

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

Before Commissioners: Thomas E. Wright, Chairman
 Ward Loyd

In the Matter of the Application of ITC Great)
Plains, LLC for a Siting Permit for the)
Construction of a Double-Circuit 345 kV) Docket No: 11-ITCE-644-MIS
Transmission Line in Ford, Clark, Kiowa and)
Barber Counties, Kansas.)

**ORDER ADOPTING PROCEDURAL SCHEDULE AND
GRANTING INTERVENTION TO CURB**

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The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and being fully advised of all matters of record, the Commission summarizes the arguments of the parties and finds and concludes as follows:

I. Introduction

1. On March 14, 2011, ITC Great Plains, LLC (ITC Great Plains) filed an Application for a siting permit granting ITC Great Plains the right to construct an approximately 120-mile, double-circuit 345 kV transmission line from the Spearville Substation south to a new station in Clark County, Kansas (Clark County Substation), and continuing east to a new substation in Barber County near Medicine Lodge, Kansas (Thistle Substation), which is considered part of the V-Plan project. Application, March 14, 2011, paragraph 6 (Application, ¶

6). ITC Great Plains stated that the V-Plan is one of the priority projects of the Southwest Power Pool (SPP). Application, ¶ 7. The line proposed by ITC Great Plains would cross portions of Ford, Clark, Kiowa and Barber Counties in Kansas.

2. The Citizens' Utility Ratepayer Board (CURB) petitioned to intervene on March 16, 2011. Although the time to respond to CURB's request has not passed, as set forth in K.A.R. 82-1-218(d), parties have indicated no objection will be made to CURB's petition.

3. Under the Kansas Siting Act, the Commission has 120 days from the date of filing to issue a final Order. K.S.A. 66-1,178(d). Due to the compressed schedule, the Commission's Advisory Counsel has consulted with the parties regarding a procedural schedule in this docket. The following procedural schedule is proposed for the Commission's consideration and approval:

<u>Date</u>	<u>Time</u>	<u>Action</u>
April 18, 2011	3:00 p.m.	Staff and Intervenor Direct Testimony
April 18, 2011	3:00 p.m.	ITC Affidavit of Publication and Written Notice
April 20, 2011	6:00 p.m.	Public Hearing in Greensburg, Kansas
April 27, 2011	5:00 p.m.	Public Comment Period Ends
April 28, 2011		PACP Office Files Report of Public Comments
May 2, 2011	3:00 p.m.	ITC Rebuttal to Staff & Intervenor Testimony
May 2, 2011	3:00 p.m.	ITC Response to Public Hearing Comments
May 4, 2011	3:00 p.m.	ITC Response to Written Comments
May 9, 2011	3:00 p.m.	Staff & Intervenor Response to Public Hearing Comments
May 16, 2011	3:00 p.m.	ITC Rebuttal to Staff & Intervenor Response to Public Hearing Comments

<u>Date</u>	<u>Time</u>	<u>Action</u>
May 18, 2011	3:00 p.m.	List of Disputed Issues Prehearing Motions Cut-off Discovery Cut-off
May 20, 2011	10:30 a.m.	Prehearing Conference (Third Floor Hearing Room)
May 26-27, 2011	8:00 a.m.	Evidentiary Hearing (First Floor Hearing Room)
June 9, 2011	3:00 p.m.	ITC Initial Post-hearing Brief with Proposed Factual Findings and Legal Conclusions
June 17, 2011	3:00 p.m.	Staff and Intervenors' Responsive Post-Hearing Briefs
June 24, 2011	3:00 p.m.	ITC Reply Brief
July 12, 2011		Order Date

The Commission's Advisory Counsel also proposes and recommends that all testimony and briefs in this docket be served by electronic service, at or before 3:00 p.m. on the date due, followed by a filing of the required hard copies with the Commission prior to the close of business hours.

4. The Commission has jurisdiction over the Application of ITC Great Plains for a siting permit pursuant to K.S.A. 66-1,177, *et seq.*, and amendments thereto. This Order will adopt the proposed procedural schedule and will grant intervention to CURB.

