

IN THE MATTER OF THE APPLICATION OF SOUTHWEST)
POWER POOL, INC. FOR A CERTIFICATE OF)
CONVENIENCE AND AUTHORITY FOR THE LIMITED)
PURPOSE OF MANAGING AND COORDINATING THE USE)
OF CERTAIN TRANSMISSION FACILITIES LOCATED)
WITHIN THE STATE OF KANSAS)

DOCKET No. 06-SPPE-202-COC

IN THE MATTER OF THE JOINT APPLICATION OF WESTAR)
ENERGY, INC., KANSAS GAS AND ELECTRIC COMPANY,)
THE EMPIRE DISTRICT ELECTRIC COMPANY, KANSAS)
CITY POWER & LIGHT COMPANY, AQUILA, INC. D/B/A)
AQUILA NETWORKS-WPK, MIDWEST ENERGY, INC.)
AND SOUTHWESTERN PUBLIC SERVICE COMPANY FOR)
AUTHORITY TO TRANSFER FUNCTIONAL CONTROL OF)
CERTAIN TRANSMISSION FACILITIES TO THE SOUTHWEST)
POWER POOL, INC.)

DOCKET No. 06-WSEE-203-MIS

STATE CORPORATION COMMISSION

MAY 18 2006

 Docket
Room

STAFF DIRECT TESTIMONY

PREPARED BY

LARRY W. HOLLOWAY

UTILITIES DIVISION

KANSAS CORPORATION COMMISSION STAFF

1 **Q. Please state your name and business address.**

2 A. My name is Larry W. Holloway. My business address is 1500 SW Arrowhead Road,
3 Topeka, Kansas, 66604-4027.

4 **Q. By whom and in what capacity are you employed?**

5 A. I am employed by the Kansas Corporation Commission (KCC or Commission) as
6 Chief of Energy Operations.

7 **Q. Please describe your educational background and professional experience.**

8 A. I received a Bachelor of Science degree in Civil Engineering and a Bachelor of
9 Science degree in Mechanical Engineering from the University of Kansas in 1978, a
10 Master of Engineering Management degree from Washington State University in
11 1988 and a Master of Science degree in Mechanical Engineering from the University
12 of Kansas in 1997. I am a registered professional engineer in the disciplines of
13 Mechanical and Civil Engineering in the State of Oregon, PE # 12,989. My
14 professional experience began outside of the electric industry and includes one year
15 as a field engineer for a natural gas utility and two years as a project engineer for an
16 inorganic chemical plant. Since 1981, the majority of my professional experience has
17 been in the electric industry. I have twelve years of construction, design, startup and
18 operations engineering experience with power plants, primarily nuclear. In 1993, I
19 started work at the KCC as Chief of Electric Operations, Rates and Services. In 1998,
20 I assumed my current position as Chief of Energy Operations.

21 **Q. Have you previously testified before the Commission?**

22 A. Yes, I have filed testimony in Docket Nos. 94-GIMX-462-GIV, 95-EPDE-043-COM,
23 96-KG&E-100-RTS, 96-WSRE-101-DRS, 96-SEPE-680-CON, 97-WSRE-676-

1 MER, 98-KGSG-822-TAR, 99-WSRE-381-EGF, 99-WSRE-034-COM, 99-WPEE-
2 818-RTS, 00-WCNE-154-GIE, 00-UCUE-677-MER, 01-WSRE-436-RTS, 01-
3 WPEE-473-RTS, 01-KEPE-1106-RTS, 02-SEPE-247-RTS, 02-EPDE-488-RTS, 02-
4 MDWG-922-RTS, 03-MDWE-001-RTS, 03-WCNE-178-GIE, 03-MDWE-421-ACQ,
5 03-KGSG-602-RTS, 04-AQLE-1065-RTS, 04-KCPE-1025-RTS, 05-EPDE-980-
6 RTS, 05-WSEE-981-RTS, and 06-WCNE-204-GIE.

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

8 A. My testimony will provide Staff's review of the applications and recommendations.

9 **Q. Can you provide a summary of Staff's recommendations?**

10 A. Staff recommends the following:

- 11 • Establishing the SPP RTO and the SPP EIS market is in the public interest, and
12 the Commission should approve the transfer of operational control of the Joint
13 Applicant's transmission facilities to SPP, SPP's request for a limited COC and
14 establishment of the SPP RTO and the SPP EIS market, subject to either:
- 15 ○ Appropriate resolution of KMU's SPP credit policy issue, or
 - 16 ○ Joint Applicants to providing appropriate credit guarantees to KMU's
17 members.
- 18 • In regard to SPP's request for Commission determination on applicability of
19 specific Kansas Statutes:
- 20 ○ The Commission does not need to take any action, and should reject the
21 request regarding K.S.A. 66-101b-f, 66-117, 66-128 through 66-128p, and
22 66-1,1,177 through 66-1,181;

- 1 ○ Regarding K.S.A. 66-122 and 66-123, the Commission should not require
2 SPP to file any reports with the Commission at this time, but the
3 Commission should reserve its authority to require such reports, and any
4 other requested information, in the future if the need arises; and
- 5 ○ Regarding K.S.A. 66-1501 through 1513, Staff recommends that the
6 Commission not assess SPP for Commission related expenses other than
7 those directly budgeted by the RSC and recovered from SPP by the current
8 SPP budget process.
- 9 • Joint Applicants already have legislation establishing the policy to recover
10 properly allocated transmission costs, including SPP costs and fees, from their
11 retail customers under K.S.A. 66-1237. It appears Joint Applicants are requesting
12 that the Commission allow them to recover all transmission costs, including SPP
13 costs and fees, from retail customers, regardless of the proper retail/wholesale
14 allocation. The Commission should categorically deny this request and remind
15 the Joint Applicants of the established policy under K.S.A. 66-1237.
- 16 • The Commission should grant the Joint Applicants' request to place all retail load
17 under the SPP NITS tariff.
- 18 • The Commission should reject the request from KMU and CURB for a periodic,
19 annual formal investigation into SPP's fees and costs. Staff believes that the
20 Commission's involvement with SPP at the FERC will keep the Commission well
21 informed of such issues, and the Commission can always open such an
22 investigation on its own, or as the result of a KMU or CURB complaint filing.

1 A. The application details SPP's efforts to be recognized as a regional transmission
2 entity, as well as its request to operate Kansas electric transmission facilities. In its
3 application, SPP seeks Commission approval for a limited COC to operate Kansas
4 transmission facilities as a Regional Transmission Organization (RTO). SPP
5 explained that it had been granted RTO status by the Federal Energy Regulatory
6 Commission (FERC) on February 10, 2004, and the FERC had directed SPP to:¹

- 7 • Implement an independent board of directors;
- 8 • Expand the SPP regional transmission tariff to ensure SPP is the sole
9 transmission provider;
- 10 • Obtain clear and sufficient authority to exercise day-to-day functional control
11 over appropriate transmission facilities;
- 12 • Establish an Independent Market Monitor (IMM);
- 13 • Obtain clear authority to independently determine projects to include in the
14 regional transmission plan; and
- 15 • File, with the FERC, a seams agreement with the MISO.

16 Subsequently, after implementing many of the changes required, on August 2, 2004,
17 the FERC granted SPP RTO status subject to SPP fulfilling its commitment to:²

- 18 • Complete SPP's congestion management plan and Energy Imbalance Service
19 (EIS) Market;³
- 20 • Participate in the Joint and Common Market with MISO and PJM
21 Interconnection, LLC; and

¹ See paragraph 4 of the 06-202 application.

² See paragraph 7 and 8 of the 06-202 application.

³ Currently scheduled for implementation sometime in the fourth quarter of 2006.

- 1 • Develop and file a cost allocation plan.

2 SPP also describes additional efforts it has taken to establish an RTO,
3 including establishing a Regional State Committee (RSC) and modifying its bylaws
4 to provide that “nothing in the formation or operation of SPP as a FERC recognized
5 regional transmission organization is in any way intended to diminish existing state
6 regulatory jurisdiction and authority.”⁴ SPP seeks that the Commission grant a
7 limited COC to transact the business of an electric public utility in Kansas “only to
8 the extent that it will be asserting functional control over certain transmission
9 assets.”⁵ Finally SPP asks the Commission⁶ to determine that certain Kansas Statutes
10 that apply to traditionally retail electric utilities are not applicable, or have limited
11 applicability, to the limited COC that SPP requests.

12 **Q. What testimony did SPP file to support its application?**

13 A. SPP has filed supporting testimony by 4 witnesses. Les Dillahunty, Vice President of
14 Regulatory Policy for SPP, sponsors testimony supporting SPP’s qualification to
15 assume functional control of Kansas electric transmission facilities as well as the
16 request to find that certain Kansas statutes are not applicable to SPP. Ralph L.
17 Luciani, Vice President, and Ellen Wolfe, Senior Consultant, both with CRA
18 international (CRA) sponsor dual testimony discussing and supporting the findings of
19 the RSC sponsored SPP Cost-Benefit Study (CBS) performed by CRA. Finally,
20 Richard A. Wodyka, Executive Consultant with Gestalt, LLC, sponsors testimony as

⁴ Paragraph 8, page 9 of the 06-202 application.

⁵ Paragraph 10, page 11 of the 06-202 application.

⁶ Paragraph 11, page 12 of the 06-202 application.

1 an industry expert providing an independent analysis and conclusions regarding the
2 CRA CBS, for SPP.

3 **Q. Please describe the 06-203 application?**

4 A. The Joint Applicants request that the Commission:⁷

- 5 • Grant the request to transfer functional control of certain electric transmission
6 facilities to SPP;
- 7 • To condition such approval for multi-state utilities (EDE, KCPL, and SPS)
8 upon receiving all required approvals from other states;
- 9 • Allow the Applicants to include all FERC approved costs and fees under the
10 SPP RTO tariff paid by the Applicants, and all prudently incurred costs of
11 participating in the SPP RTO, in Commission jurisdictional rates; and
- 12 • Authorize EDE, KCPL and Aquila to take network integrated transmission
13 service (NITS) from SPP to serve their retail loads in Kansas.⁸

14 The Joint Applicants describe the requested transfer of functional
15 control. As described, this would entail having SPP perform administration of
16 transmission service over the transferred transmission facilities. However the
17 Joint Applicants would continue to own, operate and maintain the facilities.

