IN THE MATTER OF THE 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))

DIRECT TESTIMONY

PREPARED BY

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UTILITIES DIVISION

KANSAS CORPORATION COMMISSION STAFF

January 29, 2018

Table of Contents

Q. Please state your name and business address.

A. Jeffrey D. McClanahan, 1500 SW Arrowhead Road, Topeka, Kansas.

Q. Who is your employer and what is your title?

A. I am employed by the Kansas Corporation Commission (Commission or KCC) as Director, Utilities Division.

Q. What is your educational background and professional experience?

A. I hold a Bachelor of Arts degree in Accounting from West Texas State University. I was employed for approximately eight years by a Savings and Loan institution in professional positions in auditing and accounting. I joined the KCC in December 1997 as a Utility Auditor II. I was promoted to Senior Auditor in May 1998 and was subsequently promoted to Chief of Accounting and Financial Analysis in February 2002. I have held my current position since April of 2012.

Q. Have you previously testified before the Commission?

A. Yes, I have filed testimony in numerous dockets before the Commission.

Q. What is the purpose of your testimony?

A. I am providing a summary of Staff's analyses in this case to aid the Commission in its review of Staff's positions, conclusions, and recommendations. I will also provide an overview of the proposed transaction (Transaction), an introduction of Staff's witnesses, and a summary of Staff's overall recommendation.

I. OVERVIEW OF THE TRANSACTION AND INTRODUCTION OF WITNESSES

A. OVERVIEW OF THE TRANSACTION

Q. Please provide an overview of the proposed merger transaction.

A. The initial transaction denied by the Commission in Docket No. 16-KCPE-593-ACQ (Initial Transaction) has been restructured as a Merger of Equals (MOE). Applicant witness Mr. Greg Greenwood describes the Transaction at page 6 of his testimony as follows:

> The Initial Transaction has been restructured as a Merger of Equals ("MOE") that will be accomplished entirely through an exchange of stock with no control premium paid to either company's shareholder[s], no exchange of cash, no Merger-related debt and with upfront, guaranteed benefits to retail electric customers in the form of bill credits. The Merger will be accomplished by forming a new holding company and by an exchange of stock at the time of closing.

A more detailed description of the Transaction is provided in the Application at paragraphs nine through sixteen as well as in various staff witnesses' testimonies.

B. INTRODUCTION OF STAFF'S WITNESSES

Q. Who will be offering testimony on behalf of Staff?

A. I will introduce Staff's witnesses and the consultants testifying on behalf of Staff along with the specific merger standard(s) each witness addresses. The witnesses are as follows:

Staff Witnesses:

Justin Grady: Mr. Grady provides testimony in support of merger standards (a) (ii), (a) (iii), (a) (iv), (c), (d), and (e). Mr. Grady's testimony discusses the fact that the Transaction, as filed, provides too much benefit to the Applicant's combined shareholders and recommends an Earnings Review and Sharing Plan as a set of conditions that will promote the public interest and provide adequate ratepayer benefits through a balanced and equitable sharing of the Transaction's benefits. Mr. Grady also performs financial analysis on the Transaction as well as the financial model used to forecast the Transaction's financial impact on both shareholders and ratepayers over the next five years.

Adam Gatewood: Mr. Gatewood provides testimony in support of merger standards (a)(i) and (a)(iii). Mr. Gatewood discusses the fact that the forecasted financial condition of the post-merger companies is equal to and, by some measures, better than the stand-alone entities prior to the Initial Transaction. Mr. Gatewood's analysis relies on the assessments of the credit rating agencies that follow the Applicants. Mr. Gatewood also performs a cost of capital and capital structure analysis in support of Staff's Earnings Sharing and Review Plan.

Leo Haynos: Mr. Haynos provides testimony in support of merger standards (a)(iii), (c), and (h). Mr. Haynos' testimony evaluates the safety, reliability, and service quality commitments included in the Application. Mr. Haynos' testimony also provides recommendations for additional conditions and reporting requirements related to quality of service.

Robert Glass, Ph.D.: Dr. Glass provides testimony in support of merger standards (a)(v), (c), and (g). Dr. Glass' testimony addresses the fact that the very nature of the merger should make the combined companies more efficient than on a stand-alone basis. Dr. Glass discusses why Staff's Earnings Sharing and Review Plan provides the appropriate economic incentive for the Applicants to maximize cost savings. Dr. Glass' testimony also addresses the economic impact of the Transaction on the State and local economies as well as the impact on competition.

Staff's Consultants:

Ann Diggs, CPA: Ms. Diggs provides testimony in support of merger standards (a)(ii), (a)(iii), (a)(iv), and (d). Ms. Diggs discusses her analysis and recommendations regarding transaction savings as well as affiliate transactions and cost allocations. Ms. Diggs recommends post-merger savings tracking and reporting requirements as well as post-merger affiliate transaction and cost allocation reporting.

Walter P. Drabrinski, President, Vantage Energy Consulting, LLC: Mr. Drabinski provides testimony in support of merger standards (b), (c), and (f).

Mr. Drabinski discusses his review of the planned generation plant retirements and the forecasts related to the Applicant's proposed capital budget expenditures for generation, transmission, distribution, and information technology. Mr. Drabinski also addresses safety, reliability, and service quality commitments included in the Application and recommends standards and reporting requirements.

II. SUMMARY OF STAFF'S POSITION: THE PROPOSED MERGER IS IN THE PUBLIC INTEREST SO LONG AS THE APPLICANTS ACCEPT ADDITIONAL MERGER CONDITIONS

A. THE MERGER TRANSACTION – WITH STAFF'S ADDITIONAL CONDITIONS – MEETS THE COMMISSION'S ESTABLISHED MERGER STANDARDS AND IS IN THE PUBLIC INTEREST

Q. What is the Public Interest Standard and how is it applied in merger dockets?

A. Generally speaking, the public interest is served when ratepayer interests are carefully considered and protected. In the context of a rate case, the public interest can be served when ratepayers are protected from unnecessarily high prices, discriminatory prices, and/or unreliable service. In the context of a merger, the Commission's Order in Docket Nos. 172,745-U and 174,155-U[1] (KPL/KGE Merger) states the following:

> All parties generally agree that the merger should be approved only if it is "in the public interest." The parties have differed, however, on specifically what "in the public interest" means in the context of utility mergers. The Commission notes there are various cases addressing generally the meaning of "the public convenience and necessity." Public convenience means the convenience of the public, not the convenience of particular individuals. 206 Kan. 670, 676 (1971). Public necessity does not necessarily mean there must be some showing of absolute need. As used, the word "necessity" means a public need without which the public is inconvenienced to the extent of being handicapped.[2]

[1] The Commission's Order in Docket Nos. 172,745-U and 174,155-U dated November 14, 1991, approved the merger of Kansas Power and Light Company with the Kansas Gas and Electric Company.
[2] Id. at p. 34.

> Consistent with its broad authority to regulate public utilities for the benefit of the public interest, the Commission believes that in reviewing a merger or acquisition, it should consider a variety of factors. The Commission believes that to simply adopt a "no detriment" test as suggested by the Applicants or a "net benefits" standard as suggested by CURB is too simplistic. Utility mergers and acquisitions are complex transactions that affect both ratepayers and shareholders for many years to come and have significant implications for the utility service to be provided. Consistent with its mandate in approving the initiation of utility service as set out in K.S.A. 66-131, the Commission concludes that mergers and acquisitions be approved where the applicant can demonstrate that the merger or acquisition will promote the public interest. In determining whether a transaction promotes the public interest, the Commission looked to the variety of sources presented by the parties in their testimony and briefs. The Commission adopts the following list of factors it will weigh and consider in determining whether the proposed transaction promotes the public interest…[3] [Listing of Merger Standards omitted].
>
> The Commission believes these factors will allow the Commission to uniformly review mergers and acquisitions that may be presented to the Commission in the future while maintaining some flexibility to deal with the particular circumstances of each transaction. Additionally, these factors will provide utilities contemplating a merger or acquisition with a standard that will be utilized to review any contemplated transaction.[4]

In the September 28, 1999, Order on Merger Application in Docket No. 97-WSRE-676-MER, the Commission stated the following:

> The November 15, 1991 Order approving the merger between KPL and KGE (Docket Nos. 172,745-U and 174,155-U) stated that mergers should be approved where the applicant can demonstrate that the merger "will promote the public interest." (p. 35.) The Order set forth a number of factors to be weighed and considered in determining whether this standard is met… [List of Merger Standards Omitted].[5]

[3] Id. at pp. 34-35.
[4] Id. at p. 36.
[5] Docket No. 97-WSRE-676-MER, Order on Merger Application at ¶17.

