

**May 5, 2017**

1    **Q.     Would you please state your name and business address?**

2    A.     My name is Kristina Luke Fry. My business address is 1500 Southwest Arrowhead  
3           Road, Topeka, Kansas, 66604.

4    **Q.     Are you the same Kristina Luke Fry who filed direct testimony in this docket on**  
5           **April 11, 2017?**

6    A.     Yes.

7    **Q.     What is the purpose of your testimony?**

8    A.     I am testifying on behalf of the Staff of the Kansas Corporation Commission (Staff and  
9           Commission, respectively) in support of the settlement of the issues outlined in the  
10          Unanimous Settlement Agreement (Agreement) between Westar Energy (Westar), the  
11          Citizens' Utility Ratepayers Board (CURB), United States Department of Defense and all  
12          Other Federal Executive Agencies (DOD), and Staff (collectively, the Parties).<sup>1</sup>

13           My testimony will explain why the Commission should approve the Agreement as  
14          a reasonable resolution of the issues in this docket, which will produce just and reasonable  
15          rates. Specifically, I will:

- 16           • Provide background information about this docket;
- 17           • Provide an overview and discussion of the Agreement;
- 18           • Discuss the standard of review used to guide the Commission in its consideration of  
19           whether to accept the Agreement;<sup>2</sup> and
- 20           • Discuss the evidence in the record that supports the Agreement.
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<sup>1</sup> *Joint Motion to Approve Unanimous Settlement Agreement and Modify Procedural Schedule*, Docket No. 17-WSEE-147-RTS filed on May 3, 2017.

<sup>2</sup> *Order Approving Contested Settlement Agreement*, Docket No. 08-ATMG-280-RTS, pp. 4-6 (May 12, 2008).

**BACKGROUND INFORMATION**

**Q. Please provide a brief background of this case.**

A. On October 26, 2016, Westar filed an Application seeking Commission approval to increase its rates for electric service. Westar was required by the Commission in Docket No. 15-WSEE-115-RTS (15-115 Docket) to file an abbreviated rate case to update actual costs for the LaCygne Environmental Project and Wolf Creek Capital Additions. The 15-115 Order allowed Westar to spend up to \$50 million on its Grid Resiliency program (EDGR). Finally, Westar was required to include the final Environmental Cost Recovery Rider (ECRR) costs occurring in 2015. In support of its Application, Westar provided direct testimony and supporting schedules indicating a revenue deficiency of \$17,445,707.

On April 11, 2017, Staff filed direct testimony recommending a total revenue increase of \$16,317,254. As discussed in direct testimony, Staff proposed updates to plant balances and all affected components for the LaCygne Environmental Project and EDGR to actuals as of February 28, 2017, updated Westar's proposed adjustments for ECRR and Wolf Creek accumulated depreciation to February 28, 2017.

CURB also filed its direct testimony on April 11, 2017, recommending a total revenue increase of \$16,464,532, based on its analysis of Westar's Application. CURB adjusted the total costs relating to EDGR to not exceed the agreed upon \$50 million.

On April 25, 2017, Westar filed rebuttal testimony accepting some of the adjustments recommended by Staff. Westar's rebuttal testimony recommended a revenue increase of \$16,412,124.

On April 26, 2017, the Parties reached a unanimous settlement via email

communication.

**TERMS OF THE SETTLEMENT AGREEMENT**

**Q. Please provide an overview of the Agreement.**

A. The Agreement establishes an agreed upon total revenue increase of \$16,366,511.

**Q. Please discuss in detail the provisions of the Agreement.**

A. The provisions of the Settlement Agreement are as follows:

- The Parties agree that Westar's total overall revenue requirement increase will be \$16,366,511.
- The Parties agree that Westar's revenue requirement is based on the cost of capital established by the Commission in the 15-115 Docket.
- The Parties agree the revenue requirement increase will be allocated among the customer classes as listed in the table below, and the Company's retail rates for each customer class will be adjusted as shown in the schedules attached to the Settlement.

