

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

In the Matter of the Application of Great)
Plains Energy Inc., Kansas City Power &)
Light Co., and Westar Energy, Inc. for) Docket No. 18-KCPE-095-MER
Approval of the Merger of Westar)
Energy, Inc. and Great Plains Energy Inc.)

**OBJECTION TO THE NONUNANIMOUS SETTLEMENT AGREEMENT AND THE
MOTION TO APPROVE THE SAME
BY KANSAS ELECTRIC POWER COOPERATIVE, INC.**

COMES NOW, the Kansas Electric Power Cooperative, Inc. (“KEPCo”) pursuant to K.A.R. § 82-1-230a(c) provides notice to the Commission and to parties in the above-captioned docket of its *Objection to the Nonunanimous Settlement Agreement and the Motion to Approve the Same*, and respectfully states as follows:

1. On August 25, 2017, Westar Energy, Inc., Kansas Gas and Electric Company, Great Plains Energy Inc., and Kansas City Power & Light Company (collectively, “Applicants”) filed an application requesting approval of a revised transaction—now restructured as a “merger of equals”—that would consolidate the two regulated utility companies under a new holding company, Holdco.
2. On March 7, 2018, Applicants and some parties submitted a Joint Motion for Approval of Non-Unanimous Settlement Agreement (“Motion”) and a Non-Unanimous Settlement Agreement (“NSA”).

3. KEPCo is not a signatory to, and opposes, the proposed NSA and the Motion. KEPCo intends to participate actively in the evidentiary hearing scheduled to commence on Monday, March 19, 2018.

4. Although not required under the notice provisions of K.A.R. § 82-1-230a(c), KEPCo states that it opposes certain representations in the Motion and NSA. First, KEPCo opposes NSA signatories' claims that the merger was negotiated with the intent and result that neither company would be paying or receiving a premium with respect to the other company, and that there will be no transaction-related debt. *See* Motion at P 1; NSA at P 6. These claims are presented as fact, but only the Commission has authority to make findings of fact, and does so only after reasoned consideration of a full and complete evidentiary record.

5. Second, KEPCo vigorously opposes the erroneous and unsupported claim that the interests of the non-signing parties like KEPCo "are also represented by Staff, generally." Motion at P 13. To clarify the record, KEPCo is not "represented by Staff, generally" and certainly KEPCo's positions in these proceedings—that the proposed merger should be approved only if the Commission adopts KEPCo's conditions regarding sound financial, ring-fencing, plant retirements, and Integrated Resource Planning issues—have not been addressed fully by Staff experts.

6. Third, KEPCo opposes the Motion's gratuitous and grandiose claims that the NSA is "a comprehensive settlement of all issues relevant to this proceeding" (NSA at 1, *see also id.* at P 9 ("agreement on all issues")); that the elements of the NSA are "fair, reasonable, and fully supported by the evidence in the case" (Motion at P 14); and that the "evidence in the record ... demonstrates that the provisions of the [NSA] are in furtherance of the public interest"

(*id.*; *see also* NSA at P 10 (Application, as modified by the NSA, is in the public interest)). The NSA is not comprehensive and does not address all issues raised by KEPCo.

7. Fourth, the NSA is unlawful because it contains terms and conditions that would, without notice due, predetermine Applicants' regulated rates in future cases in complete disregard of Kansas statutes that mandate a process for setting rates. The NSA would require the Commission's Staff to affirmatively "recommend and support" Applicants' position regarding components of Applicants' cost-based rates (NSA at P 32(iv)), and therefore would prevent the Commission's Staff from fulfilling its legal duty of balancing the interests of all parties in developing its position in that future rate case. *See* Order at P 58, *In re Application of Kansas City Power & Light Co. to Make Certain Changes to Its Charges for Elec. Serv.*, Docket No. 15-KCPE-116-RTS (Sept. 10, 2015) ("Staff represents the public interest generally, placing Staff in the unique position of being required to weigh and balance the interests of the Company, all classes of the Company's customers, and any other interests impacted by the Commission's order that may not be party to the proceeding"). A further consequence of these provisions would be to limit the future Commission's ability to compile a full record in these first and very critical post-merger rate cases and would, therefore, deprive the future Commission of its statutory responsibility to decide whether proposed rates are legitimately fair, reasonable, and in the public interest. In this respect the NSA is obviously contrary to settled law, and the Commission should reject it on that basis.

Respectfully submitted,



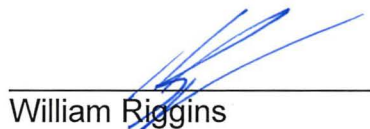
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VERIFICATION

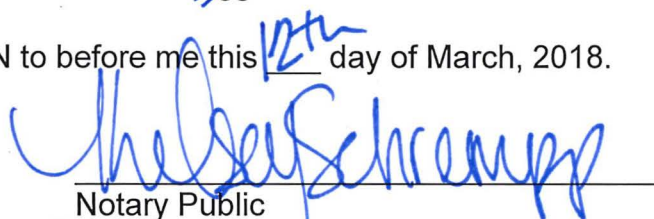
STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

William G. Riggins, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the above named petitioner, that he has read the above and foregoing and upon information and belief, states that the matters therein appearing are true and correct.


William Riggins

SUBSCRIBED AND SWORN to before me this 12th day of March, 2018.


Notary Public

My Commission expires 2/24/2021



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing was electronically served or placed in the United States mail, postage prepaid, this 12th day of March, 2018, addressed to the following:

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