> The Commission reaffirms that the information in these standards should be addressed by parties in merger cases. These factors are the beginning criteria to be used when evaluating a merger application, and are to be supplemented by any other considerations that are relevant given the circumstances existing at the time of the merger proposal. In essence, the question is whether the public interest is served by approving the merger as determined by the specific facts and circumstances of each case. The Joint Applicants bear the burden of proof in this case, and must demonstrate through the evidence in the record a sufficient basis upon which to approve the merger.[6]

The Commission reaffirmed the merger standards in its Order in Docket 16-KCPE-593-ACQ dated August 9, 2016. Specifically, the Commission stated:

> In determining whether a proposed merger will promote the public interest, the Commission will evaluate the application under the following criteria.[7] [Merger Standards omitted].
>
> The Commission recognizes that the 97-676 Docket allows for some flexibility in the merger standards, including modifying those standards or even adding additional standards or considerations. At the same time, the Commission will require any deviation from the standards reaffirmed in paragraph 5 of this Order to be clearly identified in the application and justified in supporting testimony. Similarly, if Staff or an intervenor believes the standards need to be modified in a particular docket, they are obligated to explain the proposed modification and provide grounds supporting the proposed modification.[8]

Based on the above statements, it is clear that the merger standards are entrenched as "…the beginning criteria to be used when evaluating a merger application, and are to be supplemented by any other considerations that are

[6] Id. at ¶18.
[7] Docket No. 16-KCPE-593-ACQ, Order on Merger Standards at ¶5.
[8] Id. at ¶7.

relevant given the circumstances existing at the time of the merger proposal."[9] Moreover, the Commission confirmed that the merger standards are the primary determination of whether a proposed merger promotes the public interest when it stated, "The Commission adopts the following list of factors [merger standards] it will weigh and consider in determining whether the proposed Transaction promotes the public interest."[10]

It is also clear that whether the public interest is promoted is based on "…whether the public interest is served by approving the merger as determined by the specific facts and circumstances of each case."[11]

Q. Does the Transaction promote the public interest?

A. So long as the Commission orders, and the Applicants accept, additional conditions, then Staff believes this MOE is in the public interest. A review of each Staff witnesses' testimony will indicate that every merger standard has been either met based on case specific facts or can be met with additional merger conditions. Because the Commission uses the merger standards as guidance as to whether a transaction promotes the public interest, successfully meeting all of the merger standards is a strong indication that the public interest will be promoted by approving the Transaction.

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[9] Docket No. 97-WSRE-676-MER, Order on Merger Application at ¶ 18.
[10] Docket Nos. 172,745-U and 174,155-U, Order at p. 35.
[11] Docket No. 97-WSRE-676-MER, Order on Merger Application at ¶ 18.

B. Staff's overall recommendation

Q. Please provide Staff's overall recommendation.

A. The merger transaction – with Staff's additional conditions – meets the Commission's established merger standards and is in the public interest.

III. Comparison of the Initial Acquisition Proposal to the Current Merger of Equals Proposal

A. Overview of the initial Acquisition Proposal

Q. Please provide an overview of the initial acquisition proposal.

A. The Initial Transaction was an acquisition of Westar by Great Plains Energy (GPE). The general financial terms included GPE paying $8.6 billion for all of Westar's equity and assuming $3.6 billion in debt, for a total transaction value of $12.2 billion. The transaction was a mostly cash deal in which Westar's shareholders would receive $60 per share, with $51 in the form of cash and approximately $9 in the form of GPE stock. The total transaction value created an acquisition premium of $4.9 billion (excess of purchase price over Westar's book value) and a control premium of $2.3 billion (excess of purchase price over Westar's pre-acquisition stock value).

The financing of the Initial Transaction was to be accomplished with approximately 50% debt and 50% equity. This equated to GPE borrowing $4.4 billion to finance the acquisition and assuming the $3.6 billion of Westar debt, putting the combined companies into a highly leveraged position. Moreover the

$4.4 billion in debt was to be assigned to the holding company, creating a need for the post-merger companies to use financial engineering to pay for the debt. As a reminder, financial engineering was defined as the holding company assigning debt and equity as it saw fit. This enabled the holding company to earn an equity return on debt if the holding company assigned more equity to the utility subsidiary than would exist in the actual consolidated capital structure.

Q. What concerns did Staff identify as a result of its analysis of the Initial Transaction?

A. Staff witness Justin Grady summarizes Staff's overall concerns in his testimony in this case, where he states:

> During the review of the original transaction, Staff expressed several concerns with the reasonableness of the purchase price, including whether the purchase price was reasonable in light of the savings that could be demonstrated, and whether the purchase price was within a reasonable range. Ultimately, Staff concluded that the purchase price was excessive and the acquisition premium over book value could not be justified by operational synergies and was, therefore, excessive and unreasonable. Additionally, Staff concluded that the original purchase price and the $5 billion premium over book value were supported by financial engineering instead of operational synergies, which led to a highly leveraged and much riskier combined company for ratepayers. [Direct Testimony of Justin T. Grady at Section V., A.].

Q. What conclusions did Staff reach regarding the Initial Transaction?

A. Staff concluded that the Initial Transaction had several fatal flaws that could not be cured and we recommended outright denial of the transaction. The fatal flaws defined by Staff were as follows:

- The purchase price of $12.2 billion was too high because it resulted in GPE and its subsidiary Westar becoming significantly weaker financially post-acquisition.
- The Applicants asserted they were not explicitly requesting recovery of the acquisition premium (AP), however, ratepayers would inevitably pay this AP implicitly through financial engineering.
- The Applicants failed to demonstrate that the Initial Transaction would benefit customers through demonstrable and quantifiable savings which could be reasonably attributed to the acquisition.
- The Applicants failed to provide any certainty with regard to the continued financial health of the companies.

Q. What view of the Initial Transaction did the credit rating agencies have?

A. The credit rating agencies – Standard & Poors, Moody's, and Fitch – all expressed concerns regarding the post-transaction financial strength for the utility subsidiaries and GPE. In fact, certain concerns expressed pointed to either a weakly positioned investment grade utility or the potential for sub-investment grade ratings. The end result was that the Initial Transaction would have resulted in Westar, KCP&L, and GPE being in a weaker financial position post-merger than they would have been on a stand-alone basis. In fact, they were either downgraded or placed on negative watch after the announcement of the transaction.

Q. Did the high leverage and need for financial engineering in the Initial Transaction allow the Joint Applicants to agree to any conditions that Staff, CURB, or other Intervenors requested?

A. Only to a very limited degree. The Joint Applicants provided a list of conditions that established certain protections regarding how the holding company and its electric utility subsidiaries would interact. However, the Joint Applicants made it clear that most of the additional conditions considered, including the elimination of the use of financial engineering or passing a significant amount of the estimated savings on to customers, would effectively require a termination of the acquisition.

Q. What was the Commission's decision in the Initial Transaction?

A. The Commission denied the Initial Transaction. The Commission specifically stated in its Order:[12]

> The Commission is not opposed to mergers as evidenced by its approval of two acquisitions within the past six months. As one of the intervenors notes, in many ways a merger between GPE and Westar makes sense, but for one insurmountable obstacle – the purchase price is simply too high. The Commission agrees. Both KCP&L and Westar have a long history of providing sufficient and efficient service in Kansas and the Commission agrees that based on their geographies a merger makes sense. But not this merger. The proposed transaction is not a merger of equals, but an acquisition with an excessive purchase price, requiring GPE to take on significant debt. The $4.9 billion acquisition premium exceeds GPE's $4.8 billion market capitalization by $100 million. Unfortunately, the transaction was presented to the Commission as a take it or leave it proposal. Repeatedly, the Joint Applicants advised the Commission that any significant safeguards that would protect consumers, such as maintaining a separate, independent Westar Board of Directors, would halt the transaction. Therefore, the proposed transaction could not be salvaged and the Commission is left with no choice but to reject the proposed transaction.

