC output or market conditions. The 8% GMO interest revenues reflect market impacts and provide a better representation of the potential market revenue of the 8% interest owned by MPC. Over the last three years, the market has not warranted GMO generating its entire 8%. The GMO operating revenues from its 8 percent share were calculated by adding the SPP’s Day Ahead and Real Time settlement amounts together. The revenues are as follows: o 2015 - $19,310,716 o 2016 - $15,313,829 o 2017 – $12,209,396 Total MWh sold by GMO over the last three years as follows: o 2015 – 866,120 MWh o 2016 – 692,614 MWh o 2017 – 516,789 MWh The amount and price of generation changes every 5 minutes. To calculate the average market price per MWh sold will require substantial analysis from data that is not readily available. 2. The data is not readily available in the expedited time frame. 3. These capacity sales revenues reflect long-term capacity pricing that was negotiated in 2008 and expires on 1/4/2019. Currently the SPP has a glut of Capacity which will significantly reduce the value of Capacity Sales in the future. The amount of capacity sold was 172MW in 2016-17 and 171MW in 2015. o Jan-15 - $2,723,837.43 o Feb-15 - $2,723,837.43 o Mar-15 - $2,723,837.43 o Apr-15 - $2,723,837.43 o May-15 - $2,723,837.43 o Jun-15 - $2,723,837.43 o Jul-15 - $ 9,334,054.35 o Aug-15 - $ 3,218,784.89 o Sep-15 - $3,218,784.89 o Oct-15 - $3,218,784.89 o Nov-15 - $3,218,784.89 o Dec-15 - $3,218,784.89 o Jan-16 - $3,218,784.89 o Feb-16 - $3,218,784.89 o Mar-16 - $3,218,784.89 o Apr-16 - $3,218,784.89 o May-16 - $3,218,784.89 o Jun-16 -$3,218,784.89 o Jul-16 - $6,127,828.38 o Aug-16 - $3,214,120.18 o Sep-16 - $3,214,120.18 o Oct-16 - $3,214,120.18 o Nov-16 - $3,214,120.18 o Dec-16 - $3,214,120.18 o Jan-17 - $3,214,120.18 o Feb-17 - $3,214,120.18 o Mar-17 - $3,214,120.18 o Apr-17 - $3,214,120.18 o May-17 - $3,214,120.18 o Jun-17 - $3,214,120.18 o Jul-17 - $5,567,522.38 o Aug-17 - $3,397,303.68 o Sep-17 - $3,397,303.68 o Oct-17 - $3,397,303.68 o Nov-17 - $3,397,303.68 o Dec-17 - $3,397,303.68 4. The data is not readily available in the expedited time frame. 5. See attached. JEC 8% Cash Flow For DR 10 TO KCC 2018 11 06 0725.pdf DR-10 JEC Assumptions 2016 11 06 Final.docx

Attachment File Name	Attachment Note
DR-10 JEC Assumptions 2016 11 06 Final.docx	
JEC 8% Cash Flow For DR 10 TO KCC 2018 11 06 0725.pdf	

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JEC 8% Cash Flow

O&M, Fuel, Sales & Dismantle Inflation 2.5%
2015 to 2017 Based on GMO Acutals
2018 - Average of 2015 to 2017

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Cash Outflows										
Non Fuel O&M	5,796,007	7,458,882	6,378,938	6,708,225	6,900,000	7,072,500	7,249,313	7,430,545	7,616,309	7,806,717
Fuel	17,180,201	13,859,987	10,761,938	14,282,393	14,639,453	15,005,439	15,380,575	15,765,090	16,159,217	16,563,197
Energy Marketing Agreement	-	-	-	-	120,000	120,000	120,000	120,000	120,000	120,000
JEC 8% Land Lease (Assumption)	-	-	-	-	24,621	24,621	24,621	24,621	24,621	24,621
JEC Severable Asset Lease - TBD	-	-	-	-						
JEC Suport Asset Lease - TBD	-	-	-	-						
Capital Spend					4,789,257	5,022,286	4,927,566	3,571,486	2,315,086	2,352,000
JEC 8% Dismantling Costs ($82M in 17$)										
Total Cash Outflows	22,976,208	21,318,870	17,140,877	20,478,651	26,473,331	27,244,847	27,702,075	26,911,742	26,235,233	26,866,535
Cash Inflows										
SPP Sales Revenues	19,310,716	15,313,829	12,209,396	16,001,597	16,401,636	16,811,677	17,231,969	17,662,768	18,104,338	18,556,946
Total Cash Inflows	19,310,716	15,313,829	12,209,396	16,001,597	16,401,636	16,811,677	17,231,969	17,662,768	18,104,338	18,556,946
Cash Surplus /(Deficit)	(3,665,492)	(6,005,041)	(4,931,481)	(4,477,055)	(10,071,695)	(10,433,169)	(10,470,106)	(9,248,974)	(8,130,895)	(8,309,589)
Cummulative Deficit					(10,071,695)	(20,504,864)	(30,974,970)	(40,223,943)	(48,354,839)	(56,664,428)

