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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EM-2018-0012

DIRECT TESTIMONY

OF

MARK A. RUELLE

ON BEHALF OF

WESTAR ENERGY, INC.

August 2017

Applicant Exhibit No. 13
Date 3/12/18 Reporter JB
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DIRECT TESTIMONY

OF

MARK A. RUELLE

Case No. EM-2018-0012

I. INTRODUCTION

1

2 **Q: Please state your name and on whose behalf you are testifying.**

3 A: My name is Mark A. Ruelle. I am testifying on behalf of Westar Energy, Inc. and Kansas
4 Gas and Electric Company (referred to herein as “Westar”) in support of the request of
5 Westar, Great Plains Energy Incorporated (“Great Plains Energy” or “GPE”), Kansas
6 City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations
7 Company (“GMO”) (all parties collectively referred to herein as “Applicants”) for
8 approval of the amended transaction providing for the merger of Westar and GPE
9 (“Merger”).

10 **Q: Please state your current position and business address.**

11 A: I am employed by and serve as President and Chief Executive Officer (“CEO”) of
12 Westar. My business address is 818 Kansas Avenue, Topeka, Kansas 66612. If the
13 Merger is approved and closes, I will serve as the Chairman of the board of directors of
14 the new combined company (“Holdco” or “combined Company”).

15 **Q: Please describe your education, experience and employment history.**

16 A: I hold Bachelor’s and Master’s degrees in economics. I have worked in the utility
17 industry for over 30 years, with 25 of those 30 years working at Westar and residing in
18 this community. I started at Westar in 1986 as a regulatory economist, worked in
19 numerous other positions, then resigned in early 1997. Prior to rejoining Westar in 2003,

1 I worked in senior executive positions with a large Nevada-based utility holding company
2 and its operating subsidiaries. In early 2003, I returned to Westar as Executive Vice
3 President and Chief Financial Officer and held that position for about eight years until
4 becoming President, and shortly thereafter CEO in 2011.

5 **Q: Have you previously testified in a proceeding at the Missouri Public Service**
6 **Commission (“Commission”) or before any other regulatory agency?**

7 A: Yes, I have testified before this Commission on a few occasions and have testified before
8 The Kansas Corporation Commission (“KCC”) on numerous occasions.

9 **Q: What are your current responsibilities?**

10 A: I am responsible for the strategic leadership and overall management of Westar.
11 Primarily, this includes assuring that Westar is providing safe, reliable and affordable
12 service to our customers and working to ensure that we remain a responsible employer, a
13 steward of the environment, and a constructive corporate citizen. Serving these roles
14 well helps Westar to be financially strong and to have constructive regulatory and
15 stakeholder relationships which also enables competitive returns on investment.

16 **Q. What is the purpose of your testimony?**

17 A. I will describe how Westar and GPE renegotiated the transaction presented in EM-2017-
18 0226 (“Initial Transaction”). Together with GPE’s CEO Mr. Terry Bassham, I sponsor
19 the Amended and Restated Agreement and Plan of Merger dated July 9, 2017 (“Amended
20 Merger Agreement”), which, in concert with the Applicants’ Merger Commitments and
21 Conditions (see Application, Appendix H), establishes the terms and commitments of this
22 transaction. I will discuss Westar’s resolve to achieve the value of a merger between
23 Westar and GPE and explain why the Merger is the best path forward for customers and

1 shareholders, is not detrimental to the public interest, and should be approved by the
2 Commission.

3 **Q. Why was it necessary to reconstitute the Initial Transaction?**

4 A. By an Order issued on April 19, 2016, the KCC in Docket No. 16-KCPE-593-ACQ
5 (“KCC’s Initial Transaction Order”), rejected the Initial Transaction. The primary
6 concerns noted by the KCC related to the financial condition of the merged company due
7 to the magnitude of the acquisition premium GPE had agreed to pay and the amount of
8 debt GPE had proposed to incur.¹ As a result, if we desired to achieve the benefits of
9 combining Westar and GPE, we needed to address the concerns expressed in the KCC’s
10 Initial Transaction Order to obtain necessary regulatory approvals of a GPE-Westar
11 combination.

12 **Q. How does your testimony relate to the testimony of GPE’s CEO Mr. Terry**
13 **Bassham?**

14 A. As the current CEO of Westar with plans to become the new Chairman of the combined
15 Company, my testimony focuses on the path we took to renegotiate the Initial
16 Transaction. As the current CEO of Great Plains Energy and with plans to be the CEO of
17 the combined Company, Mr. Bassham’s testimony focuses on what will come following
18 the closing of the Merger, including the benefits to customers and other stakeholders that
19 will be created. He will also highlight key commitments that will guide how the
20 combined Company operates. Mr. Bassham and I are jointly responsible for the
21 reconstitution of the Initial Transaction as a “merger of equals” or “MOE” of Westar and
22 GPE. Although we represented our respective companies in negotiating the Merger, we

¹ KCC’s Initial Transaction Order, ¶ 92.

