

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Great Plains Energy Incorporated for)
Approval of its Merger with) File No. EM-2018-0012
Westar Energy, Inc.)

**INITIAL BRIEF OF APPLICANTS
GREAT PLAINS ENERGY INCORPORATED,
KANSAS CITY POWER & LIGHT COMPANY, KCP&L
GREAT MISSOURI OPERATIONS COMPANY AND WESTAR ENERGY, INC.**

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Great Plains Energy Incorporated (“Great Plains Energy” or “GPE”), Kansas City Power & Light Company (“KCP&L”), KCP&L Greater Missouri Operations Company (“GMO”), and Westar Energy, Inc. (“Westar¹”) (collectively referred to as “Applicants”) state the following as their Initial Brief, pursuant to the Order Setting Procedural Schedule issued on October 19, 2017 by the Missouri Public Service Commission (“PSC” or “Commission”).

INTRODUCTION

A. The Applicants.

GPE is a Missouri corporation with its principal place of business in Kansas City, Missouri. GPE is the holding company for the stock of KCP&L and GMO, both regulated public utilities in Missouri. GPE is a public utility holding company regulated under the Public Utility Holding Company Act of 2005. Its stock is traded on the New York Stock Exchange. See Application, ¶ 1.

KCP&L is a Missouri corporation with its principal place of business in Kansas City, Missouri. It provides electric utility service to the public in western Missouri and eastern Kansas, operating primarily in the Kansas City metropolitan area. GMO is a Delaware corporation with its principal place of business in Kansas City, Missouri. It provides electric and steam utility service to the public in western Missouri. KCP&L and GMO are an “electrical corporation” and a “public utility” under Section 386.020(15) and (43),² and are subject to the jurisdiction of the Commission under Chapters 386 and 393. Id., ¶¶ 2-3.

Westar is a Kansas corporation, with its principal place of business in Topeka, Kansas. Westar holds a certificate of public convenience issued by the Kansas Corporation Commission

¹ Kansas Gas and Electric Company (“KGE”) is a wholly-owned subsidiary of Westar. For purposes of this brief, the term “Westar” includes KGE.

² All statutory references are to the Missouri Revised Statutes (2016), unless otherwise noted.

(“KCC”) allowing it to operate as a public utility in Kansas. Westar, together with its utility subsidiary KGE, provides electric service to the public in Kansas. Westar’s stock is traded on the New York Stock Exchange. Id., ¶ 5.

Westar and KCP&L are joint owners with another party of the Wolf Creek Nuclear Generating Station, an 1,170 megawatt (“MW”) nuclear power plant located in Coffey County, Kansas which is operated by the Wolf Creek Nuclear Operating Company (“WCNOC”). Westar and KCP&L each own 47% of WCNOC, with 6% owned by Kansas Electric Power Cooperative, Inc. KCP&L and Westar are joint owners of the La Cygne Generating Station, a two-unit 1,400 MW coal-fired generating station located near La Cygne, Kansas. KCP&L and Westar each own 50% of the La Cygne Generating Station, which KCP&L operates. GMO and Westar are joint owners of the Jeffrey Energy Center, a three-unit 2,150 MW coal-fired generating station located near St. Marys, Kansas. Westar owns 92% of and operates the Jeffrey Energy Center, of which GMO owns 8%. Id., ¶ 6.

B. The Merger.

In 2016, Westar and Great Plains Energy entered into a transaction whereby GPE would acquire 100% of Westar’s stock and become the parent company of Westar (“Initial Transaction”). The terms of the Initial Transaction were set forth in an application filed before the KCC on June 28, 2016. See In re Joint Application of Great Plains Energy Inc., Kansas City Power & Light Co. and Westar Energy, Inc. for Approval of the Acquisition of Westar Energy, Inc. by Great Plains Energy Inc., Docket No. 16-KCPE-593-ACQ (“16-593 Docket”). The Initial Transaction was also the subject of In re Application of Great Plains Energy Inc. for Approval of its Acquisition of Westar Energy, Inc., No. EM-2017-0226, filed at this Commission on February 23, 2017.

On April 19, 2017 the KCC issued its order denying the joint application in the 16-593 Docket. Although it denied reconsideration of this order on May 23, 2017, the KCC stated that it

“encourages the parties to continue working together” and “welcomes the filing of a new application that can satisfy the [KCC] merger standards and advance the public interest.”³

Applicants continued their efforts to develop a revised agreement, which resulted in the July 9, 2017 Amended and Restated Agreement and Plan of Merger (“Amended Merger Agreement” or “Merger”). See Appendix C, Application. On August 25, 2017 Westar, GPE and KCP&L filed their application requesting that the KCC approve the Merger.⁴ Similarly, on August 31, 2017, Applicants filed their application seeking this Commission’s approval of the Merger.⁵

The Amended Merger Agreement between GPE and Westar is a stock-for-stock merger of equals – one of only a few true MOEs ever in the electric utility sector – where neither GPE nor Westar will pay or receive a premium with respect to the other. See Ex. 2, Bassham Direct at 8. There will be no transaction debt and no exchange of cash. Id. Westar and GPE will merge through the formation of a new holding company and the exchange of stock by shareholders of both Westar and GPE. Id. at 8-9. The new holding company (“Holdco” or the “combined Company”) will be given a new name by the close of the Merger. Id.

The Merger will result in a legal structure identical to the structure commonly used in the electric utility sector and that currently exists at GPE, but with the addition of Westar as a subsidiary utility operating company of Holdco. KGE will continue to be a wholly-owned subsidiary of Westar after the Merger. Id. at 11-12. Westar, KCP&L, and GMO will be direct wholly-owned subsidiaries of Holdco. Id. at 12. The combined Company will have an equity

³ Order Denying Joint Applicants’ Petition for Reconsideration, ¶9 at 3, In re Joint Application of Great Plains Energy Inc., Kansas City Power & Light Co. and Westar Energy, Inc. for Approval of the Acquisition of Westar Energy, Inc. by Great Plains Energy Inc., Docket No. 16-KCPE-593-ACQ (May 23, 2017).

⁴ In re Application of Great Plains Energy Inc., Kansas City Power & Light Co., and Westar Energy, Inc. for Approval of the Merger of Westar Energy, Inc. and Great Plains Energy Inc., No. 18-KCPE-095-MER.

⁵ The Commission previously granted on July 26, 2017 the motion of GPE to dismiss In re Application of Great Plains Energy Inc. for Approval of its Acquisition of Westar Energy, Inc., No. EM-2017-0226, given that a new application would be filed seeking approval of the Amended Merger Agreement.

value of approximately \$14 billion, which is the approximate sum of the equity market capitalization of the two companies immediately prior to the announcement of the Merger in July 2017 (i.e., approximately \$6.3 billion for GPE and approximately \$7.6 billion for Westar). See Ex. 14, Somma Direct at 5-6.

The Merger is designed to permit a tax-free exchange of shares. The exchange ratio reflects the agreed-upon ownership split between Westar and GPE with the result that neither Westar nor GPE will receive or pay a premium with respect to the other. Following completion of the Merger, Westar's present shareholders will own approximately 52.5% and GPE's present shareholders will own approximately 47.5% of the combined Company. See Bassham Direct at 8-9.

The Merger was approved by the boards of directors of Westar and GPE on July 9, 2017. See Appendix F-G, Application. GPE and Westar announced on November 21, 2017 that the shareholders of both companies approved the Merger. See News Release (**attached as Ex. A**).

The Merger received clearance to proceed under the Hart-Scott-Rodino Act by the Federal Trade Commission on December 12, 2017. See FTC Letter (**attached as Ex. B**). The Federal Energy Regulatory Commission ("FERC") issued its Order Authorizing Merger and Disposition of Jurisdictional Facilities on February 28, 2018 in Docket No. EC17-171-000. See Applicants' Notice to the Commission, Ex. A (filed Mar. 15, 2018). The Nuclear Regulatory Commission issued its Order Approving Indirect Transfer License on March 12, 2018. Id., Ex. B. The Federal Communications Commission issued its orders relating to Applicants' radio licenses on March 19, 2018 (Westar, GPE and KCP&L) and March 23, 2018 (GMO). See Applicants' Notice to the Commission, Ex. A (filed Mar. 23, 2018). Applicants are awaiting the approval of this Commission and the KCC.

At the evidentiary hearing conducted March 12 and 14, 2018, Applicants demonstrated that the Merger is not detrimental to the public interest, as shown by the evidence that they presented and by the conditions and commitments set forth in:

(1) The Stipulation and Agreement reached by the Applicants, the Staff of the Commission (“Staff”), the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”), and Brightergy, LLC (“Brightergy”), which was filed on January 12, 2018 (“January Stipulation”); and

(2) The Stipulation and Agreement reached by the Applicants with the Office of the Public Counsel (“OPC” or “Public Counsel”) and the Midwest Energy Consumers Group (“MECG”), filed on March 8, 2018, which was joined by Staff, MJMEUC, and Brightergy, and which the Division of Energy, Missouri Department of Economic Development (“Division of Energy”) did not oppose (“March Stipulation”).

Applicants also seek, and the January and March Stipulations recommend that the Commission grant, approval of their request for a variance from the Commission’s Affiliate Transactions Rules in 4 CSR 240-20.015 and 4 CSR 240-80.015 that will allow transactions between the regulated utility operations of KCP&L, GMO, and Westar to occur at cost, except for wholesale power transaction which will be based on rates approved by FERC.

C. Summary of Relief Requested.

As explained more fully below, Applicants have demonstrated that the Merger, as conditioned by the January and March Stipulations, will not be detrimental to the public interest in Missouri, and that good cause has been shown to grant the limited variance requested from the Commission’s Affiliate Transactions Rules because granting the requested variance will serve the public interest by facilitating Applicants’ full achievement of Merger savings for the benefit of customers. Consequently, Applicants request that the Commission grant its approval of the Merger

and the January and March Stipulations including the limited variance which has been requested from the Commission's Affiliate Transactions Rules.

ARGUMENT

I. **SHOULD THE COMMISSION FIND THAT GPE'S MERGER WITH WESTAR IS NOT DETRIMENTAL TO THE PUBLIC INTEREST AND APPROVE THE MERGER?**

Applicants' Position: Yes. Applicants have met their burden of establishing that there is no detriment to the public interest if the Commission approves the Merger, subject to the conditions and commitments identified in Section II. The evidence supports a finding by the Commission that the benefits of the Merger outweigh any potential detriments, particularly given conditions and commitments identified in Section II which mitigate any potential risks that the Merger would diminish the provision of safe and adequate service or would tend to make retail rates paid by Missouri customers less just or less reasonable.