[12] Docket No. 16-KCPE-593-ACQ, Order filed on April 19, 2017 at ¶ 5.

B. OVERVIEW OF THE CURRENT MERGER OF EQUALS PROPOSAL

Q. Does the revised Transaction have any of the fatal flaws that the Initial Transaction had?

A. No. In fact, the Applicants should be commended for resolving all of the fatal flaws and structuring the deal as a merger of equals. It is clear from this Application that the Applicants carefully considered the Commission's Order in the Initial Transaction and used it as guidance when restructuring the merger. As Mr. Justin Grady states in his testimony:

> The revised Transaction addresses Staff's concerns about the original transaction in several key ways:
>
> 1. The revised Transaction has been restructured as a MOE, in which there is no true purchase price, acquisition premium, control premium or cash payment to shareholders;
>
> 2. The revised Transaction does not involve excessive transaction-related debt and is not dependent on financial engineering to support an excessive acquisition premium;
>
> 3. There is no risk that ratepayers will pay for the merger-related goodwill in the future if a certain capital structure is used for ratemaking purposes;
>
> 4. The credit rating agencies have opined favorably on the financial health of the combined company after the Transaction.
> [Direct Testimony of Justin T. Grady at Section V., B.].

Q. What is Staff's opinion of a MOE as a structure to combine two utilities?

A. The current Transaction structure as a MOE is a case of first impression for Staff and the Commission as there has never been a MOE in Kansas and overall the transactions are rare. That being said, Staff views a MOE very favorably as a number of financial issues such as true acquisition premiums and control premiums are eliminated in a MOE. And the elimination of an acquisition premium and control premium greatly simplifies the review of the Commission's merger standards related to the financial impact of a merger. As Mr. Justin Grady states in his testimony:

> Because the revised Transaction is a MOE with no true purchase price or acquisition premium, the combined entity doesn't have to shield all the benefits of the merger from ratepayers in order to finance an excessive purchase price and acquisition premium. Additionally, the revised Transaction carries with it much less risk than a highly leveraged transaction to pay a large acquisition premium. Because there is no large debt issuance by an acquiring entity that is funding a large payment of cash to the target company, there is no need to shield this debt issuance from the ratemaking process in order to pay for the acquisition premium. As a result, the Applicants have not tied the approval of this Transaction to a certain capital structure for ratemaking purposes.
>
> During the original transaction, Staff opined that there was a risk that ratepayers would be asked to pay for the acquisition premium or goodwill impairment in the event that GPE were to experience financial distress due to the risks associated with excessive holding company debt or if the operating company capital structure were to be used to set utility rates. In this case, the Applicants have unequivocally committed to never seek recovery of the acquisition premium (merger related goodwill) from ratepayers, and this commitment is not qualified with the requirement for the Commission to use a certain capital structure for ratemaking purposes. [Direct Testimony of Justin T. Grady at Section V., C.].

Q. Have merger savings been quantified and demonstrated in this Transaction?

A. Yes. As will be discussed briefly later in this testimony and as addressed more specifically by Staff witness Ann Diggs, the Applicants have provided sufficient and credible data and supporting documentation to enable a comprehensive review and quantification of savings by Staff.

IV. STAFF'S ANALYSES AND RECOMMENDATIONS REGARDING THE TRANSACTION

A. STAFF'S MAJOR CONCERNS

Q. What are Staff's major concerns with the proposed Transaction?

A. As Staff reviewed the proposed Transaction, we realized that the combination of no true acquisition premium or control premium and merger savings estimated to be in excess of $500 million could create significant benefits for both ratepayers and shareholders. However, the Applicants proposed Transaction only provides ratepayer benefits through; (1) a $50 million upfront bill credit, (2) lower rates in future rate cases – including the upcoming 2018 rate cases for both Westar and KCP&L – due to lower costs created by merger savings, (3) and delays in future rate cases due to merger savings that will be available to offset increased capital and operating costs.

From Staff's perspective, the Transaction provides too much benefit to the Applicant's combined company shareholders. As stated by Mr. Grady:

> As filed, the Transaction provides too little benefit to Westar and KCPL's ratepayers compared to the shareholders of the combined company. The Applicant's plan to retain most of the merger savings over the next five years to defer rate case filings, grow earnings, increase dividends, and fund capital investment, would also result in less effective regulation of these utilities by the Commission. [Direct Testimony of Justin T. Grady at Section III.].

The primary rationale for determining the merger is in the public interest is the merger benefits that will accrue to ratepayers. Therefore, there is a direct nexus between the merger benefits and approval of the merger. However, this direct nexus is broken if the Applicants move forward post-merger and retain in excess of $500 million in savings during the next five years, while they control capital expenditures and operating costs with little to no oversight by the Commission. This situation could very well lead to overearnings and, at the very least, create an unnecessary delay in ratepayers receiving significant benefits.

B. STAFF'S REGULATORY PLAN

Q. Please explain Staff's Regulatory Plan.

A. Staff has developed a five-year Regulatory Plan post-merger that involves several different components that provide; (1) more certainty and timeliness for ratepayers to receive merger savings, (2) tracking and confirming of merger savings, (3) oversight of capital expenditures, and (4) tracking and confirming of quality of service metrics. This Regulatory Plan ensures that the nexus between any approval of the Transaction and the benefits of the transaction remain connected so that the public interest is promoted. The individual components of Staff's Regulatory Plan are:

- **Earnings Review and Sharing Plan (ERSP)**: Staff recommends an ERSP that provides for; (1) a five year rate moratorium, (2) additional fixed bill credits in years 2019 through 2022 of $10.065 million for Westar and $3.321 million KCP&L – Kansas, (3) a 50% earnings sharing mechanism for any actual earnings above an authorized return on equity (ROE), less the fixed bill credits, and (4) several other ratemaking conditions. The ERSP will also require an annual review through an Earnings Review and Sharing Report that is to be filed with the Commission with the intent to be an evaluation of the earned Return on Equity of both Westar and KCP&L – Kansas to determine whether any sharing of overearnings should take place. Staff witness Justin Grady addresses the bulk of the ERSP. However, Staff witness Adam Gatewood provides cost of equity and capital structure recommendations, while Staff witness Dr. Glass discusses the economic rationale for Staff's ERSP;

- **Merger Integration Reporting**: Staff recommends Merger Integration Reporting that requires the Applicants to continue their offered reporting and tracking of merger savings throughout the five-year rate moratorium period. Staff witness Ann Diggs provides the testimony supporting this reporting requirement;
- **Affiliate Transaction and Cost Allocation Reporting**: Staff recommends Affiliate Transaction and Cost Allocation Reporting that will include a requirement that the Applicants have an independent third-party audit of affiliate transactions and corporate cost allocations. Staff witness Ann Diggs provides the testimony supporting this reporting requirement;
- **Capital Resource Plan (CRP)**: Staff recommends a CRP that requires budgets, schedules, and post completion reporting on capital expenditures related to generation, transmission, and distribution. Staff witness Walter Drabinski provides the testimony supporting these reporting requirements; and

- **Quality of Service Performance Standards and Monitoring Criteria**: Staff recommends Quality of Service Performance Standards and Monitoring Criteria to ensure that the service quality and reliability standards are established and monitored during the Regulatory Plan period. Staff witnesses Leo Haynos and Walter Drabinski provide testimony supporting these performance standards and reporting requirements.

C. OTHER STAFF ANALYSES

Q. Please discuss Staff's other analyses.

A. The majority of Staff's analyses and recommendations are included in the Regulatory Plan outlined above. While I don't intend to summarize every issue Staff has analyzed, there are a few more major areas of review that should be discussed. These are:

- Staff witness Mr. Grady reviews the financial analysis performed by the Applicant's financial advisors that establishes the valuation methods and reasonableness of the stock exchange ratio required for the MOE. Mr. Grady also:
    - Evaluates the accounting goodwill value;
    - Determines the appropriate time period over which to analyze merger benefits;
    - Performs an analysis of the percentage of forecasted merger savings that accrue to ratepayers and shareholders;

- Performs an analysis of the benefits of the transaction as modified by Staff's proposed ERSP;
- Reviews the financial model developed by the Applicant to forecast the financial results of the combined companies over five years;
- Discusses Staff's concerns regarding Westar's corporate office and the need to extend the commitments to ten years; and
- Discusses the need for a Most Favored Nations clause due to the pending approval of the merger in Missouri.