II. CURB's Petition to Intervene

5. The Commission has broad discretion to grant a petition for intervention if it is in the interests of justice, if the intervention will not impair the orderly and prompt conduct of the proceedings, and if a party has stated facts demonstrating that its legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding. K.S.A. 77-521(a); K.A.R. 82-1-225. At any time during a proceeding, the Commission may impose

limitations on an intervenor's participation, including limiting an intervenor's participation to designated issues in which the intervenor has a particular interest as well as its use of discovery and other procedures. The Commission also may require two or more intervenors to combine their presentation of evidence and arguments, cross-examination, discovery, and other participation in the proceedings. K.S.A. 77-521(c).

6. CURB requests permission to intervene to represent the interests of Kansas residential and small commercial ratepayers in this utility proceeding pursuant to K.S.A. 66-1223, *et seq.* Petition to Intervene, March 16, 2011, paragraphs 2, 4, 6 (CURB Petition, ¶¶ 2, 4, 6). No party objects to CURB's intervention in this proceeding. The Commission finds and concludes that CURB should be granted intervention. CURB will be added to the mailing list, service of electronic pleadings, communications, and correspondence should be delivered to counsel of record, as follows:

David Springe #15619
Niki Christopher #19311
C. Steven Rarrick #13127
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, Kansas 66604
(785) 271-3200
(785) 271-3116 Fax

7. In addition to the counsel of record for CURB listed above, service of electronic pleadings, communications, and correspondence should be delivered to CURB's other designees:

Shonda Smith, Officer Manager (sd.smith@curb.kansas.gov)
Della Smith, Administrative Specialist (d.smith@curb.kansas.gov)
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, Kansas 66604

III. Procedural Schedule

8. The Commission has reviewed the schedule proposed by its Advisory Counsel, finds it to be reasonable, and adopts the procedural schedule as set forth above in paragraph 3. The Commission designates Melissa Doeblin, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, telephone number 785-271-3186, email address m.doeblin@kcc.ks.gov, to act as Prehearing Officer in this proceeding. K.S.A. 2010 Supp. 77-514; K.S.A. 77-516; K.S.A. 2010 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

9. Although the Commission will conduct the evidentiary hearing in this docket, the Commission designates a prehearing officer to conduct any prehearing conferences that might be needed in this proceeding and to address any matters that are appropriately considered in a prehearing conference, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). The Commission concludes that a prehearing conference will be needed before an evidentiary hearing to address any pending matters, to establish procedures to use during the evidentiary hearing, and to consider any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. To that end, the Commission sets the Prehearing Conference for May 20, 2011, beginning at 10:30 a.m., in the Third Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. Prehearing Officer Melissa Doeblin, telephone 785-271-3186, email address m.doeblin@kcc.ks.gov, will preside. Any party who fails to attend or participate in the Prehearing Conference or in any other stage of this proceeding may be held in default under the KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520. Issues to be addressed at this prehearing conference include any pending motions, the order of witnesses that will testify at the evidentiary

hearing, any agreement of parties to waive cross-examination of witnesses, the order of cross-examination, and any evidentiary or other matters.

10. An evidentiary hearing with the Commission presiding will begin on May 26, 2011, at 8:00 a.m., and continue as needed and ordered by the Commission, through May 27, 2011, in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, at telephone number 785-271-3100. Any party who fails to attend or participate in the hearing or any other stage of this proceeding may be held in default under the KAPA. K.S.A. 2010 Supp. 77-518(c)(8); K.S.A. 77-520.

IV. Public Hearing

11. The Commission must conduct a public hearing to determine the necessity for and the reasonableness of the location of the proposed electric transmission line, and give those impacted by this proposed line an opportunity to inquire of the parties and to present statements to the Commission. K.S.A. 66-1,178. The Commission's Advisory Counsel consulted with the Commission's Director of Communications and Director of Public Affairs and Consumer Protection, who jointly recommended that one public hearing be held in this docket. The recommendation is as follows:

Wednesday, April 20, 2011, Greensburg, Kansas 6:00 p.m. to 8:00 p.m.
Greensburg Recreation Commission
600 South Main Street
Greensburg, Kansas 67054

12. The Commission adopts the recommendation to conduct a public hearing on April 7, 2011, beginning at 6:00 p.m. The first part of the public hearing, beginning at 6:00 p.m., will consist of a question-and-answer session where representatives of ITC Great Plains, Commission Staff, CURB and any other intervenors will discuss the proposed route with members of the public. Following the question-and-answer session, and beginning no later than 7:00 p.m., the

Commission will conduct a Public Hearing to receive comments from members of the public. Statements made by members of the public to the Commissioners during the Public Hearing will be recorded by a court reporter and transcribed. Testimony and written comments received from members of the public will be filed as part of the administrative record in this proceeding.

