

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

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**REBUTTAL TESTIMONY**

**OF**

**JERL BANNING**

**WESTAR ENERGY**

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**DOCKET NO. 18-WSEE-328-RTS**

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**I. INTRODUCTION**

1

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. Jerl L. Banning, 818 South Kansas Avenue, Topeka, Kansas 66612.

4 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

5 A. I am employed by Westar Energy, Inc. (Westar), a wholly-owned  
6 subsidiary of Evergy, Inc. (Evergy). I am the Senior Vice President,  
7 Chief People Officer for Evergy, as well as for Evergy's operating  
8 subsidiaries, including Westar, Kansas City Power & Light Company,  
9 and KCP&L Greater Missouri Operations.

10 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**  
11 **BUSINESS EXPERIENCE.**

12 A. Between 1996 and 2008, I held various positions in human resources  
13 at Aquila, Inc., and Koch Industries. Prior to this, I worked in a variety  
14 of professional services organizations as a human resources

1 consultant with clients in multiple industries. I joined Westar in 2008  
2 as Executive Director, Human Resources, shortly thereafter was  
3 promoted to Vice President of Human Resources and held that  
4 position until 2014, when I was promoted to Vice-President of Human  
5 Resources and Information Technology. In January 2015, I was  
6 promoted to Senior Vice President, Operations Support and  
7 Administration. I assumed my current role when Evergy was created  
8 upon the closing of the merger between Westar and Great Plains  
9 Energy Incorporated.

10 I received a B.A. in psychology from Bethel College and a  
11 master's degree in organizational/personnel psychology from the  
12 University of Kansas.

13 **Q. HAVE YOU TESTIFIED BEFORE THIS OR OTHER REGULATORY**  
14 **BODIES IN THE PAST?**

15 A. Although I have prepared written testimony on behalf of Aquila, Inc.  
16 for the Nebraska Public Service Commission and on behalf of Westar  
17 for this Commission, I have not previously testified in person.

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

19 A. I will respond to adjustments suggested by Staff and CURB related  
20 to at-risk compensation. Specifically, IS-11 proposed by Staff  
21 witness Luke-Fry related to Westar's long-term incentive program  
22 and the adjustments proposed by the Citizens' Utility Ratepayer

1 Board (CURB) witness Crane related to the short and long-term  
2 incentive programs.

3 **Q. WHAT IS YOUR REACTION TO THE COMPENSATION-RELATED**  
4 **ADJUSTMENTS PROPOSED BY STAFF AND CURB?**

5 A. I will discuss each of the proposed adjustments in detail below.  
6 However, in summary, I believe that the at-risk, variable  
7 compensation related adjustments proposed by Staff and CURB are  
8 inappropriate and adopting them would not be in the public interest.  
9 It is a central principle of utility regulation that a regulated utility be  
10 given a reasonable opportunity to recover actual costs prudently  
11 incurred in connection with and necessary to provide public service.  
12 Neither Staff nor CURB has suggested that the costs Westar  
13 incurred for compensation were imprudent or unreasonable. In fact,  
14 Westar's overall compensation and executive compensation is, on  
15 average, directly in line with the marketplace in which we compete to  
16 attract and retain the talent necessary to perform our service  
17 obligations.

18 **Q. HAS THE COMMISSION EVER ISSUED A DECISION IN A**  
19 **WESTAR RATE CASE SPECIFIC TO WESTAR'S**  
20 **COMPENSATION PROGRAM ON THE ISSUE OF VARIABLE**  
21 **COMPENSATION?**

22 A. No. We have settled the last several rate cases where Staff and  
23 other intervenors have raised this issue. As part of those

1 settlements, the issue of recovery of variable compensation was not  
2 specifically resolved and no precedent was established.

3 **II. OVERVIEW OF WESTAR'S COMPENSATION PROGRAM**

4 **Q. PLEASE SUMMARIZE WESTAR'S COMPENSATION PROGRAM.**

5 A. Westar's compensation program is designed to attract and retain the  
6 talent necessary to provide safe, reliable electric service, and to do  
7 so while managing our costs responsibly. Our overall employee  
8 compensation for union, non-union, and executive level employees  
9 is right at the market median – in other words, right in the middle of  
10 the pack of similarly-situated utility companies. We make a portion  
11 of the compensation for non-union employees variable, which means  
12 it is at risk and tied to performance in order to incent high  
13 performance levels and align the operations, customer experience  
14 and cost performance goals of our employees with those of the  
15 company. The total cost of the benefits we provide to our employees  
16 is also in line with the median for our peer group.

