

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the 2017 Wolf Creek) Docket No. 18-WCNE-107-GIE
Triennial Decommissioning Financing Plan.)

**PETITION TO INTERVENE AND MOTION FOR
PROTECTIVE ORDER AND DISCOVERY ORDER**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and petitions the Corporation Commission of the State of the Kansas ("Commission") for intervention in the above-captioned case pursuant to K.S.A. 66-1223 and K.S.A. 77-521(a). In support of its petition and motion, CURB states and alleges as follows:

1. On September 01, 2017, Wolf Creek Nuclear Operating Corporation ("WCNOC"), Kansas Gas and Electric Company d/b/a Westar Energy ("Westar"), Kansas City Power & Light Company ("KCP&L"), and Kansas Electric Power Cooperative, Inc. ("KEPCo") (collectively referred to as the "Parties") filed a Joint Pleading Regarding Decommissioning Financing Plan with the Kansas Corporation Commission concerning the Decommissioning Financing Plan ("Plan") for the Wolf Creek Generating Station ("Wolf Creek"), which includes the 2017 triennial Decommissioning Cost Study for Wolf Creek.

2. CURB is composed of five volunteer board members.¹

3. CURB has specific statutory authority to "represent residential and small commercial ratepayers before the state corporation commission"² and to "function as an *official intervenor in cases* filed with the state corporation commission."³ CURB's authority and role as the official

¹ K.S.A. 66-1222(a).

² K.S.A. 66-1223(a).

³ K.S.A. 66-1223(b).

intervenor in cases filed with the Commission has been recognized by the Kansas Supreme Court.⁴ CURB also has specific statutory authority to seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers.⁵

4. CURB's express statutory authority referenced above reflects the intent of the Legislature that CURB should participate in cases filed with the Commission. This fulfills the requirement under K.S.A. 77-521(a)(2) because CURB "qualifies as an intervener under any provision of law."

5. The residential and small commercial ratepayers whose interests CURB represents will be bound by any Commission order or activity in this proceeding. The rates paid and the services received by residential and small commercial ratepayers may be substantially affected by any Commission order or activity in this proceeding with respect to the proposed Decommissioning Financing Plan of the Parties.

6. The representation of CURB's interests in this proceeding by existing parties is inadequate. No other party to this proceeding is authorized to (a) specifically represent residential and small commercial ratepayers before the Commission, (b) function as the statutory official intervenor in cases filed with the Commission, or (c) seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers. While Commission Staff may have authority to investigate, evaluate, testify and offer exhibits on behalf of the *general public* pursuant to a definition contained in a Commission regulation,⁶ Staff does not specifically represent

⁴ K.S.A. 66-1223(b). See, *Citizens' Utility Ratepayer Board v. Kansas Corporation Comm'n*, 24 Kan. App.2d 63, 68, rev. den. 262 Kan. 959 (1997) ("*CURB v. KCC*"). See also, *Farmland Industries, Inc. v. Kansas Corp. Comm'n*, 29 Kan.App.2d 1031, 1047-48, 37 P.3d 640 (2001) ("The bulk of current customers otherwise entitled to receive refunds are *statutorily represented* by CURB. See K.S.A. 66-1223(a)")

⁵ K.S.A. 66-1223.

⁶ Staff's authority to represent the general public is not specifically authorized by statute, but merely referenced in the

residential and small commercial ratepayers and is expressly denied the right to appeal Commission orders.⁷

7. Accordingly, CURB has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party. Pursuant to K.S.A. 77-521(a)(2), CURB qualifies as an intervenor (a) under provision of law and (b) because the rights, duties, privileges, immunities, or other legal interests of residential and small commercial ratepayers may be substantially affected by this proceeding.⁸

8. CURB's requested intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.⁹

9. CURB therefore requests that the Commission grant CURB's Petition to Intervene and allow CURB to participate fully in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings.

10. In addition to undersigned counsel, please include the following CURB representatives with all electronic notices, pleadings, and correspondence regarding this Application as follows:

Shonda Smith
Office Manager
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
Email: sd.smith@curb.kansas.gov

Della Smith
Administrative Specialist
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
Email: d.smith@curb.kansas.gov

definition section of Commission regulations. K.A.R. 82-1-204(q) ("Technical staff may conduct investigations and otherwise evaluate issues raised, and may testify and offer exhibits on behalf of the *general public*." (emphasis added).

⁷ K.A.R. 82-1-204(i)(3).

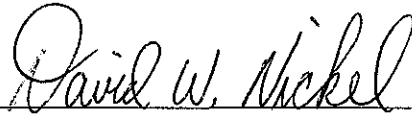
⁸ K.S.A. 77-521(a)(2).

⁹ K.S.A. 77-521(a)(3).

11. Pleadings, testimony, exhibits and discovery responses may contain confidential information. CURB is requesting the Commission issue a Protective Order and Discovery Order in this docket to allow CURB and its consultant access to the full information contained in this filing.

WHEREFORE, CURB respectfully requests the Commission grant its Petition for Intervention and Motion for Protective Order and Discovery Order in this Docket.

Respectfully submitted,



David W. Nickel, Consumer Counsel #11170

Thomas J. Connors, Attorney #27039

Todd E. Love, Attorney #13445

Citizens' Utility Ratepayer Board

1500 SW Arrowhead Road

Topeka, KS 66604

(785) 271-3200

(785) 271-3116 Fax

d.nickel@curb.kansas.gov

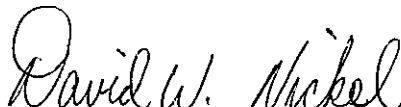
tj.connors@curb.kansas.gov

t.love@curb.kansas.gov

VERIFICATION

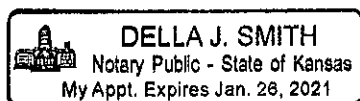
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)


I, David W. Nickel, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



David W. Nickel

SUBSCRIBED AND SWORN to before me this 13th day of September, 2017.





Notary Public

My Commission expires: 01-26-2021.

CERTIFICATE OF SERVICE

18-WCNE-107-GIE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 13th day of September, 2017, to the following:

ROBERT J. HACK, LEAD REGULATORY
COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST
FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
ROB.HACK@KCPL.COM

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 31ST
FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
roger.steiner@kcpl.com

BRIAN G. FEDOTIN, DEPUTY GENERAL
COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
b.fedotin@kcc.ks.gov

ROBERT VINCENT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD.
TOPEKA, KS 66604-4027
r.vincent@kcc.ks.gov

WILLIAM G. RIGGINS, GENERAL COUNSEL
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
briggins@kepco.org

CATHRYN J. DINGES, CORPORATE
COUNSEL
KANSAS GAS & ELECTRIC
CO. D/B/A WESTAR ENERGY
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
cathy.dinges@westarenergy.com

DEBBIE L. HENDELL, GENERAL COUNSEL
AND SECRETARY
WOLF CREEK NUCLEAR OPERATING
CORPORATION
1550 OXEN LANE NE
PO BOX 411
BURLINGTON, KS 66839
dehende3@wcnoc.com



Della Smith
Administrative Specialist