

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

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

STIPULATION AND AGREEMENT

Great Plains Energy Incorporated (“GPE”), Kansas City Power & Light Company (“KCP&L”), KCP&L Greater Missouri Operations Company (“GMO”), and Westar Energy, Inc. (“Westar”) (collectively, the “Applicants”), the Office of the Public Counsel (“OPC”), Midwest Energy Consumers Group (“MECG”), Staff for the Missouri Public Service Commission (“Staff”), Brightergy, LLC (“Brightergy”), and Missouri Joint Municipal Electric Utility Commission (“MJMEUC”) (Applicants, OPC, MECG, Staff, Brightergy, and MJMEUC) are collectively referred to herein as the “Signatories” or individually as a “Signatory”), pursuant to Missouri Public Service Commission (“Commission”) Rules 4 CSR 240-2.115, 4 CSR 240-20.015(10), and 4 CSR 240-80.015(10),¹ request that the Commission approve this Stipulation and Agreement (“Stipulation”) as a settlement of all issues related to the Application for Approval of Merger filed in this proceeding.

In support thereof, the Signatories agree as follows:

I. Factual Background

1. On October 12, 2016, GPE, KCP&L, and GMO filed an application, supported by the direct testimony of seven witnesses, requesting a variance from the Commission’s Affiliate Transactions Rule, 4 CSR 240-20.015. See In re Joint Application of Great Plains Energy Inc., Kansas City Power & Light Co. and KCP&L Greater Mo. Operations Co. for a Variance from 4 CSR 240-20.015, No. EE-2017-0113 (“2016 Variance Application”). The request was submitted

¹ GMO is also a steam heating utility subject to the Affiliate Transactions Rule at 4 CSR 240-80.015.

in connection with the May 29, 2016 Agreement and Plan of Merger, pursuant to which GPE and GP Star, Inc. would acquire all of the stock of Westar (“2016 Merger Plan”).

2. Concurrent with that request, as a result of prior meetings and negotiations conducted by GPE, KCP&L, and GMO with Staff, these four parties filed a Stipulation and Agreement (“2016 Staff S&A”), recommending that the Commission approve the requested variance subject to certain conditions. See Stipulation and Agreement, 2016 Variance Application (Oct. 12, 2016). Shortly thereafter, a second Stipulation and Agreement among GPE, KCP&L, GMO, and the Office of the Public Counsel (“OPC”) was submitted in that case. See Stipulation and Agreement, 2016 Variance Application (Oct. 26, 2016) (“2016 OPC S&A”).

3. After the Commission directed GPE to file an application for the Commission’s approval of the 2016 Merger Plan,² the 2016 Variance Application case was consolidated with the case that GPE subsequently filed to seek such approval. See Order Granting Motion to Consolidate, In re Application of Great Plains Energy Inc. for Approval of its Acquisition of Westar Energy, Inc., No. EM-2017-0226 (Mar. 1, 2017).

4. However, as a result of proceedings in the State of Kansas, no action was taken by the Commission with regard to either the 2016 Staff S&A or the 2016 OPC S&A. In April 2017 the Kansas Corporation Commission (“KCC”) denied GPE’s application to acquire Westar. See Order at 43, In re Joint Application of Great Plains Energy Inc., Kansas City Power & Light Co. and Westar Energy, Inc. for Approval of the Acquisition of Westar Energy, Inc. by Great Plains Energy Inc., No. 16-KCPE-593-ACQ (Kan. Corp. Comm’n, Apr. 19, 2017).³

² This directive was contained in a decision issued by the Commission in a related case. See Report and Order at 22, Midwest Energy Consumers Group v. Great Plains Energy Inc., No. EC-2017-0107 (Feb. 22, 2017).

³ The applicants’ request for reconsideration was also denied. See Order Denying Joint Applicants’ Petition for Reconsideration, In re Joint Application of Great Plains Energy Inc., Kansas City Power & Light Co. and Westar Energy, Inc. for Approval of the Acquisition of Westar Energy, Inc. by Great Plains Energy Inc., No. 16-KCPE-593-ACQ (Kan. Corp. Comm’n, May 23, 2017).

