

2. The Commission has jurisdiction to supervise and control electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas.⁴ K.S.A. 66-131(c) requires the Commission to issue a decision on a public utility's application for a merger or acquisition within 300 days of receiving the application. The applicant may waive or extend the 300-day period.⁵ The Applicants did not request to extend the 300-day timeframe.⁶

3. The Citizens' Utility Ratepayer Board (CURB); the Kansas Industrial Consumers (KIC);⁷ Kansas Electric Cooperative, Inc. (KEPCo); the Kansas Power Pool (KPP); Sunflower Electric Power Corporation (Sunflower) and Mid-Kansas Electric Company, LLC (Mid-Kansas); Midwest Energy, Inc.; the International Brotherhood of Electrical Workers (IBEW), Local Union No. 304; IBEW Local Union #412; IBEW Local Union #1464; IBEW Local Union #1613; Wal-Mart Stores, Inc. (Wal-Mart); Kansas City, Kansas Board of Public Utilities (BPU); Kansas Municipal Energy Agency (KMEA); City of Independence, Missouri; and Kansas Municipal Utilities (KMU) were granted full intervention. The Sierra Club, Brightergy LLC, and the Climate & Energy Project (CEP) were granted limited intervention.

4. Both the Sierra Club's and the CEP's intervention were limited to engaging in discovery and filing motions and briefs on the issues of: (1) the effect of the transaction on the environment; (2) whether the transaction maximizes the use of Kansas energy resources, and (3) the question of economic waste.⁸ Brightergy's intervention was limited to engaging in discovery

⁴ K.S.A. 66-101.

⁵ K.S.A. 66-131(c).

⁶ See Reply to KIC's Response in Opposition to Applicants' Proposed Schedule, Oct. 18, 2017.

⁷ KIC consists of Spirit Aerosystems, Inc.; the Goodyear Tire & Rubber Co.; Coffeyville Resources Refining & Marketing, LLC; Cargill, Inc.; CCPS Transportation, LLC; Occidental Chemical Corporation; HollyFrontier El Dorado Refining LLC; and Learjet, Inc.

⁸ Order Granting Limited Intervention to the Sierra Club, Climate Energy Project, and Brightergy, Nov. 2, 2018, ¶¶ B, 11.

and filing motions and briefs on the issues of tariffs for parallel generation and net metering.⁹ Neither Brightergy nor the CEP were permitted to participate in the evidentiary hearing.

5. All of the parties accept the applicability of the Commission's merger standards, which were enumerated in the 2016 Docket, 16-KCPE-593-ACQ (16-593 Docket). In that Docket, the Commission issued its Order on Merger Standards, reaffirming the merger standards as modified in the 97-WSRE-676-MER Docket (97-676 Docket).¹⁰ In explaining its central concern is whether the merger will promote the public interest, the Commission outlined the following criteria to evaluate whether the merger will promote the public interest:

- (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 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 demonstrated savings 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.

⁹ *Id.*, ¶ 5.

¹⁰ Order on Merger Standards, Docket No. 16-KCPE-593-ACQ, Aug. 9, 2016, ¶ 5.

- (d) Whether the proposed transaction will preserve the Commission's jurisdiction and capacity 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.¹¹

6. The Commission recognized the 97-676 Docket allows for some flexibility in the merger standards, including modifying those standards or even adding additional standards or considerations.

These factors are the beginning criteria to be used when evaluating a merger application, and are to be supplemented by any other considerations that are relevant given the circumstances existing at the time of the merger proposal. In essence, *the question is whether the public interest is served by approving the merger as determined by the specific facts and circumstances of each case.* (emphasis added)¹²

7. On January 22, 2018, the Commission held a public hearing to provide Westar and KCP&L customers an opportunity to learn more about the proposed merger and to comment on the proposed merger. The public hearing was also broadcast live on the Commission's website.

8. On January 29, 2018, Staff and Intervenors filed their direct testimony. Adam Gatewood, Jeff McClanahan, Robert Glass, Ph.D., Justin Grady, Leo Haynos, Walter Drabinski, and Ann Diggs filed testimony of behalf of Staff. Staff contended that if its conditions were incorporated into the merger agreement, the merger would satisfy the Commission's merger standards and would be in the public interest.¹³ Those conditions included: (1) an Earnings Review and Sharing Plan (ERSP), including a five-year rate moratorium period, additional bill

¹¹ *Id.*

¹² *Id.*, ¶ 6, quoting Order on Merger Application, 97-WSRE-676-MER, Sept. 28, 1999, ¶ 18.

¹³ Direct Testimony of Jeffrey D. McClanahan (McClanahan Direct), Jan. 29, 2018, p. 9.

credits from 2019-2022, and a 50% earning sharing mechanism for any actual earnings above the authorized return on equity (ROE);¹⁴ (2) a requirement that Applicants continue to report and track merger savings during the five-year rate moratorium period;¹⁵ (3) an independent third-party audit of affiliate transactions and corporate cost allocations;¹⁶ (4) a Capital Resource Plan requiring budgets, schedules and post-completion reporting on capital expenditures related to generation, transmission, and distribution;¹⁷ and (5) compliance with Quality of Service Performance Standards and Monitoring Criteria.¹⁸

9. Andrea Crane, Cary Catchpole, and Stacey Harden filed testimony on behalf of CURB. Crane testified, “[f]or the most part, I believe that the Amended Agreement does comply with the Merger Standards ... [h]owever, there are a few areas where I believe that additional ratepayer protections are necessary.”¹⁹ To provide additional ratepayer protections, Crane recommended: (1) an initial ratepayer credit of \$100 million at closing, followed by an additional annual credit of \$50 million from 2020 to 2022;²⁰ (2) a five-year rate moratorium; (3) denial of Applicants’ request to defer transition costs associated with the merger;²¹ (4) a limitation of dividends from the Applicants to the parent company of 100% of net income, absent approval from the Commission and notification to the Commission if the debt ratio of the parent company or any of the utilities exceeds 55%;²² and (5) a commitment to retain Westar’s inclining block residential rate structure.²³

¹⁴ *Id.*, p. 16.

¹⁵ *Id.*, p. 17.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*, p. 18.

¹⁹ Direct Testimony of Andrea C. Crane (Crane Direct), Jan. 29, 2018, p. 15.

²⁰ *Id.*, p. 5.

²¹ *Id.*

²² *Id.*, p. 6.

²³ *Id.*

10. Michael Gorman filed testimony on behalf of KIC, suggesting the Applicants make four commitments to ensure the merger promotes the public interest: (1) to reduce rates; (2) to advocate for consumer representation in Southwest Power Pool stakeholder process; (3) to require the holding company to maintain a reasonable capital structure; and (4) to increase the proposed upfront bill credit from \$50 million to \$190 million.²⁴ Garrett Cole and David Dismukes, Ph.D filed testimony on behalf of KEPCo, recommending additional conditions to ensure the merger standards are met. After concluding the Applicants' Integrated Resource Plan (IRP) is neither valid nor reliable, and does not support the Applicants' estimated merger savings,²⁵ Cole presented four additional conditions before the merger should be approved. Those four conditions are requiring: (1) Commission approval prior to retiring any generating capacity;²⁶ (2) the filing of a new, comprehensive IRP within 60 days of the Commission's approval of the merger;²⁷ (3) the filing of an IRP with the Commission every three years for at least the next ten years;²⁸ and (4) that the IRP includes market-tested pricing based on competitive Requests for Proposals (RFPs).²⁹ Dismukes advocated for eighteen additional financial and ring-fencing commitments to insulate ratepayers from financial uncertainties.³⁰

11. Karl Rabago filed testimony on behalf of the Sierra Club, arguing the Application needs to be enhanced with additional commitments relating to maximizing the use of Kansas energy resources, reducing the possibility of economic waste, and consideration of the impact on the environment.³¹

²⁴ Direct Testimony of Michael P. Gorman, Jan. 29, 2018, p. 10.

²⁵ Direct Testimony of Garrett Cole, Jan. 29, 2018, p. 43.

²⁶ *Id.*, p. 45.

²⁷ *Id.*

²⁸ *Id.*, p. 46.

²⁹ *Id.*

³⁰ Direct Testimony of David E. Dismukes, Ph.D. (Dismukes Direct), Jan. 29, 2018, pp. 5-6.

³¹ Direct Testimony of Karl R. Rabago (Rabago Testimony), Jan. 29, 2018, p. 6.

12. Larry Holloway filed testimony on behalf of KPP, concluding there were no adverse financial consequences from the merger.³² John Garretson filed testimony on behalf of IBEW#304, expressing a neutral position of the proposed merger.³³ On January 30, 2018, Steve W. Chriss filed testimony on behalf of Wal-Mart. Chriss's testimony recommended the proposed \$50 million rebate should be allocated to customer classes based on their respective energy usage and within non-residential classes on energy basis, and advocated establishing a process to develop renewable energy offerings.³⁴

13. On February 5, 2018, Michael Gorman filed cross-answering testimony on behalf of KIC. Gorman's testimony recommends expanding the five-year base rate moratorium proposed by Staff to include all other riders and surcharges, and expanding Staff's proposed Capital Resource Plan to include rate affordability as a planning factor in managing capital expenditure budgets.³⁵ Gorman also rejected KPP's proposal regarding the allocation of transmission resources between Kansas and Missouri.³⁶

14. On February 19, 2018, the Applicants filed rebuttal testimony from nine witnesses. Terry Bassham, the Chairman, President and CEO of Great Plains, KCP&L, and KCP&L Greater Missouri Operations (GMO), proposed to increase guaranteed customer bill credits from \$50 million to \$75 million, with \$50 million being credited shortly after closing, and the remaining \$25 million being distributed over the next four years.³⁷ The Applicants also agreed to forego recovery of \$7.3 million in transition costs incurred prior to close and to accept Staff's recommendation to maintain an operating headquarters in Topeka, Kansas for at least ten

³² Direct Testimony of Larry W. Holloway, Jan. 29, 2018, p. 7.

³³ Direct Testimony of John Garretson, Jan. 29, 2018, p. 2.

³⁴ Direct Testimony of Steve W. Chriss, Jan. 30, 2018, p. 4.

³⁵ Cross-Answering Testimony of Michael P. Gorman, Feb. 5, 2018, pp. 3-4.

³⁶ *Id.*, p. 10.

³⁷ Rebuttal Testimony of Terry Bassham, Feb. 19, 2018, p. 5.

years after the closing of the merger.³⁸ However, the Applicants rejected Staff's Regulatory Plan and CURB's Rate Plan proposals, claiming they would subject the Applicants to too much financial uncertainty and risk.³⁹ In addressing intervenors' concerns that the Applicants' estimated savings are not merger related, Applicants assert merger standard (a)(iii) does not require the savings to be merger related, only that they be quantifiable.⁴⁰ While Applicants accept Staff's position that Westar plant retirements are not merger related,⁴¹ they cite to Staff and CURB testimony acknowledging Applicants have produced documentation supporting their estimated merger savings.⁴²

15. On March 7, 2018, eight parties⁴³ entered into a Non-Unanimous Settlement Agreement (Settlement Agreement), which is attached as Attachment A.⁴⁴ While not Signatories to the Non-Unanimous Settlement Agreement, on March 9, 2018, the IBEW#304, #412, #1464 and #1613 filed a Motion Supporting Approval of Non-Unanimous Settlement Agreement.⁴⁵ Similarly, on April 9, 2018 and April 10, 2018, respectively, KMEA⁴⁶ and the City of Independence⁴⁷ filed Statements supporting the merger as modified in the Settlement Agreement. Jeff McClanahan, the Director of Utilities for the Commission, testified, "[t]he Agreement reflects in large part the recommendations and conditions outlined in Staff's Direct Testimony,

³⁸ *Id.*, pp. 7-8.

³⁹ Rebuttal Testimony of Darrin R. Ives (Ives Rebuttal) Feb. 19, 2018, p. 5.

⁴⁰ Rebuttal Testimony of Steven P. Busser (Busser Rebuttal), Feb. 19, 2018, p. 3.

⁴¹ Ives Rebuttal, p. 16.

⁴² Busser Rebuttal, p. 4.

⁴³ The eight Signatories to the Non-Unanimous Settlement Agreement are the Applicants; Staff, CURB; Sunflower; Mid-Kansas; KPP; Midwest; and Brightergy.

⁴⁴ On March 22, 2018, the Signatories filed Notice of Errata to Non-Unanimous Settlement Agreement, which is attached to this Order as Attachment B. The Errata simply replaces two references to Docket No. 01-KCPE-701-MIS with the correct docket, Docket No. 01-KCPE-708-MIS.

⁴⁵ Motion Supporting Approval of Non-Unanimous Settlement Agreement, Mar. 9, 2018, ¶ 4.

⁴⁶ Statement of Kansas Municipal Energy Agency, Apr. 9, 2018, ¶ 3.

⁴⁷ Statement of City of Independence, Missouri, Apr. 10, 2018, ¶ 3.

so much so that Staff's Direct Testimony provides much of the support for this Agreement."⁴⁸

The key terms in the Settlement Agreement include:

- The new holding company (Holdco) will maintain operating headquarters in both Topeka, Kansas and Kansas City, Missouri. Holdco will maintain a headquarters in Topeka for at least ten years after the merger closes;⁴⁹
- Holdco will maintain its charitable giving and community involvement in the respective KCP&L and Westar service territories at the 2015 levels, or higher, for at least five years after the close of the merger;⁵⁰
- There will be no involuntary severances as a result of plant closings,⁵¹ all collective bargaining agreements will be honored,⁵² and employees will receive compensation and benefits comparable to current levels for at least two years after the merger closes;⁵³
- Following the merger, the Holdco board will initially be composed of an equal number of directors selected by Westar and Great Plains;⁵⁴
- Holdco, KCP&L, and Westar will maintain separate capital structure and separate debt. Holdco's consolidated debt shall not exceed 65% of total capital, and neither KCP&L nor Westar debt shall exceed 60% of total capital;⁵⁵

⁴⁸ Testimony in Support of Non-Unanimous Stipulation and Agreement Prepared by Jeffrey D. McClanahan (McClanahan Testimony in Support), Mar. 12, 2018, p. 3.

⁴⁹ Non-Unanimous Settlement Agreement, Mar. 7, 2018, ¶ 14.

⁵⁰ *Id.*, ¶ 16.

⁵¹ *Id.*, ¶ 20.

⁵² *Id.*, ¶ 18.

⁵³ *Id.*, ¶ 19.

⁵⁴ *Id.*, ¶ 21.

⁵⁵ *Id.*, ¶ 23.

- Following the merger, Westar retail electric customers will receive one-time bill credits totaling \$23,065,299, and KCP&L Kansas retail electric customers will receive one-time bill credits totaling \$7,514,220;⁵⁶
- For the period of 2019 through 2022, Westar retail electric customers will receive annual bill credits of \$8,649,487, and KCP&L Kansas retail electric customers will receive annual bill credits of \$2,817,832;⁵⁷
- Following the respective 2018 KCP&L and Westar rate cases, both utilities will experience a five-year base rate moratorium, provided their authorized return on equity (ROE) is at least 9.3%.⁵⁸ The Signatories to the Settlement Agreement agreed to recommend a 9.3% ROE in both of the utilities' 2018 rate cases.⁵⁹ However, the recommendations are not binding on the Commission;
- Applicants agreed to forego their ability to demonstrate or utilize underearnings at the time of the federal tax law changes as an offset to benefits due to customers;⁶⁰
- KCP&L and Westar will file Earnings Review and Sharing Plans (ERSP) for each year from 2019-2022. If the utilities exceed their authorized ROE, the overearnings will be shared equally with retail electric customers;⁶¹
- Transition costs will be limited to \$50 million on a total combined company basis, and the Kansas jurisdictional portion will be amortized over ten years;⁶²
- Holdco commits to not increasing retail rates for KCP&L and Westar customers as a result of the merger;⁶³

⁵⁶ *Id.*, ¶ 31.

⁵⁷ *Id.*, ¶ 33.

⁵⁸ *Id.*, ¶ 32.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*, ¶ 34.

⁶² *Id.*, ¶ 35.

- KCP&L and Westar will file annual quality of service reports. Any penalties relating to quality of service will be used to improve quality of service and shall not be recovered from customers;⁶⁴
- The Signatories to the Settlement Agreement recommend the opening of a compliance docket for KCP&L and Westar to track and update the status of the merger integration process, including data on employee headcounts, and efficiencies resulting from the merger;⁶⁵ and
- Holdco will honor the financial commitments undertaken in the 01-KCPE-708-MIS Docket.⁶⁶

16. On March 12, 2018, testimony in support of the Settlement Agreement was submitted by Greg Greenwood and Darrin Ives on behalf of the Applicants; by Andrea Crane on behalf of CURB; and by Jeff McClanahan, Justin Grady, Leo Haynos, and Bob Glass on behalf of Staff. That same day, testimony opposing the Settlement Agreement was submitted by KEPCo; BPU; and Michael Gorman on behalf of KIC.

17. Greenwood's testimony applies the benefits of the merger to the merger standards and concludes the Settlement Agreement satisfies the merger standards, and is, therefore, in the public interest.⁶⁷ Ives' testimony summarizes substantive changes to the commitments and conditions agreed to by the Applicants in the Settlement Agreement and concludes those conditions will ensure that customers continue to receive sufficient and efficient service at reasonable rates while maintaining the financial integrity of Holdco, KCP&L, and Westar.⁶⁸

⁶³ *Id.*, ¶ 40.

⁶⁴ *Id.*, ¶ 49.

⁶⁵ *Id.*, ¶ 50.

⁶⁶ *Id.*, ¶ 59.

⁶⁷ Greg A. Greenwood Testimony in Support of Non-Unanimous Stipulation and Agreement, Mar. 12, 2018, p. 9.

⁶⁸ Darrin R. Ives Testimony in Support of Non-Unanimous Stipulation and Agreement, Mar. 12, 2018, p. 7.

18. Crane testified the Settlement Agreement is in the public interest based on the Commission's merger standards and should be approved as filed.⁶⁹ Similarly, McClanahan testified, "[a] review of the Agreement will show that the Applicants have accepted the majority of Staff's recommended conditions ... [t]his fact, coupled with additional conditions the Applicants have accepted, is a strong indication that the Agreement is in the Public Interest."⁷⁰ Grady's testimony explains how the Settlement Agreement satisfies merger standards (a)(i)-(a)(iv), (c), (d), and (e); Haynos's testimony explains how the Settlement Agreement satisfies merger standards (a)(iii), (b), (c), (f), and (h); and Glass's testimony explains how the Settlement Agreement satisfies merger standards (a)(v), (c), and (g).⁷¹

19. BPU filed a three-paragraph statement objecting to the Settlement Agreement, without providing any grounds for its opposition.⁷² Instead, BPU simply announced its opposition and intention to actively participate in the evidentiary hearing.⁷³

20. KEPCo's Objection to the Nonunanimous Settlement Agreement and the Motion to Approve the Same identified four major disputes with the Settlement Agreement: (1) it objects to the Signatories' claims that the merger resulted in no acquisition premium or transaction-related debt;⁷⁴ (2) it contends that Staff does not represent KEPCo's interests and has failed to adequately address KEPCo's concerns;⁷⁵ (3) that the Settlement is not comprehensive and does

⁶⁹ Andrea C. Crane Testimony in Support of Settlement Agreement, Mar. 12, 2018, p. 20.

⁷⁰ McClanahan Testimony in Support, p. 9.

⁷¹ *Id.*, p. 2.

⁷² Kansas City, Kansas Board of Public Utilities' Objection to Non-Unanimous Settlement Agreement and Motion to Approve Non-Unanimous Settlement Agreement, Mar. 12, 2018.

⁷³ *Id.*, ¶ 3.

⁷⁴ Objection to the Nonunanimous Settlement Agreement and the Motion to Approve the Same by Kansas Electric Power Cooperative, Inc., Mar. 12, 2018, ¶ 4.

⁷⁵ *Id.*, ¶ 5.

not address all of the issues raised by KEPCo;⁷⁶ and (4) that the Settlement is unlawful because it would predetermine Applicants' rates in future proceedings without adequate notice.⁷⁷

21. Gorman opposes the Settlement Agreement because it lacks: (1) a specific provision outlining the Applicants' obligation to manage cost of service during the rate moratorium;⁷⁸ (2) a commitment to manage rate base growth;⁷⁹ and (3) a comprehensive rate moratorium that would include all customer charges, other than a fuel charge rider.⁸⁰ KIC believes the merger should be conditioned on a commitment to make retail electric rates regionally competitive.⁸¹

22. On March 15, 2018, the Applicants filed Notice to the Commission that the Federal Energy Regulatory Commission (FERC) issued an Order Authorizing Merger and Disposition of Jurisdiction Facilities between Great Plains and Westar in FERC Docket No. EC17-171-000.⁸²

23. Beginning on March 19, 2018, the Commission held four days of evidentiary hearings. The resulting transcript consists of over 660 pages, plus more than 80 exhibits. The Applicants, Staff, CURB, BPU, KEPCo, and KIC all appeared by counsel. The Commission heard live testimony from a total of seventeen witnesses, including eight on behalf of the Applicants, five on behalf of Staff, two on behalf of KEPCo, and one each on behalf of CURB and KIC.⁸³ The parties agreed to waive cross-examination of several witnesses and had the

⁷⁶ *Id.*, ¶ 6.

⁷⁷ *Id.*, ¶ 7.

⁷⁸ Testimony in Opposition to Non-unanimous Settlement Agreement of Michael P. Gorman, Mar. 12, 2018, p. 3.

⁷⁹ *Id.*, p. 4.

⁸⁰ *Id.*, p. 5.

⁸¹ *Id.*, p. 9.

⁸² Applicants' Notice to the Commission, Mar. 15, 2018, ¶ 4.

⁸³ At the outset of the hearing, the Commission waived in the direct testimony and rebuttal testimony of an additional ten witnesses. *See* Tr. Vol. 1, pp. 15-17.

opportunity to cross-examine the remaining witnesses at the evidentiary hearing and to redirect their own witnesses.

24. On March 19, 2018, KIC filed another Objection to Non-Unanimous Settlement Agreement, reiterating its earlier arguments that the Settlement does not address the long-term trend of rate escalation,⁸⁴ and for the first time raising concerns that the Settlement Agreement is unlawful because the Signatories did not provide proper notice of ratemaking provisions contained within the Settlement Agreement.⁸⁵ Specifically, KIC alleges that the ERSP mechanism is a formula rate calculation, requiring notice,⁸⁶ and the provisions to recommend a 9.3% ROE in the 2018 KCP&L and Westar rate cases were not properly noticed.⁸⁷

25. Following the evidentiary hearing, the Applicants, Staff, CURB, KIC, KEPCo, BPU, and the Sierra Club submitted posthearing briefs. The CEP filed notice that it incorporates the arguments and authorities relied on by the Sierra Club in its Post-Hearing Brief.⁸⁸

MERGER STANDARDS

26. Rather than a strict checklist, the merger standards serve as factors to evaluate whether a proposed merger is in the public interest.⁸⁹ Therefore, an application does not need to satisfy each and every standard, but rather must satisfy enough standards to demonstrate that it advances the public interest.

⁸⁴ Objection to Non-Unanimous Settlement Agreement, Mar. 19, 2018, ¶ 5.

⁸⁵ *Id.*, ¶¶ 10-11.

⁸⁶ *Id.*, at ¶ 10.

⁸⁷ *Id.*, ¶ 11.

⁸⁸ Intervenor Climate & Energy Project's (CEP) Notice of Incorporation by Reference of Sierra Club's Post-Hearing Brief, Apr. 20, 2018.

⁸⁹ *See* Order, 16-KCPE-593-ACQ (16-593 Order), Apr. 19, 2017, ¶ 37.

MERGER STANDARD (a)(i)

27. Under merger standard (a)(i), the Commission compares the financial condition of the newly-created entity to that of the stand-alone entities absent a merger. The Applicants, Staff, CURB, and KPP conclude the proposed merger satisfies merger standard (a)(i). Only KIC and KEPCo argue that the proposed merger does not satisfy merger standard (a)(i).

28. The Applicants contend the proposed merger would result in a stronger regional utility holding company, with approximately one million Kansas customers and nearly 600,000 Missouri customers creating operational efficiencies.⁹⁰ In evaluating merger standard (a)(i), as it did in the 16-593 Docket, the Commission looks to the credit rating agencies for guidance.⁹¹ As it did in the 16-593 Docket, the Commission gives great weight to both Moody's Investors Service (Moody's) and Standard & Poor's (S&P) reports.⁹²

29. Unlike the Great Plains failed attempt to acquire Westar in the 16-593 Docket, in the current Docket, the credit rating agencies have provided a favorable view of the proposed transaction. Gatewood noted the stark contrast between the rating agencies' reaction to the proposed merger of equals as compared to the 2016 Great Plains failed acquisition of Westar.⁹³ This proposed merger would, if approved, result in a Moody's upgrade of Great Plains' credit rating from Baa2 to Baa3, and it would affirm the credit ratings of KCP&L and Westar.⁹⁴ S&P would affirm its current ratings for Great Plains and Westar, but upgrade its outlook for the Applicants from negative to positive.⁹⁵ Both Staff and CURB have noted that the rating agencies' positive response to the proposed merger.⁹⁶ Crane testified "[t]he combined company

⁹⁰ Application, ¶ 17; Direct Testimony of Anthony D. Somma (Somma Direct), Aug. 25, 2017, p. 8.

⁹¹ See 16-593 Order, ¶ 28.

⁹² See *id.*

⁹³ Direct Testimony of Adam H. Gatewood (Gatewood Direct), Jan. 29, 2018, p. 6.

⁹⁴ Somma Direct, p. 9; Direct Testimony of Kevin E. Bryant (Bryant Direct), Aug. 25, 2017, p. 5; Application, ¶ 24.

⁹⁵ Bryant Direct, p. 5; Application, ¶ 24.

⁹⁶ Gatewood Direct, p. 4; Crane Direct, p. 41.

should be stronger than either company on a stand-alone basis.”⁹⁷ Neither KEPCo nor KIC challenge the findings of the rating agencies.

30. KEPCo’s witness David Dismukes, Ph.D. recognized that the Commission rejected Great Plains’ attempted acquisition of Westar primarily due to concerns over the considerable financial risks that Great Plains would have undertaken to finance the acquisition.⁹⁸ Dismukes acknowledges a merger of equals presents less risk to customers than the 2016 proposed acquisition that was rejected in the 16-593 Docket.⁹⁹ However, he argues the merger of equals is a complex reorganization which will produce a holding company with higher than optimum equity capitalization and “an initial post-closing credit rating that will be lower than Westar’s credit rating.”¹⁰⁰ Dismukes believes the high level of equity capitalization and lower rated holding company may result in higher rates.¹⁰¹ Dismukes’ testimony does not reflect errata to the Application filed on September 7 and 8, 2018, which correct the post-closing credit ratings of Westar and KCP&L respectively.¹⁰² Correcting that omission by Dismukes, there is no evidence in the record that contradicts the rating agencies’ positive response to the proposed merger. Dismukes sole remaining concern regarding merger standard (a)(i) is shared by KIC: Holdco’s capital structure will be approximately 59% equity and 41% debt, which is more weighted to equity than the 50-50 ratio typically found in utilities. To produce a capital structure of approximately 50% debt-equity, Holdco will use cash on hand and issue debt to repurchase its stock.¹⁰³ KEPCo and KIC are concerned that the stock repurchasing plan will create leveraged risk at the holding company level that will impair its ability to maintain an investment grade

⁹⁷ *Id.*, p. 40.

⁹⁸ Dismukes Direct, p. 14.

⁹⁹ Tr., p. 547.

¹⁰⁰ Dismukes Direct, p. 17.

¹⁰¹ *Id.*, p. 18.

¹⁰² See Errata to Application, Sept. 7, 2018, ¶ 1; Second Errata to Application, Sept. 8, 2018, ¶¶ 1-2.

¹⁰³ Gorman Direct, p. 30.

bond rating.¹⁰⁴ KIC urges the Commission to adopt a leveraged share-repurchase commitment to protect customers from a gradual leveraged shareholder consolidation.¹⁰⁵

31. The commitment sought by KIC appears to already be incorporated into the Settlement Agreement through Conditions 9, 10, 15, and 16. Those conditions require the Applicants to maintain an investment grade rating at both the holding company and utility level, and limit the debt level to 65% at the holding company level and 60% at the utility level.¹⁰⁶ Crane testifies the Settlement Agreement restricts dividends from the utilities if payment of those dividends would cause them to exceed their 60% debt limitation.¹⁰⁷ Crane adds that the Settlement Agreement's extensive monitoring and requirements will enable the Commission and the other parties to this Docket to closely monitor actual debt and dividend levels and even supplement the safeguards if necessary.¹⁰⁸ Therefore, KIC's and KEPCo's concerns appear to be resolved.

