

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

In the Matter of Application of Great Plains Energy
Incorporated, Kansas City Power & Light Company
And Westar Energy, Inc. for Approval of the Merger of
Westar Energy Inc. and Great Plains Energy Incorporated

Docket No. 18-KCPE-095-MER

**RESPONSE OF CLIMATE AND ENERGY PROJECT TO STAFF'S OBJECTION TO
PETITION TO INTERVENE**

Petitioner Climate and Energy Project (CEP) hereby responds to Staff's objections to CEP's petition to intervene in the above-referenced docket.

1. Staff's objection to CEP's participation in this docket centers on the argument that CEP's interests are "aspirational" and are not consistent with "legal interests" as reflected in K.A.R. 82-1-225(a)(2).¹
2. Staff does not substantively address the legal interests of CEP as such relate to impacts on the environment specified by the Commission's 2016 Merger Standards Order para. 5(b). Staff does not contest CEP's assertion that it has developed expertise in environmental impacts related to the generation and use of energy. Likewise, Staff does not contest that CEP has a cognizable interest in seeing that any merged entity should minimize reliance on fossil fuels in order to maximize environmental benefits.² This merger standard has a direct impact on the members of CEP's Clean Energy Business Council, comprised of business entities that have a stake in the clean energy economy and therefore, an interest in how this proposed

¹ Staff objection, paras. 1, 5

² CEP petition to intervene, para. 4

merger addresses environmental issues. Similarly, communities with which CEP has worked have an interest in maximizing the practicable environmental benefits of the merger. This includes making certain that the environmental benefits that the Application alleges will materialize through the merger are thoroughly addressed in this docket.³

3. Staff does not substantively address the legal interests of CEP's Clean Energy Business Council, comprised of business entities that have a stake in the clean energy economy and therefore, an interest in how this proposed merger addresses issues related thereto.⁴ Nor does Staff address CEP's relationships with and advocacy on behalf of these businesses and the communities of which they are a part. Staff does not address the cognizable interests of these entities in the outcome of this proposed merger as anticipated under the Commission's 2016 Merger Standards Order para. 5(b). Accordingly, CEP should be granted full intervention status, including participation in any evidentiary hearing, on issues arising under the Commission's 2016 Merger Standards Order para. 5(b).
4. That this Commission has specifically designated economic impacts on communities and employment as considerations in proposed mergers makes CEP's interests more than "aspirational".⁵ The proposed merger's impacts on various communities and the members of CEP's Clean Energy Business Council are concrete interests. The merger's impacts have potentially far-reaching economic consequences for these businesses, their employees and local and the state's economies. Impacts on

³ CEP petition to intervene, para. 4

⁴ CEP petition to intervene, para. 5

⁵ See Docket 16-KCPE-593-ACQ, Final Order, para. 73

employment, including “labor dislocations and harm to local communities” that flow from a merger are material considerations.⁶ Accordingly, CEP should be allowed full intervention status, including participation in any evidentiary hearing, on issues arising under the Commission’s 2016 Merger Standards Order para. 5(c).

5. Staff does not substantively address CEP’s legal interests related to the Commission’s Merger Standards Order para. 5(f) that requires consideration of a whether a merger “maximizes the use of Kansas energy resources.”⁷ Staff does not dispute CEP’s stated experience and expertise related to Kansas energy issues nor that it will offer relevant evidence related thereto. CEP’s legal interest in whether the proposed merger meets the requirement as it is another aspect of advocacy on behalf of, *inter alia*, various communities and the members of CEP’s Clean Energy Business Council as discussed *supra*, paragraph 3. One of CEP’s stated objectives in its proposed intervention is to see that the merger results in maximum practicable use of Kansas energy resources.⁸ CEP’s uncontested and demonstrated focus on Kansas energy issues qualify it for full intervention, including participation in any evidentiary hearing, on issues arising under the Commission’s 2016 Merger Standards Order para. 5(f).
6. Staff does not substantively address CEP’s legal interests related to the Commission’s Merger Standards Order para. 5(g) that concerns whether the proposed merger reduces the possibility of economic waste.⁹ Nor does Staff contest CEP’s record of expertise and advocacy in matters of renewable fuels and efficient use of resources.¹⁰

⁶ Id., paras. 73, 77-81

⁷ CEP petition to intervene, para. 6

⁸ Id.

⁹ Docket 16-KCPE-593-ACQ, Final Order, para. 84

¹⁰ CEP petition to intervene, paras. 7-9

fossil fuel facilities. Closure of these facilities will have beneficial implications for *inter alia*, various communities and the members of CEP's Clean Energy Business Council as discussed *supra*. paragraph 3. Accordingly, CEP should be allowed full intervention status, including participation in any evidentiary hearing, on issues arising under the Commission's 2016 Merger Standards Order para. 5(g).

7. Staff does not contest CEP's assertion that its interests differentiate it from other parties in this docket; but such does not deter Staff from advocating CEP be allowed limited intervention status and specifically, be excluded from participation in any evidentiary hearing.¹¹ Hence, while Staff neither contests that CEP has experience and expertise in Kansas energy and environmental matters nor that CEP's interests are not represented by extant parties in this docket, it advocates that the Commission not hear CEP's evidence or arguments.
8. Staff likewise asserts, without any factual support, that CEP be excluded from evidentiary hearings to "promote orderly and prompt" adjudication of this docket.¹² CEP does not dispute that orderly and prompt adjudications are appropriate considerations for determining intervention status, but not at the expense of shortchanging due process. CEP's intervention petition advanced grounds for intervention only on its specified interests tied to designated merger standards. CEP itself has thereby limited its proposed intervention. This is consistent with promoting orderly and prompt adjudications. But this is not adequate for Staff. It would have CEP be an intervenor in form but not in substance on the very issues in which it has cognizable interests and demonstrated expertise and that no other party adequately

¹¹ Staff objection, paras. 6-7

¹² *Id.*

cognizable interests and demonstrated expertise and that no other party adequately represents. Under these circumstances denial of CEP's status as an intervenor with the right to participate in evidentiary hearings is an effective denial of due process.

WHEREFORE, Petitioner CEP hereby respectfully requests the Commission deny Staff's objections and issue an Order granting its Petition to Intervene consistent with the arguments and authorities herein.

Respectfully submitted,
The Climate Energy Project, Petitioner



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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF DOUGLAS) ss:

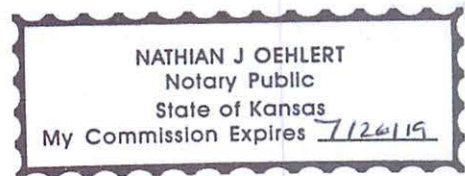
Robert V. Eye, of lawful age, being first duly sworn upon oath, deposes and states: That he is an attorney for the Climate Energy Project, that he has read the above and foregoing and that the statements therein contained are true according to his knowledge, information and belief.



Robert V. Eye

Subscribed and sworn to before me this 29th day of SEPTEMBER, 2017.

CERTIFICATE OF SERVICE

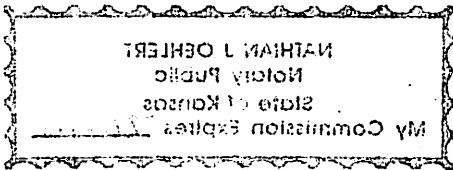


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