BEFORE THE CORPORATION COMMISSION

OF THE STATE OF KANSAS

IN THE MATTER OF THE JOINT APPLICATION OF GREAT PLAINS ENERGY INCORPORATED, KANSAS CITY POWER AND LIGHT COMPANY AND WESTAR ENERGY, INC. FOR APPROVAL OF THE ACQUISITION OF WESTAR ENERGY, INC. BY GREAT PLAINS ENERGY INCORPORATED	]	KCC Docket No. 16-KCPE-593-ACQ

DIRECT TESTIMONY OF

ANDREA C. CRANE

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

REDACTED VERSION

December 16, 2016

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I. STATEMENT OF QUALIFICATIONS

Q. Please state your name and business address.

A. My name is Andrea C. Crane and my business address is PO Box 810, Georgetown, CT 06829.

Q. By whom are you employed and in what capacity?

A. I am President of The Columbia Group, Inc., a financial consulting firm that specializes in utility regulation. In this capacity, I analyze rate filings, prepare expert testimony, and undertake various studies relating to utility rates and regulatory policy. I have held several positions of increasing responsibility since I joined The Columbia Group, Inc. in January 1989. I became President of the firm in 2008.

Q. Please summarize your professional experience in the utility industry.

A. Prior to my association with The Columbia Group, Inc., I held the position of Economic Policy and Analysis Staff Manager for GTE Service Corporation, from December 1987 to January 1989. From June 1982 to September 1987, I was employed by various Bell Atlantic (now Verizon) subsidiaries. While at Bell Atlantic, I held assignments in the Product Management, Treasury, and Regulatory Departments.

Q. Have you previously testified in regulatory proceedings?

A. Yes, since joining The Columbia Group, Inc., I have testified in over 400 regulatory proceedings in the states of Arizona, Arkansas, Connecticut, Delaware, Hawaii, Kansas, Kentucky, Maryland, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Vermont, Washington, West Virginia and the District of Columbia. These proceedings involved electric, gas, water, wastewater, telephone, solid waste, cable television, and navigation utilities. A list of dockets in which I have filed testimony since January 2008 is included in Appendix A.

Q. Have you previously testified in regulatory proceedings in Kansas?

A. Yes, I have. As shown in Appendix A, I have testified in numerous proceedings in Kansas, including in cases involving Kansas City Power and Light Company ("KCP&L") and Westar Energy ("Westar"). I have also testified in cases involving Atmos Energy, Kansas Gas Service, Empire District Electric Company, Black Hills Gas Company, Midwest Energy and others.

Q. Have you previously participated in other proceedings involving utility mergers and acquisitions?

A. Yes, I have filed testimony and participated in numerous proceedings involving utility mergers and acquisitions, including proceedings involving: Delmarva Power and Light Company and the Atlantic City Electric Company; Potomac Electric Power Company and Baltimore Gas and Electric Company; Conectiv Power Delivery and PEPCO Holdings, Inc. ("PHI"); Exelon Corporation and PHI.; Orange and Rockland Utilities and Consolidated Edison; New Century Energies, Inc. and the Northern States Power Company; New England

Electric System and Eastern Utility Associates; Consolidated Edison and Northeast Utilities, Inc.; Texas-New Mexico Power Company ("TNMP") and Public Service Company of New Mexico ("PNM"); New Mexico Gas Company ("NMGC") and TECO, Inc.; and Midwest Energy, Inc. and Westar Energy, Inc. I also participated in the 1997 merger proceeding involving Western Resources, Inc. and KCP&L. In addition, I have participated in cases involving the sale of Atlantic City Electric Company's B.L. England Generating Station, TNMP's acquisition by S.W. Acquisition, L.P., and the sale of PNM's gas assets to Continental Energy Systems, Inc., the transaction that resulted in the formation of NMGC.

Q. What is your educational background?

A. I received a Master of Business Administration degree, with a concentration in Finance, from Temple University in Philadelphia, Pennsylvania. My undergraduate degree is a B.A. in Chemistry from Temple University.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your testimony?

A. On June 28, 2016, Great Plains Energy, Inc. ("GPE"), KCP&L, and Westar Energy, Inc. ("Westar", collectively "Joint Applicants") filed an Application with the Kansas Corporation Commission ("KCC" or "Commission") seeking approval for the acquisition of Westar by GPE, the parent company of KCP&L. The Columbia Group, Inc. was engaged by the Citizens' Utility Ratepayer Board ("CURB") to review the Application, to evaluate the impact on Kansas ratepayers, and to develop recommendations to the KCC. I am providing testimony on CURB's overall recommendation. I also discuss the degree to which the proposed transaction meets the merger standards that have set forth by the KCC. Stacey Harden is also submitting testimony on behalf of CURB, addressing the impact of the proposed transaction on reliability and customer service issues.

Q. Please explain how your testimony is organized.

A. Section III of my testimony contains a brief summary of my conclusions and recommendations relating to the proposed transaction. In Section IV of my testimony, I discuss the KCC's merger standards and evaluate the extent to which the proposed transaction complies with those standards. In Section V of my testimony, I discuss several additional safeguards that the KCC should impose if it approves the transaction.

III. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Q. What are your conclusions and recommendations regarding GPE's proposed acquisition of Westar and the related approvals being requested in this case?

A. There are several factors that make GPE a good candidate to acquire Westar. GPE, through KCP&L, already operates an electric utility that is contiguous to the Westar service territory. The KCC is familiar with KCP&L, and KCP&L is familiar with regulation in Kansas. KCP&L and Westar already share ownership of several generating facilities. These factors are all favorable and suggest that the acquisition of Westar by GPE could result in cost savings that are at least as great as an acquisition of Westar by some other entity.

However, CURB also has serious concerns about the purchase price and the proposed financing of this transaction. In summary, GPE is paying a high price for Westar, that does not appear to be justified based on the projected level of savings. Moreover, GPE is proposing to finance this transaction largely with debt, which will increase GPE's financial risk, could jeopardize the credit ratings of the Joint Applicants, and could result in higher financing costs and/or deteriorating service for Kansas customers. Therefore, while the proposed transaction has some beneficial features, the proposed transaction as currently structured is not in the public interest. Accordingly, CURB recommends that the KCC deny the Joint Applicants' request regarding the acquisition of Westar by GPE at this time.

Q. Was the primary purpose of the transaction to bring lower rates or improved service to Kansas ratepayers?

A. No, it would be naïve to assume that this transaction is being driven by the desire of management and shareholders to bring lower rates to electric customers in the KCP&L and Westar service territories. As demonstrated in numerous presentations and other material provided in discovery in this case, this transaction is being driven by the desire to handsomely reward Westar shareholders and to find a source of new earnings for GPE shareholders. Ratepayers are a means to these ends, but providing benefits to ratepayers is not the primary focus of the proposed transaction.

Q. Are there changes that the KCC could order to the ratemaking proposals put forth by the Joint Applicants that would alleviate CURB's concerns?

A. I don't think so. As will be discussed at length later in my testimony, CURB's fundamental concerns relate to the purchase price and related financing of the underlying transaction. I do not believe that there is any action that the KCC could take within the context of the current agreement that would modify either the purchase price or the related financing. Therefore, while I will suggest some ratepayer protections that the KCC should adopt if it approves the proposed transaction, I do not believe that there are any conditions, restrictions or requirements that the KCC could impose that would overcome the fundamental financial flaws of this proposed transaction and the attendant potential harm to ratepayers.

Q. Please briefly outline the additional ratepayer protections that you recommend the KCC adopt if it decides to approve the proposed transaction, in spite of the concerns expressed by CURB.

A. If, in spite of concerns expressed by CURB, the KCC decides to authorize the proposed transaction, then it should require the following additional provisions as a condition of its approval: a) The KCC should utilize the consolidated GPE capital structure for ratemaking purposes, b) Westar and KCP&L dividends to GPE should be limited to the net income earned by the utilities, c) no dividends should be paid by Westar or KCP&L to GPE unless GPE and its subsidiaries all maintain investment grade ratings, d) costs related to common branding should not be recovered from ratepayers, e) any transition costs that the KCC permits the Joint Applicants to recover from ratepayers should be amortized over a reasonable period of time and should not accrue carrying costs, and f) any movement toward rate consolidation should move KCP&L toward the Westar rate structure.

IV. OUTLINE OF THE PROPOSED TRANSACTION

Q. Please provide a brief description of Westar.

A. Westar is the largest electric utility in Kansas, with its principal office in Topeka, Kansas. Westar, and its wholly-owned subsidiary Kansas Gas and Electric Company ("KGE"), provide service to approximately 702,000 customers in central and eastern Kansas.[1] Westar's customer mix is approximately 33% residential, 28% industrial, and 39% commercial. It has a service area of roughly 10,000 square miles.[2] The Company operates and coordinates 35,000 miles of transmission and distribution lines. In addition, it has approximately 6,300 MW of electric generation capacity, including nuclear, coal, natural gas, and renewable generation.

Q. Please provide a brief description of GPE.

A. GPE is a public utility holding company headquartered in Kansas City, Missouri. GPE owns KCP&L, a regulated electric utility providing service in eastern Kansas and western Missouri. GPE is also the parent company of Greater Missouri Operations Company ("GMO"), which provides regulated electric service in Missouri. GPE is also the parent

1 "Westar" will be used throughout this testimony to refer to both the parent company and to the wholly-owned subsidiary, KGE.

company of GPE Transmission Holding Company, which owns 13.5% of Transource Energy, LLC, which provides competitive electric transmission projects. GPE's regulated electric operations include approximately 749,600 residential customers, 99,100 commercial customers, and 2,500 industrial customers. GPE has 6,446 MW of electric generation capacity fueled by various sources, including nuclear and coal, and over 26,000 miles of transmission and distribution lines.

Westar and KCP&L are together the majority holders of the Wolf Creek Nuclear Generating Station, each holding a 47% ownership interest. The two utilities also jointly own the La Cygne Generating Station, which is a two-unit 1400 MW coal-fired power plant and the three-unit Jeffrey Energy Center, a 2,150 megawatt coal-fired power plant.

Q. Please provide a description of the proposed transaction.

A. GPE announced on May 31, 2016, that it had reached an agreement, via a competitive auction process initiated by Westar, to acquire 100% of the outstanding stock of Westar for approximately $12.2 billion including the assumption of Westar debt of $3.6 billion. Pursuant to the agreement, GPE will pay $60 per share for every outstanding share of Westar stock, comprised of $51 per share to be paid in cash (or 85% of the purchase price) and the balance in GPE common stock. The total cash payment is estimated to be $7.226 billion, based on 141.691 million Westar shares outstanding as of June 30, 2016.[3] In addition, Westar shareholders will receive another $1.246 billion of GPE stock. Finally, $47.8 million

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2 Testimony of Mr. Ruelle, pages 6-7.

3 Great Plains Energy Incorporated Proxy Statement ("Proxy Statement"), page 147.

of Westar equity compensation awards will be settled. Thus, the total estimated purchase price to shareholders is $8.520 billion. The assumption of the $3.6 billion of Westar debt will bring the total value of the transaction to approximately $12.2 billion. The transaction will create the largest electric utility company in Kansas.

The fair value of the assets acquired (net of current liabilities and long term debt) is $3.723 billion.[4] The compensation paid to shareholders of $8.520 billion for these assets results in an acquisition premium, to be recorded as Goodwill, in the amount of $4.816 billion. Thus the transaction can be viewed as GPE paying Westar shareholders $8.520 billion for assets with a fair value of $3.723 billion. Put another way, GPE is paying Westar shareholders approximately $2.30 for every $1.00 of assets acquired in the transaction.