A. **The Standard.**

The Commission may not withhold its approval unless Applicants fail to meet their burden to demonstrate that the Merger is not detrimental to the public interest. Detriment is determined by performing a balancing test where attendant benefits are weighed against direct or indirect effects of the Merger that would diminish the provision of safe or adequate service or that would tend to make rates less just or less reasonable. State ex rel. City of St. Louis v. PSC, 73 S.W.2d 393, 399-400 (Mo. en banc 1934); State ex rel. Ag Processing, Inc. v. PSC, 120 S.W.3d 732, 735 (Mo. App. W.D. 2003); State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980). See Report & Order at 232, In re Joint Application of Great Plains Energy Inc. for Approval of the Merger of Aquila, Inc. with a Subsidiary of Great Plains Energy Inc., No. EM-2007-0374 (July 1, 2008), aff'd, State ex rel. Praxair, Inc. v. PSC, 344 S.W.3d 178 (Mo. en banc 2011).

Because the Applicants have met their burden of proof to establish that the Merger will not be detrimental to the public interest, "the Commission may not withhold its approval of the

disposition of assets” State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz, 596 S.W.2d at 468, citing State ex rel. City of St. Louis v. PSC, 73 S.W.2d at 400.

B. The Merger Will Produce Significant Benefits that will Flow to Customers of KCP&L and GMO, and Will Create a Stronger Combined Holding Company that will Benefit all Interested Parties Over the Long-Term.

There is no dispute that the Merger will create a larger, stronger combined Company that is better positioned to meet its customers’ needs, have a positive effect on the environment, and achieve competitive financial returns. See Ex. 2, Bassham Direct at 8; Ex. 9, Ives Direct at 22-23.

As Great Plains Energy Chairman, President and Chief Executive Officer Terry Bassham testified at the evidentiary hearing, the Merger is a merger of equals that, in contrast to the Initial Transaction, provides “the same basic combination of two companies with the same basic opportunity to generate savings without a Merger premium, which would have required an immediate \$4 billion plus in corporate debt.” See Tr. 114. The Merger will result in “an incredibly strong company” that should give both Missouri and Kansas Commissioners “a lot of confidence over our ability not only to execute but sustain and serve our customers without risk to the utilities” Id.

In addition to providing their share of \$75 million in upfront bill credits to Missouri retail electric customers, pledges to employees, and financial commitments to communities (Ex. 2, Bassham Direct at 14-16), the Merger will vault the combined Company into a Top 5 position of wind generation capacity among all U.S. investor-owned utilities. See Tr. 85, 129-130 (Bassham); Ex. 15. The Merger will also allow Westar to retire by the end of 2018 five aging fossil-fueled generation plants, totaling 781 MW of capacity, which had originally been scheduled to close between 2023 and 2028. See Ex. 5, Crawford Surrebuttal at 13-14.

Both Staff and OPC favor the approval of the Merger by the Commission, based upon the January and March Stipulations, and offered supporting testimony at the evidentiary hearing.

Regarding the January Stipulation, Staff Director Natelle Dietrich stated: “We put consumer protections in place to prevent any potential of detriment,” including key protections regarding credit rating downgrades, no involuntary severance of employees, access to records, and requirements to meet with Staff on a variety of issues, including system reliability and consumer call centers. See Tr. 270, 286-87. She also summarized the benefits provided to customers in the March Stipulation relating to limits on the recovery of Transition Costs, the Commission’s authority to approve a future merger or acquisition regarding Holdco, and the allocation of the Missouri portion of the \$75 million in bill credits. See Tr. 287-90.

Ms. Dietrich reviewed the recent Kansas Non-Unanimous Settlement Agreement filed on March 7, 2018 at the KCC by Applicants, KCC Staff, the Citizens’ Utility Ratepayer Board, and other parties (Ex. 451), and testified that there is nothing in that agreement that would be a detriment to Missouri ratepayers if it was approved in Kansas. See Tr. 272-73. Noting that the KCC settlement “alleviates any potential concerns” of Staff, she testified that there is no reason for this Commission to wait for a decision by the Kansas Commission. Id. at 273. She observed that the opportunity for the Missouri Commission to address any possible modification made to the Kansas settlement would be present “in the pending rate cases” of KCP&L and GMO, and that “Staff could bring a complaint to the Commission should there be a need” Id. at 271-72, 291.

Exhibit 16 is a summary of the January and March Stipulations filed at this Commission, the Kansas Settlement Agreement, and a comparison of the benefits they provide. Ms. Dietrich stated that while there are differences between the agreements in Missouri and in Kansas, she agreed that they provide “equivalent benefits” to ratepayers in both states. See Tr. 295-96. She noted that Kansas offers recovery mechanisms not available in Missouri which allow costs relating to increases in property taxes, transmission delivery charges, fuel, and other items to be passed

through to ratepayers without the requirement of a general rate case. Id. at 298-99. In Missouri, increases in such costs must be approved by the Commission in a rate case. Id. She concluded that the Missouri Stipulations ensure that the Merger is not detrimental to the public interest, and that nothing in the Kansas Settlement Agreement shifts risks to Missouri ratepayers that would cause the Merger to be detrimental to the public interest. Id. at 300.

Dr. Geoff Marke, OPC's Chief Economist, similarly testified there were no conditions contained in the Kansas Settlement Agreement that would have a negative impact to Missouri ratepayers. See Tr. 313. Dr. Marke, like Ms. Dietrich, noted that Kansas has a "[d]ifferent regulatory environment" where public utilities are allowed to recover costs related to property taxes, transmission charges, and other items that can only be recovered in Missouri through a general rate case. Id. at 320.

He confirmed that because the March Stipulation entered into by Public Counsel, MECG, and other parties contained provisions that "would help ensure favorable treatment for Missouri ratepayers," OPC withdrew his prior "equal outcomes" recommendation. See Tr. 315. Public Counsel formally withdrew this request in the March Stipulation, and declared, with the other signatories, that this stipulation, "in conjunction with" the January Stipulation, "supports Commission approval of the Merger ... and a determination that the Merger of GPE and Westar meets Missouri's 'not detrimental to the public interest' standard." See March Stipulation, ¶ 13.

In response to Chairman Hall's questions, Dr. Marke testified that he no longer believed that an "equal outcome" or "most favored nation" condition was necessary because of specific provisions of the March Stipulation that set forth "tangible dollar amounts" limiting the recovery of Transition Costs in Paragraph 9, and that require Holdco to seek Commission approval of any future merger with a public utility in Paragraph 10. See Tr. 315-317. He also cited Paragraph 15

which provides Missouri retail electric customers with their share of an additional \$25 million in upfront bill credits (beyond the \$50 million offered in the January Stipulation), and specifies the dollar amounts to be credited to the Missouri customers of GMO and KCP&L, as well as a particular method of allocation both between rate classes and within rate classes. See Tr. 317-19. March Stipulation, ¶ 8 at 3, 10.

C. Any Potential Detriments are Mitigated by Commitments and Conditions Agreed to by Applicants, Staff, Public Counsel, MECG and Other Parties.

As explained in Section II, the Applicants and other key parties have agreed to over 40 commitments, conditions and other terms in the January and March Stipulations that mitigate detriments that could arise from the Merger and ensure that customers will receive the benefit of savings that the Merger will create.

The commitments and conditions agreed to by Applicants, Staff, Public Counsel, MECG and others protect against detriments in the following eight areas:

- General Conditions relating to the location of GPE's successor holding company and its public utility subsidiaries, executive succession, charitable giving, and corporate social responsibility.
- Employee Commitments, including that all collective bargaining agreements will be honored and that there will be no involuntary severance as a result of the Merger nor from the specified closure of certain generating facilities.
- Financing Conditions that relate to separation of assets, potential credit rating downgrades, and cost of capital issues.
- Ratemaking, Accounting and Related Conditions, including Missouri customers' share of \$75 million in up-front bill credits and rate treatment of transition costs, goodwill, and transaction costs.

- Affiliate Transactions and Cost Allocation Manual Conditions, which include an independent third-party management audit and a corporate cost allocations report.
- Quality of Service Conditions relating to customer service and operational levels of performance.
- Reporting and Access to Records Conditions regarding Merger integration, accounting changes, and certain books and records.
- Other Parent Company Conditions relating to compliance with past Commission orders and access to capital issues.

II. SHOULD THE COMMISSION CONDITION ITS APPROVAL OF GPE'S MERGER WITH WESTAR AND IF SO, HOW?

Applicants' Position: Yes. The Commission should approve the Merger subject to the terms, conditions and commitments set forth in the January Stipulation between the Applicants, Staff, and other parties, and in the March Stipulation between the Applicants, Public Counsel, MECG, as well as Staff and other parties.

A. The January and March Stipulations.

This section of Applicants' Brief describes the key commitments, conditions, and terms agreed to by Staff, MJMEUC, and Brightergy in the January Stipulation, as modified and supplemented by the provisions of the March Stipulation reached by the Applicants with Public Counsel and MECG.

Subsections A(1) through A(8) summarize the 43 Commitments and Conditions contained in Exhibit A to the January Stipulation, as modified by the March Stipulation.

Subsection A(9) describes conditions other than the Exhibit A commitments that were agreed to elsewhere in the January and March Stipulations, as well as in surrebuttal testimony of the Applicants.

1. General Conditions.

Applicants have agreed to five general conditions in the January Stipulation (Ex. A, at 1-2). The successor holding company to GPE will maintain its corporate headquarters in Kansas City, Missouri, honoring the terms of the existing lease for GPE's current offices which expires in October 2032. The new holding company will maintain Westar's downtown headquarters building in Topeka, Kansas as its Kansas headquarters, and honor the existing lease for that property which expires in April 2023. See January Stipulation, Ex. A, Condition 1.

At the closing of the Merger, Westar President and Chief Executive Officer ("CEO") Mark Ruelle will become the non-executive chairman of Holdco for a period of three years. GPE's current Chairman, President and CEO Terry Bassham will serve as Holdco's President and CEO. See January Stipulation, Ex. A, Condition 2. Holdco will continue charitable giving and community involvement in the Missouri service territories of KCP&L and GMO at levels equal to or greater than those utilities' respective 2015 levels for at least five years after the Merger closes. See Condition 3. Holdco will also maintain and promote all low-income assistance programs consistent with the programs in place at KCP&L and GMO prior to the Merger for at least five years post-closing. See January Stipulation, Ex. A, Condition 4.

No later than thirty days after the Merger closes, and on or before that calendar day in each of the next nine years, Holdco will provide \$50,000 to each of the community action agencies set forth in Condition 5 of Exhibit A to the January Stipulation.

2. Employee Commitments.

Applicants have agreed that Holdco will honor all collective bargaining agreements, and will maintain substantially comparable compensation levels and benefits for all employees for two years after the Merger closes. See January Stipulation, Ex. A, Conditions 6-7.

There will be no involuntary severance as a result of the Merger, and no involuntary severance as a result of the closing of 12 specific generating facilities. Applicants have agreed that Holdco will achieve employee efficiencies through normal attrition and other voluntary means over time in a generally balanced way across both Missouri and Kansas. See January Stipulation, Ex. A, Condition 8.