➢ Staff witness Mr. Gatewood provides his analysis, conclusions, and conditions regarding the financial assessment of the merger by the Applicant's credit rating agencies.

➢ Staff witness Dr. Glass provides his analysis and conclusions regarding the economic effect of the Transaction on state and local economies and labor markets as well as the effect of the Transaction on competition.

➢ Staff witness Mr. Drabinski provides his analysis and conclusions regarding the impact of the transaction on the environment as well as the impact of labor reductions in the areas of generation, transmission, and distribution. Mr. Drabinski also evaluates whether Kansas energy resources are maximized in Kansas and provides an analysis and recommendations regarding power plant retirements identified in the Applicant's 2017 Integrated Resource Plan.

D. Staff's Recommended Conditions

Q. Please discuss Staff's recommended conditions.

A. Each Staff witness provides an analysis, support, and recommendation for the conditions recommended in their respective testimony. For ease of reference, attached as Exhibit JDM-1 is a comprehensive list of all conditions recommended by both the Applicants and Staff. More specifically, the starting point for the conditions is Exhibit DRI-1[13] attached to Applicant witness Mr. Darrin Ives' testimony. Any language changes to the conditions list filed by the Applicant's is underlined, while any deletions contain a strikethrough.

E. Conclusion and Recommendation

Q. Please provide Staff's conclusions regarding the Transaction.

A. As stated previously, there is a direct nexus between the merger benefits and approval of the merger. More specifically, the Transaction meets the public interest standard primarily – but not solely – based on the merger benefits that will be realized post-merger. As Mr. Grady states in his testimony, "…previous Commission Orders make it clear that in order to promote the public interest, <u>adequate</u> ratepayer benefits resulting from a <u>balanced</u> and <u>equitable</u> sharing of the benefits attributed to a merger, is required."[14] Therefore, Staff's Regulatory Plan is necessary to ensure that the direct nexus between a balanced and equitable sharing of the benefits of the Transaction is not disconnected by allowing the Applicant's to control the benefits post-merger.

[13] The excel file for DRI-1 was obtained through CURB Data Request No. 10.
[14] Direct Testimony of Justin T. Grady at Section VI. A.

Q. Please provide Staff's recommendation.

A. The merger transaction – with Staff's additional conditions – meets the Commission's established merger standards and is in the public interest. Therefore, the Transaction should be approved subject to Staff's additional conditions.