Customer Class	Revenue Allocation
Residential	9,223,271
SGS	2,907,061
MGS	1,552,065
LGS/ILP	1,466,300
LTM	37,617
ICS	18,386
Special Contracts	173,528
Schools	477,122
Churches	14,073
Lighting	497,088
<b>TOTAL</b>	<b>16,366,511</b>

**COMMISSION STANDARDS FOR APPROVING SETTLEMENT AGREEMENTS**

**Q. Has the Commission previously used factors or standards to review a settlement agreement?**

A. Yes. The Commission's Order in Docket No. 08-ATMG-280-RTS (08-280 Docket) discusses five factors, or standards, and multiple agreements have been reviewed by the Commission using the five factors since that Order.<sup>3</sup> However, more recent Commission Orders have noted that, for unanimous settlement agreements, parties need not apply the historical five-factors test set forth in the 08-280 Docket.<sup>4</sup>

**Q. What standards does the Commission generally examine when considering a unanimous settlement agreement?**

A. The Commission may accept a unanimous settlement agreement so long as approval of the settlement is: (1) supported by substantial competent evidence in the record as a whole; (2) results in just and reasonable rates; and (3) is in the public interest.<sup>56</sup> Each of these factors is discussed individually below.

**SUPPORT FOR THE SETTLEMENT AGREEMENT**

**Q. Please address whether the Agreement is supported by substantial competent evidence in the record as a whole.**

A. The Agreement is supported by substantial competent evidence in the record as a whole. The Agreement is supported by Westar's Application and the Parties' direct and rebuttal

<sup>3</sup> *Order Approving Contested Settlement Agreement*, 08-280 Docket, p. 5 (May 5, 2008).

<sup>4</sup> *Order on KCP&L's Application for Rate Change*, 15-116 Docket, ¶ 16, p. 6 (Sept. 10, 2015).

<sup>5</sup> *Ibid*, ¶ 15.

<sup>6</sup> *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of State of Kansas*, 28 Kan. App. 2d 313,316, 16 P.3d 319, 323 (2000).

1 testimony. Staff vigorously analyzed the Application and formed its own conclusions  
2 which were filed in direct testimony. In addition, CURB, DOD, and IBEW 304 reviewed  
3 the filing and stated their respective positions in direct testimony. These filed positions,  
4 along with live testimony from the hearing, represent the body of evidence the  
5 Commission would rely on to make a determination of the issues presented by this case if  
6 the case were to be fully litigated. The Parties also relied on this evidence in negotiations  
7 and eventually arrived at an agreed upon resolution of the issues. It is Staff's position that  
8 the terms of this Agreement are commensurate with what could be expected if the case  
9 were to be fully litigated.

10  
11 **Q. How was the revenue requirement increase of \$16,366,511 arrived at by the Parties?**

12 A. There is no specific calculation identified in the S&A that supports the amount. Parties  
13 to a settlement are often unwilling to state exactly how they arrived at a settlement  
14 amount because it divulges what a particular party believes about the strength of their  
15 litigation position. The revenue requirement agreed to by the Parties necessarily requires  
16 a compromise between Staff's revenue requirement and Westar rebuttal revenue  
17 requirement position.

18  
19 **Q. Does the Agreement result in just and reasonable rates?**

20 A. Yes. This Agreement results in rates that fall within the "zone of reasonableness"  
21 described by the Kansas courts in which the result is balanced between the interests of  
22 investors versus ratepayers, present versus future ratepayers, and is in the public interest  
23 generally. The agreed-upon revenue requirement decrease strikes the proper balance

1 between the Company's desire to have a reasonable assurance that it will earn sufficient  
2 revenues and cash flows to meet its financial obligations and the need to keep rates as low  
3 as possible for the customers, while providing reliable electric service. In short, the level  
4 of cost recovery afforded under this settlement reflects Westar's cost of providing  
5 reasonably sufficient and efficient service.<sup>7</sup>

6 The presence of professional expert witnesses and attorneys helps ensure that any  
7 unreasonable positions taken by any party are eliminated by opposing parties through the  
8 settlement process. More specifically, while an unreasonable position may or may not be  
9 discussed explicitly in settlement, each party is generally unwilling to make concessions  
10 to unreasonable position and will exclude such unreasonable position from their  
11 respective settlement positions. The fact that all Parties in this case, with diverse interests,  
12 have found common ground for resolving their respective issues strongly supports Staff's  
13 contention that the settled revenue decrease in this case is just and reasonable and is in the  
14 public interest.