13. The Kansas Siting Act requires that written notice of the time, place, and subject matter of the public hearing, along with a copy of the Application, be served by certified mail to landowners of interest, as defined in K.S.A. 66-1,178, not less than 20 days prior to the public hearing. K.S.A. 66-1,179. Additionally, notice of the time, place, and subject matter of the public hearing must be published in newspapers having general circulation in every county through which the electric transmission line is proposed to traverse, once each week for two consecutive weeks prior to the public hearing, the last publication to be not less than five days before such hearing date. K.S.A. 66-1,179. The affected counties are Ford, Clark, Kiowa and Barber Counties in Kansas. ITC Great Plains shall work with the Commission's Director of Communications and Director of Public Affairs and Consumer Protection to obtain approval of the content of the notice, the timing of the publication, and the list of newspapers in which notice will be published. Any dispute regarding the notice to be given landowners or to be published in newspapers shall be brought to the attention of the Prehearing Officer. ITC Great Plains shall file an affidavit by April 18, 2011, verifying the notice of the public hearing that has been given to landowners and by publication in newspapers as required. K.S.A. 66-1,179.

V. Public Comments

14. The Commission directs that a public comment period begin immediately and encourages the public to submit written comments to the Commission's Office of Public Affairs and Consumer Protection (PACP Office) using email at public.affairs@kcc.ks.gov. Oral

comments may also be made to the PACP Office by calling 1-800-662-0027. Written comments may be submitted by mail to the Kansas Corporation Commission Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. Notice to landowners and in newspapers about the public hearing will also inform the public of the opportunity to submit written or oral comments regarding this proceeding.

15. The public comment period begins immediately and will run until April 27, 2011. The Commission desires that its PACP Office provide a report that summarizes public comments received now through April 27, 2011, and file the report on April 28, 2011. Any comments received by the PACP Office after April 27, 2011, shall be promptly provided to the Prehearing Officer and parties for review.

16. In reviewing the request for a siting permit, the Commission must determine the necessity and reasonableness of the location of the proposed electric transmission line. The Commission has found that, in reviewing requests under the Kansas Siting Act, many factors must be taken into account in determining whether the location of a proposed route is reasonable. The Commission emphasizes the importance of receiving comments from landowners and members of the public in dockets that involve the siting of electric transmission lines. The Commission states that, if a viable alternative route to ITC Great Plains' proposed route is developed in response to public comments, ITC Great Plains must give notice to new landowners impacted by this alternative route. The Commission will work with ITC Great Plains to ensure that newly impacted landowners have notice of the alternative route and have the opportunity to comment before a final decision is made on the siting permit. To that end, the Commission directs its PACP Office to work with ITC Great Plains and other parties in this proceeding to provide access to public comments as they are received.

17. In addition, the Commission directs ITC Great Plains, CURB, and the PACP Office to make information concerning the proceeding more accessible to the public through use of websites. The Commission directs these parties to include on their respective websites links and contact information to assist members of the public in easily identifying how to contact the PACP Office to submit public comments and to easily access filings made in this docket. To the extent practicable, parties are encouraged to include background information explaining this proceeding.

VI. Electronic Service

18. The Commission approves the use of electronic service of all testimony, briefs, and orders, without requiring provision of follow-up hard copies as required by K.A.R. 82-1-216(a)(6). Confidential papers will be served either electronically if confidentiality can be retained or by some other method such as providing information on a compact disc. Testimony and briefs must be served electronically by 3:00 p.m., on the date due, without requiring service among the parties of a follow-up hard copy, but the original and at least seven paper copies of testimony and briefs must still be filed for use by the Commission. K.A.R. 82-1-215(a). Any electronic service of Commission Orders without follow-up hard copies will specifically state in the electronic message serving the Order that the electronic message constitutes service of the attached Commission Order, and that a hard copy will not follow, in order to make clear that paper copies will not also be provided. The Commission directs that electronic service of testimony and briefs include service on the Prehearing Officer at m.doeblin@kcc.ks.gov.