With regard to market value, the purchase price of $60 per share represents a premium of 36.1% on the "undisturbed" stock price of March 9, 2016, which was the last trading day before an article appeared stating that Westar may be exploring a sale. Once that information became public, the Westar stock price increased significantly, from $44.08 on March 9th to $52.92 on May 27, 2016, which was the last trading day prior to the merger agreement being signed. Thus, the $60 per share price presents a premium of 13.4% over the stock price immediately prior to the merger agreement being signed.

Q. How does GPE expect to finance the proposed transaction?

A. GPE expects to finance the cash requirement of $7.226 billion by issuing $4.4 billion in

4 Id., page 151.

long-term debt as shown at page 149 of the Proxy Statement. The remainder of the financing is expected to be $750 million of mandatory convertible preferred equity from the Ontario Municipal Employees Retirement System ("OMERS")[5], and $2.35 billion of equity in the form of common stock and mandatory convertible preferred stock. The common stock and non-OMERS mandatory convertible preferred stock have now been issued and will be discussed in more detail later in this testimony. The mandatory convertible preferred stock will pay a preferred dividend for three years, and then convert to common equity, as discussed on page 16 of Mr. Bryant's testimony. GPE has entered into an unsecured 364 day bridge loan agreement with Goldman Sachs for $8.0 billion in order to fund the cash consideration for the merger, although GPE does not expect to draw material amounts from the credit line.[6] The $8.0 billion figure included $.5 billion for working capital needs, which has already been terminated with an amendment to the loan agreement (see page 14 of the Proxy Statement). All financing will occur at the GPE Holding Company level and no debt will be issued, guaranteed or have any recourse to any utility subsidiary.[7] The parties expect a closing of the transaction by the spring of 2017, or, if extended under terms provided in the proposed agreement, by no later than November, 2017.

Mr. Bryant offers testimony that GPE's utility subsidiaries, based on the analysis of his staff, Goldman Sachs acting as GPE's financial advisor, and the credit rating agencies, will maintain their investment grade credit ratings after the acquisition, as will the GPE

5 Also referenced as OCM Credit Portfolio, LP
6 Testimony of Mr. Bryant, page 9.
7 Id., page 10.

holding company.[8]

Q. How was the acquisition agreement developed and the purchase price for Westar determined?

A. In early 2015, several potential suitors expressed interest to Westar CEO, Mr. Ruelle, in a possible business combination with Westar. When the more focused of these discussions failed to progress, the Westar Board, at its February 22, 2016 meeting, decided it would like to explore a more competitive process with several parties at once, and it directed Guggenheim Securities to identify and contact viable potential bidders.[9] This effort resulted in contact with GPE, another early counterparty, and fourteen other companies. Altogether nine of these companies entered into confidentiality agreements with Westar, but two of them dropped out of the process before conducting due diligence calls with Westar management, and two more dropped out before April 5, 2016, the deadline for submitting non-binding indications of interest including price and other terms. All five of the remaining prospective bidders were invited to provide definitive proposals and were given individual management presentations over the course of several weeks in April and May, and all five companies were given access to a confidential electronic data room. Three companies, including GPE, submitted definitive proposals. GPE was authorized by its Board to offer up to \$60 per share, consisting of 90% cash and 10% stock. On May 23, 2016 GPE offered \$58.25 per share with 85% to be paid in cash. GPE also included a "collar" mechanism

8 Id., page 8.
9 Proxy Statement, page 57.

around its stock price of plus or minus 7.5% to help fix and protect the value of its stock for the benefit Westar shareholders. The other bidders offered both lower price and a lower proportion of cash to Westar stockholders. Westar elected to continue discussions with GPE and one other bidder to determine their best and final offers, but it did not terminate discussions with the other bidders, pending the outcome of its ongoing negotiations. Westar informed GPE and the other selected bidder that the mix of cash and stock and the likelihood of achieving a closing, including the likelihood that regulators would find the transaction in the public interest, would be key factors in their deliberation. After a series of meetings between GPE and its financial and legal advisors, GPE increased its bid to $60, still with an 85% cash component, while agreeing to other terms important to Westar, such as termination fees. The Westar Board, at its May 29, 2016 meeting, voted unanimously that the merger agreement with GPE was in the best interests of Westar and its Shareholders.[10]

Q. What strategic rationale do the parties offer to justify the proposed transaction?

A. Westar witness Mr. Ruelle testifies at page 3 of his direct testimony that Westar initiated a process to identify a potential suitor because "...we realized that in our industry, a larger energy company would be better suited to manage costs, regulatory risks and decreasing sales, while modernizing the grid and serving our customers." He argues that the need to moderate future rate increases naturally led to the consideration on increasing savings due to economies of scale that could be enjoyed by a larger entity, and he points to the ongoing

10 Proxy Statement, pages 60-65.

consolidation in the electric industry as support for that position.[11] In addition, Mr. Ruelle states that Westar believed that choosing its own path and suitor were preferable, in that it could more likely dictate terms in a competitive bidding process that would protect the interests of its customers, employees and communities, rather than just its shareholders.[12] Mr. Ruelle claims that in selecting GPE, Westar found a partner where the majority of customers would be in Kansas, instead of a long- distance purchaser for which Kansas customers may comprise a very small piece of the customer base.[13] In addition, Mr. Ruelle contends that interest rates have increased the value of utility stocks, and have also made financing an acquisition more affordable. He testifies that this fact, coupled with an older workforce that is currently producing large natural attrition, makes the current timeframe attractive in that merger efficiencies in staffing can be captured in large part through attrition rather than layoffs.[14]

GPE witness Mr. Bassham echoes the points above, and stresses the opportunities for efficiencies between the two companies, enhanced by their adjacent service territories, which he expects will serve to reduce future rate increases. He cites the testimony of Mr. Kemp that provides an estimated of $65 million in savings in the year after the closing, with savings growing to $200 million in the third full year after the transaction closes.[15]

11 Testimony of Mr. Ruelle, page 9.
12 Id., page 13-14.
13 Id., page 15.
14 Id., page 16.
15 Testimony of Mr. Bassham, page 10.

Q. Do the presentations made to the Westar Board of Directors bear out the above comments of Mr. Ruelle, which suggest that the proposed transaction is being driven largely by what is in the best interest of utility ratepayers?

A. No, I don't believe so. Copies of Westar Board of Directors presentations were made available in response to CURB-3. While the details of these presentations are marked highly confidential, there is a clear emphasis on the ability of utility companies to continue to sustain earnings growth. These presentations, which will be offered into evidence at the KCC during the evidentiary hearings in this case, suggest that the primary factor motivating Westar management and its Board of Directors was the premium that Westar could currently command, and the expected growth in shareholder earnings if the proposed transaction was approved.

In addition, the Proxy Statement makes it clear that this transaction is focused on shareholder interests. The opening paragraph of the "Background of the Merger" as discussed on page 52 of the Proxy Statement is as follows:

> The Westar Board and senior management of Westar regularly review and evaluate Westar's strategies <u>as part of their ongoing efforts to provide long-term value to shareholders,</u> taking into account economic, competitive, regulatory and other conditions, as well as historical and projected industry trends and developments. As part of these reviews, the Westar Board and senior management of Westar also periodically consider and evaluate potential options and alternatives designed to <u>enhance shareholder value,</u> including, from time to time, potential strategic transactions. (emphasis added)

Q. Describe GPE's service area and structure following the closing of the proposed acquisition of Westar.

A. If the acquisition is consummated, Westar will become a wholly-owned subsidiary of GPE, and GPE will own Kansas' two largest regulated utility companies. Mr. Bassham at page 4 of his testimony describes the combined service area as covering approximately the contiguous eastern third of Kansas, the Kansas City metropolitan area on both sides of the state line, and a large portion of northwestern Missouri. Approximately one-third of GPE's existing customers reside in Kansas.[16] The acquisition of Westar's approximately 700,000 Kansas electric utility customers will increase GPE's customer count to more than 1.5 million customers, most of which (nearly 950,000) will be in Kansas. The service areas and customers of each utility will be maintained and will not immediately change as a result of the proposed acquisition.[17]

Q. Will Westar continue to exist after the proposed acquisition?

A. Yes, it will, at least initially. Westar will become a wholly-owned subsidiary of GPE, just as KCP&L is. Westar will retain its separate legal structure, with the same service territory and customers as it had prior to its acquisition, but it will no longer be a publically traded company as all of its stock will be owned by GPE. Following the closing of the transaction Mr. Bassham will become the chief executive officer of Westar; he will retain his positions of Chairman of the Board of GPE and KCP&L as well as President and CEO of GPE and

16 Testimony of Mr. Bassham, page 8.
17 Id., page 4.

KCP&L. There will be one GPE Board member appointed from the Westar Board.

Q. Does GPE expect to introduce a common brand for Westar and KCP&L at some point in the future?

A. Yes, it does. While Westar and KCP&L will initially retain their individual identities, GPE has stated that it intends to eventually implement common branding for the utilities. Longer term, GPE may also propose to adopt a common rate structure and common rates for Westar and KCP&L. Any such rate consolidation would be subject to the review and approval of the KCC.

Q. What are the ratemaking implications of the proposed transaction?

A. The proposed transaction will significantly change the capital structure that is financing utility operations. While the Joint Applicants contend that the Westar and KCP&L capital structures will not change significantly, the capital structure of GPE will change significantly. As shown in the response to CURB-41, GPE is currently financed with 49.1% common equity, which is similar to the equity capitalization of KCP&L. Westar is currently capitalized with 54.6% common equity. However, on a consolidated basis, the new entity would have only 32.4% common equity and significantly more debt, with GPE's consolidated long term debt increasing from 50.4% to 59.0%. For ratemaking purposes, the Joint Applicants are proposing that the KCC utilize the KCP&L and Westar subsidiary capital structures, instead of the consolidated GPE capital structure, to set rates.

GPE is not requesting the recovery of the acquisition premium or transaction costs associated with the acquisition, unless "any party to a general rate case of a GPE utility subsidiary proposes to impute the cost or proportion of debt GPE is using to finance the transaction to a GPE utility subsidiary for purposes of determining a fair and reasonable return for a GPE utility subsidiary. In that event, GPE and its utility subsidiaries reserve the right to seek, in any such rate case, recovery and recognition in retail rates of goodwill (or transaction costs) related to the Transaction."[18] Thus, GPE is not proposing that ratepayers explicitly pay for either the acquisition premium or for transaction costs associated with the proposed transaction, unless a consolidated capital structure is used in the ratemaking process. However, as discussed later, the use of a capital structure for ratemaking purposes that is not representative of the actual financing used in the transaction essentially results in ratepayers subsidizing the acquisition premium. The transaction costs which have been identified to date include legal costs, investment banking and other advisory fees.

Much of the Joint Applicants' testimony addresses the cost savings that are expected to result from the proposed transaction. Mr. Kemp sponsors a cost-savings study that estimates savings of $60 million in the first year after the merger and of approximately $200 million annually by year three. GPE proposes that any merger savings flow through to ratepayers in the normal rate setting process. Therefore, between base rate cases, costs savings would be retained by shareholders. When new rates are established as part of a base rate case, any cost savings realized during the test year would be reflected in new rates. The

18 See the response to CURB 115 and the Supplemental Direct Testimony of Mr. Ives at page 12.

timing of when such savings are reflected in rates would depend, of course, upon the timing of base rate case filings, as well as upon any post-test year adjustments that may be included in approved rates. The Joint Applicants have indicated that they are open to recovery of proposed transition costs on an amortized basis over some reasonable period of time. Thus, these costs may be amortized over a multi-year period in a base rate case. Transition costs could include such costs as consolidation of software systems, and other types of costs that are required in order to achieve the projected cost savings. Finally, there are some costs that the Company has not yet classified as either transaction costs, the recovery of which is not explicitly being requested from ratepayers, or transition costs, which could be recovered from ratepayers in a base rate case. These would include such items as costs for eventual branding of both Westar and KCP&L utility operations with a common name and identity.