Q. Does this conclude your testimony?

A. Yes it does.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
	I. General Conditions
1	***Headquarters*:** Holdco will maintain its corporate headquarters in Kansas City, Missouri and shall honor all terms and conditions of the existing lease for its headquarters office located at 1200 Main in Kansas City, Missouri, which expires in October 2032. Holdco will also maintain the current Westar Topeka downtown headquarters building at 800-818 South Kansas Avenue in Topeka, Kansas for its Kansas headquarters. Holdco shall honor all terms and conditions of the existing lease for the Westar headquarters building, which expires in April 2023. Holdco shall maintain staffing levels of no less than 500 employees based at 800-818 South Kansas Avenue, Topeka KS for at least five (5) years after the closing of the Merger. Thereafter, Holdco will maintain a Kansas headquarters somewhere in Topeka, Kansas (if not at 800-818 South Kansas Avenue) for a period of at least ten (10) years after the closing of the Merger. This Kansas operating headquarters will house all levels of technical, managerial, and executive talent and payroll (including a regulatory affairs staff) and should be reflective of the fact that the combined company will have more employees in Kansas than in Missouri.
2	***Executives*:** Upon the closing of the Merger, Mark Ruelle will become the non-executive chairman of Holdco for a period of three (3) years. Terry Bassham will serve as president and chief executive officer.
3	***Charitable Giving and Community Involvement*:** Holdco will continue charitable giving and community involvement in the Kansas service territory of KCP&L and Westar at levels equal to or greater than KCP&L's and Westar's respective 2015 levels for a minimum of five (5) years following the closing of the Merger.
4	***Low-Income Assistance Programs*:** Holdco will maintain and promote all low-income assistance programs consistent with those in place at all operating utility companies prior to the Merger for at least five (5) years after closing.
	II. Employee Commitments
5	***Collective Bargaining Agreements*:** Holdco will honor all existing collective bargaining agreements.
6	***Employee Compensation and Benefits*:** Holdco will maintain substantially comparable compensation levels and benefits for all employees for two years after the closing of the Merger.
7	***Employee Headcount*:** While Merger-related efficiencies will result in a lower employee headcount over time for the combined organization post-closing compared to the two stand alone organizations prior to closing, there will be no involuntary severance as a result of the Merger. There will also be no involuntary severance as a result of closing the following generating facilities: Sibley (units 1, 2 and 3), Montrose (units 1, 2 and 3), Lake Road (unit 4/6), Tecumseh (unit 7), Gordon Evans (units 3 and 4) and Murray Gill (units 1 and 2). Holdco will achieve headcount-related efficiencies (including any reduction in Kansas headquarters personnel) through normal attrition and other voluntary means over time in a gradual and generally balanced way across ~~both states~~ the States of Kansas and Missouri.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
	III. Financing ~~and Ring-Fencing~~ Conditions
8	***Board of Directors:*** Upon the closing of the Merger, the size of the Holdco board of directors will be mutually determined by GPE and Westar. In addition, as of the closing of the transaction, Holdco's board shall initially be composed of an equal number of directors designated by each of GPE and Westar, who shall be predominantly from the Kansas and Missouri region and the majority of whom shall be independent as defined by the New York Stock Exchange. Terry Bassham shall be a member of the board as a GPE nominee and Mark Ruelle shall be the non-executive Chairman of the board as a Westar nominee, with Mr. Ruelle serving as such for a term of three years. The initial lead independent director of Holdco will also be designated by Westar, with reasonable consultation with GPE. In addition, to the above, as of the closing, the board of directors will initially have five (5) standing board committees. Those committees will be composed of an equal number of directors designated by each of GPE and Westar. The initial chairpersons for three (3) of the five (5) standing committees shall be designated by GPE and the chairpersons for two (2) of the five (5) standing committees shall be designated by Westar.
9	***Financial Integrity*:** Holdco will exercise management prudence to maintain the financial integrity of Westar and KCP&L in all respects, including matters relating to dividends capital investments and other financial actions in an effort to maintain investment grade credit ratings. The HoldCo acknowledges that it is ultimately responsible for maintaining the financial integrity of its public utility subsidiaries such that they are capable of meeting their statutory responsibilities to provide sufficient and efficient service.
10	***Capital Structures*** : Holdco, KCP&L and Westar shall maintain separate capital structures to finance the respective activities and operations of each entity. Holdco, KCP&L and Westar shall maintain separate debt. Holdco, KCP&L and Westar shall also maintain separate preferred stock, if any. Holdco, KCP&L and Westar shall use reasonable and prudent investment grade capital stmctures. KCP&L and Westar will be provided with appropriate amounts of equity from Holdco to maintain such capital structures. Holdco shall maintain consolidated debt of no more than ~~65~~ 55 percent of total consolidated capitalization, and KCP&L's and Westar's debt shall be maintained at no more than ~~65~~ 55 percent. Holdco commits that Westar and KCP&L will not make any dividend payments to the parent company, equity repurchase, or other upstream cash payment to the extent that the payment would result in an increase in either utility's debt level above ~~65~~ 55 percent of its total capitalization, unless the Commission authorizes otherwise.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
11	***Separate Debt*:** Holdco, KCP&L and Westar shall maintain separate debt so that Westar will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Holdco, KCP&L, or GMO or other subsidiaries of Holdco (excluding Westar and subsidiaries of Westar), and KCP&L, GMO and other subsidiaries of Holdco (excluding Westar and subsidiaries of Westar) will not be liable (directly or through guarantees, cross-defaults or other provisions) for the debts of Westar. For the avoidance of doubt consistent with past practice, Westar may guarantee certain obligations of its subsidiaries, and subsidiaries of Westar may guarantee certain obligations of Westar. Holdco, KCP&L and Westar shall also maintain adequate capacity under revolving credit facilities and commercial paper, if any, which capacity may be administered on a combined basis provided that capacity maintained for KCP&L and Westar shall be exclusively dedicated to the benefit of KCP&L and Westar, pricing is separated by entity, and that (i) Westar neither guarantees the debt of Holdco, KCP&L, GMO or other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) nor is subject to a cross-default for such debt and (ii) Holdco, KCP&L, GMO and other subsidiaries of GPE (excluding Westar and subsidiaries of Westar) neither guarantee the debt of Westar nor are subject to a cross-default for such debt.
12	***Asset Conveyance*:** Holdco, KCP&L and Westar shall not sell, lease, rent or otherwise convey, outside routine business practices, Westar and KCP&L assets necessary and useful in providing electric service to the public without Commission approval.
13	***Separation of Assets*:** Holdco commits that KCP&L and Westar will not commingle their assets with the assets of any other person or entity, except as allowed under the Commission's Affiliate Transaction statutes or other Commission order. Holdco commits that KCP&L and Westar will conduct business as separate legal entities and shall hold all of their assets in their own legal entity name unless otherwise authorized by Commission order. Holdco, KCP&L and Westar affirm that the present legal entity structure that separates their regulated business operations from their unregulated business operations shall be maintained unless express Commission approval is sought to alter any such structure. Holdco, KCP&L and Westar further commit that proper accounting procedures will be employed to protect against cross-subsidization of Holdco's, KCP&L's and Westar's non-regulated businesses, or Holdco's other regulated businesses in Kansas or its regulated businesses in other jurisdictions by Westar's Kansas customers.
14	***Other Separation*:** Westar (including subsidiaries of Westar), on the one hand, and Holdco and KCP&L, on the other hand, shall not grant or permit to exist any encumbrance claim, security interest, pledge or other right in their respective stock or assets in favor of any entity or person other than immaterial liens or encumbrances in the ordinary course of business, letters of credit issued on behalf of third-parties in the ordinary course of business and encumbrances resulting from regulatory requirements unless otherwise authorized by the Commission.
15	***Credit Rating*:** ~~**Both Standard & Poor's ("S&P") and Moody's have opined that the Merger is credit-positive and that Holdco will have improved credit metrics and financial ratios compared to GPE on a stand-alone basis.**~~ GPE, KCP&L and Westar shall maintain separate issuer (i.e., Corporate Credit Ratings) and separate issue ratings for debt that is publicly placed.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
16	*Credit Rating Downgrade*: If S&P or Moody's downgrade the Corporate Credit Rating or senior secured or unsecured debt issue rating of Holdco, KCP&L or Westar (the "Impacted Utility") to below investment grade (i.e., below BBB- or Baa3), the "Impacted Utility" commits to file: i. Notice with the Commission within five (5) business days of such downgrade that includes specification of the affected credit rating(s), the pre- and post-downgrade credit ratings of each affected credit rating, and a full explanation of why the credit rating agency or agencies downgraded each of the affected credit ratings; ii. A filing with the Commission within sixty (60) days which shall include the following: • Actions the Impacted Utility and HoldCo may take to raise its S&P or Moody's credit rating to BBB- or Baa3, respectively, including the costs and benefits of such actions and any plan the Impacted Utility may have to undertake such actions. If the costs of returning Westar and/or KCP&L to investment grade are above the benefits of such actions, Westar and/or KCP&L shall be required to show and explain why it is not necessary, or cost-effective, to take such actions and how the utility(s) can continue to provide efficient and sufficient service in Kansas under such circumstances; • The change on the capital costs of the Impacted Utility due to its S&P or Moody's credit rating being below BBB- or Baa3, respectively; and • Documentation detailing how the Impacted Utility will not request from its Kansas customers, directly or indirectly, any higher capital costs incurred due to a downgrade of its S&P or Moody's credit rating below BBB- or Baa3, respectively; iii. File with the Commission, every forty-five (45) days thereafter until the Impacted Utility has regained its S&P or Moody's credit rating of BBB- or Baa3, respectively or above, an updated status report with respect to the items required in subparagraph ii above. iv. If the Commission determines that the decline of the Impacted Utility's S&P or Moody's credit rating to a level below BBB- or Baa3, respectively, has caused its quality of service to decline, then the Impacted Utility shall be required to file a plan with the Commission detailing the steps that will be taken to restore service quality levels that existed prior to the ratings decline. v. In the event KCP&L's or Westar's affiliation (ownership or otherwise) with Holdco or any of Holdco's affiliates is a primary factor for KCP&L's or Westar's S&P or Moody's Corporate credit rating to be downgraded to below BBB- or Baa3, respectively, KCP&L and/or Westar shall promptly undertake additional legal and structural separation from the affiliate(s) causing the downgrade. Notwithstanding Commitment No. 10's limitation on payment of dividends, the Impacted Utility shall not pay a common dividend without Commission approval or until the Impacted Utility's S&P or Moody's credit rating has been restored to BBB- or Baa3, respectively. vi. If Holdco, KCP&L's or Westar's respective S&P or Moody's credit rating declines below BBB- or Baa3, respectively, the Impacted Utility shall file with the Commission within 15 days a comprehensive risk management plan setting forth committed actions assuring the Impacted Utility's access to and cost of capital will not be further impaired. The plan shall include a non-consolidation opinion if required by ~~S&P or Moody's.~~ the Commission.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
17	***Cost of Capital*** : Holdco commits that future cost of service and rates of KCP&L and Westar shall not be adversely impacted on an overall basis as a result of the Merger and that future cost of service and rates will be set commensurate with financial and business risks attendant to their individual regulated utility operations. Neither KCP&L nor Westar shall seek an increase to their cost of capital as a result of (i.e., arising from or related to) the Merger or KCP&L's and Westar's ongoing affiliation with Holdco and its affiliates after the Merger. The return on equity capital ("ROE") as reflected in Westar's and KCP&L's rates will not be adversely affected as a result of the Merger. Holdco agrees the ROE shall be determined in future rate cases, consistent with applicable law, regulations and practices of the Commission. The burden of proof that any increase to the cost of capital is not a result of the Merger shall be borne by KCP&L or Westar. Any net increase in the cost of capital that KCP&L or Westar seeks shall be supported by documentation that: (a) the increases are a result of factors not associated with the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; (b) the increases are not a result of changes in business, market, economic or other conditions caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates; and (c) the increases are not a result of changes in the risk profile of KCP&L or Westar caused by the Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates. The provisions of this section are intended to recognize the Commission's authority to consider, in appropriate proceedings, whether this Merger or the post-Merger operations of Holdco or its non-KCP&L and non-Westar affiliates have resulted in capital cost increases for KCP&L or Westar. Nothing in this condition shall restrict the Commission from disallowing such capital cost increases from recovery in KCP&L or Westar's rates.
	IV. Ratemaking, Accounting, and Related Conditions
