

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of the Application of ITC Great Plains, LLC)
to Amend Its Certificate of Public Convenience and)
Authority to Transact the Business of an Electric Public) Docket No. 08-ITCE-936-COC
Utility in the State of Kansas (Ford, Kiowa, Clark and)
Comanche Counties).)

In the Matter of the Application of ITC Great Plains, LLC)
to Amend Its Certificate of Public Convenience and)
Authority to Transact the Business of an Electric Public) Docket No. 08-ITCE-937-COC
Utility in the State of Kansas (Comanche, Clark and Barber)
Counties).)

In the Matter of the Application of ITC Great Plains, LLC)
to Amend Its Certificate of Public Convenience and)
Authority to Transact the Business of an Electric Public) Docket No. 08-ITCE-938-COC
Utility in the State of Kansas (Barber, Harper, Kingman,)
Sumner and Sedgwick Counties).)

In the Matter of the Application of Prairie Wind)
Transmission, LLC, for a Certificate of Public Convenience)
to Transact the Business of an Electric Public Utility in) Docket No. 08-PWTE-1022-COC
Ford, Kiowa, Clark, Comanche, Barber, Pratt, Harper,)
Kingman, Sumner and Sedgwick Counties, Kansas.)

ORDER GRANTING PETITIONS TO INTERVENE, DIRECTING
STAFF TO FILE A REPORT AND RECOMMENDATION,
AND REQUESTING COMMENTS FROM PARTIES

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The above-captioned matters come before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and being fully advised of all matters of record, the Commission summarizes the arguments of the parties and finds and concludes as follows:

1. The four applications listed above ask the Commission to approve certificates of convenience allowing these parties to construct, own, operate, and maintain bulk electric transmission lines in Kansas. Specific applications will be discussed below. Generally, these applications present two proposals to construct a transmission line through the same area of Kansas. ITC Great Plains, Inc. (ITC) filed its proposal in three applications, which correspond to three segments of the line. Prairie Wind Transmission LLC (Prairie Wind) filed one application regarding its proposal. This transmission line would involve a high voltage line, 345 kV or higher, that connects a substation near Spearville, Kansas, with a substation near Wichita, Kansas, and interconnects with a transmission line running north out of Oklahoma. Parties refer to this proposed line as the "V-plan." The Commission notes these Applications do not propose a specific route but, instead, request issuance or modification of certificates that would allow these Applicants to proceed with planning for transmission lines that would implement their respective proposals. The Commission has jurisdiction over these applications under K.S.A. 66-101, *et seq.*, K.S.A. 2007 Supp. 66-104, K.S.A. 66-117, and K.S.A. 66-131.

2. This Order will address preliminary issues pending in these dockets. Numerous parties have filed petitions to intervene; the Commission will address each request to intervene separately. The Commission will take under advisement pending requests to consolidate three of

the four dockets and to dismiss these three dockets, which together set out ITC's proposal. This Order will direct the Commission's Staff to file a Report and Recommendation (1) identifying issues that must be decided to address these Applications, including factual questions, (2) proposing a procedure for handling these issues, and (3) suggesting a schedule for resolving those issues. Parties will have an opportunity to respond to Staff's characterization of issues and proposed schedule before the Commission issues a scheduling order.

FINDINGS AND CONCLUSIONS

I. Pending Applications

A. Background Information

3. Before addressing the pending applications, the Commission pauses briefly to review recent developments involving regulation of electric transmission lines. To promote the regionalization of transmission service, the Federal Energy Regulatory Commission (FERC), encouraged the voluntary formation of Regional Transmission Organizations (RTOs) to foster greater competition among, and access to, a wider array of generation options for all load-serving entities within a region.¹ As part of this regionalization process, Kansas utilities initiated KCC Docket No. 06-WSEE-203-MIS (06-203) to request approval to transfer control of their transmission facilities to the Southwest Power Pool, Inc. (SPP), which at the time was in the process of obtaining RTO status.² At the same time, SPP filed an Application asking the Commission to grant it a certificate of convenience and authority for the limited purpose of managing and coordinating the use of certain transmission facilities located within the state of Kansas. KCC Docket No. 06-SPPE- 202-COC (06-202). In an Order issued September 19, 2006, in Docket Nos. 06-202 and 06-203, the Commission approved a Stipulation and Agreement

¹ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (1999), *order on reh'g*, Order No. 2000-A, Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. 31,092 (2000), *aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (DC Cir. 2001).