17 Compensation for executives at Westar is determined by the  
18 Compensation Committee of the Board of Directors, comprised  
19 entirely of non-employee directors. It is also managed to remain in  
20 line with the median for our peer group.

21 **Q. HOW ARE WESTAR'S PAY AND BENEFITS PROGRAMS**  
22 **STRUCTURED?**

23 A. Westar compensates all non-union, non-executive level employees  
24 with both base pay and short-term variable pay. The short-term

1 variable pay ties employees' compensation to their performance and  
2 Westar's operating, customer experience and financial performance.  
3 Based on that performance, employees may earn below, above, or  
4 at market levels. Director level employees have the same structure,  
5 but in addition have a portion that is variable and at risk based on  
6 longer-term performance, which when paid, is in the form of equity.  
7 Westar executives receive base pay and are eligible for long-term  
8 variable compensation, which when paid, is in the form of equity. Our  
9 executives are not eligible for short-term variable pay. Westar has  
10 been serving our customers and has played an important part of the  
11 communities in Kansas for more than 100 years. We want the  
12 incentives of our officers to be aligned with the long-term focus of  
13 doing so for another 100 years. Therefore, we believe that it is better  
14 to align all of the market average variable compensation that our  
15 officers would be eligible for at other companies with the long-term  
16 value of Westar rather than things that might have the potential to  
17 incent a too narrow and too short-sighted view of the business.

18 All Westar employees are eligible to participate in Westar's  
19 retirement plan and to contribute to a 401(k) plan with a market-  
20 based matching contribution from Westar up to an established limit.  
21 Westar provides customary healthcare and other benefits to  
22 employees.

1       **Q.     WHAT IS THE PURPOSE AND OBJECTIVE OF WESTAR’S PAY**  
2       **AND BENEFITS PROGRAMS?**

3       A.     Our pay and benefits are designed and managed to attract and retain  
4       the talent necessary to provide safe, reliable electric service, and to  
5       do so while managing our costs responsibly. We do this by  
6       monitoring employee turnover, employee engagement, and payroll-  
7       related expenses. This information is compared to industry  
8       standards, along with overall payroll costs and benefits, to ensure we  
9       are properly aligned with our peer companies.

10      **Q.     WHY IS IT IMPORTANT THAT WESTAR’S PAY AND BENEFITS**  
11      **ARE COMPARABLE TO THOSE OF ITS INDUSTRY PEERS?**

12      A.     We compete with other utilities for employees with the same  
13      experience and ability to meet our goal of providing safe, reliable  
14      service to customers at reasonable cost. In order to ensure that we  
15      can effectively attract and retain the skilled employees we need, our  
16      pay and benefits must be competitive in the industry.

17               **III.     SHORT-TERM VARIABLE COMPENSATION**

18      **Q.     PLEASE SUMMARIZE THE ADJUSTMENT PROPOSED BY**  
19      **CURB     RELATED     TO     SHORT-TERM     VARIABLE**  
20      **COMPENSATION.**

21      A.     CURB proposed to reduce the expense related to Westar’s short-  
22      term variable compensation by 50 percent because a portion of it is  
23      paid based on Westar’s financial performance. Such an adjustment  
24      is not appropriate and the Commission should deny this request.

1       **Q.    WHAT IS THE EFFECT OF WESTAR'S VARIABLE**  
2       **COMPENSATION PROGRAM?**

3       A.    For most of our non-bargaining employees (management,  
4       professional, technical, and clerical personnel), the effect of variable  
5       compensation is to place part of their compensation at-risk or  
6       variable with regard to their performance and Westar's performance.

7       **Q.    IN WHAT WAY IS A PORTION OF EMPLOYEES'**  
8       **COMPENSATION IS AT-RISK OR VARIABLE?**

9       A.    We only pay it, or pay a portion of it, if certain broad-based goals and  
10      objectives are met – objectives indicative of overall company  
11      performance. It is a reflection of the individual's contribution and the  
12      company's performance and has become – and has been so for  
13      decades – extraordinarily common and generally considered a "best  
14      practice" in the business labor market.