18 The Joint application also proposes a public interest test for the
19 requested transfer of functional control of transmission facilities to SPP. The
20 Applicants propose that the relevant standard is whether the proposal is in the

⁷ Paragraph 36 of the 06-203 application.

⁸ While not specifically discussed in the application, SPS's witness, James M. Bagley, on p.10, l.17-26, of his direct testimony, requests that the Commission grant pre-authorization for SPS to place its Kansas retail customers under the SPP NITS so that SPS may take such action in the future if it determines such action will be beneficial to its retail customers throughout its territory.

1 interest of Kansas electric customers and utilizes the Commission’s merger
2 standards⁹ to evaluate the transaction.

3 **Q. What testimony did the Joint Applicants file to support their application?**

4 A. Each of the Joint Applicants has provided direct testimony of one witness to support
5 their applications:

- 6 • Douglas J. Henry, Vice President, Power Delivery, Westar (& KGE);
- 7 • Richard A. Spring, Vice President, Transmission Service, KCPL;
- 8 • Michael E. Palmer, Vice President – Commercial operations, EDE;
- 9 • Carl A. Huslig, Vice President, Transmission, WPK (Aquila, Inc.);
- 10 • James M. Bagley, Manager, Regulatory Administration, SPS (Xcel Energy
11 Services Inc.); and
- 12 • William N. Dowling, Vice President of Energy Management and Supply,
13 MWE.

14 Each witness provides supporting testimony that transferring functional
15 control of their transmission facilities to SPP is in the public interest, generally
16 conforms with the Commission’s merger standards, and provides specific benefits to
17 their respective company and its customers. Additionally, Messrs. Spring, Palmer,
18 Huslig, and Bagley respectively request Commission approval to place KCPL, EDE,
19 WPK, and SPS retail customers under SPP’s NITS. Finally, Messrs. Palmer, Huslig,
20 Bagley, and Dowling respectively request that the Commission allow EDE, WPK,
21 SPS and MWE to include in their “KCC-jurisdictional rates,” all FERC-approved

⁹ As established on pages 35-36 of the Commission’s November 15, 1991 Order in Docket No. 172,745-U and 174,155-U and later modified in paragraph 19 of the Commission’s September 28, 1999 Order in Docket No. 97-WSRE-676-MER.

1 costs and fees under the SPP RTO tariff paid by the respective applicant and all
2 prudently incurred costs of participating in the SPP RTO.

3 **Q. Has the Commission specified any additional issues to be addressed in its**
4 **consideration of these applications?**

5 A. Yes. In addition to responding to the specific requests made by the Applicants, in its
6 April 24, 2006 Order Setting Procedural Schedule and Identifying Issues, the
7 Commission has requested that parties address a variety of other issues:

- 8 • Regarding KMU's request, the Commission's role in reviewing the pass
9 through of FERC-approved transmission costs;¹⁰
- 10 • How granting the applications could impact the Commission's involvement in
11 assuring that Kansas utilities have sufficient generation resources to reliably
12 and adequately serve Kansas retail customers;¹¹
- 13 • A discussion of other states that have initiated a local forum for RTO concerns
14 as suggested by CURB and KMU;¹²
- 15 • KMU's request that the Commission allow Transmission Dependent Utilities
16 (TDUs) to acquire an ownership interest in transmission operations;¹³
- 17 • KMU's request that SPP change its credit policies regarding TDUs;¹⁴
- 18 • Impact of approval or denial on SPP's EIS market;¹⁵ and

¹⁰ Paragraph 14.

¹¹ Paragraph 15.

¹² Paragraph 16.

¹³ Paragraph 17.

¹⁴ Paragraph 18.

¹⁵ Paragraph 19.

- 1 • Effect of approval or denial of the applications will have on wholesale sales;
2 retail sales; transmission assets; generating assets; mergers, acquisitions and
3 divestitures of utilities or nonutilities; issuances of equity and debt; and
4 consumers.

5

6

Public Interest Standards

7

8 **Q. What standard should the Commission use to evaluate the applications?**

9 A. Joint Applicants have suggested that the Commission's merger standards should be
10 used to evaluate SPP's application for a COC and the Joint Applicants' application
11 for the transfer of functional control of their transmission facilities. In Docket Nos.
12 172,745-U and 174,155-U, the KPL and KGE merger, the Commission established
13 standards to "weigh and consider in determining whether the proposed transaction
14 promotes the public interest."¹⁶ In Docket No. 97-WSRE-676-MER the Commission
15 expanded the merger standards to include consideration of any labor dislocations.¹⁷

16 The resulting merger standards are as follows:

- 17 (a) The effect of the transaction on consumers, including:
18 (i) The effect of the proposed transaction on the financial condition of the
19 newly created entity as compared to the financial condition of the stand-alone
20 entities if the transaction did not occur;
21 (ii) Reasonableness of the purchase price, including whether the purchase
22 price was reasonable in light of the savings that can be demonstrated from the
23 merger and whether the purchase price is within a reasonable range;
24 (iii) Whether ratepayer benefits resulting from the transaction can be
25 quantified;

¹⁶ Standards are listed on pp. 35-36 of the November 15, 1991 Order in Docket Nos. 172,745-U and 174,155-U.

¹⁷ Paragraph 19 of the Commission's September 28, 1999 Order in Docket No. 97-WSRE-676-MER.

- 1 (iv) Whether there are operational synergies that justify payment of a
2 premium in excess of book value;
3 (v) The effect of the proposed transaction on the existing competition.
4 (b) The effect of the transaction on the environment.
5 (c) (i) Whether the proposed transaction will be beneficial on an overall basis
6 to state and local economies and to communities in the area served by the
7 resulting public utility operations in the state.
8 (ii) Whether the proposed transaction will likely create labor dislocations that
9 may be particularly harmful to local communities, or the state generally, and
10 whether measures can be taken to mitigate the harm.
11 (d) Whether the proposed transaction will preserve the jurisdiction of the KCC
12 and the capacity of the KCC to effectively regulate and audit public utility
13 operations in the state.
14 (e) The effect of the transaction on affected public utility shareholders.
15 (f) Whether the transaction maximizes the use of Kansas energy resources.
16 (g) Whether the transaction will reduce the possibility of economic waste.
17 (h) What impact, if any, the transaction has on the public safety.
18

19 While these merger standards were developed to determine if a utility merger
20 promoted the public interest, the Commission went a little further in the KPL and
21 KGE merger by ruling that the Commission should ensure that substantial benefits
22 should “accrue to ratepayers as a result of the merger.”¹⁸ In summary, many states
23 have a “no detriment” policy to assure that utility mergers and acquisitions do no
24 harm. The Commission has historically required utility mergers and acquisitions to
25 provide overall benefits.

26 This proposal is, strictly speaking, neither a utility merger nor a utility
27 acquisition. Instead, it is the transfer of operational control of the Joint applicant’s
28 transmission facilities to SPP. Simply put, SPP will administer a regional
29 transmission tariff, collect transmission costs, distribute revenue to transmission
30 owners, plan and coordinate transmission construction, and allocate transmission

¹⁸ Page 61 of the November 15, 1991 Order in Docket Nos. 172,745-U and 174,155-U.

1 service and use of the transmission system. However, SPP will not own, construct or
2 maintain the transferred transmission facilities.

3 In past consideration of utility mergers and acquisitions, the transfer of
4 ownership of the utility facilities, the cost of acquiring those facilities, and the effect
5 of changing administration and provision of utility services were all at issue. In this
6 case, there is no real acquisition premium and no transfer of ownership. Nonetheless,
7 the overall issue of costs and benefits are the same as in a utility merger or
8 acquisition. Furthermore, in some cases the scope is somewhat expanded. Clearly
9 the transfer of transmission operations to SPP will go beyond the Commission's
10 traditional consideration of utility mergers and acquisitions on retail customers, and
11 will include TDUs (such as municipal and cooperative electric utilities) that are not
12 subject to the Commission's authority to set retail rates. In this case, the "effect of
13 the transaction on consumers" includes the effect on all of the Joint applicant's
14 transmission users, both wholesale and retail. As a result, Staff believes it is
15 appropriate for the Commission to consider the merger standards, but with respect to
16 all of the Joint Applicants' transmission users.

17
18 **Review of the Net Benefits of the Proposal**

19
20 **Q. What should be considered in evaluating the merger standards for the proposal?**

21 A. Staff believes the Commission should consider several issues in reviewing the
22 merger standards. First, the Commission should review the results of the RSC-
23 directed, cost benefit study (CBS). Second, the Commission should consider the

1 overall benefits of regional transmission planning and coordination. Third, the
2 Commission should consider other initiatives that SPP has implemented for
3 transmission expansion and upgrades in the region. Last, the Commission should
4 consider any effects the proposal may have on electric reliability in the region. After
5 this review, Staff believes the Commission should consider the merger standards.

6 **Q. Has Staff reviewed the RSC sponsored CBS?**

7 A. Yes. One of its first actions after the RSC was formed in 2004 was to initiate
8 a CBS to help state commissions consider whether the formation of the SPP RTO
9 was in public interest for their respective state. Charles River Associates (CRA) was
10 selected to perform the CBS, and the RSC established a Cost Benefit Task Force
11 (CBTF), consisting of state commission staff members, SPP member utilities, one
12 consumer advocate, and SPP staff members, to initiate and coordinate the project.
13 The study¹⁹ looked at three scenarios: Base Case, business as it is today in the SPP
14 footprint with transmission service through the SPP regional tariff; EIS Case,
15 business within SPP with implementation of a real-time EIS market; and Stand-Alone
16 Case, where the SPP tariff is abandoned and transmission service within the SPP
17 footprint is obtained from and provided by each individual transmission operator.