VII. Agency Attorneys of Record

19. The attorneys designated to appear on behalf of the agency in this proceeding are Dana Bradbury, telephone number 785-271-3196, email address d.bradbury@kcc.ks.gov; and

Patrick Smith, telephone number 785-271-3173, email address p.smith@kcc.ks.gov, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. K.S.A. 2010 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission adopts the proposed procedural schedule, as set forth above in paragraph 3.

B. The Commission hereby grants intervention to CURB. The service list shall include counsel and representatives as set forth above in paragraphs 6 and 7.

C. The Commission designates Melissa Doeblin to serve as Prehearing Officer, as set forth above in paragraph 8.

D. The Commission schedules a Prehearing Conference for May 20, 2011, beginning at 10:30 a.m., in the Third Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as set forth above in paragraph 9.

E. The Commission schedules an Evidentiary Hearing, beginning at 8:00 a.m., on May 26, 2011, and continuing as needed and ordered by the Commission through May 27, 2011, in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as set forth above in paragraph 10.

F. The Commission orders that a Public Hearing be held in Greensburg, Kansas on April 20, 2011, beginning at 6:00 p.m., as set forth above in paragraphs 11 and 12. The Commission directs ITC Great Plains to provide notice of this proceeding and the Public Hearing to the public. The Commission orders that notice to landowners and in newspapers about the Public Hearing include information regarding the ability to submit comments to the Commission

until April 18, 2011, by email, orally, or by mailing written comments, as set forth above in paragraphs 13 through 17. The Commission directs its PACP Office to file a report of the public comments received on April 19, 2011.

G. The Commission orders that electronic service, without filing a follow-up hard copy, be used in this proceeding, and specifically for this Order, as set forth above in paragraph 19.

H. This is a procedural order and constitutes nonfinal agency action. K.S.A. 77-607(b)(2). Parties have 15 days from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(1).

I. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chairman; Loyd, Commissioner

Dated: MAR 23 2011

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ORDERED MAILED

MAR 23 2011

Susan K. Duffy EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

mrd

CERTIFICATE OF SERVICE

MAR 23 2011

11-ITCE-644-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Adopting Procedural Schedule and Granting Intervention to CURB was served by electronic mail this 23rd day of March, 2011, to the following parties who have waived receipt of follow-up hard copies:

NIKI CHRISTOPHER, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
n.christopher@curb.kansas.gov
Hand Delivered

C. STEVEN RARRICK, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rarrick@curb.kansas.gov
Hand Delivered

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov
Hand Delivered

SHONDA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
sd.smith@curb.kansas.gov
Hand Delivered

DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov
Hand Delivered

CARL A. HUSLIG, PRESIDENT
ITC GREAT PLAINS, LLC
1100 SW WANAMAKER ROAD, SUITE 103
TOPEKA, KS 66604
Fax: 785-783-2230
chuslig@itctransco.com

BRETT D LEOPOLD, SENIOR ATTORNEY
ITC GREAT PLAINS, LLC
1100 SW WANAMAKER ROAD, SUITE 103
TOPEKA, KS 66604
bleopold@itctransco.com

ALAN K. MYERS, VICE PRESIDENT-TECHNICAL
ITC GREAT PLAINS, LLC
1100 SW WANAMAKER ROAD, SUITE 103
TOPEKA, KS 66604
amyers@itctransco.com

BRIAN THUMM, MANAGER, REGULATORY STRATEGY
ITC HOLDINGS CORP
27175 ENERGY WAY
NOVI, MI 48377-3639
bthumm@itctransco.com

DANA BRADBURY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
d.bradbury@kcc.ks.gov
Hand Delivered

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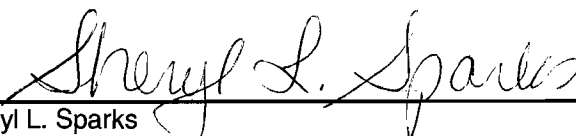
CERTIFICATE OF SERVICE

MAR 23 2011

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PATRICK T. SMITH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
p.smith@kcc.ks.gov
Hand Delivered

SUSAN B. CUNNINGHAM, COUNSEL
SNR DENTON US LLP
7028 SW 69TH ST
AUBURN, KS 66402-9421
Fax: 816-531-7545
susan.cunningham@snrdenton.com



Sheryl L. Sparks
Administrative Specialist

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