15      **Q.    WHAT ARE THE BROAD-BASED GOALS AND OBJECTIVES IN**  
16      **THE VARIABLE COMPENSATION FORMULA?**

17      A.    There are three components: customer experience, departmental  
18      goals and objectives, and financial performance. CURB's  
19      recommended disallowance is to eliminate half of the variable  
20      compensation expense, due to its relationship to financial  
21      performance.

22      **Q.    HOW DO YOU RESPOND TO CURB'S SUGGESTION THAT**  
23      **TYING VARIABLE COMPENSATION TO FINANCIAL**

1                   **PERFORMANCE ONLY BENEFITS SHAREHOLDERS AND**  
2                   **SHOULD BE DISALLOWED?**

3           A.     I believe it is short-sighted and, at best, outdated. As I said, variable  
4                   compensation as a meaningful portion of total compensation is a best  
5                   practice within most industries. Moreover, it is a “sucker’s choice” to  
6                   assume that if something is in the interest of one party it cannot also  
7                   be in the interest of another party, as these parties suggest. For  
8                   example, it is perfectly logical to assume that reliable service is of  
9                   interest to shareholders, large customers, small customers,  
10                  customers of varying income levels, our state, and our communities.  
11                  They are not pitted against one another as Staff’s and the other  
12                  parties’ arguments imply. It is unreasonable to suggest that because  
13                  reliable service is of interest to shareholders that the costs of that  
14                  service be disallowed. Similarly, employing a competent  
15                  management team is of interest to both customers and shareholders.  
16                  It is equally unreasonable – absent a showing of profligacy or  
17                  imprudence – to disallow the recovery of such costs.

18           **Q.     MORE SPECIFICALLY, HOW DOES GOOD FINANCIAL**  
19           **PERFORMANCE BENEFIT CUSTOMERS?**

20           A.     First, solid stock performance benefits customers because it  
21                   translates into strong cost management and a lower cost of debt,  
22                   which flows through to benefit the customers in the form of lower  
23                   rates.



1                   Second, by encouraging employees to focus on all principal  
2                   facets of our business –customer experience, technical and  
3                   operational performance, and financial performance – we attempt to  
4                   create a balanced approach to our business. This balance serves  
5                   not just our shareholders and employees, but also the communities  
6                   in which we operate and the customers we serve. If this balance is  
7                   ignored, the business can become unstable and unable to meet its  
8                   goals for any of its constituents. Short-term decisions can be made  
9                   at the expense of long-term results. Employee interests can be  
10                  elevated above those of customers or shareholders. Operational  
11                  performance can be achieved at the expense of employee or public  
12                  safety.

13                 It is natural for an employee who works in the call center to  
14                 fall into the trap of thinking only about customer service, the power  
15                 plant operator to fall into the trap of thinking only of production goals,  
16                 or the financial analyst to fall into the trap of thinking only about cost  
17                 control and profits. Our compensation program is designed to  
18                 counter these natural tendencies and remind everyone of the  
19                 importance of keeping our business in balance, for both the short and  
20                 long-term for the benefit of customers and shareholders alike. The  
21                 suggestion that achieving financial goals fails to benefit customer  
22                 interests is unfounded and short-sighted. Good quality service at

1 reasonable cost cannot be achieved if the company is not financially  
2 successful.

3 Third, Westar's financial success relies on our employees  
4 being efficient and cost-conscious. While such efforts benefit  
5 shareholders by improving profitability, they also benefit customers  
6 by holding down prices. Westar can only obtain a solid shareholder  
7 return if, in addition to bringing in revenues, it uses its resources  
8 wisely, minimizes unnecessary costs, provides satisfactory customer  
9 service with reasonable expense, and improves performance by  
10 increasing productivity. All of these things benefit customers just as  
11 they benefit shareholders.

12 Finally, the markets in which Westar competes for talent  
13 generally reflect compensation that has a variable component similar  
14 to that offered by Westar. Thus, if we are to remain competitive for  
15 talent, we need to offer a compensation structure and level that is  
16 generally competitive with the market; one that results in lower  
17 compensation for inferior performance, but offers the possibility of  
18 higher compensation for superior performance.

19 **Q. DOES GOOD FINANCIAL PERFORMANCE ALSO BENEFIT THE**  
20 **PUBLIC GENERALLY, OTHER THAN CUSTOMERS AND**  
21 **SHAREHOLDERS?**

22 A. Yes. Having a company like Westar operating in Kansas has many  
23 benefits to our communities, our tax base, and our educational

1 institutions. It provides world-class jobs that keep talent from fleeing  
2 our state boundaries and attracts strong talent to Kansas. Good  
3 financial performance is a prerequisite for good, stable companies;  
4 yet one more reason why a compensation plan that encourages  
5 financial performance is in the public interest.