1 share the same strategic objective of charting the path forward that will best serve our
2 respective stakeholders for the long-term. Mr. Bassham and I will be jointly responsible
3 for the Merger's success.

4 **Q. Please briefly describe the Merger.**

5 A. The Merger will be accomplished entirely through an exchange of stock with no other
6 cash or securities changing hands. The exchange was agreed to with the intent that no
7 market or control premium be paid to either company. No Merger-related debt will be
8 incurred. It will provide guaranteed timely benefits to customers in the form of upfront
9 bill credits. Other nearly immediate benefits will include initial merger savings that will
10 be reflected in the cost of service of KCP&L and GMO in rate cases that will be filed and
11 pending at the time of the expected Order in this Application. I discuss the Merger in
12 more detail throughout my testimony.

13 **Q. How is the remainder of your testimony organized?**

14 A. Following this introduction, my testimony is organized as follows:

- 15 ▪ **Section II** describes how and why we renegotiated the Initial Transaction;
- 16 ▪ **Section III** highlights key elements of the Merger, including the corporate
17 governance of the combined Company; and
- 18 ▪ In **Section IV**, I present my conclusions and recommendations.

19 **II. NEGOTIATING THE AMENDED MERGER AGREEMENT**

20 **Q. Why did you renegotiate the Initial Transaction?**

21 A. While the KCC rejected the Initial Transaction, we remained convinced of the strategic
22 rationale behind a merger of Westar and GPE, but also recognized that the transaction
23 needed to be reconstituted were it to meet the public interest.

1 **Q. Why is the Merger the best path forward?**

2 A. The fundamental circumstances that led to the Initial Transaction remain. Westar and
3 GPE's utilities are faced with flat sales and rising costs such that, absent achieving
4 savings from this combination, those higher costs would translate directly into higher
5 prices. That is not good for any company, its customers, its communities, or its
6 shareholders. Further, electric utilities continue to consolidate and those companies
7 lacking scale may have a disadvantage in accessing capital on good terms.

8 The combination of Westar and GPE is unique. It positions the combined
9 Company to create savings not readily available to either company independently or
10 through a transaction with another entity. Even if another company were willing to
11 attempt to acquire Westar for a higher price with a substantial control premium, it is
12 unlikely that a different combination would be able to generate the savings this
13 combination can. Moreover, were we to have sought such a transaction, it would also
14 have meant a lengthy delay and organizational disruption, with no assurance that such a
15 transaction would be possible or could obtain Commission approval.

16 I can conceive of no course of action for Westar that has the advantages for our
17 customers, our state, our employees and our shareholders as the combining of these two
18 companies offers. This combination is unique in that we are combining two large
19 adjacent companies who already share ownership of energy infrastructure.

20 **Q. What were your primary considerations in renegotiating the Initial Transaction?**

21 A. They included:

22 1. The many factors and benefits, just discussed, that are addressed only by this
23 combination;

- 1 2. The primary concerns identified in the KCC's Initial Transaction Order rejecting
2 the Initial Transaction;
- 3 3. The risks associated with attempting another premium transaction with another
4 company; and
- 5 4. Our commitment to transparency regarding all matters having to do with the
6 transaction.

7 Taking these factors into consideration, we sought to renegotiate merger terms
8 that we could be confident the Commission would find to be not detrimental to the
9 public interest, yet would still satisfy the Westar board's legal obligations to
10 shareholders, would gain Westar shareholders' approval (even with no premium) and
11 would be fair to both Westar's and GPE's shareholders from a financial point of view.

12 **Q. Does the Merger address these considerations and will it benefit the company and
13 its stakeholders?**

14 **A. Yes.**

15 **III. KEY ELEMENTS OF THE MERGER**

16 **Q Please summarize the key elements of the Merger.**

17 **A. They include:**

- 18 ▪ Westar and GPE will merge through the exchange of common stock into a
19 new Holdco. Holdco will be the new parent of Westar and its subsidiaries,
20 and KCP&L, GMO and GPE's other subsidiaries.
- 21 ▪ Stock will be exchanged according to respective exchange ratios which
22 reflect our best assessment of the common equity value of each company,
23 unaffected by lingering issues from the Initial Transaction.