32. The evidence overwhelmingly supports a finding that the proposed merger satisfies merger standard (a)(i). Beyond the uncontroverted positive responses from the credit rating agencies, none of the parties to this Docket question the validity of the ratings agency responses or the Commission's reliance on those responses. In addition, Staff and CURB favorable views of the proposed transaction provide additional support that the proposed merger satisfies merger standard (a)(i). Therefore, the Commission finds the proposed merger of equals satisfies merger standard (a)(i).

¹⁰⁴ *Id.*, p. 31.

¹⁰⁵ Post-Hearing Brief of Kansas Industrial Consumers Group, Inc. (KIC Brief), Apr. 20, 2018, ¶ 41.

¹⁰⁶ *See* Settlement Agreement, Attachment A, pp. 42-44; *see also* Crane Testimony in Support, p. 19.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

MERGER STANDARD (a)(ii) and (a)(iv)

33. Under merger standard (a)(ii), the Commission examines the reasonableness of the purchase price, factoring in the demonstrated savings from the merger. Merger standard (a)(iv) asks whether there are operational synergies that justify payment of a premium in excess of book value. Due to substantial overlap in merger standards (a)(ii) and (a)(iv), the Commission addresses these two standards together.¹⁰⁹

34. As a merger of equals, Applicants claim there is no purchase price per se.¹¹⁰ Instead, the shareholders receive shares in the newly-formed Holdco, with one Westar share being exchanged for one share of Holdco and with one Great Plains share being exchanged for 0.5981 shares of Holdco.¹¹¹ The Applicants explain that the exchange ratio was a result of arms' length negotiations between the Applicants, who were each advised by outside financial advisors.¹¹² Both Staff and CURB agree that there are no acquisition premiums or control premiums in this proposed merger of equals.¹¹³ Staff views this transaction as a true merger, resulting in the formation of a new holding company owning the assets of each merged entity, rather than a purchase.¹¹⁴ CURB concludes the exchange ratio was designed to prevent shareholders from paying or receiving a premium, and that the exchange ratio was negotiated at arms' length, after each utility retained independent advisors.¹¹⁵

35. KIC agrees that as a merger of equals, no specific purchase price is applicable here and that there is no acquisition premium.¹¹⁶ However, KIC argues customers should receive

¹⁰⁹ See 16-593 Order, ¶ 48.

¹¹⁰ Applicants' Initial Brief, Apr. 10, 2018, p. 31.

¹¹¹ *Id.*

¹¹² Rebuttal Testimony of Kevin E. Bryant (Bryant Rebuttal), Feb. 19, 2018, p. 5.

¹¹³ McClanahan Direct, pp. 13-14.

¹¹⁴ Direct Testimony of Justin T. Grady (Grady Direct), Jan. 29, 2018, p. 13.

¹¹⁵ Crane Direct, p. 47.

¹¹⁶ KIC Brief, ¶ 43.

larger bill credits as a result of the transaction.¹¹⁷ KIC's concerns over the size of bill credits are outside the scope of merger standard (a)(ii). A plain reading of merger standard (a)(ii) demonstrates that satisfying the requirement depends upon whether the purchase price is reasonable in light of demonstrable savings. The merger standard is silent on the allocation of savings or whether the savings are distributed to ratepayers. Here, KIC acknowledges there is no purchase price, ergo, it fails to demonstrate the unreasonableness of a non-existent purchase price.

36. KEPCo argues the \$380 termination fee Great Plains owed Westar for failing to complete the transaction proposed in the 16-593 Docket is incorporated in the exchange premium.¹¹⁸ While Great Plains' Senior Vice President and Chief Financial Officer Kevin Bryant admitted Great Plains considered its potential obligation to pay the \$380 million termination fee in its review of the exchange premium,¹¹⁹ he explained the termination fee was never triggered because the initial transaction was amended, rather than terminated.¹²⁰ In acknowledging the termination fee was a factor in developing the merger terms,¹²¹ the Applicants explain it was one of many factors taken into consideration in negotiating the exchange ratio.¹²² Staff explains that, "[g]iven these circumstances, it is not apparent what 'purchase price' should be evaluated under Merger Standard (a) (ii)."¹²³ As such, it is impossible to segregate the effect of the termination fee from the final negotiated exchange ratio.

37. It is reasonable that Westar shares are valued higher than shares of Great Plains. At the time the merger was announced, Westar had a larger market capitalization (\$7.5 billion)

¹¹⁷ *Id.*, ¶ 44.

¹¹⁸ *See* Tr., pp. 312-314.

¹¹⁹ *Id.*, p. 314.

¹²⁰ *Id.*, p. 329.

¹²¹ *Id.*, pp. 329-330, 333.

¹²² Tr., p. 331.

¹²³ Grady Direct, p. 14.

versus Great Plains (\$6.3 billion)¹²⁴ and was trading at a higher stock price than Great Plains (\$53.00 versus \$29.25).¹²⁵ The exchange ratio reflects Westar's larger market capitalization and higher stock price, among other factors evaluated by outside financial advisors to both utilities. More importantly, the exchange ratio simply determines the ownership allocation of the new holding company; it has no impact on customers or rates.¹²⁶

38. KEPCo also argues even though there is no control premium in the initial stock swap, the stock repurchase plan will likely produce an enhanced valuation akin to a control premium.¹²⁷ Dismukes does not provide any support for this claim. Accordingly, the Commission gives little weight to his speculation.

39. Since the transaction represents a merger of equals, without a true purchase price, the Commission agrees with Staff that the exchange ratio does not have the same relevance or importance to ratepayers as the "purchase price" standard referenced in merger standard (a)(ii).¹²⁸ To the extent this standard tangentially applies to a merger of equals, the Commission finds the proposed transaction satisfies merger standard (a)(ii).

40. As discussed above, there is no premium paid in this transaction as a merger of equals. Since there is no premium, it is not necessary to examine whether a premium is justified by operational synergies. To the extent this standard applies to a merger of equals, the Commission finds the Settlement Agreement satisfies merger standard (a)(iv).

MERGER STANDARD (a)(iii)

41. Under merger standard (a)(iii), the Commission examines whether the benefits accruing to the ratepayers from the merger can be quantified. The Applicants identify \$225

¹²⁴ KEPCo Exhibit 7 (Guggenheim Presentation to the Westar Board of Directors), July 6, 2017, p. 10.

¹²⁵ *Id.*, p. 13.

¹²⁶ Tr., p. 330.

¹²⁷ Dismukes Direct, pp. 28-29.

¹²⁸ See Grady Direct, p. 14.

million in quantifiable benefits to Kansas ratepayers in the first five years following the closing of the merger.¹²⁹ Specifically, the Settlement Agreement provides: (1) \$30 million in upfront bill credits; (2) \$45 million in guaranteed bill credits spread out over 2019-2022; and (3) \$150 million from the five-year rate moratorium.¹³⁰ Staff agrees that the Settlement Agreement guarantees ratepayers substantial quantifiable benefits, but calculates \$183.5 million in guaranteed ratepayer benefits in the first five years.¹³¹ Similarly, “[t]aking into account the totality of the Settlement Agreement, CURB believes that it provides significant quantifiable ratepayer benefits.”¹³² CURB estimates ratepayers will receive \$125 million in benefits over the first five years after closing, and opines ratepayers may see additional benefits as a result of the ERSP mechanism.¹³³ While the Signatories to the Settlement Agreement may disagree on the precise amount of benefits resulting from the rate moratorium, they agree the merger produces significant quantifiable benefits.

42. BPU relies on U.S. Department of Justice and Federal Trade Commission’s Horizontal Merger Guidelines, that have not been adopted by this Commission, to argue “a large portion of these savings are not merger related, as required by this Commission.”¹³⁴ But that misstates merger standard (a)(iii), which simply asks if benefits to ratepayers attributable to the merger can be quantified. In arguing, “[t]he record demonstrates that besides the one-time cash payout customers will receive from the Merger, the majority of the rate payer benefits could be achieved absent this Merger,”¹³⁵ BPU admits there are quantifiable benefits to ratepayers from the merger. Merger Standard (a)(iii) does not require the majority of ratepayer benefits be

¹²⁹ Applicants’ Initial Brief, p. 35.

¹³⁰ *Id.*, p. 34.

¹³¹ Testimony in Support of Non-Unanimous Settlement Agreement Prepared by Justin T. Grady (Grady Testimony in Support), Mar. 12, 2018, p. 13.

¹³² Post-Hearing Brief of the Citizens’ Utility Ratepayer Board (CURB Brief), Apr. 20, 2018, ¶ 35.

¹³³ *Id.*

¹³⁴ Responsive Brief of the Kansas City, Kansas Board of Public Utilities (BPU Brief), Apr. 20, 2018, p. 10.

¹³⁵ *Id.*, p. 9.

achieved as a result of the merger, only that the benefits exist and be quantifiable. By recognizing ratepayers benefit from upfront bill credits, BPU tacitly acknowledges that merger standard (a)(iii) is satisfied.

43. Rather than arguing that ratepayers will not receive quantifiable benefits from the merger, KIC objects, contending that the merger's benefits are too heavily weighted to shareholders.¹³⁶ KIC acknowledges that customers will accrue savings from the merger but claims that those savings will be relatively small compared to expected rate increases through surcharges allowed during the rate moratorium period.¹³⁷ KIC contends the rate moratorium is not beneficial enough because it allows some cost increases to be passed through to customers¹³⁸ and because it provides for an excessive ROE.¹³⁹ However, KIC never refutes either Grady's testimony that 61% of all estimated merger savings in the first five years are expected to flow to ratepayers¹⁴⁰ or Greenwood's testimony that two-thirds of the benefits resulting from the merger in the first five years will flow to ratepayers.¹⁴¹ Greenwood estimates that in the first five years, customers will receive \$225 million of the overall \$333 million in total savings.¹⁴² While he admits, shareholders will receive some benefit from those savings, the bulk of the savings -- 68% -- will accrue to the customers.¹⁴³

44. KIC completely ignores the bill credits contained in the Settlement Agreement. KIC does not dispute the guaranteed upfront bill credits of \$23,065,299 to Westar retail electric customers and \$7,514,220 to KCP&L's Kansas retail electric customers are quantifiable customer benefits resulting from the merger. Nor does KIC contest that the Settlement requires

¹³⁶ See KIC Brief, p. 21.

¹³⁷ *Id.*, ¶ 62.

¹³⁸ *Id.*, ¶ 53.

¹³⁹ *Id.*, ¶ 58.

¹⁴⁰ Grady Testimony in Support, p. 14.

¹⁴¹ Tr., p. 341.

¹⁴² *Id.*, p. 343.

¹⁴³ *Id.*, pp. 343-44.

Applicants to provide annual bill credits of \$8,649,487 to Westar retail electric customers and \$2,817,832 to KCP&L's Kansas retail electric customers for the years 2019 through 2022. Likewise, KIC does not challenge Applicants' estimated \$48.7 million in benefits to Westar customers and \$31.7 million in benefits to KCP&L Kansas customers resulting from the Applicants' agreement to forego their claims for under-earnings from federal tax law changes as an offset.¹⁴⁴

45. In essence, KIC argues that substantially all of the benefits arising from the merger should flow to customers and not be shared with shareholders. However, that result is not required by merger standard (a)(iii). In its previous merger orders, the Commission has made "it clear that in order to promote the public interest, *adequate* ratepayer benefits, resulting from a *balanced* and *equitable* sharing of the benefits attributed to a merger, is required."¹⁴⁵ If the Commission were to adopt KIC's approach, utilities would have limited incentive to pursue mergers.

46. Like KIC, KEPCo focuses on whether the Applicants can demonstrate merger-related savings from accelerating plant closure, while ignoring the bill credits. KEPCo essentially ignores merger standard (a)(iii) in its post-hearing briefing.

47. It is undisputed that the Settlement Agreement provides: (1) guaranteed upfront bill credits of \$23,065,299 to Westar retail electric customers and \$7,514,220 to KCP&L's Kansas retail electric customers; (2) annual bill credits of \$8,649,487 to Westar retail electric customers and \$2,817,832 to KCP&L's Kansas retail electric customers for 2019 through 2022; and (3) an estimated \$48.7 million in benefits to Westar customers and \$31.7 million in benefits to KCP&L Kansas customers resulting from the Applicants' agreement to forego their claims for

¹⁴⁴ See Applicants' Initial Brief, p. 36.

¹⁴⁵ Grady Direct, p. 21.

under-earnings from federal tax law changes as an offset.¹⁴⁶ Those provisions alone are sufficient to satisfy the merger standard (a)(iii) requirement to demonstrate quantifiable benefits to the ratepayers. Accordingly, the Commission finds the Settlement Agreement satisfies merger standard (a)(iii).

MERGER STANDARD (a)(v)

48. The Commission also examines merger standard (a)(v), the effect of the proposed transaction on the existing competition. As the Applicants explain, there is a limited effect on existing retail competition since each electric utility is only authorized to provide service within a specified geographic area.¹⁴⁷ K.S.A. 66-1,172 divides the State into electric service territories and certifies only one retail electric supplier to provide retail electric service within the certified territory and the respective service territories of the Applicants do not overlap. CURB agrees the merger will have very little impact on retail competition, since the utilities are only authorized to provide service within their certified territories.¹⁴⁸ In arguing the merger will harm competition, BPU relies on a decision by the California Public Utility Commission that a merger between two rival utilities could have a significantly detrimental effect on the quality of service through higher rates.¹⁴⁹ This Docket presents a substantial evidentiary record, enabling the Commission to assess whether the proposed merger will result in higher retail rates or lower quality of service, therefore it has no reason to apply the exogenous California Public Utility Commission's conclusions from a merger involving two different utilities. Accordingly, the Commission gives no weight to the California Public Utility Commission's analysis. Based on

¹⁴⁶ See Applicants' Initial Brief, p. 36.

¹⁴⁷ Direct Testimony of Greg A. Greenwood (Greenwood Direct), Aug. 25, 2017, p. 20.

¹⁴⁸ CURB Brief, ¶ 36.

¹⁴⁹ BPU Brief, p. 7.

K.S.A. 66-1,172, the Commission finds the merger would have little impact on retail competition.

49. Applicants note the services they offer in wholesale markets are regulated by the FERC,¹⁵⁰ which approved the proposed merger on March 15, 2018.¹⁵¹ Since the FERC found the proposed merger will not adversely affect wholesale vertical or horizontal competition, the Applicants contend merger standard (a)(v) is met. Staff believes the Settlement Agreement addresses all of its prior concerns related to merger standard (a)(v).¹⁵²

50. BPU's main objection to the merger appears to be centered on merger standard (a)(v). By creating a utility whose size will vastly eclipse the other electricity providers in the State, BPU argues the merger is not in the public interest.¹⁵³ Similarly, KIC expresses its concerns that post-merger, the Applicants would own approximately 19% of total capacity in the SPP.¹⁵⁴ At its core, BPU's concern is preserving its ability to purchase or sell "power by pitting Westar and KCP&L against one another to compete for sales to (or purchases from) the BPU."¹⁵⁵ For BPU's fears to be realized, the Applicants would need to consolidate their zonal rates for transmission service.¹⁵⁶ Not only have the Applicants not proposed to consolidate their zonal rates, but any consolidation would require approval by either the FERC or SPP.¹⁵⁷ Therefore, BPU's concerns over zonal consolidation are best resolved by either the FERC or SPP.

51. Neither KIC nor BPU present compelling arguments to counteract the FERC's finding that the merger will not adversely affect wholesale vertical or horizontal competition.

¹⁵⁰ Greenwood Direct, p. 20.

¹⁵¹ Applicants' Notice to the Commission, Mar. 15, 2018, ¶ 4

¹⁵² Post-Hearing Brief of Commission Staff (Staff Brief), Apr. 20, 2018, p. 10.

¹⁵³ BPU Brief, p. 6.

¹⁵⁴ Gorman Direct, p. 15.

¹⁵⁵ *Id.*, p. 7.

¹⁵⁶ *See id.*; *see also* Applicants' Reply Brief, Apr. 27, 2018, p. 18.

¹⁵⁷ *Id.*

Therefore, the Commission finds the proposed Settlement Agreement satisfies merger standard (a)(v).

MERGER STANDARD (b)

52. Merger standard (b) questions the effect of the transaction on the environment. Applicants assert the proposed merger will have a positive impact on the environment because it will allow construction of additional wind generation in Kansas, and the accelerated retirement of 780 MW of fossil-fuel generation.¹⁵⁸ By replacing coal generation with wind generation, the Applicants can lower their emissions.¹⁵⁹ CURB believes that the merger will result in the early retirement of certain coal generation plants, having a positive impact on the environment.¹⁶⁰ Staff's analysis indicates the proposed merger will not have any significant environmental impact.¹⁶¹

53. Both the Sierra Club and CEP believe the Settlement Agreement needs additional safeguards to satisfy merger standard (b). The Sierra Club's witness, Karl Rabago, testified, "[t]he proposed merger can reduce environmental impacts through commitments to retire generation and develop and deploy new clean energy resources,"¹⁶² but by advancing a resource plan that locks in old and inefficient coal units, actually has a negative environmental impact.¹⁶³ Rabago faults the Applicants for not committing to meaningful clean energy development.¹⁶⁴

54. While the Commission agrees with the Sierra Club that the Applicants' promises to accelerate the retirements of some of its coal-fired plants are merely promises and not incorporated into the Settlement Agreement, the Commission recognizes the strong economic

¹⁵⁸ Direct Testimony of Darrin R. Ives (Ives Direct), Aug. 25, 2017, pp. 32-33.

¹⁵⁹ *Id.*, p. 33.

¹⁶⁰ CURB Brief, p. 23.

¹⁶¹ Staff Brief, p. 11.

¹⁶² Rabago Testimony, p. 21.

¹⁶³ *Id.*

¹⁶⁴ *Id.*, pp. 23, 25-26.

incentive the Applicants have to accelerate the retirements. Applicants claim “total Merger and non-Merger related net savings from these retirements are forecast to be \$278 million over the first five years following the merger.”¹⁶⁵ Those expected savings are reflected in Holdco’s pro forma five-year financial forecast and are expected to benefit customers and shareholders.¹⁶⁶ The investment community relies on Holdco’s pro forma financial forecasts. The market will react negatively if the Applicants fail to meet their financial forecasts. Therefore, the Applicants face market pressure to recognize the savings associated with accelerated retirements that are baked into their pro forma forecasts.

55. In addition to the market’s expectations, Applicants also face pressure from their own shareholders. Under the Settlement Agreement, the ratepayers are guaranteed 61% of the estimated merger savings in the first five years.¹⁶⁷ By Staff’s calculations, the Settlement Agreement provides \$183.5 million in guaranteed ratepayer benefits in the first five years.¹⁶⁸ Ratepayers are guaranteed savings regardless of whether the merger produces all of the expected savings. The Applicants have also committed to maintaining employee compensation and benefit levels for two years¹⁶⁹ and to no involuntary severances as a result of the merger,¹⁷⁰ which prevents the Applicants from looking to reduced labor costs for savings. To recognize meaningful benefits for their shareholders, the Applicants are dependent on realizing savings from accelerated plant retirement. If the Applicants do not produce savings through accelerated plant retirements, they will likely disappoint their investors. Therefore, while the Settlement

¹⁶⁵ Ives Direct, p. 22.

¹⁶⁶ *Id.*, p. 21; Somma Direct, p. 19.

¹⁶⁷ Grady Testimony in Support, p. 15.

¹⁶⁸ *Id.*, p. 13.

¹⁶⁹ Non-Unanimous Settlement Agreement, Attachment A, p. 41.

¹⁷⁰ *Id.*

Agreement does not mandate the accelerated retirements, the Applicants have little choice but to honor their commitments to accelerate the retirements.

56. The evidence is uncontroverted that the Applicants intend to accelerate the retirements of fossil-fuel generation plants, which should result in lower emissions. Therefore, merger standard (b) is satisfied. While the Sierra Club would prefer even more environmental benefits from the merger, the merger standard does not require a certain level of environmental benefit. In fact, the Commission recently approved the acquisition of Empire District Electric Company upon a showing the “transaction will not negatively impact the environment.”¹⁷¹ Accordingly, the Commission finds the Settlement Agreement satisfies merger standard (b).

MERGER STANDARD (c)

57. Merger standard (c) addresses whether the proposed transaction will provide a benefit to the state and local economies and the likelihood that the transaction will lead to labor dislocations and harm local communities.

58. The Applicants estimate the local economy will experience approximately \$331 million in net benefits associated from the merger over the next twelve years.¹⁷² While Dr. Glass cannot segregate the impact on the Kansas economy from impact on the Missouri economy, he agrees with the Applicants’ analysis that the merger provides net economic benefits to Kansas.¹⁷³ Similarly, CURB believes the Settlement Agreement will lower utility rates, and likely attract new businesses and positively impact local economies.¹⁷⁴

59. Of the parties opposing the Settlement Agreement, only KIC analyzes merger standard (c). KIC posits, since the Settlement does not contain a plan that materially addresses

¹⁷¹ See Order Granting Joint Motion to Approve the Unanimous Settlement Agreement and Approval of the Joint Application, Docket No. 16-EPDE-410-ACQ, Dec. 22, 2016, ¶ 40.

¹⁷² Applicants’ Initial Brief, p. 52.

¹⁷³ Direct Testimony of Robert H. Glass, Ph.D. (Glass Direct), Jan. 29, 2018, p. 23.

¹⁷⁴ CURB Brief, ¶ 38.

escalating and regionally uncompetitive retail rates, the merger will not provide an overall benefit to state and local economies.¹⁷⁵ KIC fails to acknowledge evidence that the Settlement Agreement provides \$183.5 million in guaranteed ratepayer benefits in the first five years,¹⁷⁶ and that 61% of all estimated merger savings in the first five years are expected to flow to ratepayers.¹⁷⁷

60. KIC also ignores evidence that the Applicants will reduce their capital spending by a billion dollars over the next five years as a result of the merger.¹⁷⁸ Greenwood summarized the impact of the merger by explaining, “[w]ithout this merger, we get zero merger savings. With this merger, we get \$555 million during the first five years. And we can spend a billion dollars less of capital during that time.”¹⁷⁹ Referring to the billion dollar reduction in capital spending, Greenwood testified, “[t]hose are savings that show up in lower customer bills.”¹⁸⁰ The billion dollars saved in capital expense over five years will be available for ratepayers to spend elsewhere, which should create an economic stimulus.

61. KIC asserts rates remain too high following the merger. Merger standard (c) asks whether the proposed transaction will be beneficial on an overall basis to state and local economies, not whether it is an economic cure all. If the Commission were to adopt KIC’s approach, it would be nearly impossible to approve any merger. Merger standard (c) simply requires a merger provides an economic benefit. As Greenwood admits,

no one said that this merger is going to reduce total rates for customers, right? It’s the single biggest thing that we can do. You know, I’ve been with Westar for a quarter century ... when we find something that saves 2 or 3 million dollars a year and we can repeat that every year, we get pretty

¹⁷⁵ KIC Brief, ¶ 77.

¹⁷⁶ Grady Testimony in Support, p. 13.

¹⁷⁷ *Id.*, p. 14.

¹⁷⁸ *Tr.*, p. 348.

¹⁷⁹ *Id.*, p. 349.

¹⁸⁰ *Id.*, p. 348.

excited, so you can imagine the excitement on something that reduces rates 160 million dollars each and every year after a ramp-up period.¹⁸¹

Customers will experience rate relief, meaning their bills will be lower if the merger occurs. Whether that relates in an actual reduction in rates remains to be seen. However, KIC reads merger standard (c) to require an actual rate reduction. It does not. The evidence is overwhelming that merger savings will be shared with customers. The first prong of merger standard (c) is met.

62. Another aspect of merger standard (c) examines the likelihood the transaction will lead to labor dislocations and harm local communities. In Condition 1 of the Settlement Agreement, Applicants commit to maintaining their current headquarters in downtown Topeka, Kansas, staffed with at least 500 employees through 2023, and maintaining Kansas headquarters in Topeka for an additional five years, with Holdco staffing levels reflecting more employees in Kansas than in Missouri.¹⁸² In Condition 3, Applicants commit to continuing charitable giving and community involvement in its Kansas service territory at an equal or greater level to their 2015 giving levels for a minimum of five years after the merger closes.¹⁸³ In Conditions 6 and 7, Applicants commit to maintain substantially comparable compensation levels and benefits for all employees for at least two years and avoid any involuntary severances as a result of the merger.¹⁸⁴ No parties contest the validity of those commitments. IBEW#304, #412, #1464 and #1613 support the Settlement Agreement.¹⁸⁵

¹⁸¹ *Id.*, p. 384.

¹⁸² Settlement Agreement, Attachment A, p. 41.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *See* Motion Supporting Approval of Non-Unanimous Settlement Agreement.

63. Based on Conditions 1, 3, 6, and 7, the Commission finds the Settlement Agreement satisfies the second prong of merger standard (c). The proposed merger meets both prongs of merger standard (c).

MERGER STANDARD (d)

64. Merger standard (d) considers whether the proposed transaction will preserve the Commission's jurisdiction and capacity to effectively regulate and audit public utility operations in the state. Applicants identify several provisions of the Settlement Agreement that they claim enhance the Commission's ability to regulate them, notably: (1) the ERSP mechanism, which incentivizes the Applicants to achieve merger savings; (2) the capital plan reports to monitor the utilities' capital plans; (3) the quality of service standards and associated penalty provisions; and (4) the financing, ratemaking, accounting, and related conditions.¹⁸⁶ The inclusion of the ERSP mechanism alleviates Staff's concerns that the proposed transaction could diminish the Commission's ability to effectively regulate the Applicants.¹⁸⁷

65. KEPCo's position is that the merger should not be allowed to proceed absent a clearly articulated Integrated Resource Plan (IRP) process in Kansas.¹⁸⁸ The IRP process envisioned by KEPCo would provide the Commission with Kansas-specific information.¹⁸⁹ KEPCo suggests the Kansas-specific IRP need not be completed before the merger closes, therefore, it argues requiring a Kansas-specific IRP will not be an impediment to the merger closing.¹⁹⁰

66. While the ERSP mechanism is included in the Settlement Agreement as Condition 26, the Commission is concerned that the Capital Resource Plan provided for in

¹⁸⁶ Applicants' Initial Brief, p. 57.

¹⁸⁷ Staff Brief, p. 12.

¹⁸⁸ Tr., p. 643.

¹⁸⁹ Kansas Electric Power Cooperative, Inc.'s Post-Hearing Brief (KEPCo Brief), Apr. 20 2018, p. 32.

¹⁹⁰ *Id.*

paragraph 50(iv) of the Settlement Agreement does not reference an IRP.¹⁹¹ In conversations with the Applicants, Staff and CURB expressed their desire to include an IRP process in the Capital Resource Plan.¹⁹² Staff's expectation is that an IRP process will be discussed in the compliance docket agreed to in Condition 40 of the Settlement Agreement.¹⁹³ At the evidentiary hearing, Bassham committed to complete an IRP and share it with the Commission.¹⁹⁴

67. The Commission agrees with Staff, CURB, and KEPCo that an IRP process needs to be included in the Capital Resource Plan. Therefore, the Commission mandates that the Signatories develop a reporting format and submit it for Commission approval within three months of the close of the transaction. If the Signatories are unable to meet that deadline, or if the Commission rejects the proposed reporting format, the Commission may establish a formal procedural schedule to develop the IRP process. Moreover, the IRP process will remain in effect until such time as the Commission authorizes its elimination.

68. KIC acknowledges the proposed transaction does not alter the Commission's statutory authority, but claims it could potentially hamper effective regulation in the future.¹⁹⁵ To avoid hampering the Commission's ability to effectively regulate the Applicants, KIC urges the Commission to commit to addressing rate escalation.¹⁹⁶ Within the purview of this Docket, KIC fails to create a nexus between the Commission's ability to effectively regulate the Applicants and the need to address rate escalation. The Commission understands KIC's desire to reduce rates, but fails to see how a commitment to contain rates is within the scope of merger

¹⁹¹ See Tr. p. 566.

¹⁹² *Id.*, p. 567.

¹⁹³ *Id.*

¹⁹⁴ *Id.*, p. 245.

¹⁹⁵ KIC Brief, ¶ 79.

¹⁹⁶ *Id.*

standard (d) or this merger generally. The 2018 KCP&L and Westar rate cases are the appropriate forums to seek to limit rate escalation.