18 **Q. Why does the Base Case assume that transmission owners and users utilize the**
19 **SPP regional transmission tariff?**

20 A. In the Base Case, all transmission users in the SPP footprint take transmission service
21 from SPP under the SPP regional tariff. While the SPP tariff is in operation today,

¹⁹ The CRA CBS is provided as part of SPP's application. The December 2005 update is included in this testimony as Exhibit ___LWH-1

1 some of the Joint Applicants have not placed their retail customers under the tariff.
2 Establishment of the SPP regional tariff in 2000 was the culmination of a cooperative
3 process that was initiated by state commissions in 1994. Beginning in early 1994,
4 state utility commissions from Kansas, Missouri, Mississippi, New Mexico,
5 Louisiana, Oklahoma, Arkansas and Texas began discussions regarding establishment
6 of a regional transmission tariff. Staff of these commissions began regular meetings
7 with their respective utilities and SPP, with the purpose of establishing a regional
8 transmission tariff. This goal was realized by establishment of the SPP regional tariff
9 in 2000, and the Base Case merely assumes that all transmission users and providers
10 in SPP participate in this regional tariff.

11 The point in discussing the history of the SPP regional tariff is twofold. First,
12 it is important to recognize that the Stand-Alone Case represents the way transmission
13 owners and users operated before the SPP regional tariff was available. Prior to 2000,
14 but after the FERC issued Order 888 requiring all transmission owners to provide
15 open access, transmission users were required to pay each transmission owner a
16 separate fee along the path connecting generation to load. This amounted to
17 “pancaking” of transmission tariffs. Second, a return to the Stand-Alone Case would
18 be a reversal of a long and successful multi-state commission regulatory initiative.
19 While FERC initiatives have supported the development of regional transmission
20 tariffs, it was a cooperative effort spearheaded by SPP state commissions that led to
21 the development of today’s SPP regional transmission tariff.

22 **Q. What is involved in the EIS Case?**

1 A. The EIS market represents establishment of an energy imbalance market in the SPP
2 region. Through its collaborative process, SPP and its members have worked since
3 2003 to develop a simplified, voluntary, real time wholesale market for electricity in
4 the region that will provide transparent market prices for all electric customers.

5 While it is not the intent of this testimony to describe in detail all of the nuances of
6 this effort, a short description of how SPP and its members currently envision the
7 market to work is in order.

8 Currently, wholesale electricity is bought and sold within SPP almost
9 exclusively through bilateral contracts. Buyers and sellers contact each other and
10 arrange a transaction. If transmission service is available, the transaction is
11 completed. Unlike commodity markets for corn, beef or natural gas, etc., it is often
12 difficult for buyers or sellers to determine the ongoing market prices for wholesale
13 electricity in the SPP region at any given point in time. A transparent and open
14 wholesale electric market is important because it would allow utilities to make the
15 most informed and efficient decisions in generating, selling and purchasing
16 electricity, and the type of generation to build or buy on a long term basis. While
17 there is an active bilateral wholesale electric market in SPP, if a more open and
18 transparent electric spot market can be developed, the improved price signals should
19 result in more efficient regional dispatch of electricity, and better decisions on long
20 term generation commitments, thus lowering generation costs. For this reason SPP
21 and its members have sought to initiate a voluntary electric spot market though the
22 proposed EIS market.

1 In the SPP region there are various kinds of electric utilities. The Joint
2 Applicants, for example, are vertically integrated utilities that own and operate
3 transmission, distribution and generation, and buy and sell wholesale power. The
4 municipal utilities basically own distribution and some generation, but generally
5 purchase much of their electric energy from wholesale providers. Generation and
6 Transmission electric cooperatives (G&Ts), such as Sunflower and KEPCO, purchase
7 or provide wholesale generation to their distribution cooperatives. Additionally in the
8 SPP region there are federal and state entities that provide generation and
9 transmission, as well as a variety of independent power producers. Regardless of the
10 variety of entities throughout SPP, there is one unifying factor. All entities are
11 involved in providing retail electric service, either directly, or indirectly through the
12 wholesale market. Any increase in the efficiency of generating electricity will result
13 in generally lower costs for retail customers.

14 Entities that directly serve retail customers, and are responsible for providing
15 retail electric service, are generally referred to as Load Serving Entities (LSEs). In
16 providing electric service, an LSE must generate or purchase adequate electricity to
17 balance load and generation. An energy imbalance occurs when an LSE either uses
18 more electricity than it generates or purchases, or generates or buys more electricity
19 than it uses. In reality, LSEs must constantly balance load and generation, and may
20 be over or under supplied within the same minute. Energy imbalance in the SPP
21 region is addressed by Schedule 4 of the SPP tariff:

22 **SCHEDULE 4**
23 **Energy Imbalance Service**
24

1 Energy Imbalance Service is provided when a difference occurs between the
2 scheduled and the actual delivery of energy to a load located within a Control Area
3 over a single hour. The Transmission Customer must either purchase this service
4 from the Transmission Provider or make alternative comparable arrangements to
5 satisfy its Energy Imbalance Service obligation. Unless the Transmission Customer
6 makes alternative comparable arrangements, the Transmission Provider will obtain
7 this service from the affected Control Areas or elsewhere, where appropriate, and the
8 Transmission Customer shall pay the Transmission Provider for this service when the
9 Transmission Provider provides this service to the Transmission Customer. Charges
10 to the Transmission Customer are to reflect only a pass-through of the costs charged
11 to the Transmission Provider by that Control Area operator or other suppliers. The
12 Transmission Provider shall pass through the revenues it receives for this service to
13 the Control Area operator or other suppliers providing the service.
14

15 Under the SPP tariff, LSEs that do not obtain adequate generation over the
16 course of an hour must then revert to SPP schedule 4. Generally speaking, an LSE
17 that falls under schedule 4 of the SPP tariff compensates the control area, or
18 transmission operator, under the control area's open access transmission tariff. While
19 each transmission owner has its own schedule 4, generally, the costs for supplying
20 imbalance energy is around \$100 per megawatt-hour (ten cents a kilowatt-hour)
21 throughout SPP.²⁰

22 With implementation of the EIS market, generators will bid into the market
23 and offer a price at which they would be willing to generate imbalance energy. LSEs
24 would be required to purchase any needed imbalance energy if they are under
25 supplied, but are not otherwise required to buy from this market. Generation owners
26 will have an opportunity to bid their generation into the market. LSEs will have the
27 opportunity to buy energy in addition to imbalance shortages from this market, but
28 are not required to do so, and may instead schedule their own generation or schedule
29 generation purchased through the bilateral market, just as they do today. While this

²⁰ Based upon discussions with Westar transmission staff.

1 market will be voluntary, except for the small amount of actual unintended
2 imbalances, it will provide a more open and transparent spot market for electricity.

3 The EIS Case assumes the scenario where SPP's EIS market is up and running
4 and providing real time prices for electric generation at different locations.

5 **Q. In performing the CBS, how did CRA model the three scenarios?**

6 A. In the CRA model, the Base Case refers to the situation as it exists today; the Stand-
7 Alone Case assumes that SPP regional transmission service is no longer available and
8 that transmission service in the region must be arranged with each individual
9 transmission owner; and the EIS Case assumes implementation of the SPP EIS
10 market. CRA modeled the SPP region for the years 2006 through 2015 for each
11 scenario and developed the ten year costs and benefits for each control area and each
12 state. Costs included transmission tariff costs and SPP costs anticipated for all three
13 scenarios. Benefits included revenues collected by transmission owners from
14 transmission tariffs under each case and changes in generation costs. Generation
15 costs were calculated based upon a wholesale energy market model that optimized
16 generation dispatch for the EIS Case, and looked at generation dispatch in the Base
17 Case using SPP's current system of transmission service allocation through
18 transmission line relief. In the Stand-Alone Case, CRA calculated costs and revenue
19 to each SPP transmission control area assuming they were subject to transmission
20 service under the individual transmission owner's tariff and thus, pancaked
21 transmission tariff costs. For fuel costs, CRA used the best available market
22 information at the time the study was performed and provided an update of the Base
23 Case and the EIS Case in December of 2005.

1 **Q. How did CRA model the fuel costs?**

2 A. CRA modeled fuel prices over the ten year period using available market information
 3 and department of energy forecast prices at the end of 2004. Based upon the
 4 information at that time, CRA forecasted that natural gas prices would be around
 5 \$6/MMbtu²¹ at the beginning of 2006 and decline until 2012, when CRA forecasted
 6 prices to hit a low of under \$4/MMbtu, and then gradually increase through 2015.²²
 7 The December 2005 update²³ incorporated market prices for natural gas and
 8 other fuel prices that had increased dramatically since the original forecast only for
 9 2006, and the updated forecast assumed that the change this update yielded for
 10 2006 would be the same for the other years of the study.

11 **Q. What were the results of the initial study?**

12 A. A summary of the results are shown in the table below.

Company (including territory in other states)	10 year Benefits (Costs) in \$millions (2006) vs. Base Case	
	Stand-Alone Case ²⁴	EIS Case ²⁵
EDE	(25.6)	47.9
KCPL	50.9	(2.2)
SPS	44.5	69.4
Westar	(16.9)	27.4
MWE	(3.9)	(0.7)
WPK ²⁶	(2.4)	2.0
Kansas w/o WPK ²⁷	3.6	26.4
Kansas with WPK ²⁸	1.2	28.4

13

²¹ CRA's forecast was in 2003 dollars.

²² See figure 7 of the CRA CBS on page AI-29.

²³ See Exhibit ___LWH-1

²⁴ See Table 5 and Table 6, pages XIV to XV, CRA CBS

²⁵ See Table 2 and Table 3, page XI, CRA CBS

²⁶ Since Aquila was a member of MISO at the time the study was initiated a separate analysis was conducted and covered in Section 7 of the CRA CBS, see page 7-3.

