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Date Testimony Prepared: March 27, 2017

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: EM-2017-0226, et al.

SURREBUTTAL TESTIMONY

OF

LISA M. QUILICI

ON BEHALF OF

**GREAT PLAINS ENERGY INCORPORATED
KANSAS CITY POWER & LIGHT COMPANY
KCP&L GREATER MISSOURI OPERATIONS COMPANY**

**Kansas City, Missouri
March 2017**

KCP+L Exhibit No. 4
Date 4.5.17 Reporter AF
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SURREBUTTAL TESTIMONY

OF

LISA M. QUILICI

Case No. EM-2017-0226, et al.

I. INTRODUCTION AND PURPOSE

Q. Please state your name and business address.

A. My name is Lisa M. Quilici. I am Senior Vice President and member of the Board of Directors of Concentric Energy Advisors, Inc. (“Concentric”), located at 293 Boston Post Road West, Suite 500, Marlborough, Massachusetts 01752.

Q. On whose behalf are you submitting this testimony?

A. I am testifying on behalf of Great Plains Energy Incorporated (“GPE”) and its wholly-owned subsidiaries, Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company (“GMO”). GPE filed an Application seeking approval for GPE’s acquisition of all of the stock of Westar Energy, Inc. (“Westar”) (the “Transaction” and “Application for Approval of Transaction”) and GPE, KCP&L and GMO filed an Application for a limited variance from the affiliate transactions rule (“Application for Limited Variance”). In connection with the Application for Limited Variance, GPE, KCP&L and GMO have executed a Stipulation and Agreement with the Commission Staff (“Staff”) (“Staff S&A”) and a Stipulation and Agreement with the Office of the Public Counsel (“OPC S&A”) both of which recommend approval of the Application for Limited Variance. KCP&L and GMO are collectively referred to herein as the “operating utilities.”

1 **Q. Please describe your educational background and professional experience in the**
2 **energy and utility industries.**

3 A. I have more than 25 years of experience working in a regulatory and consulting capacity
4 in the electric and natural gas industries. Prior to co-founding Concentric, I was an
5 executive of Navigant Consulting and Reed Consulting Group. Earlier in my career, I
6 served as assistant Director of the Rates and Revenue requirements Division of the
7 Massachusetts Department of Public Utilities. I have provided transaction, strategic,
8 regulatory or resource planning support to dozens of energy and utility clients across
9 North America and have appeared as an expert in seven jurisdictions. As an industry
10 expert, I have been involved in numerous utility transactions over the past 20 years,
11 including mergers, divestitures, and asset acquisitions. Recently, I have advised clients
12 involved in utility mergers in Wisconsin, Illinois, Michigan, Minnesota, Hawaii, and
13 Texas. In prior years, I have been involved in utility mergers and asset transactions in
14 Iowa, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, and
15 Pennsylvania. I have advised clients on many merger-related issues including financial
16 and ring-fencing conditions and merger synergies. I am a graduate of Purdue University,
17 and was awarded an M.B.A. from Northeastern University. My background is presented
18 in more detail in Schedule LMQ-1: Résumé and Testimony Listing.

19 **Q: Have you previously provided testimony in Missouri?**

20 A: No, I have not. I have however provided testimony in front of several regulatory bodies
21 as more fully outlined in Schedule LMQ-1.

1 **Q. Please describe Concentric’s activities in energy and utility engagements.**

2 A. Concentric provides financial and economic advisory services to many energy and utility
3 clients across North America. Our regulatory, economic, and market analysis services
4 include utility ratemaking and regulatory advisory services, energy market assessments,
5 market entry and exit analysis, corporate and business unit strategy development, demand
6 forecasting, resource planning, and energy contract negotiations. Our financial advisory
7 activities include both buy- and sell-side merger, acquisition and divestiture assignments,
8 due diligence and valuation assignments, project and corporate finance services, and
9 transaction support services (including fairness opinions and merger savings studies). In
10 addition, we provide litigation support services on a wide range of financial and
11 economic issues.

12 **Q. What is the purpose of your Surrebuttal Testimony?**

13 A. The purpose of my Surrebuttal Testimony is to respond to the rebuttal testimony of
14 Mr. Michael Gorman (Midwest Energy Consumers’ Group or “MECG”) as it pertains to
15 financial and ring-fencing conditions.

16 **Q. How is the remainder of your Surrebuttal Testimony organized?**

17 A. Section II provides an overview of my Surrebuttal Testimony and my key conclusions.
18 In Section III, I respond to Mr. Gorman’s rebuttal testimony regarding financial ring-
19 fencing. Finally, Section IV presents my conclusions regarding the Transaction.

20 **Q. Are you sponsoring any schedules as part of your Surrebuttal Testimony?**

21 A. Yes. As part of my Surrebuttal Testimony, I am sponsoring Schedule LMQ-1: Résumé
22 and Testimony Listing, Schedule LMQ-2: Summary of Financial and Ring-Fencing and
23 Select Other Conditions, and Schedule LMQ-3: Recent Merger Ring-Fencing Conditions.

1 **II. OVERVIEW AND KEY CONCLUSIONS**

2 **Q. Please summarize the aspects of Mr. Gorman’s testimony to which you will be**
3 **responding.**

4 A. Although Mr. Gorman is “generally supportive” of the Staff S&A¹, he proposes three
5 “additional” merger conditions that are intended to address his concerns with respect to
6 potential credit rating downgrades for the utility operating subsidiaries, KCP&L and
7 GMO, as a result of the leverage at the parent company, GPE. Mr. Gorman alleges that
8 the increased leverage of GPE will result in increased risk to GMO and KCP&L
9 customers from (1) increased financial risk and cost of capital, and (2) uncertainty as to
10 whether needed infrastructure investments will be deferred to preserve the ability of the
11 utility to pay cash to the parent company to service debt.² I will address his ring-fencing
12 proposal.

13 **Q. Please provide your general reaction to Mr. Gorman’s rebuttal testimony and your**
14 **key conclusions.**

15 A. My review of the rebuttal testimony offered by Mr. Gorman leads me to conclude that,
16 subject to one exception addressed by Mr. Ives, Mr. Gorman has not provided a basis for
17 modifying or supplementing the terms of the Staff S&A or rejecting the Transaction and
18 denying customers and the state of Missouri the benefits of this proposed Transaction. I
19 disagree with Mr. Gorman’s position that additional financial and ring-fencing conditions
20 are necessary to ensure that the Missouri merger standard of not detrimental to the public
21 interest is satisfied. In addition to the Staff S&A, GPE, KCP&L and GMO have also

¹ Gorman Rebuttal, p. 4.

² Gorman Rebuttal, p. 18-19. Note: All cites are to the March 23, 2017 Michael P. Gorman Rebuttal testimony filed in EM-2017-0226 *et al.*, based upon representations of MECG counsel that this is the only Gorman Rebuttal that will be offered into evidence.

1 entered into the OPC S&A pursuant to which they recommend that the Commission
2 approve the Transaction. The financial and ring-fencing and other conditions included in
3 the Stipulations and Agreements provide appropriate protections for KCP&L's and
4 GMO's customers from the risks Mr. Gorman discussed in his rebuttal testimony and
5 require no modifications beyond the one discussed in Mr. Ives' surrebuttal testimony.