69. KIC also erroneously argues the Commission's hands are tied by the provisions of the Settlement Agreement that recommends a 9.3% ROE in the 2018 KCP&L and Westar rate cases.¹⁹⁷ The Commission is not bound by any agreement among the Signatories regarding the ROE in either of these rate cases. The recommended ROE is merely a promise by the Signatories to recommend a 9.3% ROE to the Commission, akin to a prosecutor recommending a reduced sentence for a cooperating witness to a judge. In the latter instance, a judge has no obligation to accept the plea agreement. Similarly, by accepting the terms of the Settlement Agreement, the Commission is under no obligation to utilize any specific ROE in a future rate case.

70. The Commission notes KIC¹⁹⁸ and its members¹⁹⁹ have already been granted intervention in Westar's pending rate case, 18-WSEE-328-RTS, where they will have a full opportunity to present evidence that a 9.3% ROE is excessive or that another ROE is more appropriate. Other parties may do the same.

71. Conditioned on the Commission's mandate that the Signatories develop a reporting format and submit it for Commission approval within three months of the close of the transaction, the Commission finds the Settlement Agreement satisfies merger standard (d).

¹⁹⁷ See *id.*, ¶¶ 81-82.

¹⁹⁸ Order on Kansas Industrial Consumers Group, Inc. Petition to Intervene, Docket No. 18-WSEE-328-RTS, Mar. 20, 2018.

¹⁹⁹ Order Granting Intervention to Cargill, Coffeyville, Occidental, Spirit and Goodyear, Docket No. 18-WSEE-328-RTS, Mar. 20, 2018; Order Granting Intervention to HollyFrontier El Dorado Refining, LLC, Docket No. 18-WSEE-328-RTS, Mar. 20, 2018.

MERGER STANDARD (e)

72. Merger standard (e) addresses the effect of the transaction on affected public utility shareholders. It is uncontested that at special shareholder meetings held on November 21, 2017, over 90% of the votes cast by Great Plains shareholders and a similar percentage of the votes cast by Westar shareholders supported the transaction.²⁰⁰ As of November 21, 2017, the majority of both companies' common stock was held by sophisticated, institutional investors. The Commission is reluctant to second guess the overwhelming majority of both Great Plains and Westar shareholders. Therefore, the Commission finds the Settlement Agreement satisfies merger standard (e).

MERGER STANDARDS (f) and (g)

73. Since merger standard (f), which asks whether the transaction maximizes the use of Kansas' energy resources, and merger standard (g), which asks whether the transaction will reduce the possibility of economic waste, have substantial overlap, the Commission addresses them together.

74. The Sierra Club contends that without a proper IRP, it is unclear how Holdco would maximize Kansas's energy resources or reduce the possibility of economic waste.²⁰¹ Since Applicants may not complete a comprehensive IRP in Missouri until 2021, the Sierra Club believes it is imperative for the Commission to institute an IRP process in Kansas.²⁰² The Commission's adoption of an IRP process in its evaluation of merger standard (d), should address the Sierra Club's concerns.

²⁰⁰ Tr., p. 331, *see also* KEPCo Exhibit 9 (SEC Form, Schedule 14A), p. 8.

²⁰¹ Sierra Club's Post-Hearing Brief (Sierra Club Brief), Apr. 20, 2018, p. 8.

²⁰² *Id.*, p. 11.

75. KIC reiterates its concern that regionally-uncompetitive rates greatly increase the possibility that Kansas's energy resources will not be fully utilized.²⁰³ Specifically, KIC blames the loss of wholesale load on Westar's escalating cost of service.²⁰⁴ The actual causes of the loss of wholesale load, whether attributable either to Westar's cost of service or to energy efficiency reducing demand, is immaterial. The relevant inquiry is whether the merger will maximize the use of Kansas energy resources. The Applicants argue the proposed merger represents the best opportunity to maximize Kansas resources.²⁰⁵ The Applicants argue Holdco will be financially stronger than Great Plains or Westar individually, and will be better positioned to take advantage of Kansas energy resources, chiefly wind energy resources, post-merger.²⁰⁶ In evaluating merger standard (a)(i), the Commission has already concluded the merged entity will be financially stronger than the standalone companies. It follows that Holdco will be better able to take advantage of wind energy through greater investment in Kansas wind resources. KIC has produced no evidence to the contrary. Based on the Applicants' promise that it will use wind energy and other modern and efficient resources to replace the megawatts lost by the accelerated retirements of fossil-fuel generation plants, the Commission believes the merger will maximize the use of Kansas energy resources. The implementation of the IRP process should also ensure the merger maximizes the use of Kansas energy resources. The Commission finds the proposed transaction satisfies merger standard (f).

76. KIC also argues the merger will not reduce the possibility of economic waste because uncompetitive retail rates prevent new businesses from relocating to Kansas and existing

²⁰³ KIC Brief, ¶ 90.

²⁰⁴ *Id.*

²⁰⁵ Applicants' Reply Brief, p. 35.

²⁰⁶ Ives Direct, p. 34.

businesses to expand their Kansas presence.²⁰⁷ KIC produced no evidence that retail rates are preventing new businesses from moving to Kansas or preventing existing businesses to expand their Kansas presence. As discussed in the evaluation of merger standard (c), the evidence suggests the Applicants will reduce their capital spending by a billion dollars over the next five years as a result of the merger,²⁰⁸ and that “[t]hose are savings that show up in lower customer bills.”²⁰⁹ The Commission concludes that the billion dollars saved in capital expense over five years could create an economic stimulus. In addition, the ERSP mechanism may return even greater bill credits to retail customers, while at the same time giving the Applicants a powerful incentive to operate efficiently and reduce economic waste.²¹⁰ The Commission agrees that the reduced capital spending resulting from the merger and the ERSP mechanism strongly support a finding that this merger will reduce the possibility of economic waste. Accordingly, the Commission concludes the Settlement Agreement satisfies merger standard (g).

MERGER STANDARD (h)

77. The final merger standard, (h), asks what impact, if any, the transaction has on the public safety. No party to these proceedings contests that the merger complies with this standard.²¹¹ Conditions 36-39 and 40b of the Settlement Agreement address reliability performance and reporting requirements.²¹²

78. In addition to adopting minimum reliability performance metrics and penalties for failure to perform, the Settlement Agreement adopts Staff’s recommendation to require any penalties for failure to perform to be used to improve quality of service and not be recoverable

²⁰⁷ KIC Brief, ¶ 92.

²⁰⁸ Tr., p. 348.

²⁰⁹ *Id.*, p. 348.

²¹⁰ *See Applicants’ Initial Brief*, p. 67.

²¹¹ *See id.*, p. 68; KIC Brief, ¶ 93.

²¹² Testimony in Support of Non-Unanimous Settlement Agreement Prepared by Leo M. Haynos, Mar. 12, p. 3.

from customers in the cost of service.²¹³ Condition 36 requires an annual report of post-merger reliability metrics, by comparing those metrics to the average of the previous five years and mandatory annual reporting on the post-merger operating areas activities in IT consolidation, vegetation management, post-storm after action reviews, and results of transmission system patrols.²¹⁴ The uncontroverted evidence is Conditions 37-40b of the Settlement Agreement are expected to result in improved system reliability;²¹⁵ therefore, the Commission finds the Settlement Agreement satisfies merger standard (h).

79. While not required to meet each and every merger standard to be approved, the proposed transaction does satisfy each of the Commission's applicable merger standards. Accordingly, the Commission finds the merger as conditioned in the Settlement Agreement is in the public interest.

Applying the Five-Factor Test

80. On March 7, 2018, the Applicants, Staff, CURB, Sunflower, Mid-Kansas, KPP, Midwest, and Brightergy filed a Joint Motion for Approval of Non-Unanimous Settlement Agreement. On March 9, 2018, the Unions filed their motion in support of the Non-Unanimous Settlement Agreement.²¹⁶ In addition, both KMEA and the City of Independence, Missouri have stated they have no opposition to the Settlement Agreement and support approval of the proposed transaction.²¹⁷ KEPCo, KIC, BPU, and the Sierra Club oppose the merger. The

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*, p. 8.

²¹⁶ International Brotherhood of Electrical Workers, Local No. 304, 412, 1464 and 1613 Motion Supporting Approval of Non-Unanimous Settlement Agreement, Mar. 9, 2018, ¶ 4.

²¹⁷ Statement of Kansas Municipal Energy Agency, ¶ 3; Statement of the City of Independence, MO, ¶ 3.

CEP incorporates the arguments and authorities relied on by the Sierra Club in its Post-Hearing Brief.²¹⁸

81. The law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith.²¹⁹ When approving a settlement, the Commission must make an independent finding as to whether the settlement is supported by substantial competent evidence in the record as a whole, will establish just and reasonable rates, and is in the public interest. Since the settlement is non-unanimous, the Commission will apply the five-factor test to determine the reasonableness of proposed settlement agreement. These factors are:

- a. Whether each party had an opportunity to be heard on reasons for opposing the settlement;
- b. Whether the settlement is supported by substantial competent evidence in the record as a whole;
- c. Whether the settlement conforms to applicable law;
- d. Whether the settlement will result in just and reasonable rates;
- e. Whether the results of the settlement are in the public interest.²²⁰

The five-factor test was first announced and utilized by the Commission in the context of a rate case in 2008.²²¹ In announcing the five-factor test, the Commission explained that the factors “are derived from principles of utility regulation, administrative law, and case law... [and] simply represent a more orderly manner for the Commission to address a non-unanimous black-

²¹⁸ Intervenor Climate & Energy Project's (CEP) Notice of Incorporation by Reference of Sierra Club's Post-Hearing Brief, Apr. 20, 2018.

²¹⁹ *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

²²⁰ See Order Approving Contested Settlement Agreement, Docket No, 08-ATMG-280-RTS (08-280 Order), May 12, 2008, ¶¶ 9-10.

²²¹ See *id.*, ¶ 11.

box settlement.”²²² Since the five-factor test was designed to address a black-box settlement, rather than a settlement concerning a merger of equals, where all of the conditions are explicitly spelled out, not all of the five factors are applicable in this case.

Evaluation of the Settlement Agreement

1. Each party had an opportunity to be heard on its reasons for opposing the Settlement

82. The parties opposing the Settlement were given the opportunity to be heard. On March 12, 2018, KEPCo, KIC, and BPU all filed separate objections to the Non-Unanimous Settlement Agreement.²²³ KEPCo, KIC, BPU all appeared at the evidentiary hearing, with KEPCo and KIC presenting their own witnesses and testimony opposing the merger, and KEPCo, KIC, and BPU all cross-examining the Signatories to the Settlement Agreement. Following the evidentiary hearing, KEPCo, KIC, BPU, and the Sierra Club all filed post-hearing briefs, which provided them another opportunity to express their reasons to oppose the Non-Unanimous Settlement.²²⁴ Therefore, the opponents of the Non-Unanimous Settlement have had numerous opportunities to be heard.

83. While KEPCo claims it was not notified of any settlement meetings scheduled after the initial settlement conference,²²⁵ participating in the settlement conferences is not the relevant standard. Instead, the concern is whether an opponent to the settlement has an opportunity to be heard by the Commission. Here, the record is replete with filings and testimony by KEPCo detailing its objections to the Settlement Agreement. The Commission also notes that KEPCo’s claim that it was not notified of subsequent settlement discussion is disputed

²²² *Id.*

²²³ Objection to the Non-Unanimous Settlement Agreement and the Motion to Approve the Same by Kansas Electric Power Cooperative, Inc.; Testimony in Opposition to Non-Unanimous Settlement Agreement of Michael P. Gorman on Behalf of Kansas Industrial Consumers Group, Inc.; Kansas City, Kansas Board of Public Utilities’ Objection to Non-Unanimous Settlement Agreement and Motion to Approve Non- Unanimous Settlement Agreement.

²²⁴ KEPCo Brief; KIC Brief; BPU Brief; Sierra Club Brief.

²²⁵ KEPCo Brief; KIC Brief, p. 89.

by the Signatories to the Settlement Agreement.²²⁶ Therefore, KEPCo has no basis to claim that it was denied an opportunity to express the reasoning behind its opposition to the Settlement Agreement. The Commission finds all parties were given sufficient opportunity to be heard on any reasons they may have had for opposing the Settlement.

2. The Settlement is supported by substantial competent evidence in the record as a whole

84. All items agreed to and included within the Settlement Agreement are supported by substantial competent evidence in the record as a whole. Specifically, testimony in support of the Settlement was filed by Greg Greenwood and Darrin Ives on behalf of Applicants; Jeff McClanahan, Justin Grady, Leo Haynos, and Robert Glass, Ph.D. on behalf of Staff; and by Andrea Crane on behalf of CURB.

85. The record is voluminous, consisting of hundreds of documents, a four-day evidentiary hearing, testimony from seventeen witnesses, and hundreds of pages of post-hearing briefing. The overwhelming majority of competent evidence favors approving the Settlement Agreement. Based on its thorough review of the record, the Commission finds there is substantial competent evidence that the Settlement Agreement satisfies the Commission's merger standards and is in the public interest. Therefore, the Commission concludes there is substantial competent evidence in the record as a whole to approve the Settlement Agreement.

3. The Settlement conforms to applicable law

86. "An Order is 'lawful' if it is within the statutory authority of the commission, and if the prescribed statutory and procedural rules are followed in making the Order."²²⁷ The Commission has jurisdiction to supervise electric public utilities, including issuing decisions on

²²⁶ See Applicants' Reply Brief, pp. 69-70; McClanahan Testimony in Support, pp. 10-11.

²²⁷ *Central Kansas Power Co. v. Kansas Corp. Comm'n*, 221 Kan. 505, 511 (1977).

merger applications.²²⁸ Thus, the subject matter of the Settlement Agreement is within the Commission's authority. Additionally, the Signatories to the Settlement Agreement agree that applicable statutory and procedural rules have been followed. The Settlement is the result of negotiations among the parties to this proceeding. Therefore, Commission approval of the Settlement Agreement complies with applicable law.

87. KIC argues the Settlement Agreement is unlawful because there was improper notice of the ERSP mechanism²²⁹ or the agreement to recommend a 9.3% ROE in the 2018 KCP&L and Westar rate cases.²³⁰ The Commission finds the notice was appropriate. Neither the ERSP mechanism nor the agreement to recommend an ROE constitute ratemaking.

88. There is no tariff associated with the ERSP mechanism. Absent a tariff, rates cannot be changed. The ERSP does not make any changes to the rates currently on file with the Commission, it simply determines credits that would be due to ratepayers in the event the utilities exceed their authorized ROEs.²³¹ Without an ERSP, customers would not be able to share in any savings until the five-year rate moratorium concludes.²³²

89. As acknowledged by KIC, in Paragraph 32 of the Settlement Agreement, "the Signatories agree to make certain recommendations ... including "an agreement to *recommend* a 9.3% return on equity in both rate cases."²³³ (emphasis added) The plain language of the Settlement Agreement demonstrates the Signatories are merely making a non-binding recommendation to the Commission. The Commission is not a signatory, and is not bound to accept the Signatories' recommended ROE. KIC has already been granted full intervention in

²²⁸ See K.S.A. 66-101; K.S.A. 66-131(c).

²²⁹ KIC Brief, ¶ 107.

²³⁰ *Id.*, 108.

²³¹ Applicants' Initial Brief, p. 88.

²³² *Id.*

²³³ KIC Brief, ¶ 108.

Westar's pending rate case, where it will have the opportunity to contest the recommended ROE. Furthermore, the ROE is not a rate; it is just a single component of the revenue requirement. Therefore, the Commission finds the Settlement Agreement does not establish any rates and denies KIC's argument that notice was defective.

90. Kansas law favors and encourages settlements.²³⁴ By stating, "no settlement proposal, unanimous or contested; black-box or transparent, relieves the three-member Commission of its responsibility to make an independent judgment as to whether the settlement constitutes a reasonable remedy or resolution of the issues",²³⁵ the Commission acknowledges the settlement standards set forth in *Farmland*²³⁶ and *CURB*²³⁷ regarding non-unanimous settlements apply equally to all settlement agreements before it for consideration. The Settlement Agreement meets this legal standard.

4. The Settlement results in just and reasonable rates

91. As discussed in Paragraphs 87 and 88, the Settlement does not set any rates.²³⁸ It imposes a five-year rate moratorium²³⁹ and provides some upfront bill credits to retail electric customers,²⁴⁰ followed by annual credits from 2019-2022,²⁴¹ but does not set any rates. Therefore, this factor of the test is inapplicable.

92. The parties represent a variety of interests, including investors, large commercial customers, small commercial customers, residential customers and the public generally. The terms of the Settlement Agreement are fair and reasonable, and were fully and fairly negotiated

²³⁴*Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

²³⁵ See 08-280 Order, ¶ 11.

²³⁶*Farmland Indus. v. Kansas Corp. Comm'n*, 24 Kan. App. 2d 172, 186-88 (1997).

²³⁷*Citizens' Util. v. Kansas Corp. Comm'n*, 28 Kan. App. 2d 313, 316-17 (2000).

²³⁸ Non-Unanimous Settlement Agreement.

²³⁹ *Id.*, ¶ 32.

²⁴⁰ *Id.*, ¶ 31.

²⁴¹ *Id.*, ¶ 33.

by the parties in conjunction with the acknowledgement that it is unlikely the Commission would accept wholesale any party's prefiled position.

5. The results of the Settlement are in the public interest

93. The Commission's merger standards are designed to evaluate whether the merger will promote the public interest. In its review of the merger standards, the Commission found the merger, as modified by the Settlement Agreement is in the public interest. Therefore, it is not necessary to repeat the Commission's analysis. Instead, the Commission notes that each party has a duty to protect the interests it represents. The Applicants have a duty to both their customers and shareholders. CURB represents the interests of residential and small commercial customers. The Unions represent their members. Staff represents the public interest generally, placing Staff in the unique position of being required to weigh and balance the interests of the Applicants, all classes of the Applicants' customers, and any other interests impacted by the Commission's Order that may not be party to the proceeding. The Commission finds the Settlement Agreement represents an equitable balancing of the interests of all parties. Therefore, in addition to its findings that the merger itself promotes the public interest, the Commission finds the Settlement Agreement is in the public interest.

94. The Commission approves the Non-Unanimous Settlement Agreement and approves the merger of equals between Great Plains Energy and Westar as conditioned by the Settlement Agreement and the understanding that the Signatories will develop a reporting format for an IRP process to be submitted for Commission approval within three months of the close of the transaction.

THEREFORE, THE COMMISSION ORDERS:

A. The Commission approves the Non-unanimous Settlement Agreement in its entirety. The terms of the attached Settlement Agreement, including its errata, are incorporated into this Order.

B. The Signatories are directed to develop a reporting format for an IRP process and submit it for Commission approval within three months of the close of the transaction.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).²⁴²

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 24 May 2018



Lynn M. Retz
Secretary to the Commission

BGF

²⁴² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

NON-UNANIMOUS SETTLEMENT AGREEMENT

Pursuant to K.A.R. 82-230a(a)(1), 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”) (GPE, KCP&L and Westar are collectively referred to herein as “Applicants”), 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, Inc. (“Mid-Kansas”), Kansas Power Pool (“KPP”), Midwest energy, Inc. (“Midwest”), and Brightergy, LLC (“Brightergy”) by and through their undersigned counsel, enter into this Settlement Agreement (“Settlement Agreement”) as a comprehensive settlement of all issues relevant to this proceeding involving the merger of Westar and GPE (“Merger”). (Applicants, Staff, and the above-named intervenors are collectively referred to herein as the “Signatories” or, individually, as a “Signatory”). Wal-mart Stores, Inc. (“Walmart”) has indicated it does not oppose the terms of this Settlement Agreement.

The Signatories hereto agree as follows:

I. DESCRIPTION OF PROCEEDINGS

1. Westar is the largest Kansas jurisdictional electric utility. Westar is a Kansas corporation, with its principal office and place of business at 818 South Kansas Avenue, Topeka, Kansas 66612. Westar holds a certificate of public convenience and necessity issued by the

Commission allowing it to operate as an electric public utility in Kansas. Westar generates, transports, distributes and sells electric service to the public in Kansas and is subject to the jurisdiction, supervision and control of the Commission under Chapter 66 of the Kansas Statutes Annotated.

2. Great Plains Energy, through its operating subsidiary KCP&L, owns the second largest Kansas jurisdictional electric utility. Great Plains Energy, with its principal office and place of business at 1200 Main Street, Kansas City, Missouri 64105, is a Missouri corporation authorized to do business in Kansas; GPE is the holding company for KCP&L (a single legal entity with operations in both Kansas and Missouri), and for KCP&L Greater Missouri Operations Company (“GMO”) (a single legal entity with operations in Missouri only). GPE was established on October 1, 2001,¹ and its stock is traded on the NYSE as “GXP.” GPE is a public utility holding company under the Public Utility Holding Company Act of 2005, which was enacted as part of the Energy Policy Act of 2005.

3. KCP&L is a corporation duly organized and existing under the laws of the State of Missouri, and its principal office and place of business is located at 1200 Main Street, Kansas City, Missouri 64105. KCP&L is authorized to do business in the State of Kansas and holds a certificate of public convenience and necessity issued by the Commission allowing it to operate as an electric public utility in Kansas. KCP&L generates, transports, distributes and sells electric service to the public in Kansas and Missouri, and is a public utility subject to the jurisdiction, supervision and control of the Commission under Chapter 66 of the Kansas Statutes Annotated.

4. Westar and KCP&L are joint owners, with another party, of the Wolf Creek Nuclear Generating Station, an 1,170 megawatt (“MW”) nuclear power plant, which is operated by the Wolf

¹ The Commission approved the reorganization of KCP&L into a registered holding company structure in Docket No. 01-KCPE-708-MIS (“01-708 Docket”), Order issued August 7, 2001, as amended by Order dated August 21, 2001.

Creek Nuclear Operating Company (“WCNOC”).² KCP&L and Westar are also joint owners of the La Cygne Generating Station, a two-unit 1,400 MW coal-fired power plant.³ GMO and Westar are also joint owners of the Jeffrey Energy Center, a three-unit 2,150 MW coal-fired power plant.⁴

5. The Merger will result in a legal structure identical to the structure that exists at GPE today, but with the addition of Westar as an additional subsidiary utility operating company of a newly formed holding company.⁵ Ultimately, the Merger results in the formation of a new publicly traded holding company, Holdco (also sometimes referred to as “the combined Company”), of which Westar and KCP&L will be direct wholly-owned subsidiaries. Holdco will be the 100% owner of Westar, KCP&L and GMO. Pursuant to K.S.A. 66-101b, 66-101d, and 66-136, the Application requested Commission approval for GPE to restructure and reorganize itself as the combined Company. In accordance with the terms of the Amended Unanimous Settlement Agreement (“SA”) in Docket No. 01-KCPE-708-MIS (“01-708 Docket”) and the Commission’s Order in the 01-708 Docket, all rights and obligations of GPE thereunder will automatically become the rights and obligations of Holdco.

6. On August 25, 2017, Applicants filed an Application and Direct Testimony with the Commission pursuant to K.S.A. 66-101, *et seq.*, 66-104, 66-117, 66-131, 66-136 and other applicable statutes, and pursuant to the terms of the SA in the 01-708 Docket, and any other potentially applicable orders issued by the Commission, requesting an order from the Commission approving the merger of Westar and GPE. The Merger reached between GPE and Westar is a stock-for-stock merger of equals, negotiated with the intent and result that neither company would be paying or receiving a premium with respect to the other company, there would be no transaction debt

² WCNOC is 47% owned by KCP&L, 47% owned by Kansas Gas & Electric Company, and 6% owned by Kansas Electric Power Cooperative, Inc.

³ KCP&L owns 50% and is the managing partner of the La Cygne Generating Station.

⁴ Westar owns 92% and is the managing partner of the Jeffrey Energy Center.

⁵ Kansas Gas and Electric Company will continue to be a wholly-owned subsidiary of Westar Energy, Inc. after the Merger.

and no exchange of cash. Westar and GPE will merge to form a new holding company, which will operate regulated electric utilities in Kansas and Missouri and will have a combined equity value of approximately \$14 billion. Shareholders of both Westar and GPE will exchange their respective shares for shares in the new holding company, which will have a new, yet to be determined, name.

7. Between August 28, 2017 and the date this Settlement Agreement was filed with the Commission, the following parties filed for, and were granted, intervention in this proceeding: CURB, Kansas Industrial Consumers Group, Inc. (“KIC”)⁶, Kansas Electric Power Cooperative, Inc. (“KEPCo”), IBEW, Local Unions No. 304, 412, 1464, and 1613 (“Unions”), Kansas City, Kansas Board of Public Utilities (“BPU”), Walmart, KPP, Midwest, Kansas Municipal Energy Agency (“KMEA”), Kansas Municipal Utilities (“KMU”), City of Independence, Missouri (“Independence”), Sunflower, Mid-Kansas, Sierra Club, Climate Energy Project (“CEP”), and Brightergy.

8. On November 21, 2017, the Commission issued a procedural order in this proceeding. Pursuant to said Order, Staff, CURB and all other intervenors were ordered to file direct testimony on January 29, 2018, and cross-answering testimony on February 5, 2018. Applicants were ordered to file rebuttal testimony on February 19, 2018. An evidentiary hearing was scheduled for March 19-27, 2018.

9. The Signatories are convinced that combining these two companies under the proper terms will be beneficial to stabilizing electric prices in Kansas after experiencing significant price increases in Kansas, similar to those experienced across the country, over the last decade. Many surrounding states have already taken this step and experienced cost benefits for their states as a result. To this end, Applicants and Staff have decided to conduct a review (either jointly or

⁶In this proceeding, KIC’s participating members are Occidental Chemical Corporation, Spirit AeroSystems, Inc., CCPS Transportation, LLC, The Goodyear Tire & Rubber Company, Coffeyville Resources Refining & Marketing, LLC, Cargill, Incorporated, HollyFrontier El Dorado Refining LLC and Learjet Inc.

individually) to identify the major differences between surrounding states' rates and the Applicants' rates in order to better understand and document the major contributors to any differences. The Signatories met to discuss resolution of this matter on a number of occasions. As a result, the Signatories have now reached agreement on all issues raised in this proceeding. Such Settlement Agreement is set forth below, which the Signatories recommend to the Commission for approval.

10. Signatories have agreed, that in accordance with the merger standards articulated by the Commission in Docket Nos. 172,745-U and 174,155-U, as modified in Docket No. 97-WSRE-676-MER, which were reaffirmed by the Commission in its more recent Order on Merger Standards ("Merger Standards"),⁷ and subject to the terms and conditions contained in this Settlement Agreement, the Application filed in this proceeding is in the public interest and should be approved and the authority requested therein should be granted by the Commission. The terms and conditions on approval of the Application are as set out in Section II of this Settlement Agreement.

II. TERMS OF THE SETTLEMENT

11. Subject to the conditions and reservations set forth herein, the Signatories to this Settlement Agreement have evaluated the proposed Merger under the Commission's Merger Standards, and agree that, in accordance with those standards, adoption of this Settlement Agreement is in the public interest.

12. The Signatories to this Settlement Agreement recommend to the Commission approval of this Settlement Agreement; approval of the Merger more fully described in the Application in this case; and that the following conditions be ordered as part of that approval.

⁷ See, Docket No. 16-KCPE-593-ACQ, Order issued Aug. 9, 2016.

A. CONDITIONS ON APPROVAL OF THE APPLICATION OF MERGER

13. Applicants agree to the Merger Commitments and Conditions included with this settlement agreement as **Attachment 1**, as more specifically addressed below. In case of conflict, terms set forth in Attachment 1 prevail.

(1) General Conditions

14. Holdco will have operating headquarters in Topeka, Kansas, and Kansas City, Missouri. Holdco's corporate headquarters will remain at GPE's current headquarters building in Kansas City, Missouri. Westar's current headquarters at 800-818 Kansas Avenue in Topeka will be Holdco's Kansas headquarters and Applicants commit that staffing levels there will be maintained at no less than 500 employees for at least five years following the closing of the Merger. Thereafter, Holdco will maintain a Kansas headquarters somewhere in Topeka, Kansas (if not at 800-818 South Kansas Avenue) for a period of at least ten (10) years after the closing of the Merger. This Kansas operating headquarters will house all levels of technical, managerial, and executive talent and payroll (including a regulatory affairs staff) and should be reflective of the fact that the combined company will have more employees in Kansas than in Missouri.

15. Upon closing of the Merger, Mark Ruelle will become the non-executive chairman of Holdco for a period of three (3) years. Terry Bassham will serve as president and chief executive officer.

16. Holdco will continue charitable giving and community involvement in the Kansas service territories of KCP&L and Westar at levels equal to or greater than KCP&L's and Westar's respective 2015 levels for a minimum of five (5) years following the closing of the Merger.

17. Holdco will maintain and promote all low-income assistance programs consistent with those in place at all operating utility companies prior to the Merger for at least five (5) years after closing.

(2) Employee Commitments

18. Holdco will honor all existing collective bargaining agreements.

19. Holdco will maintain substantially comparable compensation levels and benefits for all employees for two years after the closing of the Merger.