6 **Q. HOW IS THE FINANCIAL COMPONENT OF THE SHORT-TERM**  
7 **VARIABLE COMPENSATION DETERMINED?**

8 A. It is based on Westar's Total Shareholder Return (TSR) relative to  
9 the TSR of a peer group of utilities. A company's TSR is comprised  
10 of the sum of dividends paid together with any change in the  
11 company's stock price. The financial component of the short-term  
12 incentive (STI) is determined based on how Westar's TSR ranks  
13 among its peers for the plan year measurement period.

14 **Q. HOW DO YOU DETERMINE PAYOUT FOR THE FINANCIAL**  
15 **COMPONENT OF THE STI?**

16 A. If Westar's TSR is equal to or below the 25th percentile of the peer  
17 group, employees forfeit all opportunity for this component. There is  
18 a sliding scale making the payout relative to target higher or lower  
19 depending on the TSR percentile performance. For example, at the  
20 50th percentile which is indicative of median performance, the  
21 payout is equal to the targeted amount for the financial component.  
22 At the 90th percentile or above, the maximum financial payout would  
23 be achieved, which is 200 percent of the targeted amount for the

1 financial component. By design, it is not symmetrical, but skewed  
2 against paying for poor performance.

3 **Q. IS THE VARIABLE PAY COMPONENT OF WESTAR'S**  
4 **COMPENSATION AN IMPORTANT PART OF ITS MARKET-**  
5 **COMPETITIVE COMPENSATION STRATEGY?**

6 A. Absolutely. Without it, our compensation would be severely deficient  
7 to market competitive levels. The variable pay component of our  
8 compensation mix or the component of compensation that is "at risk"  
9 – is an essential part of paying a competitive rate of pay. The targets  
10 that are established for each of our pay grades are designed to  
11 bridge the gap between the median market base pay and the median  
12 market targeted total compensation. When we look at market  
13 compensation, we must look at both base pay and total  
14 compensation. We must be competitive in the total, not just in one  
15 component of market compensation. While we expect these at-risk  
16 payments to vary around the targets in any given year based on  
17 performance, over time we expect them to average out so that we  
18 are, on average, paying close to the median market total  
19 compensation, adjusted for an individual employee's experience and  
20 performance. The at-risk components, when combined with  
21 employees' base compensation, help Westar to pay competitive  
22 compensation close to the 50th percentile of the market. While it

1           certainly would be possible for us to target the 50th percentile and  
2           make all of that base salary, we do not think that would be wise.

3           In addition to maintaining a competitive position, variable  
4           compensation is an essential component of our compensation  
5           strategies. They are designed to reinforce important group and  
6           individual behaviors and to focus employees on Westar's strategic  
7           objectives. As our program is designed, removing any portion of the  
8           at-risk component would cause the program design to fall below the  
9           market median target. The logic trap associated with the parties'  
10          suggestion is that it would provide an incentive for Westar to  
11          eliminate at-risk compensation and simply target median  
12          performance in fixed pay, regardless of performance. However,  
13          such a practice would not be conducive to aligning employees'  
14          interests with those of customers and shareholders.

15       **Q.   WHAT DO YOU THINK ABOUT MS. CRANE'S ASSERTION THAT**  
16       **EMPLOYEES ARE BEING WELL COMPENSATED, SEPARATE**  
17       **AND APART FROM INCENTIVE PLANS?**

18       A.   Her statement is the equivalent of saying, "Lineman are well paid  
19       even without paying them overtime when they work 16 hours a day  
20       to restore service after a storm." It does not even rise to the level of  
21       conjecture. It is pure rhetoric. It would be like me saying, "Ms. Crane  
22       is well compensated for her work on the KCP&L case, so CURB

1           should not have to pay her for her work on the Westar case.” She  
2           does not and cannot provide any support for it.