6 In particular, Mr. Gorman raised concerns about the impact of acquisition-related
7 debt on KCP&L's and GMO's financial integrity, ability to make capital investments and
8 customer rates.³ In considering Mr. Gorman's testimony, it is important to recognize
9 that neither KCP&L's nor GMO's financial integrity, as measured by their credit ratings,
10 has deteriorated as a result of the Transaction. This is discussed in the surrebuttal
11 testimony of Mr. Bryant. Nonetheless, GPE, KCP&L and GMO have agreed to a
12 comprehensive set of financial and ring-fencing and other conditions in the Staff S&A to
13 provide both the appropriate separation of KCP&L, GMO and GPE, and protections for
14 the operating utilities' customers from potential future risks. Further, as discussed by Mr.
15 Ives, GPE, KCP&L and GMO have supplemented these conditions with additional
16 merger commitments and conditions (herein referred to as "Supplemental
17 Commitments"). See Schedule DRI-4. These conditions include:

- 18 • Committing KCP&L and GMO to meeting or exceeding the customer
19 service and operational levels currently provided to their Missouri retail
20 customers;
- 21 • Explicitly acknowledging that KCP&L and GMO's ability to meet their
22 capital requirements is a high priority of GPE's Board of Directors and

³ Gorman Rebuttal, pp. 18-20, 25-26.

1 executive management and committing that GPE's access to capital post-
2 transaction will permit it and its utility subsidiaries to meet their statutory
3 obligation to provide sufficient and efficient service;

- 4 • Prohibiting KCP&L or GMO from seeking an increase to their cost of
5 capital as a result of the Transaction or KCP&L's/GMO's ongoing
6 affiliation with GPE and its other affiliates;
- 7 • Committing that the return on equity ("ROE") of KCP&L and/or GMO
8 will not be adversely affected as a result of the Transaction and shall be
9 determined in future rate cases;
- 10 • Committing that the retail rates for Missouri KCP&L and GMO customers
11 shall not increase as a result of the Transaction;
- 12 • Maintaining separate capital structures, credit ratings and debt instruments
13 for KCP&L, GMO, and GPE;
- 14 • Maintaining the separation of the assets of KCP&L and GMO and
15 continuing to conduct business as separate legal entities;
- 16 • Prohibiting KCP&L and GMO from guaranteeing the debt or pledging
17 stock or assets as collateral for any other entity;
- 18 • Certain requirements and protections in the unanticipated event that
19 KCP&L's or GMO's S&P or Moody's Corporate Credit Rating is
20 downgraded below BBB-, including pursuing additional legal and
21 structural separation from the affiliate causing the downgrade, not paying
22 common dividends until the rating has been restored, and obtaining a non-
23 consolidation opinion if required by S&P or Moody's.

1 to mitigate these financial risks for KCP&L, GMO and Missouri customers.⁶ Mr.
2 Gorman's proposed additional ring-fencing conditions are:

- 3 1. An Independent Board at all operating utility subsidiaries which would
4 include at least one KCP&L/GMO Board member with a "golden share"
5 that would allow that Board member to veto bankruptcy decisions;
- 6 2. Defined responsibilities for the Independent Board including making
7 dividend payment decisions "in a manner that is consistent with managing
8 KCP&L/GMO's cost of service and maintaining their financial integrity",
9 hiring management at KCP&L and GMO that are "most capable of
10 effective and efficient operation of utility management", and isolating
11 utility operations from GPE for "the best interest of operating
12 KCP&L/GMO to meet its public service utility obligations"; and
- 13 3. A clear prohibition on GPE using utility assets, cash flows, guarantees or
14 assurances for the financial obligations of GPE or other non-regulated
15 affiliates.⁷

16 In addition to my own testimony, Mr. Bryant discusses the post-merger financial
17 condition of GPE, KCP&L and GMO and the reaction of the capital markets to the
18 Transaction in his Surrebuttal Testimony. Mr. Ives also discusses the financing and ring-
19 fencing and other conditions made by GPE, KCP&L and GMO to protect the operating
20 utilities, KCP&L and GMO, and their customers from any adverse financial impact that
21 may occur as a result of the Transaction.

⁶ Gorman Rebuttal, p. 20-21.

⁷ Gorman Rebuttal, p. 26

1 **Q. What is your response to Mr. Gorman's testimony that the Transaction will result**
2 **in higher financial risk to GPE, KCP&L and GMO?**

3 A. I agree with Mr. Gorman that the primary financial risk associated with the Transaction
4 for GPE is that GPE will have higher financial leverage after the closing of the
5 Transaction until it de-levers over time as Mr. Bryant discusses is its intention. However,
6 when considering financial risk, it is necessary to recognize that, while one credit rating
7 agency (Moody's) has indicated that a downgrade for GPE is possible if the Transaction
8 closes, both Moody's and S&P (the two credit rating agencies that rate GPE and the
9 operating utilities) expect to maintain the ratings of KCP&L, GMO and Westar at their
10 current levels. This suggests that the credit rating agencies do not expect that the
11 additional financial leverage at GPE will have an adverse impact on the financial
12 condition of the operating utilities. Further, GPE will continue to maintain an investment
13 grade credit rating. Mr. Bryant discusses the reactions of the credit rating agencies to the
14 Transaction and the credit ratings of the operating utilities and GPE in detail in his
15 Surrebuttal Testimony. Finally, GPE, KCP&L, GMO, Staff and OPC have agreed to
16 specific ring-fencing measures designed to protect the operating utility's customers from
17 potential future financial risk. As discussed by Mr. Ives, GPE, KCP&L and GMO have
18 also put forth Supplemental Commitments to provide additional protections to customers.
19 I have reviewed all of these measures and have concluded that they are appropriate and
20 that the modifications proposed by Mr. Gorman are unnecessary and do not address any
21 concerns that are not already addressed in the Stipulations and Agreements and the
22 Supplemental Commitments, for reasons that I will explain below.

1 **Q. Are mergers similar to the Transaction common in the utility industry and is it**
2 **common for utility mergers to rely on parent company debt to finance the**
3 **transaction?**

4 A. Yes. Mergers in the utility industry are common, and the number of electric investor-
5 owned utilities (“IOUs”) has declined dramatically over the past few decades as a result.
6 Generally, there are two broad categories of utility acquisitions: those undertaken by
7 strategic acquirers and those undertaken by financial acquirers, such as infrastructure
8 funds, private equity companies and institutional investors. The proposed Transaction is
9 clearly a strategic transaction with an acquirer that has many decades of experience in
10 owning and operating a large electric utility and with the long-term intent of continuing
11 to own and operate that utility. This is different from a transaction that is driven by
12 private equity or institutional capital entities with an interest in having a financial
13 portfolio position filled by a utility equity holding. Many mergers, both strategic and
14 financial, can involve the use of parent company debt to finance the transaction. In
15 addition to the mergers identified by Mr. Gorman, each of which involved a substantial
16 level of debt at the parent company, other examples of merger transactions that involved
17 substantial levels of parent company debt include EFH/TXU Energy, Wisconsin Energy
18 Corporation (“WEC”)/Integrus Energy (“Integrus”), Macquarie/Cleco, Macquarie/Puget
19 Energy and PPL/E.ON US.

20 **Q. You indicated that the Staff S&A contains ring-fencing conditions which address**
21 **the concerns raised by Mr. Gorman. Please expand on these conditions.**

22 A. The Staff S&A and the Supplemental Commitments provide many important financial,
23 ring-fencing and other related or supportive protections for KCP&L and GMO and their

1 Missouri customers from the potential for increased financial risks attributable to the
2 Transaction. These conditions are summarized in Schedule LMQ-2. In particular, Staff
3 S&A Financing Condition Para. A.1 and Supplemental Commitments 11 and 12 require
4 certain separation (e.g., separate legal entities, separate assets, separate capital structures,
5 credit ratings and debt) and financial independence (e.g., no cross-guarantees of debt, no
6 pledging of stock or assets as collateral for the obligations of any other entity) between
7 KCP&L, GMO, GPE, and GPE's other affiliates. Staff S&A Financing Conditions Paras.
8 A.2, A.3 and A.7 and Supplemental Commitments 24 and 25 work together to, among
9 other things, guarantee that Missouri customers will not experience any increase in the
10 cost of capital reflected in rates which is attributable to the Transaction or KCP&L's and
11 GMO's ongoing affiliation with GPE and its affiliates other than KCP&L and GMO.
12 Collectively, these conditions both clearly distinguish the financing and financial
13 obligations of each operating utility from those of GPE and its other affiliates and clearly
14 insulate KCP&L's and GMO's utility customers from any potential rate impacts due to
15 Transaction-attributable changes in the utilities' cost of capital.

