

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

**MOTION FOR PROCEDURAL SCHEDULE AND RESPONSE IN
OPPOSITION TO APPLICANTS' PROPOSED SCHEDULE**

COMES NOW the Kansas Industrial Consumers Group, Inc. (KIC), and respectfully files this *Motion for Procedural Schedule and Response in Opposition to Applicants' Proposed Schedule*. In support of its Motion, KIC states to the State Corporation Commission of the State of Kansas (Commission) as follows:

1. On August 25, 2017, Westar Energy, Inc., and Kansas Gas & Electric Company (Westar), Great Plains Energy Incorporated (GPE) and Kansas City Power & Light Company (KCP&L) (collectively referred to herein as Applicants) filed an Application with the Commission seeking approval of a merger of Westar and GPE.¹

2. On October 13, 2017, Applicants filed their Motion for Procedural Schedule, wherein they propose a schedule to guide the proceedings in this matter. In their Motion, Applicants set forth a proposed schedule affording the Commission 277 days to issue an order on the Application, which is more than three weeks less than the statutory deadline for the Commission to review this matter. Applicants offer no explanation or rationale for the compressed review period.

3. KIC objects to the Applicants' expedited schedule. The instant proceeding, not unlike the Applicants' recently rejected transaction, poses a monumental task for the

¹ Application, August 25, 2017, p. 1. (Application, p. 1.)

Commission, its Staff, and the affected intervening stakeholders. It is not exaggeration to state that the proposed business combination would fundamentally alter and forever transform the energy landscape in the state of Kansas. In addition, the analysis required in this proceeding must meet the highest standards of rigor, and all parties must ensure their rights and interests are protected and heard if such a transaction is to move forward.

4. The financial structure of the proposed transaction is fundamentally different from the previous transaction. The Commission would simply reject the proposal outright if it were not fundamentally different. In this proceeding, we will have a better opportunity to investigate the potential results of a merger and whether it will promote the public interest.

5. However, because this transaction is structurally different, it will affect customers in very different ways and will pose fundamentally different concerns. For instance, with the exception of the one-time bill credits, Applicants are again proposing to retain all realized savings as they occur, and only share such savings when the utilities' costs of service are examined in traditional rate proceedings – leaving the process and timing entirely within the utilities' control.

6. Since the utilities are not faced with overwhelming financing costs, what is the rationale for allowing the utilities to retain these saving? Will the savings simply allow the utilities to continue investment cycles that have overwhelmed customers with rate increases over the past decade? To promote the public interest, this transaction *must* result in relief for rate-fatigued customers – it cannot simply perpetuate of the status quo. These questions require deep thought and analysis. They involve the review of thousands of pages of documents. The parties must have sufficient time to perform a careful review.

7. The Applicants' proposed schedule essentially shortens the investigation timeframe by 3-4 weeks. Compressing this phase of the proceeding limits the parties' opportunity to review the Application. It also limits the time parties are afforded to issue discovery and thereby understand the Applicants' positions.

8. Because this proceeding poses such a challenging task, KIC and other parties have already begun issuing discovery to the Applicants. This is a recognition that we will need as much time as possible to complete our review. In addition, discovery solely through data requests can be difficult and lengthy, as the Applicants can craft non-responsive or minimally-responsive answers. If a data request asks for any form of explanation, Applicants can refuse to answer, outright, on the grounds it constitutes cross-examination. These types of roadblocks may necessitate requests for supplemental discovery techniques in this proceeding.

9. While the parties have begun their review immediately, this proceeding should not be "front-loaded" more than is absolutely necessary. It is KIC's understanding that multiple shareholder lawsuits have been recently filed against Westar. In addition, the companies' shareholder votes will not occur for another 5 weeks, and approval does not appear to be a foregone conclusion. These unresolved shareholder issues highlight the fact that the proceeding should not be unnecessarily front-loaded, as the Applicants' schedule proposes.

10. In recognition of the above-stated concerns, KIC requests the Commission approve a schedule using the 300-day statutory timeline. For the Commission's consideration, KIC has prepared a 300-day procedural schedule. This schedule generally mirrors the procedural events in the Applicants' proposal. However, it extends most deadlines by 3-4 weeks – eliminating the compressed and front-loaded aspects of the Applicants' proposal. KIC requests the Commission approve the following schedule:

<u>Date</u>	<u>Action</u>
August 25, 2017	Application Filed
TBD by Commission	Public Hearing
TBD by Commission	Affidavit of Mailing, Publication and Electronic Service
February 15, 2018	Deadline for Petitions to Intervene
February 22, 2018	Staff and Intervenor Direct Testimony
March 1, 2018	Staff and Intervenor Cross-Answering Testimony
March 15, 2018	Applicants' Rebuttal Testimony
March 19, 2018 (week of)	Settlement Conference
March 26, 2018	Discovery Cut-off
March 26, 2018	Motions Cut-off
March 26, 2018	Responses to Applicants' Motion to Present Certain Witnesses as a Panel
March 26, 2018	List of Contested Issues Due
March 26, 2018	Settlement Agreement Deadline
March 30, 2018	Testimony in Support/Opposition Due
March 28, 2018	Prehearing Conference
March 30, 2018	Public Comment Period Ends
April 4, 2018	PACP Report of Public Comments
April 4, 2018 through April 13, 2018 (subject to Commission availability)	Evidentiary Hearing
April 30, 2018	Applicants' Initial Brief
May 11, 2018	Staff and Intervenor Brief
May 22, 2018	Applicants' Reply Brief
Thursday, June 21, 2018	Order Due

WHEREFORE, KIC respectfully requests the Commission reject the Applicants' proposed expedited schedule and approve the 300-day procedural schedule set forth above.

Respectfully submitted,

/s/ **James P. Zakoura**

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Participating Members:

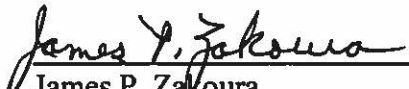
- **Occidental Chemical Corporation**
- **Spirit AeroSystems, Inc.**
- **CCPS Transportation, LLC**
- **The Goodyear Tire & Rubber Company**
- **Coffeyville Resources Refining &
Marketing, LLC**
- **Cargill, Incorporated**
- **HollyFrontier El Dorado Refining LLC**

VERIFICATION


STATE OF KANSAS)
)
COUNTY OF JOHNSON) ss:

James P. Zakoura, of lawful age, being first duly sworn, upon oath states:

That he is the attorney for the Intervenor the Kansas Industrial Consumers Group, that he has read the above and foregoing Petition to Intervene, knows the contents thereof, and knows that all of the statements made therein are true.


James P. Zakoura

SUBSCRIBED AND SWORN to before me this 16th day of October, 2017.


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 16th day of October, 2017 to the parties below:

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