20. While Merger-related efficiencies will result in a lower employee headcount over time for the combined organization post-closing compared to the two stand-alone organizations prior to closing, there will be no involuntary severance as a result of the Merger. There will be no involuntary severance as a result of closing the following generating facilities: Sibley (units 1, 2, and 3), Montrose (units 1, 2, and 3), Lake Road (unit 4/6), Tecumseh (unit 7), Gordon Evans (units 1 and 2) and Murray Gill (units 3 and 4). Holdco will achieve headcount-related efficiencies (including any reduction in Kansas headquarters personnel) through normal attrition and other voluntary means over time in a generally balanced way across the states of Kansas and Missouri.

(3) Organizational and Financing Conditions

21. Upon the closing of the Merger, the size of the Holdco board of directors will be mutually determined by GPE and Westar. In addition, as of the closing of the transaction, Holdco's board shall initially be composed of an equal number of directors designated by each of GPE and Westar, who shall be predominantly from the Kansas and Missouri region and the majority of whom shall be independent as defined by the New York Stock Exchange. Terry Bassham shall be a member of the board as a GPE nominee and Mark Ruelle shall be the non-executive Chairman of the board as a Westar nominee, with Mr. Ruelle serving as such for a term of three years. The initial lead independent director of Holdco will also be designated by Westar, with reasonable consultation with GPE. In addition to the above, as of the closing, the board of directors will initially have five (5) standing board committees. Those committees will be composed of an equal number of directors designated by each of GPE and Westar. The initial chairpersons for three (3) of the five (5) standing

committees shall be designated by GPE and the chairpersons for two (2) of the five (5) standing committees shall be designated by Westar.

22. Holdco will exercise management prudence to maintain the financial integrity of Westar and KCP&L in all respects, including matters relating to dividends, capital investments and other financial actions in an effort to maintain investment grade credit ratings. Holdco acknowledges that it is ultimately responsible for maintaining the financial integrity of its public utility subsidiaries such that they are capable of meeting their statutory responsibilities to provide sufficient and efficient service.

23. **Separate capital structures:** Holdco, KCP&L, and Westar shall maintain separate capital structures to finance the activities and operations of each entity. Holdco, KCP&L and Westar shall maintain separate debt. Holdco, as a consolidated entity, KCP&L, and Westar shall also maintain separate preferred stock, if any. Holdco, KCP&L and Westar shall use reasonable and prudent investment grade capital structures. KCP&L and Westar will be provided with appropriate amounts of equity from Holdco to maintain such capital structures. Holdco shall maintain consolidated debt (excluding short-term debt and debt due within one year) of no more than 65 percent of total consolidated capitalization, and KCP&L's and Westar's debt (excluding short-term debt and debt due within one year) shall be maintained at no more than 60 percent. Holdco commits that Westar and KCP&L will not make any dividend payments to the parent company, or other upstream cash payment, to the extent that the payment would result in an increase in either utility's debt level (excluding short-term debt and debt due within one year) above 60 percent of its total capitalization, unless the Commission authorizes otherwise.

24. **Separate debt:** Holdco, KCP&L, and Westar shall maintain separate debt so that Westar will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Holdco, KCP&L, or GMO or other subsidiaries of Holdco (excluding Westar and

subsidiaries of Westar), and KCP&L, GMO and other subsidiaries of Holdco (excluding Westar and subsidiaries of Westar) will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Westar. For the avoidance of doubt, consistent with past practice, Westar may guarantee certain obligations of its subsidiaries, and subsidiaries of Westar may guarantee certain obligations of Westar.

Holdco, KCP&L, and Westar shall also maintain adequate capacity under revolving credit facilities and commercial paper, if any, which capacity may be administered on a combined basis provided that capacity maintained for KCP&L and Westar shall be exclusively dedicated to the benefit of KCP&L and Westar, pricing is separated by entity, and that (i) Westar neither guarantees the debt of Holdco, KCP&L, GMO or other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) nor is subject to a cross-default for such debt and (ii) Holdco, KCP&L, GMO and other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) neither guarantee the debt of Westar nor are subject to a cross-default for such debt.

25. **Asset Conveyance:** Holdco, KCP&L, and Westar shall not sell, lease, rent or otherwise convey, outside routine business practices, Westar and KCP&L assets necessary and useful in providing electric service to the public without Commission approval.

26. **Separation of assets:** Holdco commits that KCP&L and Westar will not commingle their assets with the assets of any other person or entity, except as allowed under the Commission's Affiliate Transaction statutes or other Commission order.

Holdco commits that KCP&L and Westar will conduct business as separate legal entities and shall hold all of their assets in their own legal entity name unless otherwise authorized by Commission order.

Holdco, KCP&L, and Westar affirm that the present legal entity structure that separates their regulated business operations from their unregulated business operations shall be maintained unless express Commission approval is sought to alter any such structure.

Holdco, KCP&L, and Westar further commit that proper accounting procedures will be employed to protect against cross-subsidization of Holdco's, KCP&L's and Westar's non-regulated businesses, or Holdco's other regulated businesses in Kansas or its regulated businesses in other jurisdictions by Westar's Kansas customers. KCP&L and Westar agree to file within 30 days after issuance, the independent third-party audit of cost allocations between Holdco, Westar, GMO and KCP&L that was agreed to be conducted in the Missouri merger proceeding.⁸

27. **Other Separation:** Westar (including subsidiaries of Westar), on the one hand, and Holdco and KCP&L, on the other hand, shall not grant or permit to exist any encumbrance, claim, security interest, pledge or other right in their respective stock or assets in favor of any entity or person other than immaterial liens or encumbrances in the ordinary course of business, letters of credit issued on behalf of third-parties in the ordinary course of business and encumbrances resulting from regulatory requirements unless otherwise authorized by the Commission.

28. **Credit Rating:** Holdco, KCP&L, and Westar shall maintain separate issuer (i.e., Corporate Credit Ratings) and separate issue ratings for debt that is publicly placed.

29. **Credit rating downgrade:** If S&P or Moody's downgrade the Corporate Credit Rating or senior secured or unsecured debt issue rating of KCP&L or Westar (the "Impacted Utility") or Holdco to below investment grade (i.e., below BBB- or Baa3), the "Impacted Utility" or Holdco commit to file:

⁸ In The Matter of the Application of Great Plains Energy Incorporated for Approval of its Merger with Westar Energy, Inc., Case No. EM-2018-0012, Stipulation and Agreement filed January 12, 2018, Condition 31.

i. Notice with the Commission within five (5) business days of such downgrade that includes specification of the affected credit rating(s), the pre- and post-downgrade credit ratings of each affected credit rating, and a full explanation of why the credit rating agency or agencies downgraded each of the affected credit ratings;

ii. A filing with the Commission within sixty (60) days which shall include the following:

-1- Actions the Impacted Utility and Holdco may take to raise its S&P or Moody's credit rating to BBB- or Baa3, respectively, including the costs and benefits of such actions and any plan the Impacted Utility or Holdco may have to undertake such actions. If the costs of returning Westar and/or KCP&L to investment grade are above the benefits of such actions, Westar and/or KCP&L shall be required to show and explain why it is not necessary, or cost-effective, to take such actions and how the utility(s) can continue to provide efficient and sufficient service in Kansas under such circumstances;

-2- The change on the capital costs of the Impacted Utility due to its S&P or Moody's credit rating being below BBB- or Baa3, respectively; and

-3- Documentation detailing how the Impacted Utility will not request from its Kansas customers, directly or indirectly, any higher capital costs incurred due to a downgrade of its S&P or Moody's credit rating below BBB- or Baa3, respectively;

iii. File with the Commission, every forty-five (45) days thereafter until the Impacted Utility has regained its S&P or Moody's credit rating of BBB- or Baa3, respectively or above, an updated status report with respect to the items required in subparagraph ii above.

iv. If the Commission determines that the decline of the Impacted Utility's S&P or Moody's credit rating to a level below BBB- or Baa3, respectively, has caused its quality of

service to decline, then the Impacted Utility shall be required to file a plan with the Commission detailing the steps that will be taken to restore service quality levels that existed prior to the ratings decline.

v. In the event KCP&L's or Westar's affiliation (ownership or otherwise) with Holdco or any of Holdco's affiliates is a primary factor for KCP&L's or Westar's S&P or Moody's Corporate credit rating to be downgraded to below BBB- or Baa3, respectively, KCP&L and/or Westar shall promptly undertake additional legal and structural separation from the affiliate(s) causing the downgrade. Notwithstanding Commitment No. 10's limitation on payment of dividends, the Impacted Utility shall not pay a common dividend without Commission approval or until the Impacted Utility's S&P or Moody's credit rating has been restored to BBB- or Baa3, respectively.

vi. If KCP&L's or Westar's respective S&P or Moody's credit rating declines below BBB- or Baa3, respectively, the Impacted Utility shall file with the Commission within 15 days a comprehensive risk management plan setting forth committed actions assuring the Impacted Utility's access to and cost of capital will not be further impaired. The plan shall include a non-consolidation opinion if required by S&P or Moody's in order for the Impacted Utility to be able to restore its credit rating to investment grade.

30. **Cost of capital:** Holdco commits that future cost of service and rates of KCP&L and Westar shall not be adversely impacted on an overall basis as a result of the Merger and that future cost of service and rates will be set commensurate with financial and business risks attendant to their individual regulated utility operations. Neither KCP&L nor Westar shall seek an increase to their cost of capital as a result of (i.e., arising from or related to) the Merger or KCP&L's and Westar's ongoing affiliation with Holdco and its affiliates after the Merger.

The return on equity capital (“ROE”) as reflected in Westar’s and KCP&L’s rates will not be adversely affected as a result of the Merger. Holdco agrees the ROE shall be determined in future rate cases, consistent with applicable law, regulations and practices of the Commission.

The burden of proof that any increase to the cost of capital is not a result of the Merger shall be borne by KCP&L or Westar. Any net increase in the cost of capital that KCP&L or Westar seeks shall be supported by documentation that: (a) the increases are a result of factors not associated with the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; (b) the increases are not a result of changes in business, market, economic or other conditions caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; and (c) the increases are not a result of changes in the risk profile of KCP&L or Westar caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates. The provisions of this section are intended to recognize the Commission’s authority to consider, in appropriate proceedings, whether this Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates have resulted in capital cost increases for KCP&L or Westar.

Nothing in this condition shall restrict the Commission from disallowing such capital cost increases from recovery in KCP&L or Westar’s rates.

(4) Ratemaking, Accounting, and Related Conditions

31. **Upfront Bill Credits:** Holdco agrees that its electric utility subsidiaries will provide Westar and KCP&L retail electric customers with one-time bill credits totaling \$23,065,299 to Westar retail electric customers and \$7,514,220 to KCP&L’s Kansas retail electric customers as soon as practicable following the closing of the Merger with the understanding that the data necessary to effectuate the inter-class allocation of bill credit amounts will not be available until near the end of the respective KCP&L and Westar 2018 base rate review proceedings. These

amounts shall be allocated among the customer classes using the method recommended by Staff witness, Bob Glass, in his direct testimony, pages 15-18. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial, and industrial customers and on a per customer basis for residential customers.

32. *General Rate Case Moratorium:*

i. The Signatories agree that, after the conclusion of KCP&L's 2018 base rate review, Westar and KCP&L will be subject to a 5-year base rate moratorium, subject to the ROE condition discussed below. The moratorium for both companies shall expire five years from the final order date of KCP&L's 2018 base rate review. Any base rate review filing cannot change rates until after that date, but a filing to show cause may be commenced or an application by the companies may be filed prior to that date as long as the resulting base rate adjustment becomes effective after the expiration of the moratorium.

In the event the ROE authorized in either KCP&L's or Westar's 2018 rate case is below 9.3%, the moratorium period for that company shall be reduced to three years.

This moratorium is subject to the conditions set forth below in paragraph 32.iv.

ii. The time limitation on filing a general rate case to change base rates does not preclude Westar or KCP&L from changing rates or tariffs to recover appropriate costs under its Commission approved fuel clause ("RECA"), Annual Cost Adjustment ("ACA"), Transmission Delivery Charge ("TDC"), Property Tax Surcharge ("PTS") and Energy Efficiency Rider ("EER") tariffs. Subject to the provision that base rates should remain fixed for the term of the moratorium in this Settlement Agreement, Westar and KCP&L may make tariff filings to comply with new Commission rules or policies, including revenue neutral changes to rate design, and Westar and KCP&L may propose methods to recover the cost of

furnishing new voluntary services such as, but not limited to, providing energy efficiency measures to customers.

iii. Notwithstanding the above, in the event of changes in law or regulations, or the occurrence of events outside the control of Westar or KCP&L that result in a material adverse impact to Westar or KCP&L, Westar and KCP&L, as applicable, may file an application with the Commission proposing methods to address the impact of the events, including the possibility of changes in base rates. The non-Applicant Signatories shall have the right to contest any such application, including whether the impact of the change or event is material to the company making the claim, and whether the proposed remedy in the application is reasonable.

Westar and KCP&L will make a mandatory base rate review filing so that the rates become effective the day after the expiration of the moratorium period. In the event that the moratorium period is 3 years for either company pursuant to other provisions of this agreement, such mandatory rate review for that company shall be two years after the end of its rate moratorium. However, Westar and KCP&L may delay their mandatory base rate review filings with the approval of Staff.

iv. Signatories agree to recommend and support in the Applicants' 2018 Kansas general rate reviews of KCP&L and Westar the following:

-1- Signatories agree to recommend a 9.3% return on equity ("ROE") to be utilized in the 2018 rate cases, and if including a range, testimony will not recommend greater than 20 basis points below or above the 9.3% recommended ROE.

-2- Signatories will support Westar's second step rate increase in February 2019 related to the cost of service impact of a wholesale contract with Mid-Kansas recovered through the Retail Energy Cost Adjustment ("RECA") as proposed

in the direct testimony of Rebecca Fowler filed on February 1, 2018, in Docket No. 18-WSEE-328-RTS, Exhibit RAF-1; and the expiration of federal production tax credits related to the Central Plains and Flat Ridge wind farms placed in to service by Westar in late 2008/early 2009. This provision does not bind the parties to the amount of the second stage increases recommended by Westar.

-3- Inclusion of all Merger-related savings achieved at the update date with such update date to occur 60 days after the filing of each respective rate case. Updates will be March 31, 2018 for Westar and expected to be June 30, 2018 for KCP&L, assuming a general rate case filing in May 2018 for KCP&L.

If the Merger-related savings achieved at the update date for the 2018 rate cases shows there is a shortfall from the amounts below, then an additional adjustment will be made at the update to impute into retail rates the shortfall to achieve a total (some such savings are/will be already reflected in the respective Applicant's rate review filing) of Merger-related savings benefiting Kansas retail rates as follows:

- (a) Westar: \$22.5 million
- (b) KCP&L: \$ 7.5 million

-4- No Signatory shall request or support a request for any further imputation of benefits related to the Merger or announced power plant retirements other than as set forth above.

-5- Applicants agree to forego their ability to demonstrate under-earnings at the time of the federal tax law change as an offset to benefits otherwise due to customers from January 1, 2018 through the effective date of new retail rates as a result of the 2018 rate cases. Such gross benefits will be distributed to customers as determined in each respective rate case.

33. **Annual Bill Credits for 2019-2022:** Because KCP&L and Westar are permitted, during the general rate case moratorium set forth above, to change rates or tariffs under the Commission approved RECA, ACA, TDC, PTS and EER, the effects of regulatory lag will be somewhat mitigated and, as a result, KCP&L and Westar have agreed to Annual Bill Credits for 2019-2022.

Applicants agree that their electric utility subsidiaries shall provide all of their Kansas retail electric customers with annual bill credits by March 31 in each year 2019, 2020, 2021 and 2022 in the amount of \$8,649,487 for Westar retail electric customers and \$2,817,832 for KCP&L's Kansas retail electric customers. These amounts shall be allocated among the customer classes using the method recommended by Staff witness, Bob Glass, in his direct testimony, pages 15-18. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial, and industrial customers and on a per customer basis for residential customers.

34. **Earnings Review and Sharing Plan (ERSP) for 2019-2022:** Because KCP&L and Westar are permitted, during the general rate case moratorium set forth above, to change rates or tariffs under the Commission approved RECA, ACA, TDC, PTS and EER, the effects of regulatory lag will be somewhat mitigated and, as a result, KCP&L and Westar have agreed to an ERSP for 2019-2022.

i. No later than March 31 following the end of each calendar year 2019 - 2022, KCP&L and Westar shall file with the Commission in a compliance docket to be established, ERSP reports in the format of **Attachment 2** (for KCP&L) and **Attachment 3** (for Westar).⁹

-1- Staff and CURB shall be permitted to review the earnings surveillance reports for each annual filing. No later than each May 31 of the applicable year, Staff

⁹ If for some reason the Commission does not open a compliance docket for the five-year period, or if there is a delay in the granting of CURB's intervention, Applicants will work with CURB to execute a non-disclosure agreement to allow timely access to the ERSP reports.

and CURB shall file a report or testimony with the Commission indicating any areas of disagreement with the ERSP report as filed by KCP&L and Westar, as applicable.

-2- KCP&L and Westar, as applicable, shall respond to any areas of disagreement no later than June 30 of the applicable year.

-3- If disputed issues exist at that time, the Commission shall establish an appropriate process for the resolution of such disputed issues by Commission order with an intended date no later than August 31 of the applicable year.

-4- Absent any dispute, the Commission may, at its discretion, issue an order based on the record.

ii. For each calendar year 2019 - 2022, the KCC-jurisdictional earned ROE of KCP&L and Westar, as reported in the ERSP reports may be subject to sharing with retail electric customers as follows:

-1- KCP&L: KCP&L's earned KCC-jurisdictional ROE, using the actual percentage of equity capitalization in KCP&L's capital structure (excluding short-term debt and debt due within one year), not to exceed 51.0% in 2019 reporting year, 50.5% in the 2020 reporting year, and 50.0% in 2021 and 2022 (as qualified in paragraph 34.iii.4. below), shall be calculated in accordance with the provisions provided in paragraph 34.iii.4. below. The difference between this earned ROE and a 9.3% ROE shall be multiplied by the equity portion of rate base and grossed up for income taxes. If this calculated amount exceeds the fixed bill credit of \$2,817,832, any positive amount shall be multiplied by 50% and then provided to retail electric customers as a bill credit no later than September 30 of the succeeding year. Any bill credit amount shall be allocated between KCP&L retail electric rate classes in the same manner as the final approved proof of revenue provided in support of the rates

set in KCP&L's 2018 rate case. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial, and industrial customers and on a per customer basis for residential customers.

-2- Westar: Westar's earned KCC-jurisdictional ROE, using the actual percentage of equity capitalization in Westar's capital structure (excluding short-term debt and debt due within one year), not to exceed 51.0% in 2019 reporting year, 50.5% in the 2020 reporting year, and 50.0% in 2021 and 2022 (as qualified in paragraph 34.iii.4. below), shall be calculated in accordance with the provisions provided in paragraph 34.iii.4. below. The difference between this earned ROE and a 9.3% ROE shall be multiplied by the equity portion of rate base and grossed up for income taxes. If this calculated amount exceeds the fixed bill credit of \$8,649,487, any positive amount shall be multiplied by 50% and then provided to retail electric customers as a bill credit no later than September 30 of the succeeding year. Any bill credit amount shall be allocated between Westar retail electric rate classes in the same manner as the final approved proof of revenue provided in support of the rates set in Westar's 2018 rate case. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial, and industrial customers and on a per customer basis for residential customers.

iii. For the purposes of calculating any bill credits due in the ERSP reports, the following ratemaking parameters shall be utilized:

-1- Westar and KCP&L shall make all pro forma adjustments and calculations necessary to calculate the earned ROE on a KCC-jurisdictional basis reflecting all typical ratemaking adjustments necessary to convert the financial books of the utilities to a rate base rate of return.

-2- These adjustments and calculations shall include:

(a) The calculation of rate base reflecting actual plant in service, construction work in progress, accumulated depreciation and accumulated deferred income tax amounts all presented on a KCC-jurisdictional basis;

(b) The calculation of interest expense, synchronized to rate base, and using the actual utility weighted average cost of debt as calculated in Section 7 of K.A.R. 82-1 -231;

(c) The removal of FERC-regulated returns on transmission investments and all associated assets, revenues and expenses;

(d) The removal of Asset Retirement Obligations (AROs) from rate base;

(e) The removal of any other capital investment or expense which the utilities have committed not to recover in utility base rates or that the Commission disallowed for recovery in the 2018 rate cases on the basis that the expense (or capital investment) does not provide benefit to ratepayers or is unnecessary for the provision of efficient and sufficient utility service. Examples may include, but are not limited to, lobbying expenses, dues and donations, corporate image and promotional advertising, sporting events and entertainment expenses, disallowed incentive compensation expenses, fines and penalties, non-utility property, transaction costs from the 18-095 Docket, etc.;

(f) Reclassification of any out of period items to another period;

(g) Adjustments to present the utility's provision for income tax expense on the basis of its KCC-jurisdictional cost of service;

(h) Adjustments to restate the utility's depreciation expense and accumulated depreciation to a KCC-jurisdictional cost of service basis;

(i) Adjustments to present cash working capital;

(j) Adjustments to present appropriate working capital balances (both increases and decreases to rate base) as either year-end or 13-month average balances, depending on whether the balance in the working capital account exhibits a clear increasing or decreasing trend or whether the balance fluctuates throughout the year; and

(k) Adjustments to include regulatory assets and liabilities that the Commission has previously authorized for inclusion in rate base, or amortization to the cost of service.

-3- These adjustments shall not include any adjustment to update the calendar year results, annualize year-end plant or expenses, remove one-time or non-recurring expenses, weather normalization or any other adjustment which is typically meant to normalize or annualize a test period for ratemaking purposes (other than those limited adjustments described above).

-4- As long as the consolidated capital structure of Holdco does not contain in excess of 52.5% Long-Term Debt (excluding short-term debt and debt due within one year) to Long-Term Capitalization (Long-Term Debt as defined herein plus Equity Capitalization), the equity capitalization percentage used to calculate the earned ROE in the ERSP reports shall be the actual equity percentage in the utility capital structure subject to the defined not to exceed limits above in paragraphs 34.ii.1. and 34.ii.2. In the event that the consolidated capital structure of Holdco contains in excess of 52.5% Long-Term Debt (excluding short-term debt and debt

due within one year), the equity capitalization percentage not to exceed limit (as described in paragraphs 34.ii.1. and 34.ii.2.) shall decline in proportion to the consolidated Holdco Long-Term Debt percentage over 52.5%.

iv. In all events, the ERSP shall terminate after the 2022 calendar year reporting is complete in 2023. However, if the rate moratorium for KCP&L or Westar is three years instead of five years as a result of other provisions in this agreement, the ERSP shall continue for that company through the calendar year in which a new rate case is filed. The Earnings Review and Sharing Plan report shall continue to be a required annual filing of the utilities beyond the moratorium period, but for informational purposes only. Such reporting shall end once a base rate review is filed or a review is commenced by the Commission pursuant to 66-101d.

35. Transition Costs:

Signatories agree that recovery of transition costs shall be limited to \$50 million on a total company basis and the Kansas jurisdictional portion shall be deferred and recoverable through amortization over ten years beginning when the 2018 Kansas base rate review rates become effective. Such recovery shall not include carrying costs or rate base treatment for the unamortized portion of such costs at any time. This limitation equates to the following:

- a. Westar: \$23,183,133, which is \$2,318,313 annually
- b. KCP&L-KS: \$ 7,692,018, which is \$769,202 annually

36. Goodwill: Goodwill associated with the Merger is the difference between the fair market value of GPE's assets and the exchange value of GPE's stock upon the closing of the Merger (referred to herein as "Merger Goodwill") and will be maintained on the books of Holdco. The amount of any such Merger Goodwill shall not be included in the revenue requirement of KCP&L or Westar in future

Kansas rate cases. Neither KCP&L nor Westar will seek recovery through recognition in retail rates and revenue requirement in future rate cases of any such Merger Goodwill.

37. **Goodwill Impairment:** Customers shall be held harmless from the risk or realization of any Merger Goodwill impairment. Holdco does not expect, and shall take prudent actions to avoid, Merger Goodwill from negatively affecting KCP&L's or Westar's cost of capital.

If such Merger Goodwill becomes impaired and such impairment negatively affects KCP&L's or Westar's cost of capital or credit ratings, all costs associated with the decline in the Impacted Utility's credit quality specifically attributed to the Merger Goodwill impairment, considering all other capital cost effects of the Merger and the impairment, shall be excluded from the determination of the Impacted Utility's rates.

38. **Transaction Costs:** Transaction costs include, but are not limited to, those costs relating to obtaining regulatory approvals, development of transaction documents, investment banking costs, costs related to raising equity incurred prior to the close of the Merger, severance payments required to be made by change of control agreements, internal labor and third party consultant costs incurred in performing any types of analysis or preparation (financial, tax, investment, accounting, legal, market, regulatory, etc.) to evaluate the potential sale or transfer of ownership, prepare for bid solicitation, analyze bids, conduct due diligence, compliance with existing contracts including change in control provisions, and compliance with any regulatory conditions, closing, and communication costs regarding the ownership change with customers and employees.

Westar and KCP&L commit that they will not seek recovery through recognition in retail rates of transaction costs, that they shall have the burden of proof to clearly identify where all transaction costs related to this Merger are recorded and shall be required to attest in all future rate proceedings before the Commission that none of these costs are included in cost of service and rates, and to provide a complete explanation of the procedures used to ensure that these transaction costs

are not included in cost of service or rates. This commitment shall be required until transaction costs of this Merger are no longer on Holdco's books in a test year for KCP&L and/or Westar, as applicable. Transaction costs shall be recorded on Holdco's books.

39. **Fuel and Purchased Power Costs:** KCP&L's and Westar's fuel and purchased power costs shall not be adversely impacted as a result of the Merger.

40. **Retail Rates:** Holdco commits that retail rates for KCP&L and Westar customers shall not increase as a result of the Merger.

41. **Future Rate Cases:** Holdco commits that in future rate case proceedings, KCP&L and Westar will support their assurances provided in this document with appropriate analysis, testimony, and necessary journal entries fully clarifying and explaining how any such determinations were made.

(5) Affiliate Transactions and Cost Allocation Manual ("CAM") Conditions

42. KCP&L and Westar commit that they will file with the Commission (1) within sixty (60) days of closing of the Merger and (2) with the first post-closing rate case, an executed copy of all additional relevant Affiliate Service Agreements related to the Merger, pursuant to K.S.A. 66-1402 and that includes the service agreement(s) between any service company or affiliate allocating costs to a regulated utility affiliate.

43. Holdco, KCP&L and Westar each expressly recognize that each represents an "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403. These statutes confer certain jurisdiction on the Commission regarding access to books and records, submission of contracts, review of affiliate transactions detail, etc.

44. KCP&L and Westar will be operated after the closing of the Merger in compliance with the Commission's affiliate transaction rules as set forth in K.S.A. 66-1401, *et seq.*, and in compliance with the affiliate rules adopted in the Commission's December 3, 2010 Order in Docket

No. 06-GIMX-181-GIV (“06-181 Order”), or will obtain any necessary variances from such rules, and the Commission’s August 7, 2001 Order in the 01-708 Docket (“01-708 Order”). Further, Holdco and its subsidiaries commit that all information related to an affiliate transaction consistent with the affiliate statutes and the Commission’s 06-181 and 01-708 Orders in the possession of Holdco will be treated in the same manner as if that information is under the control of either KCP&L or Westar.

45. Holdco and its subsidiaries may seek recovery of intercompany charges to regulated utility affiliates in their first general rate proceedings filed following the closing of the Merger at levels equal to the lesser of actual costs or the costs allowed related to such functions in the cost of service of their most recent rate case prior to the closing of the Merger, as adjusted for inflation measured by the Gross Domestic Product Price Index. Billings for common-use assets shall be permitted consistent with GPE’s current practices. Holdco and its subsidiaries shall have the burden of proof to demonstrate billings are prudent, in the usual course of business, and consistent with past practice.

46. Holdco shall maintain separate books and records, systems of accounts, financial statements and bank accounts for Westar and KCP&L. The records and books of Westar and KCP&L will be maintained under the FERC Uniform System of Accounts (“USOA”) applicable to investor-owned jurisdictional electric utilities, as adopted by the Commission. The financial books and records of Holdco’s regulated utility affiliates will be made available to the Commission and its Staff.

The records and books of any affiliate for which any direct or indirect charge is made to Westar and KCP&L and included in said utilities’ cost of service and rates on either a direct or indirect basis, will be made available, upon request, to the Commission and its Staff.