16 Staff S&A Financing Conditions Paras. A.3, A.4, A.5, and A.6 and Supplemental
17 Commitment 14 require specific actions that will be taken in the unlikely event that
18 KCP&L or GMO's respective S&P or Moody's Corporate Credit Rating is downgraded
19 to below BBB- as a result of the Transaction or due to their affiliation with GPE or any of
20 its affiliates. These actions include making certain filings with the Commission and
21 developing and communicating plans to improve the ratings and address any other related
22 issues. These actions also include pursuing additional legal and structural separation, if
23 necessary, from the affiliate(s) causing the downgrade, restricting common dividend

1 payments by the impacted utility, and a non-consolidation opinion, which is a legal
2 opinion addressing the likelihood of the utility becoming an involuntary party to the
3 bankruptcy of an affiliate, if required by S&P or Moody's.

4 **Q. What is your response to Mr. Gorman's first proposed ring-fencing condition that**
5 **"there should be an Independent Board at all operating utility subsidiaries from**
6 **GPE's Board; and that at least one KCP&L/GMO Board member should have a**
7 **golden share in the event KCP&L/GMO are considering filing for bankruptcy"?**⁸

8 A. Since Mr. Gorman has not specifically defined what he means by "Independent Board" it
9 is not entirely clear what he seeks with this proposal. I surmise that Mr. Gorman seeks a
10 condition on the Transaction to require that (1) a majority of the members of each
11 utility's Board be "independent" as defined by the New York Stock Exchange ("NYSE"),
12 (2) each utility's Board be separate and independent from GPE's Board, and (3) at least
13 one director on each utility's Board has a "golden share" whose vote would be required
14 in order for the utility to file a voluntary petition for bankruptcy.

15 First, Board restrictions like these are not common conditions in utility
16 transactions. Schedule LMQ-3 provides a summary of the Board-related conditions in
17 recent mergers. As shown in that schedule, the Board restrictions recommended by Mr.
18 Gorman are rarely used and where they are it is more often than not when the acquirer is
19 a foreign entity or private equity purchaser. Further, I am unaware of any transaction
20 where an Independent Board with a Director holding a "golden share" was imposed upon
21 the acquirer's existing utility operating subsidiaries, as would be the case if Mr.
22 Gorman's recommendation were adopted for this Transaction.

⁸ Gorman Rebuttal, p. 26.

1 Second, each of GPE, KCP&L and GMO already have their own Boards of
2 Directors. Each board is populated by the same directors. A majority of these directors
3 are “independent” as defined by the NYSE. This “mirror” Board structure, where the
4 Boards of the parent company and the operating utilities have the same directors, a
5 majority of whom are NYSE-independent, is different and more independent than the
6 more common structure in the utility industry where an operating utility’s Board is
7 comprised of employees of its parent.⁹

8 **Q. How do the Exelon/PEPCo merger and the failed Hunt Group/Oncor merger relied**
9 **upon by Mr. Gorman to support his first proposed ring-fencing condition compare**
10 **to the Transaction?**

11 A. These mergers are easily distinguishable from this Transaction. The failed acquisition of
12 Oncor by the Hunt Group involved a private consortium acquirer relying upon a
13 complicated real estate investment trust (“REIT”) structure to effectuate the transaction
14 which was ultimately cancelled by the acquirer. The acquisition of Pepco Holdings, Inc.
15 (“PEPCo”) by Exelon Corporation involved two corporations that collectively provide
16 regulated electric and natural gas service to retail customers in 11 jurisdictions and a
17 number of unregulated businesses or markets. Each of these transactions presented
18 different and incremental risks to the utilities being acquired, which led to independent
19 board conditions. Further, only the District of Columbia Commission required a Majority
20 Independent Board; the other four jurisdictions that approved the Exelon/PEPCo
21 transaction (Maryland, Delaware, New Jersey, and Virginia) did not impose such a
22 requirement. Unlike Mr. Gorman’s examples, this proposed Transaction is a

⁹ Examples include AEP/Southwestern Electric Power, PNM/TNMP, and Xcel/Southwestern Public Service.

1 straightforward merger of adjacent utilities with complementary strengths that, when
2 combined, will produce a stronger company than either could achieve on a stand-alone
3 basis.

4 **Q. Are the governance restrictions in the Exelon/PEPCo merger and the failed Hunt**
5 **Group/Oncor merger appropriate for the proposed Transaction?**

6 A. No. Ring-fencing is appropriate when a problem has been created by the merger.
7 However, this Transaction will not change KCP&L's or GMO's governance at all and
8 will only modestly change GPE's by adding Westar as an operating utility subsidiary just
9 like KCP&L and GMO. The Transaction will not change the jurisdictions in which GPE
10 does business. The governance restrictions proposed by Mr. Gorman are inappropriate
11 and unnecessary and while they would impose more conditions and restrictions, they
12 would not provide better protections than those provided in the Staff S&A and
13 Supplemental Commitments. In fact, a "golden share" is a bankruptcy protection, which
14 as I discussed earlier, is addressed by the Staff S&A Financial Condition 6 (Staff S&A,
15 Para. A.6), and does nothing to address Mr. Gorman's stated concerns regarding cost of
16 capital or capital availability.

17 **Q. Are you aware of any instances where the utility holding company and its operating**
18 **utilities have "mirror" Boards of Directors that are composed of the same**
19 **members?**

20 A. Yes, I am. Two examples are Pinnacle West Capital Corp. and Arizona Public Service
21 Company and IDACORP and Idaho Power. In both cases, the Board composition of the
22 holding company's Board and the operating utility's Board is identical.

1 Q. Mr. Gorman also proposes a ring-fencing condition pertaining to the responsibilities
2 of KCP&L/GMO's Board of Directors. How do you respond?

3 A. Mr. Gorman's second proposed ring-fencing condition addresses responsibilities of the
4 Boards. One component pertains to the declaration of dividends and concerns on behalf
5 of Mr. Gorman that KCP&L and GMO may manipulate their cost of service and increase
6 their prices to Missouri customers in order to increase dividend payments to GPE to
7 service Transaction-related debt.¹⁰ However, there is no basis for Mr. Gorman's
8 assertion. Mr. Gorman implicitly assumes that the Commission will somehow be unable
9 to continue to establish just and reasonable rates after the merger closes. Post-
10 Transaction, the Commission will continue to regulate KCP&L and GMO and set rates
11 and terms of service for each utility just as it does today. Additional ring-fencing or other
12 conditions are not necessary to ensure this. Further, as discussed by Mr. Ives, the Staff
13 S&A contains a number of customer service and ratemaking conditions that guarantee
14 that customers will not be harmed by the Transaction, including commitments that
15 KCP&L and GMO will *meet or exceed* the customer service and *operational levels*
16 *currently provided* to their Missouri retail customers (See Staff S&A, Para. D.1) and that
17 *retail rates for Missouri KCP&L and GMO customers shall not increase as a result of*
18 *the Transaction* (See Staff S&A, Para. B.4) (*emphasis added*). In addition, as I
19 discussed earlier, the Staff S&A contains a dividend commitment which will restrict the
20 payment of dividends if KCP&L's or GMO's credit rating ever falls below investment
21 grade due to the Transaction or their affiliation with GPE or any of GPE's other affiliates
22 (Staff S&A, Para. A.5). Finally, as Mr. Bryant discusses, GPE has options to meet its

¹⁰ Gorman Rebuttal, pp. 18-20.