Q. What is the impact of the proposed transaction on employees of Westar and KCP&L?

A. There is no doubt that merger efficiencies will mean fewer employees, as Mr. Ruelle acknowledges on page 33 of his direct testimony and as Mr. Bassham acknowledges at page 8 of his testimony. However the Joint Applicants stress that there are many attributes of the agreement that are designed to keep talented employees, such as the provision to maintain existing compensation levels and benefits for at least two years post acquisition. In addition, all existing labor contracts will be honored, as will existing benefits for Westar retirees.[19] The Joint Applicants state that a significant portion of staffing reductions may be

19 Testimony of Mr. Ruelle, pages 33-34.

accomplished by the 4-5% attrition rate that both companies are currently experiencing due to the retirement of baby-boomers, and which should result in 250-300 job openings per year.[20] If attrition does not meet all of the targeted employee reductions, then voluntary reduction offers might be made. Mr. Bassham testified that he is confident that due to the aging of the workforce there will be employees who would apply for voluntary termination, if offered.[21] GPE has also agreed to continue Westar's current employee separation plan and plans to achieve any involuntary reductions from staff at both companies, in both states.[22]

Q. What regulatory approvals are required prior to the consummation of the proposed acquisition?

A. The transaction requires approval by the KCC, the Federal Energy Regulatory Commission ("FERC") and the U.S. Nuclear Regulatory Commission ("NRC"). With regard to Missouri, the Joint Applicants contended that the Missouri Public Service Commission ("PSC") did not have jurisdiction over the transaction. The Joint Applicants subsequently reached an agreement with the Missouri PSC Staff that would avoid the need for the PSC to rule on jurisdiction.

The proposed transaction is also subject to the provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"), as amended, which requires premerger notifications to be filed with the Federal Trade Commission and the Antitrust Division of the

20 Id., page 34.
21 Testimony of Mr. Bassham, page 8.
22 Testimony of Mr. Ruelle, pages 34-36.

Justice Department.[23] Shareholders for GPE and Westar have already approved the proposed transaction at a special meeting of Shareholders that occurred on September 26, 2016.

V. COMPLIANCE WITH MERGER STANDARDS

Q. What factors is the KCC likely to consider in its evaluation of the proposed transaction?

A. In its Order On Merger Standards, issued on August 9, 2016 in this docket, the KCC reiterated that in its review of the proposed transaction, it proposed to utilize the merger standards previously adopted in 97-WSRE-676-MER ("97-676 Docket"). In that Order, the KCC stressed that its primary concern is whether the merger will promote the public interest, and it set forth the following criteria that will be used to determine if the public interest standard had been met:

(a) The effect of the transaction on consumers, including:

(i) the effect of the proposed transaction on the financial condition of the newly created entity as compared to the financial condition of the stand-alone entities if the transaction did not occur;

(ii) the reasonableness of the purchase price, including whether the purchase price was reasonable in light of the savings that can be demonstrated from the merger and whether the purchase price is within a reasonable range;

(iii) whether ratepayer benefits resulting from the transaction can be quantified;

23 Id., page 19.

(iv) whether there are operational synergies that justify payment of a premium in excess of book value; and

(v) the effect of the proposed transaction on the existing competition.

(b) The effect of the transaction on the environment.

(c) Whether the proposed transaction will be beneficial on an overall basis to state and local economies and to communities in the area served by the resulting public utility operations in the state. Whether the proposed transaction will likely create labor dislocations that may be particularly harmful to local communities, or the state generally, and whether measures can be taken to mitigate the harm.

(d) Whether the proposed transaction will preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state.

(e) The effect of the transaction on affected public utility shareholders.

(f) Whether the transaction maximizes the use of Kansas energy resources.

(g) Whether the transaction will reduce the possibility of economic waste.

(h) What impact, if any, the transaction has on the public safety.

In the 97-676 Docket, the Commission made clear that the enumerated criteria can be supplemented to account for the unique facts and circumstances of each docket. These factors are the beginning criteria to be used when evaluating a merger application, and are to be supplemented by any other considerations that are relevant given the circumstances existing at the time of the merger proposal. In essence, the question is whether the public interest is served by approving the merger as determined by the specific facts and circumstances of each case. Mr. Ives provides in his testimony an overview as to how the Joint Applicants believe the proposed transaction meets these merger standards.

A. Effect on Consumers

1. Effect on Consumers - Financial Condition

Q. Please discuss the first merger standard, concerning the effect on consumers and the effect that the proposed transaction will have on the financial condition of the combined entity as compared to the financial condition of GPE and Westar as stand-alone entities.

A. A basic fact of the proposed transaction is that GPE is paying Westar shareholders approximately $2.30 for every $1.00 of assets being acquired, and much of that is being financed with debt. In addition, the overall transaction value of $12.2 billion includes the assumption of $3.6 million of Westar debt as well as issuance of new debt of $4.4 billion to finance a large portion of the cash payment to Westar shareholders. Both Standard and Poor's and Moody's Investor Service have expressed concerns regarding the use of leverage to finance this transaction. While both rating agencies contend that it is possible for GPE to maintain its current credit ratings, both rating agencies also expressed concerns about the thin margin for error that would result from the proposed transaction. The proposed transaction would put GPE right on the edge of the ability to meet the criteria used by the credit rating agencies for an investment grade rating.

In spite of this fundamental change in the capital structure of the consolidated entity, the Joint Applicants propose that the KCC continue to set rates as if utility operations are being financed with their current capital structures. Mr. Bryant discusses GPE's capital structure at page 18 of his testimony, where he indicates that the company will become more leveraged due to the $4.4 billion of new debt to be issued. Specifically it will move from approximately 50% equity to only 41% equity. However, Mr. Bryant goes on to state at page 19 of his testimony that "The Transaction will have little, if any, effect on the utility companies' respective capital structures. Following the Transaction, KCP&L and Westar will each maintain a capital structure consistent with past experience, targeted to be in the range of 49% - 54% equity dependent upon capital requirements, financing needs and timing." Thus, while GPE states that it will not seek to recover the acquisition premium from ratepayers, that is exactly what it is doing by proposing that the KCC ignore the highly leveraged consolidated capital structure that will result from the proposed transaction.

For illustrative purposes, assume that the Westar and KCP&L have a combined Kansas-jurisdictional rate base of $7 billion. Assuming debt costs of 5.5% and equity costs of 9.0%, the difference between a capital structure of 50% long-term debt and a capital structure of 59% long-term debt is almost $60 million annually in higher rates that would be paid by Kansas jurisdictional ratepayers. Moreover, this differential will increase over time, as the rate base of each company grows. This differential will also increase if capital costs increase in the future. Thus, while the Joint Applicants contend that ratepayers would not finance the acquisition premium being paid in this case, in fact ratepayers would be indirectly paying these costs.

In addition to the potential cost to ratepayers, the proposed transaction will also impact the financial condition of GPE shareholders, and perhaps not in a positive way. Mr. Bryant indicates at page 19 that the Transaction is expected to be neutral to GPE's forecast earnings per share in the first full year following the closing (2018) but will increase approximately 10% by 2020, or by approximately $0.20 per share, compared to GPE as a stand-alone entity. Mr. Bryant's testimony is no longer accurate, as is discussed more fully below, due to the fact that the September 27, 2016 issuance of common equity occurred at a lower price than planned and resulted in the issuance of significantly more shares of GPE stock and other changes in the financial model. But even if shareholders did receive $0.20 per share in higher annual earnings, it would still take more than 97 years to recover the $4.8 billion of goodwill that will result from this transaction.[24]

Q. How will GPE meet the additional cash flow needs to service its higher debt financings after the closing?

A. The additional $4.4 billion of new long-term debt in the capital structure is expected to require an incremental $170 million of annual interest expense, per Mr. Bryant at page 15 of his testimony. Mr. Bryant also indicates that the additional stock issuances by GPE will increase its dividends payable by $110 million, but that is offset by the $225 million of dividends that Westar will no longer be paying its public shareholders, for a net reduction in

24 Assuming 247.4 million total shares, as estimated on page 152 of the Proxy Statement, it would take 97.35 years. Given that more shares than anticipated were issued, the time to recover the goodwill would be even longer.

common dividends of $115 million. This savings in common dividends is itself almost exactly offset by the dividends payable on the mandatory preferred stock to be issued by GPE, which will require an annual payment of $115 million, resulting in a neutral impact of the merger transaction on dividends paid. After three years, at which time the preferred stock issued will convert to common stock, the Joint Applicants expected to have $50 million less in dividends than the two companies would have had as stand-alone entities. However, this savings estimate is now lower by about $14 million per year, due to the additional shares that were issued.[25] Therefore in the first three years after the closing of the Transaction, dividends will increase on a net basis by about $14 million instead of holding flat. Moreover, the net savings of $50 million originally expected in dividends after the preferred stock is converted to common will also be reduced by $14 million for a projected reduction in total dividend payments of only $36 million.

Mr. Bryant indicates beginning on page 16 of his testimony that the Joint Applicants are expecting $65-200 million of additional cash flow from the operations of its utility companies due to savings from the transaction, while acknowledging that these savings are only available to GPE between rate cases, as the savings will flow to customers in each future rate review. GPE can also rely on its approximately $400 million of net operating loss carry-forwards, which are sufficient for GPE to avoid the payment of cash income taxes until 2022, thereby increasing the cash flow from the operations of its utility companies.[26]

25 As can be determined by comparing the financial results in Tab C Merger Entries in the models provided in CURB-42 and later updated for the actual stock issuances at KCC-169.

Q. Has the company provided a financial model that demonstrates that the terms of the proposed merger transaction are financially sound?

A. The Company provided a financial model in response to CURB-42 that incorporates the terms of the proposed transaction and the Joint Applicants' estimated merger savings assumptions. However, the model is of rather limited usefulness in that it is based only on a three-year time horizon from 2018-2020, and it does not address how GPE will repay the principal on its anticipated $4.4 billion of newly issued debt. The financial model was subsequently updated in the response to KCC-169.

Q. Does the updated financial model for the transaction, provided in response to KCC-169, address your concerns regarding the ability of GPE to service its debt?

A. Regretfully, I must say that the updated financial model does not allay my concerns. The planning horizon for the model is still just the three year period, 2018-2020. I would have expected a longer time horizon to be examined, e.g. a horizon of at least ten years after closing of the transaction. I am especially concerned that the current model does not include <u>any</u> principal repayment on the $4.4 billion of new debt. The response to CURB-137 states

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26 Testimony of Mr. Bryant, page 17.

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Therefore, GPE has not provided any model demonstrating the impact of repaying $4.4 billion of new debt. Moreover, if the Company does not have a plan to pay off this debt, the debt would presumably need to be refinanced in future years, which could result in higher interest payments as well as additional fees and issuance costs. The KCC should be very concerned that GPE is proposing to take on $4.4 billion of new debt, for which it has provided no repayment plan. This is especially troubling, given the very thin margin of error on which GPE has justified the preservation of its credit ratings.