Holdco, KCP&L, and Westar shall facilitate access of the Commission Staff to its external auditors and endeavor to provide the Commission and its Staff with timely access to any relevant external audit workpapers and/or reports.

Holdco, KCP&L, and Westar will maintain adequate records to support, demonstrate the reasonableness of, and enable the audit and examination of all centralized corporate costs that are allocated to or directly charged to KCP&L or Westar. Nothing in this condition shall be deemed a waiver of any rights of Holdco, KCP&L, or Westar to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.

47. The Merger is the subject of a variance request before the Missouri Public Service Commission ("MPSC") and an order is expected from the MPSC no later than the second quarter of 2018. GPE and KCP&L commit to pursue this variance from the provisions of Missouri Affiliate Transaction Rule 4 CSR 240-20.015 and endeavor to have such variance in place by Merger close. The variance will provide for goods and services transactions between KCP&L, GMO and Westar to occur at cost except for wholesale power transactions, which will be based on rates approved by the Federal Energy Regulatory Commission ("FERC"). Within thirty (30) days of the issuance of a final MPSC order in that proceeding, KCP&L and Westar will cause to be filed in this docket a copy of the final order. If the MPSC has not granted the variance from the Missouri Affiliate Transaction Rule, mentioned above, Holdco, Westar and KCP&L commit that in Kansas retail proceedings of KCP&L and Westar after the closing of the merger, neither utility will seek to recover more than actual costs incurred by Holdco, Westar or KCP&L in connection with affiliate transactions, provided, however, that annualizations and other customary and appropriate ratemaking adjustments may be used.

48. KCP&L and Westar shall meet with Staff and CURB no later than sixty (60) days after the closing of the Merger to provide a description of its expected impact on the allocation of costs among Holdco's utility and non-utility subsidiaries as well as a description of its expected impact on the CAMs of KCP&L and Westar. No later than six (6) months after the closing of the Merger but no less than two (2) months before the filing of a general rate case for either KCP&L or Westar, whichever occurs first, KCP&L and Westar agree to file updates to their existing CAMs reflecting process and recordkeeping changes necessitated by the Merger.

(6) Quality of Service Conditions

49. The parties agree to the following provisions related to Quality of Service performance for Westar and KCP&L:

i. Quality of Service reporting shall be required annually by Westar and KCP&L consistent with the thresholds and penalty provisions included in Applicants Exhibits BA-1, BA-2 and BA-3 of Bruce Akin's direct testimony, and annual reporting shall be substantially similar to Exhibits BA-4 and BA-5, as set out in **Attachment 4** to this agreement.

ii. Penalties incurred, if any, shall be used by the Applicants to invest in items intended to improve quality of service and shall not be recoverable from customers in the cost of service.

iii. Other field service metrics will be reported annually to the Commission for purposes of data gathering and analysis by the Commission and Staff and be reported in substantially similar form as **Attachment 5** to this agreement. Changes to future reporting can be made as mutually agreed upon by Applicants, Staff and CURB.

iv. Applicants, Staff, CURB and KPP will jointly recommend that the Commission open a compliance docket by January 2019 related to service quality and

reliability reporting, the outcome of which is meant to replace current reporting requirements under Docket No. 02-GIME-365-GIE (the “02-365 Docket”), and provide timely reports of ongoing operations and maintenance activities related to customer quality of service. Signatories agree they will not object to the intervention in such compliance docket by KPP.

(7) Reporting and Access to Records

50. To keep Staff and the Commission apprised of the status of integration implementation after closing, Signatories recommend the Commission open a compliance docket to maintain Merger-related filings:

i. KCP&L and Westar shall meet with Staff no later than 60 days after closing, and on a quarterly basis thereafter for a period of one year after closing to provide an update on the status of integration implementation, including discussion of progress on organizational changes and consolidation of processes affecting the customer experience, including but not limited to: contact center operations, customer information and billing, remittance processing, credit and collections, and service order processes. In addition, updates provided to Staff shall include: (1) accomplishments, (2) challenges, (3) Efficiency Summary (\$): Planned vs Actual by functional area, (4) Labor Summary (FTE): Planned vs Actual, and (5) Integration Team highlights. The frequency of such update meetings shall be reduced to every six months during the second year through the fifth year after closing of the Merger and shall cease thereafter, unless otherwise ordered by the Commission. KCP&L and Westar shall file the information provided in the above-referenced meetings with Staff in the compliance docket. Regardless of the frequency of such meetings, KCP&L and Westar agree to continue their practice of promptly advising Staff in the event of material operational irregularities – whether arising from systems, training, process change or any other cause – that may affect the customer experience. Additionally, for a period of no less than two years,

unless otherwise ordered by the Commission, KCP&L and Westar shall, on a twice-yearly basis unless otherwise ordered by the Commission, appear and provide an update of the status of integration implementation, providing the Commissioners an opportunity to ask questions about the status of integration implementation. CURB shall be invited to any meetings scheduled in compliance with this paragraph. CURB shall be provided with the materials identified in paragraphs 50.ii. and 50.iii and if such material contains non-public information shall execute an appropriate non-disclosure agreement before receiving such information.

ii. KCP&L and Westar shall, on a quarterly basis continuing for two years and on an annual basis for years three through five after closing, provide Staff, no later than 45 days after the conclusion of the relevant quarter, with data on employee headcounts by physical work location (full- and part-time, including contingent labor retained through employment agencies) for Holdco, KCP&L, GMO, and Westar as well as a complete listing of functions and/or positions that have been either outsourced (meaning that work is being performed on behalf of Holdco, KCP&L, GMO, and/or Westar that is not under the direct management and supervision of Holdco, KCP&L, GMO, or Westar employees) or converted to contingent labor as a result of the integration of Holdco, KCP&L, GMO and Westar. To the extent that job positions at Holdco, KCP&L, GMO, or Westar have been eliminated, re-classified or transferred between the Holdco, KCP&L, GMO, or Westar, such eliminations, re-classifications or transfers shall be identified.

iii. KCP&L and Westar shall, for a period of two years after closing, provide Staff any reports or presentations made to Holdco's board of directors regarding efficiencies attained as a result of the Merger. Such reports or presentations shall be provided to Staff within 30 days after being provided to Holdco's board of directors.

iv. Staff, CURB, KCP&L and Westar will initiate a Capital Plan Reporting compliance docket to provide capital plan reports substantially similar to that set out in **Attachment 6** to this agreement. The capital spending report for projects initiated or on-going in a given calendar year will be due by March 31 of the following year. The primary purpose of the Capital Plan Report is to provide Staff and the Commission with the information and data necessary to understand forecasted capital expenditures over a five-year period. The capital expenditures to be reviewed include generation, environmental, transmission, distribution, and Information Technology. The overall goal of the Capital Plan Reporting compliance docket will be to determine the appropriate information and data to report and the format of such reporting.

v. Westar and KCP&L agree to provide 90 days' written notice to Staff and CURB related to any power generation unit retirements in excess of 20 MW of capacity during the moratorium period for any retirements not already contemplated in this docket. Notice will also be required if the timing of any planned generating unit retirement is expected to change by more than six (6) months. This condition sunsets upon new reporting requirements being established, or the closing of the Capital Plan Reporting compliance docket.

vi. The reporting and data provision agreed to herein by Holdco, KCP&L, and Westar does not change any reporting obligations of GPE (which shall apply to Holdco post-merger), KCP&L or Westar that existed prior to the approval of this Merger.

51. For the first five (5) full calendar years after the closing of the Merger, Holdco shall provide Staff and CURB its annual goodwill impairment analysis in a format that includes spreadsheets in their original format with formulas and links to other spreadsheets intact and any printed materials within thirty (30) days after the filing of Holdco's Form 10 Q for the period in

which the analysis is performed, as well as all supporting documentation. Thereafter, this analysis will be made available to Staff and CURB upon request.

52. Holdco, KCP&L, and Westar commit that any material Merger-related financial and accounting changes must be reported to the Commission.

53. Holdco will provide to the KCC Staff its integrated resource plan (IRP) within seven (7) days of its filing in Missouri. The public version of such materials shall also be provided to CURB. In addition, Applicants commit that, as part of the KCP&L and GMO 2019 IRP Updates, a combined KCP&L/GMO/Westar analysis will be conducted.

54. KCP&L and Westar shall provide Staff and CURB with access, upon reasonable written notice during working hours and subject to appropriate confidentiality and discovery procedures, to all written information provided to common stock, bond or bond rating analysts which directly or indirectly pertains to KCP&L or Westar or any affiliate that exercises influence or control over KCP&L, Westar, or Holdco. Such information includes, but is not limited to, common stock analyst and bond rating analyst reports. For purposes of this condition, “written” information includes, but is not limited to, any written and printed material, audio and video tapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed a waiver of any entity’s right to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.

55. Holdco, KCP&L, and Westar shall make available to Staff and CURB, upon written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, all books, records and employees as may be reasonably required to verify compliance with KCP&L’s and Westar’s CAM and any conditions ordered by this Commission. Holdco, KCP&L, and Westar shall also provide Staff and CURB any other such information (including

access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over KCP&L or Westar; provided that any entity producing records or personnel shall have the right to object on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates (a) are not within the possession or control of either KCP&L or Westar or (b) are either not relevant or are not subject to, the Commission's jurisdiction and statutory authority by virtue of, or as a result of, the implementation of the proposed Merger.

56. KCP&L and Westar shall provide Staff and CURB access, upon reasonable request, the complete Holdco Board of Directors' meeting minutes, including all agendas and related information distributed in advance of the meeting, presentations and handouts, provided that privileged information shall continue to be subject to protection from disclosure and KCP&L and Westar shall continue to have the right to object to the provision of such information on relevancy grounds.

57. KCP&L and Westar will maintain records supporting their affiliated transactions for at least six (6) years.

58. Within six months of the close of the Merger, Holdco, KCP&L, and Westar will provide to the Commission Staff detailed journal entries recorded to reflect the Merger. Holdco, KCP&L, and Westar shall also provide the final detailed journal entries to be filed with the Commission no later than 13 months after the date of the closing. These entries must show, and shall include but not be limited to, the entries made to record or remove from all utility accounts any acquisition premium costs or transaction costs.

(8) Parent Company Conditions

59. The following financial commitments made in Docket No. 01-KCPE-701-MIS remain in effect:

i. GPE (“Holding Company”) and its subsidiaries will not conduct any material business activities that are not part of the “electric industry or natural gas industry business” or are not reasonably related to business activities derived from changes in the electric industry or natural gas industry as a result of competition, without Commission approval. With regard to expansion of KCP&L’s current operations in the telecommunications and information businesses, activities will be limited to those considered reasonably related to current operations.

ii. KCP&L’s total long-term borrowings including all instruments shall not exceed KCP&L’s regulated rate base.

iii. The customers of KCP&L shall be held harmless by KCP&L and GPE if the reorganization creating GPE, with KCP&L as a subsidiary, results in a higher revenue requirement for KCP&L than if the reorganization had not occurred.

iv. GPE and KCP&L shall provide the Commission Staff and CURB unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly, or indirectly, pertains to KCP&L or any affiliate that exercises influence or control over KCP&L or has affiliate transactions with KCP&L. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, “written” information includes, but is not limited to, any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of GPE’s or KCP&L’s right to seek protection of the information.

v. GPE shall not, directly or indirectly, acquire or merge with a public utility or public utility holding company, nor will it allow itself to be acquired by a public utility or

public utility holding company unless GPE has requested prior approval for such a transaction from the Commission.

60. All of the commitments and conditions agreed to in the August 21, 2001 Amended Unanimous Stipulation and Agreement in Docket No. 01-KCPE-708-MIS remain in place (see attached) with the exception of (1) Financial ratio reporting eliminated 6/22/12; (2) CAM filing eliminated 3/29/16 (continues to be filed in Ring Fencing Docket #06-GIMX-181-GIV each May). The minimum equity ratios of the 01-708 agreement are modified from 35% at KCP&L and 30% at GPE (holding company) to a minimum equity ratio of 40% for the operating companies and 35% for the holding company.

61. Holdco, KCP&L, and Westar commit to reaffirm and honor any prior commitments made by GPE or Westar to the Commission to comply with any previously issued Commission orders applicable to KCP&L or Westar or their previous owners except as otherwise provided for herein.

62. Holdco acknowledges that its utility subsidiaries need significant amounts of capital to invest in energy supply and delivery infrastructure (including, but not limited to, renewable energy resources and other environmental sustainability initiatives such as energy efficiency and demand response programs) and acknowledges that meeting these capital requirements of its utility subsidiaries will be considered a high priority by Holdco's board of directors and executive management and that Holdco's access to capital post-transaction will permit it and its utility subsidiaries to meet their statutory obligation to provide sufficient and efficient service.

B. MISCELLANEOUS PROVISIONS

63. This Settlement Agreement has resulted from negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Settlement Agreement in total, then this Settlement Agreement shall be voidable and, if voided, no

Signatory shall be bound by any of the agreements or provisions hereof. The Settlement Agreements herein are specific to the resolution of this proceeding, and all Settlement Agreements are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise provided herein. The Signatories agree that any and all discussions related hereto shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

64. This Settlement Agreement is being entered into for the purpose of disposing of all issues in this case. The Signatories represent that the terms of this Settlement Agreement constitute a fair and reasonable resolution of the issues addressed herein, in a manner which is not detrimental to the public interest. Except as otherwise addressed herein, none of the Signatories to this Settlement Agreement shall be deemed to have approved, accepted, agreed, consented or acquiesced to any accounting principle, ratemaking principle or cost of service determination underlying, or supposed to underlie any of the issues provided for herein.

65. The Signatories further understand and agree that the provisions of this Settlement Agreement relate only to the specific matters referred to in the Settlement Agreement, and no Signatory or person waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this Settlement Agreement. The Signatories further reserve the right to withdraw their support for the settlement in the event that the Commission modifies the Settlement Agreement in a manner which is adverse to the Signatory, and further, the Signatories reserve the right to contest any such Commission order modifying the settlement in a manner which is adverse to the Signatory contesting such Commission order. The Signatories agree that the details of this Settlement Agreement have no precedential value in any future proceeding not related to enforcement of this Settlement Agreement.

66. In the event the Commission accepts the specific terms of this Settlement Agreement without modification, the Signatories waive, with respect to the issues resolved herein: cross-examination of Signatories' witnesses on testimony pre-filed prior to the date of filing of this Settlement Agreement; any respective rights they may have to seek rehearing; or judicial review pursuant to the Kansas Judicial Review Act, K.S.A. 77-601, *et seq.* Furthermore, in the event the Commission accepts the specific terms of this Settlement Agreement without modification, the Signatories agree that the pre-filed testimony of all Signatories' witnesses who have pre-filed testimony in this case shall be included in the record of this proceeding without the necessity of such witnesses taking the stand. The provisions of this Settlement Agreement shall be interpreted in accord with and governed by Kansas law.

67. Except as specifically set forth herein, there shall be nothing about the Transaction that alters the applicability of previous Commission orders in other dockets, policies, rules and applicable statutes.

68. To the extent not already provided through discovery or otherwise, executed copies of all agreements identified in the Application, including confidential copies of all schedules to those agreements, shall be provided to the Commission within thirty (30) days following the completion of the Transaction.

69. Except as provided in this Settlement Agreement otherwise, nothing in this Settlement Agreement shall preclude a Signatory or the Commission from reviewing the appropriateness of any cost of service item in any future rate case filed by KCP&L or Westar.

70. KCP&L and Westar shall provide upon request and with appropriate notice, all information needed to verify compliance with these conditions and any other information relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over KCP&L and Westar.

71. The terms and conditions of the Settlement Agreement reached herein shall only go into effect upon the closing of the Transaction, which is the subject of the Application filed in this docket. The terms and conditions shall remain in effect either as stated in this Settlement Agreement, or if not stated herein, until such time as the Commission may order otherwise in a general rate case or other proceeding brought for that purpose. In the event that the Transaction does not close, then the terms of this Settlement Agreement among the Parties are void ab initio.

72. If the Commission accepts the Agreement in its entirety and incorporates the same into its final Order in this docket, the Signatories intend to be bound by its terms and the Commission's Order incorporating its terms as to all issues addressed herein, and will not appeal the Commission's Order.

WHEREFORE, the Signatories hereto recommend that the Commission approve this Settlement Agreement.

Respectfully submitted,

/s/ Robert J. Hack

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**ATTORNEY FOR MIDWEST ENERGY,
INC.**

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.

Robert J. Hack
Counsel for Kansas City Power & Light Company

| Condition No. | Signatories' Proffered Merger Commitments and Conditions (18-KCPE-095-MER) |
|----------------------------------|--|
| I. General Conditions | |
| 1 | <p><u>Headquarters</u>: Holdco will maintain its corporate headquarters in Kansas City, Missouri and shall honor all terms and conditions of the existing lease for its headquarters office located at 1200 Main in Kansas City, Missouri, which expires in October 2032.</p> <p>Holdco will also maintain the current Westar Topeka downtown headquarters building at 800-818 South Kansas Avenue in Topeka, Kansas for its Kansas headquarters. Holdco shall honor all terms and conditions of the existing lease for the Westar headquarters building, which expires in April 2023.</p> <p>Holdco shall maintain staffing levels of no less than 500 employees based at 800-818 South Kansas Avenue, Topeka KS for at least five (5) years after the closing of the Merger. Thereafter, Holdco will maintain a Kansas headquarters somewhere in Topeka, Kansas (if not at 800-818 South Kansas Avenue) for a period of at least ten (10) years after the closing of the Merger. This Kansas operating headquarters will house all levels of technical, managerial, and executive talent and payroll (including a regulatory affairs staff) and should be reflective of the fact that the combined company will have more employees in Kansas than in Missouri.</p> |
| 2 | <p><u>Executives</u>: Upon the closing of the Merger, Mark Ruelle will become the non-executive chairman of Holdco for a period of three (3) years. Terry Bassham will serve as president and chief executive officer.</p> |
| 3 | <p><u>Charitable Giving and Community Involvement</u>: Holdco will continue charitable giving and community involvement in the Kansas service territories of KCP&L and Westar at levels equal to or greater than KCP&L's and Westar's respective 2015 levels for a minimum of five (5) years following the closing of the Merger.</p> |
| 4 | <p><u>Low-Income Assistance Programs</u>: Holdco will maintain and promote all low-income assistance programs consistent with those in place at all operating utility companies prior to the Merger for at least five (5) years after closing.</p> |
| II. Employee Commitments | |
| 5 | <p><u>Collective Bargaining Agreements</u>: Holdco will honor all existing collective bargaining agreements.</p> |
| 6 | <p><u>Employee Compensation and Benefits</u>: Holdco will maintain substantially comparable compensation levels and benefits for all employees for two years after the closing of the Merger.</p> |
| 7 | <p><u>Employee Headcount</u>: While Merger-related efficiencies will result in a lower employee headcount over time for the combined organization post-closing compared to the two stand-alone organizations prior to closing, there will be no involuntary severance as a result of the Merger.</p> <p>There will also be no involuntary severance as a result of closing the following generating facilities: Sibley (units 1, 2 and 3), Montrose (units 1, 2 and 3), Lake Road (unit 4/6), Tecumseh (unit 7), Gordon Evans (units 1 and 2) and Murray Gill (units 3 and 4).</p> <p>Holdco will achieve headcount-related efficiencies (including any reduction in Kansas headquarters personnel) through normal attrition and other voluntary means over time in a generally balanced way across the States of Kansas and Missouri.</p> |
| III. Financing Conditions | |
| | <p><u>Board of Directors</u>:</p> |

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| 8 | <p>Upon the closing of the Merger, the size of the Holdco board of directors will be mutually determined by GPE and Westar. In addition, as of the closing of the transaction, Holdco's board shall initially be composed of an equal number of directors designated by each of GPE and Westar, who shall be predominantly from the Kansas and Missouri region and the majority of whom shall be independent as defined by the New York Stock Exchange. Terry Bassham shall be a member of the board as a GPE nominee and Mark Ruelle shall be the non-executive Chairman of the board as a Westar nominee, with Mr. Ruelle serving as such for a term of three years. The initial lead independent director of Holdco will also be designated by Westar, with reasonable consultation with GPE.</p> <p>In addition, to the above, as of the closing, the board of directors will initially have five (5) standing board committees. Those committees will be composed of an equal number of directors designated by each of GPE and Westar. The initial chairpersons for three (3) of the five (5) standing committees shall be designated by GPE and the chairpersons for two (2) of the five (5) standing committees shall be designated by Westar.</p> |
| 9 | <p><u>Financial Integrity:</u> Holdco will exercise management prudence to maintain the financial integrity of Westar and KCP&L in all respects, including matters relating to dividends, capital investments and other financial actions in an effort to maintain investment grade credit ratings. Holdco acknowledges that it is ultimately responsible for maintaining the financial integrity of its public utility subsidiaries such that they are capable of meeting their statutory responsibilities to provide sufficient and efficient service.</p> |
| 10 | <p><u>Capital Structures:</u> Holdco, KCP&L and Westar shall maintain separate capital structures to finance the respective activities and operations of each entity.</p> <p>Holdco, KCP&L and Westar shall maintain separate debt. Holdco, KCP&L and Westar shall also maintain separate preferred stock, if any.</p> <p>Holdco, KCP&L and Westar shall use reasonable and prudent investment grade capital structures. KCP&L and Westar will be provided with appropriate amounts of equity from Holdco to maintain such capital structures.</p> <p>Holdco shall maintain consolidated debt (excluding short-term debt and debt due within one year) of no more than 65 percent of total consolidated capitalization, and KCP&L's and Westar's debt (excluding short-term debt and debt due within one year) shall be maintained at no more than 60 percent.</p> <p>Holdco commits that Westar and KCP&L will not make any dividend payments to the parent company, or other upstream cash payment, to the extent that the payment would result in an increase in either utility's debt level (excluding short-term debt and debt due within one year) above 60 percent of its total capitalization, unless the Commission authorizes otherwise.</p> |
| 11 | <p><u>Separate Debt:</u> Holdco, KCP&L and Westar shall maintain separate debt so that Westar will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Holdco, KCP&L, or GMO or other subsidiaries of Holdco (excluding Westar and subsidiaries of Westar), and KCP&L, GMO and other subsidiaries of Holdco (excluding Westar and subsidiaries of Westar) will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Westar. For the avoidance of doubt, consistent with past practice, Westar may guarantee certain obligations of its subsidiaries, and subsidiaries of Westar may guarantee certain obligations of Westar.</p> <p>Holdco, KCP&L and Westar shall also maintain adequate capacity under revolving credit facilities and commercial paper, if any, which capacity may be administered on a combined basis provided that capacity maintained for KCP&L and Westar shall be exclusively dedicated to the benefit of KCP&L and Westar, pricing is separated by entity, and that (i) Westar neither guarantees the debt of Holdco, KCP&L, GMO or other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) nor is subject to a cross-default for such debt and (ii) Holdco, KCP&L, GMO and other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) neither guarantee the debt of Westar nor are subject to a cross-default for such debt.</p> |
| 12 | <p><u>Asset Conveyance:</u> Holdco, KCP&L and Westar shall not sell, lease, rent or otherwise convey, outside routine business practices, Westar and KCP&L assets necessary and useful in providing electric service to the public without Commission approval.</p> |
| | <p><u>Separation of Assets:</u> Holdco commits that KCP&L and Westar will not commingle their assets with the assets of any other person or entity, except as allowed under the Commission's Affiliate Transaction statutes or other Commission order.</p> |

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| <p>13</p> | <p>Holdco commits that KCP&L and Westar will conduct business as separate legal entities and shall hold all of their assets in their own legal entity name unless otherwise authorized by Commission order.</p> <p>Holdco, KCP&L and Westar affirm that the present legal entity structure that separates their regulated business operations from their unregulated business operations shall be maintained unless express Commission approval is sought to alter any such structure.</p> <p>Holdco, KCP&L and Westar further commit that proper accounting procedures will be employed to protect against cross-subsidization of Holdco's, KCP&L's and Westar's non-regulated businesses, or Holdco's other regulated businesses in Kansas or its regulated businesses in other jurisdictions by Westar's Kansas customers.</p> |
| <p>14</p> | <p>Other Separation: Westar (including subsidiaries of Westar), on the one hand, and Holdco and KCP&L, on the other hand, shall not grant or permit to exist any encumbrance, claim, security interest, pledge or other right in their respective stock or assets in favor of any entity or person other than immaterial liens or encumbrances in the ordinary course of business, letters of credit issued on behalf of third-parties in the ordinary course of business and encumbrances resulting from regulatory requirements unless otherwise authorized by the Commission.</p> |
| <p>15</p> | <p>Credit Rating: Holdco, KCP&L and Westar shall maintain separate issuer (i.e., Corporate Credit Ratings) and separate issue ratings for debt that is publicly placed.</p> |
| <p>16</p> | <p>Credit Rating Downgrade: If S&P or Moody's downgrade the Corporate Credit Rating or senior secured or unsecured debt issue rating of KCP&L or Westar (the "Impacted Utility") or Holdco to below investment grade (i.e., below BBB- or Baa3), the "Impacted Utility" or Holdco commits to file:</p> <ol style="list-style-type: none"> i. Notice with the Commission within five (5) business days of such downgrade that includes specification of the affected credit rating(s), the pre- and post-downgrade credit ratings of each affected credit rating, and a full explanation of why the credit rating agency or agencies downgraded each of the affected credit ratings; ii. A filing with the Commission within sixty (60) days which shall include the following: <ul style="list-style-type: none"> • Actions the Impacted Utility and Holdco may take to raise its S&P or Moody's credit rating to BBB- or Baa3, respectively, including the costs and benefits of such actions and any plan the Impacted Utility may have to undertake such actions. If the costs of returning Westar and/or KCP&L to investment grade are above the benefits of such actions, Westar and/or KCP&L shall be required to show and explain why it is not necessary, or cost-effective, to take such actions and how the utility(s) can continue to provide efficient and sufficient service in Kansas under such circumstances; • The change on the capital costs of the Impacted Utility due to its S&P or Moody's credit rating being below BBB- or Baa3, respectively; and • Documentation detailing how the Impacted Utility will not request from its Kansas customers, directly or indirectly, any higher capital costs incurred due to a downgrade of its S&P or Moody's credit rating below BBB- or Baa3, respectively; iii. File with the Commission, every forty-five (45) days thereafter until the Impacted Utility has regained its S&P or Moody's credit rating of BBB- or Baa3, respectively or above, an updated status report with respect to the items required in subparagraph ii above. iv. If the Commission determines that the decline of the Impacted Utility's S&P or Moody's credit rating to a level below BBB- or Baa3, respectively, has caused its quality of service to decline, then the Impacted Utility shall be required to file a plan with the Commission detailing the steps that will be taken to restore service quality levels that existed prior to the ratings decline. v. In the event KCP&L's or Westar's affiliation (ownership or otherwise) with Holdco or any of Holdco's affiliates is a primary factor for KCP&L's or Westar's S&P or Moody's Corporate credit rating to be downgraded to below BBB- or Baa3, respectively, KCP&L and/or Westar shall promptly undertake additional legal and structural separation from the affiliate(s) causing the downgrade. Notwithstanding Commitment No. 10's limitation on payment of dividends, the Impacted Utility shall not pay a common dividend without Commission approval or until the Impacted Utility's S&P or Moody's credit rating has been restored to BBB- or Baa3, respectively. |