3. Financing Conditions.

Applicants have agreed to four financing conditions, beginning with a commitment that the Board of Directors of Holdco will be composed of an equal number of directors each designated by GPE and Westar who shall be predominantly from the Kansas and Missouri region. A majority of directors shall be independent, as defined by the New York Stock Exchange. In addition to the previously noted roles for Mr. Ruelle and Mr. Bassham, Mr. Bassham shall be a member of the board and the initial lead independent director of Holdco will be designated by Westar, after consulting with GPE. See January Stipulation, Ex. A, Condition 9.

Condition 13⁶ of Ex. A to the January Stipulation provides that KCP&L and GMO will hold each of their respective assets separately, except as permitted by the Commission. This condition contains other agreements with regard to the manner in which KCP&L, GMO, and Westar will conduct their business as separate legal entities. In particular, Holdco, KCP&L, GMO, and Westar have agreed to employ proper accounting procedures to protect against the cross-subsidization of Holdco's, KCP&L's, GMO's, and Westar's non-regulated businesses, or Holdco's other regulated businesses.

⁶ Conditions 10, 11 and 12, originally proposed by the Applicants, were omitted as a result of the negotiations with Staff and the other parties to the January Stipulation.

Condition 16⁷ of Ex. A to the January Stipulation specifies filings that must be made and steps that must be taken by KCP&L or GMO if Standard & Poor's or Moody's downgrades the corporate credit rating or the senior secured or unsecured debt rating of either utility to below investment grade (i.e., below BBB- or Baa3). Each of the actions that will be required of the "Impacted Utility" if such a downgrade occurs are described in detail in six specific subsections contained in Condition 16 of Ex. A to the January Stipulation.

Notice must be provided to the Commission within five business days of such a downgrade and must be accompanied with a full explanation of why the downgrade occurred. See January Stipulation, Ex. A, Condition 16(i). Within 60 days of any such downgrade, a filing shall be made that advises of the actions the Impacted Utility intends to take to raise its credit rating and how any higher costs incurred due to the downgrade will not be requested from Missouri customers. See January Stipulation, Ex. A, Condition 16(ii). Additional reports regarding the status of efforts to raise the credit rating, quality of service, and a comprehensive risk management plan are required. See January Stipulation, Ex. A, Conditions 16(iii), (iv), (vi). Under such circumstances, the Impacted Utility shall not pay a common dividend without Commission approval or until its credit rating has been restored to investment grade. See January Stipulation, Ex. A, Condition 16(v).

Finally, Holdco commits that the future cost of service and rates of KCP&L and GMO shall not be adversely affected on an overall basis as a result of the Merger, and that future rates will be set commensurate with financial and business risks attendant to their individual regulated utility operations. See January Stipulation, Ex. A, Condition 17. Applicants agree that the return on equity capital of GMO and KCP&L will not be adversely affected by the Merger. KCP&L and GMO have the burden of proof that any increase to the cost of capital is not a result of the Merger,

⁷ Conditions 14 and 15, originally proposed by the Applicants, were omitted as a result of the negotiations with Staff and the other parties to the January Stipulation.

which shall be supported by specific documentation described in Condition 17 of Ex. A to the January Stipulation.

4. Ratemaking, Accounting and Related Conditions.

Eight conditions are set forth in this section of Exhibit A to the January Stipulation, beginning with upfront bill credits. While the January Stipulation provided that \$50 million in upfront bill credits would be provided to all retail electric customers in Kansas and Missouri within 120 days of the Merger's closing, the March Stipulation increased this amount for Missouri customers by Missouri's share of an additional \$25 million to a total of \$75 million. See March Stipulation, ¶ 15.⁸ Consequently, KCP&L and GMO customers will be provided with bill credits totaling \$14,924,894 and \$14,205,828 respectively, shortly after closing.⁹

Transition Costs are costs incurred to integrate GPE and Westar, and include integration planning, execution, and "costs to achieve." Applicants have agreed that neither KCP&L nor GMO will ever include in their cost of service and will not seek to recover in rates any transition costs related to this Merger that are in excess of the benefits that these costs are intended to attain. See January Stipulation, Ex. A, Condition 19. This commitment in the January Stipulation was modified by Paragraph 9 of the March Stipulation. The Signatories there agreed to support in KCP&L and GMO's 2018 rate cases filed on January 30, 2018 deferral of Transition Costs of \$7,209,208 for GMO and \$9,725,592 for KCP&L's Missouri operations. They agreed to recommend in those respective 2018 rate cases recovery of such costs through amortization over a 10-year period when such costs have been included in Missouri rates. No carrying costs or rate base inclusion will be allowed for the unamortized portion of such costs. The Signatories agreed

⁸ The method of allocation of these upfront bill credits to GMO customers and to the Missouri customers of KCP&L was also agreed to in Paragraph 15 of the March Stipulation and is described in Section IV of this Initial Brief.

⁹ See March Stipulation, ¶ 15; and Ex. 10, Ives Direct, p. 12.

that no other Merger transition costs shall be requested for recovery from Missouri customers in the 2018 rate cases or thereafter. See March Stipulation, ¶ 9; January Stipulation, Ex. A, Condition 19 at 7-8.

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 when the Merger closes ("Merger Goodwill"). This Merger Goodwill will be maintained on the books of Holdco. No amount of any Merger Goodwill shall be included in the revenue requirement of KCP&L and GMO in future rate cases. KCP&L or GMO will not seek recovery in retail rates and in their revenue requirement of such Merger Goodwill in any future rate case. See January Stipulation, Ex. A, Condition 20.

Applicants have also agreed that customers shall be held harmless from the risk or realization of any Merger Goodwill impairment. Any costs associated with the decline of the credit quality of KCP&L or GMO specifically attributed to such goodwill impairment will be excluded from the determination of the affected utility's rates. See January Stipulation, Ex. A, Condition 21.

With regard to Transaction Costs, as defined in Condition 22 on Ex. A of the January Stipulation, GMO and KCP&L agree that they will not seek recovery of such costs in retail rates, and have the burden to identify such costs in all future rate cases before the Commission so that none are included in the cost of service and rates.

Additional commitments relate to KCP&L and GMO agreeing that fuel and purchase power costs shall not be adversely impacted by the Merger, that customer rates shall not increase as a result of the Merger, and that they will support assurances provided in all conditions contained in the January Stipulation with appropriate analysis, testimony, and necessary journal entries

which explain how such determinations were made. See January Stipulation, Ex. A, Conditions 23-25.

5. Affiliate Transactions and Cost Allocation Manual Conditions.

Holdco and its subsidiaries have committed that KCP&L and GMO will be operated post-Merger in compliance with the Affiliate Transactions Rules, as defined in 4 CSR 240-20.015 and 4 CSR 240-80.015, and that all information related to an affiliate transaction charged to KCP&L and/or GMO will be treated in the same manner as if this information is under the control of KCP&L or GMO. See January Stipulation, Ex. A, Conditions 26-27.

Except as permitted by a variance granted by the Commission, neither KCP&L nor GMO will provide preferential service, information, or treatment to an affiliated entity over another party, consistent with the Affiliate Transactions Rules. See January Stipulation, Ex. A, Condition 28. Holdco and its subsidiaries may seek recovery of intercompany charges to regulated utility affiliates in their first general rate case proceedings post-Merger at levels equal to the lesser of actual costs or the costs allowed that are related to such functions in the cost of service of their most recent rate cases prior to the closing of the Merger, as adjusted for inflation. Holdco and its subsidiaries have the burden of proof to demonstrate that billings are prudent, in the usual course of business, and consistent with past practice. See January Stipulation, Ex. A, Condition 29.

Holdco and its affiliates shall maintain separate books and records, systems of accounts, financial statements, and bank accounts for KCP&L and GMO, whose records will be maintained under the FERC Uniform System of Accounts, as adopted by the Commission. Holdco and its utility affiliates have agreed to other procedures regarding the maintenance of such books and records, and making them available to Staff in a timely manner. See January Stipulation, Ex. A, Condition 30.

Significantly, Holdco, KCP&L and GMO have agreed to an independent third-party management audit of their corporate cost allocations and affiliate transaction protocols. A committee consisting of an equal number of Staff, OPC, and Applicant representatives will develop a request for proposal of the audit's scope of work, which shall be submitted to the Commission for approval within six months after the Merger closes. The procedure for selecting a successful bidder is specified. Once completed, the report of the independent audit will be filed with the Commission. See Condition 31. Holdco and its affiliates shall cooperate fully with the auditor, whose report shall express an opinion on KCP&L and GMO's compliance with the Affiliate Transactions Rules and provide recommendations, if appropriate. See Condition 31(a)-(b). Holdco, KCP&L and GMO have agreed to provide \$500,000 in "below the line" funds to pay for the audit. See Condition 31(c). Any additional expense will be shared equally between ratepayers and shareholders, with any recovery to occur through amortizations in retail rates and cost of service in the first KCP&L and GMO rate cases subsequent to the completion of the audit. See January Stipulation, Ex. A, Condition 31(d).

KCP&L and GMO have agreed not to sell, transfer, or make available specific Missouri customer information to affiliated or unaffiliated entities without the consent of such customers, the authorization of the Commission, or as otherwise provided by law, except as necessary to provide services to and in support of their regulated operations. See January Stipulation, Ex. A, Condition 32.

KCP&L and GMO have committed to meet with Staff and Public Counsel no later than 60 days after the Merger closes to provide a description of the Merger's 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 KCP&L and GMO's cost allocation manuals. KCP&L and GMO have

agreed to file updates to their existing cost allocation manuals reflecting any changes necessitated by the Merger no later than six months after the Merger closes, but no less than two months before the filing of a general rate case (whichever occurs first). See January Stipulation, Ex. A, Condition 33.

6. Quality of Service Conditions.

KCP&L and GMO will meet or exceed the customer service and operational levels currently provided to their Missouri retail customers. They will continue to provide specified monthly data to Staff on contact center service quality, consistent with past practices and agreements in specific past cases. See January Stipulation, Ex. A, Condition 34. KCP&L and GMO will provide advance notification to Staff if the handling of customer calls is planned to be outsourced or performed by contingent labor, including other relevant information. Id.

KCP&L and GMO shall continue to provide Staff with data on service reliability on a monthly basis, consistent with agreements in specific past cases. Id. For two years after the Merger closes, KCP&L and GMO will provide Staff on a twice-yearly basis responses to all customer survey questions, as well as surveys conducted by third-party entities dealing with customer satisfaction and experience. Id.

KCP&L and GMO will continue to meet with Staff Customer Experience personnel on a periodic basis after the Merger closes to review quality of service issues. See Condition 35. KCP&L and GMO will provide to Staff within 30 days after the Merger closes a current organizational chart with the positions and names of management employees with customer service responsibilities. This information shall be provided on a monthly basis thereafter. See January Stipulation, Ex. A, Condition 36.