18	***Upfront Bill Credits*** : Holdco agrees that its electric utility subsidiaries will provide ~~all~~ Westar and KCP&L retail electric customers with one-time bill credits totaling $26,840,000 million to Westar retail electric customers and $8,856,250 to KCP&L's Kansas retail electric customers. ~~50 million~~ within 120 days of the closing of the Merger. Thereafter Holdco agrees that its electric utility subsidiaries will provide Westar and KCP&L's Kansas retail electric customers with annual bill credits by March 31 in each year 2019, 2020, 2022, and 2022 in the amount of $10,065,000 for Westar retail electric customers and $3,321,094 for KCP&L's Kansas retail electric customers. ~~This amount shall be allocated among Applicants' electric rate jurisdictions in both Kansas and Missouri on the basis of the total MWH of all retail Sales of Electricity reported to FERC under Form 1 (or Form 3-Q) for the most recent full twelve calendar month period prior to the closing of the Merger for which such report is available.~~ The amounts identified herein ~~so allocated~~ shall be assigned to each retail electric customer within the applicable Kansas electric rate jurisdiction based upon methodology approved by the Commission.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
19	***Transition Costs*:** Neither Westar nor KCP&L will ever include in cost of service, and shall never seek to recover in rates, any transition costs related to this Merger that are in excess of the benefits that these transition costs are intended to attain or were incurred prior to January 1, 2018. Transition costs are those costs incurred to integrate Westar and GPE, and include integration planning, execution, and "costs to achieve." Non-capital transition costs can be ongoing costs or one-time costs. KCP&L's and Westar's non-capital transition costs, which shall include but not be limited to severance payments made to employees other than those required to be made under change of control agreements, can be deferred on the books of either KCP&L or Westar to be considered for recovery over an amortization period of ten (10) years, in KCP&L and Westar future rate cases, as long as those costs were incurred subsequent to January 1, 2018. If subsequent rate recovery is sought, KCP&L and Westar will have the burden of proof to clearly identify where all transition costs are recorded and of proving that the recoveries of any transition costs are just and reasonable as their incurrence facilitated the ability to provide benefits in excess of those costs to its Kansas customers. Such benefits may be the result of avoiding or shifting costs and activities. KCP&L and Westar shall be required to attest in all future rate proceedings before the Commission that no transition costs in excess of their corresponding benefits are included in cost of service and rates, and to provide a complete explanation of the procedures used to ensure that transition costs, in excess of their corresponding benefits, are not included in cost of service or rates. This commitment shall be required until all transition costs are fully amortized. KCP&L and/or Westar, as applicable, shall bear the burden of proving and fully documenting that any transition costs for which rate recovery is sought have produced net benefits. Such benefits may be the result of avoiding or shifting costs and activities.
20	***Goodwill*:** Goodwill associated with the Merger is the difference between the fair market value of GPE's assets and the exchange value of GPE's stock upon the closing of the Merger (referred to herein as "Merger Goodwill") and will be maintained on the books of Holdco. The amount of any such Merger Goodwill shall not be ever included in the revenue requirement of KCP&L or Westar in future Kansas rate cases. Neither KCP&L nor Westar will ever seek recovery through recognition in retail rates ~~and~~ or revenue requirements in future rate cases of any such Merger Goodwill.
21	***Goodwill Impairment*:** Customers shall be held harmless from the risk or realization of any Merger Goodwill impairment. Holdco does not expect, and shall take prudent actions to avoid, Merger Goodwill from negatively affecting KCP&L's or Westar's cost of capital. If such Merger Goodwill becomes impaired and such impairment negatively affects KCP&L's or Westar's cost of capital or credit ratings, all costs associated with the decline in the Impacted Utility's credit quality specifically attributed to the Merger Goodwill impairment, considering all other capital cost effects of the Merger and the impairment, shall be excluded from the determination of the Impacted Utility's rates.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
22	***Transaction Costs*:** Transaction costs include, but are not limited to, those costs relating to obtaining regulatory approvals, development of transaction documents, investment banking costs, costs related to raising equity incurred prior to the close of the Merger, severance payments required to be made by change of control agreements, internal labor and third party consultant costs incurred in performing any types of analysis or preparation (financial, tax, investment, accounting, legal, market, regulatory, etc.) to evaluate the potential sale or transfer of ownership, prepare for bid solicitation, analyze bids, conduct due diligence, compliance with existing contracts including change in control provisions, and compliance with any regulatory conditions, closing, and communication costs regarding the ownership change with customers and employees. Westar and KCP&L commit that they will not seek recovery through recognition in retail rates of transaction costs, that they shall have the burden of proof to clearly identify where all transaction costs related to this Merger are recorded and shall be required to attest in all future rate proceedings before the Commission that none of these costs are included in cost of service and rates, and to provide a complete explanation of the procedures used to ensure that these transaction costs are not included in cost of service or rates. This commitment shall be required until transaction costs of this Merger are no longer on Holdco's books in a test year for KCP&L and/or Westar, as applicable. Transaction costs shall be recorded on Holdco's books.
23	***Fuel and Purchased Power Costs*:** KCP&L's and Westar's fuel and purchased power costs shall not be adversely impacted as a result of the Merger.
24	***Retail Rates and Five Year Rate Moratorium*:** Holdco commits that retail rates for KCP&L and Westar customers shall not increase as a result of the Merger. Additionally Holdco, KCP&L and Westar commit to not change base rates in Kansas until the expiration of a five-year term that begins when the Merger closes. Additionally, Holdco, KCP&L and Westar agree to file a rate case to reflect in base rates all achieved merger savings (and update rates to reflect all other necessary and prudent costs associated with the provision of efficient and sufficient electric utility service) in the fifth year of the five-year term such that new rates will be effective immediately after the expiration of the five-year term.
25	**Merger Savings in 2018 Rate Cases**: Holdco, Westar, and KCPL commit to reflect as a cost of service reduction in the upcoming Kansas rate cases for Westar and KCP&L, Merger Savings in the amount of \$7,173,551 for KCP&L's Kansas operations and \$23,953,249 for Westar.
26	**Earnings Review and Sharing Plan:** Holdco, Westar and KCPL commit to abide by the terms of the Earnings Review and Sharing Plan (ERSP) , attached as Exhibit A to the Direct Testimony of Justin T. Grady in this Docket. The purpose of this ERSP is to require both Westar and KCP&L to file a Earnings Review and Sharing Report, in the Compliance Docket established, in the years 2019, 2020, 2021, 2022, and 2023. The purpose of these reports will be to evaluate the earned Return on Equity (ROE) of both Westar and KCPL-KS on an annual basis, as calculated after making limited adjustments to present the financial results of the company on a traditional ratemaking (rate base, rate of return) basis. In the event that the earned ROE of Westar or KCPL-KS exceeds the Commission-authorized ROE (as determined in the 2018 Rate Cases) any earnings in excess of those necessary to pay for the annual fixed bill credits discussed above shall be split 50% to ratepayers, 50% to shareholders. The portion of excess earnings for ratepayers shall be by way of a bill credit.
27	***Future Rate Cases*:** Holdco commits that in future rate case proceedings, KCP&L and Westar will support their assurances provided in this document with appropriate analysis testimony, and necessary journal entries fully clarifying and explaining how any such determinations were made.
	V. Affiliate Transactions and Cost Allocations Manual (CAM) Conditions
28	***Affiliate Service Agreements*:** KCP&L and Westar commit that they will file with the Commission (1) within sixty (60) days of closing of the Merger and (2) with the first post-closing rate case, an executed copy of all additional relevant Affiliate Service Agreements related to the Merger, pursuant to K.S.A. 66-1402 and that includes the service agreement(s) between any service company or affiliate allocating costs to a regulated utility affiliate.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
29	***Affiliate Interests*** **:** Holdco, KCP&L and Westar each expressly recognize that each represents an "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403. These statutes confer certain jurisdiction on the Commission regarding access to books and records, submission of contracts, review of affiliate transactions detail, etc.
30	***Affiliate Rules*** **:** KCP&L and Westar will be operated after the closing of the Merger in compliance with the Commission's affiliate transaction rules as set forth in K.S.A. 66-1401 *et seq.*, and in compliance with the affiliate rules adopted in the Commission's December 3, 2010 Order in Docket No. 06-GIMX-181-GIV ("06-181 Order"), or will obtain any necessary variances from such rules, and the Commission's August 7, 2001 Order in Docket No. 01-KCPE-708-MIS ("01-708 Order"). Holdco and its subsidiaries commit that all information related to an affiliate transaction consistent with the affiliate statutes and the Commission's 06-181 and 01-708 Orders in the possession of Holdco will be treated in the same manner as if that information is under the control of either KCP&L or Westar.
31	***Intercompany Charges*** **:** Holdco and its subsidiaries may seek recovery of intercompany charges to regulated utility affiliates in their first general rate proceedings following the closing of the Merger at levels equal to the lesser of actual costs or the costs allowed related to such functions in the cost of service of their most recent rate case prior to the closing of the Merger, as adjusted for inflation measured by the Gross Domestic Product Price Index. Billings for common-use assets shall be permitted consistent with GPE's current practices. Holdco and its subsidiaries shall have the burden of proof to demonstrate billings are prudent, in the usual course of business, and consistent with past practice.
32	***Separate Books and Records Available to Staff and Commission*** **:** Holdco shall maintain separate books and records, systems of accounts, financial statements and bank accounts for Westar and KCP&L. The records and books of Westar and KCP&L will be maintained under the FERC Uniform System of Accounts ("USOA") applicable to investor-owned jurisdictional electric utilities, as adopted by the Commission. The financial books and records of Holdco's regulated utility affiliates will be made available to the Commission and its Staff. The records and books of any affiliate for which any direct or indirect charge is made to Westar and KCP&L, and included in said utilities' cost of service and rates on either a direct or indirect basis, will be made available, upon request, to the Commission and its Staff. Holdco, KCP&L and Westar shall facilitate access of the Commission Staff to its external auditors and endeavor to provide the Commission and its Staff with timely access to any relevant external audit work papers and/or reports. Holdco, KCP&L and Westar will maintain adequate records to support, demonstrate the reasonableness of, and enable the audit and examination of all centralized corporate costs that are allocated to or directly charged to KCP&L or Westar. Nothing in this condition shall be deemed a waiver of any rights of Holdco, KCP&L or Westar to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
33	***Variance From Missouri Affiliate Transaction Rule*** : The Merger is or will be the subject of a variance request before the Missouri Public Service Commission ("MPSC") and an order is expected from the MPSC no later than the second quarter of 2018. GPE and KCP&L commit to pursue this variance from the provisions of Missouri Affiliate Transaction Rule 4 CSR 240-20.015 and endeavor to have such variance in place by Merger close. The variance will provide for goods and services transactions between KCP&L, GMO and Westar to occur at cost except for wholesale power transactions, which will be based on rates approved by the Federal Energy Regulatory Commission ("FERC"). Within thirty (30) days of the issuance of a final MPSC order in that proceeding, KCP&L and Westar will cause to be filed in this docket a copy of the final order. If the MPSC has not granted the variance from the Missouri Affiliate Transaction Rule mentioned above at the time Staff and CURB file direct testimony regarding the Merger, Holdco, Westar and KCP&L commit that in Kansas retail rate proceedings of KCP&L and Westar after the closing of the Merger, neither utility will seek to recover more than actual costs incurred by Holdco, Westar or KCP&L in connection with affiliate transactions, provided, however, that annualizations and other customary and appropriate ratemaking adjustments may be used.
34	***Cost Allocation Manual*** : KCP&L and Westar agree to meet with Staff and CURB no later than sixty (60) days after the closing of the Merger to provide a description of its expected impact on the allocation of costs among Holdco's utility and non-utility subsidiaries as well as a description of its expected impact on the cost allocation manuals ("CAMs") of KCP&L and Westar. No later than six (6) months after the closing of the Merger but no less than two (2) months before the filing of a general rate case for either KCP&L or Westar, whichever occurs first, KCP&L and Westar agree to file updates to their existing CAMs reflecting process and recordkeeping changes necessitated by the Merger.
35	***Third Party Audit of Cost Allocations***: On January 12, 2018, Joint Applicants, the Staff of the Missouri Public Service Commission, and other parties filed a Stipulation and Agreement in the Joint Applicants' Application for Approval of Merger with the Public Service Commission of Missouri. The Stipulation and Agreement contains a commitment for an independent third-party management audit report of cost allocations between Holco, KCP&L and GMO. Within 30 days of issuance, Joint Applicants agree to file this Audit of Affiliate Transactions and Corporate Cost Allocations Report in the Compliance Docket to be established by the Commission to monitor achievement of Merger savings and other Merger-related issues.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