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| | <p>vi. If KCP&L's or Westar's respective S&P or Moody's credit rating declines below BBB- or Baa3, respectively, the Impacted Utility shall file with the Commission within 15 days a comprehensive risk management plan setting forth committed actions assuring the Impacted Utility's access to and cost of capital will not be further impaired. The plan shall include a non-consolidation opinion if required by S&P or Moody's in order for the Impacted Utility to be able to restore its credit ratings to investment grade.</p> |
| <p>17</p> | <p><i>Cost of Capital:</i> Holdco commits that future cost of service and rates of KCP&L and Westar shall not be adversely impacted on an overall basis as a result of the Merger and that future cost of service and rates will be set commensurate with financial and business risks attendant to their individual regulated utility operations. Neither KCP&L nor Westar shall seek an increase to their cost of capital as a result of (i.e., arising from or related to) the Merger or KCP&L's and Westar's ongoing affiliation with Holdco and its affiliates after the Merger.</p> <p>The return on equity capital ("ROE") as reflected in Westar's and KCP&L's rates will not be adversely affected as a result of the Merger. Holdco agrees the ROE shall be determined in future rate cases, consistent with applicable law, regulations and practices of the Commission.</p> <p>The burden of proof that any increase to the cost of capital is not a result of the Merger shall be borne by KCP&L or Westar. Any net increase in the cost of capital that KCP&L or Westar seeks shall be supported by documentation that: (a) the increases are a result of factors not associated with the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; (b) the increases are not a result of changes in business, market, economic or other conditions caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; and (c) the increases are not a result of changes in the risk profile of KCP&L or Westar caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates. The provisions of this section are intended to recognize the Commission's authority to consider, in appropriate proceedings, whether this Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates have resulted in capital cost increases for KCP&L or Westar.</p> <p>Nothing in this condition shall restrict the Commission from disallowing such capital cost increases from recovery in KCP&L or Westar's rates.</p> |
| <p>IV. Ratemaking, Accounting, and Related Conditions</p> | |
| <p>18</p> | <p><i>Upfront Bill Credits and Guaranteed Annual Bill Credits:</i> Holdco agrees that its electric utility subsidiaries will provide Westar and KCP&L retail electric customers with one-time bill credits totaling \$23,065,299 to Westar retail electric customers and \$7,514,220 to KCP&L's Kansas retail electric customers, as soon as practicable following the closing of the Merger with the understanding that the data necessary to effectuate the inter-class allocation of bill credit amounts will not be available until near the end of the respective KCP&L and Westar 2018 base rate review proceedings. Thereafter Holdco agrees that its electric utility subsidiaries will provide Westar and KCP&L's Kansas retail electric customers with annual bill credits by March 31 in each year 2019, 2020, 2021, and 2022 in the amount of \$8,649,487 for Westar retail electric customers and \$2,817,832 for KCP&L's Kansas retail electric customers. These amounts shall be allocated among the customer classes using the method recommended by Staff witness, Bob Glass, in his direct testimony, pages 15-18. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial and industrial customers and on a per customer basis for residential customers.</p> |
| <p>19</p> | <p><i>Transition Costs:</i> Neither Westar nor KCP&L will ever include in cost of service, and shall never seek to recover in rates, any transition costs related to this Merger that are in excess of the benefits that these transition costs are intended to attain subject to a limit of \$50 million total company requested for recovery-described below.</p> <p>Transition costs are those costs incurred to integrate Westar and GPE, and include integration planning, execution, and "costs to achieve."</p> <p>Non-capital transition costs can be ongoing costs or one-time costs. KCP&L's and Westar's non-capital transition costs, which shall include but not be limited to severance payments made to employees other than those required to be made under change of control agreements, can be deferred on the books of either KCP&L or Westar to be recoverable through amortization over ten years subject to a limit of \$50 million total company of non-capital transition costs (\$7,692,018 KCP&L-Kansas and \$23,183,133 Westar) in KCP&L and Westar 2018 rate cases.</p> |

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| <p>20</p> | <p><u>Goodwill:</u> Goodwill associated with the Merger is the difference between the fair market value of GPE’s assets and the exchange value of GPE’s stock upon the closing of the Merger (referred to herein as “Merger Goodwill”) and will be maintained on the books of Holdco. The amount of any such Merger Goodwill shall not be ever included in the revenue requirement of KCP&L or Westar in future Kansas rate cases. Neither KCP&L nor Westar will ever seek recovery through recognition in retail rates or revenue requirements in future rate cases of any such Merger Goodwill.</p> |
| <p>21</p> | <p><u>Goodwill Impairment:</u> Customers shall be held harmless from the risk or realization of any Merger Goodwill impairment.</p> <p>Holdco does not expect, and shall take prudent actions to avoid, Merger Goodwill from negatively affecting KCP&L’s or Westar’s cost of capital.</p> <p>If such Merger Goodwill becomes impaired and such impairment negatively affects KCP&L’s or Westar’s cost of capital or credit ratings, all costs associated with the decline in the Impacted Utility’s credit quality specifically attributed to the Merger Goodwill impairment, considering all other capital cost effects of the Merger and the impairment, shall be excluded from the determination of the Impacted Utility’s rates.</p> |
| <p>22</p> | <p><u>Transaction Costs:</u> Transaction costs include, but are not limited to, those costs relating to obtaining regulatory approvals, development of transaction documents, investment banking costs, costs related to raising equity incurred prior to the close of the Merger, severance payments required to be made by change of control agreements, internal labor and third party consultant costs incurred in performing any types of analysis or preparation (financial, tax, investment, accounting, legal, market, regulatory, etc.) to evaluate the potential sale or transfer of ownership, prepare for bid solicitation, analyze bids, conduct due diligence, compliance with existing contracts including change in control provisions, and compliance with any regulatory conditions, closing, and communication costs regarding the ownership change with customers and employees.</p> <p>Westar and KCP&L commit that they will not seek recovery through recognition in retail rates of transaction costs, that they shall have the burden of proof to clearly identify where all transaction costs related to this Merger are recorded and shall be required to attest in all future rate proceedings before the Commission that none of these costs are included in cost of service and rates, and to provide a complete explanation of the procedures used to ensure that these transaction costs are not included in cost of service or rates. This commitment shall be required until transaction costs of this Merger are no longer on Holdco’s books in a test year for KCP&L and/or Westar, as applicable.</p> <p>Transaction costs shall be recorded on Holdco’s books.</p> |
| <p>23</p> | <p><u>Fuel and Purchased Power Costs:</u> KCP&L’s and Westar’s fuel and purchased power costs shall not be adversely impacted as a result of the Merger.</p> |
| <p>24</p> | <p><u>Retail Rates and Five Year Rate Moratorium:</u> Holdco commits that retail rates for KCP&L and Westar customers shall not increase as a result of the Merger. Additionally, Holdco, KCP&L and Westar commit to not change base rates in Kansas until the expiration of a five-year term that begins at the final order date of KCP&L’s 2018 base rate review. Any base rate review filing cannot change rates until after that date but a filing or show cause may be commenced as long as the resulting base rate adjustment becomes effective after the moratorium date. In the event the ROE authorized in either Westar’s or KCP&L’s 2018 base rate reviews is below 9.3%, the moratorium period for the affected utility shall be reduced to three years. Additionally, Westar and KCP&L agree to make a mandatory base rate review filing so that rates become effective the day after the expiration of the moratorium period. In the event that the moratorium period is three years for either utility pursuant to other provisions of this condition, such mandatory rate review for that utility shall be two years after the end of its rate moratorium. However, Westar and KCP&L can delay their respective mandatory base rate review filings with the approval of Staff.</p> |
| <p>25</p> | <p><u>Merger Savings in 2018 Rate Cases:</u> Holdco, Westar and KCP&L commit to inclusion of all Merger-related savings achieved at the update date of Westar’s and KCP&L’s respective 2018 rate cases. If it is determined to be a shortfall from the amounts below, then an additional adjustment will be made at the update to impute into retail rates the shortfall to achieve a total (some such savings are/will be already reflected in the Applicants rate review filing) of Merger-related savings benefiting Kansas retail rates of \$22,510,589 for Westar retail electric customers and \$7,468,874 for KCP&L’s Kansas retail electric customers.</p> |

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| 26 | <p>Earnings Review and Sharing Plan: Holdco, Westar and KCP&L commit to abide by the terms of the Earnings Review and Sharing Plan (ERSP) , attached as Attachments 2 and 3 to the Settlement Agreement. The purpose of this ERSP is to require both Westar and KCP&L to file a Earnings Review and Sharing Report, in the Compliance Docket established, in the years 2020, 2021, 2022, and 2023. The purpose of these reports will be to evaluate the earned Return on Equity (ROE) of both Westar and KCP&L-KS on an annual basis, as calculated after making limited adjustments to present the financial results of the company on a traditional ratemaking (rate base, rate of return) basis. In the event that the earned ROE of Westar or KCP&L-KS in any year exceeds a 9.3%, any earnings in excess of those necessary to cover the annual fixed bill credits discussed above shall be split 50% to customers, 50% to shareholders. The portion of excess earnings for customers shall be by way of a bill credit no later than September 30 of the succeeding year. Any bill credit amount shall be allocated between Westar or KCP&L-KS retail electric rate classes in the same manner as the final approved proof of revenue provided in support of the rates set in Westar or KCP&L-KS respective 2018 rate case. Once allocated between classes, the bill credit shall be credited to customers on the basis of revenues for commercial and industrial customers and on a per customer basis for residential customers.</p> |
| 27 | <p>Future Rate Cases: Holdco commits that in future rate case proceedings, KCP&L and Westar will support their assurances provided in this document with appropriate analysis, testimony, and necessary journal entries fully clarifying and explaining how any such determinations were made.</p> |
| <p>V. Affiliate Transactions and Cost Allocations Manual (CAM) Conditions</p> | |
| 28 | <p>Affiliate Service Agreements: KCP&L and Westar commit that they will file with the Commission (1) within sixty (60) days of closing of the Merger and (2) with the first post-closing rate case, an executed copy of all additional relevant Affiliate Service Agreements related to the Merger, pursuant to K.S.A. 66-1402 and that includes the service agreement(s) between any service company or affiliate allocating costs to a regulated utility affiliate.</p> |
| 29 | <p>Affiliate Interests: Holdco, KCP&L and Westar each expressly recognize that each represents an "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403. These statutes confer certain jurisdiction on the Commission regarding access to books and records, submission of contracts, review of affiliate transactions detail, etc.</p> |
| 30 | <p>Affiliate Rules: KCP&L and Westar will be operated after the closing of the Merger in compliance with the Commission's affiliate transaction rules as set forth in K.S.A. 66-1401, <i>et seq.</i>, and in compliance with the affiliate rules adopted in the Commission's December 3, 2010 Order in Docket No. 06-GIMX-181-GIV ("06-181 Order"), or will obtain any necessary variances from such rules, and the Commission's August 7, 2001 Order in Docket No. 01-KCPE-708-MIS ("01-708 Order").</p> <p>Holdco and its subsidiaries commit that all information related to an affiliate transaction consistent with the affiliate statutes and the Commission's 06-181 and 01-708 Orders in the possession of Holdco will be treated in the same manner as if that information is under the control of either KCP&L or Westar.</p> |
| 31 | <p>Intercompany Charges: Holdco and its subsidiaries may seek recovery of intercompany charges to regulated utility affiliates in their first general rate proceedings filed following the closing of the Merger at levels equal to the lesser of actual costs or the costs allowed related to such functions in the cost of service of their most recent rate case prior to the closing of the Merger, as adjusted for inflation measured by the Gross Domestic Product Price Index. Billings for common-use assets shall be permitted consistent with GPE's current practices.</p> <p>Holdco and its subsidiaries shall have the burden of proof to demonstrate billings are prudent, in the usual course of business, and consistent with past practice.</p> |
| 32 | <p>Separate Books and Records Available to Staff and Commission: Holdco shall maintain separate books and records, systems of accounts, financial statements and bank accounts for Westar and KCP&L. The records and books of Westar and KCP&L will be maintained under the FERC Uniform System of Accounts ("USOA") applicable to investor-owned jurisdictional electric utilities, as adopted by the Commission.</p> <p>The financial books and records of Holdco's regulated utility affiliates will be made available to the Commission and its Staff.</p> <p>The records and books of any affiliate for which any direct or indirect charge is made to Westar and KCP&L, and included in said utilities' cost of service and rates on either a direct or indirect basis, will be made available, upon request, to the Commission and its Staff.</p> <p>Holdco, KCP&L and Westar shall facilitate access of the Commission Staff to its external auditors and endeavor to provide the Commission and its Staff with timely access to any relevant external audit work papers and/or reports.</p> |

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| | <p>Holdco, KCP&L and Westar will maintain adequate records to support, demonstrate the reasonableness of, and enable the audit and examination of all centralized corporate costs that are allocated to or directly charged to KCP&L or Westar. Nothing in this condition shall be deemed a waiver of any rights of Holdco, KCP&L or Westar to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.</p> |
| 33 | <p><u>Variance From Missouri Affiliate Transaction Rule:</u> The Merger is the subject of a variance request before the Missouri Public Service Commission (“MPSC”) and an order is expected from the MPSC no later than the second quarter of 2018. GPE and KCP&L commit to pursue this variance from the provisions of Missouri Affiliate Transaction Rule 4 CSR 240-20.015 and endeavor to have such variance in place by Merger close. The variance will provide for goods and services transactions between KCP&L, GMO and Westar to occur at cost except for wholesale power transactions, which will be based on rates approved by the Federal Energy Regulatory Commission (“FERC”). Within thirty (30) days of the issuance of a final MPSC order in that proceeding, KCP&L and Westar will cause to be filed in this docket a copy of the final order.</p> <p>If the MPSC has not granted the variance from the Missouri Affiliate Transaction Rule mentioned above, Holdco, Westar and KCP&L commit that in Kansas retail rate proceedings of KCP&L and Westar after the closing of the Merger, neither utility will seek to recover more than actual costs incurred by Holdco, Westar or KCP&L in connection with affiliate transactions, provided, however, that annualizations and other customary and appropriate ratemaking adjustments may be used.</p> |
| 34 | <p><u>Cost Allocation Manual:</u> KCP&L and Westar agree to meet with Staff and CURB no later than sixty (60) days after the closing of the Merger to provide a description of its expected impact on the allocation of costs among Holdco’s utility and non-utility subsidiaries as well as a description of its expected impact on the cost allocation manuals (“CAMs”) of KCP&L and Westar. No later than six (6) months after the closing of the Merger but no less than two (2) months before the filing of a general rate case for either KCP&L or Westar, whichever occurs first, KCP&L and Westar agree to file updates to their existing CAMs reflecting process and recordkeeping changes necessitated by the Merger.</p> |
| 35 | <p><u>Third Party Audit of Cost Allocations:</u> On January 12, 2018, Applicants, the Staff of the Missouri Public Service Commission, and other parties filed a Stipulation and Agreement in the Applicants’ Application for Approval of Merger with the Public Service Commission of Missouri. The Stipulation and Agreement contains a commitment for an independent third-party management audit report of cost allocations between Holdco, Westar, KCP&L and GMO. Within 30 days of issuance, KCP&L and Westar agree to file this Audit of Affiliate Transactions and Corporate Cost Allocations Report in the Compliance Docket to be established by the Commission to monitor achievement of Merger savings and other Merger-related issues.</p> |
| <p>VI. Quality of Service Conditions</p> | |
| 36 | <p><u>Service Quality and Reliability Performance Standards:</u> If KCP&L or Westar fail to meet a particular performance metric threshold set forth in Exhibits BA-1, BA-2, BA-3 of the direct testimony of Bruce Akin, then penalties would be used to pay for system upgrades to improve reliability and will not be recovered in cost of service. If KCP&L or Westar perform without penalties on any metric for three consecutive calendar years, then the reporting and penalty provisions for that metric for that utility will terminate. KCP&L and Westar will report the particular performance metrics as set forth in Exhibits BA-4 and BA-5 of the direct testimony of Bruce Akin. Exhibits BA-1 through BA-5 are provided in Attachment 4 to the Settlement Agreement. KCP&L and Westar will also provide the reports described in Attachment 5 to the Settlement Agreement. Changes to future reporting can be made, as mutually agreed upon by Applicants, Staff and CURB.</p> |
| <p>VII. Reliability Reporting Condition</p> | |
| 37 | <p>By January 2019, Staff, CURB and Applicants will initiate a Compliance Docket in order to develop a methodology to evaluate the quality of service of Westar and KCP&L-KS and to update the reporting requirements found in Docket 02-GIME-365-GIE (the “365 docket”). The anticipated docket will include an investigation to determine if conventional reliability metrics such as SAIDI and SAIFI should be adopted as permanent standards and if so, which reliability metrics and associated thresholds should be adopted. The compliance docket will also address the feasibility of including momentary reliability metrics such as CEMMI and MAIFI. In addition to system-wide reliability metrics, the parties to the compliance docket will develop reporting requirements for specific categories of Applicants’ operations and maintenance activities that are mutually agreed upon by the parties. The purpose of the operations and maintenance activities report will be to provide Staff and CURB summary reports that may be used to evaluate the impact of Applicants’ operations with respect to reliability and quality of service. Applicants, Staff and CURB agree they will not object to the intervention in such compliance docket by KPP.</p> |
| <p>VIII. Capital Plan Reporting Condition</p> | |

38 By January 2019, Staff, CURB, KPP and the Applicants will jointly initiate a Capital Plan Reporting Compliance Docket to provide capital plan reports substantially similar to Attachment 6 to the Settlement Agreement. The capital spending report for projects initiated or ongoing in a given calendar year will be due by March 31 of the following year. The primary purpose of the Capital Plan Report is to provide Staff and the Commission with the information and data necessary to understand forecasted capital expenditures over a five year period. The capital expenditures to be reviewed include generation, environmental, transmission, distribution and Information Technology. The overall goal of the Capital Plan Reporting Compliance Docket will be to determine the appropriate information and data to report and the format of such reporting.

IX. Notice Regarding Generation Plant Retirements

39 Westar and KCP&L agree to provide 90 days' written notice to Staff and CURB related to any power generation unit retirements in excess of 20MW of capacity during the moratorium period for any retirements not already contemplated in this docket. Notice will also be required if the timing of any planned generating unit retirement is expected to change by more than six (6) months. This Condition sunsets upon new reporting requirements being established or the closing of the Capital Plan Reporting Compliance Docket.

X. Reporting and Access to Records

40 Merger Integration: To keep Staff and the Commission apprised of the status of integration implementation after closing, a Compliance Docket shall be opened by the Commission.

a. KCP&L and Westar shall meet with Staff no later than 60 days after closing, and on a quarterly basis thereafter for a period of one year after closing, to provide an update on the status of integration implementation, including discussion of progress on organizational changes and consolidation of processes affecting the customer experience, including but not limited to: contact center operations, customer information and billing, remittance processing, credit and collections, and service order processes. In addition, updates provided to Staff shall include: (1) accomplishments, (2) challenges, (3) Efficiency Summary (\$): Planned vs Actual by functional area, (4) Labor Summary (FTE): Planned vs Actual, and (5) Integration Team highlights. The frequency of such update meetings shall be reduced to every six months during the second year through the fifth year after closing of the Merger and shall cease thereafter, unless otherwise ordered by the Commission. KCP&L and Westar shall file the information provided in the above-referenced meetings with Staff in the Compliance docket. Regardless of the frequency of such meetings, KCP&L and Westar agree to continue their practice of promptly advising Staff in the event of material operational irregularities – whether arising from systems, training, process change or any other cause – that may affect the customer experience. Additionally, for a period of no less than two years, unless otherwise ordered by the Commission, KCP&L and Westar shall, on a twice-yearly basis unless otherwise ordered by the Commission, appear and provide an update of the status of integration implementation, providing the Commissioners an opportunity to ask questions about the status of integration implementation.

b. KCP&L and Westar shall, on a quarterly basis continuing for two years and on an annual basis for years three through five after closing, provide Staff, no later than 45 days after the conclusion of the relevant quarter, or annual period, with data on employee headcounts by physical work location (full- and part-time, including contingent labor retained through employment agencies) for Holdco, KCP&L, GMO and Westar as well as a complete listing of functions and/or positions that have been either outsourced (meaning that work is being performed on behalf of Holdco, KCP&L, GMO and/or Westar that is not under the direct management and supervision of Holdco, KCP&L, GMO or Westar employees) or converted to contingent labor as a result of the integration of Holdco, KCP&L, GMO and Westar. To the extent that job positions at Holdco, KCP&L, GMO or Westar have been eliminated, re-classified or transferred between Holdco, KCP&L, GMO or Westar, such eliminations, re-classifications or transfers shall be identified.

c. KCP&L and Westar shall, for a period of two years after closing, provide Staff any reports or presentations made to Holdco's board of directors regarding efficiencies attained as a result of the Merger. Such reports or presentations shall be provided to Staff within 30 days after being provided to Holdco's board of directors.

d. The reporting and data provision agreed to herein by Holdco, KCP&L and Westar does not change any reporting obligations of GPE (which shall apply to Holdco post-merger), KCP&L or Westar that existed prior to the approval of this Merger.

e. CURB shall be invited to any meetings scheduled in compliance with sub-paragraph a of this Commitment No. 40. CURB shall be provided with the materials identified in sub-paragraphs b and c of this Commitment No. 40 and if such material contains non-public information shall execute an appropriate non-disclosure agreement before receiving such information.

41 Goodwill Impairment Analysis: For the first five (5) full calendar years after the closing of the Merger, Holdco shall provide Staff and CURB its annual goodwill impairment analysis in a format that includes spreadsheets in their original format with formulas and links to other spreadsheets intact and any printed materials within thirty (30) days after the filing of Holdco's Form 10 Q for the period in which the analysis is performed, as well as all supporting documentation. Thereafter, this analysis will be made available to Staff and CURB upon request.

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| 42 | <u>Accounting Changes</u> : Holdco, KCP&L and Westar commit that any material Merger-related financial and accounting changes must be reported to the Commission. |
| 43 | <u>Integrated Resource Plan</u> : KCP&L will provide to the KCC Staff its integrated resource plan (IRP) within seven (7) days of its filing in Missouri. The public version of such materials shall also be provided to CURB. In addition, Applicants commit that, as part of the KCP&L and GMO 2019 IRP Updates, a combined KCP&L/GMO/Westar analysis will be conducted. |
| 44 | <u>Access to Materials Provided to Ratings Analysts</u> : KCP&L and Westar shall provide Staff and CURB with access, upon reasonable written notice during working hours and subject to appropriate confidentiality and discovery procedures, to all written information provided to common stock, bond or bond rating analysts which directly or indirectly pertains to Holdco, KCP&L or Westar or any affiliate that exercises influence or control over KCP&L, Westar or Holdco. Such information includes, but is not limited to, common stock analyst and bond rating analyst reports. For purposes of this condition, "written" information includes, but is not limited to, any written and printed material, audio and video tapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed a waiver of any entity's right to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party. |
| 45 | <u>Access to Materials Regarding CAM Compliance</u> : Holdco, KCP&L and Westar shall make available to Staff and CURB, upon written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, all books, records and employees as may be reasonably required to verify compliance with KCP&L's and Westar's CAM and any conditions ordered by this Commission. Holdco, KCP&L and Westar shall also provide Staff and CURB any other such information (including access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over KCP&L or Westar; provided that any entity producing records or personnel shall have the right to object on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates (a) are not within the possession or control of either KCP&L or Westar or (b) are either not relevant or are not subject to, the Commission's jurisdiction and statutory authority by virtue of, or as a result of, the implementation of the proposed Merger. |
| 46 | <u>Access to Board of Director Materials</u> : KCP&L and Westar shall provide Staff and CURB access, upon reasonable request, the complete Holdco board of directors' meeting minutes, including all agendas and related information distributed in advance of the meeting, presentations and handouts, provided that privileged information shall continue to be subject to protection from disclosure and KCP&L and Westar shall continue to have the right to object to the provision of such information on relevancy grounds. |
| 47 | <u>Retention Period for Affiliate Transaction Records</u> : KCP&L and Westar will maintain records supporting their affiliated transactions for at least six (6) years. |
| 48 | <u>Journal Entries</u> : Within six months of the close of the Merger, Holdco, KCP&L and Westar will provide to the Commission Staff detailed journal entries recorded to reflect the Merger. Holdco, KCP&L and Westar shall also provide the final detailed journal entries to be filed with the Commission no later than 13 months after the date of the closing. These entries must show, and shall include but not be limited to, the entries made to record or remove from all utility accounts any Merger goodwill costs or transaction costs. |
| Financial Conditions Remaining From 01-KCPE-701-MIS | |
| 49 | GPE ("Holding Company") and its subsidiaries will not conduct any material business activities that are not part of the "electric industry or natural gas industry business" or are not reasonably related to business activities derived from changes in the electric industry or natural gas industry as a result of competition, without Commission approval. With regard to expansion of KCP&L's current operations in the telecommunications and information businesses, activities will be limited to those considered reasonably related to current operations. |
| 50 | KCP&L's total long-term borrowings including all instruments shall not exceed KCP&L's regulated rate base. |
| 51 | The customers of KCP&L shall be held harmless by KCP&L and GPE if the reorganization creating GPE, with KCP&L as a subsidiary, results in a higher revenue requirement for KCP&L than if the reorganization had not occurred. |

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| 52 | GPE and KCP&L shall provide the Commission Staff and CURB unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly, or indirectly, pertains to KCP&L or any affiliate that exercises influence or control over KCP&L or has affiliate transactions with KCP&L. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes, but is not limited to, any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of GPE's or KCP&L's right to seek protection of the information. |
| 53 | GPE shall not, directly or indirectly, acquire or merge with a public utility or public utility holding company, nor will it allow itself to be acquired by a public utility or public utility holding company unless GPE has requested prior approval for such a transaction from the Commission. |
| VIII. Other Parent Company Conditions | |
| 54 | <p><u>Prior Commitments of, and Orders Applicable to, GPE, KCP&L, and Westar:</u> Holdco, KCP&L and Westar commit to reaffirm and honor any prior commitments made by GPE or Westar to the Commission to comply with any previously issued Commission orders applicable to KCP&L or Westar or their previous owners except as otherwise provided for herein.</p> <p><u>01-KCPE-708-MIS (01-708): In the Matter of the Application of Kansas City Power & Light Company for an Order Authorizing Its Plan to Reorganize Itself Into a Holding Company Structure:</u> All of the commitments and conditions agreed to in the August 21, 2001 Amended Unanimous Stipulation and Agreement remain in place (see attached). With the exception of (1) Financial ratio reporting eliminated 6/22/12; (2) CAM filing eliminated 3/29/16 (continues to be filed in Ring Fencing Docket #06-GIMX-181-GIV each May).</p> <p>The minimum equity ratios of the 01-708 agreement are modified from 35% at KCP&L and 30% at GPE (holding company) to a minimum equity ratio of 40% for the operating companies and 35% for the holding company.</p> |
| 55 | <p><u>Future Access to Capital:</u> Holdco acknowledges that its utility subsidiaries need significant amounts of capital to invest in energy supply and delivery infrastructure (including, but not limited to, renewable energy resources and other environmental sustainability initiatives such as energy efficiency and demand response programs) and acknowledges that meeting these capital requirements of its utility subsidiaries will be considered a high priority by Holdco's board of directors and executive management and that Holdco's access to capital post-transaction will permit it and its utility subsidiaries to meet their statutory obligation to provide sufficient and efficient service.</p> |

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Summary

DRAFT

| Line # | | 12/31/2016 | Reference |
|--------|---|----------------|--|
| 1 | Rate Base: | | |
| 2 | Gross Plant | \$ - | Rate Base; line 10 |
| 3 | Accumulated Reserve | - | Rate Base; line 19 |
| 4 | CWIP | - | Rate Base; line 28 |
| 5 | Cost Free Items | - | Rate Base; line 37 |
| 6 | Working Capital | - | Rate Base; line 55 |
| 7 | Total Rate Base | \$ - | Sum (Lines 2 through 6) |
| 8 | | | |
| 9 | Operating Revenues | \$ - | Operating Revenue; line 21 |
| 10 | Operating Expenses w/o Income Taxes | - | Operating Expenses; line 59 |
| 11 | Income Tax Expense | - | Income Taxes; line 57, column I |
| 12 | Operating Income Present Rates | \$ - | Line 9 - Line 10 - Line 11 |
| 13 | | | |
| 14 | Rate of Return: | | |
| 15 | Rate of Return on Present Rates | #DIV/0! | Line 12 / line 7 |
| 16 | Required Rate of Return | #DIV/0! | Cost of Capital; line 5 |
| 17 | | | |
| 18 | Authorized ROE | 0.000% | Cost of Capital; line 4 |
| 19 | Earned ROE | #DIV/0! | (Line 15 - Cost of Capital; column E line 2 - Cost of Capital; column E line 3) / (Cost of Capital; column C line 4) |
| 20 | Over/(Under) Earned | #DIV/0! | Line 19 - Line 18 |
| 21 | | | |
| 22 | Operating Income Surplus/(Deficiency) before Tax Gross-Up | #DIV/0! | Line 12 - (Line 16 x Line 7) |
| 23 | Related Income Taxes | #DIV/0! | (Line 22 / (1-Income tax rate)) - Line 22 |
| 24 | Revenue Surplus/(Deficiency) Before Retail Rate Credits | #DIV/0! | Line 22 + Line 23 |
| 25 | Retail Rate Credits (enter as a negative) | | Per Agreement |
| 26 | Revenue Surplus/(Deficiency) | #DIV/0! | Line 24 + Line 25 |