7. Reporting and Access to Records.

Applicants have agreed to ten conditions covering a variety of reporting obligations and the means by which access will be provided to Staff and OPC after the Merger closes. See January Stipulation, Ex. A, Conditions 37-46.

Specifically, Applicants have agreed to meet with and provide Staff with information regarding the status of Merger integration, beginning no later than 60 days after closing and on a quarterly basis thereafter for one year post-closing. Such meetings shall be reduced to every six months during the second year after the Merger closes and shall cease thereafter, unless otherwise ordered by the Commission. See January Stipulation, Ex. A, Condition 37(a). Regardless of the frequency of such meetings, KCP&L and GMO have agreed to continue their practice of promptly advising Staff of any material operational irregularities that may affect the customer experience. Id.

Additionally, KCP&L and GMO shall on a twice-yearly basis, unless otherwise ordered by the Commission, appear and provide an update on the status of integration implementation to allow Commissioners an opportunity to inquire into the status of the implementation. Id.

On a quarterly basis for two years after closing, KCP&L and GMO shall provide data related to employee head counts, as well as the use of outsourcing and contingent labor by any of the Applicants. If any job positions have been eliminated, re-classified or transferred between them, they shall be identified. See January Stipulation, Ex. A, Condition 37(b). In furtherance of their commitment in Condition 8, above, that there will be no involuntary severance of employees, Applicants agree that after Condition 37(b) concludes in 2020, they shall provide a report to the Division of Energy of the Department of Economic Development showing Applicants' year-end Missouri employment levels for calendar years 2021 through 2023 no later than thirty days following the end of each such year.

KCP&L and GMO shall for two years post-closing provide Staff with any reports or presentations 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 the Holdco board of directors. See January Stipulation, Ex. A, Condition 37(c).

For the first five full calendar years after the Merger closes, Holdco shall provide Staff and OPC its annual goodwill impairment analysis. See Condition 38. Holdco, KCP&L, and Westar will report any Merger-related financial and accounting changes to the Commission. See Condition 39. KCP&L and GMO will provide Staff and OPC with access to all written information, as broadly defined, that is provided to analysts who rate the securities issued by KCP&L, GMO, or Holdco. See January Stipulation, Ex. A, Condition 40.

Holdco, KCP&L, and GMO shall make available to Staff and OPC all books, records, and employees required to verify compliance with the cost allocation manuals of KCP&L and GMO, including compliance with any conditions ordered by the Commission. See Condition 41. KCP&L and GMO shall also provide to Staff and OPC access to the complete Holdco board of directors meeting minutes, including information distributed prior to such meetings (except for privileged information or information that is otherwise not relevant). See January Stipulation, Ex. A, Condition 42.

KCP&L and GMO will maintain records supporting their affiliated transactions for at least six years. See January Stipulation, Ex A, Condition 43. Journal entries related to the closing of the Merger will be provided to Staff, with the final detailed journal entries to be filed with the Commission no later than 13 months after closing. See January Stipulation, Ex. A, Condition 44. These journal entries must show the entries made to record or remove from all utility accounts any acquisition premium costs or transaction costs. Id.

Regarding employment in the State of the Missouri, KCP&L and GMO agree that in their first general rate cases filed after the Merger closes, they will provide direct testimony on specified employment metrics, including any Merger-related labor and all labor-related efficiency savings that they propose to flow through to the benefit of customers in the form of rates that are lower than they would be in the absence of the Merger. See January Stipulation, Ex. A, Condition 45. This obligation will continue for each rate case filed during the period 2019-2023. See March Stipulation, ¶ 16.

KCP&L and GMO have agreed to bear all reasonable travel expenses incurred by Staff or OPC to examine any relevant records outside Missouri if such travel is necessary. See January Stipulation, Ex. A, Condition 46.

8. Other Parent Company Conditions.

Holdco, KCP&L, and GMO have agreed to reaffirm and honor any prior commitments made by GPE, KCP&L, or GMO to the Commission to comply with any past orders directed to KCP&L, GMO, or their previous owners. See January Stipulation, Ex. A, Condition 47. In this regard, Applicants have acknowledged that Paragraph II(7) (“Prospective Merger Conditions”) of the First Amended Stipulation and Agreement approved by the Commission in 2001 that allowed KCP&L to reorganize itself into a holding company structure will apply to Holdco.¹⁰ See March Stipulation, ¶ 10.

Holdco has acknowledged the need of its utility subsidiaries for significant amounts of capital to invest in energy supply and delivery infrastructure, that meeting such capital requirements will be considered a high priority by its board of directors and executives, and that

¹⁰ Report and Order, In re Kansas City Power & Light Co. for an Order Authorizing its Plan to Reorganize itself into a Holding Company Structure, No. EM-2001-464 (July 31, 2001).

Holdco's access to capital will permit it and its utility subsidiaries to meet their statutory obligation to provide safe and adequate service. See January Stipulation, Ex. A, Condition 48.

9. Miscellaneous Conditions.

Applicants agreed to four additional conditions that are not part of the 43 Commitments and Conditions set forth in Exhibit A to the January Stipulation, summarized above.

These four conditions are contained in Paragraphs 12-15 of the January Stipulation and provide:

- Staff will retain a copy of GPE's financial valuation model that was provided by GPE on a highly confidential basis in response to a Staff data request in the case of In re Great Plains Energy Inc.'s Acquisition of Westar Energy, Inc., No. EM-2016-0324. Staff will continue to protect the confidentiality of the information contained within that model. See January Stipulation, ¶ 12.
- GPE commits to maintain or improve current load sampling and research practices of KCP&L and GMO after the Merger, and that KCP&L and GMO will discuss with Staff any modifications planned to integrate Westar, KCP&L and GMO load sampling and research practices. See January Stipulation, ¶ 13.
- Neither KCP&L nor GMO shall propose any adjustment to increase cost of service in current or future rate cases in order to "share" the benefits of Westar transaction synergies between ratepayers and shareholders in setting rates. See January Stipulation, ¶ 14.
- References in the Stipulation to specific Commission rules are expressly intended by the Signatories to include successor rules with substantially the same content and language, however numbered or reorganized. See January Stipulation, ¶ 15.

Applicants also agreed to three additional conditions in the March Stipulation.

- KCP&L and GMO have agreed that before implementing any name change, customer billing systems will clearly designate on customer bills the electric service provider so that customers will be able to access the appropriate rate schedules. See March Stipulation, ¶ 11.
- The senior management of KCP&L and GMO will meet with industrial customers every six months during the period 2019-2023. See March Stipulation, ¶ 12.
- With regard to the allocation of the \$75 million in upfront bill credits, the method by which these bill credits will be allocated between rate classes, as well as the method of allocation within rate classes have been agreed to by the Applicants, Public Counsel, and MECG, as well as with Staff and the other parties to the January Stipulation. See March Stipulation, ¶ 15.

Finally, Applicants agreed in their surrebuttal testimony to include Westar in the 2019 annual update of the Integrated Resource Plan (“IRP”) of KCP&L and GMO, which will be filed with the Commission pursuant to 4 CSR 240-22.080(3). See Ex. 5, Crawford Surrebuttal at 20; Ex. 10, Ives Surrebuttal at 4, 28; Tr. 185 (Ives), 245 (Crawford).

B. The Nine Conditions Proposed by Renew Energy and the Three Recommendations of the Division of Energy Should not be Imposed by the Commission in this Merger Proceeding.

While the January and March Stipulations between the Applicants, Staff, Public Counsel, Brightergy, MJMEUC and MECG have addressed and resolved the legitimate issues in this case for a determination by the Commission that the Merger is not detrimental to the public interest, Renew Missouri has nevertheless proposed a long list of conditions that would effectively alter the “not detrimental to the public interest” standard applicable in Missouri, and which standard is the

product of long-standing judicial precedent. This alteration is attempted by using the Merger as a vehicle for requiring a dramatic expansion of renewable energy, energy efficiency programs and a grid modernization program, despite a Merger standard that does not require such and despite Applicants' already industry-leading efforts in these respects.

Applicant witness Burton Crawford discusses at length Applicants' record in regard to clean energy, energy efficiency and modernization efforts. Requiring the expansion of such investments—at additional cost to customers—goes beyond the scope of this Application and the applicable “not detrimental to the public interest” standard by which it must be judged. (Ex. 5, Crawford Surrebuttal, pp. 3-20) If the Commission were to order Applicants to adopt these proposals in this Merger proceeding, it would encourage intervenors with all forms of special interests to vigorously use mergers as vehicles in which to pursue their particular self-interests, regardless of whether those interests are relevant to the merger or assessment of the merger under the applicable “not detrimental to the public interest” standard. Requiring Applicants to meet the expansive clean energy conditions proposed by Renew Missouri would fundamentally alter the balancing test the Commission performs to determine whether the Merger meets the “not detrimental to the public interest” standard that Missouri courts have long held must be applied by the Commission. (Ex. 7, Greenwood Surrebuttal, pp. 7-8)

Applicants' strong record of commitment to renewable and clean energy demonstrates that they have embraced and will continue to embrace renewable and clean energy. GPE owns or has contracted for almost 1,900 MW of renewable energy supply to serve its customers, exceeding Missouri's statutorily mandated renewable requirements and the voluntary Kansas renewable standard. Additionally, KCP&L and GMO plan to retire approximately 850 MW of fossil-fueled

generation by the end of 2019. KCP&L and GMO are actively pursuing other clean energy initiatives regarding energy efficiency and green power rates. (Ex. 5, Crawford Surrebuttal, p. 3)

As of the end of 2017, Westar owned or had contracted for approximately 1,765 MW of renewable energy. Since 2005, Westar has grown its wind generation capacity to approximately 22% of its generation capacity and lowered its coal-fired generation capacity by almost 15 percentage points, to approximately 41%. (Ex. 5, Crawford Surrebuttal, p. 12)

Applicants are already leaders in the development of clean energy and renewable energy sources as well as with energy efficiency and modernization programs. (Ex. 7, Greenwood Surrebuttal, p. 11; Ex. 5, Crawford Surrebuttal, pp. 2-20) In fact, GPE entered into 300 MW of wind Purchase Power Agreements at facilities that became operational in 2017 and has entered into Purchase Power Agreements totaling an additional 444 MWs that will become operational by mid-2019. Westar added 480 MWs of wind capacity in 2016 and 2017, and is reviewing RFPs seeking proposals for additional wind capacity. With these recent expansions of wind resources, the combined Company's wind resources will make it one of the top five wind producers in the nation, and put it ahead of many of the largest wind producers in the western United States. (Ex. 15, Top 20 Investor-Owned Utilities With Wind Power Capacity; Ex. 7; Greenwood Surrebuttal, pp. 12-13; Ex. 5 Crawford Surrebuttal, pp. 3-5, 12-13, 19-20; Tr. 85, 128-30).