5. As a result, GPE and Westar initiated efforts to develop a new merger agreement which concluded successfully with the July 9, 2017 Amended and Restated Agreement and Plan of Merger (“Amended Merger Agreement”). Because a new application would be filed with this Commission (as well as with the KCC) seeking approval of the Amended Merger Agreement, GPE requested that the Commission dismiss both its Application to acquire Westar (No. EM-2017-0226), as well as its Joint Application with KCP&L and GMO for a variance from the Affiliate Transactions Rule (No. EE-2017-0113). The Commission granted those requests. See Order Granting Motion to Dismiss, In re Application of Great Plains Energy Inc. for Approval of its Acquisition of Westar Energy, Inc., No. EM-2017-0226 (July 26, 2017).

6. On August 31, 2017, the Applicants filed their Application in this proceeding seeking approval of GPE’s merger with Westar, pursuant to the terms of the Amended Merger Agreement (“Merger”).⁴

7. On January 12, 2018, the Applicants reached settlement with Staff, as well as intervenors Brightergy, LLC (“Brightergy”), and Missouri Joint Municipal Electric Utility Commission (“MJMEUC”) and file same in this docket. See Stipulation and Agreement, In the Matter of the Application of Great Plains Energy Incorporated for Approval of its Merger with Westar Energy, Inc., No. EM-2018-0012 (January 12, 2018) (“2018 S&A”).

II. Provisions of the Stipulation

8. The Signatories agree to the following conditions and recommend approval of the revised merger and the 2018 S&A as modified and supplemented herein below.

⁴ A similar application seeking the approval of the KCC was filed the previous week. See Application, In re Application of Great Plains Energy Inc., Kansas City Power & Light Co., and Westar Energy, Inc. for Approval of the Merger of Westar Energy, Inc. and Great Plains Energy Inc., No. 18-KCPE-095-MER (Kan. Corp. Comm’n, Aug. 25, 2017).

9. Transition Costs: Signatories shall support in KCP&L and GMO's 2018 rate cases filed on January 30, 2018, deferral of Merger transition costs of \$7,209,208 for GMO and \$9,725,592 for KCP&L's Missouri operations. Signatories will recommend recovery in the respective 2018 rate cases through amortization of such Merger transition costs for approval by the Commission over a 10-year period beginning when such costs have been included in Missouri base rates, with no carrying costs or rate base inclusion allowed for the unamortized portion of such costs at any time. Signatories agree that no other Merger transition costs shall be requested for recovery from Missouri customers in the 2018 rate cases or thereafter. This agreement regarding transition cost recovery is an additional limitation to Condition 19 in Exhibit A to the Stipulation and Agreement filed on January 12, 2018.

10. Future Mergers: Applicants have acknowledged that paragraph II.7. ("Prospective Merger Conditions") of the First Amended Stipulation and Agreement approved by the Commission in Cost No. EM-2001-464 will apply to Holdco post-closing. Consequently, consistent with the Commission's ruling on February 22, 2017 in Case No. EC-2017-0107, Holdco will be required to comply with that provision in the future regardless of whether Holdco is named GPE.

11. Name Changes: KCP&L and GMO agree, prior to implementing any name change, that customer billing systems will be able to clearly designate on the customer's bill the customer's electric service provider in a manner that customers will be able to access the appropriate rate schedules.

12. Industrial Customer Meetings: Establishment of an ongoing dialogue between KCP&L and GMO and industrial customers – meeting with senior management, outside of regulatory / governmental affairs, every six months during the period of 2019 – 2023.

13. OPC agrees to withdraw its request in Dr. Marke’s rebuttal testimony filed in Case No. EM-2018-0012 for an “equal outcome” provision and Signatories agree that this Stipulation and Agreement, in conjunction with the Stipulation and Agreement filed on January 12, 2018, supports Commission approval of the Merger as conditioned by both of such agreements and a determination that the Merger of GPE and Westar meets Missouri’s “not detrimental to the public interest” standard.