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Rate Base

Sources General Ledger, Power Plan Report XXXX, FERC Form 1, Actual Transmission Formula Rate, and Regulatory
 DRAFT

| Line # | A | B | Juris Adjustments | | | | | | |
|--------|--|--------------------------|-------------------|-------------------------------|------------------------|----------------------------------|------------------------|---------|---------|
| | | | C | D | E | F | G | H | I |
| | KCP&L (KS Juris) | Total Before Adjustments | Remove ARO | Adj RB-11 Out-of-Period Items | Adj RB-82 Transmission | MO Iatan Disallowance Correction | Plant Basis Difference | [Other] | [Other] |
| 1 | Rate Base: | | | | | | | | |
| 2 | Gross Plant: | | | | | | | | |
| 3 | Intangible | \$ - | | | | | | | |
| 4 | Steam Production | - | | | | | | | |
| 5 | Nuclear | - | | | | | | | |
| 6 | Production Other | - | | | | | | | |
| 7 | Transmission | - | | | | | | | |
| 8 | Distribution | - | | | | | | | |
| 9 | General | - | | | | | | | |
| 10 | Total Gross Plant | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 11 | Accumulated Reserve | | | | | | | | |
| 12 | Intangible | \$ - | | | | | | | |
| 13 | Steam Production | - | | | | | | | |
| 14 | Nuclear | - | | | | | | | |
| 15 | Production Other | - | | | | | | | |
| 16 | Transmission | - | | | | | | | |
| 17 | Distribution | - | | | | | | | |
| 18 | General | - | | | | | | | |
| 19 | Total Accumulated Reserve | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 20 | CWIP: | | | | | | | | |
| 21 | Intangible | \$ - | | | | | | | |
| 22 | Steam Production | - | | | | | | | |
| 23 | Nuclear | - | | | | | | | |
| 24 | Production Other | - | | | | | | | |
| 25 | Transmission | - | | | | | | | |
| 26 | Distribution | - | | | | | | | |
| 27 | General | - | | | | | | | |
| 28 | Total CWIP | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 29 | Cost Free Items: | | | | | | | | |
| 30 | Customer Deposits | \$ - | | | | | | | |
| 31 | Customer Advances on Construction | - | | | | | | | |
| 32 | Def Gain on SO2 Emissions Allow - KS & Alloc | - | | | | | | | |
| 33 | ADIT Account 190 | - | | | | | | | |
| 34 | ADIT Account 281 | - | | | | | | | |
| 35 | ADIT Account 282 | - | | | | | | | |
| 36 | ADIT Account 283 | - | | | | | | | |
| 37 | Total Cost Free Items | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 38 | Working Capital: | | | | | | | | |
| 39 | Material and Supplies | \$ - | | | | | | | |
| 40 | Fossil Fuel Inventory | - | | | | | | | |
| 41 | Nuclear Fuel Inventory | - | | | | | | | |
| 42 | Prepayments | - | | | | | | | |
| 43 | Regulatory Assets or (Liabilities): | | | | | | | | |
| 44 | Reg. asset Iatan 1 and Common - Kansas | - | | | | | | | |
| 45 | Reg. asset La Cygne | - | | | | | | | |
| 46 | [Other] | - | | | | | | | |
| 47 | [Other] | - | | | | | | | |
| 48 | [Other] | - | | | | | | | |
| 49 | [Other] | - | | | | | | | |
| 50 | [Other] | - | | | | | | | |
| 51 | [Other] | - | | | | | | | |
| 52 | Cash Working Capital | - | | | | | | | |
| 53 | [Other] | - | | | | | | | |
| 54 | [Other] | - | | | | | | | |
| 55 | Total Working Capital | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 56 | | | | | | | | | |
| 57 | Total Rate Base | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Cost of Capital

Sources: General Ledger, Finance, and Regulatory
DRAFT

| Line # | A | B | C | D | E | F | G | H | I | J | K | L |
|--------|--|------------------|------------------|---------------|----------------|---------------------------|----------------|-----------------------|--------------------------|--------------|-----------------------|---------------------------------|
| | | Balance | Weight | Cost | Rate of Return | Taxable Components | Tax Reciprocal | Pretax Rate of Return | | | | |
| 1 | Capital Structure: | | | | | | | | | | | |
| 2 | Long-term Debt | | #DIV/0! | #DIV/0! | #DIV/0! | | | #DIV/0! | | | | |
| 3 | Preferred Equity | | #DIV/0! | | #DIV/0! | #DIV/0! | | #DIV/0! | | | | |
| 4 | Common Equity | | #DIV/0! | | #DIV/0! | #DIV/0! | | #DIV/0! | | | | |
| 5 | Total Capitalization | \$ - | #DIV/0! | | #DIV/0! | | | #DIV/0! | | | | |
| 6 | | | | | | | | | | | | |
| 7 | Cost of Common Equity: As approved in Docket No. 15-KCPE-116-RTS. KCP&L Utility Capital Structure used at December 31, 2016. | | | | | | | | | | | |
| 8 | | | | | | | | | | | | |
| 9 | Cost of Long-term Debt: | | | | | | | | | | | |
| 10 | | | | | | Principal Amount of Issue | Net Proceeds | Cost to Company | Outstanding Debt Capital | Cost of Debt | Weighted Cost of Debt | Net Premium, Discount & Expense |
| 11 | Bond Description | Date of Offering | Date of Maturity | Interest Rate | Nper | | | | | | | |
| 12 | | | | | | | \$ - | | | \$ - | | |
| 13 | | | | | | | | | | | | |
| 14 | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | |
| 16 | | | | | | | | | | | | |
| 17 | | | | | | | | | | | | |
| 18 | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | |
| 21 | | | | | | | | | | | | |
| 22 | | | | | | | | | | | | |
| 23 | | | | | | | | | | | | |
| 24 | | | | | | | | | | | | |
| 25 | | | | | | | | | | | | |
| 26 | | | | | | | | | | | | |
| 27 | | | | | | | | | | | | |
| 28 | | | | | | | | | | | | |
| 29 | | | | | | | | | | | | |
| 30 | | | | | | | | | | | | |
| 31 | | | | | | | | | | | | |
| 32 | | | | | | | | | | | | |
| 33 | | | | | | | | | | | | |
| 34 | | | | | | | | | | | | |
| 35 | | | | | | | | | | | | |
| 36 | | | | | | | \$ - | | \$ - | | | \$ - |
| 37 | Weighted Average Cost of Debt Capital: | | | | | | | | | | #DIV/0! | |

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Operating Revenue

Sources: General Ledger and Regulatory
 DRAFT

| Line # | Account | Description | A | B | C | D Juris Adjustments | | | E | F |
|--------|---------------------------|--------------------------------------|------------------|--------------------------|------------------------------|-----------------------|---------|---------|------|------|
| | | | KCP&L (KS Juris) | Total Before Adjustments | Adj R-11 Out-of-Period Items | Adj R-82 Transmission | [Other] | [Other] | | |
| 1 | Operating Revenues: | | | | | | | | | |
| 2 | Electric Service Revenue: | | | | | | | | | |
| 3 | 440 | Residential | | \$ - | | | | | | |
| 4 | 442.1 | Commercial | | - | | | | | | |
| 5 | 442.2 | Industrial | | - | | | | | | |
| 6 | 444 | Street Lighting | | - | | | | | | |
| 7 | | Total Retail | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 8 | 447 | Sales for Resale | | - | | | | | | |
| 9 | 449.1 | Provision for Rate Refunds | | - | | | | | | |
| 10 | | Total Electric Service Revenue | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 11 | Other Operating Revenues: | | | | | | | | | |
| 12 | | | | | | | | | | |
| 13 | 412 | Electric Plant Leased to Others | | \$ - | | | | | | |
| 14 | 450 | Forfeited Discounts | | - | | | | | | |
| 15 | 451 | Miscellaneous Service Revenues | | - | | | | | | |
| 16 | 454 | Rent from Electric Property | | - | | | | | | |
| 17 | 456 | Other Electric Revenues | | - | | | | | | |
| 18 | 456.1 | Revenues from Transmission of Others | | - | | | | | | |
| 19 | | Total Other Operating Revenue | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 20 | | | | | | | | | | |
| 21 | | Total Operating Revenues | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 22 | | | | | | | | | | |
| 23 | | | | | | | | | | |
| 24 | | | | | | | | | | |
| 25 | | | | | | | | | | |
| 26 | | | | | | | | | | |
| 27 | | | | | | | | | | |
| 28 | | | | | | | | | | |
| 29 | | | | | | | | | | |
| 30 | | | | | | | | | | |
| 31 | | | | | | | | | | |
| 32 | | | | | | | | | | |
| 33 | | | | | | | | | | |
| 34 | | | | | | | | | | |

Kansas City Power & Light Company
 Eamed RDE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Operating Expenses

Sources: General Ledger, Actual Transmission Formula Rate, Regulatory, and Plant Accounting
 DRAFT
 Transmission Allocation Factor
 Wages and Salaries
 0.0000% per 2016 Actual TFR

| Line # | Account | Description | KCP&L (KS Juris) | B Total Before Adjustments | Juris Adjustments | | | | | | | | L Total Adjusted | |
|--------|---|--|------------------|-------------------------------------|---------------------------------------|--------------------------------|---|-------------------------------|------------------------------------|--|--|-------------------------------------|------------------------|--------------|
| | | | | | C Adj CS-11 Out-of-Period Items | D Adj CS-82 Transmission | E MD Iatan Disallowance Correction | F Adj CS-90 Advertising | G Adj CS-92 Dues & Donations | H Adj CS-10 Interest on Customer Deposits | I Adj CS-4 KCREC Bad Debt Exp | J Adj CS-9 KCREC Bank Fees | | K [Other] |
| 1 | Operating and Maintenance Expenses: | | | | | | | | | | | | | |
| 2 | 500-509 | Production Expenses | | \$ - | | | | | | | | | | \$ - |
| 3 | 510-514 | Production Maintenance | | - | | | | | | | | | | - |
| 4 | 517-525 | Nuclear Operations | | - | | | | | | | | | | - |
| 5 | 528-532 | Nuclear Maintenance | | - | | | | | | | | | | - |
| 6 | 546-550 | Other Power Generation Operations | | - | | | | | | | | | | - |
| 7 | 551-554 | Other Power Generation Maintenance | | - | | | | | | | | | | - |
| 8 | 555-557 | Other Power Supply Expense | | - | | | | | | | | | | - |
| 9 | 560-567, 575 | Electric Transmission Operations | | - | | | | | | | | | | - |
| 10 | 568-573, 576 | Electric Transmission Maintenance | | - | | | | | | | | | | - |
| 11 | 580-589 | Distribution Operations | | - | | | | | | | | | | - |
| 12 | 590-598 | Distribution Maintenance | | - | | | | | | | | | | - |
| 13 | 901-905 | Customer Accounts | | - | | | | | | | | | | - |
| 14 | 907-910 | Customer Service | | - | | | | | | | | | | - |
| 15 | 911-916 | Sales Expense | | - | | | | | | | | | | - |
| 16 | 920 | Administrative & General Salaries | | - | | | | | | | | | | - |
| 17 | 921 | Office Supplies & Expenses | | - | | | | | | | | | | - |
| 18 | 922 | Administrative Expenses Transferred-Cr. | | - | | | | | | | | | | - |
| 19 | 923 | Outside Services Employed | | - | | | | | | | | | | - |
| 20 | 924 | Property Insurance | | - | | | | | | | | | | - |
| 21 | 925 | Injuries & Damages | | - | | | | | | | | | | - |
| 22 | 926 | Employee Pensions & Benefits | | - | | | | | | | | | | - |
| 23 | 927 | Franchise Requirements | | - | | | | | | | | | | - |
| 24 | 928 | Regulatory Commission Expense State | | - | | | | | | | | | | - |
| 25 | 928 | Regulatory Commission Expense FERC | | - | | | | | | | | | | - |
| 26 | 928 | Other Regulatory Expenses - Misc | | - | | | | | | | | | | - |
| 27 | 929 | Duplicate Charges-Credit | | - | | | | | | | | | | - |
| 28 | 930.1 | General Advertising Expense | | - | | | | | | | | | | - |
| 29 | 930.2 | Miscellaneous General Expense | | - | | | | | | | | | | - |
| 30 | 930.2 | Ind Assoc. & Memberships | | - | | | | | | | | | | - |
| 31 | 930.2 | Nuclear Power Research Expenses | | - | | | | | | | | | | - |
| 32 | 930.2 | Other Experimental & General Research Expenses | | - | | | | | | | | | | - |
| 33 | 930.2 | Pub & Dist Info to Stockholders | | - | | | | | | | | | | - |
| 34 | 931 | Rents | | - | | | | | | | | | | - |
| 35 | 933 | Transportation Expense | | - | | | | | | | | | | - |
| 36 | 935 | Maintenance of General Plant | | - | | | | | | | | | | - |
| 37 | | Total Operating and Maintenance Expenses | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 38 | | | | | | | | | | | | | | |
| 39 | Depreciation and Amortization Expenses: | | | | | | | | | | | | | |
| 40 | 403 | Depreciation Expense | | \$ - | | | | | | | | | | \$ - |
| 41 | 404 | Amortiz of Limited Term Plant - Allocated | | - | | | | | | | | | | - |
| 42 | 405 | Amortization Expense | | - | | | | | | | | | | - |
| 43 | 407.3 | Regulatory Debits | | - | | | | | | | | | | - |
| 44 | 407.4 | Regulatory Credits | | - | | | | | | | | | | - |
| 45 | 411.1 | Accretion Exp-Asset Retirement Obligation | | - | | | | | | | | | | - |
| 46 | 411 | Write down-Emissions Allowance Liab-Whsl | | - | | | | | | | | | | - |
| 47 | | Total Depreciation and Amortization | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 48 | | | | | | | | | | | | | | |
| 49 | Taxes Other Than Income Taxes: | | | | | | | | | | | | | |
| 50 | 408.1xx | Taxes Other Than Income Taxes-KS | | \$ - | | | | | | | | | | \$ - |
| 51 | 408.12x | Property Tax | | - | | | | | | | | | | - |
| 52 | | Property Tax - Wolf Creek | | - | | | | | | | | | | - |
| 53 | | Payroll Tax | | - | | | | | | | | | | - |
| 54 | | ORVIS - KS | | - | | | | | | | | | | - |
| 55 | | Other Miscellaneous Taxes | | - | | | | | | | | | | - |
| 56 | | | | - | | | | | | | | | | - |
| 57 | | Total Taxes Other Than Income Taxes | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 58 | | | | | | | | | | | | | | |
| 59 | | Total Operating Expenses | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

ATTACHMENT 2

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Income Taxes

DRAFT

| Line No. | A Line Description | B Total Company Balance * | C Juris Factor # | D Juris Allocator * | E Tax Rate | F (Jurisdictional) |
|----------|--|------------------------------|-----------------------|------------------------|---------------|-----------------------|
| | | | | | | Adjusted with #DIV/0! |
| | | | | | | Return |
| | | | | | | C |
| 1 | Net Income Before Taxes | - | | | | - |
| 2 | Add to Net Income Before Taxes: | | | | | |
| 3 | Depreciation Exp | - | | | | - |
| 4 | Plant Amortization Exp | - | | | | - |
| 5 | Amortiz of Unrecovered Reserve on General Plt-KS | - | 100% KS | 100.0000% | | - |
| 6 | Book Nuclear Fuel Amortization | - | | | | - |
| 7 | Transp & Unit Train Depr-Clearing (a) | - | | | | - |
| 8 | 50% Meals & Entertainment | - | Sal&Wg | 0.0000% | | - |
| 9 | [OTHER] | - | | | | - |
| 10 | Total | - | | | | - |
| 11 | Subtract from Net Income Before Taxes: | | | | | |
| 12 | Interest Expense | - | | | | - |
| 13 | IRS Tax Return Depreciation | - | PTD | 0.0000% | | - |
| 14 | IRS Tax Return Plant Amortization | - | PTD | 0.0000% | | - |
| 15 | IRS Tax Return Nuclear Amortization | - | E1 | 0.0000% | | - |
| 16 | Cost of Removal Incurred on Pre-81 Property | - | PTD | 0.0000% | | - |
| 17 | Cost of Removal Provided for Pre-81 Property | - | PTD | 0.0000% | | - |
| 18 | IRC Section 199 Domestic Production Activities | - | D1 | 0.0000% | | - |
| 19 | [OTHER] | - | | | | - |
| 20 | Total | - | | | | - |
| 21 | Net Taxable Income | - | | | | - |
| 22 | Provision for Federal Income Tax: | | | | | |
| 23 | Net Taxable Income | - | | | | - |
| 24 | Deduct State Income Tax @ 100% | - | | | 0.00% | - |
| 25 | Deduct City Income Tax | - | | | | - |
| 26 | Federal Taxable Income | - | | | | - |
| 27 | Federal Tax Before Tax Credits | - | | | 0.00% | - |
| 28 | Less Tax Credits: | | | | | |
| 29 | Wind | - | E1 | 0.0000% | | - |
| 30 | Research and Development | - | E1 | 0.0000% | | - |
| 31 | Electric Charging Stations Tax Credit | - | E1 | 0.0000% | | - |
| 32 | Fuels Credit | - | E1 | 0.0000% | | - |
| 33 | [OTHER] | - | | | | - |
| 34 | Total Federal Tax | - | | | | - |
| 35 | Provision for State Income Tax: | | | | | |
| 36 | Net Taxable Income | - | | | | - |
| 37 | Deduct Federal Income Tax @ 0% | - | | | | - |
| 38 | Deduct City Income Tax | - | | | | - |
| 39 | State Jurisdictional Taxable Income | - | | | | - |
| 40 | Total State Tax | - | | | 0.00% | - |
| 41 | Provision for City Income Tax: | | | | | |
| 42 | Net Taxable Income | - | | | | - |
| 43 | Total City Tax | - | | | 0.00% | - |
| 44 | Effective Tax rate before Tax Cr and Earnings Tax | 26.53% | | | | 26.53% |
| 45 | Summary of Provision for Income Tax: | | | | | |
| 46 | Federal Income Tax | - | | | | - |
| 47 | State Income Tax | - | | | | - |
| 48 | City Income Tax | - | | | | - |
| 49 | Total Provision for Income Tax | - | | | | - |
| 50 | Deferred Income Taxes: | | | | | |
| 51 | Deferred Income Taxes - Excess IRS Tax over Tax SL | - | See Computation Below | | | - |
| 52 | Amortization of Deferred ITC | - | PTD | 0.0000% | | - |
| 53 | Amort of Excess Deferred Income Taxes (ARAM) | - | PTD | 0.0000% | | - |
| 54 | Amortization of Cost of Removal-ER-2007-0291 | - | 100% MO | 0.0000% | | - |
| 55 | [OTHER] | - | | | | - |
| 56 | Total Deferred Income Tax Expense | - | | | | - |
| 57 | Total Income Tax | - | | | | - |

ATTACHMENT 2

Kansas City Power & Light Company
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Income Taxes

| Line No. | A Line Description | B Total Company Balance * | C Juris Factor # | D Juris Allocator * | E Tax Rate | F (Jurisdictional) Adjusted with #DIV/0! Return |
|-------------------------|---|------------------------------|---------------------|------------------------|-------------------------------------|---|
| | | | | | | |
| 58 | (a) Percent of vehicle depr clearing to O&M | | | | 0.00% | |
| Interest Expense Proof: | | | | | | |
| | | | | | Total Rate Base | 0 |
| | | | | | X Wtd Cost of Debt | 0.000% |
| | | | | | Interest Exp @ 12/31/16 | 0 |
| | | | | | Less: Interest Expense from Line 12 | 0 |
| | | | | | Difference | 0 |
| | * As Needed | | | | | |
| | Note 1: If this cell contains a ref# error, delete the cell contents and re-enter the formula. Total Rate Base per Sch 2 multiplied by LT Debt Weighted Return per Cap Structure | | | | | |
| | Note 2: If this cell contains a ref# error, delete the cell contents and re-enter the formula. If (total state tax > 0, total state tax, 0) | | | | | |
| | <u>Computation of Line 51 Above:</u> | | | | | |
| | Deferred Income Taxes - Excess IRS Tax over Tax SL: | | | | | |
| 59 | IRS Tax Return Depreciation | - | | | | - |
| 60 | Less: Book Depreciation | - | | | | - |
| 61 | Excess IRS Tax Depr over Book Depreciation | - | | | | - |
| 62 | IRS Tax Return Plant Amortization | - | | | | - |
| 63 | Less: Book Amortization | - | | | | - |
| 64 | Excess IRS Tax Amort over Book Amortization | - | | | | - |
| 65 | IRS Tax Return Nuclear Amortization | - | | | | - |
| 66 | Less: Book Nuclear Amortization | - | | | | - |
| 67 | Excess IRS Tax Nuclear Amort over Book Nuclear Amort | - | | | | - |
| 68 | Total Timing Differences | - | | | | - |
| 64 | AFUDCEquity | - | PTD | 0.0000% | | - |
| 65 | MO ITC Coal Basis Adjustment | - | PTD | 0.0000% | | - |
| 66 | MO Miscellaneous Flow Through | - | PTD | 0.0000% | | - |
| 67 | Total Timing Differences after Flow Through | - | | | | - |
| 68 | Effective Tax rate | 26.53% | | | | 26.53% |
| 69 | Deferred Income Taxes - Excess IRS Tax over Tax SL | - | | | | - |

Westar Energy
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Summary

DRAFT

| Line # | | 12/31/2016 | Reference |
|--------|---|----------------|--|
| 1 | Rate Base: | | |
| 2 | Gross Plant | \$ - | Rate Base; line 10 |
| 3 | Accumulated Reserve | - | Rate Base; line 19 |
| 4 | CWIP | - | Rate Base; line 28 |
| 5 | Cost Free Items | - | Rate Base; line 40 |
| 6 | Working Capital | - | Rate Base; line 58 |
| 7 | Total Rate Base | \$ - | Sum (Lines 2 through 6) |
| 8 | | | |
| 9 | Operating Revenues | #DIV/0! | Operating Revenue; line 21 |
| 10 | Operating Expenses w/o Income Taxes | - | Operating Expenses; line 58 |
| 11 | Income Tax Expense | #DIV/0! | Income Taxes; line 17 |
| 12 | Operating Income Present Rates | #DIV/0! | Line 9 - Line 10 - Line 11 |
| 13 | | | |
| 14 | Rate of Return: | | |
| 15 | Rate of Return on Present Rates | #DIV/0! | Line 12 / line 7 |
| 16 | Required Rate of Return | #DIV/0! | Cost of Capital; line 5 |
| 17 | | | |
| 18 | Authorized ROE | 0.000% | Cost of Capital; line 4 |
| 19 | Earned ROE | #DIV/0! | (Line 15 - Cost of Capital; column E line 2 - Cost of Capital; column E line 3) / (Cost of Capital; column C line 4) |
| 20 | Over/(Under) Earned | #DIV/0! | Line 19 - Line 18 |
| 21 | | | |
| 22 | Operating Income Surplus/(Deficiency) before Tax Gross-Up | #DIV/0! | Line 12 - (Line 16 x Line 7) |
| 23 | Related Income Taxes | #DIV/0! | (Line 22 / (1-Income tax rate)) - Line 22 |
| 24 | Revenue Surplus/(Deficiency) Before Retail Rate Credits | #DIV/0! | Line 22 + Line 23 |
| 25 | Retail Rate Credits (enter as a negative) | | Per Agreement |
| 26 | Revenue Surplus/(Deficiency) | #DIV/0! | Line 24 + Line 25 |

Westar Energy
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Rate Base

Sources: General Ledger, Power Plan Report 1031, FERC Form 1, Actual Transmission Formula Rate, and Regulatory DRAFT

| Line # | A | B | C | Adjustments | | | | | J | |
|--------|--------|------|--------------------------|-------------|---------------------------------|------------------------|----------------------|--------------------|---------|----------------|
| | | | | D | E | F | G | H | | I |
| | Westar | KG&E | Total Before Adjustments | Remove ARO | Amounts Related to Transmission | Revenue Producing CWIP | 800 KS. Second Floor | KGE Merger Savings | [Other] | Total Adjusted |
| 1 | | | | | | | | | | |
| 2 | | | | | | | | | | |
| 3 | | | \$ - | | | | | | | \$ - |
| 4 | | | - | | | | | | | - |
| 5 | | | - | | | | | | | - |
| 6 | | | - | | | | | | | - |
| 7 | | | - | | | | | | | - |
| 8 | | | - | | | | | | | - |
| 9 | | | - | | | | | | | - |
| 10 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 11 | | | | | | | | | | |
| 12 | | | \$ - | | | | | | | \$ - |
| 13 | | | - | | | | | | | - |
| 14 | | | - | | | | | | | - |
| 15 | | | - | | | | | | | - |
| 16 | | | - | | | | | | | - |
| 17 | | | - | | | | | | | - |
| 18 | | | - | | | | | | | - |
| 19 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 20 | | | | | | | | | | |
| 21 | | | \$ - | | | | | | | \$ - |
| 22 | | | - | | | | | | | - |
| 23 | | | - | | | | | | | - |
| 24 | | | - | | | | | | | - |
| 25 | | | - | | | | | | | - |
| 26 | | | - | | | | | | | - |
| 27 | | | - | | | | | | | - |
| 28 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 29 | | | | | | | | | | |
| 30 | | | \$ - | | | | | | | \$ - |
| 31 | | | - | | | | | | | - |
| 32 | | | - | | | | | | | - |
| 33 | | | - | | | | | | | - |
| 34 | | | - | | | | | | | - |
| 35 | | | - | | | | | | | - |
| 36 | | | - | | | | | | | - |
| 37 | | | - | | | | | | | - |
| 38 | | | - | | | | | | | - |
| 39 | | | - | | | | | | | - |
| 40 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 41 | | | | | | | | | | |
| 42 | | | \$ - | | | | | | | \$ - |
| 43 | | | - | | | | | | | - |
| 44 | | | - | | | | | | | - |
| 45 | | | - | | | | | | | - |
| 46 | | | - | | | | | | | - |
| 47 | | | - | | | | | | | - |
| 48 | | | - | | | | | | | - |
| 49 | | | - | | | | | | | - |
| 50 | | | - | | | | | | | - |
| 51 | | | - | | | | | | | - |
| 52 | | | - | | | | | | | - |
| 53 | | | - | | | | | | | - |
| 54 | | | - | | | | | | | - |
| 55 | | | - | | | | | | | - |
| 56 | | | - | | | | | | | - |
| 57 | | | - | | | | | | | - |
| 58 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 59 | | | | | | | | | | |
| 60 | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Westar Energy
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Cost of Capital

Sources: General Ledger, Finance, and Regulatory
 DRAFT

| Line # | A | B | C | D | E | F | G | H | I | J | K |
|--------|--|------------------|------------------|---------------|---------------------------|--------------------|-------------------|--------------------------|--------------|-----------------------|---------------------------------|
| | | Balance | Weight | Cost | Rate of Return | Taxable Components | Tax Reciprocal | Pretax Rate of Return | | | |
| 1 | Capital Structure: | | | | | | | | | | |
| 2 | Long-term Debt | | #DIV/0! | | #DIV/0! | | | #DIV/0! | | | |
| 3 | Preferred Equity | | #DIV/0! | | #DIV/0! | #DIV/0! | | #DIV/0! | | | |
| 4 | Common Equity | | #DIV/0! | | #DIV/0! | #DIV/0! | | #DIV/0! | | | |
| 5 | Total Capitalization | \$ - | #DIV/0! | | #DIV/0! | | | #DIV/0! | | | |
| 6 | | | | | | | | | | | |
| 7 | Cost of Common Equity: The Order Approving Stipulation and Agreement in Docket No. 15-WSEE-115-RT5 implied a 9.35% ROE | | | | | | | | | | |
| 8 | | | | | | | | | | | |
| 9 | Cost of Long-term Debt: | | | | | | | | | | |
| 10 | | | | | Principal Amount of Issue | Net Proceeds | Yield to Maturity | Outstanding Debt Capital | Cost of Debt | Weighted Cost of Debt | Net Premium, Discount & Expense |
| 11 | Bond Description | Date of Offering | Date of Maturity | Interest Rate | | | | | | | |
| 12 | | | | | | \$ - | #DIV/0! | | #DIV/0! | | |
| 13 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 14 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 15 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 16 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 17 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 18 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 19 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 20 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 21 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 22 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 23 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 24 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 25 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 26 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 27 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 28 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 29 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 30 | | | | | | - | #DIV/0! | | #DIV/0! | | |
| 31 | | | | | | | | | | | |
| 32 | | | | | | | | | | | |
| 33 | | | | | | | | | | | |
| 34 | | | | | | | | | | | |
| 35 | | | | | | | | | | | |
| 36 | | | | | | \$ - | | \$ - | #DIV/0! | | \$ - |
| 37 | Weighted Average Cost of Debt Capital: | | | | | | | | #DIV/0! | #DIV/0! | |

Westar Energy
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Operating Revenue