²⁷ Note that this is not a sum of the Kansas share of the companies above. Benefits and costs also account for TDUs, such as Kansas City Board of Public Utilities, included in the above companies.

²⁸ Calculated by adding the WPK aquila analysis results to the Table 3 and Table 6 CRA CBS results.

1 **Q. What were the results of the 2005 update with higher fuel costs?**

2 A. The 2005 update is attached to this testimony as Exhibit _____ LWH-1. As discussed,
3 the updated study only increased the fuel prices for 2006, and not the remaining 10
4 years of the study. For Kansas this analysis was run for only EDE, KCPL, SPS and
5 Westar. As shown on table 1 of the Kansas update in Exhibit _____ LWH-1, the result
6 was an increase in benefits to Kansas for the EIS case of over \$4 million for the 2006
7 study year:
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Table 1: 2006 EIS Market Trade and Net Wheeling Benefits for Kansas Retail Customers
(thousands of dollars)

	<u>Empire</u>	<u>KCPL</u>	<u>SPS</u>	<u>Westar Energy</u>	<u>Total Kansas Retail</u>
Cost Benefit Study	426	976	6	5,023	6,433
Fuel Price Update	596	1,749	23	8,325	10,693
Increase in Benefits with Fuel Price Update	170	773	17	3,301	4,261

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11 The updated study then extrapolated this annual difference over the remaining 10
12 years and determined that the overall 10 year benefits to Kansas were as follows:
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Table 2: Estimated EIS Market 10-Year Benefits (Costs) for Kansas Retail Customers
If 2006 Gas Price Increase Applies in Subsequent Study Years
(thousands of 2006 present value dollars)

	<u>Empire</u>	<u>KCPL</u>	<u>SPS</u>	<u>Westar Energy</u>	<u>Total Kansas Retail</u>
Original Study Results	2,480	(46)	69	23,930	26,433
Estimated Benefits Increase w/Updated Fuel Prices	1,192	5,433	118	23,204	29,947
Estimated Results with Updated Fuel Prices	3,672	5,386	187	47,134	56,380

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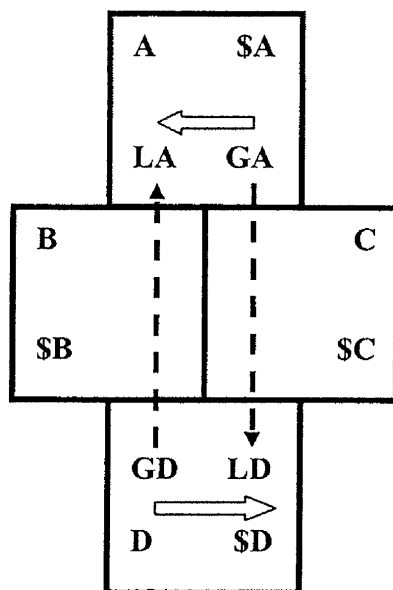
15 **Q. Why does the Stand-Alone Case show a small net benefit for Kansas?**

1 A. The Stand-Alone Case assumes that SPP does not exist as a security coordinator or as
2 a transmission supplier. Because the Stand-Alone Case assumes no SPP tariff
3 administration, each utility has tariff administration costs, but there are no related SPP
4 administration fees. This scenario also assumes FERC fee savings because FERC
5 charges RTOs on a load basis for the entire RTO, but FERC only charges individual
6 transmission owners based upon wholesale load. Additionally this scenario takes into
7 account the costs transmission owners would face by withdrawing from SPP.

8 A simple change, such as a redesign of how the FERC collects its
9 administration fee, could cause the 10 year benefits of the Stand-Alone Case, to easily
10 change from \$3.2 million to an overall cost (or a negative benefit). Furthermore, as
11 discussed by CRA in their analysis, the Stand-Alone Case is perhaps the most
12 difficult to model. One of the reasons is that economic and regional dispatch models,
13 such as that used for the EIS Case, are relatively straightforward, though extremely
14 complex. However, the Stand-Alone Case required CRA to try to model transmission
15 costs and revenues that result from pancaked transmission tariffs that have almost no
16 relationship in the real world to the actual power flows.

17 For example, suppose there are 4 control areas, A, B, C, D. Suppose now that
18 in control areas A and D there is a 100 MW generator (GA and GD respectively) and
19 a 100 MW load (LA and LD, respectively). Now suppose the only connection
20 between A and D are two transmission lines with a 100 MW capacity, one each in B
21 and C. Now assume that there is a different transmission tariff, \$A, \$B, \$C, and \$D,
22 respectively for control areas A, B, C and D. The result would look something like
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As shown, the actual power flow over B and C would be zero, because even though the transaction is between GA and LD and GD and LA, the actual power flow is from GA to LA and from GD and LD. Under SPP's regional tariff LA would merely pay \$A for the transmission to support its transaction, and LD would merely pay \$D for its transmission. However under pancaked transmission rates LA would pay \$D + \$B + \$A, and LD would pay \$D + \$C + \$A for the same transaction, even though no physical power flowed over B and C.

This example illustrates two things. First, as CRA discusses, it is almost impossible to model revenues and costs for transmission tariffs that have little similarity to the actual use of the transmission system. Second, this Commission and others were entirely justified in their combined efforts over the past twelve years to

1 institute a regional transmission tariff to resolve problems and inequities with
2 pancaked transmission tariffs.

3 **Q. Are there benefits of the Base Case over the Stand-Alone Case that are not**
4 **quantified?**

5 A. Yes. First, as discussed, the Stand-Alone Case would return to a world of absurd
6 transmission pricing where there is little connection between cost payers and cost
7 causers. Second, the regional planning function of SPP, as compared to the past loose
8 regional coordination of individual utilities, should result in better use and wiser
9 investment in transmission facilities throughout the region. The CBS does nothing to
10 quantify these savings. Third, Staff believes the cost allocation plan for future
11 reliability based transmission improvements and upgrades, as approved by the RSC,
12 will do a better job of allocating the costs of future transmission investments to those
13 who generally receive the benefits. In the past, all transmission upgrades were
14 charged to those within the transmission owners control area, or those paying a
15 pancaked tariff across the control area, with little regard to who actually benefited
16 from the increased transmission capacity.

17 **Q. How significant are the EIS Case cost savings?**

18 A. All together the EIS Case cost savings for Kansas are not huge. However, Staff
19 believes that there is relatively less uncertainty cost savings exist from implementing
20 the EIS market, than there is in comparing the Stand-Alone Case to the Base Case.
21 Additionally, Staff notes that the real choice may be between implementing the
22 Stand-Alone Case and the EIS Case. In SPP's RTO application, as approved by the

1 FERC, FERC accepted SPP's commitment to implement an EIS market.²⁹ Based
2 upon FERC statements it is not clear that SPP would be allowed to remain an RTO
3 and administer a regional transmission tariff, provide regional transmission service
4 and regional planning, if it were to drop the effort to establish an EIS market.

5 **Q. Are there benefits in the EIS market that are not quantified in the EIS Case?**

6 A. Most definitely. Staff believes there are at least three benefits in establishing an SPP
7 region EIS market that are not quantified in the EIS Case. First, a successful EIS
8 market will result in more efficient regional dispatch of generation. Second, price
9 signals provided with an EIS market will provide better information for long term
10 construction or procurement of generation. Third, establishing an EIS market will
11 allow utilities, such as Westar, to regain the ability to sell their generation at market
12 based rates at least through the EIS market within their control area.

13 Staff believes that a successful EIS market will result in more efficient
14 regional dispatch of generation. Staff notes that in every major Kansas electric utility
15 merger³⁰ in the past two decades, merger savings has been a pivotal issue and
16 generation dispatch savings has been a major component of forecasted merger
17 savings. In fact, in a 1988 study performed for the now defunct MOKAN power
18 pool, the savings for joint dispatch for Kansas and Missouri members (the present day
19 companies of Aquila, KCPL, EDE, Westar, Sunflower and MWE) was predicted to
20 be between \$3 million and \$7million annually. Staff notes that one of the issues the
21 Commission has asked parties to address is how approval of this proposal will affect

²⁹ See paragraph 4, page 2, of the FERC's March 20, 2006 Order on Proposed Tariff Revisions, regarding SPP's EIS market tariff revisions, in FERC Docket No. ER06-451-000.

³⁰ While not an all inclusive list, see Docket Nos. 172,745-U, 174,155-U, 97-WSRE-676-MER, and 00-UCUE-677-MER.

1 future “mergers, acquisitions and divestitures.” Staff believes that because regional
2 dispatch savings will be achieved through initiation of the EIS market and other SPP
3 RTO activities, utilities may be discouraged from claiming recovery of any joint
4 dispatch savings from any future proposed mergers, acquisitions, etc. In that sense,
5 approving this proposal will capture many of the merger savings that, in the past,
6 have resulted in merged utilities receiving a recovery of a merger acquisition
7 premium. Because utilities will no longer have a legitimate claim to joint dispatch
8 related merger savings, this may lower acquisition costs or possibly discourage
9 merger activity.

10 Additionally, transparent price signals from a well functioning EIS market
11 should allow better information for utility long term resource planning. Long term
12 utility resource plans require utilities to estimate many factors, including fuel costs,
13 capital costs and market prices for electricity. Better market price information would
14 logically lead to better market price forecasts, and thus better long term resource
15 acquisition. Acquiring generation capacity, whether by construction and ownership,
16 or by long term purchase agreements, is a major component of the retail electric
17 customer’s rates. Staff believes that if better information leads to better long term
18 generation acquisition decisions, the savings to ratepayers will be substantial.
19 Nothing in the EIS Study quantified the benefits better market price information will
20 have on generation resource planning.