15  
16 **Q. Are you aware of the balancing test set forth by the Kansas Supreme Court for**  
17 **determining whether rates are "just and reasonable"?**

18 A. Yes, the Kansas Supreme Court has stated:

19 The leading cases in this area clearly indicate that the goal should be a rate fixed  
20 within the "zone of reasonableness" after the application of a balancing test in  
21 which the interests of all concerned parties are considered. In rate- making cases,  
22 the parties whose interests must be considered and balanced are these: (1) the  
23 utility's investors vs. the ratepayers; (2) the present ratepayers vs. the future

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<sup>7</sup> K.S.A. 66-101b.

ratepayers; and (3) the public interest.<sup>8</sup>

**Q. What evidence in this case should be considered when performing the balancing test set forth by the Kansas Supreme Court?**

A. Staff's contention is the Agreement before the Commission comfortably passes the balancing test set forth by the Kansas Supreme Court. The following supports this assertion: (1) the agreed-upon revenue requirement balances the interests of the utility's investors and the ratepayers because it is a reduction from Westar's filed position without jeopardizing the ability of Westar to provide efficient and sufficient electric service; (2) Staff has strived to eliminate any intergenerational inequity in its filed position and the settlement, and therefore the Agreement provides a fair balance between present and future ratepayers; and (3) the fact that both of the two factors above have been met is itself an indication that the Agreement is in the public interest generally. I will discuss this in greater detail below.

**Q. Does Staff believe the results of the Agreement are in the public interest?**

A. Yes. There were multiple interests represented by the Parties involved in the negotiations, with CURB representing the interests of residential and small general service ratepayers, Westar representing the interest of its management and shareholders, and Staff attempting to balance each of those interests while representing the interests of the public generally. The fact that these varied interests were able to collaborate and present a unanimous resolution of the issues in this case strongly indicates the public interest standard has been met.

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<sup>8</sup> *Kan. Gas and Electric Co. v. State Corp Comm'n*, 239 Kan. 483, 488 (1986).



1                   Generally speaking, the public interest is served when ratepayers are protected  
2                   from unnecessarily high prices, discriminatory prices and/or unreliable service. More  
3                   specifically, it is Staff's opinion that the Agreement meets the public interest because:

- 4                   • It adjusts Westar's requested revenue decrease to a level that better reflects the  
5                   Company's cost of service;
- 6                   • It provides Westar with sufficient revenues and cash flows to meet its financial  
7                   obligations and provide reliable service;
- 8                   • In settlement negotiations, each of the Parties represented their respective interests by  
9                   putting time, thought, and analysis into deriving a settlement position it found  
10                  reasonable;
- 11                  • The stipulated revenue decrease was based on the record and is a reasonable  
12                  compromise among the Parties based on each party's own analysis of a reasonable  
13                  outcome; and
- 14                  • If this Agreement is approved, the Parties would avoid the costly and time-consuming  
15                  process of a fully-litigated hearing. It is in the public interest to avoid these costs if  
16                  possible and this Agreement accomplishes this result.

17  
18   **Q.     Should the Commission accept the Agreement as a reasonable resolution of the issues**  
19   **in this docket?**

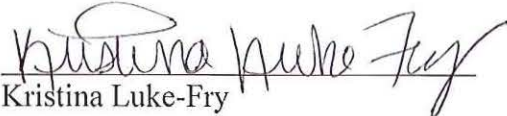
20   **A.**    Yes, the Agreement represents a reasonable resolution of the issues in this docket, results  
21           in just and reasonable rates, is in the public interest, and is supported by substantial  
22           competent evidence in the record.

- 1    **Q.**     **Does this conclude your testimony?**
- 2    A.     Yes, thank you.

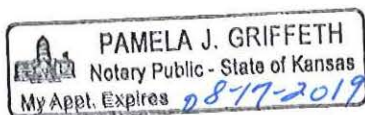
STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SHAWNEE            )

**VERIFICATION**

Kristina Luke-Fry, being duly sworn upon her oath deposes and states that she is the Managing Auditor for the Utilities Division of the State Corporation Commission of the State of Kansas, that she has read and is familiar with the foregoing *Staff Testimony in Support of Unanimous Settlement Agreement*, and that the statements contained therein are true and correct to the best of her knowledge, information and belief.

  
\_\_\_\_\_  
Kristina Luke-Fry  
Managing Auditor, Utilities Division  
Kansas Corporation Commission of the  
State of Kansas

Subscribed and sworn to before me this 5<sup>th</sup> day of May, 2017.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires: August 17, 2019

## CERTIFICATE OF SERVICE

17-WSEE-147-RTS

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff Testimony in Support of Unanimous Settlement Agreement was served by electronic service on this 5th day of May, 2017, to the following:

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