² *Order Granting RTO Status Subject to Fulfillment of Requirements*, 106 FERC ¶ 61,110 (2004); *Southwest Power Pool, Inc., Order on Compliance Filing*, 109 FERC ¶ 61,009 (2004); *Southwest Power Pool, Inc., Order on Proposed Joint Operating Agreement*, 109 FERC ¶ 61,008 (2004); *Southwest Power Pool, Inc., Order on Rehearing*, 109 FERC ¶ 61,110 (2004).

reached among the parties to these dockets and granted SPP's request for a limited certificate. The Order also approved the request of Kansas utilities to transfer functional control of their transmission facilities to SPP, as these facilities were defined in the Joint Application of Kansas utilities. September 19, 2006 Order, Ordering ¶ E.

4. After SPP's request for a limited certificate was approved, ITC filed an Application for "a limited certificate of public convenience and authority to construct, own, operate and maintain bulk electric transmission functions in the State of Kansas." KCC Docket No. 07-ITCE-380-COC (07-380). Parties in Docket 07-380 reached a unanimous Stipulation and Agreement (380 S&A) and asked the Commission to approve ITC's request for a limited certificate. In its Order issued June 5, 2007, the Commission approved the 380 S&A and granted ITC "a certificate of convenience and authority for the limited purpose of building and operating SPP Transmission Projects in the state, subject to conditions contained in the S&A and more fully discussed above [in the order.]" June 5, 2007 Order, Ordering ¶ (C). One of the conditions set forth in the 380 S&A provided that ITC agreed that each Affected Incumbent Transmission Owner, as defined in the 380 S&A, "shall have the right of first refusal to construct SPP Transmission Projects[.]" 380 S&A, ¶ 11. Several terms were defined in the 380 S&A, including "Incumbent Transmission Owner," "Affected Incumbent Transmission Owner," and "SPP Transmission Project." 380 S&A, ¶¶ 7 to 9. In approving the 380 S&A, the Commission noted that if multiple Affected Incumbent Transmission Owners are involved, "each one will have a right of first refusal to construct its portion of the SPP Transmission Project." June 5, 2007 Order, ¶ 21, *citing* Staff Memo, pp 4-5.

5. ITC then submitted an Application to amend its certificate to allow ITC to proceed with construction of a 345 kV electric transmission line from a substation near Spearville, KS, to Axtel, NE, where it will interconnect with a substation owned and operated by Nebraska Public Power District. KCC Docket No. 08-ITCE-544-COC (08-544). In addition, a new substation will be constructed near Hays, Kansas, to interconnect with Midwest Energy's system. The Commission Staff noted the only incumbent transmission owners affected by construction of this line did not express an interest in constructing the project and no intervenors expressed an interest

in building the line. Additionally, Staff had contacted each Affected Incumbent Transmission Owner and was informed that their intervention should not be construed to indicate that they were exercising their right of first refusal under the 380 S&A. Therefore, Staff concluded ITC had met all requirements of the 380 S&A to receive the requested certificate. The Commission granted ITC's application to amend its certificate of public convenience and authority to transact the business of an electric public utility in the state of Kansas to allow it to proceed with construction of the line from Spearville and Axtel. March 12, 2008 Order, ¶ 9.

B. ITC Applications, Docket Nos 08-936, 08-937, 08-938

6. On April 11, 2008, ITC filed three separate Applications that again sought to amend its certificate that the Commission initially approved in Docket No. 07-380. Each Application asked the Commission to amend ITC's certificate to allow ITC to proceed with its proposal to construct and operate a portion of a transmission line project that ITC referred to as the "V-Plan." In this Order, the Commission will refer to the three separate segments of ITC's proposal by the specific docket number. Thus, the "936 segment" refers to the transmission line ITC proposes for Comanche, Clark and Barber Counties, as described in Docket No. 08-ITCE-936-COC (08-936); the "937 segment" refers to the line ITC proposes for Comanche, Clark and Barber Counties in Docket No. 08-ITC-937-COC (08-937); and the "938 segment" refers to the line ITC proposes for Ford, Kiowa, Clark, Comanche, Barber, Pratt, Harper, Kingman, Sumner and Sedgwick Counties in Docket No. 08-ITCE-938-COC (08-938).