Q. Did you ask the Company how it intended to meet its repayment obligations for $4.4 billion in new debt?

A. Yes, we did. In response to CURB-137(c), which requested more specificity concerning the repayment of $4.4 billion in long-term principal, the Company responded,

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All of these sources of possible cash to meet principal repayments, except for the use of revolvers or refinancing, have already been captured in the updated financial model at the levels GPE was comfortable putting forth in its analysis of merger savings. For those same sources to now stretch further to help fund principal repayments starts to sound unrealistic – especially considering that the interest rate assumptions could prove optimistic. In any event, it appears that principal repayments will significantly strain an already marginal financial scenario and I cannot help but wonder if that is one reason that the time horizon for the financial analysis did not extend beyond 2020.

Q. How will GPE's issuance of an additional $4.4 billion of debt affect the credit ratings of the Joint Applicants?

A. Mr. Bryant indicates at page 21 of his testimony that the credit ratings of all of the Joint Applicants, GPE, KCP&L and Westar, are rated BBB+ by Standard and Poor's ("S&P"). That rating is two notches above a non-investment grade rating. S&P affirmed its BBB+ rating but gave each of the Joint Applicants <u>a negative outlook</u> after the agreement was announced. Moody's Investor Services ("Moody's") rates KCP&L and Westar Baa1, also two notches above a non-investment grade rating, but rates GPE's Senior Unsecured debt as Baa2, still investment grade but lower than the utilities' ratings. After the announcement of the agreement, Moody's affirmed the utility ratings with a stable outlook, but put GPE on review for a downgrade to Baa3, the lowest investment grade rating.

Q. Are the regulated utility subsidiaries protected from a negative credit event at the GPE Holding Company level?

A. I do not believe that they are. Despite the fact that the $4.4 billion of debt will be issued at the holding company level, and that no debt will be issued, guaranteed or have any recourse to any utility subsidiary, as stated on page 10 of Mr. Bryant's testimony, I am concerned about the risk of "contagion" for the utility subsidiaries. Moody's indicates at page 4 of its Rating Assessment that,

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END CONFIDENTIAL** I also note, per page 3 of the Moody's Rating Assessment, that while Westar and KCPL currently have a rating of Baa1, GMO only has a rating of Baa2, and therefore GMO is currently rated only one notch above the investment grade threshold of Baa3.

27 Moody's Rating Assessment, provided in response to CURB-40, page 4.

Q. What effect would a reduction in the credit ratings of the utilities have upon ratepayers?

A. The cost of debt will increase as the credit ratings decrease. An increase in the cost of debt will be reflected in a higher cost of capital applied to the rate base, thereby increasing the revenue requirement and driving up rates to consumers.

Q. Are there other aspects of Moody's Rating Assessment that concern you?

A. Yes, there are. I note that on page 4 of the Moody's Rating Assessment, Moody's indicates that ****BEGIN CONFIDENTIAL**

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Q. What conclusions do you draw from Moody's comments?

A. I conclude that the magnitude of the proposed transaction leaves little or no room to add protections for ratepayers without jeopardizing the investment grade ratings of GPE and possibly its subsidiaries. Appendix A of the Moody's assessment specifically mentions that its already sobering assessment is predicated on the fact that ****BEGIN CONFIDENTIAL**

END CONFIDENTIAL** In fact, it is clear that the proposed transaction, as currently structured, leaves GPE with a very small margin of error. Even if all of the assumptions and projections made by the Joint Applicants were entirely accurate, the proposed transaction as currently structured is tenuous at best. Any negative event could have serious consequences to GPE. It is also disconcerting that the enormous $4.4 billion of new debt is viewed by Moody's as likely to be a permanent addition to GPE's capital structure. This makes it even more likely that any increase in interest rates could jeopardize GPE's ability to service its debt.

Q. Is GPE requesting rate recovery of the acquisition premium of $4.8 Billion from ratepayers?

A. GPE originally did not ask for any rate recovery of the acquisition premium or recovery of the merger transaction costs incurred to develop and close the transaction.[28] However as discussed earlier, GPE now reserves the right to claim these expenses in rates if "any party to a general rate case of a GPE utility subsidiary proposes to impute the cost or proportion of debt GPE is using to finance the transaction to a GPE utility subsidiary for purposes of determining a fair and reasonable return for a GPE utility subsidiary. In that event, GPE and its utility subsidiaries reserve the right to seek, in any such rate case, recovery and

28 See page 12 of the Joint Application.

recognition in retail rates of goodwill (or transaction costs) related to the Transaction." [29]

However there has always been a proposal to recover the estimated $60 million in transition costs, to the extent they are expected to be offset by acquisition savings.[30] Mr. Ives indicates that KCP&L would not oppose an amortization of one-time transition costs over a multi-year period, and recognizes such costs are generally subject by the Commission to "some degree of amortization."[31] Mr. Ives discusses upcoming rate cases beginning at page 25 of his testimony and indicates that both Westar and KCP&L will file an abbreviated rate case in 2016 (which have both now been filed) and that both expect to file an additional case in 2018, with the cut-off date for review in those filings expected to be the second or third quarters. After the 2018 base rate case filings, it is expected that transaction savings will allow a longer stay-out, with any increases in savings subsequent to the 2018 rate cases retained by GPE until such time as new rate cases are filed.

Q. Has the Company put forth a plan to recoup the $4.8 billion goodwill adjustment that will result from the proposed transaction?

A. No, it has not. The Joint Applicants have failed to put forth any plan for recovery of the acquisition premium. Nor have the Joint Applicants represented to shareholders that the goodwill will actually be recovered and if so, over what period of time. The Joint Applicants recommended that shareholders approve the proposed transaction, and shareholders of both GPE and Westar have approved the merger. But how, and if, goodwill

29 See the response to CURB 115 and the Supplemental Direct Testimony of Mr. Ives at page 12.
30 See Mr. Kemp's testimony, Schedule WJK-3.

is to be recovered has apparently been left to the speculation of shareholders. It appears that the Joint Applicants put forth the terms of the agreement to shareholders and then left the decision to them concerning the value of the proposed acquisition.

Q. Why should the KCC be concerned about the failure of the Joint Applicants to address recovery of goodwill?

A. The KCC should be concerned for several reasons. First, in order to maintain its earnings level, and in fact to provide the increase in earnings per share that has been projected, GPE will need to find financial benefits in addition to those identified by Mr. Kemp. This means that GPE may be motivated to make deeper cuts than those currently estimated. Therefore, in an effort to enhance earnings, the Joint Applicants may find it necessary to take steps that could have a direct and detrimental impact on the quality of electric service in Kansas. This could include reducing capital spending in the utilities, reducing maintenance programs, and other cost cutting measures, such as a reduction in support of charitable donations and other community programs, eventual closure of the Topeka headquarters facility, and other steps.

Q. Are there other aspects of the proposed Transaction that result in increased risk for the combined entity?

A. Yes there are. The proposed transaction will double GPE's nuclear exposure as each utility currently holds a 47% stake in the Wolf Creek Nuclear Generating Station, and after the

31 Testimony of Mr. Ives, page 21.

acquisition GPE will hold a 94% stake in that facility. Both the Joint Applicants' investment advisors and the credit rating agencies have recognized the increased risks associated with single ownership of nuclear facilities. This risk could further jeopardize the ability of GPE to meet the financial benchmarks required by the rating agencies.

The Pro Forma Balance Sheet provided at page 143 of the Proxy Statement demonstrates that GPE's existing long-term debt at the holding company level of $3.5 billion will more than triple with the addition of $4.4 billion in new debt that will be issued to partially fund the cash portion of the acquisition and the assumption of the Westar debt of $3.6 billion. Mr. Bassham relies on assurances from the credit rating agencies that the transaction will allow GPE to maintain an investment grade credit rating for the holding company and its subsidiaries, but as discussed above the rating agencies acknowledge that the Joint Applicants' projections provide little margin for error. As a result of the proposed transaction, GPE's goodwill will increase from $169 million as of June 30, 2016 to almost $5.0 billion, in order to account for the premium paid to acquire Westar[32].

GPE currently serves 850,000 electric customers through its subsidiaries and of that number approximately 250,000 are customers of KCP&L in Kansas.[33] The acquisition of Westar will add over 700,000 new Kansas customers to GPE, resulting in total customers of over 1.55 million – an increase of 82%. Mr. Bryant's chart of Key Operating Metrics shown on page 4 of his testimony indicates that GPE's rate base will more than double, growing from $6.6 billion to $13.7 billion. Its generation capacity will nearly double from 6,446 MW

32 Proxy Statement, page 142.

33 Testimony of Mr. Bryant, page 3.

to 12,713 MW. Transmission miles will almost triple, from 3,600 miles to 9,900. Distribution miles will more than double from 22,500 to 51,300. Thus the acquisition of Westar will transform GPE into a much larger and more complex utility entity with a much more significant need for cash.

Q. What are the costs of the acquisition that will be incurred by GPE?

A. The costs of the acquisition include the acquisition premium, to be recorded as goodwill by GPE, of $4.8 billion, as shown on page 151 of the Proxy Statement. The Joint Applicants also estimate transaction costs for advisory, legal, investment banking and professional services fees of $80.4 million.[34] There are many other fees related to the new financings and change in control costs that are now estimated to bring total transaction and financing fees and costs to $246 million. In addition, Mr. Kemp estimates transition costs of $60 million over the first four years following the merger.[35] In addition, there are other future costs that have not yet been estimated by the Joint Applicants, such as costs for a common branding of utility operations.

Q. Please provide the details of the common and preferred stock that has already been issued by GPE.

A. The original assumptions included in the financial model supporting the Joint Application assumed that $1.5 billion of common equity would be issued to the public at a price of

34 Proxy Statement, page 150.

35 Schedule WJK-3.

\$29.45 per share. The original model also assumed the issuance of \$1.6 billion of mandatory convertible preferred equity carrying a 7.25% interest rate, of which \$750 million is to be issued to OMERS at the time of closing and \$850 million of which was to be issued to the public. The response to interrogatory KCC-169 indicates that on September 27, 2016, GPE issued \$1.552 billion of common equity at \$26.45 per share, a lower price than planned. The higher proceeds and lower price per share resulted in the issuance of approximately 8.0 million additional common equity shares versus the amount originally estimated.[36] Mandatory convertible preferred equity was also issued on September 27, 2016 in the amount of \$863 million at a 7% versus 7.25% interest rate.

Q. Are you concerned that the Company issued 8 million more equity shares than was anticipated at the time that the Joint Application was filed?

A. Yes, I am. ****BEGIN CONFIDENTIAL**

END CONFIDENTIAL**, and not the 10% accretion originally forecast and discussed in Mr. Bryant's testimony. In addition, the increase in dividends that

36 (See the attachments in responses to CURB 42 and KCC-169, "Dashboard" tab at page 11, showing 52.5 million and 60.5 million shares issued to the public respectively.)

will be required to support the additional common shares of equity will divert cash that could have been applied to the retirement of long-term debt.

The response to KCC-169 indicates that the financial model assumes that dividends on common stock grow from ****BEGIN CONFIDENTIAL**

END CONFIDENTIAL** The Proxy Statement indicates at page 60 that a special board meeting was held on May 18 2016, to discuss, among other things, the impact of the proposed merger on its credit ratings, so presumably the Moody's Rating Assessment was available to GPE as of that date. Five days after the special board meeting, GPE submitted a proposal to Westar based on a price of $58.25 per share with 85% in cash, but the board also authorized management to offer additional consideration of up to $60 per share with 90% cash.

37 Testimony of Mr. Bryant, page 19.

I am concerned that the proposed transaction has no margin to absorb any negative events before GPE could lose its investment grade rating, **BEGIN CONFIDENTIAL

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Q. Please summarize your conclusion regarding the first merger standard concerning the consumer impact associated with the financial condition of the newly created entity as compared to the financial condition of the stand-alone entities if the transaction did not occur.

