

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

In the Matter of the Joint Application of	)	
Great Plains Energy Incorporated, Kansas	)	Docket No. 16-KCPE-593-ACQ
City Power & Light Company and Westar	)	
Energy, Inc. for Approval of the Acquisition	)	
of Westar Energy, Inc. by Great Plains Energy	)	
Incorporated	)	

**REPLY OF JOINT APPLICANTS TO MOTION OF THE  
KANSAS POWER POOL ("KPP") TO FILE A RESPONSIVE BRIEF  
BASED UPON STATEMENTS IN THE REPLY BRIEF OF JOINT APPLICANTS**

COME NOW Great Plains Energy Incorporated ("GPE"), Kansas City Power & Light Company ("KCP&L"), and Westar Energy, Inc. and Kansas Gas and Electric Company ("Westar"), (referred to collectively herein as "Joint Applicants"), and reply as follows to the Motion of the Kansas Power Pool ("KPP") to File a Responsive Brief Based Upon Statements in the Reply Brief of Joint Applicants' [sic] ("Motion"):

1. On June 28, 2016, Joint Applicants filed their Joint Application for approval of the acquisition of Westar Energy, Inc. by Great Plains Energy Incorporated.
2. Thereafter, on July 15, 2016, KPP filed its petition for intervention. KPP's petition was granted on August 2, 2016.
3. On September 27, 2016, the Commission issued its Procedural Order in this docket. Among other things, the Commission's Procedural Order provided for the filing of direct testimony by the interveners in this case on December 16, 2016, with rebuttal testimony by Joint Applicants on January 9, 2017. The Procedural Schedule also provided for an Initial Brief to be filed by Joint Applicants on February 28, 2017, with responsive briefs by Staff and interveners on March 13, 2017 and a Reply Brief by Joint Applicants to be filed on March 20, 2017.

4. On April 5, 2017 – over two weeks after Joint Applicants filed their Reply Brief – KPP filed its Motion seeking to file a brief in response to Joint Applicants’ Reply Brief together with a proposed Responsive Brief. KPP’s Motion should be denied and its Responsive Brief rejected and not considered by the Commission.

5. Under the Commission’s Rules of Practice and Procedure, the applicants have the right to open and close at all hearings.<sup>1</sup> Consistent with that procedure, in its Procedural Order, the Commission established a briefing schedule in which the Joint Applicants were allowed to open and close.<sup>2</sup> KPP’s Motion is, in essence, a request to modify the procedural schedule to allow it a late response to Joint Applicants’ Reply Brief. And the filing of its proposed Responsive Brief is a direct violation of the Commission’s Procedural Order. The Commission should not revise the procedural schedule – especially at this late date – without good cause shown.

6. However, despite the extraordinary nature of the relief it seeks, in its Motion KPP states no grounds for its request. Rather, it merely recites that, having not objected to the admission of its witness’ testimony, the Joint Applicants argued in their Reply Brief that KPP’s issues are not within the Commission’s jurisdiction.<sup>3</sup> KPP’s statement does not provide grounds for its request, and is both incomplete and misleading.

7. It is not surprising that KPP has failed to state any grounds for the relief it seeks for no such grounds exist. Given the Commission’s broad rules of evidence,<sup>4</sup> the mere fact that the Joint Applicants did not object to KPP’s witness’ testimony cannot be construed as an

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<sup>1</sup> K.A.R. 82-1-230(b)(1)(A).

<sup>2</sup> See Order Setting Procedural Schedule, at ¶ 4 (September 27, 2016).

<sup>3</sup> See KPP Motion, at ¶¶ 3, 5.

<sup>4</sup> K.A.R. 82-1-230(a) (“The rules of evidence as stated in article four of the Kansas code of civil procedure shall be applied by the commission at all of its hearings. However, the presiding officer may relax the rules of evidence if the presiding officer believes that it is in the public interest to do so and will aid in ascertaining the facts.”)

admission that the issues he raised were within the Commission's jurisdiction. Moreover, KPP can hardly (and notably did not) argue that it was surprised by the position taken by the Joint Applicants in their Reply Brief given that Joint Applicants had previously stated the identical position in the Rebuttal Testimony of Darrin R. Ives<sup>5</sup> and in their Initial Brief.<sup>6</sup>

8. Given that Joint Applicants consistently argued that KPP's issues were beyond the Commission's jurisdiction, Joint Applicants' repetition of that argument in their Reply Brief does not provide grounds to provide KPP another round of argument. KPP had the opportunity to respond to Joint Applicants' position that KPP's issues are beyond the Commission's jurisdiction taken in Joint Applicants' Rebuttal Testimony and Initial Brief when KPP filed its brief on March 13, 2017. That KPP failed to avail itself of that opportunity does not provide grounds for allowing it to make its arguments at this late date in a brief not authorized by the Commission's Procedural Schedule.

9. In summary, KPP has provided no basis for its Motion. The Commission should deny the Motion and reject and give no consideration to KPP's proffered Responsive Brief.

WHEREFORE, having fully answered KPP's Motion, Joint Applicants respectfully request that KPP's Motion be denied, its proffered Responsive Brief rejected and not considered by the Commission and for such other and further relief as may be appropriate.

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<sup>5</sup> Rebuttal Testimony of Darrin R. Ives, at pp. 68-71.

<sup>6</sup> Initial Brief of Joint Applicants, at pp. 130-133.

Respectfully submitted,

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**COUNSEL FOR WESTAR ENERGY, INC.**

# VERIFICATION

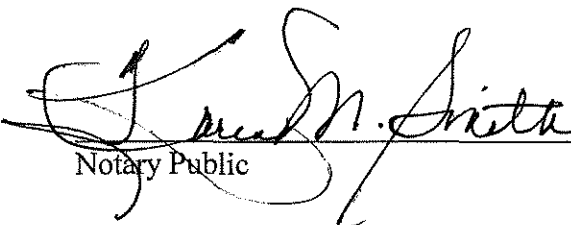
STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF JACKSON    )

I, Darrin R. Ives, being duly sworn, on oath state that I am Vice President – Regulatory Affairs of Kansas City Power & Light Company, that I have read the foregoing Reply of Joint Applicants to Motion of the Kansas Power Pool to File a Responsive Brief Based Upon Statements in the Reply Brief of Joint Applicants and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

GREAT PLAINS ENERGY INCORPORATED

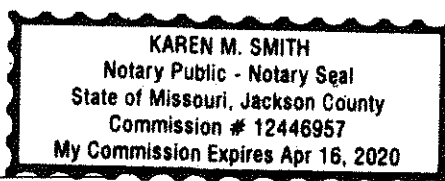
By:   
Darrin R. Ives

The foregoing was subscribed and sworn to before me this 17<sup>th</sup> day of April, 2017.

  
Notary Public

My Commission Expires:

April 16, 2020



**CERTIFICATE OF SERVICE**

I do hereby certify that on the 10<sup>th</sup> day of April, 2017, I electronically filed via the Kansas Corporation Commission's Electronic Filing System, a true and correct copy of the above and foregoing with a copy emailed to all parties of record.

***Robert J. Hack***

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Robert J. Hack