21 Finally, several vertically integrated utilities, including Westar, are no longer
22 allowed to sell their excess generation within their control area at market based rates.
23 Having failed the new FERC market power screen, Westar and other SPP utilities

1 have not been pursuing short term energy transactions with TDUs within their
2 respective control areas. The net effect of this for Westar, for example, is that
3 Westar's off-system energy is no longer offered to its own transmission dependent
4 utilities, and similarly the TDUs must look elsewhere for these economy energy
5 purchases. This raises the costs for the TDUs and also lowers the price that Westar
6 can receive for its off-system sales and thus, lowers the off-system sales profits that
7 are used to benefit Westar's retail customers. Recently the FERC ruled that it will
8 allow SPP market participants to bid their generation into the EIS market and receive
9 the resulting market based rates, even if FERC has previously denied the ability to
10 sell at market based rates within the entity's control area.³¹ Nothing in the EIS Study
11 quantified or even considered the benefits of allowing entities, such as Westar, that
12 are currently prohibited from selling power at market based rates in the bilateral
13 market within their control areas, from bidding their generation into the EIS market.

14 **Q. Can you provide a summary of the benefits of the proposal?**

15 A. Yes. The CRA CBS quantifies net benefits to Kansas utility customers should the
16 Commission approve the transfer of operational control of transmission facilities from
17 the Joint Applicants to SPP. Nonetheless Staff believes there are substantial
18 additional benefits to Kansas electric customers that are not quantified by the study,
19 and that can only be realized by approval of this transfer and subsequent
20 establishment of the SPP EIS market.

21

³¹ See paragraph 202 and 203 of the FERC's March 20, 2006 Order on Proposed Tariff Revisions, regarding SPP's EIS market tariff revisions, in FERC Docket No. ER06-451-000.

1 **Analysis of the Merger Standards**

2

3 **Q. Has Staff reviewed the SPP RTO and the SPP EIS market with regard to the**
4 **merger standards?**³²

5 A. Yes.

6 **Q. What is the effect on the financial condition of SPP and the Joint Applicants**
7 **(Standard a.i.)?**

8 A. The CRA CBS considered the effects of the proposal on the Joint Applicants. Any
9 identified cost and benefits are minor in magnitude compared to the overall finances
10 of the entities involved. Obviously rejection of the proposal could effect the financial
11 position of SPP; however approval will allow SPP to continue its efforts within its
12 current approved budget and fees.

13 **Q. Are the SPP costs reasonable in light of the savings that can be demonstrated**
14 **(Standard a.ii.)?**

15 A. Yes. In quantifying net benefits to Kansas in the EIS Case, the CRA CBS study
16 considered the extra SPP costs incurred by Joint Applicants by participating in the
17 SPP RTO and establishing the EIS market. The CRA study estimates that the SPP
18 costs associated with implementing an EIS market would be approximately \$105
19 million, and the cost to EIS market participants would be approximately \$108 million,
20 for a total of \$213 million over 10 years. The CBS estimates benefits of \$614 million
21 over the same time period, for a net benefit of \$373 million across the region.³³

³² While Staff believes the merger standards are an appropriate screen, the individual standards are paraphrased here to accurately reflect the applications under consideration.

³³ See page IX of the CRA CBS.

1 Staff is aware that in many regions the cost of implementing electric markets
2 within an RTO has been much higher than initially anticipated. Nonetheless, even if
3 the implementation costs were double that originally estimated, the resulting 10 year
4 costs of \$426 million would still result in quantified net benefits of \$188 million over
5 the same time period. Additionally, as previously discussed, Staff has identified
6 various benefits that were not quantified by the CRA CBS study.

7 **Q. Can ratepayer benefits be identified (Standard a.iii)?**

8 A. Yes. The benefits for Kansas quantified in the CRA CBS study are benefits that
9 lower costs for Kansas retail electric customers.

10 **Q. Do operational synergies justify payment of a premium in excess of book value**
11 **(Standard a.iv)?**

12 A. No payment, per say, is involved in the transfer of operational control of transmission
13 facilities to SPP. Nonetheless, there will be additional costs and fees required to
14 operate the SPP RTO and to implement the EIS market. As discussed, not only do
15 the benefits quantified in the CRA CBS justify these additional costs, Staff believes
16 there are additional benefits from an operational SPP RTO and EIS market that have
17 not been quantified.

18 **Q. What will be the effect of the SPP RTO and an SPP EIS market on existing**
19 **competition (Standard a.v)?**

20 A. Staff has identified three primary effects. First, Staff believes a more transparent
21 electric spot market will provide better price signals, and thus encourage competition.
22 Second, as part of the requirements of forming an RTO, SPP has engaged Boston
23 Pacific Company, Inc. as an independent external market monitor to ensure

1 competitive practices in the wholesale electric markets in the SPP region. Third, as
2 discussed earlier, the FERC has indicated that it will allow utilities within SPP that
3 have failed the FERC market power test to competitively bid generation into their
4 control areas following establishment of an EIS market. In summary, Staff believes
5 that establishment of an SPP EIS market will not only preserve competition in
6 wholesale electric markets but also increase availability of competitive generation and
7 provide additional oversight.

8 **Q. What will be the effect of the SPP RTO and an SPP EIS market on the**
9 **environment (Standard b)?**

10 A. The CRA CBS also looked at the effect of the SPP RTO and the SPP EIS market on
11 sulfur dioxide (SO_x) and nitrogen dioxide (NO_x) emissions. In the Stand-Alone
12 Case, CRA determined that SO_x and NO_x emissions would increase in the SPP
13 region if the SPP RTO were dissolved and transmission owners returned to stand
14 alone transmission service. Furthermore, CRA concluded that the SPP EIS market
15 would result in an additional decrease in SO_x and NO_x emissions of roughly 4%
16 across the SPP region.³⁴ In conclusion, it appears that approving the SPP RTO and
17 the SPP EIS market will have a positive environmental impact in the region.

18 **Q. Will the SPP RTO and the SPP EIS market provide overall benefits to state and**
19 **local economies and communities (Standard c.i)?**

20 A. The CRA CBS quantified a minor reduction in electric prices in Kansas over the next
21 ten years with implementation of the SPP EIS market. While Staff notes that the CBS
22 quantified benefits were not large, they are greater than implementation costs

³⁴ See page 3-9 of the CRA CBS.

1 forecasted by CBS, and are therefore a net benefit to Kansans. Additionally, SPP
2 regional transmission planning, pricing and transmission expansion cost allocation
3 methods may assist development of Kansas wind resources and exporting their
4 electric production to out of state electric customers. This would directly benefit
5 local communities where these wind resources are developed. In total the effect will
6 not be great, but will likely be positive.

7 **Q. Will the SPP RTO and the SPP EIS market create labor dislocations that may be**
8 **harmful to local communities or the state generally and can such dislocations be**
9 **mitigated (Standard c.ii)?**

10 A. It is possible the successful implementation of the SPP EIS market could decrease the
11 number of Staff at some Kansas utilities involved in bilateral wholesale electric
12 markets. The ability to purchase directly from a bid based spot market could decrease
13 the need to continuously explore bilateral wholesale arrangements. However, as
14 discussed, the SPP RTO could assist in creating jobs in local communities related to
15 development of Kansas wind generation. Overall the effects are likely insignificant.

16 **Q. Will the SPP RTO and the SPP EIS market preserve the jurisdiction of the KCC**
17 **and the capacity of the KCC to effectively regulate and audit public utility**
18 **operations in the state (Standard d)?**

19 A. Staff believes that, in light of recent changes in Kansas law, establishment of the SPP
20 RSC may actually increase the Commission's jurisdictional influence over Kansas
21 utility transmission activities. Additionally, Staff's recommendations regarding
22 SPP's request regarding determination of applicability of certain Kansas statutes will
23 ensure that the Commission retains authority to obtain adequate information to audit

1 and review Kansas transmission operations. Both of these issues are addressed later
2 in this testimony.

3 **Q. What is the effect of the SPP RTO and the SPP EIS market on the affected**
4 **public utility shareholders (Standard e)?**

5 A. SPP is a non-profit entity, and thus has no shareholders. All of the Joint Applicants
6 except MWE are investor owned utilities, and therefore have shareholders.
7 Transmission owners recover the revenue requirements for their transferred
8 transmission facilities through the SPP regional transmission tariff, just as they would
9 through their individual transmission tariffs in the Stand-Alone Case. To the extent
10 there is any effect on shareholders it should be minimal. Additionally Staff notes that
11 all of the Joint Applicants are requesting approval, and thus it can be assumed that
12 they also believe that any effects will be minimal or positive.

13 **Q. Will an SPP RTO and an SPP EIS market maximize the use of Kansas energy**
14 **resources (Standard f)?**

15 A. Staff notes that when this merger standard was first developed, in 1991, the
16 Commission was concerned about assuring that Kansas utilities maximize the use of
17 Kansas natural gas resources. Kansas now uses more natural gas than it produces.
18 Today there is much discussion of developing Kansas wind resources to generate
19 electricity, for use both within the state and for purposes of export. As discussed, the
20 SPP RTO may assist in developing this Kansas resource. In total, any effect on
21 Kansas energy resources will likely be minimal, but positive.

22 **Q. Will an SPP RTO and an SPP EIS market reduce the possibility of economic**
23 **waste (Standard g)?**

1 A. As discussed in the CRA CBS, establishment of an RTO and an EIS market will
2 result in more efficient use of regional generation and thus reduce the possibility of
3 economic waste.

4 **Q. What impact, if any, will an SPP RTO and an SPP EIS market have on public**
5 **safety (Standard h)?**

6 A. The current transmission owners will continue to own and maintain their transmission
7 facilities. Staff believes there will be no effect on public safety.

8 **Q. Are the SPP RTO and an SPP EIS market in the public interest?**

9 A. Yes, approval of the SPP RTO and the SPP EIS market is in the public interest. Staff
10 believes that establishing an SPP RTO and an SPP EIS market provides both
11 quantified and unquantified benefits to Kansas retail electric customers and may
12 assist in developing Kansas wind resources.