A. As discussed above, the new combined entity will be in a much weaker financial condition after the transaction than either GPE or Westar would be on a stand-alone basis. It is also clear that the Board of Directors and GPE management knew about credit rating agency risk when they authorized this transaction, although there has been a further deterioration in projected earnings and an increase in cash requirements since the Proxy Statement was issued. While the proposed merger terms are structured to offer some protections to the utility subsidiaries from the financial risk of the transaction, such as issuing all the debt at the GPE holding company level, it is clear from the Moody's Rating Assessment that it is not possible to shield the regulated utilities from a transaction of this size. Indeed, S&P predicated its Ratings Evaluation upon an assumption that **BEGIN CONFIDENTIAL

END CONFIDENTIAL** There is simply no margin of error and no room left to add ratepayer protections without jeopardizing the investment grade ratings that are currently enjoyed and narrowly projected to be maintained by the parties. The Commission cannot simply ignore the serious financial risk to ratepayers that could result from this transaction.

2. Effect on Consumers - Reasonableness of the Purchase Price

Q. Please discuss the second consumer merger consideration listed in the KCC's Order On Merger Standards concerning the reasonableness of the purchase price, including

38 S&P Rating Evaluation, May 9, 2016, page 5.

39 Id, page 4.

whether the purchase price was reasonable in light of the savings that can be demonstrated from the merger and whether the purchase price is within a reasonable range.

A. Mr. Bryant argues, beginning at page 7 of his direct testimony that the purchase price is reasonable based on four factors: 1) the price was a result of a competitive bidding process, 2) savings from the merger will be substantial, ranging from $65 million in the first year following the merger and growing to $200 million per year, 3) the price and premium paid for Westar is comparable to similar market transactions and 4) the credit ratings are expected to remain at investment grade for GPE following the transaction.

The purchase price can be evaluated against several benchmarks. For example, the price paid per share of Westar stock can be evaluated relative to the stock price prior to the transaction becoming public knowledge. In this regard, Mr. Bryant calculates an acquisition premium of approximately $2.3 billion, or 36%, on the undisturbed Westar stock price of $44.08 on March 9, 2016, which was the closing price on the day prior to news of a potential transaction leaking to the public.[40] That may be a reasonable basis upon which to compare market prices, but I believe it is more appropriate to examine the purchase price in light of the amount of goodwill that will result from the transaction. Given that the acquisition is of regulated utility assets in rate base and prospective cash flows are necessarily tied to a return on such assets, the KCC should focus instead on the $4.8 billion goodwill adjustment that would result from the acquisition, as outlined on page 151 of the Proxy Statement. In

40 Testimony of Mr. Bryant, page 11.

addition the Merger Standards explicitly require a comparison of the acquisition premium to book value, per Section 5(a)(iv) of the KCC's Order on Merger Standards.

Mr. Bryant's four arguments do not demonstrate that the purchase price is reasonable in light of the savings that can be demonstrated from the merger. Regarding his first argument the fact that the price resulted from a competitive bidding process supports the fact that the price is based on an arms-length transaction, but it does not necessarily directly support the reasonableness of the final price that was agreed upon. According to the history of the transaction discussed in the Proxy Statement, GPE already had made an offer of $58.25 per share, with 85% payable in cash, that was superior to any other party's bid when it was encouraged to improve upon its offer in the final round.[41] At that time, the second bidder had offered a price between $54 and $56 per share with only 45% paid in cash. Ultimately, GPE's bid of $60 per share, 85% of which was payable in cash, with 15% in GPE common stock, and with a collar mechanism to protect the value of GPE stock for the benefit of Westar shareholders, was significantly better than that offered by the other active remaining bidder, identified as Bidder D in the prospectus. Bidder D proposed a price of $56 per share, with just $25 or 45% of that price payable in cash. I understand that GPE likely perceived a greater value in its merger prospects than did other bidders, given its service area is contiguous with the Westar service area, but in the end, it offered a price that has left very little room for error on its part, as discussed earlier in my testimony.

Secondly, Mr. Bryant also argues that the projected merger savings of $65 million,

41 Proxy Statement, page 61.

growing to $200 million annually after 3 full years, justify the acquisition premium of $2.3 billion mentioned above. Mr. Bryant's analysis is flawed in that it is comparing the acquisition premium based on stock market values to savings that will flow through the ratemaking equation based on actual costs. Moreover, in KCC Docket No. 97-WSRE-676-MER ("97-676 Docket"), the KCC examined a ten year forecast of savings, which in this case would be approximately $1.2 billion on a net present value basis,[42] or about half of the premium of $2.3 billion based on the undisturbed stock price as suggested by Mr. Bryant. But if the KCC compares the purchase price instead to the acquisition premium based on goodwill of $4.8 billion, even fifty years of savings is not sufficient to offset the acquisition premium.[43]

The third argument made by Mr. Bryant is that the purchase price is in line with premiums that have been paid in similar acquisitions. While that may be the case, it does not mean that the transaction itself is affordable for GPE. A larger utility company may be able to more readily absorb an acquisition adjustment resulting in $4.8 billion of goodwill. Or another company may be able to finance an acquisition with more equity and/or in a way that requires a smaller cash outlay. The problem in this transaction is not only the purchase price, but the fact that this purchase will result in such a large increase to GPE's long-term debt.

The fourth claim, that the holding company and its subsidiaries will maintain investment grade ratings, has already been discussed at length above and shown to be a very

42 Assuming the 2.4% inflation rate and 7.5% discount rate used by Mr. Bryant.

43 Assuming the 2.4% inflation rate and 7.5% discount rate, 50 years of savings would have a net present value of

tenuous claim.

Q. What is your conclusion regarding the reasonableness of the purchase price?

A. While the purchase price may appear reasonable compared to other market-based transactions, and while there are compelling reasons why these two companies fit well together, the absolute purchase price is simply too rich for an acquirer of the size of GPE. There is a considerable amount of downside risk to the estimated savings and cash flows, and any underperformance, as discussed in the Moody's Rating Assessment, could negatively impact both the holding company and its subsidiaries. A credit rating downgrade of utility subsidiaries will increase the cost of capital and thereby increase costs borne by the ratepayers. I understand that ratepayers are currently not being asked explicitly to pay for any portion of the acquisition premium, but the sheer size of the premium gives me pause, as discussed earlier in my testimony. Therefore, given the speculative nature of future savings and the possibility that adverse events will occur, I cannot conclude that the purchase price agreed to by GPE is reasonable from a consumer point of view.

3. Effect on Consumers - Quantification of Ratepayer Benefits

Q. Please discuss the Merger Standard concerning whether ratepayer benefits resulting from the transaction can be quantified.

$3.036 billion.

A. I did have an opportunity, along with Staff, to discuss the methodology used by GPE to estimate merger savings, to review the assumptions used to develop merger savings, and to trace how those savings were included in the financial planning models provided in response to CURB-42 and updated in KCC-169. I have concerns, as I perceive Staff may also have, regarding the speculative nature of the cost savings, such as the lack of planning for the staffing of the Topeka office and the overhead cost allocation savings. I remain concerned that the timing of the savings may prove overly ambitious and I am also concerned that complications could arise that would tend to increase, rather than decrease, costs in the period immediately following the closing. However, on balance, I am persuaded that the Company's testimony and financial modeling of savings estimates are reasonably quantified – if still subject to risk of achievement - at this point in the merger process.

4. Effect on Consumers - Operational Synergies That Justify A Premium

Q. Please comment on the Merger Standard concerning the effect on consumers of whether there are operational synergies that justify payment of a premium in excess of book value.

A. I do not believe that there are operational synergies that would justify the level of the premium proposed to be paid by GPE for Westar in this case. Not only are these savings insufficient to justify the expected premium recorded as goodwill, but GPE has failed to demonstrate how its new long-term debt will be repaid. In addition, the purchase price and associated financing requirements provide insufficient cushion with regard to credit ratings.

In addition, in his Supplemental Direct Testimony, Mr. Bryant implies that since GPE is not explicitly requesting recovery of the acquisition premium from ratepayers, then the acquisition premium is justified even if only $1.00 of savings flows to ratepayers. I disagree, for several reasons. First, Mr. Bryant states that GPE will not attempt to recover the acquisition premium from ratepayers unless any party recommends the use of a consolidated capital structure for ratemaking purposes, but under the Joint Applicants' proposal, ratepayers would be implicitly paying for the acquisition premium through rates that reflect a capital structure that is not representative of how actual utility operations are being financed. Second, Mr. Bryant ignores the fact that a high acquisition premium, even if it is not recovered from ratepayers, could still jeopardize the credit ratings and financial integrity of the consolidated entity, especially if it is being financed with significant amounts of new long-term debt that will become a permanent part of the consolidated capital structure. Third, since the Joint Applicants have not indicated how they expect to pay down the principal on the new long-term debt, it will likely need to be refinanced into new issuances, leaving the consolidated entity exposed to the risk of rising interest rates, which would further destabilize the combined entity that is already projected to be at the lower limits of investment grade credit ratings. Fourth, Mr. Bryant ignores the fact that pressure to meet debt service and/or to deliver enhanced earnings for shareholders could require the utilities to cut costs to such an extent that service quality and safety are affected.

Since Westar and KCP&L are utilities that are regulated on a cost-of-service basis, and since net book value is the standard by which rate base is calculated, then theoretically purchasers of utility companies should not be willing to pay significantly more than book value for the assets they acquire. That is especially true when the entity being acquired does not have substantial non-regulated operations. Given the fact that the overwhelming majority of the consolidated entity's operations will be regulated and the fact that the utilities will provide the majority of revenue supporting the consolidated entity, it is not only reasonable but also necessary to assess the magnitude of the acquisition premium in light of the utilities' net book values.

Q. Can you comment on Mr. Bryant's Supplemental Testimony and the net present value of synergy savings he calculates at page 6 of that testimony?

A. Mr. Bryant's Supplemental Testimony explicitly addresses the net present value of the stream of estimated savings put forth by the company for the three year period 2018-2020. The savings are estimated to grow from $63 million in year 1 to $199 million per Table 1 of Mr. Bryant's Supplemental Testimony at page 6. After 2020, the company assumes that the savings stream would continue to grow with inflation, at a rate assumed to be 2.4%. Mr. Bryant then calculates the value of the inflation-driven savings in perpetuity, based on a discount rate of 7.5%, which reflects the weighted average cost of capital for ratemaking purposes. He makes this calculation by dividing the $199 million future stream of savings by 5.1%, which is the difference between the inflation rate and the discount rate, to arrive at a net present value of $3.9 billion of savings. To this figure he adds back the present value of the savings over the first three years which he calculates to be $364 million, for a total net present value of savings of $4.26 billion, as shown in Table 1 to Mr. Bryant's Supplemental Testimony.

Q. Do you agree with Mr. Bryant's calculation of $4.26 billion as the net present value of savings for ratemaking purposes?

A. No, I do not. First, I should point out that while $4.26 billion is an impressive number, it still falls short of the acquisition premium over book value of $4.9 billion, referenced by Mr. Bryant at page 8 of his Supplemental Testimony. But more importantly, I do not agree with Mr. Bryant's use of an infinite time horizon to assess the value of a utility company's savings. To do so significantly overstates its value to any living person. In addition, the accuracy of any savings estimate diminishes the further out one goes in the future, and certainly an estimate based on perpetuity has a significant margin of error. I note that the Commission used a ten year planning horizon to assess the value of merger savings in the prior KCC Docket No. 97-WSRE-676-MER. Based on a ten-year period, the resulting net present value of merger savings is only $1.2 billion, far short of the $4.9 billion acquisition premium referenced by Mr. Bryant. Moreover, this $1.2 billion is based on 100% of the savings, so the net present value would be even smaller if the KCC elected to allocate merger savings between ratepayers and shareholders.