	2025	2026	2027	2028	2029	2030	2031	JEC3 Last Year 2032	JEC2 Last Year 2033	JEC1 Last Year 2034	2035
Cash Outflows											
Non Fuel O&M	8,001,885	8,201,932	8,406,980	8,617,154	8,832,583	9,053,398	9,279,733	9,511,726	6,372,857	3,138,870	
Fuel	16,977,277	17,401,709	17,836,752	18,282,671	18,739,737	19,208,231	19,688,437	20,180,648	13,859,060	6,996,757	
Energy Marketing Agreement	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	120,000	
JEC 8% Land Lease (Assumption)	24,621	24,621	24,621	24,621	24,621	24,621	24,621	24,621	24,621	24,621	
JEC Severable Asset Lease - TBD											
JEC Suport Asset Lease - TBD											
Capital Spend	2,048,000	1,328,000	1,088,000	1,236,000	752,000	1,060,000	808,000	1,208,000	1,436,000		
JEC 8% Dismantling Costs ($82M in 17$)											10,226,321
Total Cash Outflows	27,171,783	27,076,262	27,476,353	28,280,446	28,468,942	29,466,250	29,920,791	31,044,995	21,812,537	10,280,247	10,226,321
Cash Inflows											
SPP Sales Revenues	19,020,870	19,496,392	19,983,801	20,483,396	20,995,481	21,520,368	22,058,378	22,609,837	15,527,306	7,838,972	
Total Cash Inflows	19,020,870	19,496,392	19,983,801	20,483,396	20,995,481	21,520,368	22,058,378	22,609,837	15,527,306	7,838,972	0
Cash Surplus /(Deficit)	(8,150,913)	(7,579,870)	(7,492,552)	(7,797,050)	(7,473,461)	(7,945,882)	(7,862,413)	(8,435,158)	(6,285,232)	(2,441,276)	(10,226,321)
Cummulative Deficit	(64,815,341)	(72,395,211)	(79,887,763)	(87,684,813)	(95,158,273)	(103,104,155)	(110,966,568)	(119,401,726)	(125,686,957)	(128,128,233)	(138,354,554)

JEC 8% Cash Flow Assumptions

Overall Basis
Midwest Power Company's 8% share of JEC is more analogous to KCP&L / GMO's 8% share as they will be bidding the power into the market and are entitled to 8% of the output of JEC. GMO's 8% of JEC is used for many inputs in this analysis.

Capacity Sales
No capacity sales were included. Based off our daily participation in the SPP markets, we believe these revenues will be hard to realize. This is based on a capacity glut in the SPP, additional capacity being added in the SPP and the availability of new 20-year combined cycle gas capacity available in the SPP.

Non-Fuel O&M
Based on GMO's actual for 2015 to 2017. 2018 is average of 2015 to 2017 inflated at 2.5%
2019 O&M is based on current forecasts and inflates at 2.5% forward.

Fuel
Based on GMO's actual for 2015 to 2017. 2018 is average of 2015 to 2017 inflated at 2.5%. 2019 and years going forward are inflated at 2.5%.

Energy Marketing Agreement
Estimate of MPC's cost to hire an outside Energy Marketer for the SPP.

JEC 8% Land Lease
Estimate of land lease payment owed by MPC to Westar based upon rental rate of pasture land.

JEC Severable Asset Lease
Amount to be determined. Contract language promulgates creation of a Severable Asset Lease with payments from MPC to Westar.

JEC Support Asset Lease
Amount to be determined. Contract language promulgates creation of a Support Asset Lease with payments from MPC to Westar.

Capital Spend
Based on estimates in current capital spending plan.

JEC 8% Dismantling Costs
8% of $82M inflated at 2.5% to end of plant life.

SPP Sales Revenue
Based on GMO's actual for 2015 to 2017. 2018 is average of 2015 to 2017 inflated at 2.5%. 2019 and years going forward are inflated at 2.5%.

Not Modeled
Interest / Carrying costs for cash deficits.

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

VERIFICATION

Chad Unrein, being duly sworn upon his oath deposes and says that he is the Managing Auditor/FERC Affairs Specialist in the Utilities Division of the Kansas Corporation Commission; that he has read and is familiar with the foregoing *Direct Testimony*, and that the statements therein are true to the best of his knowledge, information and belief.

Chad Unrein
Managing Auditor/FERC Affairs Specialist
Utilities Division
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 9th day of November, 2018.

PAMELA J. GRIFFETH
Notary Public - State of Kansas
My Appt. Expires 08-17-2019

Notary Public

My Appointment Expires: August 17, 2019

CERTIFICATE OF SERVICE

19-MPCE-064-COC

I, the undersigned, certify that a true and correct copy of the above and foregoing Direct Testimony was served by electronic service on this 9th day of November, 2018, to the following:

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Pamela Griffeth
Pamela Griffeth
Administrative Specialist

* Denotes those receiving the Confidential version