1 debt obligations which do not involve KCP&L/GMO paying higher dividends/customers
2 bearing any risk including issuing additional equity, reducing the level of GPE dividends
3 and/or withstanding a lower earned rate of return on Westar's common equity than
4 assumed. These conditions and options in combination with the Commission's ongoing
5 regulatory authority adequately protect customers.

6 **Q. How do you respond to the other components of Mr. Gorman's Board-related ring-**
7 **fencing condition?**

8 A. Mr. Gorman's second proposed ring-fencing condition also seeks some form of
9 commitment that the KCP&L and GMO Board of Directors will hire capable and
10 effective management and isolate the utilities' operations from GPE. Mr. Gorman
11 provides no meaningful discussion of the details of, or basis for, this proposal. With
12 respect to these proposals, I am unaware of any merger where a ring-fencing condition
13 like this has been implemented and see no reason to do so in the proposed Transaction.
14 And, as noted above, the Board of Directors of KCP&L/GMO are currently responsible
15 for appointing the officers of their respective companies. As to isolating the utilities'
16 operations from GPE, GPE is almost exclusively a utility holding company. As
17 discussed by Mr. Ives, the operating utilities comprise 100% of GPE's 2016 revenues
18 and, if the Transaction is approved and closes, 100% of GPE's revenues will be from
19 utility operations. The Staff S&A provides for the appropriate financial separation and
20 protections between GPE and the operating utilities. Further, the Staff S&A commits
21 KCP&L and GMO to meet or exceed customer service and operational levels currently
22 provided to their Missouri customers. Finally, Supplemental Commitment 42 makes
23 explicit that meeting KCP&L's and GMO's capital requirements to invest in energy

1 supply and delivery infrastructure is a high priority of GPE’s Board of Directors and
2 executive management, and that post-transaction the utilities will continue to access
3 capital and meet their statutory obligations to provide sufficient and efficient service. In
4 short, there is no purpose served by this second Board-related condition.

5 **Q. Mr. Gorman’s third proposed ring-fencing condition recommends “a clear**
6 **prohibition on GPE using utility assets, cash flows or guarantees or assurances for**
7 **the financial obligations of GPE or other non-regulated affiliates.”¹¹ Is this**
8 **condition necessary?**

9 A. No. Staff S&A Financing Condition Para. A.1 and Supplemental Commitments 11 and
10 12 address Mr. Gorman’s third proposed ring-fencing condition. In particular, they
11 provide that (1) GPE, KCP&L and GMO shall maintain separate capital structures,
12 corporate credit ratings, debt, revolving credit facilities, commercial paper and preferred
13 stock unless otherwise authorized by the Commission, (2) KCP&L and GMO shall not
14 guarantee the debt of each other or of GPE or any of GPE’s other affiliates, enter into
15 make-well or similar agreements, or pledge their stock or assets as collateral for
16 obligations of any other entity unless otherwise authorized by the Commission, or include
17 in any debt or credit instrument, any financial covenants or default triggers related to
18 GPE or any of its other affiliates, and (3) GPE, KCP&L and GMO will continue to
19 operate as separate legal entities that separate their regulated business operations from
20 any unregulated business operations. These conditions clearly separate and isolate the
21 financial obligations of GPE from the utilities and the parent’s other non-regulated
22 affiliates.

¹¹ Gorman Rebuttal, p. 26.

1 Q. According to Mr. Gorman, there are “numerous examples” where inadequate ring-
2 fencing separations of the utility’s credit rating from that of its parent company
3 have caused a negative impact on the utility companies.¹² Please comment.

4 A. Although Mr. Gorman testifies that there are “numerous examples,” he cites only one:
5 the 2011 acquisition of DPL, Inc. by AES Corp. Mr. Gorman notes that DPL Inc. and its
6 utility subsidiary, Dayton Power and Light (“DP&L”), both had bond ratings of A- from
7 S&P when the merger was announced. After the transaction was completed, both DPL
8 Inc. and DP&L were downgraded from A- to BBB- by S&P. However, Mr. Gorman fails
9 to provide any additional context which clearly distinguishes the AES/DPL transaction
10 from the proposed Transaction. First, AES Corp.’s S&P rating before the merger was
11 below investment grade (BB immediately prior to the merger announcement;
12 downgraded to BB- on May 17, 2011). Second, in the three stipulations approved by the
13 Public Utilities Commission of Ohio, the only ring-fencing provisions required were: (1)
14 DP&L shall maintain a capital structure that includes an equity ratio of at least 50%; and
15 (2) DP&L agrees not to have a negative retained earnings balance.¹³

16 The facts and circumstances of the proposed Transaction are very different than
17 the AES Corp. acquisition of DPL, Inc. Importantly, unlike AES Corp., GPE has
18 investment grade credit ratings from both S&P and Moody’s at the time of the merger.
19 Further, GPE has committed to numerous ring-fencing measures to isolate the operating
20 utilities from any financial concerns that may arise at the parent holding company and
21 protect their Missouri customers. While the AES/DPL merger may be an example of

¹² Gorman Rebuttal, pp. 29-30.

¹³ Case No. 11-3002-EL-MER, Finding and Order of Public Utilities Commission of Ohio, November 22, 2011, at para. 19.

1 inadequate ring-fencing measures to address the facts and circumstances of that merger,
2 the proposed Transaction is not.

3 **Q. How do the financial and ring-fencing conditions in the Staff S&A, OPC S&A and**
4 **Supplemental Commitments compare to those adopted in other recent merger**
5 **approvals across the country?**

6 A. The financial and ring-fencing conditions agreed to by GPE, KCP&L, GMO, Staff and
7 OPC in the Stipulations and Agreements and put forth by GPE, KCP&L and GMO in the
8 Supplemental Commitments, are consistent with those that have been adopted in other
9 recent utility merger approvals across the U.S. For example, these financial and ring-
10 fencing conditions are consistent with those adopted in the merger involving WEC and
11 Integrys, which is similar in many respects to this Transaction, as discussed below.

12 **Q. Please describe the similarities between the Transaction and the WEC/Integrys**
13 **Transaction.**

14 A. The WEC/Integrys merger:

- 15 1. Involved the merger of holding companies that operated utilities with
16 adjacent operations (WI, IL, MI, MN);
- 17 2. Involved acquisition-related debt at the parent level, which caused rating
18 agencies to express concerns about the credit quality at the parent
19 company but not the operating utilities;
- 20 3. Offered ring-fencing commitments to protect customers from any financial
21 risk at the parent company or affiliates from spreading to the operating
22 utilities or harming customers; and

1 4. Committed to flow through to customers all of the operational savings, net
2 of costs to achieve these savings, in the first post-merger rate cases.

3 The WEC/Integrus transaction received approval from all four state commissions, as well
4 as the FERC, and the combination has been successful.