Therefore, while I understand that the Company does not expect to charge ratepayers for any portion of the acquisition premium, it is not possible for me to conclude that the synergies justify the size of this large acquisition premium.

5. Effect on Consumers - Existing Competition

Q. Please discuss the Merger Standard concerning the effect of the proposed transaction on the existing competition.

A. On page 10 of his Supplemental Testimony, Mr. Ives states that the proposed transaction does not affect the service areas of the utility subsidiaries, and therefore it will not have any effect on competition. In spite of the fact that there is currently no competition for regulated electric service, the proposed transaction will still eliminate one significant entity in the electric industry. This is a significant period for the electric industry, as new technologies evolve, resulting in new sources of renewable power, increased distributed generation, and other technological changes. Therefore, while I tend to agree with Mr. Ives that there will be virtually no short-term impact on competition, the elimination of one large player in the field could impact the progress of future technological development and implementation of new power sources. More importantly, the merger will eliminate one independent entity from the industry, an entity that has the potential to examine issues with a different perspective from GPE.

B. Effect on the Environment

Q. Please discuss the next merger standard, which is the effect of the transaction on the environment.

A. The proposed transaction could have a slightly positive impact on the environment. The Joint Applicants have assumed that certain coal generating units would be retired earlier than currently anticipated if the proposed transaction is approved. In addition, the transaction could result in synergies regarding reserve margins that would result in the need for less generation, thereby benefiting the environment. If the transaction results in early retirement of coal generation, then the impact on the environment could be positive.

However, the overall impact on ratepayers of early retirement of coal generation would also depend upon the ratemaking implications of the retirements. For example, the Joint Applicants could request recovery of stranded costs, resulting in ratepayers being required to continue to pay for generation facilities that are no longer providing utility service. In that case, the retirements could have a positive impact on the environment, but still result in a financial detriment to ratepayers.

Q. Are there other ways in which the proposed transaction could impact the environment?

A. Yes, the proposed transaction could negatively impact the environment if it resulted in rate structures that promoted increased energy consumption. Therefore, the KCC should consider the different rate structures of the Joint Applicants and the possibility that eventual rate consolidation could result in less efficient rate structures.

Q. Can you summarize the differences between the current Westar and KCP&L residential general use rate structures?

A. Yes, Westar's residential general (or standard) use rate schedule contains a customer charge, a declining-block winter energy charge, and an inclining-block summer energy charge. In the winter, the energy charge is lower for all usage in excess of 900 kWh per month. In the summer, the energy charge is higher for all usage in excess of 900 kWh per month. KCP&L's current residential general use (or RES-A) rate schedule contains a customer charge and a flat rate energy charge, which is seasonally differentiated (*i.e.*, higher in the summer than in the winter).

Therefore, Westar's inclining-block energy charge provides a strong price signal to all residential customers to conserve electricity in the summer months, which is Westar's peak season. By conserving electricity, residential customers exercise greater control over their electric bills, and benefit directly from the resulting reduction in their utility bills. At the same time, however, greater conservation can contribute towards a delay in the need to build expensive new generating plant, which benefits *all* ratepayers. Obviously, the conservation-oriented price signal inherent in Westar's inclining-block rate design is absent from KCP&L's residential rate structure. I understand that CURB has supported Westar's existing inclining-block rate structure in past Westar rate proceedings. It is also my understanding that KCP&L has consistently opposed the adoption of an inclining-block rate structure for residential customers.

Q. Has KCP&L made any commitment to retain Westar's inclining-block rate structure in the event the proposed transaction is approved?

A. No, it has not. Absent such a commitment, it is reasonable to conclude that KCP&L could seek to eliminate Westar's inclining-block rate design in a future rate proceeding, based on

KCP&L's past opposition to implementing a similar inclining-block rate design for its residential customers. The Joint Applicants have stated that the long-term plan is to move toward common branding of utility operations and a common rate structure. Elimination of Westar's inclining block structure could have a detrimental impact on the environment if it results in increased consumption per customer and increases generation requirements.

C. Effect on State and Local Economies

Q. Will the proposed transaction be beneficial on an overall basis to state and local economies and to communities in the area served by the resulting public utility operations in the state?

A. There are both benefits and detriments to the overall state and local economies. To the extent that the proposed transaction results in synergy savings, and lower utility rates, then there would be a potential benefit to the state and local economies. Lower electric rates would result in customers having more disposable income to spend on other items. This in turn would help the local and state economies as residents use these funds for purchases other than electricity. In addition, lower rates would make Kansas and the Westar/KCP&L service territories more competitive, potentially resulting in the location of new businesses and/or the relocation of existing businesses, although the relocation of existing businesses within Kansas would not have a net benefit to the state. Therefore, one would expect that a transaction resulting in lower electric rates would provide a benefit to the state and local economies, all other things being equal.

However, any such benefit would be offset by the negative economic impact of job losses, as discussed below. In addition, the proposed transaction could result in deterioration of service, as GPE strives to meet earnings objectives while financing the debt service resulting from the proposed acquisition. If service reliability does deteriorate, then any benefits accruing from lower electric rates could be offset by increased costs resulting from service outages and other disruptions. In addition, service degradation could make businesses hesitate to relocate to the Joint Applicants' service territory or to expand existing businesses.

In summary, the proposed transaction could bring both benefits and detriments to the state and local economies. At this time, it is difficult to say whether there would be net benefits to the state and local economies as a result of the transaction.

Q. Will the proposed transaction likely create labor dislocations that may be particularly harmful to local communities, or the state generally, and are there measures that can be taken to mitigate the harm?

A. Once again, the issue of labor dislocations is a difficult one. There will certainly be positions eliminated as a result of the proposed transaction. While one hopes that utilities would not retain positions that are not actually needed, the KCC must recognize that all losses of employee positions do create hardships. According to the Joint Applicants, the expectation is that the proposed transaction will result in the loss of ****BEGIN CONFIDENTIAL END CONFIDENTIAL**** full-time equivalent employees. The hope is that many of these positions will be eliminated through attrition rather than employee layoffs. While the use of attrition is certainly preferred to layoffs, a reduction in employee positions that is brought about by any means will result in an overall loss to the state and local economies, all other things being equal. Thus, the loss of employee positions could be detrimental to the economy, even if there are no layoffs. Moreover, even one employee layoff is certainly detrimental to the individual employee that is being terminated. This detriment would need to be weighed against the benefits of lower electric prices that resulted from the elimination of these positions, as stated above.

There are certainly ways that the detrimental impacts of layoffs can be addressed. In this case, the Joint Applicants are proposing severance packages for terminated employees. Such compensation will assist individual employees that are terminated as a result of the proposed transaction, but of course such severance packages come at a cost. The question for the KCC is whether the labor cost savings justify the detrimental impact of job losses and whether severance packages are both reasonable and sufficient.

D. Effect on KCC Jurisdiction

Q. Will the proposed transaction preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state?

A. The proposed transaction will generally preserve the jurisdiction of the KCC and the capacity of the KCC to effectively regulate and audit public utility operations in the state. However, to this end, the KCC should ensure that if it does approve the proposed transaction, such approval is contingent upon GPE's assurance that the KCC will retain its right to regulate all affiliate transactions, including those that may be subject to other regulatory bodies as well. For example, the KCC should not be bound by allocation factors or methodologies authorized by other regulatory jurisdictions, even if differences among allocation methodologies result in the Joint Applicants' failure to recover all of its costs. Similarly, the Joint Applicants should be precluded from arguing that federal regulatory authorities take precedence over state regulation with regard to cost allocations from affiliates.

While the KCC should preserve its full authority and jurisdiction to regulate the utility operations of Westar and KCP&L, it should be noted that there are differences among utility companies with regard to the extent of regulatory cooperation. In my experience, Westar is far more cooperative than KCP&L with regard to the regulatory process. As an example, in this case, Westar has been more forthcoming than KCP&L with regard to the provision of documents. So while the KCC will retain regulatory jurisdiction if the proposed transaction is approved, it should also consider the fact that it may be more difficult in the future to obtain certain information from GPE than it has been from Westar.

E. <u>Effect on Public Utility Shareholders</u>

Q. What is the effect of the transaction on affected public utility shareholders?

A. The effect of the transaction will depend on which shareholders are being considered. Westar shareholders will benefit handsomely if the proposed transaction is approved. This is because Westar shareholders will receive a significant premium for their stock. They will also receive a significant premium over the net book value of the assets being transferred. Thus, the impact on Westar shareholders is very beneficial. It should also be noted that Westar executives, as significant shareholders in Westar, also stand to materially benefit from the transaction. As noted earlier, the proposed transaction will result in the settlement of approximately $46 million of Westar equity awards to current Westar employees, much of which will accrue to the benefit of its officers, executives, and directors. As stated on page 109 of the Proxy Statement, there are five directors that have deferred equity compensation agreements that could result in payments ranging from $1.64 million to $5.48 million. Page 113 of the Proxy Statement indicates that Mr. Ruelle is expected to receive a payment of $10.75 million if the proposed transaction is completed. Thus, the Westar individuals that negotiated and authorized the sale will benefit handsomely from the transaction.

The effect of the transaction on GPE shareholders is less certain. In its proxy statement GPE stated that the proposed transaction would be accretive to earnings, resulting in an increase in earnings per share of approximately 10% by 2020. This estimate has since been reduced, given the actual financings that have occurred to date and the updated financial projections. Currently GPE estimates that the proposed transaction will only provide a modest accretion to earnings by 2020. In return for this modest increase in earnings, shareholders would then own a much larger company, but one that is significantly more leveraged and more risky. The question is whether the potential increase in earnings projected by GPE justifies the significant increase in financial risk resulting from financing of the proposed transaction with new long-term debt that will become a permanent part of

GPE's capital structure.

F. Effect on Kansas Energy Resources

Q. What is the effect of the proposed transaction on Kansas energy resources?

A. As noted earlier, the proposed transaction could result in an early termination of certain Kansas energy resources. In addition, it could result in more efficient use of such resources if the proposed transaction has a favorable impact on reserve margins. The proposed transaction could also enhance the efficiency of generation resources that are jointly owned by Westar and KCP&L.

As discussed earlier, the proposed transaction could also have a detrimental impact on Kansas energy resources due to employee layoffs, including labor reductions at generating facilities. Kansas energy resources could also be negatively impacted if there are unreasonable reductions in capital expenditures and/or unreasonable reductions in maintenance spending. Given the significant financial pressure on GPE that will result from financing this transaction, such reductions are certainly possible. Therefore, I believe that the effect of the proposed transaction on Kansas energy resources is unknown.

G. Effect on Economic Waste

Q. What is the effect of the proposed transaction on economic waste?

A. The Joint Applicants suggest that the proposed transaction will result in the more efficient use of resources, thereby minimizing economic waste. With regard to utility operations, the expectation is that the synergies of merging two contiguous utilities that share an ownership interest in certain generation facilities will enhance efficiencies and reduce waste.

However, the Joint Applicants do not address the issue of whether paying $2.30 for every dollar of utility assets is the most efficient economic use of these funds. As noted earlier, the proposed transaction will result in $4.8 billion of goodwill being recorded on GPE's balance sheet. One could argue that paying Westar's shareholders $60 per share for their stock increases economic waste, especially considering that the projected synergy savings do not justify the additional financial risk that will result from the proposed transaction.