14. OPC and MECG agree to withdraw their objections to the 2018 S&A.

15. Upfront Bill Credits: Applicants agree that approval of this Stipulation and Agreement incorporates the Missouri retail customer share of an additional \$25 million of upfront bill credits beyond the Applicants’ proposed initial \$50 million. The Signatories agree that the total amount of the upfront bill credits are to be allocated by the Applicants which results in allocations of bill credits to KCP&L-MO of \$14,924,840 and GMO of \$14,205,828. The sum-total of the bill credit amount will be paid in one lump sum within one hundred and twenty (120) days of the closing of the Merger. This paragraph 15 is a replacement for Condition 18 of Exhibit A of the Stipulation and Agreement filed with the Commission on January 12, 2018.

- a. Allocation of bill credit amounts between rate classes - The Signatories agree that the allocation of the bill credit amounts among the rate classes shall be as follows:

KCP&L – Missouri:

Residential:	\$5,116,317.62
Small Gen SVC:	\$869,296.24
Med. Gen SVC:	\$2,131,583.25
Large Gen SVC:	\$3,648,156.67
Large Power:	\$2,990,585.17
MO Lighting:	<u>\$168,955.05</u>
	\$14,924,894.00

Greater Missouri Operations:

Residential:	\$6,627,570.28
SGS:	\$1,811,667.78
LGS:	\$2,260,908.37
LPS:	\$3,298,276.57
Lighting:	\$195,531.49
Thermal:	\$10,970.24
TOD:	<u>\$903.27</u>
	\$14,205,828

- b. Allocation of bill credit amounts within rate classes - The allocation of the bill credit sums between the customers within the rate classes shall be as follows:

KCP&L – Missouri:

Residential:	Divided equally among the customer class by customer account
Small Gen SVC:	Divided equally among the customer class by customer account
Med. Gen SVC:	Divided equally among the customer class by customer account
Large Gen SVC:	Based on each customer’s energy usage within the customer class
Large Power:	Based on each customer’s energy usage within the customer class
MO Lighting:	Divided equally among the customer class by customer account

Greater Missouri Operations:

Residential:	Divided equally among the customer class by customer account
SGS:	Divided equally among the customer class by customer account
LGS:	Based on each customer’s energy usage within the customer class
LPS:	Based on each customer’s energy usage within the customer class
Lighting:	Divided equally among the customer class by customer account
Thermal:	Divided equally among the customer class by customer account
TOD:	Divided equally among the customer class by customer account

16. Additional Reporting of Missouri Employment Information: In furtherance of Applicants’ commitment that there will be no involuntary severance of Missouri-based employees, Applicants agree that, after Condition 37(b) of the 2018 S&A concludes in 2020, Applicants shall provide a report to the Missouri Department of Economic Development – Division of Energy (“MDED”) showing Applicants’ year-end Missouri employment levels for each of calendar years 2021, 2022, and 2023 no later than thirty (30) days following the end of each such calendar year. Additionally, Applicants agree to amend Condition 45 of the 2018 S&A to provide direct testimony at each rate case filed during the period 2019-2023 explaining employment metrics related to Missouri-based FTEs, turnover rate, and material changes to each since the closing of the merger.

III. General Provisions

17. This Stipulation has resulted from negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation shall be void, and no Signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all

stipulations are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise provided herein. The Signatories agree that any and all discussions related to this Stipulation shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

18. If the Commission does not unconditionally approve this Stipulation without modification, and notwithstanding its provision that it shall become void, neither this Stipulation, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any signatory has to request a decision in accordance with Section 536.080, RSMo 2016, or Article V, Section 18, of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

19. This Stipulation is being entered into for the purpose of disposing of all issues in this case. The Signatories represent that the terms of this Stipulation constitute a fair and reasonable resolution of the issues addressed herein, in a manner which is not detrimental to the public interest. Except as otherwise addressed herein, none of the Signatories to this Stipulation shall be deemed to have approved, accepted, agreed, consented or acquiesced to any accounting principle, ratemaking principle, or cost of service determination underlying or purported to underlie any of the issues provided for herein.