5 **Q. How did the regulators in the WEC/Integrus transaction address the concerns**
6 **regarding acquisition-related debt and possible credit rating downgrades for the**
7 **parent company?**

8 **A. This issue was raised in Illinois by the Citizens Utility Board for whom Mr. Gorman was**
9 **a witness. The Illinois Commerce Commission (“ICC”) Order discussed this concern as**
10 **follows:**

11 Moreover, argue City/CUB, the danger of service-affecting
12 cash extractions is greater for Illinois utilities than for other
13 utility subsidiaries. S&P, Moody’s, and Fitch have all
14 remarked on the magnitude of WEC Energy Group’s
15 increased financial obligation following the merger and on
16 the fact that WEC Energy Group’s only source of cash will
17 be its utility subsidiaries. However, the Public Service
18 Commission of Wisconsin has the authority to restrict
19 Wisconsin subsidiary utility payouts in the form of
20 dividends if certain financial metrics are not met.
21 City/CUB point out that Illinois has no comparable
22 regulatory mechanism in place. Fitch observed that the
23 credit ratings of the Wisconsin utilities will be unaffected,
24 because “[r]egulatory restrictions regarding upstream
25 dividend distributions to WEC provide some level of credit
26 protection and mitigate contagion risk to the utilities from
27 higher leverage at the parent.” CUB Cross Ex. 3, Att. 03 at
28 1. As the ratings agencies have noted, WEC Energy
29 Group’s level of post-Reorganization debt will be so great
30 that under-performing projections will require more from
31 the utility subsidiaries. Id. at 21. Thus, say City/CUB,
32 Illinois subsidiaries could be in the position of shouldering
33 an even greater burden when Wisconsin subsidiaries and
34 their customers are protected by dividend restrictions and –
35 absent Mr. Gorman’s proposed reorganization approval

1 conditions – Illinois companies and customers are the
2 principal remaining source of cash. (ICC order, p. 48)

3
4 Notwithstanding Mr. Gorman’s recommendations, the ICC determined that
5 additional dividend restrictions were not necessary, stating:

6 Section 7-103 of the Act provides the Commission with the
7 authority to restrict the payments of dividends and since the
8 Joint Applicants agreed with Staff to file reports from all
9 credit agencies reports within 10 days, the Commission does
10 not feel it is necessary to adopt City/CUB witness Gorman’s
11 proposed condition to restrict dividends. There has not been
12 a sufficient showing that the ring-fence provision requested
13 by City/CUB and the AG is necessary for the protection of
14 the public utility or its customers with respect to the ability
15 of the Gas Companies to raise necessary capital on
16 reasonable terms. The Commission finds that City/CUB’s
17 and the AG’s request for a ring-fence provision is not
18 required, especially in light of the enforceable conditions
19 requiring that such investments will be made to which the
20 Joint Applicants already have agreed. Therefore, the ring-
21 fencing provision as requested by City/CUB and the AG
22 will not be imposed as a condition of the Reorganization.
23 (ICC order, p. 50)

24
25 This decision makes an important point, i.e., that ring-fencing is a solution to a problem,
26 and that the solution needs to be scaled to reflect the magnitude of the problem. The best
27 approach to developing an appropriate set of ring-fencing provisions is not to simply
28 replicate the extreme provisions that may have been used in another case. Instead, it is
29 better to thoughtfully determine which provisions are truly needed to address the
30 concerns that apply to a particular transaction.

31 **Q. Are the ring-fencing provisions included in the Staff S&A, the OPC S&A and the**
32 **Supplemental Commitments appropriate for this Transaction?**

33 **A.** Yes. Taken as a whole, and in combination with the Commission’s on-going regulatory
34 oversight and authority, these conditions provide customers with appropriate protections

1 and assurances from potential financial risks of GPE and assurances that they will
2 continue to enjoy safe and reliable electric service at rates that reflect their Commission-
3 approved cost of service.

4 IV. CONCLUSIONS

5 **Q. Please summarize your key conclusions.**

6 A. Mr. Gorman states that his intention in recommending these additional ring-fencing
7 measures is to protect KCP&L and GMO and their customers from the acquisition-related
8 debt incurred by GPE to finance the Transaction and the possible deterioration in the
9 financial condition and credit rating of GPE.¹⁴ The Staff S&A and the Supplemental
10 Commitments include financial and ring-fencing and customer service conditions which
11 do this. These conditions will provide an appropriate level of separation between
12 KCP&L, GMO, GPE and GPE's other affiliates and "insurance" for the unlikely event
13 that the financial integrity of the utilities, as measured by their S&P or Moody's
14 Corporate Credit Ratings, is harmed by the Transaction. The Staff S&A and the
15 Supplemental Commitments provide a comprehensive set of conditions that, in
16 combination with the Commission's on-going regulatory oversight and authority,
17 collectively insure that stakeholders will experience the benefits from the Transaction,
18 with few and very manageable risks. While I share MECG's desire to ensure that the
19 public interest is served by the Transaction, I respectfully disagree with Mr. Gorman's
20 position that additional financial and ring-fencing conditions are necessary to do so.

21 **Q. Does this conclude your Surrebuttal Testimony?**

22 A. Yes, it does.

¹⁴ Gorman Rebuttal, p. 25-26.

Lisa M. Quilici
Senior Vice President

With more than twenty-five years of experience, Ms. Quilici has advised numerous clients nationwide on a wide range of strategic, financial, transactional, and regulatory matters. Specifically, Ms. Quilici has an extensive background in strategic and financial assessments and Board-level advisory services, corporate and asset-based transactions, regulatory analysis and policy formulation, and incentive and traditional ratemaking. Ms. Quilici has significant management experience, having acted as a senior leader of several professional services organizations and a regulatory agency.

REPRESENTATIVE PROJECT EXPERIENCE

Mergers, Acquisitions and Divestitures

Ms. Quilici has been instrumental in the success of more than two dozen mergers, acquisitions or divestitures. Ms. Quilici has advised clients in the areas of merger conditions including financial and ring-fencing conditions, merger synergies, and regulatory approvals. Ms. Quilici has directly managed more than two dozen transactions which included nuclear, fossil, and hydro-electric generation assets (wholly and jointly-owned), district heating and cooling, development properties, maintenance support, energy services, and power purchase agreements. Ms. Quilici routinely provides executive and Board level support as well as regulatory support.

Recent representative projects/clients have included:

- NextEra Energy's proposed acquisition of Oncor;
- NextEra Energy's proposed acquisition of the Hawaiian Electric Companies;
- WEC's acquisition of Integrys;
- Advisor to Philadelphia's City Council in the proposed sale of Philadelphia Gas Works to UIL;
- The sales of Wisconsin Energy's, Alliant's and Consumer's nuclear power plants to various buyers; and
- Dominion's sale of Dominion Cleveland Thermal.

Strategic and Financial Advisory Services

Ms. Quilici has worked with numerous energy companies to develop and execute comprehensive strategic and financial assessments, including performance benchmarking, of regulated and non-regulated enterprises. Specific services provided include identifying and evaluating corporate, financial, regulatory, political/legislative, local community, workforce, market, and asset/enterprise-specific considerations.

Representative projects/clients have included:

- Strategic and financial assessments of utility holdings and/or business. These assignments have included assessing and valuing the assets across the spectrum of options (e.g., continued ownership through various forms of third party operation through a sale under

various terms) as well as developing specific regulatory, marketing, workforce and other strategic and technical sub-plans.

- Third-party evaluation and benchmarking of companies performance across spectrum of activities including operations, cost, capital expenditures, financial metrics, regulatory, corporate.

Regulatory Analysis and Ratemaking

On behalf of electric, natural gas and combination utilities throughout North America, Ms. Quilici has provided a broad spectrum of regulatory advisory and ratemaking services. Specific services have included: developing comprehensive regulatory and ratemaking strategies in support of corporate strategic initiatives; alternative and performance-based ratemaking analysis and design; many aspects of traditional utility ratemaking (e.g., rate design, rate base valuation); and managing client rate functions and/or specific filings.

As a regulator, acted on behalf of the MA Commission to implement a variety of statutes and policies for electric, natural gas, and water utilities, including: reviewed and analyzed of all aspects of rate cases, fuel/purchased power adjustment clauses, and requests for financing; participated in generic proceeding regarding M&A policies; facilitated the implementation of integrated resource management policies, including leading Commission-mandated settlement discussions in which upwards of 50 parties participated; oversaw comprehensive management audit of electric utility; reviewed various contracts (power purchase, gas supply); and developed position papers, presentations, and draft orders for Commission review.