13

14 **The Commission's Role in Approving and Passing Through SPP-Related FERC**

15 **Approved Rates**

16

17 **Q. What are the issues involving the Commission's role in approving and passing**
18 **through SPP related costs if the Joint Applications are approved?**

19 A. The Commission has asked parties to address several aspects to this issue³⁵. First,
20 SPP has argued that statutes regarding this Commission's role in regulating rates for
21 Kansas customers will not apply to its "FERC³⁶ jurisdictional activities." Second, the

³⁵ See paragraph 14 of the Commission's April 24, 2006 Order Setting Procedural Schedule and Identifying Issues.

³⁶ Federal Energy Regulatory Commission

1 Kansas utilities³⁷ have asked the Commission to allow each utility to include in retail
2 electric rates “all FERC-approved costs and fees under the SPP RTO tariff assessed
3 against and paid by each of the Applicants” as well as all prudently incurred “other
4 costs of participating in the SPP RTO.” Third, KMU has requested that the
5 Commission define its role in the pass through of transmission costs approved by the
6 FERC and SPP’s costs.

7 **Q. Do you agree with the proposition that the Commission role in regulating rates**
8 **for its Kansas customers does not apply to FERC approved rates?**

9 A. No. The Commission has always had two roles. First, in matters where the
10 Commission sets retail and wholesale rates, the Commission acts in a quasi-judicial
11 manner in weighing the evidence and setting just and reasonable rates. Second, in
12 matters where Kansas utility interests are subject to federal jurisdiction, such as the
13 FERC, or even regional jurisdiction, such as matters left by the FERC to SPP, the
14 Commission acts as an advocate for the broad interests of all Kansans.

15 For wholesale and transmission rates that are approved by the FERC, such as
16 those approved for Westar, KCPL, EDE, WPK, and SPS,³⁸ the Commission acts as an
17 advocate before FERC for the broad interests of all Kansas ratepayers, both wholesale
18 and retail. This role will not change for those utilities. While the Commission may
19 now need to intervene in SPP transmission proceedings at the FERC, regulatory
20 jurisdiction over transmission issues is unchanged, and, as will be discussed, the KCC

³⁷ That is, Kansas electric transmission owning utilities that have requested Commission approval to transfer functional control of certain transmission assets to the SPP RTO.

³⁸ When MWE paid its RUS loans it became FERC jurisdiction. Recently the Energy Policy Act of 2005 exempted small non-RUS cooperative electric utilities, such as MWE from FERC jurisdiction. Currently the Commission has jurisdiction for MWE wholesale and transmission rates.

1 may have additional influence through the RSC, that it has not had in the past in
2 FERC proceedings. For MWE it is a slightly different story. MWE's transmission
3 and wholesale rates are Commission jurisdictional. While transmission tariffs and
4 wholesale sales will be approved by the Commission, MWE's participation in SPP
5 may result in FERC approved charges being assessed against MWE. However, the
6 reality is that MWE, as well as other Kansas electric utilities that have Commission
7 jurisdictional transmission and wholesale rates, such as Sunflower, have always had
8 to pay FERC approved transmission and wholesale rates when purchasing these
9 services from FERC regulated transmission and wholesale generation providers. In
10 this sense there is little change in the Commission's role for MWE. To protect the
11 interest of MWE, the Commission would still need to actively participate in FERC
12 proceedings, even if there was no SPP RTO.

13 **Q. Will granting the application reduce the Commission's authority in setting**
14 **recovery of transmission costs in retail rates?**

15 A. No, not in Kansas. In most states when the utility commission sets retail rates for
16 customers of a vertically integrated utility that owns and operates both electric
17 transmission and distribution (and often generation), the commission allocates a
18 portion of the electric utility's transmission costs to the retail customers. This is the
19 way Kansas has set retail electric rates in the past. When states have this
20 jurisdictional ability to allocate transmission costs to retail customers, the amount
21 allocated and the amount the electric utility is allowed to recover is set by the state
22 utility commission. Some states believe that allowing their vertically integrated
23 utility to join an RTO may inadvertently transfer some of this retail rate authority to

1 the FERC because the utility may argue that its RTO transmission costs have been
2 approved by the FERC and it has little choice but to pass these costs through to its
3 retail customers. Whether or not this is a valid argument or concern is moot in
4 Kansas.

5 In 2003 the Kansas legislature enacted K.S.A. 66-1237. This statute allows
6 any utility to elect to collect its retail transmission costs in a separate retail surcharge
7 and to change the surcharge to reflect changes in the utility's retail transmission costs
8 that are approved by "an order of a regulatory authority having legal jurisdiction over
9 transmission matters." This law appears to allow any Commission jurisdictional
10 retail electric utility to establish a transmission delivery surcharge and recover all
11 related costs for providing transmission service to its retail customers. Similarly, the
12 statute envisions changes in transmission access charges being immediately reflected
13 in the surcharge. To the extent that these transmission surcharges are set by the
14 FERC, any FERC approved rate would automatically be recovered from retail
15 customers. In the case of MWE, any changes in its transmission rate from FERC
16 approved SPP cost allocations would pass through the transmission delivery charge,
17 as would any changes in MWE's Commission approved transmission tariff.

18 While changes in Kansas law appear to require the Commission to allow
19 recovery of FERC approved charges at the retail level, regardless of whether the
20 Commission approves the application, it also appears that granting the application
21 may actually increase the Commission's influence over SPP's FERC approved
22 transmission charges.

23 **Q. Does the SPP RTO propose additional influence for the Commission?**

1 A. As SPP has pointed out, the Commission has additional influence through the RSC,
2 than it has not had in traditional FERC jurisdictional settings.³⁹ SPP RTO Bylaws
3 provide for the creation of the RSC and delegate the RSC as having the primary
4 responsibility in determining certain aspects of transmission funding, rate design and
5 congestion management that have traditionally been the sole domain of the FERC. In
6 fact, it was the RSC who determined the current cost allocation plan for reliability
7 based transmission upgrades. This cost allocation plan was developed by the RSC,
8 approved by the SPP board of directors and subsequently approved by the FERC.

9 This is just one example where Staff believes approving the SPP RTO results
10 in greater Commission influence over traditional FERC regulation. However, it is
11 important to note, that none of these benefits, or increased influence in the FERC
12 decision making process will be realized without approving the applications. In
13 summary, approving these applications has little if no effect on the Commission's
14 jurisdiction, but denying these applications may result in decreased reliability and
15 higher costs for Kansas transmission users, as well as a decrease in the Commission's
16 ability to shape FERC transmission policy in the region.

17 **Q. Do you believe that the Commission should rule that certain Kansas statutes do**
18 **not apply to SPP?**

19 A. While I am not an attorney, I believe it should not. First, I believe that SPP's role in
20 providing transmission service is, by definition, that of a public utility under K.S.A.
21 66-104;⁴⁰

³⁹ See the Direct testimony of Leslie E. Dillahunty, pp. 9-10.
⁴⁰ Emphasis added.

1 66-104 (a) The term "public utility," as used in this act, shall be construed to
2 mean *every corporation, company, individual, association of persons, their*
3 *trustees, lessees or receivers, that now or hereafter may own, control, operate*
4 *or manage, except for private use, any equipment, plant or generating*
5 *machinery, or any part thereof, for the transmission of telephone messages or*
6 *for the transmission of telegraph messages in or through any part of the state,*
7 *or the conveyance of oil and gas through pipelines in or through any part of*
8 *the state, except pipelines less than 15 miles in length and not operated in*
9 *connection with or for the general commercial supply of gas or oil, and all*
10 *companies for the production, transmission, delivery or furnishing of heat,*
11 *light, water or power. ...*

12 As described, SPP will be a company providing transmission service over
13
14 transmission facilities owned by the Joint Applicants, and for this reason is a public
15 utility under Commission jurisdiction. However, regardless of whether or not SPP is
16 a Commission jurisdictional public utility under Kansas statute, its transmission
17 service, like that of Westar, KCPL, EDE, SPS and WPK is FERC jurisdictional.
18 While their transmission service makes them a public utility under Kansas law, the
19 Commission is preempted by FERC jurisdiction in most matters related to
20 transmission service and wholesale sales. Since SPP's primary jurisdictional activity
21 is that of providing transmission service, the Commission's jurisdiction over SPP's
22 transmission rates and services is similarly pre-empted by FERC jurisdiction. Just as
23 the Commission does not currently require Westar, KCPL, EDE, SPS and WPK to
24 comply with the same regulations and requirements for transmission service and
25 wholesale sales that apply to retail rates and services, the same would apply to SPP.

26 Simply put, the Commission does not need to grant SPP's request to
27 determine that certain Kansas statutes are not applicable to SPP. They are applicable,
28 but many are pre-empted by Federal law. As long as SPP's activities remain FERC
29 jurisdictional, SPP's efforts to comply should be minimal. Should SPP undertake

1 activities that are not covered by FERC jurisdiction, these would be regulated by the
2 Commission. This approach is entirely consistent with the approach the Commission
3 has historically taken for FERC jurisdictional activities of Westar, KCPL, EDE, WPK
4 and SPS. Nonetheless some clarification may be necessary to provide guidance to
5 SPP. The following lists each of the statutes SPP has requested a ruling on, a brief
6 description and Staff's recommendation:

7 **K.S.A. 66-101b**

8 **Description:** Requirements for efficient and sufficient service as well as just and
9 reasonable rates.

10 **Analysis:** Currently, SPP services and rates are FERC approved. KCC
11 jurisdiction is pre-empted by the FERC.

12 **Staff Recommendation:** The Commission does not need to take any action. This
13 would only affect any future activities by SPP that affect Kansas rates and services
14 and are not addressed by FERC.
15

16 **K.S.A. 66-101c**

17 **Description:** Requirements for filing and publishing rates, rules, regulations and
18 contracts pertaining to jurisdictional services.

19 **Analysis:** Currently, applicable SPP rates, rules, regulations and contracts are
20 FERC approved. KCC jurisdiction is pre-empted by the FERC.