As described in the Articles of Incorporation of Renew Missouri, the specific purpose of the organization "is to transform Missouri into a leading state in renewable energy and energy efficiency" (Ex. 17, p. 2; Tr. 355-56) Renew Missouri's goal is to have Missouri in the Top 20 states for renewable energy by 2020. (Tr. 365) While that is a worthy mission, it differs from the obligations of the Commission and the utilities under its jurisdiction in matters related to utility mergers. Renew Missouri also admittedly has a narrower interest from that of the Office of the

Public Counsel which has the statutory authority to represent and protect the public in this proceeding. See § 386.710(1)-(2); Tr. 378-79. OPC is supporting the Merger, as conditioned by the January and March Stipulations. (Tr. 52-54) As already explained, the Commission Staff, Brightergy, MJMEUC, and MECG representing a variety of consumer and other interests are each a signatory of either the January or March stipulations and are supportive of the Merger, with the conditions contained in the stipulations. (Tr. 28, 60)

Renew Missouri is seeking to leverage the opportunity provided by this Merger proceeding to pursue policy objectives that serve its specific and special individual interests—and not the broader interests necessary to satisfy the “not detrimental to the public interest” standard. (Ex. 7, Greenwood Surrebuttal, pp. 10-11) In this proceeding, Renew Missouri sponsored the rebuttal testimony of Karl R. Rábago, an advocate of clean energy policies. Mr. Rábago is employed by Pace Energy and Climate Center, a project of the Elisabeth Haub School of Law at Pace University that seeks to advance clean energy and renewable energy issues. (Ex. 450, Rábago Rebuttal p. 1) Essentially, Renew Missouri is asking for conditions that would advance its special interest in renewable and clean energy. (Ex. 7, Greenwood Surrebuttal, p. 10)

These proposals are not related to the Merger. Such proposals are more appropriately addressed in other regulatory proceedings, such as general rate proceedings, IRP dockets, certificate of convenience and necessity (“CCN”) proceedings, or workshops that focus on the merits of such matters, where all affected stakeholders have appropriate notice and an opportunity to participate. In fact, Pace and Mr. Rábago have offered similar proposals, on behalf of Renew Missouri, in the Commission’s Working Case to Explore Emerging Issues in Utility Regulation, No. EW-2017-0245. (See Ex. 450, Rábago Rebuttal, Schedule KRR-2, p. 4.) Such is an existing and more appropriate forum for any consideration of Renew Missouri’s clean energy interests.

The Merger proceeding may be a convenient forum for Renew Missouri, but it is not the appropriate forum to address the costs, benefits and risks of further expanding Applicants' existing and planned clean energy initiatives. (Ex. 7, Greenwood Surrebuttal, p. 12) For this reason, Renew Missouri's suggested additional conditions should be rejected.

During questioning by Chairman Hall, Mr. Rábago candidly acknowledged that the clean energy and renewable energy developments that he is recommending in this proceeding are more likely to occur as a result of the Merger. (Tr. 335) As he explained to Chairman Hall, "The combined entity should, if it's more efficient and if it has more resources, should be able to do more than the baseline trajectory of what's going on in the industry by virtue of the asserted benefits of the combination." Id. Applicants agree with Mr. Rábago on this point.

Notwithstanding his acknowledgement that the Merger will make it more likely that KCP&L, GMO and Westar will be able to promote clean energy and renewable energy policies in the future, Mr. Rábago nevertheless seeks to have the Commission impose nine additional conditions to the Merger, none of which are necessary for the Merger to satisfy the "not detrimental to the public interest" standard. See Ex. 450, Rábago Rebuttal, pp. 24-25.

Applicants will address each of these conditions below:

1. Closure of Westar Fossil-Fueled Generation Units.

As noted by Mr. Rábago, the Application in this case affirms that "The Merger will have a positive effect on the environment in the region, in that it will enable Westar to accelerate the closing of a number of fossil fuel generating units (Tecumseh 7; Gordon Evans 3 and 4; and Murray Gill 1 and 2) by five to 10 years." (Application, ¶ 45; Ex. 450, Rábago Rebuttal, p. 15) In fact, the evidence demonstrates that the retirement of the 781 MW of fossil-fuel generation represented by these units, which is made possible by the recent increases in the addition of renewable energy, will be accelerated because of the Merger. (Ex. 5, Crawford Surrebuttal, pp.

13-14; Ex. 9, Ives Direct, pp. 22-23) Additionally, KCP&L and GMO plan to retire approximately 850 MW of fossil-fuel generation by the end of 2019. (Ex. 5, Crawford Surrebuttal, p. 3)

Mr. Rábago acknowledged that the acceleration of the closing of such fossil fuel plants is a public benefit to the Merger. (Tr. 408) He also testified that he did not find any evidence that the Merger would delay the closing of any fossil fuel plants. (Tr. 409)

Although Applicants confirmed they will retire these units soon, they cannot provide a firm retirement date until the Southwest Power Pool (“SPP”) completes the 2018 Integrated Transmission Planning (“2018 ITP”) study. (Ex. 5, Crawford Surrebuttal, p. 14) Westar has provided the required 6-month notice to the SPP for retirement of Tecumseh 7, Gordon Evans 1 and Gordon Evans 2 steam units which will allow for unit retirements by December 31, 2018. Westar has not yet provided this notice for the Murray Gill 3 or 4 units but intends to do so before summer 2018 to allow for retirement by December 31, 2018. The SPP is currently conducting the 2018 ITP which includes 0 MW output for all units Westar plans to retire. The study will be finalized and approved by the SPP Board of Directors in July 2018. (Ex. 5, Crawford Surrebuttal, p. 14)

The recommendation of Renew Missouri to require a firm commitment to retire coal- and gas-fired generation units is unnecessary. Such a commitment is unnecessary both because it is not a requirement to satisfy the Missouri merger standard and because Applicants have already announced their intentions to close a number of such plants. In fact, Applicants are proceeding with plans to close such plants while ensuring reliable service to their customers. In any event, this Merger proceeding is not the proper forum to consider this condition and specific plans related to the closures. Like many of the conditions proposed by Renew Missouri, this topic is more appropriately addressed in rate cases and IRP proceedings.

Finally, Mr. Rábago testified that he had seen no evidence that the proposed Merger would result in a cancellation or delay in Applicants' plans to retire some of Westar's coal- and gas-fired generation plants. (Tr. 408) In fact, according to Mr. Rábago, Renew Missouri would view the acceleration of the closing of such plants as a critical public benefit. (Id.)

In summary, not only does the Merger cause no detriment to the public interest related to the closure of fossil-fuel power plants, but in fact the Merger will produce public benefits by allowing the acceleration of those scheduled retirements.

2. Construction of Additional Renewable Energy Generation.

Renew Missouri's second additional condition would require Applicants to construct yet additional renewable energy generation and is also unnecessary. This condition, too, goes beyond the Missouri merger standard, and would be appropriately addressed in rate cases and IRP proceedings. As of the end of 2017, KCP&L and GMO either own or contract for approximately 1,898 MW of renewable energy, accounting for 21% of GPE's retail sales being supplied by renewable energy. (Ex. 5, Crawford Surrebuttal, pp. 4-5)

Exceeding the Missouri RES requirements, KCP&L and GMO entered Power Purchase Agreements ("PPA") totaling 300 MW for wind energy from the Rock Creek wind facility in Atchison County, Missouri which came online in late 2017. In addition, GPE has contracted for an additional 444 MW of wind generation (244 MW from the Pratt wind facility located in Pratt County, Kansas and 200 MW from the Prairie Queen wind facility located in Allen County, Kansas). The Pratt wind farm is expected to come online by the end of 2018 and the Prairie Queen wind farm is expected to be online by June 2019. (Ex. 5, Crawford Surrebuttal, pp. 6-7; Tr. 239).

At the end of 2017, Westar owned or had contracted for approximately 1,765 MW of renewable energy. (Ex. 5, Crawford Surrebuttal, pp. 12-13) Since 2005, Westar has grown its wind generation capacity to approximately 22% of its generation capacity and reduced its coal-

fired generation capacity by almost 15 percentage points, to approximately 41%. (Ex. 5, Crawford Surrebuttal, p. 12) Westar is also seeking to add additional renewable resources to its generation mix. Westar completed the addition of 280 MW of new wind energy by adding its Western Plains wind farm in early 2017. More recently, Westar issued a request for proposals (“RFP”) in August 2017 regarding renewable resources for projects that can attain commercial operation no later than December 31, 2020. The RFP responses contained cost competitive bids, which will likely lead to additional renewable energy for Westar by 2021. (Ex. 5, Crawford Surrebuttal, p. 15)

Given Applicants’ proactive and responsible leadership role in the development of renewable generation that best benefit its customers in Missouri and Kansas, it is unnecessary for the Commission to add the second condition proposed by Renew Missouri to the Merger. Such topics would be more appropriately addressed in rate cases, proceedings involving CCN applications,¹¹ and IRP proceedings where proposals may be fully developed and all interested parties will have had notice and an opportunity to participate. (Ex. 7, Greenwood Surrebuttal, p. 11; Tr. 168). The Merger proceeding may be a convenient forum for Renew Missouri to seek to advance its special interests, but it is not the appropriate forum to address the costs, benefits and risks of further expanding Applicants’ existing and planned renewable energy initiatives.

During cross-examination, Mr. Rábago confirmed that it was important to know the specific details of renewable and clean energy projects, and identify the costs, benefits and parties expected to pay for the new projects:

Q. But Renew Missouri’s mission is to encourage renewable energy development by -- in Missouri by the year 2020, right?

¹¹ See Report & Order, In re Application of KCP&L Greater Missouri Operations Co. for Permission and Approval of a Certif. of Pub. Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Mo., No. EA-2015-0256 (Mar. 2, 2016) (“Solar CCN Order”), *aff’d*, State ex rel. Office of the Public Counsel v. PSC, 515 S.W.3d 754, 758-64 (Mo. App. W.D. 2016).

A. Right. But I -- what I'm saying is that I think a conclusory statement of purpose doesn't mean that all you have to do is put solar on it and, you know, somebody's going to approve it. I at least would want to look at facts and circumstances. I'm assuming Renew Missouri would too.

Q. It's important to know the costs and the benefits and who's paying for it and all those kinds of things when you look at a solar project, right?

A. I would think so, yes.

Q. And that's true for a wind project, you need to know how much it's going to cost, how it's going to benefit, do you have transmission facilities. You can't just say building wind is a good thing?

A. Like I said, my predilection is to start with, it looks like a good thing. Let's see if it really pencils out. But I think all those factors are important to consider in every and any individual proposal.

Q. And that would be true of a value of solar study or a value of distributed energy study, we need to know the costs and who's going to benefit, who's going to pay for it, whether it's going to be worth it in the end?