H. Effect on Public Safety

Q. Will the proposed transaction have an effect on public safety?

A. The Joint Applicants argue that the transaction will not negatively impact public safety. While one would hope that public safety would not be negatively affected by the transaction, there is a risk that GPE will need to cut additional costs in order to finance its debt service requirements and/or its commitments to shareholders. While the KCC would retain jurisdiction to mandate safe electric service in Kansas, the impact of such cost cutting measures on public safety may not be immediately apparent. For example, utilities may be able to reduce spending for some period without a corresponding reduction in safety and reliability parameters. However, at some point, safety and reliability will be negatively impacted unless adequate capital expenditures are made and adequate maintenance programs are implemented. Cost cutting cannot continue indefinitely without negatively impacting service, including public safety. Therefore, the public safety issue, like many of the issues in this case, is directly related to the purchase price and to the financial risk inherent in the proposed financing of the transaction.

I. Summary of Merger Standard Compliance

Q. Given your assessment of the proposed transaction in light of the Merger Standards that have been adopted by the KCC, do you believe that the transaction as currently structured is in the public interest?

A. No, I do not. The bottom line is that GPE is paying a high price for Westar. Moreover, the proposed financing will put significant financial pressure on GPE and increase risks to ratepayers. The transaction could not only jeopardize the credit ratings of GPE and its subsidiaries, but it would also put financial pressure on GPE to cut additional costs, resulting in deterioration of electric service as management seeks ways to meet its debt service requirements and deliver on its commitment to shareholders. Even if one accepts the Joint Applicants' estimate of potential savings and financial projections, the proposed transaction provides no financial margin for error. While there are certainly some benefits of the proposed transaction, on balance, I do not believe that the proposed transaction as currently structured is in the public interest.

VI. OTHER RECOMMENDED PROVISIONS

Q. If the KCC approves the proposed transaction, what additional provisions or safeguards would you recommend?

A. If the KCC approves the proposed transaction, then I recommend that it impose the following additional provisions:

1. For ratemaking purposes, the KCC should utilize the consolidated GPE capital structure.
2. Westar and KCP&L dividends to GPE should be limited to the net income earned by the utilities, and no dividends should be paid by Westar or KCP&L to GPE unless GPE and its subsidiaries all maintain investment grade ratings.
3. Costs related to common branding should not be recovered from ratepayers.
4. Any transition costs that the KCC permits the Joint Applicants to recover from ratepayers should be amortized over a reasonable period of time and should not accrue carrying costs.
5. Any movement toward rate consolidation should move KCP&L toward the Westar rate structure.

Q. Why do you believe that it would be appropriate to utilize the consolidated GPE capital structure if the proposed transaction is approved?

A. I believe that it would be appropriate to utilize the consolidated GPE capital structure because that is the capital structure that is actually financing utility operations. The individual utility capital structures that the Joint Applicants propose to utilize for ratemaking purposes reflect an artificially high level of equity that, in turn, is being financed with holding company debt. In addition, the Joint Applicants have minimal non-regulated operations. This is not a situation where a holding company is financing a broad mix of various business enterprises, both regulated and non-regulated. In that case, the consolidated capital structure may not be appropriate to use for ratemaking purposes. However, in this case, the GPE consolidated capital structure is the capital structure that is financing the utilities. As pointed out by Moody's in its Rating Assessment, it is only "financial engineering" that creates the significant dichotomy between the utility capital structures and the consolidated capital structure.

Q. Why do you believe that it is appropriate to limit dividends to net income earned by the utilities and to require the suspension of dividends in the event an investment grade credit rating is lost?

A. As discussed at length in this testimony, GPE will be under significant financial pressure to meet its debt service requirements and its stated commitments to shareholders. Ultimately, it is the utilities that will provide the revenue streams necessary to meet these commitments. The Commission should ensure that the financial assets of the utilities are not jeopardized by GPE's financial commitments to investors resulting from this transaction. Limiting dividends from the utilities to the net income actually earned by the utilities will ensure that GPE cannot take more out of the utilities than what is being generated annually. In addition, requiring a suspension of utility dividends if an investment grade credit rating is lost provides an additional incentive to GPE to maintain its investment grade ratings. It effectively requires GPE's shareholders to assume a portion of the risk associated with the loss of an investment grade rating, which should provide an additional protection for ratepayers.

Q. Why should costs associated with a common branding be recovered from shareholders?

A. The officers of the Joint Applicants, as well as their shareholders, are driving this merger proposal. Creating and implementing a common brand for Westar and KCP&L will be a costly proposition. Moreover, it will largely benefit the consolidated GPE institutional entity. There is no reason for ratepayers, who would already be subject to significant financial risk if the proposed transaction is approved, to also be responsible for payment of these costs.

Q. If the proposed transaction is approved, why should any authorized transition costs be amortized over some reasonable period of time without carrying charges?

A. First, any transition costs that are incurred should be subject to review of all parties and each party should be free to argue against recovery of any such cost. However, to the extent that the KCC finds that some transition costs should be recovered from ratepayers, then it would be appropriate to amortize these costs over a multi-year period, given the fact that the cost savings or other benefits resulting from these costs would be expected to occur over a multi-year period. Amortization will therefore allow the KCC to better match the transition costs, which are generally one-time costs, with the resulting multi-year benefit to ratepayers. At the same time, I see no reason why the KCC should turn recovery into a profit center for investors by allowing the Joint Applicants to include carrying costs on the unamortized balances. Therefore, I recommend that transition costs be amortized over a reasonable period without carrying costs.

Q. Would it be appropriate for the Commission to approve the acquisition without a firm commitment from KCP&L that it will maintain the conservation-oriented inclining-block rate design currently in place for Westar's residential customers?

A. No. In order to ensure that the conservation-related benefits associated with Westar's existing residential inclining-block rate structure are available in the future, the Commission should require KCP&L to retain the inclining-block rate structure currently in place for Westar's residential customers in future rate proceedings, as a condition for approving the proposed acquisition. I am not recommending that KCP&L be required to change its existing residential rate structure to mirror that of Westar as a condition for approving the acquisition. However, if the proposed transaction is approved, it is conceivable that KCP&L might seek permission to serve residential customers via a consolidated (i.e., single) tariff in a future rate proceeding. In that situation, CURB recommends that the Commission require KCP&L to incorporate Westar's inclining-block rate structure in any proposal to consolidate residential rates, as a condition for approving the proposed acquisition.

Q. If the KCC adopts the five provisions discussed above, would you recommend that the proposed transaction be approved?

A. No, I would not. Even if the KCC adopted the above provisions, I believe that the proposed transaction would still not promote the public interest, given the proposed purchase price and financing structure. Therefore, even if the KCC adopted these additional ratepayer safeguards, I would still recommend that the transaction as currently proposed be rejected by the KCC.

Q. Does this conclude your testimony?

A. Yes, it does.

VERIFICATION

STATE OF CONNECTICUT)

COUNTY OF FAIRFIELD) ss:

Andrea C. Crane, being duly sworn upon her oath, deposes and states that she is a consultant for the Citizens' Utility Ratepayer Board, that she has read and is familiar with the foregoing Direct Testimony, and that the statements made herein are true to the best of her knowledge, information and belief.

Andrea C. Crane

Andrea C. Crane

Subscribed and sworn before me this 15th day of December, 2016.

Notary Public Benjamin D Cotton

My Commission Expires: BENJAMIN D COTTON Notary Public-Connecticut My Commission Expires June 30, 2017

APPENDIX A

List of Prior Testimonies

Company	Utility	State	Docket	Date	Topic	On Behalf Of
Kansas Gas Service	G	Kansas	16-KGSG-491-RTS	9/16	Revenue Requirements	Citizens' Utility Ratepayer Board
Public Service Company of New Mexico	E	New Mexico	15-00312-UT	7/16	Automated Metering Infrastructure	Office of Attorney General
Kansas City Power and Light Company	E	Kansas	16-KCPE-160-MIS	6/16	Clean Charge Network	Citizens' Utility Ratepayer Board
Kentucky American Water Company	W	Kentucky	2016-00418	5/16	Revenue Requirements	Attorney General/LFUCG
Black Hills/Kansas Gas Utility Company	G	Kansas	16-BHCG-171-TAR	3/16	Long-Term Hedge Contract	Citizens' Utility Ratepayer Board
General Investigation Regarding Accelerated Pipeline Replacement	G	Kansas	15-GIMG-343-GIG	1/16	Cost Recovery Issues	Citizens' Utility Ratepayer Board
Public Service Company of New Mexico	E	New Mexico	15-00261-UT	1/16	Revenue Requirements	Office of Attorney General
Atmos Energy Company	G	Kansas	16-ATMG-079-RTS	12/15	Revenue Requirements	Citizens' Utility Ratepayer Board
El Paso Electric Company	E	New Mexico	15-00109-UT	12/15	Sale of Generating Facility	Office of Attorney General
El Paso Electric Company	E	New Mexico	15-00127-UT	9/15	Revenue Requirements	Office of Attorney General
Rockland Electric Company	E	New Jersey	ER14030250	9/15	Storm Hardening Surcharge	Division of Rate Counsel
El Paso Electric Company	E	New Mexico	15-00099-UT	8/15	Certificate of Public Convenience - Ft. Bliss	Office of Attorney General
Southwestern Public Service Company	E	New Mexico	15-00083-UT	7/15	Approval of Purchased Power Agreements	Office of Attorney General
Westar Energy, Inc.	E	Kansas	15-WSEE-115-RTS	7/15	Revenue Requirements	Citizens' Utility Ratepayer Board
Kansas City Power and Light Company	E	Kansas	15-KCPE-116-RTS	5/15	Revenue Requirements	Citizens' Utility Ratepayer Board
Comcast Cable Communications	C	New Jersey	CR14101099-1120	4/15	Cable Rates (Form 1240)	Division of Rate Counsel
Liberty Utilities (Pine Buff Water)	W	Arkansas	14-020-U	1/15	Revenue Requirements	Office of Attorney General
Public Service Electric and Gas Co.	E/G	New Jersey	EO14080897	11/14	Energy Efficiency Program Extension II	Division of Rate Counsel
Black Hills/Kansas Gas Utility Company	G	Kansas	14-BHCG-502-RTS	9/14	Revenue Requirements	Citizens' Utility Ratepayer Board
Public Service Company of New Mexico	E	New Mexico	14-00158-UT	9/14	Renewable Energy Rider	Office of Attorney General
Public Service Company of New Mexico	E	New Mexico	13-00390-UT	8/14	Abandonment of San Juan Units 2 and 3	Office of Attorney General
Atmos Energy Company	G	Kansas	14-ATMG-320-RTS	5/14	Revenue Requirements	Citizens' Utility Ratepayer Board
Rockland Electric Company	E	New Jersey	ER13111135	5/14	Revenue Requirements	Division of Rate Counsel
Kansas City Power and Light Company	E	Kansas	14-KCPE-272-RTS	4/14	Abbreviated Rate Filing	Citizens' Utility Ratepayer Board
Comcast Cable Communications	C	New Jersey	CR13100885-906	3/14	Cable Rates	Division of Rate Counsel
New Mexico Gas Company	G	New Mexico	13-00231-UT	2/14	Merger Policy	Office of Attorney General
Water Service Corporation (Kentucky)	W	Kentucky	2013-00237	2/14	Revenue Requirements	Office of Attorney General
Oneok, Inc. and Kansas Gas Service	G	Kansas	14-KGSG-100-MIS	12/13	Plan of Reorganization	Citizens' Utility Ratepayer Board
Public Service Electric & Gas Company	E/G	New Jersey	EO13020155 GO13020156	10/13	Energy Strong Program	Division of Rate Counsel