20. The Signatories further understand and agree that the provisions of this Stipulation relate only to the specific matters referred to in the Stipulation, and no Signatory or person waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this Stipulation. The Signatories further reserve the right to withdraw their support for the Stipulation in the event that the Commission modifies the Stipulation in a manner which is adverse to the Signatory. The Signatories reserve the right to contest any such Commission order modifying the Stipulation in a manner which is adverse to the Signatory contesting such Commission order. The Signatories agree that the contents of this Stipulation have no precedential value in any future proceeding not related to enforcement of this Stipulation.

21. Staff, OPC, and MCEG have entered into this Stipulation in reliance upon information provided to them by the Applicants. This Stipulation is explicitly predicated upon the truth of representations made by the Applicants.

22. In the event the Commission accepts the specific terms of this Stipulation without modification, the Signatories waive the following rights with respect to the issues resolved herein: (a) any respective rights they may have pursuant to Section 536.070(2)⁵ to call, examine and cross-examine witnesses; (b) any respective rights they may have to present oral argument or written briefs pursuant to Section 536.080.1; (c) any respective rights they may have to the reading of the transcript by the Commission pursuant to Section 536.080.2; (d) any respective rights they may have to seek rehearing pursuant to Section 386.500; and (e) any respective rights they may have to judicial review pursuant to Section 386.510. Furthermore, in the event the Commission accepts the specific terms of this Stipulation without modification, the Signatories agree that the pre-filed testimony of all witnesses in this case shall be included in the record of this proceeding without

⁵ All statutory citations are to the Missouri Revised Statutes (2016).

the necessity of such witnesses taking the stand. The provisions of this Stipulation shall be interpreted in accord with and governed by Missouri law.

23. Subject to the rules governing practice before the Commission and without waiving the confidentiality of the facts and positions disclosed in the course of settlement, Staff will be available to answer Commission questions regarding this Stipulation. Staff shall, to the extent reasonably practicable, promptly provide other Signatories with advance notice of when Staff shall respond to Commission questions. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or previously designated confidential by any Signatory.

24. Except as otherwise addressed in this Stipulation, Commission approval of this Stipulation does not in any way limit, form a basis for determination, or constitute a defense against any Signatory proposing, or the Commission ordering, the disallowance and/or imputation of account balances, expenses, revenues and/or other ratemaking findings, regarding the operations of KCP&L or GMO in a future rate proceeding.

25. To assist the Commission in its review of this Stipulation, the Signatories also request that the Commission advise them of any additional information that the Commission may desire from the Signatories relating to the matters addressed in this Stipulation, including any procedures for furnishing such information to the Commission.

26. The variance of the Commission's Affiliate Transactions Rules at 4 CSR 240-20.015(5)(A)(1)-(2) and 4 CSR 240-80.015(A)(1)-(2) applies to the Signatories' rights and obligations under those rules as they existed on the date upon which this Stipulation was signed, copies of which are appended hereto and incorporated by reference.

27. MDED has been apprised of the contents of this Stipulation and Agreement and has authorized the Signatories to represent that MDED does not oppose Commission approval of this Stipulation and Agreement and will not request a hearing in connection with such approval.

WHEREFORE, the Signatories recommend that the Commission find that the merger of Great Plains Energy Incorporated and Westar Energy, Inc., as contemplated by the July 9, 2017 Amended and Restated Agreement and Plan of Merger and pursuant to the provisions of the 2018 S&A as supplemented herein, is reasonable and not detrimental to the public interest. The Signatories further recommend that the Commission approve this Stipulation and Agreement subject to the conditions contained herein, and grant the variance requested in Paragraph 17 of the 2018 S&A regarding 4 CSR 240-20.015 and 4 CSR 240-80.015 as soon as reasonably practicable but in any event with an effective date no later than June 5, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served upon all parties of record by U.S. Mail, postage prepaid, electronic filing system, or electronically, this 8th day of March, 2018.

/s/ Robert J. Hack

Attorney for Great Plains Energy Incorporated,
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