7. In its Applications, ITC noted its intent to construct all three segments. 938 Application, ¶ 5. ITC explained the three segments of its "V-plan" proposal constitute the top portion of SPP's X-plan project, which SPP has identified as an economic project in its on-going Transmission Expansion Plan. 938 Application, ¶ 6. ITC recognized, as a condition of the 380 S&A, that Affected Incumbent Transmission Owners have a right of first refusal to construct "the portion of that segment that lies within [the Affected Incumbent Transmission Owner's] existing service area." 938 Application, ¶ 10. ITC asked that the Commission expedite consideration of

its Application to allow ITC to proceed with design and construction of its project to avoid undue delay. 938 Application, ¶ 11.

C. Prairie Wind Application, Docket No. 08-PWTE-1022-COC

8. On May 19, 2008, Prairie Wind Transmission, LLC (Prairie Wind) filed an Application in Docket No. 08-PWTE-1022-COC (08-1022) to construct, own, operate and maintain a new bulk (765 kV) transmission system in Kansas that would augment the SPP grid in much the same way as the ITC proposal.³ Prairie Wind explained its ownership was divided in half between Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) and Electric Transmission America, LLC (ETA). The Application explained that ETA is a subsidiary of American Energy Power Company (AEP) and Mid-American Energy Holdings Company (MEHC). Prairie Wind Application, ¶¶ 1-8.

9. Prairie Wind urged the Commission to grant it a certificate and discussed why its application is in the public interest. Prairie Wind Application, ¶¶ 14-16. Prairie Wind further discussed the benefits of the project it seeks to build. Prairie Wind Application, ¶¶ 17-18. Regarding cost recovery for the project, Prairie Wind stated:

Prairie Wind will propose that its revenue requirement be recovered from SPP members based on each member's load ratio share of the SPP transmission load. The use of such a recovery method and "postage stamp" rates for Prairie Wind is a condition precedent to construction of the facilities, will facilitate financing of the project and assure that the benefits of the facilities are apportioned equitably throughout the SPP.

Prairie Wind Application, ¶ 19. The Application explained the structure and financing of Prairie Wind and noted its intent to comply with statutory and regulatory requirements. Prairie Wind Application, ¶¶ 24-26. Prairie Wind submitted testimony in support of its Application.

II. Petitions to Intervene

10. The Commission has broad discretion to grant a petition for intervention if it is in the interest of justice, if the intervention will not impair the orderly and prompt conduct of the proceedings, and if the party has stated facts demonstrating its legal rights, duties, privileges,

³ Although its Applications proposed constructing a 345 kV line, ITC asserted it "is willing and able to build the facilities at 765 kV." Docket No. 08-938, ITC's Response to Westar's Reply, filed June 2, 2008, ¶

immunities, or other legal interests may be substantially affected by the proceeding. K.S.A. 77-521(a); K.A.R. 82-1-225. At any time during a proceeding, the Commission may impose limitations on an intervenor's participation. K.A.R. 82-1-225(c); K.S.A. 77-521(c). This can include limiting an intervenor's participation to designated issues in which the intervenor has a particular interest or limiting use of discovery and other procedures. K.A.R. 82-1-225(c)(1)-(3). See K.S.A. 77-521(c)(1)-(3).

A. Petitions to Intervene in ITC's Applications

11. Numerous parties have requested intervention in ITC's dockets. Each party seeks intervention in all three ITC dockets. On August 28, 2008, the Citizens' Utility Ratepayer Board filed petitions to intervene in each ITC docket; those petitions will be ruled on after the time for response has run. K.A.R. 82-1-218(d). The Commission will discuss all other petitions by party.

1. The Southwest Power Pool, Inc. (SPP)

12. SPP, which filed separate petitions in each ITC docket, is a FERC⁴-approved regional transmission organization (RTO) and a regional Reliability Council. Therefore, SPP is responsible for taking all reasonable steps, including planning and general oversight duties, needed to maintain and enhance reliability of the electric transmission network operated by its member companies in Kansas and adjacent states. SPP's interest will be substantially affected by the outcome of the ITC Applications. SPP asserted it is in the interest of justice to grant intervention and will not impair the orderly and prompt conduct of the proceedings.

13. The Commission finds SPP's participation will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. SPP's petition is granted. Counsel listed at the end of SPP's petition will be added to the service list of this proceeding.

2. Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC

14. Sunflower Electric Power Corporation (Sunflower) and Mid-Kansas Electric Company, LLC (MKEC) filed a motion to intervene listing all three ITC dockets. Sunflower is a

⁴ The Federal Energy Regulatory Commission (FERC) recognized SPP as a regional transmission organization (RTO) pursuant to the standards and requirements prescribed in FERC Order Nos. 2000 and 2000-A. See FERC Docket Nos. RT04-1-000 and ER04-48-000.

consumer-owned corporation operated on a not-for-profit basis by six rural electric distribution cooperatives (Sunflower Members) that serve retail customers in 34 western Kansas counties.⁵ Sunflower is a public utility fully regulated by the Commission. K.S.A. 2007 Supp. 66-104.

15. MKEC is a limited liability company operating on a not-for-profit basis that was created by Sunflower Members to bid for the Kansas electric assets of Aquila, Inc. The members of MKEC are the same as Sunflower Members, except Southern Pioneer Electric Company is a wholly-owned subsidiary of Pioneer Electric Cooperative, Inc. The Commission approved MKEC's acquisition of Aquila's electric assets.⁶

16. Sunflower and MKEC argue they have direct interest in these proceedings as potential builders, owners and operators of new transmission facilities in the state. Both currently own, operate, and maintain transmission lines and provide transmission service in the state. Also, they indicate their desire to continue providing such services through upgrades to their existing facilities and by constructing new facilities to serve their load requirements, to reduce congestion, to facilitate the economical purchase and sale of electric power and energy, and to help facilitate an effective and competitive electric market in Kansas and the SPP region. Motion, ¶ 6. Also, they are Affected Incumbent Transmission Owners because ITC's proposed line would interconnect Sunflower's Spearville substation and MKEC's transmission facilities. Motion, ¶ 6. Sunflower and MKEC argue that they would be substantially affected by the outcome of this proceeding and that the interest of justice, as well as the orderly and prompt conduct of these proceedings, will not be impaired by allowing their intervention. Motion, ¶ 7.

17. As part of their motion to intervene, Sunflower and MKEC clarify that they have made no commitments to ITC concerning construction of the V-plan; in particular, Sunflower and MKEC, while acknowledging they have discussed construction of the V-plan with ITC, stated that they have not relinquished any rights granted to them as Affected Incumbent Transmission Owners to build this line. Sunflower & MKEC Motion, ¶¶ 11-13.

⁵ The cooperatives are listed in the Motion to Intervene at p. 1, n. 1.

⁶ KCC Docket No. 06-MKEE-524-ACQ, Order issued February 23, 2007.

18. To connect with the Spearville facility, a portion of ITC's proposed line will traverse Sunflower's and MKEC's existing certified service territory. The Commission finds granting their request to intervene will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants Sunflower's and MKEC's motion to intervene. Counsel listed at the end of the motion will be included on the service list of this proceeding.

3. Kansas City Power & Light Company (KCPL)

19. On July 9, 2008, the Kansas City Power & Light Company filed a petition to intervene listing all three ITC dockets. KCPL notes that it is engaged in the generation, transmission, distribution, and sale of electric energy and that it distributes and sells electric service to the public in certificated areas in Kansas as a public utility subject to the jurisdiction of this Commission. Also, KCPL is a transmission owning member of SPP, operating in the same region as ITC, and will be impacted by ITC's proposed projects. KCPL stated that it has a direct interest in these proceedings that cannot adequately be represented by any other party and that its intervention will not prejudice any party to the proceedings or impair the orderly conduct thereof. KCPL requested that all pleadings, orders, notices or other documents be served on counsel listed at the close of its Petition and on the following:

Richard A. Spring
Kansas City Power & Light Company
1201 Walnut – 21st Floor
Kansas City, Missouri 64106
Phone: 816-556-2231
Fax: 816-556-2924
Email: Richard.Spring@kcpl.com

20. The Commission finds that allowing KCPL to intervene will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants KCPL's petition to intervene. Counsel listed at the end of KCPL's petition, as well as Richard Spring listed above, shall be included on the service list of this proceeding.

4. Westar Energy, Inc. and Kansas Gas and Electric Company (Westar)

21. On April 25, 2008, Westar filed a Motion to Intervene, to Consolidate, and to Dismiss. Regarding its request to intervene, Westar noted it currently provides transmission service in Kansas and wants to continue providing these services through upgrades to its existing facilities and by constructing new facilities to reduce congestion and facilitate commercial transactions. As a potential builder, owner and operator of new transmission facilities in Kansas and an Affected Incumbent Transmission Owner, Westar asserted it has a direct interest in the ITC Applications that cannot be represented by any other party. Due to its clear interests in these dockets, Westar requested that it be allowed to intervene and participate as a party in these dockets.