A. I think that's reasonable. (Tr. 374-75 [emphasis added])

Furthermore, Mr. Rábago confirmed that he had seen no evidence that the Applicants would cancel or delay their plans with regard to additional renewable resources as a result of the Merger. (Tr. 408). The record evidence demonstrates that the Merger is not detrimental to the public interest as it relates to the development of future renewable resources.

3. Integrated Resource Planning for Combined Company.

Renew Missouri's third proposed additional condition that would require Applicants to conduct a comprehensive, transparent, parallel IRP project for the combined companies in both

Missouri and Kansas is also unnecessary. The Applicants have already performed an IRP-like analysis to determine which generating units may be retired post-Merger. (Tr. 178-79) As part of the KCP&L and GMO 2019 IRP Annual Update, Applicants will complete a combined KCP&L/GMO/Westar analysis. (Tr. 245) This process, as with other formal IRP proceedings in Missouri, pursuant to 4 CSR 240-22.080, will be open to all interested stakeholders. (Ex. 5, Crawford Surrebuttal, p. 20) Mr. Crawford also testified that he did not know of any plans to discontinue evaluating Holdco's resources, including Westar's generation, on a combined basis. (Tr. 249)

In addition, the Applicants have committed to provide to the KCC Staff its IRP within seven days of its filing in Missouri. Applicants also agreed in the Kansas Settlement Agreement that as part of the KCP&L and GMO 2019 IRP Annual Update, a combined KCP&L-GMO-Westar analysis will be conducted. See Ex. 451, Non-Unanimous Settlement Agreement, KCC Docket No. 18-KCPE-095-MER, ¶ 53 at p. 31.

No further commitments or conditions need to be adopted related to integrated resource planning for the combined Company for the Merger to not be detrimental to the public interest.

4. Expansion of Energy Efficiency Programs.

Renew Missouri's fourth additional proposed condition related to the expansion of energy efficiency programs is also unnecessary. Such matters should be addressed in MEEIA proceedings, rate cases, and IRP proceedings.

In 2009, the Missouri Energy Efficiency Investment Act ("MEEIA") became law. See § 393.1075, et seq. KCP&L and GMO were among the primary proponents of the legislation in the General Assembly. (Tr. 93, 406) Both KCP&L and GMO have fully embraced MEEIA and are currently in a second three-year cycle of DSM programs. They are continuing their commitment to energy efficiency with the development of MEEIA Cycle 3 programs to be in effect beginning

in 2019. From 2013 through 2017, KCP&L and GMO have implemented demand-side programs that have resulted in an approximately 260 MW reduction in retail customer demand. (Ex. 5, Crawford Surrebuttal, pp. 8-9)

Westar also has several energy efficiency programs in place, including its WattSaver Air Conditioner Cycling Program in which customers participate in a programmable thermostat program; an energy efficiency demand response program for large customers that allows for dependable load control and a resource for managing peak load requirements; and a program targeted at medium to larger business and city/government facilities that provides in-depth training on efficient building operation. Additionally, through Westar's smart meter deployment, all customers have access to an online energy dashboard on their MyWestar account page that gives detailed daily energy cost and usage information down to 15-minute intervals. (Ex. 5, Crawford Surrebuttal, pp. 15-16)

Mr. Rábago confirmed that he had seen no evidence that the Applicants would cancel or delay their plans with regard to additional energy efficiency programs as a result of the Merger. (Tr. 407) The Division of Energy witness Martin Hyman also testified that he had seen no evidence that KCP&L and GMO would be less aggressive with regard to demand-side programs in the MEEIA programs. (Tr. 330) The only competent and substantial evidence in the record demonstrates that the Merger is not detrimental to the public interest as it relates to existing energy efficiency programs. As a result, there is no need to condition the Merger to require the expansion of energy efficiency programs. Moreover, doing so would contravene the provisions of the MEEIA statute itself which, by its very terms, is voluntary on the part of the electrical corporation.¹²

¹² See §393.1075(4), RSMo., "The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission,

5. Offer of Green Power Programs.

Renew Missouri's fifth proposed additional condition would require that Applicants offer green power programs and far beyond the scope of the "not detrimental to the public interest" standard applicable to this merger proceeding and, as such, is also unnecessary and should not be adopted. KCP&L and GMO each have already filed Green Power tariffs in their respective pending rate cases, Case Nos. ER-2018-0145 and ER-2018-0146, on January 30, 2018.

These proposals include the Renewable Energy Program which is a renewable subscription program where the utility executes one or more Power Purchase Agreements ("PPA") to supply renewable energy to participating customers. The Program will be offered to non-residential customers, with plans to consolidate all subscriptions from the utilities' three jurisdictions (KCP&L in Missouri and Kansas, and GMO in Missouri), and serve them through such renewable PPA. In addition, KCP&L and GMO have also proposed a new Solar Subscription Pilot Rider tariff, a community solar offering for residential and non-residential customers. (Ex. 10. Ives Surrebuttal, p. 27) KCP&L will make similar Green Power plan proposals when it files its next general rate case in Kansas which is expected to occur in the second quarter of 2018. (Ex. 5, Crawford Surrebuttal, p. 10).

Given the proposed Green Power tariffs in KCP&L and GMO's pending Missouri rate cases (in which Renew Missouri is an intervenor), there is no need to adopt Renew Missouri's fifth condition that KCP&L and GMO be required to offer such tariffs. The costs, benefits, and efficacy

result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose."

of such programs will be reviewed in the context of Case Nos. ER-2018-0145 and ER-2018-0146. More importantly, there is no evidence in the record that the proposed Merger will be detrimental to the public interest as it relates to KCP&L's and GMO's proposed Green Power tariffs.

6. Pilot Projects for Shared or Community Generation Projects.

Renew Missouri's sixth additional proposed condition would require the development of pilot projects for shared or community generation projects. It is also unnecessary. Westar has such a program, the Community Solar Program, and a proposed new Direct Renewable Participation Service ("DRPS") tariff. At the end of 2017, Westar's Community Solar program had over 400 customers subscribed. (Ex. 5, Crawford Surrebuttal, p. 16).

As already mentioned, KCP&L and GMO have also proposed a new Solar Subscription Pilot Rider tariff, a community solar offering for residential and non-residential customers. (Ex. 10, Ives Surrebuttal, p. 27). These proposals will be evaluated in KCP&L's and GMO's pending rate cases.

There is no need for the Commission to adopt Renew Missouri's sixth condition related to pilot projects for community generation projects. More importantly for this proceeding, there is no competent and substantial evidence in the record that the Merger will be detrimental to the operation of existing or proposed community solar programs.

7. Demonstration Project For Grid-Connected Energy Storage.

Renew Missouri's seventh additional proposed condition would require the development of a demonstration project for grid-connected energy storage. It too is unnecessary. KCP&L has already conducted a demonstration project of grid-connected energy storage. In 2012, KCP&L implemented a SmartGrid demonstration project, including operational testing of energy storage. Two forms of lithium-ion battery storage systems were demonstrated: (1) a 1.0 MW/1.0 MWh Bulk Energy Storage System; and (2) 6.0 kW/11.2 kWh Premise Energy Storage System. While

the SmartGrid Demonstration Project was successfully concluded, these systems are still in place. KCP&L continues to track the development and costs of storage technologies for future resource and demand-side program planning. (Ex. 5, Crawford Surrebuttal, pp. 9-10) In addition, Westar is currently in the process of evaluating a battery storage pilot project, which it anticipates placing in service by the end of 2018. (Tr. 249-50 [Crawford]) During cross-examination, Mr. Rábago confirmed that he had no evidence that the Merger would result in a reduction or a cancellation of existing grid connected storage units. (Tr. 410) Consequently, there is no competent and substantial evidence that the Merger is detrimental to KCP&L's and Westar's existing efforts to develop programs relating to grid-connected energy storage.

8. Grid Modernization Program and Value of Solar Study.

Renew Missouri's eighth additional proposed condition would require grid modernization and a Value of Solar Study. It also is unnecessary for a determination that the Merger is not detrimental to the public interest. Both KCP&L and GMO have made substantial investment in the installation of Automated Meter Infrastructure ("AMI"), also known as smart meter technology. The AMI installation was completed in the urban portions of both companies at the end of 2016, with over 700,000 meters upgraded, or nearly 80% of all customers. A Meter Data Management software system was installed shortly thereafter to further enable the full capabilities of this new technology. (Ex. 5, Crawford Surrebuttal, pp. 10-11)

In addition, KCP&L and GMO have identified and applied various distribution automation and smart grid technologies on their systems, including automated reclosers with remote operation capabilities, smart switches with coordinated automatic reconfiguration (self-healing) capabilities, and communicating faulted circuit indicators. Finally, in January 2018, an article in the industry magazine *T&D World* touted an innovative project to modernize the KCP&L distribution system

with a new standard suite of state-of-the-art capacitor controls developed through vendor collaboration. (Ex. 5, Crawford Surrebuttal, p. 11)

KCP&L and GMO also have a history of leadership in distribution system automation and smart grid development. In the early 1990s, KCP&L played a major role in the development of some of the first commercially available automated capacitor controls and in automated meter reading technology. From 2010 to 2015, KCP&L partnered with the U.S. Department of Energy in a \$50 million Smart Grid Demonstration project that was approved by the Commission. (Ex. 5, Crawford Surrebuttal, p. 11) Westar has also made substantial investment in the installation of AMI or smart meter technology, which is ninety percent (90%) deployed and will be complete by this summer. (Ex. 5, Crawford Surrebuttal, p. 17)

With regard to Renew Missouri's recommendation to require Applicants' to conduct a Value of Solar or Value of Distributed Generation Study, this issue should be left to the Commission's existing Emerging Issues Workshop, Case No. EW-2017-0245. During the hearings, Mr. Rábago confirmed that Value of Solar studies are a topic in the workshop, and acknowledged that some parties raised concerns regarding the cost of such studies, including who would be required to pay for them. (Tr. 410-11) He also modified his recommendation, stating: "What I would envision [is] that this be a commitment to form a broad stakeholder engagement effort to analyze the benefits of solar distributed energy resources and to develop frameworks for evaluating those resources, assessing all the costs and benefits." (Tr. 411).

Since the Commission already has such "a broad stakeholder engagement effort" in progress at the Emerging Issues Workshop, it is inappropriate for the Commission to condition the Merger upon the Applicants' completion of such a study. Indeed, knowing the costs, benefits, and technical details regarding such a study is important, as confirmed by Mr. Rábago (Tr. 375). Such

facts must be known before the Commission mandates such a study, but the record of this case is entirely lacking in this regard. Certainly, there is no evidence in the record that the Merger will have a detrimental impact upon the Commission's Emerging Issues Workshop or its efforts to review other emerging issues in that forum. The Commission should therefore decline to adopt Renew Missouri's eighth condition.

9. Prohibition on Implementing any New Tariffs or Rate Designs Adversely Impacting Development and Adoption of Distributed Energy Resources, Including Distributed Generation for the Next Five years Following Approval of the Application.