21 **Staff Recommendation:** The Commission does not need to take any action. This
22 would only affect any applicable future activities by SPP that are Kansas
23 jurisdictional and are approved by FERC.
24
25

26 **K.S.A. 66-101d**

27 **Description:** Addresses powers of the Commission to investigate and establish just
28 and reasonable rates.

29 **Analysis:** Currently, SPP services and rates are FERC approved. KCC
30 jurisdiction is pre-empted by the FERC.

31 **Staff Recommendation:** The Commission does not need to take any action. This
32 would only affect any future activities by SPP that affect Kansas rates and services
33 and are not addressed by FERC.
34

1 **K.S.A. 66-101e**

2 **Description:** Requirements for investigating complaints regarding rates, rules and
3 regulations of an electric public utility.

4 **Analysis:** Currently, SPP rates, rules and regulations are FERC approved. KCC
5 jurisdiction is pre-empted by the FERC.

6 **Staff Recommendation:** The Commission does not need to take any action. This
7 would only affect any future activities by SPP that affect Kansas rates and services
8 and are not addressed by FERC. Any complaints received by the Commission for
9 SPP FERC approved rates, rules and regulations should be rejected as FERC
10 jurisdictional, and the Commission should instead consider its intervention and
11 participation in the FERC proceeding.

12
13 **K.S.A. 66-101f**

14 **Description:** Addresses the Commission's authority to establish just, reasonable and
15 necessary rates and various requirements for Commission orders and ratesetting .

16 **Analysis:** Currently, SPP services and rates are FERC approved. KCC
17 jurisdiction is pre-empted by the FERC.

18 **Staff Recommendation:** The Commission does not need to take any action. This
19 would only affect any future activities by SPP that affect Kansas rates and services
20 and are not addressed by FERC.

21
22 **K.S.A. 66-117**

23 **Description:** Addresses various procedural and compliance requirements as well as
24 ratesetting considerations and deadlines.

25 **Analysis:** Currently, SPP services and rates are FERC approved. KCC
26 jurisdiction is pre-empted by the FERC.

27 **Staff Recommendation:** The Commission does not need to take any action. This
28 would only affect any future activities by SPP that affect Kansas rates and services
29 and are not addressed by FERC.

30
31 **K.S.A. 66-122**

32 **Description:** Requires supplying various accounts, reports and information to the
33 Commission.

34 **Analysis:** SPP provides numerous reports to the FERC and will have various
35 reports produced by independent auditors, and the IMM. Nonetheless, most of this
36 information is publicly available. Additionally the Commission and Staff participate
37 in SPP forums, committees, workshops, etc. where this information is shared.

38 Nonetheless, this statute could be enforced upon SPP if any information in the
39 possession of SPP is not provided when requested by the Commission or Staff

40 **Staff Recommendation:** It is not necessary for SPP to file any specific reports
41 with Staff or the Commission at this time, because that information is publicly

1 available. However, the Commission should make clear that SPP may be required to
2 provide information or reports in the future, if such information or reporting is not
3 publicly available or is determined necessary at a latter date.
4

5 **K.S.A. 66-123**

6 **Description:** Requires the filing of annual and special reports with the Commission.

7 **Analysis:** SPP provides numerous reports to the FERC and will have various
8 reports produced by independent auditors, and the IMM. Nonetheless, most of this
9 information is publicly available. Additionally the Commission and Staff participate
10 in SPP forums, committees, workshops, etc. where this information is shared.

11 **Staff Recommendation:** Because the information is publicly available, there is
12 no need for the SPP to file annual or special reports with the Commission at this time.
13 Nonetheless, SPP may be required to file such reports in the future if the Commission
14 determines that the publicly available information is not sufficient.
15

16 **K.S.A. 66-128 through 128p**

17 **Description:** These statutes list requirements for property used for ratemaking
18 purposes, generation investments, prudence of generation facilities, etc.

19 **Analysis:** Currently, SPP services and rates are FERC approved. KCC
20 jurisdiction is pre-empted by the FERC.

21 **Staff Recommendation:** The Commission does not need to take any action. This
22 would only affect any future activities by SPP that involve investments that are not
23 addressed by FERC approved rates and that are included in rates approved by the
24 Commission.
25

26 **K.S.A. 66-1,177 through 66-1,181**

27
28 **Description:** Requirements for the Commission to site transmission lines.

29 **Analysis:** SPP is concerned that it could be involved in transmission line siting
30 proceedings at the Commission. However, a reading of these statutes clearly
31 indicates that only the electric utility constructing the transmission line need make the
32 filing request with the Commission. While it would be expected that any such utility
33 would rely on transmission studies provided by SPP, SPP would act as a consultant in
34 such a proceeding and not an applicant.

35 **Staff Recommendation:** The Commission does not need to take any action. This
36 would only affect SPP if it proposed to construct transmission lines.
37

38 **K.S.A. 66-1501 through 66-1513**

39 **Description:** Pertains to the Commission's authority to assess expenses against a
40 utility for appeals, investigations, etc. Also addresses the Commission's ability to
41 hire outside consultants and experts and paying for such expenses.

1 **Analysis:** Because SPP’s current activities are primarily FERC jurisdictional,
2 most of the involvement the Commission will have with SPP will be through either
3 participation in SPP meeting, committees, working groups, etc., or as an intervener in
4 FERC proceedings. Nonetheless, to the extent SPP files applications before the
5 Commission, the Commission should be able to assess any resulting costs to SPP.
6 However, the Commission should be aware that any SPP assessment will be passed
7 through to its member utilities and recovered from Kansas retail customers through
8 the utilities SPP transmission tariff and related fees.

9 **Staff Recommendation:** As a practical matter, Staff would recommend that
10 other than compensation provided by SPP for participation in RSC activities or other
11 SPP approved funding, SPP does not receive an assessment for Commission costs
12 other than those directly related to any SPP initiated proceeding (or valid complaint
13 against SPP) before the Commission.
14

15 **Q. Has Staff reviewed Joint Applicants’ request to recover all SPP related costs in**
16 **the Applicants’ Commission jurisdictional rates?**

17 **A.** Yes. In paragraph 36.C of the Application in 06-203, Joint Applicants request that:
18 “... the KCC issue its order: ...

19 **C.** Acknowledging that if the KCC approves the Application, when properly
20 requested for inclusion in such rates by any of the Applicants, the KCC will
21 include in the Applicants’ KCC-jurisdictional rates:

- 22 i. all FERC-approved costs and fees under the SPP RTO tariff assessed
- 23 against and paid by Applicants;
- 24 ii. the prudently incurred costs of participating in the SPP RTO, which
- 25 Applicants have some ability to control;

26 **Q. Should the Commission grant this request?**

27 **A.** Absolutely not. SPP approved costs will be, by and large, directly related to
28 transmission service. The Joint Applicants provide transmission service to their retail
29 customers and a variety of other transmission users. Charges for this transmission
30 service through the SPP tariff will be FERC jurisdictional. The intent of the FERC’s

1 open access transmission policy is that all transmission customers should be treated
2 equally and charged equally for the same service. Additionally, KCPL, EDE and SPS
3 all have retail customers in other states that should also pay their share for
4 transmission service. As written, this appears to be nothing less than an attempt to
5 load all transmission costs, FERC approved and otherwise, on the backs of the Joint
6 Applicants' Kansas retail customers.

7 Staff believes that retail customers should pay the same FERC approved
8 transmission costs as any other similar transmission user, no more, no less. The
9 Commission should make clear that Kansas electric utilities already have the ability
10 under K.S.A. 66-1237 to recover the appropriate level of retail transmission costs
11 through a transmission delivery charge, and the Commission should not grant this
12 request. To the extent the Joint Applicants have costs of SPP participation that are
13 not recoverable in their (or SPP's) FERC (or in the case of MWE, its Commission)
14 approved transmission tariffs, Staff believes the proper Kansas retail portion of these
15 costs should be considered during a retail rate proceeding.

16 **Q. What does Staff believe the Commission's role should be in determining and**
17 **approving transmission costs approved by the FERC and SPP?**

18 A. KMU has suggested that the Commission should perform some type of periodic
19 review of costs approved by the FERC and SPP. Staff generally disagrees. Staff
20 believes the role of the Commission in reviewing FERC approved transmission costs
21 is clearly that of an intervener in proceedings at the FERC. Additionally, Staff notes
22 that Kansas utilities are allowed, under K.S.A. 66-1237 to pass through FERC
23 approved changes in transmission costs once they have established a retail

1 transmission delivery charge. Furthermore, Staff notes that the Commission and Staff
2 are actively involved in the RSC and various SPP committees and working groups.

3 The issue remains, however, as to what role the Commission should take in
4 monitoring SPP's costs and taking any necessary action if those administrative costs
5 appear excessive or imprudent. Other than raising this issue before the FERC, Staff
6 believes the other alternative would be for the Commission to require the Joint
7 Applicants to exit the SPP RTO agreement and pay any necessary costs to dissolve
8 their relationship with SPP. KMU's suggestion would require the Commission to
9 review SPP costs periodically and decide on a regular basis if this extreme action
10 should occur.

11 Staff would note that the Commission always has the authority to initiate an
12 investigation, to revoke SPP's COC, or to require Joint Applicants to take action to
13 regain functional control of their transmission facilities. Historically, the
14 Commission has not established a periodic review to determine if a utility's COC
15 should be revoked. Staff believes SPP should be treated no differently than any other
16 utility; especially in light of the Commissions activities at SPP that already allow it to
17 monitor SPP activities, costs and operations. In conclusion, Staff believes the
18 Commission does not need to establish any periodic review of SPP's activities and
19 costs, but should, instead, stay involved with the RSC and SPP committees and
20 working groups, as well as monitor and intervene at FERC proceedings. With this
21 action the Commission will be well informed and able to initiate any type of
22 necessary investigation or action if the need arises.

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Other Issues

Q. Should Joint Applicants be required or allowed to place their retail load under the SPP NITS regional tariff?

A. Staff believes there is no question that Joint Applicants should be required to place their retail load under the SPP NITS tariff.