3                     As I said, the variable pay component of our compensation is  
4           an essential component of our compensation program. Were it  
5           excluded, simple math demonstrates that we would not be paying  
6           compensation consistent with the market, and if we were able to  
7           continue to attract and retain qualified employees, we would need to  
8           raise base salaries by the same target amount. If we ignored the  
9           variable pay portion of compensation we would not be paying  
10          competitive levels to attract the human resources required for our  
11          business. We would need to make it up elsewhere. We believe that  
12          the variable compensation design we use is the most effective way  
13          of ensuring that Westar pays competitive compensation close to the  
14          50th percentile of the market and aligns our employees’ interests with  
15          those of our customers, our shareholders, our communities, our state  
16          and its taxpayers; i.e., it is in the public interest.

17                     **II. LONG-TERM VARIABLE COMPENSATION**

18          **Q.     PLEASE SUMMARIZE THE ADJUSTMENTS PROPOSED BY**  
19                     **STAFF AND CURB RELATED TO WESTAR’S LONG-TERM**  
20                     **VARIABLE COMPENSATION.**

21          A.     Staff and CURB both propose to reduce the expense related to  
22                     Restricted Share Units (RSUs), albeit to different degrees.

1       **Q.     PLEASE DESCRIBE WESTAR’S LONG-TERM VARIABLE**  
2       **COMPENSATION PLAN.**

3       A.    As I indicated in my direct testimony, long-term variable  
4       compensation is composed of RSUs. Half of the RSUs may vest  
5       with the passage of time. The other half – titled “performance-based”  
6       – have both a time and performance component. The officer must  
7       remain with Westar for a three-year period. At the end of those three  
8       years, the RSUs can vest in whole or in part depending on company  
9       performance. If the executive resigns or is terminated, both the time-  
10      based and performance-based RSUs are subject to forfeiture.  
11      Similar to the financial component of the short-term variable  
12      compensation, performance is measured based on the three-year  
13      TSR of a peer group of utilities with similar characteristics to Westar.  
14      Executive compensation as a group is targeted at the market median  
15      with individual officer compensation set above or below the market  
16      median based on individual officer considerations such as  
17      performance and experience. RSUs are used as a method of  
18      reaching compensation targets.

19      **Q.     WHY IS IT INAPPROPRIATE TO DISALLOW ANY COMPONENT**  
20      **OF WESTAR’S LONG-TERM VARIABLE COMPENSATION**  
21      **EXPENSE?**

22      A.    For the same reasons that I explained above. Variable  
23      compensation, whether short-term or long-term, is so prevalent that

1 if we were to deviate from using it, we would be backwards, out-of-  
2 date and irresponsible. I would seriously question the prudence of  
3 any company that did not put significant executive compensation at  
4 risk, but that is not the same thing as simply disallowing its recovery  
5 in rates when paid in conformance with due performance. Solid  
6 stock performance clearly benefits Westar's customers by lowering  
7 Westar's cost of debt and ultimately lowering customers' rates,  
8 especially when considering that this is the most capital-intensive  
9 business in the world. As I indicated above, Westar can only deliver  
10 a competitive shareholder return if it uses resources wisely,  
11 minimizes costs, provides good customer service, and increases  
12 productivity. Each of these items benefits both customers and  
13 shareholders – and the public generally.

14 Additionally, Staff and the interveners have reviewed Westar's  
15 executive compensation plan and no one has suggested that the  
16 total compensation provided to Westar's executives is unreasonable  
17 or out of line with the market. Long-term variable compensation is  
18 an essential portion of Westar's executive compensation program  
19 and elimination of the performance-based RSUs would result in  
20 compensation offered to Westar's officers that would be so  
21 significantly below market levels that any of them would be foolish to  
22 remain with the Company.



1       **Q.     HOW DO YOU RESPOND TO STAFF'S AND CURB'S**  
2               **SUGGESTION THAT THE PERFORMANCE-BASED RSU COSTS**  
3               **SHOULD BE DISALLOWED?**

4       A.     The Commission should include the full cost of long-term variable  
5               compensation – whether the RSUs are time or performance-based –  
6               in Westar's cost of service. All of the reasons I offered above apply  
7               equally to long-term variable compensation as they do to our short-  
8               term variable compensation program.

9       **Q.     THANK YOU.**

STATE OF KANSAS                    )  
  ) ss:  
COUNTY OF SHAWNEE            )

**VERIFICATION**

Jerl Banning, being duly sworn upon his oath deposes and states that he is the Senior Vice President, Chief People Officer for Westar Energy, Inc., that he has read and is familiar with the foregoing Rebuttal Testimony, and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Jerl Banning

Subscribed and sworn to before me this 2 day of July, 2018.

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

My Appointment Expires: 5/30/2022