Resource Planning

Ms. Quilici has provided resource planning-related support to utilities throughout North America. These services include (1) third-party assessments of resource plans and procurement decisions, including acting as an Independent Evaluator (IE) of Requests for Proposals and providing independent assessment of non-RFP plans, and (2) working with clients to develop and execute resource plans including the negotiation of power purchase agreements. Ms. Quilici has evaluated Renewable Portfolio Standards (RPS), RPS compliance strategies, overall resource procurement strategies, and virtually all generation types.

Representative projects/clients have included:

- Acting as the IE of Black Hills Colorado's plan to construct a wind facility and in an RFP for power;
- Provided a third-party assessment, including expert testimony, of WE Energy's (1) strategy to comply with state RPS, and (2) specific plans to construct a biomass facility
- Provided confidential analyses on behalf of clients evaluating their existing resource portfolios and resource addition options and plans;
- Supported dozens of clients in the evaluation and negotiations of short, medium and long-term PPAs.

Expert Testimony and Litigation Support

Ms. Quilici has provided expert testimony in administrative regulatory proceedings on a variety of energy and transactional issues. In addition to developing and sponsoring expert testimony, specific services provided include collaborating with counsel as well as business and technical staff to clients to develop litigation strategies; preparing and reviewing discovery and briefing materials;

and preparing materials and participating in sessions with regulators and interveners. A listing of Ms. Quilici's expert testimony is attached.

Ms. Quilici has sponsored expert testimony regarding transactional matters, resource procurement and ratemaking matters in numerous state-level proceedings. Ms. Quilici has also supported other expert and/or company witnesses in various proceedings on variety of topics which include utility mergers and acquisitions.

PROFESSIONAL HISTORY

Concentric Energy Advisors, Inc. (2002 - Present)

Senior Vice President
Vice President

Navigant Consulting, Inc. (1997 - 2001)

Managing Director (2000 - 2001)
Director (1998 - 2000); Vice President (1997)

REED Consulting Group (1994 - 1997)

Vice President (1997)
Consultant (1994 - 1996)

Massachusetts Department of Public Utilities (1990 - 1994)

Assistant Director, Rates & Revenue Requirements (1992 - 1994)
Economist (1990 - 1992)

Northeastern University (1989 - 1990)

Energy Research Assistant

Unisys (1988 - 1989)

Financial Analyst

Prudential Property and Casualty Insurance (1987 - 1988)

Employee Relations

EDUCATION

M.B.A., Northeastern University, 1990
Certificate Program in Employee Relations, Rutgers University, 1988
B.A., Purdue University, 1987

AVAILABLE UPON REQUEST

Extensive client and project listing, and specific references.

SCHEDULE LMQ-1
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EXPERT TESTIMONY OF LISA M. QUILICI

SPONSOR	DATE	CASE/APPLICANT	DOCKET NO.	SUBJECT
Colorado Public Utilities Commission				
Black Hills Colorado Electric Utility Company, LP	01/11-03/11	Colorado Public Utilities Commission	Docket No. 10A-930E	Independent Assessment Report Pursuant to Colorado Public Service Commission Rule 3360(e)(V)
Black Hills Colorado Electric Utility Company, LP	06/09-10/09	Colorado Public Utilities Commission	Docket No. 08A-346E	Independent Evaluator in Black Hills RFP for Power
Illinois (State of) Property Tax Appeal Board				
Exelon Generation Company	04/16	Exelon Generation Company, LLC and Byron Community School District No. 226	Docket Nos. 12-01248 and 12-02297	2012 Assessment of Byron Nuclear Power Station
Indiana Utility Regulatory Commission				
Northern Indiana Public Service Company	10/01	Northern Indiana Public Service Company	Docket No. 99-0207	Rate Case
Iowa Utilities Board				
Interstate Power and Light Company	07/12	Iowa Utilities Board	Docket No. SPU-2012-____(SPU-05-15)	RFP/PPA with NextEra Duane Arnold, LLC
New Jersey American Water, Inc				
	07/2011	New Jersey Board of Public Utilities	Docket No. WR11070460	Water conservation initiative
New York Public Service Commission				
Central Hudson, New York State Electric & Gas, Rochester Gas & Electric	05/01	Joint Petition of Niagara Mohawk, NYSEG, RG&E, Central Hudson, Constellation and Nine Mile Point	Case No. 01-E-0011	Section 70, Rebuttal Testimony Pertaining to Asset Sale
Niagara Mohawk Power Corporation	07/01	Niagara Mohawk Power Corporation	NY PSC Case 01-E	Power Purchase and Sale Agreement; Standard Offer Service Agreement
Rochester Gas & Electric	01/04	Rochester Gas & Electric	Case No. 03-E-0765 Case No. 02-E-0198 Case No. 03-E-0766	Sale of Nuclear Plant; Ratemaking Treatment of Sale

SPONSOR	DATE	CASE/APPLICANT	DOCKET NO.	SUBJECT
Philadelphia (City Council)				
PGW Bid Evaluation	10/13 – 02/14	Philadelphia Gas Works	City Council Meetings	Financial Advisor to Philadelphia City Council in Proposed Sale of Philadelphia Gas Works to UIL
Wisconsin Public Service Commission				
Wisconsin Electric Power Company	01/07	Wisconsin Electric Power Co.	Docket No. 6630-EI-113	Sale of Nuclear Plant
Wisconsin Electric Power Company	08/10	Wisconsin Electric Power Co.	Docket No. 6630-CE-305	Biomass Fuel Co-Generation Facility

Summary of Financial and Ring-Fencing and Select Other Conditions

Please refer to the Staff S&A and Schedule DRI-4 Supplemental Merger Commitments and Conditions for a complete text of all conditions and commitments, including financial and ring-fencing and other conditions.

Reference	Category	Summary of Commitment
Staff S&A, Para. A.1	Financing and Ring-Fencing	<p><u>Use of Separate Capital Structures and Financing:</u> GPE, KCP&L and GMO shall maintain separate capital structures to finance the activities and operations of each entity unless otherwise authorized by the Commission. Unless the Commission authorizes otherwise, GPE, KCP&L and GMO shall maintain separate Corporate Credit Ratings, and separate debt¹ so that neither GPE, KCP&L nor GMO will be responsible for the debts of each other or their other affiliated companies. GPE, KCP&L and GMO shall also maintain separate revolving credit facilities and commercial paper, if any, unless the Commission authorizes otherwise. GPE, KCP&L and GMO shall also maintain separate preferred stock, if any. Neither KCP&L nor GMO shall guarantee the debt of the other, or of GPE, or of any of GPE's other affiliates, or otherwise enter into make-well or similar agreements, unless otherwise authorized by the Commission. Neither KCP&L nor GMO shall pledge their respective stock or assets as collateral for obligations of any other entity, unless otherwise authorized by the Commission.</p>

¹ GMO's Promissory Notes to GPE dated May 19, 2011 and June 15, 2012 that mature June 1, 2021 and June 15, 2022, respectively, are considered separate GMO debt.