Finally, there is no need for a condition to prohibit the implementation of any tariffs or rate designs related to distributed generation. The Commission has complete authority to review, reject, and approve any tariff proposed by KCP&L and GMO in a rate case or other proceeding. It should not mandate a specific policy related to tariffs dealing with distributed energy resources until it has a complete record with competent and substantial evidence to support its decision. Such a condition is unnecessary and premature, and should be rejected.

10. The Division of Energy is a Non-Objecting Party to the Stipulations.

While the Division of Energy did not sign the January and March Stipulations, it is a "non-objecting" party. (Tr. 324) The March Stipulation states that the Division of Energy was "apprised of the contents of this Stipulation and Agreement" and "authorized the Signatories to represent" that it did "not oppose Commission approval of this Stipulation and Agreement and will not request a hearing in connection with such approval." See March Stipulation, ¶ 27 at p. 10. At the hearing, Division of Energy witness Martin Hyman confirmed that it did not oppose either the January or the March Stipulations, and did not oppose the Merger. (Tr. 324, 348)

In response to questions from the bench, Mr. Hyman suggested that the Division would "not be opposed" if the Commission adopted its original position on the issues. (Tr. 328-29) He

discussed a condition to require an energy storage demonstration project (Tr. 333-34), a Value of Solar Study (Tr. 335), and a prohibition against tariffs that were “adverse” to distributed energy generation. (Tr. 335-36) However, he stated: “I would stop short of calling it a recommendation given that I said [the Division of Energy does] not oppose.” (Tr. 340) For the reasons stated in response to the Renew Missouri conditions, the Commission should not adopt any additional conditions proposed by the Division of Energy. Instead it should approve the January and March Stipulations as a full resolution of the issues in this case.

III. SHOULD THE COMMISSION GRANT THE LIMITED REQUEST FOR VARIANCE OF THE AFFILIATE TRANSACTIONS RULES REQUESTED BY APPLICANTS?

Applicants Position: Yes. The Commission should grant the limited request for variance of the Affiliate Transactions Rules because the evidence establishes good cause that the variance is needed to enable the attainment of post-Merger savings that will benefit customers of Holdco’s regulated public utility companies in Missouri and Kansas, and that the Merger will not be detrimental to the public interest, given the level of Merger-related savings and the conditions, commitments and terms agreed to by the Applicants, Staff, Public Counsel, MECG and other parties, as stated in Section II.

The Affiliate Transactions Rules under 4 CSR 240-20.015 and 4 CSR 240-80.015¹³ are not applicable to transactions between the regulated operations of KCP&L, GMO, and Westar. If the Commission determines they are applicable, good cause exists for the Commission to grant a variance that will allow these transactions to occur at cost.

The Signatories to the January Stipulation agreed that the Commission should grant the request for variance. See January Stipulation, ¶ 9 at 4; ¶ 17 at 6-7; 10. In the March Stipulation, Public Counsel and MECG also agreed that the Commission should grant this request. See March Stipulation at ¶ 8 at 3; ¶ 26 at 9.

¹³ GMO is a regulated steam utility subject to the Affiliate Transactions Rule at 4 CSR 240-80.015, as noted in Conditions 26-28 of Exhibit A to the January Stipulation.

To be clear, and in response to Chairman Hall’s comments at the close of the evidentiary hearing (Tr. 413-14), the Applicants request that the variance apply only to transactions between the regulated operations of KCP&L, GMO, and Westar. To be even more clear, the variance, if granted, would apply only to transactions between regulated operations of KCP&L, GMO and Westar and would not apply to transactions involving other entities such as Transource (a GPE subsidiary) or Prairie Wind (a Westar subsidiary). Nothing in Applicants’ request for variance or in the January Stipulation limits the ability of any party to assert that a particular transaction is imprudent or the authority of the Commission to make such a finding. See January Stipulation, ¶ 25.

As explained in the Purpose Section of these rules, they are “intended to prevent regulated utilities from subsidizing their nonregulated operations.” See Report and Order at 186-87, 262-64, In re Joint Application of Great Plains Energy Inc. for Approval of the Merger of Aquila, Inc. with a Subsidiary of Great Plains Energy Inc., No. EM-2007-0374 (July 1, 2008) (“Aquila Order”).

Following approval of the Merger, KCP&L, GMO and Westar will each be separate subsidiaries of Holdco and will continue to operate as regulated public utility companies in Missouri and/or Kansas. These operations will be subject to the jurisdiction of either this Commission or the KCC, as well as FERC. Although Westar, KCP&L and GMO will remain separate legal entities, many of their operational functions will be integrated after the Merger closes. Upon closing, KCP&L and GMO will immediately begin providing goods and service to, as well as receiving goods and services from Westar. See Ex. 9, Ives Direct at 32.

The Commission has declared on several occasions that the focus of the Affiliate Transactions Rules is to prevent the shifting of unregulated costs to regulated customers. See Aquila Order at 264 (“... the purpose of the Commission’s Affiliate Transaction Rule is to prevent

cross-subsidization of [a] regulated utility’s non-regulated operations, not to prevent transactions at cost between two regulated affiliates; ...”); Report & Order on Rehearing at 44-45, In re Union Elec. Co., No. EO-2004-0108 (Feb. 10, 2005) (“The purpose of the affiliate transaction rule is to prevent cross-subsidization, in which a conglomerate including a regulated entity seeks to shift costs of its unregulated activities to its regulated customers.”).

Prior to the 2005 Union Electric case, the Commission defended these rules at the Missouri Supreme Court in State ex rel. Atmos Energy Corp. v. PSC, 103 S.W.3d 753, 763-64 (Mo. 2003).

In upholding the rules, the Court observed:

In its brief, the PSC explained that the rules are a reaction to the emergence of a profit-producing scheme among public utilities termed “cross-subsidization,” in which utilities abandon their traditional monopoly structure and expand into non-regulated areas. This expansion gives utilities the opportunity and incentive to shift their non-regulated costs to their regulated operations with the effect of unnecessarily increasing the rates charged to the utilities’ customers.

The rules are intended to prevent regulated utilities such as KCP&L and GMO from subsidizing their non-regulated operations. Westar will not be a “non-regulated operation” of KCP&L, GMO, or Holdco because Westar will continue to be regulated by the KCC (as well as FERC) after the Merger closes. Consequently, there is no reason why the rules should apply to transactions between the regulated operations of KCP&L, GMO, and Westar post-Merger.

However, to the extent that transactions between the regulated operations of KCP&L, GMO, and Westar may be considered “affiliate transactions” under 4 CSR 240-20.015(1)(B) and 240-80.015(1)(B), the asymmetric pricing standards contained in 4 CSR 240-2.015(2) and 4 CSR 240-80.015(2) would apply. Unless a variance is granted by the Commission, the combined Company’s three regulated utility affiliates would be prevented from exchanging goods and services at cost post-Merger and achieving savings that will ultimately benefit the customers of those utilities. See Ex. 9, Ives Direct at 32, 34-36. Therefore, the Applicants seek a limited

variance from these asymmetric pricing standards for transactions between the regulated operations of KCP&L, GMO and Westar.

As described in the Direct Testimony of GPE Vice President and Controller Steven P. Busser, estimated savings of \$555 million (net of costs to achieve) will be realized in the first five years post-Merger. See Ex. 4, Busser Direct at 1, 3. Detailed integration plans reflect net cost savings of \$28 million in 2018, growing to a projected \$160 million per year from 2022 and beyond. Id. at 3, 11-38. Accordingly, the requested variance is needed to enable the attainment of savings post-Merger that will ultimately benefit customers of Holdco's utility subsidiaries in Missouri and Kansas. Additionally, the Merger will not be detrimental to the public interest given the level of Merger-related savings and the commitments the Applicants are making in connection with this request for a limited variance from the Affiliate Transactions Rules. These factors clearly constitute good cause for the granting of the variance request. See Ex. 9, Ives Direct at 34-35.

Applicants, therefore, request a variance from 4 CSR 240-20.015 and 4 CSR 240-80.015 in order to facilitate transactions between the regulated operations of KCP&L, GMO, and Westar by allowing all such transactions to occur at cost, except for wholesale power transactions which will be based on rates approved by FERC.¹⁴

The Commission has previously granted a similar limited variance request when GPE acquired Aquila in 2008. Finding that the facts supported a variance, it stated:

The Commission determines that ... the purpose of the Commission's Affiliate Transactions Rule is to prevent cross-subsidization of [a] regulated utility's non-regulated operations, not to prevent transactions at cost between two regulated affiliates

The Commission finds as good cause for the variance to be the need to allow the applicants the ability to attain their projected synergy savings post-

¹⁴ Under FERC rules, sales of power between affiliates are only allowed to take place under FERC-approved cost-based rates. Westar currently purchases capacity and energy from its subsidiary Westar Generating, Inc. under such a FERC-approved rate and such sales would be allowed to continue after the Merger closes.

merger. The Commission further concludes there is no detriment, or any direct or indirect effect of the transaction, that tends to make the power supply less safe or less adequate, or which tends to make rates less just or less reasonable, that is related to the granting of this variance in 4 CSR 240[20].015.

Aquila Order at 265.

The parties to both the January and the March Stipulations have agreed that that the Commission should grant the limited variance. See January Stipulation, ¶ 9 at 4, ¶ 17 at 6-7, 10; March Stipulation at ¶ 8 at 3, ¶ 26 at 9. Therefore, the Commission should approve the Applicants' request which is consistent with the Commission's prior determinations under similar circumstances that transactions among regulated public utility affiliates should occur at cost and that a variance of the Affiliate Transactions Rules, pursuant to 4 CSR 240-20.015(10) and 4 CSR 240-80.015(10), is supported by good cause.

IV. HOW SHOULD THE BILL CREDITS PROPOSED BY THE APPLICANTS BE ALLOCATED BETWEEN AND WITHIN THE VARIOUS KCP&L AND GMO RATE CLASSES?

Applicants' Position: The bill credits should be allocated consistent with the methodology provided in the March Stipulation.

Paragraph 15 of the March Stipulation sets forth the methodology to allocate the Missouri portion of the \$75 million in upfront bill credits to KCP&L and GMO customers, both between the rate classes of each category of customers, as well as within each respective rate class. This methodology, which has been agreed to by the Applicants, Public Counsel and MECG, as well as by Staff, MJMEUC and Brightergy, should be approved by the Commission.

CONCLUSION

The evidence establishes that the Merger will not be detrimental to the public interest and, in fact, will promote the public interest. If approved as contemplated by the January and March

Stipulations¹⁵, the Merger of these successful and adjacent utilities will provide significant up-front bill credits and future savings to customers, tangible assurances to employees, and support for the communities that KCP&L, GMO and Westar serve. The stipulations also provide meaningful commitments and conditions to protect customers against harm and preserve the Commission's oversight. See Ex. 9, Ives Direct at 4, 23-31.