	VI. Quality of Service Conditions
36	***Service Quality and Reliability Performance Standards*** ~~: Commencing with the beginning of the first full calendar year after closing, KCP&L and Westar will provide electric service reliability and call center service that meets or is better than the performance metric thresholds set forth in Exhibits BA-1, BA-2, BA-3.~~[1]. ~~If KCP&L or Westar fail to meet a particular performance metric threshold, then penalties will apply in accordance with these schedules and provisions.~~[2]. ~~KCP&L and Westar will work with Staff to report periodically on their performance relative to these service metrics following the closing of the Merger. If KCP&L or Westar perform without penalties on any metric for three consecutive years, then the reporting and penalty provisions for that metric for that utility will terminate.~~ Commencing with the beginning of the first full calendar year after closing, KCP&L and Westar will provide electric service reliability that meets or exceeds the 5-year system average value of SAIDI, and SAIFI shown as KCP&L-Kansas and Westar Combined in Exhibit WPD-18 of the direct testimony of Staff witness Walter Drabinski. Commencing with the beginning of the first full calendar year after closing, KCP&L and Westar will provide call center service performance that meets or exceeds the performance thresholds described in Exhibit BA-3 and the direct testimony of Applicant witness Bruce Akin. If KCP&L or Westar fail to meet a particular performance metric threshold set forth in Exhibits BA-1, BA-2, BA-3 of the direct testimony of Bruce Akin, then penalties will apply in accordance with these schedules and provisions. Any penalty payment will be invested by the company as a Contribution in Aid of Construction and directed to improve reliability. If KCP&L or Westar perform without penalties on any metric for three consecutive calendar years, then the penalty provisions for that metric for that utility will terminate. KCP&L and Westar will work with Staff to report periodically on their performance relative to meeting the performance targets for the metrics listed in Exhibit WPD-19 of the direct testimony of Staff witness Walter Drabinski following the closing of the Merger.
	VII. Anticipatory Reliability Metrics Tracker
37	For the items listed in Attachment C of the direct testimony of Staff witness Walter Drabinski, KCP&L and Westar shall provide a report substantially similar to the template provided in the attachment and reporting on the listed categories. The report should be provided for each calendar year and shall be due by May 1 of the next calendar year.
	VIII. Capital Resource Plan Tracker
38	On an annual basis beginning in September of 2019, the combined company shall provide updates to each identified capital project cost, schedule, project justification and a verification or results section. The report shall be provided in a format substantially similar to that of the Capital Budget Trackers attached as Attachment D to the direct testimony of Staff witness Walter Drabinski. The Trackers to be updated are as follows: Generation CAPEX Budget Tracker (2018-2022).xlsx; TD CAPEX Budget Tracker (2018-2022).xlsx; IT CAPEX Budget Tracker (2018-2022).xlsx)
	IX. Generation Plant Closing Filing
39	Within 90 days before initiating a plant closure, Westar and KCP&L shall file the following information with the Commission: Updated IRP filed as basis for any long term generation plan. Transmission analysis and costs to mitigate transmission congestion that may be caused by the plant closure. Impact on staffing; reductions and retirement mitigations caused by the plant closure. Costs to dismantle and mothball the plant proposed for closure.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
	X. Reporting and Access to Records
40	*Merger Integration*: To keep Staff and the Commission apprised of the status of integration implementation after closing, a Compliance Docket shall be opened by the Commission a. KCP&L and Westar shall meet with Staff no later than 60 days after closing, and on a quarterly basis thereafter for a period of one year after closing, to provide an update on the status of integration implementation, including discussion of progress on organizational changes and consolidation of processes affecting the customer experience, including but not limited to: contact center operations, customer information and billing, remittance processing, credit and collections, and service order processes. In addition, updates provided to Staff shall include: (1) accomplishments, (2) challenges, (3) Efficiency Summary ($): Planned vs Actual by functional area, (4) Labor Summary (FTE): Planned vs Actual, and (5) Integration Team highlights. The frequency of such update meetings shall be reduced to every six months during the second year through the fifth year after closing of the Merger and shall cease thereafter, unless otherwise ordered by the Commission. KCP&L and Westar shall file the information provided in the above-referenced meetings with Staff in the Compliance docket. Regardless of the frequency of such meetings, KCP&L and Westar agree to continue their practice of promptly advising Staff in the event of material operational irregularities whether arising from systems, training, process change or any other cause that may affect the customer experience. Additionally, for a period of five years after the merger closes ~~no less than two years~~, unless otherwise ordered by the Commission, KCP&L and Westar shall, on a twice-yearly basis unless otherwise ordered by the Commission, appear and provide an update of the status of integration implementation, providing the Commissioners an opportunity to ask questions about the status of integration implementation. b. KCP&L and Westar shall, on a quarterly basis continuing for ~~two~~ five years after closing, provide Staff, no later than 45 days after the conclusion of the relevant quarter, with data on employee headcounts by physical work location (full- and part-time, including contingent labor retained through employment agencies) for Holdco, KCP&L, GMO and Westar as well as a complete listing of functions and/or positions that have been either outsourced (meaning that work is being performed on behalf of Holdco, KCP&L, GMO and/or Westar that is not under the direct management and supervision of Holdco, KCP&L, GMO or Westar employees) or converted to contingent labor as a result of the integration of Holdco, KCP&L, GMO and Westar. To the extent that job positions at Holdco, KCP&L, GMO or Westar have been eliminated, re-classified or transferred between Holdco, KCP&L, GMO or Westar, such eliminations, re-classifications or transfers shall be identified. c. KCP&L and Westar shall, for a period of ~~two~~ five years after closing, provide Staff any reports or presentations made to Holdco's board of directors regarding efficiencies attained as a result of the Merger. Such reports or presentations shall be provided to Staff within 30 days after being provided to Holdco's board of directors. d. The reporting and data provision agreed to herein by Holdco, KCP&L and Westar does not change any reporting obligations of GPE (which shall apply to Holdco post-merger), KCP&L or Westar that existed prior to the approval of this Merger. e. CURB shall be invited to any meetings scheduled in compliance with sub-paragraph a of this Commitment No. 34. CURB shall be provided with the materials identified in sub-paragraphs b and c of this Commitment No. 34 and if such material contains non-public information shall execute an appropriate non-disclosure agreement before receiving such information.
41	*Goodwill Impairment Analysis*: For the first five (5) full calendar years after the closing of the Merger, Holdco shall provide Staff and CURB its annual goodwill impairment analysis in a format that includes spreadsheets in their original format with formulas and links to other spreadsheets intact and any printed materials within thirty (30) days after the filing of Holdco's Form 10 Q for the period in which the analysis is performed, as well as all supporting documentation. Thereafter, this analysis will be made available to Staff and CURB upon request.
42	*Accounting Changes*: Holdco, KCP&L and Westar commit that any material Merger-related financial and accounting changes must be reported to the Commission.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
43	***Integrated Resource Plan:*** KCP&L will provide to the KCC Staff its integrated resource plan (IRP) within seven (7) days of its filing in Missouri. The public version of such materials shall also be provided to CURB.
44	***Access to Materials Provided to Ratings Analysts*** **:** KCP&L and Westar shall provide Staff and CURB with access, upon reasonable written notice during working hours and subject to appropriate confidentiality and discovery procedures, to all written information provided to common stock, bond or bond rating analysts which directly or indirectly pertains to HoldCo, KCP&L or Westar or any affiliate that exercises influence or control over KCP&L, Westar or Holdco. Such information includes, but is not limited to, common stock analyst and bond rating analyst reports. For purposes of this condition, "written" information includes, but is not limited to, any written and printed material, audio and video tapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed a waiver of any entity's right to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.
45	***Access to Materials Regarding CAM Compliance*** **:** Holdco, KCP&L and Westar shall make available to Staff and CURB, upon written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, all books, records and employees as may be reasonably required to verify compliance with KCP&L's and Westar's CAM and any conditions ordered by this Commission. Holdco, KCP&L and Westar shall also provide Staff and CURB any other such information (including access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over KCP&L or Westar; provided that any entity producing records or personnel shall have the right to object on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates (a) are not within the possession or control of either KCP&L or Westar or (b) are either not relevant or are not subject to, the Commission's jurisdiction and statutory authority by virtue of, or as a result of, the implementation of the proposed Merger.
46	***Access to Board of Director Materials*** **:** KCP&L and Westar shall provide Staff and CURB access, upon reasonable request, the complete Holdco board of directors' meeting minutes, including all agendas and related information distributed in advance of the meeting, presentations and handouts, provided that privileged information shall continue to be subject to protection from disclosure and KCP&L and Westar shall continue to have the right to object to the provision of such information on relevancy grounds.
47	***Retention Period for Affiliate Transaction Records*** **:** KCP&L and Westar will maintain records supporting their affiliated transactions for at least six (6) years.
48	***Journal Entries*** **:** Within six months of the close of the Merger, Holdco, KCP&L and Westar will provide to the Commission Staff detailed journal entries recorded to reflect the Merger. Holdco, KCP&L and Westar shall also provide the final detailed journal entries to be filed with the Commission no later than 13 months after the date of the closing. These entries must show, and shall include but not be limited to, the entries made to record or remove from all utility accounts any Merger goodwill costs or transaction costs.
	Financial Conditions Remaining From 01-KCPE-701-MIS
49	GPE ("Holding Company") and its subsidiaries will not conduct any material business activities that are not part of the "electric industry or natural gas industry business" or are not reasonably related to business activities derived from changes in the electric industry or natural gas industry as a result of competition, without Commission approval. With regard to expansion of KCPL's current operations in the telecommunications and information businesses, activities will be limited to those considered reasonably related to current operations
50	KCPL's total long-term borrowings including all instruments shall not exceed KCPL's regulated rate base.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
51	The customers of KCPL shall be held harmless by KCPL and GPE if the reorganization creating GPE, with KCPL as a subsidiary, results in a higher revenue requirement for KCPL than if the reorganization had not occurred.
52	GPE and KCPL shall provide the Commission Staff and CURB unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly, or indirectly, pertains to KCPL or any affiliate that exercises influence or control over KCPL or has affiliate transactions with KCPL. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes, but is not limited to, any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of GPE's or KCPL's right to seek protection of the information.
53	GPE shall not, directly or indirectly, acquire or merge with a public utility or public utility holding company, nor will it allow itself to be acquired by a public utility or public utility holding company unless GPE has requested prior approval for such a transaction from the Commission.
	VIII. Other Parent Company Conditions
54	***Prior Commitments of, and Orders Applicable to, GPE, KCP&L and Westar*** : Holdco, KCP&L and Westar commit to reaffirm and honor any prior commitments made by GPE or Westar to the Commission to comply with any previously issued Commission orders applicable to KCP&L or Westar or their previous owners except as otherwise provided for herein. ***01-KCPE-708-MIS (01-708): In the Matter of the Application of Kansas City Power & Light Company for an Order Authorizing Its Plan to Reorganize Itself Into a Holding Company Structure*** : All of the commitments and conditions agreed to in the August 21, 2001 Amended Unanimous Stipulation and Agreement remain in place (see attached). With the exception of (1) Financial ratio reporting eliminated 6/22/12; (2) CAM filing eliminated 3/29/16 (continues to be filed in Ring Fencing Docket #06-GIMX-181-GIV each May). The minimum equity ratios of the 01-708 agreement are modified from 35% at KCPL and 30% at GPE (holding company) to a minimum equity ratio of 45% for the operating companies and holding company.
55	***Future Access to Capital*** : Holdco acknowledges that its utility subsidiaries need significant amounts of capital to invest in energy supply and delivery infrastructure (including, but not limited to, renewable energy resources and other environmental sustainability initiatives such as energy efficiency and demand response programs) and acknowledges that meeting these capital requirements of its utility subsidiaries will be considered a high priority by Holdco's board of directors and executive management and that Holdco's access to capital post-transaction will permit it and its utility subsidiaries to meet their statutory obligation to provide sufficient and efficient service.