First, NITS reflects the way vertically integrated utilities, such as the Joint Applicants, already use their transmission system. Under NITS, a utility may use all of its designated network generation resources (DNR) to supply electric service to all of its loads. Unlike Point to Point (PTP) transmission service that requires a designated source (normally a generator) and a designated sink (normally a specific delivery point), NITS allows all of the designated generation to serve all of the retail load across the users electric system. Furthermore, under the SPP NITS, Joint Applicants may obtain economy energy from any source in SPP and deliver it to their retail load, depending upon transmission availability, without paying additional transmission charges.

Second, under the SPP Cost Allocation Plan (CAP) approved by the RSC, costs⁴¹ associated with transmission upgrades necessary for the LSE to add or change long term DNRs⁴² are allocated one third to the entire SPP region and two thirds to the transmission zones most benefiting from the upgrade. Without using NITS service the retail load of the Joint Applicants may be required to pay for all of the

⁴¹ Up to \$180,000 per MW of new or changed DNR.
⁴² Long term is defined as a 5 year or longer commitment.

1 costs of future transmission upgrades, regardless of the benefits obtained by other
2 transmission users.

3 Third, NITS tariffs are allocated on a demand basis. Generally speaking the
4 formula takes the revenue requirements for the transmission owner, subtracts or adds
5 transmission costs allocated from, or to, other transmission providers in the region
6 under the SPP CAP, subtracts any other forms of transmission revenue, and then
7 divides the result by the demand of all NITS users. This is an appropriate allocation
8 of transmission costs among wholesale and retail users of the Joint Applicants'
9 transmission system.

10 Fourth, Staff notes that while the Commission has only formally granted
11 Westar approval to place its retail customers under the SPP NITS⁴³, Staff is aware
12 that EDE and MWE have already placed their retail customers under the SPP NITS.
13 While the Commission has not historically dictated, nor have utilities previously
14 requested Commission approval of, the transmission service used to serve retail
15 customers, this request is an opportunity to formally adopt a policy that is in the
16 interest of the Joint Applicant's retail customers.

17 In conclusion, placing the Joint Applicants' retail customers under the SPP
18 NITS reflects how Joint Applicants actually use the transmission system, provides
19 greater transmission service than otherwise available, and will assure appropriate
20 allocation of costs among wholesale and retail customers within the same
21 transmission zone, and among transmission zones in SPP.

⁴³ Paragraph 97a, p. 38, of the Commission's July 25, 2001 Order on Rate Applications in Docket No. 01-WSRE-436-RTS. Staff notes that this was an issue because Applicant requested a small adjustment to implement placing its retail load under the SPP NITS.

1 **Q. Has Staff reviewed how establishing the SPP RTO and SPP EIS market would**
2 **affect the Commission’s involvement in assuring Kansas utilities have sufficient**
3 **generation resources to reliably and adequately serve Kansas retail customers?**

4 A. First, this will have absolutely no effect whatsoever on the Commission’s ability to
5 require jurisdictional electric utilities to construct, operate or acquire adequate
6 generation facilities to serve Kansas jurisdictional electric customers. There is often
7 some concern that any increase in competitive generation markets will result in
8 Kansas generation being used to serve electric customers in other states, and strand
9 Kansas retail customers with remaining higher cost generation. This has occurred in
10 some states that have implemented *retail competition*, or in some states where the
11 *state commissions* have allowed their vertically integrated utilities to keep profits
12 from wholesale or retail competitive generation markets. Staff is aware of no
13 instance where this has occurred without the explicit support and direction of state
14 legislatures or commissions. This is no different. Only by order of this Commission,
15 or the Kansas Legislature, will low cost Kansas generation be used to benefit utility
16 shareholders and not the retail customers that have paid for the generation.

17 Second, sufficient generation requires adequate transmission to connect
18 generation to load. Regional planning in the SPP RTO assures that electric
19 transmission that is constructed in Kansas will be coordinated with transmission
20 construction throughout the SPP and other regions, and thus, built more efficiently.
21 Additionally, the cost allocation plan for base plan upgrades assures transmission
22 providers that transmission construction will be funded by all who benefit in the
23 region, not just the transmission owner performing the construction. Furthermore, the

1 base plan review and the SPP aggregate study process assures that there will be
2 adequate transmission facilities to reliably serve load in SPP with their preferred
3 generation resources.

4 Third, the SPP EIS market will provide better price signals allowing SPP
5 utilities to make better decisions, and provide this Commission with better
6 information for reviewing those decisions. Additionally, the SPP EIS market will
7 assure that LSEs will have available generation if their dedicated generation units
8 should malfunction or become unavailable. Furthermore, Staff notes that reserve
9 sharing arrangements in the SPP region further assure that generation backup is
10 available.

11 Finally, Staff notes that there is nothing in this proceeding that affects the
12 current SPP reliability criteria related to requirements for utilities to have adequate
13 generation capacity margin and operating reserves. Additionally, the Energy Policy
14 Act of 2005 enacted provisions for an electric reliability organization to penalize
15 utilities that fail to meet regional reliability criteria. Nothing in this proposal will
16 affect the Commission's current ability to assure adequate generation capacity or the
17 new provisions of the Energy Policy Act of 2005 to enforce these provisions.

18 **Q. Has Staff reviewed the need for a local forum for RTO concerns as suggested by**
19 **CURB and KMU?**

20 A. As discussed, Staff believes such steps are unnecessary but can be explored by the
21 Commission if the need arises. As this appears to be an initiative advocated by
22 CURB and KMU, Staff will review their proposals and examples of activities in other

1 states and may provide final recommendations in Staff's responsive testimony to their
2 filed evidence and positions.

3 **Q. Has Staff reviewed KMU's request that the Commission allow TDU's to acquire**
4 **an ownership interest in transmission operations?**

5 A. As the Commission is aware, KMU and the Commission have both intervened in
6 Westar's application at the FERC to establish formula based transmission tariffs.⁴⁴
7 KMU has made a similar proposal at the FERC proceeding. Staff is concerned that
8 KMU's request will needlessly complicate this proceeding and may be used to
9 leverage its litigation position at the FERC. Additionally, Kansas transmission
10 owners will still own the affected transmission facilities; only the operational control
11 is proposed to be transferred to SPP. Any similar transfer of ownership will need to
12 be filed and approved by this Commission in a separate proceeding. Staff believes
13 this issue is irrelevant for this proceeding.

14 **Q. Has Staff reviewed KMU's request that SPP change its credit policies regarding**
15 **TDU's?**

16 A. Staff believes that KMU has a valid concern regarding SPP's credit policies. It is
17 Staff's understanding that SPP requires a letter of credit for Kansas TDU's that do not
18 have a specific credit rating. Staff understands that SPP's required credit ratings are
19 not developed, available, or even applicable to municipal utilities. This requires
20 Kansas municipalities to issue bonds just to obtain a letter of credit, creating a
21 needless expense. Furthermore, Staff understands that this was not historically

⁴⁴ FERC Docket No. ER05-925.

1 required of Kansas municipal utilities doing business with their respective Kansas
2 transmission providers.

3 Staff realizes this issue is, in the strictest sense, tangential to this proceeding.
4 Nonetheless, the public policy implications for KMU and its members are such that
5 Staff believes the Commission should require resolution of this issue to the
6 satisfaction of KMU, SPP and Joint Applicants before granting approval. Staff does
7 note that a possible alternative might be for applicable Kansas transmission owners to
8 provide financial assurance to SPP for the KMU customers served by the respective
9 Kansas transmission owners.

10 **Q. Has Staff reviewed the impact approval or denial will have on SPP's EIS**
11 **market?**

12 A. As Staff has discussed, the EIS market will provide both quantified and unquantified
13 benefits to Kansas. The SPP EIS market will not benefit Kansas if the Commission
14 takes action to stop Kansas participation in the SPP RTO. Staff believes the
15 Commission should approve the application and encourage active participation in the
16 SPP EIS market.

17 **Q. Has Staff reviewed approval or denial of the applications and the effect either**
18 **action would have on wholesale sales; retail sales; transmission assets; mergers,**
19 **acquisitions and divestures of utilities or nonutilities; issuances of equity and**
20 **debt; and consumers?**

21 A. As discussed, Staff believes approval of the SPP RTO and SPP EIS market will result
22 in net benefits for Kansas generally and, Kansas electric consumers in particular, and
23 is in the public interest. Additionally, as discussed, Staff believes that, at a minimum,

1 approval will increase efficient investment in transmission assets and lower any
2 future acquisition premiums and expectations of recovery of these premiums in retail
3 rates. Finally, Staff believes that SPP initiatives to assure proper cost allocation of
4 transmission investments and recovery of those costs will lower equity and debt costs
5 for transmission investments made by Joint Applicants. Staff believes denying the
6 applications will raise Kansas retail and wholesale electric costs, decrease investment
7 in transmission assets, increase the retail costs of any future mergers, acquisitions or
8 divestitures, and increase the costs of debt and equity associated with transmission
9 investment.

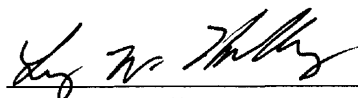
10 **Q. Thank You.**

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VERIFICATION

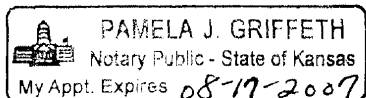
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

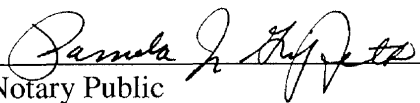
Larry W. Holloway, being duly sworn upon his oath deposes and states that he is the Chief of Energy Operations for the Kansas Corporation Commission Staff, that he has read and is familiar with the foregoing Testimony and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Larry W. Holloway
Chief of Energy Operations
The State Corporation Commission
of the State of Kansas

Subscribed and sworn to before me this 17th day of May, 2006.




Notary Public

My Appointment expires:

August 17, 2007