22. Disagreeing with Westar's claim that it had a right of first refusal regarding the entire project described in ITC's three Applications, ITC filed a separate response in each docket and opposed Westar's request to intervene in Dockets 08-936 and 08-937. ITC argued that Westar did not have an interest to protect in these two dockets because Westar did not have authority to build transmission lines in the counties covered by those two dockets. ITC asserted that Westar was not an Affected Incumbent Transmission Owner for purposes of these two dockets and, therefore, Westar's interests will not be substantially affected by the outcome of the proceedings. ITC did not oppose Westar's status as an Affected Incumbent Transmission Owner regarding Docket 08-398 or Westar's intervention in that docket. Westar and ITC filed additional responsive pleadings addressing the Motion to Dismiss.

23. The test for deciding whether to grant intervention is not limited to a party's status as an Affected Incumbent Transmission Owner. The Commission finds that granting Westar's request to intervene in the three ITC dockets will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants Westar's request to intervene. Counsel listed at the end of Westar's motion will be included on the service list of this proceeding.

5. The Kansas Power Pool Resolution

24. Although not seeking to intervene as a party, on May 27, 2008, the Kansas Power Pool submitted a letter in the three ITC dockets. Attached to the letter is Kansas Power Pool Resolution # 2008-2, which was passed by the Board of Directors of the Kansas Power Pool on May 14, 2008. The Resolution expresses public support for transmission line construction and expansion in Kansas and urges future transmission construction and expansion "without any undue delay." The Commission notes the filing of this resolution. K.S.A. 77-523(c). The Kansas Power Pool will need to request intervention to be placed on the service list and participate as a party in these dockets.

B. Petitions to Intervene in the Prairie Wind's Application.

25. Several parties seek permission to intervene in Docket No. 08-1022 regarding Prairie Wind's Application. The Commission will address these requests below.

1. SPP, KCPL, Sunflower and MKEC

26. SPP, KCPL, Sunflower and MKEC have requested permission to intervene in the Prairie Wind docket for the same reasons they articulated in seeking to intervene in the ITC dockets. SPP filed its Petition to Intervene on June 6, 2008; KCPL filed its Petition to Intervene on July 9, 2008; and Sunflower and MKEC filed their Motion to Intervene on July 11, 2008. The Commission finds that granting the requests of these parties to intervene in the docket involving Prairie Wind's Application will not impair the proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants intervention to these parties. These same counsel and representatives discussed above to be included on the service list in the ITC dockets will be included on the service list in the Prairie Wind docket, No. 08-1022.

2. ITC

27. ITC filed a Petition to Intervene regarding Prairie Wind's Application. ITC noted the project proposed in Prairie Wind's Application is similar to the plan it has proposed. Citing ITC's previous efforts to work within the SPP process to effectuate build-out of high voltage lines in the same area Prairie Wind has proposed, ITC argued its legal rights or interests may be

substantially affected by this proceeding. ITC further stated that the interest of justice and the orderly and prompt conduct of this proceeding will not be impaired by allowing ITC to intervene. Finally, ITC's interest in the outcome of this proceeding cannot be adequately represented by any other party.

28. The Commission finds that allowing ITC to intervene in the Prairie Wind docket will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants ITC's request to intervene. Counsel listed at the end of ITC's motion will be included on the service list of this proceeding.

3. The Citizens' Utility Ratepayer Board

29. The Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene on July 15, 2008. CURB, which is statutorily created, represents the interests of Kansas residential and small commercial ratepayers in utility proceedings. K.S.A. 66-1223, *et seq.* CURB noted the rates paid and the service received by the consumers it represents will or may be affected by a Commission order in this proceeding. Noting interest in this proceeding may not be adequately represented by existing parties, CURB requests permission to intervene.

30. The Commission finds that allowing CURB to intervene will not impair these proceedings and is in the interest of justice. K.A.R. 82-1-225. The Commission grants CURB's request to intervene. CURB's Consumer Counsel listed at the end of CURB's petition will be included on the service list of this proceeding.