Supplemental Commitment 11	Financing and Ring-Fencing	<p><u>Separation of Assets:</u> GPE commits that KCP&L and GMO will not comingle their assets with the assets of any other person or entity, except as allowed under the Commission's Affiliate Transaction statutes or other Commission order. GPE commits that KCP&L and GMO will conduct business as separate legal entities and shall hold all of their assets in their own legal entity name unless otherwise authorized by Commission order. GPE, KCP&L and GMO affirm that the present legal entity structure that separates their regulated business operations from their unregulated business operations shall be maintained unless express Commission approval is sought to alter any such structure. GPE, KCP&L, and GMO further commit that proper accounting procedures will be employed to protect against cross-subsidization of GPE's, KCP&L's and GMO's non-regulated businesses, or GPE's other regulated businesses in Missouri.</p>
Supplemental Commitment 12	Financing and Ring-Fencing	<p><u>Other Separation:</u> Neither KCP&L nor GMO shall guarantee the debt of the other, or of GPE, or of any of GPE's other affiliates, or otherwise enter into make-well or similar agreements, unless otherwise authorized by the Commission. Neither KCP&L nor GMO shall pledge their respective stock or assets as collateral for obligations of any other entity, unless otherwise authorized by the Commission. Neither KCP&L nor GMO will include, in any debt or credit instrument of GMO and KCP&L, any financial covenants or default triggers related to GPE or any of its affiliates. See also Staff S&A Financing Condition Para A.1.</p>

Staff S&A, Para. A.2	Financing and Ring-Fencing	<u>Use of Utility-Specific Capital Structure:</u> KCP&L and GMO have indicated their intent to utilize their respective utility-specific capital structure in general rate case filings subsequent to the close of the Transaction. In such filings, KCP&L or GMO (as applicable) shall provide (a) evidence demonstrating that the Transaction has not resulted in a downgrade to that utility's Corporate Credit Rating that exists at the time the general rate case is filed compared to the Corporate Credit Rating of that utility that existed as of May 27, 2016, or (b) if such a Corporate Credit Rating downgrade resulting from the Transaction exists at the time the general rate case is filed, evidence demonstrating that Missouri customers are held harmless from any cost increases resulting from such a downgrade, and (c) evidence supporting the reasonableness of using the utility-specific capital structure of KCP&L or GMO in determining a fair and reasonable rate of return for the applicable utility. GPE, KCP&L and GMO acknowledge that this provision shall not limit the position or positions any party to a rate case may take, or that the Commission may order, regarding the appropriate capital structure to be used for setting rates for KCP&L or GMO.
Supplemental Commitment 18	Ratemaking/Accounting	<u>Utility-Specific Capital Structure:</u> For ratemaking purposes, GMO and KCP&L agree to the use of an actual utility-specific capital structure with an equity share of no less than 45 percent and no more than 53 percent; provided, however, that GMO and KCP&L may petition the Commission for relief from this condition for reasons not related to the Transaction and the Commission may grant such relief, to the extent it chooses to do so, based on a finding of good cause.
Supplemental Commitment 25	Ratemaking/Accounting	<u>Financial and Business Risk:</u> Provided the actual utility-specific capital structure is used to set rates for KCP&L and GMO, GPE, KCP&L and GMO commit to uphold the principle that their future costs of service and rates will be set commensurate with the financial and business risks attendant to each affiliate's regulated utility operations and that they will not oppose, in either a regulatory proceeding or by judicial appeal of a Commission decision, the application of this principle. See also Staff S&A Financing Condition Para. A.2.
Staff S&A, Para.	Financing and Ring-	<u>Cost of Capital:</u> Neither KCP&L nor GMO shall seek an increase to the cost of

A.7	Fencing	<p>capital as a result of the Transaction or KCP&L's and GMO's ongoing affiliation with GPE and its affiliates other than KCP&L and GMO after the Transaction. Any net increase in the cost of capital that KCP&L or GMO seek shall be supported by documentation that: (a) the increases are a result of factors not associated with the Transaction or the post-Transaction operations of GPE or its non-KCP&L and non-GMO affiliates; (b) the increases are not a result of changes in business, market, economic or other conditions caused by the Transaction or the post-Transaction operations of GPE or its non-KCP&L and non-GMO affiliates; and (c) the increases are not a result of changes in the risk profile of KCP&L or Westar caused by the Transaction or the post-Transaction operations of GPE or its non-KCP&L and non-GMO affiliates. The provisions of this section are intended to recognize the Commission's authority to consider, in appropriate proceedings, whether this Transaction or the post-Transaction operations of GPE or its non-KCP&L and non-GMO affiliates have resulted in capital cost increases for KCP&L or GMO. Nothing in this commitment shall restrict the Commission from disallowing such capital cost increases from recovery in KCP&L or GMO's rates.</p>
Supplemental Commitment 24	Ratemaking/Accounting	<p><u>Return on Equity:</u> The return on equity capital ("ROE") as reflected in GMO's and KCP&L's rates will not be adversely affected as a result of the Transaction. GPE agrees the ROE shall be determined in future rate cases, consistent with applicable law, regulations and practices of the Commission. See also Staff S&A Financing Conditions, Para. A.2 and Para. A.7.</p>

Staff S&A, Para. A.3 and Supplemental Commitment 14 ²	Financing and Ring Fencing	<p><u>Corporate Credit Rating:</u> In the event KCP&L or GMO should have its respective Standard & Poor's ("S&P") or Moody's Corporate Credit Rating downgraded to below BBB- or Baa3, respectively, as a result of the Transaction, KCP&L or GMO (the "Impacted Utility") commits to file:</p> <ul style="list-style-type: none"> a. Notice with the Commission within five (5) business days of such downgrade; b. A pleading with the Commission within sixty (60) days which shall include the following: <ul style="list-style-type: none"> i. Actions the Impacted Utility may take to raise its S&P or Moody's Corporate Credit Rating to BBB- or Baa3, respectively, including the costs and benefits of such actions and any plan the Impacted Utility may have to undertake such actions. If the costs of returning GMO and/or KCP&L to investment grade are above the benefits of such actions, GMO and/or KCP&L shall be required to show and explain why it is not necessary, or cost-effective, to take such actions and how the utility(s) can continue to provide efficient and sufficient service in Missouri under such circumstances; ii. The change, if any, on the capital costs of the Impacted Utility due to its S&P or Moody's Corporate Credit Rating being below BBB- or Baa3, respectively; and iii. Documentation detailing how the Impacted Utility will not request from its Missouri customers, directly or indirectly, any higher capital costs incurred due to a downgrade of its S&P or Moody's Corporate Credit Rating below BBB- or Baa3, respectively; c. File with the Commission, every forty-five (45) days thereafter until the Impacted Utility has regained its S&P or Moody's Corporate Credit Rating of BBB- or Baa3, respectively or above, an updated status report with respect
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² Supplemental Commitment 14 expands the conditions found in Staff S&A, Para. A.3, A.4, A.5 and A.6 to include both S&P and Moody's Corporate Credit Rating.

		to the items required in paragraph 4(c)(ii) above.
Staff S&A, Para. A.4 and Supplemental Commitment 14	Financing and Ring-Fencing	<u>Corporate Credit Rating and Quality of Service:</u> If the Commission determines that the decline of the Impacted Utility's S&P or Moody's Corporate Credit Rating to a level below BBB- or Baa3, respectively, has caused its quality of service to decline, then the Impacted Utility shall be required to file a plan with the Commission detailing the steps that will be taken to restore service quality levels that existed prior to the ratings decline.
Staff S&A, Para. D.1	Customer Service	<u>Customer Service and Operational Levels:</u> KCP&L and GMO will meet or exceed the customer service and operational levels currently provided to their Missouri retail customers.
Staff S&A, Para. A.5 and Supplemental Commitment 14	Financing and Ring-Fencing	<u>Additional Legal and Structural Separation:</u> In the event KCP&L's or GMO's affiliation with GPE or any of GPE's affiliates is the reason for KCP&L's or GMO's respective S&P or Moody's Corporate Credit Rating to be downgraded to below BBB- or Baa3, respectively, KCP&L and/or GMO shall pursue additional legal and structural separation, if necessary, from the affiliate(s) causing the downgrade, and the Impacted Utility shall not pay a common dividend without Commission approval or until the Impacted Utility's S&P or Moody's Corporate Credit Rating has been restored to BBB- or Baa3, respectively, or above.
Staff S&A, Para. A.6 and Supplemental Commitment 14	Financing and Ring-Fencing	<u>Risk Management Plan and Non-Consolidation Opinion:</u> If KCP&L's or GMO's respective S&P or Moody's Corporate Credit Rating declines below BBB- or Baa3, respectively, as a result of the Transaction, the Impacted Utility shall file with the Commission a comprehensive risk management plan that assures the Impacted Utility's access to and cost of capital will not be further impaired. The plan shall include a non-consolidation opinion if required by S&P or Moody's.

