

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

In the Matter of Great Plains Energy	)	Case No. EM-2016-0324
Incorporated's Acquisition of Westar	)	
Energy, Inc. and Related Matters	)	

**GREAT PLAINS ENERGY INCORPORATED'S  
VERIFIED MOTION FOR RECONSIDERATION**

Great Plains Energy Incorporated ("GPE" or "Company"), pursuant to 4 C.S.R. 240-2.160(2), moves for reconsideration of the Order of June 8, 2016 where the Missouri Public Service Commission ("Commission" or "PSC") granted Staff's Motion to Open an Investigation. In support of its Verified Motion for Reconsideration, GPE respectfully states as follows:

**I. Summary of Relief Requested**

GPE requests that the Commission bifurcate the legal question regarding the Commission's jurisdictional authority to approve GPE's acquisition of Westar Energy, Inc. ("Westar"), a Kansas public utility from its receipt and ultimate disposition of the report resulting from Staff's investigation. GPE requests that the Commission issue its order on the legal question no later than July 1, 2016. This is the only aspect of the Commission's June 8 Order for which GPE seeks reconsideration.

**II. Procedural Background**

1. On June 8, 2016 the Commission granted Staff's motion to open an investigation and directed Staff to file a report on the results of its investigation no later than July 25, 2016. See Order Granting Leave to File Reply Late, Granting Staff's Motion to Open an Investigation, and Directing Filing ("Order"). Staff had specifically requested that the Commission open a docket "for the investigation of the announced acquisition of Westar Energy, Inc. by Great Plains

Energy, Inc., to determine whether or not the proposed transaction is likely to be detrimental to the public interest and the interests of Missouri ratepayers . . .”. (Staff’s Motion to Open Investigation, p. 6, filed June 1, 2016) In addition to granting this Staff request, the Commission also directed that Staff’s “report should also include a discussion of the law governing the Commission’s jurisdiction over the transaction.” (Order, p. 6)

2. In its Order the Commission relied upon the provisions of the First Amended Stipulation and Agreement (“GPE Stipulation”) that was approved in the proceeding that allowed the establishment of GPE. In re Application of 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). See Order at 3-5.

3. To be clear, GPE has no objection to providing information to Staff, the Office of the Public Counsel (“OPC” or “Public Counsel”), or the Commission with regard to the conditions contained in the GPE Stipulation, including the commitments that are set forth in Section II(6) related to “Financial Conditions.” As discussed in more detail in section IV, GPE will provide the relevant information to Staff so that it can complete its report by July 25.

4. However, there is no reason why the Commission cannot consider the legal question of its jurisdictional authority to approve the May 29, 2016 Agreement and Plan of Merger by which GPE will acquire all of the capital stock of Westar for \$8.6 billion and assume Westar’s outstanding debt of \$3.6 billion (“Transaction”) and issue its order on that question no later than July 1.

**III. The Legal Question Regarding the Commission's Jurisdictional Authority to Approve the Transaction is Ripe for Decision Now and a Prompt Decision on that Question is Imperative and Will Not Compromise Staff's Investigation.**

5. GPE agrees with comments made by one or more Commissioners during the Commission's June 8 agenda session regarding determination of the legal question regarding the Commission's jurisdictional authority to approve the Transaction. Specifically, this is a legal question that does not require the gathering of additional facts or information regarding the Transaction. The legal issues relating to the Commission's jurisdictional authority to approve the Transaction have been fully briefed by GPE, Staff and Public Counsel. If, after further consideration of the five separate pleadings that have already been submitted on that legal question, the Commission has further questions regarding its approval authority, there is sufficient time between now and July 1 for the Commission to order supplemental briefing, oral argument or both.

6. GPE appreciates and respects that this legal question has come before the Commission suddenly and without advance notice. GPE also appreciates that in requiring the submission of Staff's report by July 25, the Commission has endeavored to act expeditiously. However, the July 25 Staff report will inevitably be followed by a GPE response, which could be lengthy, depending on the contents of the Staff report. The Commission would then need time to deliberate prior to rendering its order. Although a Commission order by mid-August would be considerably more speedy than usual under these circumstances, GPE does not believe such a prompt resolution is likely.

7. Even if the Commission does issue its order on the results of Staff's investigation by mid-August, if the Commission fails to resolve the jurisdictional issue regarding approval

authority or asserts jurisdiction to approve the Transaction, GPE will have lost six weeks<sup>1</sup>. This state of uncertainty for such an extended period of time would impede and adversely affect the Transaction and the goals that it seeks to achieve.