- 1 ▪ With no control premium, the exchange value (and implied price) for
2 Westar will be substantially lower than in the Initial Transaction.
3 Similarly, there is no control premium in the exchange value for GPE
4 either.
- 5 ▪ There is no transaction debt. Ironically, Holdco will start life with less
6 debt and more equity than is optimal, but will move to balance the capital
7 structure over the next few years to a structure typical both for utility
8 holding companies and regulated utilities, generally. Westar's, KCP&L's
9 and GMO's capital structures are unaffected by the Merger. The
10 rebalancing of Holdco's capital structure will also have no impact on the
11 capital structures or rates of the utilities.
- 12 ▪ The combined Company will be financially stronger than continuing as
13 separate companies. In fact, as discussed by Messrs. Kevin Bryant and
14 Anthony Somma, Moody's Investor Services upgraded GPE's credit
15 rating in response to the Merger announcement and subsequent
16 redemption of Great Plains debt issued to finance the Initial Transaction.
17 Standard & Poor's ("S&P") suggested an additional upgrade may come
18 after closing. In addition, S&P revised its outlook from negative to
19 positive for Westar, KGE, GPE, KCP&L and GMO in response to the
20 Merger announcement.
- 21 ▪ The proposed upfront bill credits to the combined Company's retail
22 electric customers of \$50 million in the aggregate exceed our estimate of
23 net merger savings in 2018. Additionally, KCP&L and GMO will have

1 earlier-discussed and planned rate cases on file before the order in this
2 docket. Their respective costs of service in those rate filings will reflect
3 savings as a result of actions taken by the companies in anticipation of the
4 Merger. This demonstrates our commitment to customer benefits and our
5 willingness to shoulder risk given confidence in the savings the Merger
6 will produce.

7 ▪ With more than a year of integration planning behind us, we have detailed
8 Merger savings analyses and integration and business plans. These
9 support not only the ability to provide the bill credits, but also produce
10 savings that will be reflected in the initial rate cases following the closing
11 of the Merger, and any future rate cases thereafter. We will have
12 produced significant operating efficiencies in the first year² much of which
13 will be reflected in the cost of service of KCP&L and GMO in those 2018
14 rate cases. Merger savings are expected to grow significantly from that by
15 2022 and beyond. Customers will benefit from these and other savings³ as
16 these savings help to eliminate the need for future rate cases; reducing the
17 level and frequency of rate cases after the Merger closes.

18 ▪ These savings will be created with no involuntary severance or layoffs
19 resulting from the Merger. The Kansas City headquarters will continue as
20 the Company's corporate headquarters.

² Depending upon the timing of the closing, the first year will include part of 2018 and part of 2019.

³ GPE has announced that generation plants will close by year-end 2018 (Sibley units 1, 2 and 3; and Montrose units 1, 2 and 3) and by year-end 2019 (Lake Road unit 4/6) and these closings will result in savings.

1 **Q. What will the ownership of the combined Company be post-closing?**

2 A. Immediately following the Merger, the combined Company will be owned by Westar's
3 present shareholders (approximately 52.5 percent) and GPE's present shareholders
4 (approximately 47.5 percent). Holdco will become the sole shareholder of KCP&L,
5 GMO, and Westar just as GPE has been for KCP&L for over 15 years and GMO for over
6 9 years. Instead of Westar having tens of thousands of individual shareholders, it will
7 have one shareholder, Holdco.

8 **Q. Please describe the composition of the combined Company's board of directors and**
9 **executive leadership.**

10 A. I will serve as non-executive Chairman of the Company's board of directors. I will no
11 longer be an employee or an executive of the Company. Mr. Bassham will serve as
12 President and CEO, and also a member of the board. All of the Company's other
13 directors will be independent,⁴ with a majority of them long-time citizens and leaders of
14 both Missouri and Kansas. The combined Company's board will initially be comprised
15 of an equal number of directors from each of Westar's and GPE's current boards. (See
16 Application Appendix H, Commitment 9.)

17 As discussed in more detail by Mr. Bassham, the executive leadership team will
18 reflect a balance of existing Westar and Great Plains Energy executives.

19 **Q. Do the Applicants propose financial and ring-fencing commitments?**

20 A. Yes. Although restructuring the Initial Transaction as an MOE eliminates leverage
21 associated with the Merger, we still propose financial and ring-fencing commitments to

⁴ As discussed by Mr. Reed, the Applicants commit that a majority of the Board will be "independent" as that term is defined by the New York Stock Exchange.