The Columbia Group, Inc., Testimonies of Andrea C. Crane

Company	Utility	State	Docket	Date	Topic	On Behalf Of
Southwestern Public Service Company	E	New Mexico	12-00350-UT	8/13	Cost of Capital, RPS Rider, Gain on Sale, Allocations	New Mexico Office of Attorney General
Westar Energy, Inc.	E	Kansas	13-WSEE-629-RTS	8/13	Abbreviated Rate Filing	Citizens' Utility Ratepayer Board
Delmarva Power and Light Company	E	Delaware	13-115	8/13	Revenue Requirements	Division of the Public Advocate
Mid-Kansas Electric Company (Southern Pioneer)	E	Kansas	13-MKEE-447-MIS	8/13	Abbreviated Rate Filing	Citizens' Utility Ratepayer Board
Jersey Central Power & Light Company	E	New Jersey	ER12111052	6/13	Reliability Cost Recovery Consolidated Income Taxes	Division of Rate Counsel
Mid-Kansas Electric Company	E	Kansas	13-MKEE-447-MIS	5/13	Transfer of Certificate Regulatory Policy	Citizens' Utility Ratepayer Board
Mid-Kansas Electric Company (Southern Pioneer)	E	Kansas	13-MKEE-452-MIS	5/13	Formula Rates	Citizens' Utility Ratepayer Board
Chesapeake Utilities Corporation	G	Delaware	12-450F	3/13	Gas Sales Rates	Attorney General
Public Service Electric and Gas Co.	E	New Jersey	EO12080721	1/13	Solar 4 All - Extension Program	Division of Rate Counsel
Public Service Electric and Gas Co.	E	New Jersey	EO12080726	1/13	Solar Loan III Program	Division of Rate Counsel
Lane Scott Electric Cooperative	E	Kansas	12-MKEE-410-RTS	11/12	Acquisition Premium, Policy Issues	Citizens' Utility Ratepayer Board
Kansas Gas Service	G	Kansas	12-KGSG-835-RTS	9/12	Revenue Requirements	Citizens' Utility Ratepayer Board
Kansas City Power and Light Company	E	Kansas	12-KCPE-764-RTS	8/12	Revenue Requirements	Citizens' Utility Ratepayer Board
Woonsocket Water Division	W	Rhode Island	4320	7/12	Revenue Requirements	Division of Public Utilities and Carriers
Atmos Energy Company	G	Kansas	12-ATMG-564-RTS	6/12	Revenue Requirements	Citizens' Utility Ratepayer Board
Delmarva Power and Light Company	E	Delaware	110258	5/12	Cost of Capital	Division of the Public Advocate
Mid-Kansas Electric Company (Western)	E	Kansas	12-MKEE-491-RTS	5/12	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Atlantic City Electric Company	E	New Jersey	ER11080469	4/12	Revenue Requirements	Division of Rate Counsel
Mid-Kansas Electric Company (Southern Pioneer)	E	Kansas	12-MKEE-380-RTS	4/12	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Delmarva Power and Light Company	G	Delaware	11-381F	2/12	Gas Cost Rates	Division of the Public Advocate
Atlantic City Electric Company	E	New Jersey	EO11110650	2/12	Infrastructure Investment Program (IIP-2)	Division of Rate Counsel
Chesapeake Utilities Corporation	G	Delaware	11-384F	2/12	Gas Service Rates	Division of the Public Advocate
New Jersey American Water Co.	W/WW	New Jersey	WR11070460	1/12	Consolidated Income Taxes Cash Working Capital	Division of Rate Counsel
Westar Energy, Inc.	E	Kansas	12-WSEE-112-RTS	1/12	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Puget Sound Energy, Inc.	E/G	Washington	UE-111048 UG-111049	12/11	Conservation Incentive Program and Others	Public Counsel
Puget Sound Energy, Inc.	G	Washington	UG-110723	10/11	Pipeline Replacement Tracker	Public Counsel

The Columbia Group, Inc., Testimonies of Andrea C. Crane

Company	Utility	State	Docket	Date	Topic	On Behalf Of
Empire District Electric Company	E	Kansas	11-EPDE-856-RTS	10/11	Revenue Requirements	Citizens' Utility Ratepayer Board
Comcast Cable	C	New Jersey	CR11030116-117	9/11	Forms 1240 and 1205	Division of Rate Counsel
Artesian Water Company	W	Delaware	11-207	9/11	Revenue Requirements Cost of Capital	Division of the Public Advocate
Kansas City Power & Light Company	E	Kansas	10-KCPE-415-RTS (Remand)	7/11	Rate Case Costs	Citizens' Utility Ratepayer Board
Midwest Energy, Inc.	G	Kansas	11-MDWE-609-RTS	7/11	Revenue Requirements	Citizens' Utility Ratepayer Board
Kansas City Power & Light Company	E	Kansas	11-KCPE-581-PRE	6/11	Pre-Determination of Ratemaking Principles	Citizens' Utility Ratepayer Board
United Water Delaware, Inc.	W	Delaware	10-421	5/11	Revenue Requirements Cost of Capital	Division of the Public Advocate
Mid-Kansas Electric Company	E	Kansas	11-MKEE-439-RTS	4/11	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
South Jersey Gas Company	G	New Jersey	GR10060378-79	3/11	BGSS / CIP	Division of Rate Counsel
Chesapeake Utilities Corporation	G	Delaware	10-296F	3/11	Gas Service Rates	Division of the Public Advocate
Westar Energy, Inc.	E	Kansas	11-WSEE-377-PRE	2/11	Pre-Determination of Wind Investment	Citizens' Utility Ratepayer Board
Delmarva Power and Light Company	G	Delaware	10-295F	2/11	Gas Cost Rates	Attorney General
Delmarva Power and Light Company	G	Delaware	10-237	10/10	Revenue Requirements Cost of Capital	Division of the Public Advocate
Pawtucket Water Supply Board	W	Rhode Island	4171	7/10	Revenue Requirements	Division of Public Utilities and Carriers
New Jersey Natural Gas Company	G	New Jersey	GR10030225	7/10	RGGI Programs and Cost Recovery	Division of Rate Counsel
Kansas City Power & Light Company	E	Kansas	10-KCPE-415-RTS	6/10	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Atmos Energy Corp.	G	Kansas	10-ATMG-495-RTS	6/10	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Empire District Electric Company	E	Kansas	10-EPDE-314-RTS	3/10	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Delmarva Power and Light Company	E	Delaware	09-414 and 09-276T	2/10	Cost of Capital Rate Design Policy Issues	Division of the Public Advocate
Delmarva Power and Light Company	G	Delaware	09-385F	2/10	Gas Cost Rates	Division of the Public Advocate
Chesapeake Utilities Corporation	G	Delaware	09-398F	1/10	Gas Service Rates	Division of the Public Advocate
Public Service Electric and Gas Company	E	New Jersey	ER09020113	11/09	Societal Benefit Charge Non-Utility Generation Charge	Division of Rate Counsel
Delmarva Power and Light Company	G	Delaware	09-277T	11/09	Rate Design	Division of the Public Advocate
Public Service Electric and Gas Company	E/G	New Jersey	GR09050422	11/09	Revenue Requirements	Division of Rate Counsel
Mid-Kansas Electric Company	E	Kansas	09-MKEE-969-RTS	10/09	Revenue Requirements	Citizens' Utility Ratepayer Board
Westar Energy, Inc.	E	Kansas	09-WSEE-925-RTS	9/09	Revenue Requirements	Citizens' Utility Ratepayer Board

The Columbia Group, Inc., Testimonies of Andrea C. Crane

Company	Utility	State	Docket	Date	Topic	On Behalf Of
Jersey Central Power and Light Co.	E	New Jersey	EO08050326 EO08080542	8/09	Demand Response Programs	Division of Rate Counsel
Public Service Electric and Gas Company	E	New Jersey	EO09030249	7/09	Solar Loan II Program	Division of Rate Counsel
Midwest Energy, Inc.	E	Kansas	09-MDWE-792-RTS	7/09	Revenue Requirements	Citizens' Utility Ratepayer Board
Westar Energy and KG&E	E	Kansas	09-WSEE-641-GIE	6/09	Rate Consolidation	Citizens' Utility Ratepayer Board
United Water Delaware, Inc.	W	Delaware	09-60	6/09	Cost of Capital	Division of the Public Advocate
Rockland Electric Company	E	New Jersey	GO09020097	6/09	SREC-Based Financing Program	Division of Rate Counsel
Tidewater Utilities, Inc.	W	Delaware	09-29	6/09	Revenue Requirements Cost of Capital	Division of the Public Advocate
Chesapeake Utilities Corporation	G	Delaware	08-269F	3/09	Gas Service Rates	Division of the Public Advocate
Delmarva Power and Light Company	G	Delaware	08-266F	2/09	Gas Cost Rates	Division of the Public Advocate
Kansas City Power & Light Company	E	Kansas	09-KCPE-246-RTS	2/09	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Jersey Central Power and Light Co.	E	New Jersey	EO08090840	1/09	Solar Financing Program	Division of Rate Counsel
Atlantic City Electric Company	E	New Jersey	EO06100744 EO08100875	1/09	Solar Financing Program	Division of Rate Counsel
West Virginia-American Water Company	W	West Virginia	08-0900-W-42T	11/08	Revenue Requirements	The Consumer Advocate Division of the PSC
Westar Energy, Inc.	E	Kansas	08-WSEE-1041-RTS	9/08	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Artesian Water Company	W	Delaware	08-96	9/08	Cost of Capital, Revenue, New Headquarters	Division of the Public Advocate
Comcast Cable	C	New Jersey	CR08020113	9/08	Form 1205 Equipment & Installation Rates	Division of Rate Counsel
Pawtucket Water Supply Board	W	Rhode Island	3945	7/08	Revenue Requirements	Division of Public Utilities and Carriers
New Jersey American Water Co.	W/WW	New Jersey	WR08010020	7/08	Consolidated Income Taxes	Division of Rate Counsel
New Jersey Natural Gas Company	G	New Jersey	GR07110889	5/08	Revenue Requirements	Division of Rate Counsel
Kansas Electric Power Cooperative, Inc.	E	Kansas	08-KEPE-597-RTS	5/08	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Public Service Electric and Gas Company	E	New Jersey	EX02060363 EA02060366	5/08	Deferred Balances Audit	Division of Rate Counsel
Cablevision Systems Corporation	C	New Jersey	CR07110894, et al..	5/08	Forms 1240 and 1205	Division of Rate Counsel
Midwest Energy, Inc.	E	Kansas	08-MDWE-594-RTS	5/08	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board
Chesapeake Utilities Corporation	G	Delaware	07-246F	4/08	Gas Service Rates	Division of the Public Advocate
Comcast Cable	C	New Jersey	CR07100717-946	3/08	Form 1240	Division of Rate Counsel
Generic Commission Investigation	G	New Mexico	07-00340-UT	3/08	Weather Normalization	New Mexico Office of Attorney General
Southwestern Public Service Company	E	New Mexico	07-00319-UT	3/08	Revenue Requirements Cost of Capital	New Mexico Office of Attorney General

The Columbia Group, Inc., Testimonies of Andrea C. Crane

Company	Utility	State	Docket	Date	Topic	On Behalf Of
Delmarva Power and Light Company	G	Delaware	07-239F	2/08	Gas Cost Rates	Division of the Public Advocate
Atmos Energy Corp.	G	Kansas	08-ATMG-280-RTS	1/08	Revenue Requirements Cost of Capital	Citizens' Utility Ratepayer Board

CERTIFICATE OF SERVICE

16-KCPE-593-ACQ

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 16th day of December, 2016, to the following parties:

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