8. In significant acquisitions such as this Transaction, uncertainty of process, particularly of regulatory approval, is disruptive to the financial markets and specifically to investors in GPE and Westar. Reasonably expeditious resolution of the legal question regarding the Commission's jurisdictional authority to approve the Transaction is essential to avoid financial harm to GPE and/or Westar in terms of the ability to both finance and close the Transaction.

9. Moreover, prompt resolution of this legal question will not hinder or compromise Staff's investigation in any way. As the Commission recognizes in its June 8 Order, Staff's investigation of the public interest implications of the Transaction can proceed irrespective of assertion or disclaimer of jurisdiction by the Commission to approve the Transaction. (Order, p. 8) GPE agrees.

10. Therefore, because the legal question of the Commission's jurisdictional authority to approve the Transaction is now ripe, and because a prompt Commission order on that legal question will avoid potential harm to GPE and Westar and will not in any way compromise Staff's investigation of the public interest implications of the Transaction, GPE respectfully requests that the Commission issue its order on that legal question no later than July 1.

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<sup>1</sup> By July 1, 2016, GPE and Westar expect to jointly file an application with the Corporation Commission of the State of Kansas ("KCC") for approval of the Transaction. By statute, the KCC must rule upon such applications within 300 days after the date of filing. K.S.A. 66-131(c).

#### **IV. It is in GPE's Interest to Facilitate Staff's Investigation of the Public Interest Implications of the Transaction.**

11. Because GPE owns the stock of two public utilities providing electric service subject to the Commission's regulatory authority, GPE has always expected and intended to provide information on the Transaction to the Commission, its Staff, the Office of the Public Counsel and other Missouri stakeholders, regardless of its position regarding the Commission's jurisdictional authority to approve the Transaction. GPE therefore fully intends to work to meet Staff's information needs on a timely basis so that Staff can submit the results of its investigation by July 25. GPE has identified and is gathering information pertinent to the Transaction that it will promptly provide to Staff, perhaps even before Staff has issued any data requests in this matter. GPE has also discussed with Westar its willingness to participate in presentations and discussions with Staff and assist GPE in preparing responses to data requests issued by Staff to GPE as expeditiously as possible. GPE is also willing to provide to Staff all information it provides in the course of the KCC approval proceeding as soon as reasonably practicable. GPE sees no need for the establishment of a procedural schedule in the context of Staff's investigation (apart from its request that the Commission issue its order on the legal question of the Commission's jurisdictional authority to approve the Transaction no later than July 1) but fully expects to file a response to the report on the Staff's investigation.

12. Regardless of its position regarding the Commission's jurisdictional authority to approve the Transaction, GPE recognizes that the Commission must act to protect the public interest in Missouri and ensure that the Transaction is not detrimental to customers served in Missouri by public utilities whose stock is owned by GPE and that are subject to the Commission's regulatory authority. If the Commission determines that it does not have

jurisdictional authority to approve the Transaction, GPE hereby reiterates its intent to keep the Commission and its Staff fully apprised of the status of the Transaction – both before and after closing – in whatever fashion the Commission deems appropriate. This could be done through regularly scheduled meetings, conference calls, on-the-record presentations or other means.

WHEREFORE, Great Plains Energy Incorporated requests that this Verified Motion for Reconsideration be granted, and that the Commission issue its order on the legal question of its jurisdictional authority to approve GPE's acquisition of Westar Energy, Inc. no later than July 1, 2016.

/s/ Robert J. Hack

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served upon the below named parties by email  
or U.S. mail, postage prepaid, this 10<sup>th</sup> day of June 2016.

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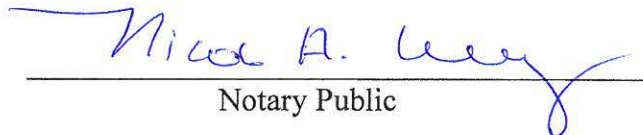
# VERIFICATION

STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF JACKSON                )

Darrin R. Ives, being first duly sworn, on his oath and in his capacity as Vice President—Regulatory Affairs of Kansas City Power & Light Company, states that he is authorized to execute the foregoing on behalf of Great Plains Energy Incorporated, has knowledge of the matters stated herein, and that said matters are true and correct to the best of his knowledge and belief.

  
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Darrin R. Ives

Subscribed and sworn to before me this 10<sup>th</sup> day of June, 2016.

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

My Commission Expires: Feb. 4, 2019

NICOLE A. WEHRY Notary Public - Notary Seal State of Missouri Commissioned for Jackson County My Commission Expires: February 04, 2019 Commission Number: 14391200
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