Staff S&A, Para. A.8	Financing	<u>Goodwill:</u> The good will resulting from the Transaction will be maintained on the books of GPE and is therefore not expected to negatively affect KCP&L or GMO's cost of capital; however, if such goodwill becomes impaired other than as a result of a Commission order and such impairment negatively affects KCP&L or GMO's cost of capital, all net costs associated with the decline in the Impacted Utility's credit quality specifically attributed to the goodwill impairment, considering all other capital cost effects of the Transaction and the impairment, shall be excluded from the determination of the Impacted Utility's rates.
Staff S&A, Para. A.9	Financing	<u>Goodwill Impairment Analysis:</u> For the first five years after closing of the Transaction, GPE shall provide Staff and OPC its annual goodwill impairment analysis in a format that includes spreadsheets in their original format with formulas and links to other spreadsheets intact and any printed materials within 30 days after the filing of GPE's Form 10-Q for the period in which the analysis is performed, as well as all supporting documentation. Thereafter, this analysis will be made available to Staff and OPC upon request.
Staff S&A, Para. A.10	Financing	<u>Confidential Financial/Valuation Model:</u> 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 Case No. EM-2016-0324. Staff will continue to protect the confidentiality of the information contained within that model.
Staff S&A, Para. B.4	Ratemaking/Accounting	<u>Retail Rates:</u> GPE commits that retail rates for Missouri KCP&L and GMO customers shall not increase as a result of the Transaction.
Supplemental Commitment 22	Ratemaking/Accounting	<u>Purchased Power Costs:</u> KCP&L's and GMO's fuel and purchased power costs shall not be adversely impacted as a result of the Transaction.

Supplemental Commitment 42	Parent Company	<p><u>Parent Company Commitment:</u> GPE acknowledges that its utility subsidiaries (existing and proposed) need significant amounts of capital to invest in energy supply and delivery infrastructure (including, but not limited to, renewable energy resources and other environmental sustainability initiatives such as energy efficiency and demand response programs) and acknowledges that meeting these capital requirements of its utility subsidiaries will be considered a high priority by GPE's board of directors and executive management and that GPE's access to capital post-transaction will permit it and its utility subsidiaries to meet their statutory obligation to provide safe and adequate service. See also Staff S&A Customer Service Condition Para. D.1.</p>
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Schedule LMQ-3
Recent Merger Ring-Fencing
Provisions Page 1 of 5

Merger/ Jurisdiction	Transaction Completed	Majority Independent or Separate Board ¹	Golden Share ²	SPE ³
Algonquin⁴/Empire District	1/5/2017			
AR		No	No	No
KS		No	No	No
MO		No	No	No
Fortis/ITC⁵	10/14/2016			
MO		✓	No	No
WI		✓	No	No
Duke/Piedmont Natural Gas	10/3/2016			
NC		No	No	No
TN		No	No	No
Dominion/Questar	9/16/2016			
ID		No	No	No
UT		No	✓	No
WY		No	No	No
Southern/AGL Resources⁶	7/1/2016			
GA		No	No	No
IL		No	No	No
MD		✓	No	No
NJ		✓	No	No

¹ Indicates whether a majority NYSE Independent Board was required and/or instances where a separate board of outside directors was required

² Indicates whether a director with a Golden Share whose vote would be required for the utility to file a voluntary petition for bankruptcy was required

³ Indicates whether a Special Purpose Entity, or SPE, which owns all of the shares in the subject utility was required

⁴ Algonquin, headquartered in Canada, is the parent of Liberty Utilities

⁵ Fortis is headquartered in Canada

⁶ In MD and NJ, AGL Resources had a separate board prior to the transaction and will continue to have a separate board of outside directors for a minimum of five years after the transaction closes

Schedule LMQ-3
Recent Merger Ring-Fencing
Provisions Page 2 of 5

Merger/ Jurisdiction	Transaction Completed	Majority Independent or Separate Board ¹	Golden Share ²	SPE ³
VA		No	No	No
Emera/TECO⁷	7/1/2016			
NM		✓	No	No
Macquarie/Cleco⁸	4/13/2016			
LA		✓	✓	No
Exelon/PEPCO⁹	3/23/2016			
DC		✓	✓	✓
MD		No	✓	✓
DE		No	✓	✓
NJ		No	✓	✓
VA		No	✓	✓
Black Hills/SourceGas	2/12/2016			
AR		No	No	No
CO		No	No	No
NE		No	No	No
Iberdrola / UIL¹⁰	12/16/2015			
CT		No	✓	✓
MA		No	✓	✓
WEC/Integrus	6/29/2015			
IL		No	No	No
MN		No	No	No
WI		No	No	No

⁷ Emera is headquartered in Canada. Emera agreed to establish a separate subsidiary board for New Mexico Gas

⁸ Macquarie is a financial acquirer; the Cleco Board shall include at least four Louisiana residents who are independent

⁹ DC required that 4 of 7 Board members be NYSE Independent; MD, DE and NJ all required that 3 of 7 Board members be NYSE Independent

¹⁰ Iberdrola is headquartered in Spain. CT and MA required that 3 of 7 Board members be NYSE Independent

Schedule LMQ-3
Recent Merger Ring-Fencing
Provisions Page 3 of 5

Merger/ Jurisdiction	Transaction Completed	Majority Independent or Separate Board ¹	Golden Share ²	SPE ³
Berkshire Hathaway/Altalink	12/1/2014			
Alberta		No	No	No
TECO/New Mexico Gas	9/2/2014			
NM		No	No	No
Laclede/Alabama Gas Corp.	8/31/2014			
AL		No	No	No
Fortis/UNS¹¹	8/15/2014			
AZ		✓	✓	No
Laclede/New England Gas	12/20/2013			
MA		No	No	No
Algonquin/New England Gas	12/20/2013			
MA		No	No	No
Berkshire Hathaway/NV Energy	12/19/2013			
NV		No	No	No
Laclede/Missouri Gas	9/1/2013			
MO		No	No	No
Fortis/CH Energy¹²	6/27/2013			
NY		✓	✓	No
Algonquin/Atmos Energy	4/2/2013			
GA		✓	No	No
Algonquin/Granite State	7/3/2012			
NH		No	No	No

¹¹ As noted earlier, Fortis is headquartered in Canada

¹² Id.

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Merger/ Jurisdiction	Transaction Completed	Majority Independent or Separate Board ¹	Golden Share ²	SPE ³
Duke Energy/Progress	7/2/2012			
KY		No	No	No
NC		No	No	No
SC		No	No	No
Gaz Métro¹³/Central Vermont Public Service	6/27/2012			
VT		No	No	No
Northeast Utilities/NSTAR	4/10/2012			
CT		No	No	No
MA		No	No	No
Exelon/Constellation	3/12/2012			
IL		No	No	No
MD ¹⁴		No	No	No
AGL Resources/Nicor Gas	12/9/2011			
CA		No	No	No
IL		No	No	No
AES/ DPL	11/28/2011			
OH		No	No	No
FirstEnergy/Allegheny	2/25/2011			
MD		No	No	No
NJ		No	No	No
PA		No	No	No
VA		No	No	No
WV		No	No	No

¹³ Gaz Métro is headquartered in Canada; VT required 2 NYSE Independent Board members for CVPS, but not majority Independent Board

¹⁴ MD required that at least one-third of the Board be NYSE Independent

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Merger/ Jurisdiction	Transaction Completed	Majority Independent or Separate Board¹	Golden Share²	SPE³
UIL/Berkshire Gas	11/16/2010			
CT		No	No	No
PPL/E.ON (LG&E & KU)	11/1/2010			
KY		No	No	No
VA		No	No	No