III. Further Proceedings

31. As noted above, Westar filed a Motion to Intervene, to Consolidate, and to Dismiss ITC's Applications in Docket Nos. 08-936, 08-937, and 08-938. ITC filed a Response to Westar's Motion; Westar filed a Reply to ITC's Response; ITC filed another response to Westar's Reply; and Westar filed another reply to ITC's second response. The Commission has only ruled on Westar's request to intervene, which is granted above.

32. Regarding Westar's Motion to Consolidate, Westar argued that ITC's three dockets are really one project; therefore, Westar urged the Commission to treat the separate filings as one

and consolidate them in a single proceeding. Regarding Westar's Motion to Dismiss, Westar argued ITC's Applications should be dismissed because ITC did not comply with the condition in the 380 S&A that recognized an Affected Incumbent Transmission Owner, as defined in the 380 S&A, has a right of first refusal concerning a transmission line that crosses its territory. Westar urged the Commission to dismiss ITC's Applications because Westar stated it is interested in building the transmission line proposed in ITC's dockets. The Commission declines to rule on these two issues at this time and takes them under advisement.

33. Meanwhile, the Commission notes the four dockets addressed in this Order raise numerous critical issues regarding approval of applications seeking to develop construction of future, high voltage transmission lines in Kansas. The Commission believes it has a critical role to play in this decision. Many issues of first impression are presented, including the standard to apply in evaluating these applications and the process to be used in making the required decisions. Also, the Commission is aware that the SPP's Strategic Planning Committee has formed the Transmission Ownership/Construction Task Force (TOCTF) to address the issue of how to decide which company should build high-voltage lines. Before making further decisions regarding these issues, the Commission requests its Staff file a report regarding the task the Commission faces. Staff is asked to file a report and recommendation that (1) summarizes issues the Commission will need to decide, including any factual questions it anticipates will need to be determined; (2) proposes procedures to address these issues; and (3) suggests a schedule for resolving these dockets. Staff's report shall include a summary of what issues other entities, such as SPP, will decide regarding construction of these high-voltage transmission lines, as well as the procedure and time line those entities are expected to use. The Commission directs Staff to file its Report and Recommendation thirty (30) days from issuance of this order.

34. The Commission finds it appropriate to allow the parties to comment on Staff's Report and Recommendation. Parties are invited to discuss the issues Staff summarizes, including proposing additional issues that may need to be addressed in deciding these dockets and

suggesting procedures for addressing the issues. The Commission will allow parties fifteen (15) days from the filing of Staff's Report and Recommendation to submit comments.

IV. Designating Prehearing Officer

35. The Commission will appoint a prehearing officer for these four transmission dockets to conduct any prehearing conferences that might be needed and to address any matters that are appropriately considered in a prehearing conference, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). These items include, for example, conversion of the proceeding to another type; exploration of settlement possibilities; clarification of issues; rulings on identity and limitation of the number of witnesses; objections to proffers of evidence; determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form, and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person; order of presentation of evidence and cross-examination; discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Martha J. Coffman, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3105, email address m.coffman@kcc.ks.gov, to act as Prehearing Officer in these dockets. K.S.A. 2007 Supp. 77-514; K.S.A. 77-516; K.S.A. 2007 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Commission hereby grants the Petitions to Intervene in these dockets as stated above in paragraphs 12-23 and 26-30. The individuals and counsel shall be added to the service list of these dockets, as designated above.

(B) The Commission takes Westar's Motion to Consolidate and Dismiss ITC Docket Nos 08-936 to 938 under advisement.

(C) The Commission directs its Staff to file a report and recommendation that (1) summarizes issues the Commission will need to decide, including factual questions that will need to be determined; (2) proposes procedures to address these issues; and (3) suggests a schedule for

resolving these dockets. This Report and Recommendation shall be filed thirty days from the date of this order, as discussed above in paragraph 33.

(D) Parties will be allowed to file comments regarding Staff's Report and Recommendation 15 days following its filing, as discussed above in paragraph 34.

(E) The Commission appoints Martha J. Coffman, Chief Advisory Counsel, to be Prehearing Officer in these dockets, as set forth above in paragraph 35.

(F) This is a procedural order and constitutes non-final agency action. K.S.A. 77-607(b)(2). Parties have fifteen days, plus three days if service of this Order is by mail, from the date of mailing of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2007 Supp. 77-529(a)(1).

(G) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn; Moffet, Com.; Harkins, Com.

Dated: SEP 02 2008

ORDERED MAILED

SEP 03 2008

 EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

mjc