Sources: General Ledger and Regulatory
 DRAFT

| Line # | Account | Description | A | | B | | C | | D | | | E | | F | | G | |
|--------|---------|--------------------------------------|--------|------|--------------------------|--------------|----------|---------|----------------|---------|------|------|------|------|------|------|---------|
| | | | Westar | KG&E | Total Before Adjustments | Transmission | KGE COLI | [Other] | Total Adjusted | | | | | | | | |
| 1 | | Operating Revenues: | | | | | | | | | | | | | | | |
| 2 | | Electric Service Revenue: | | | | | | | | | | | | | | | |
| 3 | 440 | Residential | | | \$ - | | | | | | | | | | | | \$ - |
| 4 | 442.1 | Commercial | | | - | | | | | | | | | | | | - |
| 5 | 442.2 | Industrial | | | - | | | | | | | | | | | | - |
| 6 | 444 | Street Lighting | | | - | | | | | | | | | | | | - |
| 7 | | Total Retail | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 8 | 447 | Sales for Resale | | | - | | | | | | | | | | | | - |
| 9 | 449.1 | Provision for Rate Refunds | | | - | | | | | | | | | | | | - |
| 10 | | Total Electric Service Revenue | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 11 | | | | | | | | | | | | | | | | | |
| 12 | | Other Operating Revenues: | | | | | | | | | | | | | | | |
| 13 | 412 | Electric Plant Leased to Others | | | \$ - | | | | | | | | | | | | \$ - |
| 14 | 450 | Forfeited Discounts | | | - | | | | | | | | | | | | - |
| 15 | 451 | Miscellaneous Service Revenues | | | - | | | | | | | | | | | | - |
| 16 | 454 | Rent from Electric Property | | | - | | | | | | | | | | | | - |
| 17 | 456 | Other Electric Revenues | | | - | | | | | #DIV/0! | | | | | | | #DIV/0! |
| 18 | 456.1 | Revenues from Transmission of Others | | | - | | | | | | | | | | | | - |
| 19 | | Total Other Operating Revenue | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | #DIV/0! | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | #DIV/0! |
| 20 | | | | | | | | | | | | | | | | | |
| 21 | | Total Operating Revenues | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | #DIV/0! | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | #DIV/0! |
| 22 | | | | | | | | | | | | | | | | | |
| 23 | | | | | | | | | | | | | | | | | |
| 24 | | | | | | | | | | | | | | | | | |
| 25 | | KGE COLI Adjustment: | | | | | | | | | | | | | | | |
| 26 | | Increase in Cash Surrender Value | | | | | | | | | | | | | | | |
| 27 | | Premium | | | | | | | | | | | | | | | |
| 28 | | Insurance Proceeds | | | | | | | | | | | | | | | |
| 29 | | Interest Expense | | | | | | | | | | | | | | | |
| 30 | | Future Annuities | | | | | | | | | | | | | | | |
| 31 | | Tax Benefit | | | | | | | | | | | | | | | |
| 32 | | Total Net Income | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 33 | | Tax Reciprocal | | | | | | | | | | | | | | | |
| 34 | | COLI Revenue Adjustment | | | | | | | | #DIV/0! | | | | | | | |

Westar Energy
 Earned ROE
 Kansas Jurisdiction
 Twelve Months Ended 12/31/2016
 Operating Expenses

Sources: General Ledger, Actual Transmission Formula Rate, Regulatory, and Plant Accounting
 DRAFT

Transmission Allocation Factor
 Wages and Salaries
 per 2016 Actual TFR

| Line # | Account | Description | A Westar | B KG&E | C Total Before Adjustments | Adjustments | | | | | | K Total Adjusted | |
|--------|--|--|-------------|-----------|-------------------------------------|-------------------|-----------------------------|-------------------------|-----------------------|--|----------------------------|------------------------|--------------|
| | | | | | | D Transmission | E 800 KS Second Floor | F 50% Advertising | G 50% Donations | H Interest on Customer Deposits | I KGE Merker Savings | | J (Other) |
| 1 | Operating and Maintenance Expenses: | | | | | | | | | | | | |
| 2 | 500-509 | Production Expenses | | | \$ - | | | | | | | | \$ - |
| 3 | 510-514 | Production Maintenance | | | - | | | | | | | | - |
| 4 | 517-524 | Nuclear Operations | | | - | | | | | | | | - |
| 5 | 528-532 | Nuclear Maintenance | | | - | | | | | | | | - |
| 6 | 546-550 | Other Power Generation Operations | | | - | | | | | | | | - |
| 7 | 551-554 | Other Power Generation Maintenance | | | - | | | | | | | | - |
| 8 | 555-557 | Other Power Supply Expense | | | - | | | | | | | | - |
| 9 | 560-567 | Electric Transmission Operations | | | - | | | | | | | | - |
| 10 | 568-573 | Electric Transmission Maintenance | | | - | | | | | | | | - |
| 11 | 580-589 | Distribution Operations | | | - | | | | | | | | - |
| 12 | 590-598 | Distribution Maintenance | | | - | | | | | | | | - |
| 13 | 901-905 | Customer Accounts | | | - | | | | | | | | - |
| 14 | 907-910 | Customer Service | | | - | | | | | | | | - |
| 15 | 911-916 | Sales Expense | | | - | | | | | | | | - |
| 16 | 920 | Administrative & General Salaries | | | - | | | | | | | | - |
| 17 | 921 | Office Supplies & Expenses | | | - | | | | | | | | - |
| 18 | 922 | Administrative Expenses Transferred-Cr | | | - | | | | | | | | - |
| 19 | 923 | Outside Services Employed | | | - | | | | | | | | - |
| 20 | 924 | Property Insurance | | | - | | | | | | | | - |
| 21 | 925 | Injuries & Damages | | | - | | | | | | | | - |
| 22 | 926 | Employee Pensions & Benefits | | | - | | | | | | | | - |
| 23 | 407.3_4 | Pension & OPEB Trackers | | | - | | | | | | | | - |
| 24 | 928 | Regulatory Commission Expense State | | | - | | | | | | | | - |
| 25 | 928 | Regulatory Commission Expense Federal | | | - | | | | | | | | - |
| 26 | 928 | Other Regulatory Expenses - SEC | | | - | | | | | | | | - |
| 27 | 930.1 | General Advertising Expense | | | - | | | | | | | | - |
| 28 | 930.2 | Miscellaneous General Expense | | | - | | | | | | | | - |
| 29 | 9302001 | Ind. Assoc. & Memberships | | | - | | | | | | | | - |
| 30 | 930.2002 | Publish and Distribute Annual Report | | | - | | | | | | | | - |
| 31 | 930.2006_7 | Stockholders' Meeting Exp and Trustee | | | - | | | | | | | | - |
| 32 | 930.2009 | Relocation | | | - | | | | | | | | - |
| 33 | 930.2010 | Director Fees & Expenses | | | - | | | | | | | | - |
| 34 | 930.2012 | Affordable Housing Tax Credits | | | - | | | | | | | | - |
| 35 | 930.2015 | Cost of Environmental Reserve | | | - | | | | | | | | - |
| 36 | 9302016 | Energy Efficiency Program | | | - | | | | | | | | - |
| 37 | 931 | Rent | | | - | | | | | | | | - |
| 38 | 935 | Maintenance of General Plant | | | - | | | | | | | | - |
| 39 | Total Operating and Maintenance Expenses | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 40 | | | | | | | | | | | | | |
| 41 | Depreciation and Amortization Expenses: | | | | | | | | | | | | |
| 42 | 403 | Depreciation Expense | | | \$ - | | | | | | | | \$ - |
| 42 | 405 | Amortization of Software | | | - | | | | | | | | - |
| 43 | 413 | Depreciation Plant Lease to Others | | | - | | | | | | | | - |
| 44 | 404.3_6 | Amortization of La Cygne Leased Property | | | - | | | | | | | | - |
| 45 | 406.4 | Amortization of KGE Acquisition Premium | | | - | | | | | | | | - |
| 46 | 407.1 | Amortization FAS 90 Wolf Creek | | | - | | | | | | | | - |
| 47 | 407.3_4 | Pension & OPEB Tracker Amortizations | | | - | | | | | | | | - |
| 48 | Total Depreciation and Amortization | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 49 | | | | | | | | | | | | | |
| 50 | Taxes Other Than Income Taxes: | | | | | | | | | | | | |
| 51 | 408.14 | Real Estate and Ad Valorem Taxes | | | \$ - | | | | | | | | \$ - |
| 52 | 408.10 | Other Taxes -WC and La Cygne Payroll Taxes | | | - | | | | | | | | - |
| 53 | 408.11 | FICA, FUTA | | | - | | | | | | | | - |
| 54 | 408.13 | SUTA, Workers' Compensation | | | - | | | | | | | | - |
| 55 | 408.15 | Corporate Franchise, Loss Contingencies | | | - | | | | | | | | - |
| 56 | Total Taxes Other Than Income Taxes | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 57 | | | | | | | | | | | | | |
| 58 | Total Operating Expenses | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Docket No. 18-KCPE-095-MER

**Kansas City Power & Light Company
and
Westar Energy, Inc.
Proposed Quality of Service Commitment
Reporting Definitions and Procedures**

Reporting Provisions. KCP&L and Westar will file quarterly reports providing the Company's performance metrics as identified in the Tables in Exhibits BA-2 and BA-3.

The first quarterly report shall be for the first full calendar quarter ending after closing of the Transaction. Each quarterly report shall provide, for each identified performance metric, actual performance data for each of the months in the reporting calendar quarter plus performance data for any previously reported month in the reporting calendar year. The report will include a year-to-date value for the performance metrics for the months included in the report. For the purpose of these reporting requirements, calendar quarters are defined as the three-month calendar periods ending March 31, June 30, September 30, and December 31 of each year. Subsequent reports will be required for each successive calendar quarter, and each report will be due on the final day of the month following the end of the applicable quarter (e.g., April 30, July 31, October 31, and January 31).

Definitions.

Agent Abandoned Call Rate (ACR): ACR means the percentage of total agent calls received by the Company's call center that are abandoned. The ACR is derived by dividing the number of abandoned calls by the sum of total agent answered calls and abandoned calls. Accepted return calls made by the Virtual Hold system are included in the ACR determination because they are placed in the agent queue before the call is answered. In cases when the caller requests a Virtual Hold return call but fails to accept the requested return call, the call is not included in the ACR determination because the call is not placed in the agent queue. When the caller requests a return call, the Company shall make a diligent effort to return each return call request by attempting to return the call until the Company either encounters an invalid or wrong caller-designated number, the return call respondent refuses to accept the return call by either hanging up before entering the agent queue or making a selection to cancel the return call.

- An abandoned call is a call received by the utility call center that is terminated by the caller before being answered by a utility representative.
- Total agent calls are all calls delivered to the queue for answering by an agent, and are comprised of the sum of agent answered calls and agent abandoned calls.
- Accepted return calls are calls returned by the Virtual Hold system that the respondent accepts by following the prompt to enter the agent queue.

Agent Service Level (ASL): ASL means the percentage of total calls entering the agent queue that are answered within twenty (20) seconds. An answered call is a call in which a representative is ready to render assistance or accept the information to properly handle the call. The 20-second period begins when the caller selects the option to speak to an agent. Accepted return calls made by the Virtual Hold system and entering the agent queue are counted. Accepted return calls are included at the time they are placed in the agent queue to be answered by an agent. Time spent in the Virtual Hold queue waiting off-line is not included, because that queue is optional to the customer.

System Average Interruption Duration Index (SAIDI): SAIDI is calculated in minutes per customer as defined in the Institute of Electric and Electronic Engineers (IEEE) Standard P1366, *Guide for Electric Distribution Reliability Indices*.

System Average Interruption Frequency Index (SAIFI): SAIFI is calculated in interruptions per customer as defined in the Institute of Electric and Electronic Engineers (IEEE) Standard P1366, *Guide for Electric Distribution Reliability Indices*.

Extraordinary Events: Certain extraordinary events affecting the Company's Kansas and/or Missouri electric operations may occur from time to time, which: (1) are beyond the control of the utility, such as an act of nature, and (2) may affect the utility's ability to meet the service metrics proposed. Upon the occurrence of an extraordinary event as that term is further defined below, the affected utility, KCP&L and/or Westar, shall document the event and its impact on the utility's customer operation or distribution operation performance, as applicable.

The term "extraordinary event" means an event beyond the control of the utility, which shall include acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of government and people, acts, orders, laws or regulations of government authority, civil disturbances, explosions, breakage or accident to machinery or lines of pipe or electric supply lines, major events causing electric service interruptions, other than those caused by the utility's negligence, the necessity for making repairs or alterations to machinery, equipment or lines of pipe, freezing of lines of pipe or electric supply lines, which could not have been prevented by the utility's use of standard and customary industry practice, partial or entire failure of supply of natural gas or fuel which could not have been prevented by the utility's use of standard and customary industry practice, acts of independent and unaffiliated third parties which damage or interfere with the kind herein enumerated or otherwise beyond the control of the utility. If, using standard and customary industry practice, the utility could have avoided the extraordinary event, then the impact of such event will be considered in the measurement of the performance of the utility.

Implementation of New Customer Information Systems: KCP&L is scheduled to implement a new Customer Information System (CIS) in second quarter of 2018. Westar is anticipated to implement the new CIS at a later date yet to be determined. During

implementation of the new CIS, call center performance is expected to decline as customer service representatives learn the new processes and system and/or as new system problems are identified and resolved. The impact of such implementation is likely to impact call center performance for up to six (6) months following the “Go Live” date for each CIS implementation. CIS implementation is a known event(s) that will impact call center performance metrics and must be adjusted out of the reported values similar to an Extraordinary Event.

Notification of Change in Call Center Operations. Thirty (30) days prior to the implementation or use of any new technology (*e.g.*, a virtual hold system) at any incoming call center to handle incoming calls for KCP&L and/or Westar Kansas electric retail customers, the affected utility will notify Staff in writing of such implementation or use. The purpose of this notification is to describe the technology and its application, and to prompt Staff to meet with KCP&L and/or Westar to address the proper accounting of calls addressed by the new technology in future performance reports. Thirty (30) days prior to implementation or use of a new incoming call center or outsourcing of incoming call center functions for Westar or KCP&L Kansas retail electric customers, to the affected utility will notify Staff in writing of such implementation or use. To the extent that KCP&L and/or Westar relies on additional call centers to address incoming calls from Westar or KCP&L Kansas retail electric customers, the affected utility will include ACR and ASL for the additional centers in its quarterly reports.

Elimination of Reporting and Penalty Provisions for Meeting Service Standards for Three Consecutive Calendar Years After Close of Transaction. After KCP&L and/or Westar provide sufficient service to avoid having to pay performance penalties for any three consecutive calendar year periods beginning after close of the Transaction for any defined metric for a utility, then the reporting requirements and penalty provisions for that service metric for that utility will be eliminated.

Reliability Metrics
Docket No. 18-KCPE-095-MER
Proposed Quality of Service Performance Metrics

| Distribution Operations | | | | |
|--------------------------------|--|---------------------|--|---------------------|
| KCP&L KS Only | | | | |
| Reliability | | | | |
| | IEEE Normalized SAIDI (minutes) | | IEEE Normalized SAIFI (interruptions) | |
| | Value of Measure | Penalty (\$) | Value of Measure | Penalty (\$) |
| Maximum Penalty | | 1,587,600 | | 1,058,400 |
| Threshold 1 | 93 | 529,200 | 0.89 | 352,800 |
| Threshold 2 | 100 | 1,058,400 | 0.96 | 705,600 |
| Threshold 3 | 106 | 1,587,600 | 1.03 | 1,058,400 |

Maximum Potential Annual Penalty KCP&L-KS: \$2,646,000

| Distribution Operations | | | | |
|--------------------------------|--|---------------------|--|---------------------|
| Westar Only | | | | |
| Reliability | | | | |
| | IEEE Normalized SAIDI (minutes) | | IEEE Normalized SAIFI (interruptions) | |
| | Value of Measure | Penalty (\$) | Value of Measure | Penalty (\$) |
| Maximum Penalty | | 3,960,000 | | 2,640,000 |
| Threshold 1 | 137 | 1,320,000 | 1.46 | 880,000 |
| Threshold 2 | 143 | 2,640,000 | 1.53 | 1,760,000 |
| Threshold 3 | 150 | 3,960,000 | 1.60 | 2,640,000 |

Maximum Potential Annual Penalty Westar: \$6,600,000

Note 1: Normalization methodology for all metrics is based on IEEE 1366 exclusion criteria.

Note 2: Value of Measure for Reliability metrics are based upon 2014-2016 average.

**Customer Contact Metrics
Docket No. 18-KCPE-095-MER
Proposed Quality of Service Performance Metrics**

| Customer Operations | | | | |
|----------------------------------|--------------------------------|---------------------|---|---------------------|
| Total Company - KCP&L | | | | |
| Call Center | | | | |
| | Abandoned Call Rate (%) | | Agent Service Level (%/20 seconds) | |
| | Value of Measure | Penalty (\$) | Value of Measure | Penalty (\$) |
| Maximum Penalty | | 352,800 | | 529,200 |
| Threshold 1 | 4.1% | 117,600 | 66% | 176,400 |
| Threshold 2 | 4.3% | 235,200 | 62% | 352,800 |
| Threshold 3 | 4.4% | 352,800 | 58% | 529,200 |

Maximum Possible Annual Penalty KCP&L-KS: \$882,000

| Customer Operations | | | | |
|-------------------------------|--------------------------------|---------------------|---|---------------------|
| Total Company - WESTAR | | | | |
| Call Center | | | | |
| | Abandoned Call Rate (%) | | Agent Service Level (%/20 seconds) | |
| | Value of Measure | Penalty (\$) | Value of Measure | Penalty (\$) |
| Maximum Penalty | | 880,000 | | 1,320,000 |
| Threshold 1 | 4.1% | 293,333 | 66% | 440,000 |
| Threshold 2 | 4.3% | 586,667 | 62% | 880,000 |
| Threshold 3 | 4.4% | 880,000 | 58% | 1,320,000 |

Maximum Possible Annual Penalty KCP&L-KS: \$2,200,000

ATTACHMENT 4

Proposed Reporting Format - Reliability
 [Year] Quality of Service Reliability Statistics

Kansas City Power & Light Company
 Reliability Data
 [Year]

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | Year to Date |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------------|
| IEEE 1366 Normalized SAIDI | | | | | | | | | | | | | |
| IEEE 1366 Normalized SAIFI | | | | | | | | | | | | | |

Westar Energy, Inc
 Reliability Data
 [Year]

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | Year to Date |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------------|
| IEEE 1366 Normalized SAIDI | | | | | | | | | | | | | |
| IEEE 1366 Normalized SAIFI | | | | | | | | | | | | | |

NOTES:

1. All metrics are normalized using IEEE 1366.
2. Metrics represent transmission and distribution reliability for Kansas customers only.

ATTACHMENT 4

[Year] Quality of Service Statistics

**KCP&L Customer Contact Center Statistics*
Monthly Regulatory Reporting [Year]**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | Year to Date* |
|---------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------------|
| Abandoned Call Rate | | | | | | | | | | | | | |
| Service Level-Total Agent | | | | | | | | | | | | | |

**Westar Customer Contact Center Statistics
Monthly Regulatory Reporting [Year]**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | Year to Date* |
|---------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------------|
| Abandoned Call Rate | | | | | | | | | | | | | |
| Service Level-Total Agent | | | | | | | | | | | | | |

| | |
|-----------------------------------|--|
| Abandoned Call Rate | Total Center Agent Abandoned (ACR) |
| Service Level-Cust Service | Total Center Agent ServiceLevel (ASL) |

| |
|---|
| *Methodology for Year-to-Date Numbers |
| Retrieved for the reported periods from CMS, not an average |
| Retrieved for the reported periods from CMS, not an average |

Applicants Additional Quality of Service Reporting Commitments:

Applicants will provide Staff with the annual normalized year-end SAIDI, SAIFI, and CAIDI results for both KCP&L and Westar within 90 days of the end of the calendar year and will compare those results to the 5-year annual normalized average (2012-2016) for each individual metric. If the actual results of any individual metric vary substantially from the 5-year average, then Applicants will provide a high-level summary of the reasons why such degradation occurred.

Present IT system consolidation updates to Staff annually during the moratorium period related to:

- Outage Management System (OMS)
- Geographic Information System (GIS)
- Enterprise Asset Management (EAM) system
- Energy Management System (EMS)

Reliability Reporting Criteria:

(Additional reporting during the moratorium period)

- 1) Provide vegetation management reporting including
 - Miles/acres cleared
 - Cycles and off cycle clearing
 - Outages related to vegetation
 - Actual dollars spent versus budgeted dollars
 - Dollars per mile/acre cleared
- 2) Provide post storm review of significant outages causes on each Major Event Day:
 - Using "Major Event Day" as defined within IEEE1366
 - Develop lessons learned
- 3) Provide summary results of transmission system patrols

Kansas Corporation Commission
 Compliance Docket [xx-xxxx-xxx-xxx]
 Annual Review of [Monarch Energy] Capital Expenditures - Current Year Budget, Previous Year Actual and Previous Year Budget
 Filed [Month Day, Year]

Table 1: Capital Expenditures By External Reporting Category

| Amounts in millions | Current Year Budget ¹ | Previous Year ² | | | |
|----------------------------------|----------------------------------|----------------------------|-------------------|------------------|-------------|
| | | Actual (a) | Budget (b) | Change (a-b) | Change % |
| Generation and Environmental | \$ 395.2 | \$ 379.9 | \$ 433.2 | \$ (53.3) | (12%) |
| Transmission and Delivery | 687.5 | 710.2 | 676.3 | 33.9 | 5% |
| Information Technology and Other | 183.2 | 164.3 | 194.8 | (30.5) | (16%) |
| Nuclear fuel | 42.8 | 83.7 | 89.8 | (6.1) | (7%) |
| Total | \$ 1,308.7 | \$ 1,338.1 | \$ 1,394.1 | \$ (56.0) | (4%) |

¹Filed on or before March 31, 2019 and each year thereafter through March 31, 2023 (five years)

²Filed on or before March 31, 2020 and each year thereafter through March 31, 2023 (four years)

Kansas Corporation Commission
 Compliance Docket [xx-xxxx-xxx-xxx]
 Annual Review of [Monarch Energy] Capital Expenditures - Current Year Budget, Previous Year Actual and Previous Year Budget
 Filed [Month Day, Year]

Table 2: Generation and Environmental Capital Expenditures By Plant

| Amounts in millions | Current Year Budget | Previous Year | | | |
|----------------------------|------------------------|---------------|------------|--------------|-----------|
| | | Actual (a) | Budget (b) | Change (a-b) | Change % |
| Crossroads Energy Center | x.x | x.x | x.x | x.x | x% |
| Emporia Energy Center | x.x | x.x | x.x | x.x | x% |
| Gordan Evens Energy Center | x.x | x.x | x.x | x.x | x% |
| Greenwood | x.x | x.x | x.x | x.x | x% |
| Hawthorn | x.x | x.x | x.x | x.x | x% |
| Hutchinson Energy Center | x.x | x.x | x.x | x.x | x% |
| Iatan | x.x | x.x | x.x | x.x | x% |
| Jeffery Energy Center | x.x | x.x | x.x | x.x | x% |
| LaCygne | x.x | x.x | x.x | x.x | x% |
| Lake Road | x.x | x.x | x.x | x.x | x% |
| Lawrence Energy Center | x.x | x.x | x.x | x.x | x% |
| Montrose | x.x | x.x | x.x | x.x | x% |
| Nevada | x.x | x.x | x.x | x.x | x% |
| Northeast | x.x | x.x | x.x | x.x | x% |
| Osawatomie | x.x | x.x | x.x | x.x | x% |
| Ralph Green | x.x | x.x | x.x | x.x | x% |
| Renewables | x.x | x.x | x.x | x.x | x% |
| Sibley | x.x | x.x | x.x | x.x | x% |
| South Harper | x.x | x.x | x.x | x.x | x% |
| Spring Creek Energy Center | x.x | x.x | x.x | x.x | x% |
| State Line | x.x | x.x | x.x | x.x | x% |
| Tecumesh Energy Center | x.x | x.x | x.x | x.x | x% |
| Gardner | x.x | x.x | x.x | x.x | x% |
| Wolf Creek | x.x | x.x | x.x | x.x | x% |
| Support and other | x.x | x.x | x.x | x.x | x% |
| Total | x.x | x.x | x.x | x.x | x% |

Kansas Corporation Commission
 Compliance Docket [xx-xxxx-xxx-xxx]
 Annual Review of [Monarch Energy] Capital Expenditures - Current Year Budget, Previous Year Actual and Previous Year Budget
 Filed [Month Day, Year]

Table 3: Transmission and Delivery Capital Expenditures By Sub-Category¹

| Amounts in millions | Current Year Budget | Previous Year | | | |
|--|---------------------|---------------|------------|--------------|-----------|
| | | Actual (a) | Budget (b) | Change (a-b) | Change % |
| AMI | x.x | x.x | x.x | x.x | x% |
| Distribution Poles and Fixtures | x.x | x.x | x.x | x.x | x% |
| Distribution Station Equipment | x.x | x.x | x.x | x.x | x% |
| Distribution Transformers | x.x | x.x | x.x | x.x | x% |
| Distribution Underground Circuits | x.x | x.x | x.x | x.x | x% |
| Fleet | x.x | x.x | x.x | x.x | x% |
| New Business | x.x | x.x | x.x | x.x | x% |
| Reimbursable Street and Traffic Lights | x.x | x.x | x.x | x.x | x% |
| Transmission Poles and Fixtures | x.x | x.x | x.x | x.x | x% |
| Transmission Station Equipment | x.x | x.x | x.x | x.x | x% |
| Total | x.x | x.x | x.x | x.x | x% |

¹For example purposes only - final subcategories to be determined

Kansas Corporation Commission
 Compliance Docket [xx-xxxx-xxx-xxx]
 Annual Review of [Monarch Energy] Capital Expenditures - Current Year Budget, Previous Year Actual and Previous Year Budget
 Filed [Month Day, Year]

Table 4: Information Technology and Other By Sub-Category¹

| Amounts in millions | Current Year Budget | Previous Year | | | |
|---------------------------------|------------------------|---------------|------------|--------------|-----------|
| | | Actual (a) | Budget (b) | Change (a-b) | Change % |
| Customer Information System | x.x | x.x | x.x | x.x | x% |
| Customer Management System | x.x | x.x | x.x | x.x | x% |
| Critical Information Protection | x.x | x.x | x.x | x.x | x% |
| Enterprise Asset Management | x.x | x.x | x.x | x.x | x% |
| Meter Data Management | x.x | x.x | x.x | x.x | x% |
| Outage Management System | x.x | x.x | x.x | x.x | x% |
| Enterprise Management Support | x.x | x.x | x.x | x.x | x% |
| Enterprise Financial Support | x.x | x.x | x.x | x.x | x% |
| Human Resource Support | x.x | x.x | x.x | x.x | x% |
| Network and Communications | x.x | x.x | x.x | x.x | x% |
| Hardware and Other | x.x | x.x | x.x | x.x | x% |
| Facilities | x.x | x.x | x.x | x.x | x% |
| Other | x.x | x.x | x.x | x.x | x% |
| Total | x.x | x.x | x.x | x.x | x% |

¹For example purposes only - final subcategories to be determined

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

NOTICE OF ERRATA TO NON-UNANIMOUS SETTLEMENT AGREEMENT

COME NOW Great Plains Energy Incorporated (“Great Plains Energy” or “GPE”), Kansas City Power & Light Company (“KCP&L”), and Westar Energy, Inc. and Kansas Gas and Electric Company (“Westar”) (all parties collectively referred to herein as “Applicants”), and submit the following non-substantive corrections to the *Joint Motion for Approval of Non-Unanimous Settlement Agreement* (“Joint Motion”) and the Non-Unanimous Settlement Agreement attached as Exhibit A (“Settlement Agreement”) to the Joint Motion, filed in this docket on March 7, 2018.

For their errata the Applicants state as follows:

1. On March 7, 2018, Applicants, 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, Inc. (“Mid-Kansas”), Kansas Power Pool (“KPP”), Midwest Energy, Inc. (“Midwest”), and Brightergy, LLC (“Brightergy”) entered into the Settlement Agreement.

2. On March 20, 2018, during the testimony of Applicant witness Mr. Ives, it was discovered that the Settlement Agreement contained incorrect docket number references which need to be corrected as follows:

- i. Settlement Agreement, p. 32, ¶59, “01-KCPE-701-MIS” should instead read “01-KCPE-708-MIS”; and

- ii. Attachment 1 to the Settlement Agreement (p. 49 of 75 of Attachment A to the Joint Motion), in the heading just above condition 39, "01-KCPE-701-MIS" should instead read "01-KCPE-708-MIS."

WHEREFORE, Applicants request the Commission accept this Errata and incorporate the corrections detailed into the Non-Unanimous Settlement Agreement as filed on March 7, 2018.

Respectfully submitted,

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

18-KCPE-095-MER

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 05/24/2018.

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18-KCPE-095-MER

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