Condition No.	Staff's Recommended Revisions to Joint Applicants' Proffered Merger Commitments and Conditions (18-KCPE-095-MER)
56	**Most Favored Nation Provision**: Holdco shall file with the Commission a copy of any Settlement Agreements reached and the Final Order of the Missouri Public Service Commission (MPSC) in Case No. EM-2018-0012. In the event that the MPSC approves the Merger with conditions that provide more benefits (monetary or non-monetary) to Missouri retail customers than the Kansas retail electric customer benefits contained in the Order of the Kansas Corporation Commission approving the Merger; Staff reserves its right to request the Commission issue an additional Order including the requested benefits and Holdco, Westar and KCP&L shall agree to provide the additional benefits to Kansas retail electric customers such that the benefits afforded Kansas retail electric customers are equivalent to those provided to Missouri retail electric customers.

[1] Akin Direct Testimony, Exhibits BA 1, BA 2, BA 3.

[2] Ibid.

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

VERIFICATION

Jeffrey D. McClanahan, being duly sworn upon his oath deposes and states that he is the Director of Utilities for the Kansas Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Direct Testimony*, and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.

Jeffrey D. McClanahan
Director of Utilities
State Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 29th day of January, 2018.

VICKI D. JACOBSEN
Notary Public - State of Kansas
My Appt Expires 6-30-18

Vicki D. Jacobsen
Notary Public

My Appointment Expires:

6-30-18

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18-KCPE-095-MER

I, the undersigned, certify that a true and correct copy of the above and foregoing Direct Testimony of Jeff McClanahan was served via electronic service this 29th day of January, 2018, to the following:

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/s/ Vicki Jacobsen

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