1 assure the Commission and other stakeholders that customers will be protected from even
2 the possibility of incremental financial risk as a result of the Merger and, in fact, will
3 have greater financial protections than they would absent the Merger. These
4 commitments, discussed in the testimony of Mr. John Reed, will influence the
5 governance of the utilities, establish policies and restrictions pertaining to the financial
6 management of the Company and the utilities. They specifically acknowledge that the
7 utilities need significant amounts of capital and that meeting these capital requirements
8 will remain the priority of the Company's board of directors and executive management.
9 (See Application Appendix H, Commitment No. 48).

10 **Q. Have the Applicants proposed any other regulatory commitments?**

11 A. Yes. We have proposed commitments and conditions addressing charitable giving,
12 community involvement and low-income assistance programs, quality of service,
13 ratemaking and accounting, and other regulatory commitments which are included in
14 Appendix H to the Application. Mr. Darrin Ives' direct testimony addresses these
15 matters.

16 **Q. Why were you willing to enter into a "no premium" transaction?**

17 A. The size of the acquisition premium in the Initial Transaction was an obstacle to gaining
18 necessary regulatory approvals. But we also recognized that the long-term value to
19 Westar's customers and shareholders of a combination with GPE remained the best
20 option. The MOE eliminates the control premium and transaction debt, yet still
21 captures—even enhances—the long-term value to customers and shareholders from
22 combining our companies. Though, initially not as favorable for Westar's shareholders

1 as the Initial Transaction, it is still more favorable than our alternatives, including were
2 Westar to remain independent.

3 When we first decided to seek an alternative to business as usual for Westar, it
4 was about size, circumstances and timing. It still is. Size and scale matter in this
5 industry. Circumstances, including rising costs and flat or declining demand for
6 electricity, are a fact. The experience we have gained in the year since we announced the
7 original transaction only reinforces those facts. The time to address these issues is now,
8 when we still have the benefit of our naturally transitioning workforce demographics,
9 with significant natural attrition through voluntary retirements. This allows us to direct
10 our own destiny by entering into a transaction with the best counterparty to create value
11 for our customers and shareholders, without having to resort to involuntary job losses to
12 create those efficiencies.

13 **Q. Is it unusual for utility merger applicants to renegotiate a proposed transaction with**
14 **a fundamentally different structure and financial terms?**

15 A. Yes, it is extremely rare. We took this unusual step for a few reasons. First, we believe
16 that combining Westar and GPE remains the best course of action for customers,
17 shareholders and other stakeholders. We understood and accepted the fact that a lower
18 purchase price, including the absence of a control premium, would create a financially
19 stronger combined Company, something necessary to obtain regulatory approvals. We
20 also pursued this structure because it will provide both quantifiable immediate and long-
21 term customer benefits.

22 It has taken nearly three months of challenging analysis and tough negotiations to
23 restructure the Initial Transaction. That we were able to craft a revised transaction that

1 we believe addresses concerns expressed in the Initial Transaction is a reflection of the
2 confidence we have in this combination, the commitment, compromise and hard work by
3 many from both companies, and the candor and constructiveness of the regulatory parties
4 in sharing their views.

5 **Q. Has Westar’s board of directors approved the Merger?**

6 A. Yes. Westar’s board unanimously approved the Merger.

7 **Q. Have Westar’s shareholders approved the Merger?**

8 A. No, not yet. We expect shareholders of both companies will vote to approve the Merger
9 in the fourth quarter of 2017. The Merger requires approval from a simple majority of
10 Westar’s outstanding shares. I am confident in gaining their approval.

11 **Q. Why are you confident that the Merger of these two companies will be successful?**

12 A. First, the two companies have a lot in common. We are similar in size. We already have
13 long-standing relationships working together to manage three of our largest assets, which
14 we jointly own. These relationships have become stronger over the past year as we
15 worked together on a transaction. We have contiguous territories, with nearly adjacent
16 facilities in a few cases. We operate similar major computing platforms and we are both
17 members of the Southwest Power Pool.

18 Second, Westar and KCP&L share a common vision for our customers,
19 employees, investors, and the communities we have the privilege to serve. As you walk
20 into Westar’s Topeka headquarters, you see on the wall its mission: “*We power lives –*
21 *one home, one business, one community at a time – with safe, clean, reliable electricity*
22 *and the highest dedication to customer care.*” Our vision of building trust and
23 confidence means “*taking to heart the needs of those we serve – our customers,*

1 financially stronger company and leading Midwest electric utility better positioned to
2 meet our customers' needs at lower rates and achieve competitive financial returns
3 expected by investors. As a result, I can confidently testify that the Merger is not
4 detrimental to the public interest and recommend that it be approved.

5 **Q. Does this conclude your Direct Testimony?**

6 **A. Yes, it does.**