The Merger will create a larger, financially stronger, regional Fortune 500 company with its headquarters in Kansas City, Missouri. See Ex. 2, Bassham Direct at 12, 18. Given the adjacent service territories of the public utilities of GPE and Westar, there are significant opportunities for efficiencies and cost savings, particularly given the working relationship that the utilities have developed through their joint ownership of major assets. Id. at 17-18. The combined Company will be a Midwestern utility that is better positioned to meet the needs and expectations of customers who will see future rate increases at lower levels and with less frequency than would occur without the Merger. See Ex. 9, Ives Direct at 5-8.

If the Commission does not approve the Merger, this rare opportunity that stands to benefit customers, employees, communities, investors, and the environment will be lost. Given the unprecedented effort by the Applicants, Staff, Public Counsel, MECG and others to forge the comprehensive set of commitments, conditions, and terms reflected in the January and March Stipulations, the Applicants' respectfully request the Commission seize the moment and approve the Merger.

¹⁵ Also, as discussed earlier on p. 33 of this brief, Applicants request that the Commission include as a condition the commitment that Westar will be included in a combined KCP&L/GMO/Westar analysis as a part of the 2019 IRP Annual Updates submitted by KCP&L and GMO.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon all counsel of record on this 30th day of March 2018, by either e-mail or U.S. Mail, postage prepaid.

/s/ Robert J. Hack

Robert J. Hack

News Releases

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Great Plains Energy and Westar Energy Shareholders Approve Merger at Special Shareholder Meetings

November 21, 2017 at 12:19 PM EST

KANSAS CITY, Mo. & TOPEKA, Kan.--(BUSINESS WIRE)--Nov. 21, 2017-- Westar Energy, Inc. (NYSE: WR) and Great Plains Energy Incorporated (NYSE: GXP), the parent company of Kansas City Power & Light ("KCP&L"), today announced at their respective shareholder meetings that shareholders overwhelmingly approved the proposals necessary for the merger between the two companies. More than 90 percent of the shares voted at each company approved the transaction.

"We are excited about today's approval from shareholders of both Great Plains Energy and Westar Energy. This vote indicates that both companies' shareholders believe in our combined ability to create a stronger regional energy provider, positioned to better serve all of our customers," said Terry Bassham, chairman, president and chief executive officer of Great Plains Energy and KCP&L. "This new combined company will ensure we keep ownership of our utility assets in our region to grow local economies."

"Customers and shareholders will benefit by combining Westar Energy and Great Plains Energy into a strong Midwest utility," said Mark Ruelle, president and chief executive officer of Westar Energy. "Our geography and history of partnership position us to bring efficiencies and savings by joining our operations. We continue to make progress toward completing the transaction in the first half of 2018."

Westar Energy and Great Plains Energy announced a revised transaction in July 2017 after the Kansas Corporation Commission denied the companies' original request to combine in April. This revised agreement involves no transaction debt, no exchange of cash, and is a stock-for-stock merger of equals, creating a company with a combined equity value of approximately \$15 billion.

The merger is expected to help maintain reliable, low cost energy for the company's 1 million Kansas customers and nearly 600,000 customers in Missouri. Additionally, with one of the largest renewable energy portfolios in the nation, the new combined company will be a clean energy leader, supplying nearly half of its retail sales from emissions-free electricity.

For more information visit the “Westar Energy Merger” page at greatplainsenergy.com (<http://cts.businesswire.com/ct/CT?id=smartlink&url=http%3A%2F%2Fwww.greatplainsenergy.com%2Fabout-gpe%2Fwestar-energy-acquisition&esheet=51719795&newsitemid=20171121005827&lan=en-US&anchor=greatplainsenergy.com&index=1&md5=7eddfbff5bee6527cb8f0965ba669ec>) or westarenergy.com/westar-at-a-glance (<http://cts.businesswire.com/ct/CT?id=smartlink&url=https%3A%2F%2Fwww.westarenergy.com%2Fwestar-at-a-glance&esheet=51719795&newsitemid=20171121005827&lan=en-US&anchor=westarenergy.com%2Fwestar-at-a-glance&index=2&md5=6f5786109f406a2516ccce5a5655f843>).

About Great Plains Energy

Headquartered in Kansas City, Mo., Great Plains Energy Incorporated (NYSE: GXP) is the holding company of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company, two of the leading regulated providers of electricity in the Midwest. Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company use KCP&L as a brand name. More information about the companies is available on the Internet at: www.greatplainsenergy.com (<http://cts.businesswire.com/ct/CT?id=smartlink&url=http%3A%2F%2Fwww.greatplainsenergy.com&esheet=51719795&newsitemid=20171121005827&lan=en-US&anchor=www.greatplainsenergy.com&index=3&md5=a5674d0836168049ad7e6f154a3e42e7>) or www.kcpl.com (<http://cts.businesswire.com/ct/CT?id=smartlink&url=http%3A%2F%2Fwww.kcpl.com&esheet=51719795&newsitemid=20171121005827&lan=en-US&anchor=www.kcpl.com&index=4&md5=b13e019aec6a8a92dcc5f73bbd0b755>).

About Westar Energy

As Kansas' largest electric utility, Westar Energy, Inc. (NYSE:WR) provides customers the safe, reliable electricity needed to power their businesses and homes. Half the electricity supplied to the company's 700,000 customers comes from emissions-free sources – nuclear, wind and solar - with a third coming from renewables. Westar is a leader in electric transmission in Kansas, coordinating a network of lines and substations that support one of the largest consolidations of wind energy in the nation. For more information about Westar Energy, visit www.WestarEnergy.com (<http://cts.businesswire.com/ct/CT?id=smartlink&url=http%3A%2F%2Fwww.WestarEnergy.com&esheet=51719795&newsitemid=20171121005827&lan=en-US&anchor=www.WestarEnergy.com&index=5&md5=ef5725bf7c34a5beb801461bdb54e82d>).

Forward-Looking Statements

Statements made in this communication that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. Forward-looking statements include, but are not limited to, statements relating to the anticipated merger transaction of Great Plains Energy Incorporated (Great Plains Energy) and Westar Energy, Inc. (Westar Energy), including those that relate to the expected financial and operational benefits of the merger to the companies and their shareholders (including cost savings, operational efficiencies and the impact of the anticipated merger on earnings per share), the expected timing of closing, the outcome of regulatory proceedings, cost estimates of capital projects, dividend growth, share repurchases, balance sheet and credit ratings, rebates to customers, employee issues and other matters affecting future operations. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy and Westar Energy are providing a number of important factors that could cause actual results to differ materially from the provided forward-looking information. These important factors include: future economic conditions in regional, national and international markets and their effects on sales, prices and costs; prices and availability of electricity in regional and national wholesale markets; market perception of the energy industry, Great Plains Energy and Westar Energy; changes in business strategy, operations or development plans; the outcome of contract negotiations for goods and services; effects of current or proposed state and federal legislative and

regulatory actions or developments, including, but not limited to, deregulation, re-regulation and restructuring of the electric utility industry; decisions of regulators regarding rates that the companies can charge for electricity; adverse changes in applicable laws, regulations, rules, principles or practices governing tax, accounting and environmental matters including, but not limited to, air and water quality; financial market conditions and performance including, but not limited to, changes in interest rates and credit spreads and in availability and cost of capital and the effects on derivatives and hedges, nuclear decommissioning trust and pension plan assets and costs; impairments of long-lived assets or goodwill; credit ratings; inflation rates; effectiveness of risk management policies and procedures and the ability of counterparties to satisfy their contractual commitments; impact of terrorist acts, including, but not limited to, cyber terrorism; ability to carry out marketing and sales plans; weather conditions including, but not limited to, weather-related damage and their effects on sales, prices and costs; cost, availability, quality and deliverability of fuel; the inherent uncertainties in estimating the effects of weather, economic conditions and other factors on customer consumption and financial results; ability to achieve generation goals and the occurrence and duration of planned and unplanned generation outages; delays in the anticipated in-service dates and cost increases of generation, transmission, distribution or other projects; Great Plains Energy's and Westar Energy's ability to successfully manage and integrate their respective transmission joint ventures; the inherent risks associated with the ownership and operation of a nuclear facility including, but not limited to, environmental, health, safety, regulatory and financial risks; workforce risks, including, but not limited to, increased costs of retirement, health care and other benefits; the ability of Great Plains Energy and Westar Energy to obtain the regulatory and shareholder approvals necessary to complete the anticipated merger or the imposition of adverse conditions or costs in connection with obtaining regulatory approvals; the risk that a condition to the closing of the anticipated merger may not be satisfied or that the anticipated merger may fail to close; the outcome of any legal proceedings, regulatory proceedings or enforcement matters that may be instituted relating to the anticipated merger; the costs incurred to consummate the anticipated merger; the possibility that the expected value creation from the anticipated merger will not be realized, or will not be realized within the expected time period; difficulties related to the integration of the two companies; the credit ratings of the combined company following the anticipated merger; disruption from the anticipated merger making it more difficult to maintain relationships with customers, employees, regulators or suppliers; the diversion of management time and attention on the anticipated merger; and other risks and uncertainties.

This list of factors is not all-inclusive because it is not possible to predict all factors. Additional risks and uncertainties are discussed in the joint proxy statement/prospectus and other materials that Great Plains Energy, Westar Energy and Monarch Energy Holding, Inc. (Monarch Energy) filed with the Securities and Exchange Commission (SEC) in connection with the anticipated merger. Other risk factors are detailed from time to time in quarterly reports on Form 10-Q and annual reports on Form 10-K filed by Great Plains Energy and Westar Energy with the SEC. Each forward-looking statement speaks only as of the date of the particular statement. Monarch Energy, Great Plains Energy, and Westar Energy undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

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Bureau of Competition
Premerger Notification Office

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

December 12, 2017

Daniel E Hemli
Bracewell LLP
1251 Avenue of the Americas 49th Floor
New York, NY 10020 USA

Re: EARLY TERMINATION GRANTED
Transaction Identification Number 20180330
Westar Energy, Inc. / Great Plains Energy Incorporated

Dear Mr. Hemli :

The request for early termination of the waiting period is granted effective December 12, 2017 10:45 AM with respect to the proposed acquisition by Westar Energy, Inc. of certain voting securities of Great Plains Energy Incorporated. Early termination of the waiting period is provided by Section 7A(b)(2) of the Clayton Act and Sections 803.10(b) and 803.11(c) of the Premerger Notification Rules.

Notice of this termination will be published in the Federal Register in accordance with Section 7a(b)(2) of the Clayton Act and Section 803.11(c) of the Premerger Notification Rules and on the Federal Trade Commission's internet site [<http://www.ftc.gov/bc/earlyterm/index.html>].

If you have any questions concerning this matter, please contact me at 202-326-3786.

Sincerely,

Theresa Kingsberry
Program Support Specialist
Premerger Notification Office
Bureau of Competition