

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,) Docket No. 18-KCPE-095-RTS
Inc. for Approval of the Merger of Westar)
Energy, Inc. and Great Plains Energy)
Incorporated.)

MOTION TO EXTEND DEADLINE FOR TESTIMONY IN
OPPOSITION TO A SETTLEMENT AGREEMENT

The Kansas Industrial Consumers Group, Inc. ("KIC"), respectfully files this *Motion to Extend Deadline for Testimony in Opposition to a Settlement*. In support of its Motion, KIC states to the State Corporation Commission of the state of Kansas ("Commission" or "KCC") as follows:

I. Background

1. On November 21, 2018, the Commission issued its Order Setting Procedural Schedule. In its Order, the Commission included dates for settlement discussions and deadlines to file any settlement agreements and testimony supporting or opposing such agreements. More specifically, the deadline for the parties to file a settlement agreement is Wednesday, March 7, 2018. The deadline for the parties to file testimony either supporting or opposing a settlement is Monday, March 12, 2018.

2. As directed in the procedural schedule, the parties met during the week of February 26, 2018, to discuss settlement of disputed issues. KIC fully participated, in good faith, in these discussions to the extent it was invited to attend. However, at this time, KIC does not expect to be a signatory to any agreement, if a settlement is ultimately achieved among any other parties in this proceeding.

3. In the event a settlement is ultimately agreed to by any parties and filed with the Commission, KIC will file testimony addressing such settlement agreement. Therefore, KIC makes this filing to assert and protect its interests, should a settlement be filed in this matter.

II. Motion to Extend Testimony Deadline

4. KIC requests the Commission extend the deadline to file testimony opposing a settlement until Thursday, March 15, 2018. Pursuant to K.A.R. 82-1-217(b), the Commission may extend a procedural deadline upon a showing of good cause. Not only does good cause exist to extend this deadline, principles of fairness and due process demand such an action.

5. As of the filing of this Motion, no settlement has been filed with the Commission. If a settlement is eventually filed, KIC expects such agreement would likely be filed on Wednesday, March 7, 2018. If so, under the current schedule, testimony both opposing a settlement would be due within 3 business, on Monday, March 12. This deadline is both unfair and legally inappropriate.

6. First, a 3-day timeline to prepare written testimony is difficult for any party. However, it will be significantly easier to achieve for a supporting party who, presumably, knows the content of the agreement before its filing with the Commission. Such a party could be preparing testimony at the time of this filing, while an opposing party must wait until a settlement is filed – and then comprehensively review and understand such settlement – before preparing testimony. For this reason alone, the Commission should find good cause exists to extend the deadline to file testimony opposing a settlement.

7. The Commission must also extend the deadline for responsive opposition testimony because it is incompatible with other due process concerns. Parties supporting approval of a settlement agreement carry the burden to prove such an agreement should be approved by the

Commission, under the applicable legal standards. Therefore, those parties are required to come forward with evidence supporting approval of a settlement. Any parties that are not parties to a settlement should then be afforded an opportunity to respond. KIC is unaware of any other context where an opposing party is forced to present evidence concurrently with an applicant. KIC believes such a process is manifestly unjust and inconsistent with applicable legal burdens. This burden-shifting process also provides good cause to extend the deadline to file testimony opposing a settlement.

WHEREFORE, KIC respectfully requests the Commission issue an order extending the deadline to file testimony opposing any settlement until Thursday, March 15, 2018.

Respectfully submitted,

/s/ **Andrew J. French**

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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

Andrew J. French, being duly sworn upon his oath, deposes and states that he is the Attorney for the Kansas Industrial Consumers Group, Inc., that he has read and is familiar with the foregoing *Motion to Extend Deadline for Testimony in Opposition to a Settlement*, and the statements therein are true to the best of his knowledge, information, and belief.



Andrew J. French

SUBSCRIBED AND SWORN to before me this 6th day of March, 2018.



Notary Public

My Appointment Expires:



CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail (unless otherwise noted), the 6th day of March, 2018 to the parties below:

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